


**The Pennsylvania State University
Police and Public Safety Department**

POLICY AND PROCEDURAL ORDER

SUBJECT 5.11 Officer Discretion and Arrest Alternatives		
CALEA REF. 1.1.3, 1.2.6, 1.2.7	EFFECTIVE DATE 1/3/19	REVISED DATE 11/1/23
APPROVED BY Chief of Police and Public Safety, Wesley Sheets 		ASSIGNED TO GROUP(S): 4, 5 and 6

I. PURPOSE

The purpose of this policy is to provide The Pennsylvania State University Police and Public Safety (UPPS) officers with appropriate options, other than arrest, when dealing with persons who have committed minor violations.

II. POLICY (1.2.6)

- A. When appropriate, officers are encouraged to exercise alternatives to custodial arrests when based upon their discretion such action is in the best interest of the public, the parties involved and the criminal justice system. Mitigating circumstances may also suggest the exercise of officer discretion and suggest the decision not to arrest for minor violations only.
- B. Alternatives to custodial arrest may include, but are not limited to:
 - 1. Written or verbal warnings;
 - 2. Referral to student conduct or HR;
 - 3. Referral to a social service agency;
 - 4. Juvenile diversion; and
 - 5. Citations

III. DEFINITIONS

- A. **Juvenile Detention:** Means the placement that occurs when an apprehension is made by a law enforcement agency for a non-assaultive criminal act by an individual less than 18 years of age.
- B. Enforcement Action:
 - 1. Issuing a verbal warning
 - 2. Issuing a written warning to include a MV433a
 - 3. Issuing a citation
 - 4. Effectuating an arrest
 - 5. Filing charges
- C. **Misdemeanor:**
 - 1. A crime is a misdemeanor of the first degree if it is so designated or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 5 years.
 - 2. A crime is a misdemeanor of the second degree if it is so designated or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 2 years, or if it is an offense declared by law to constitute a crime, without specification of the class thereof, if the maximum sentence does not make it a felony.
 - 3. A crime is a misdemeanor of the third degree if it so designated or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 1 year, or if it is a crime declared to be a misdemeanor, without specification of degree.

- D. **Summary Violation:** An offense is a summary offense if it is so designated or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 90 days.

IV. PROCEDURES

- A. Unless otherwise specified by state law, department policy or other directive, the decision to make a custodial arrest for a misdemeanor will be at the officer's discretion.
- B. When determining whether to apply alternatives to arrest, officers should consider the following criteria, as well as other mitigating circumstances.
1. The person's ability to provide positive identification;
 2. The age of the person;
 3. The location of the person's residence (in-state vs. out of state, student vs non-student);
 4. Any criminal history of the person (to include driving record);
 5. Whether or not the person is under the influence of alcohol or other substances; and
 6. Medical conditions that may require special attention.
 7. A person's immigration status, race, gender, religion, sexual orientation, age, occupation, or other arbitrary aspects will have no bearing on the officer's decision to arrest.
- C. All officers should be familiar with the resources made available by the University to students, staff and faculty. Each station shall maintain a resource file containing community resources and area social service agencies (1.1.3).

V. OFFICER DISCRETION (1.2.7)

- A. Discretion is necessary because it is neither desirable nor possible to enforce every rule or law. With discretion comes responsibility; officers shall base discretion upon the spirit and intent of the law, departmental philosophy, key values and directives, as well as experience and training.
- B. Based upon the totality of the circumstances, drug or minor law alcohol offenses should be charged appropriately.
- C. Officers must recognize when discretion is permitted and when it is limited. To do this, officers must know the law and any directives that apply while utilizing their training and experience in reaching a decision based upon articulable facts rather than personal biases.
- D. Officers should also be aware that although some discretion exists, regardless of action taken, the Jeanne Clery Act and subsequent amendments require certain crimes must be reported. All Clery reportable crimes will be documented and investigated regardless of filing of charges.

Changes:

- 9/28/23
 - Title updates made
- 11/1/1
 - Contact card removed