

Citation and Release Policy

PURPOSE AND SCOPE:

The purpose of this policy is to provide clear guidance to the peace officers of the Brooklyn Center Police Department (“Department”) regarding their arrest authority. This policy addresses situations in which an arrest is discretionary and directs the use of alternatives to arrest with certain exceptions as needed to protect public safety. The City Council directed the development of this initial policy with the understanding that the City’s Implementation Committee will review and work to further refine the policy as may be needed. The City will also work on identifying opportunities for pre-arrest diversion programs or services that do not require an arrest or citation for participation.

DEFINITIONS:

For the purposes of this policy the following definitions shall apply:

Arrest – Actually restraining a person or taking a person into custody to answer for an alleged public offense.

Custody – Holding an arrested person in a jail facility.

Detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Peace Officer or Officer - Licensed police officers of the Brooklyn Center Police Department are peace officers pursuant to Minn. Stat. § 626.84, subd. 1.

ARRESTS MANDATED BY LAW

Nothing in this policy is intended to contradict peace officers’ authority to make arrests which are mandated by law.

FELONIES:

This policy shall not affect officer arrest authority as it pertains to felony cases.

GROSS MISDEMEANORS:

If a full-time or part-time officer establishes probable cause that a person has committed a gross misdemeanor, that officer must arrest and book the offender, as required by law. Unless holding the person in custody is required by rule of law or is necessary to mitigate an ongoing threat to public safety, the person being held, or property, the person shall be released pending charging.

CITATION REQUIREMENT FOR MISDEMEANORS:

Citation in Lieu of Arrest

Except for the arrest authority outlined below, if a full-time or part-time officer establishes probable cause that a person has committed a misdemeanor, that officer must, in lieu of arrest, approach the person in a professional and respectful manner consistent with the Department's Conduct Policy, issue a citation or refer the matter for charging consideration, and allow the person to leave. Alternatively, in lieu of issuing a citation, an officer may refer the person to one or more public assistance or service programs recognized by the City that offer services appropriate to assist the person.

Arrest and Custody Authorized

Notwithstanding the limitation on arrest authority stated above, the officer may arrest and take the person into custody if it reasonably and objectively appears that:

- (a) the charge is a felony;
- (b) the person reasonably needs to be taken into custody to prevent imminent or immediate bodily injury or physical violence to that person or to another person;
- (c) the person must be held in custody to prevent further criminal conduct when the underlying crime involves:
 - (1) violence against a juvenile or vulnerable individual; or
 - (2) criminal sexual conduct;
- (d) the alleged offense involved the use or threatened use of a firearm or other dangerous weapon as defined under Minn. Stat. § 609.02, subd. 6;
- (e) the person must be taken into custody to prevent actual or continued damage to the property of others;
- (f) the person must be taken into custody to prevent continued trespass on the property of others, but only if the individual has refused all verbal requests by the officer to leave the property;
- (g) a warrant or other court order expressly demands arrest, unless the issuing authority allows a reminder to be issued in lieu of arrest; or
- (h) a criminal statute or rule explicitly requires arrest or mandates the person be booked.

If any of the above are satisfied, the officer may arrest the person or, if required by law, must arrest the person.

Alternatives to Arrest and Custody

If arrest is not required by law, and the alleged offense is a misdemeanor, the officer shall attempt alternatives to arrest and custody to deescalate the situation, such as by removing the person from the scene. An officer is not required to attempt an alternative to arrest and custody if the officer determines, based on specific articulable facts, that such an attempt will pose an imminent threat to public safety. If an alternative to arrest and custody is utilized, the officer must issue a citation or refer the matter for charging consideration and release the person, unless the officer determines, based on specific articulable facts, that the alternative to arrest and custody was not successful.

Taking into Custody for Booking

If the person is arrested and taken into custody only for the purposes of booking, the person shall be booked as promptly as possible and then immediately released, unless further custody is necessary to prevent ongoing threat to public safety, the person in custody, or property. It is the intent of this policy to mandate the booking and release of those persons who are not required to be held based upon rule of law or due to an ongoing threat to public safety, the person in custody, or property.

Required Records

Any officer who arrests and takes a person into custody for a non-felony offense must record with specificity the reason(s) for not issuing a citation and releasing the person or in the case of a gross misdemeanor, the reason(s) for not booking and releasing the person, which alternative to arrest was attempted or an explanation as to why an alternative was not attempted, or why the person was not released pending charging consideration. The officer's rationale will presumptively be classified as public data under the Minnesota Government Data Practices Act ("Act") by the Brooklyn Center Police Department unless a different classification applies under the Act.