



La Plata Police Department

La Plata, Maryland

Special Order 26-01



To: All Personnel

From: Major Michael J. Payne *Major Michael J. Payne #213*

Date: January 28, 2026

RE: Waiver of Prosecution Form

This Special Order is issued to provide clear and uniform direction regarding the use of a Waiver of Prosecution by sworn personnel. The intent of this order is to ensure that Waivers of Prosecution are used only in appropriate circumstances, consistent with the La Plata Police Department's General Orders, to safeguard public safety, protect victims, and maintain compliance with applicable law and CALEA standards.

A Waiver of Prosecution is a limited discretionary tool that may be used only in qualifying incidents where officer discretion is permitted under departmental policy. The use of a Waiver of Prosecution shall not be employed to avoid arrest or charging when enforcement action is required by the General Order 600 Operations Series or General Order 660 Domestic Violence. Officers are reminded that a Waiver of Prosecution does not prevent the State's Attorney from reviewing the case or pursuing criminal charges when probable cause exists.

A Waiver of Prosecution is a written document voluntarily signed by a victim indicating their decision not to pursue criminal charges in an incident where such discretion is allowed under departmental policy.

Consistent with the General Order 600 Operations Series governing arrests and charging decisions, officers may accept a Waiver of Prosecution only in minor, non-domestic misdemeanor incidents where no mandatory arrest or charging requirement exists. The incident must not involve serious bodily injury, the use or presence of a weapon, or circumstances that elevate the offense beyond a minor misdemeanor. The victim must be an adult, competent to make the decision, and must freely and voluntarily decline prosecution after being properly advised. Officers shall also consider whether acceptance of a waiver would compromise public safety or contribute to continued or escalating criminal behavior.

Examples of incidents that may qualify for a Waiver of Prosecution include, but are not limited to, non-domestic simple assault without injury, minor property damage disputes, harassment complaints where the conduct has ceased, or minor theft incidents where restitution is preferred. These examples are provided for guidance and do not override officer responsibility to assess each case individually.

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A Waiver of Prosecution shall not be used in any incident that falls under the scope of General Order 660 Domestic Violence. In domestic-related cases, victim preference does not control enforcement action. Officers are required to fully investigate domestic incidents and pursue appropriate enforcement action when probable cause exists, regardless of the victim's willingness to cooperate or desire to decline prosecution.

Additionally, a Waiver of Prosecution shall not be used in any incident where arrest or charging is required under the General Order 600 Operation Series. This includes, but is not limited to, felony offenses, assaults involving weapons, incidents resulting in serious bodily injury, strangulation or enhanced assault offenses, protective order violations, crimes involving vulnerable victims, or any situation where law or departmental policy mandates arrest or charging.

When a Waiver of Prosecution is accepted, officers shall conduct a complete thorough investigation and establish and document probable cause consistent with the General Order 600 Operations Series. Officers shall complete a full incident report in accordance with General Order 614-Records Management and ensure compliance with General Order 648 Department Camera Systems, including proper activation and documentation of body-worn camera usage when required. Officers shall clearly advise the victim that signing a Waiver of Prosecution does not prevent the State's Attorney from reviewing the case or filing charges.

Supervisors reviewing incidents in which a Waiver of Prosecution was accepted shall ensure that the incident does not fall under General Order 660 Domestic Violence, that no mandatory arrest provisions under the General Order 600 Operations Series apply, and that documentation complies with General Order 614 Records Management and General Order 648 Department Camera Systems. Supervisors shall ensure that officer discretion is clearly articulated and supported within the report. Improper use of a Waiver of Prosecution may result in corrective or disciplinary action and may expose the department to policy or CALEA compliance deficiencies.

All sworn personnel are required to comply with this Special Order and the referenced General Orders. Failure to adhere to this directive may result in corrective or disciplinary action in accordance with departmental policy.

This Special Order is effective upon issuance and shall remain in effect until rescinded or incorporated into the appropriate General Orders.