

City of Johns Creek Police Department

<i>Subject:</i> Enforcement Policy (Discretion)		<i>Number:</i> 04-02	
<i>Reference:</i> See also “Arrests” and “Traffic Enforcement” and OCGA 3-3-23		<i>Amends:</i>	
<i>Effective:</i> 04/08	<i>Review Date:</i> Annually	<i># of</i> 3	<i>Pages:</i>
<i>Revised:</i> 07/15			

PURPOSE:

Provide guidance to all sworn officers regarding the necessary discretion they may use in the performance of their duties.

DEFINITIONS:

Discretion: That level of enforcement desired, requested, and expected by the society in which the officer operates. Ultimately, discretion is limited by policy, rules and regulations as set by the Department.

POLICY: (04-02)

No set of written directives can ever fully anticipate the vast variety of circumstances which officers may confront. All situations, calls, and contacts, no matter how routine, still have unique characteristics. Because of these differences, it is necessary to provide guides that will direct officers as to the proper performance of their duties. These guides will serve to inform officers in how they should respond to situations which confront them.

Police Officers have enormous responsibilities in conducting their duties, and with the assignment of responsibility, officers must also be vested with the commensurate authority to accomplish their assigned tasks. It is vital officers be empowered to use their own judgment to handle these situations. No set of written procedures will ever take the place of good judgment and sound discretion. This is a very necessary part of good law enforcement. Specifically, the Department allows officers flexibility in the performance of their duties. Rules and guidelines have been established by the Department to assist in determining the degree of flexibility required.

PROCEDURES:

Traffic Law Enforcement (04-02-01)

Traffic enforcement provides officers with one of the most common contacts with citizens, but it has the potential of producing some very uncommon results. Most of the populous has never met a police officer, nor ever had any encounter or conversation with one. The way officers handle traffic violations sets the entire tone of how the Department is perceived. It is very important that all officers fully understand the discretion allowed in traffic enforcement.

Officers must remember the basic goal of traffic enforcement is compliance. With this in mind, officers should fully utilize the tools at their disposal. Officers may issue tickets to violators, or warn and educate them regarding proper compliance with the law. The officer should consider the extent and possible implications of the violation, and any present or future consequences which may occur if the proper enforcement action is not selected. Nonhazardous, inadvertent violations should be dealt with by a different degree of enforcement than multiple, or life and property threatening violations. For example, the Department expects the officer to use a different degree of flexibility in exercising his/her discretion in a drunk driving incident than that involving a broken tail light.

Criminal Law Enforcement (04-02-02)

The use of officer discretion in criminal law enforcement is much more strictly regulated by Department policy. When an officer encounters a criminal violation, three options should be considered.

The officer may arrest any and all violators, by warrant or probable cause. Discretion and flexibility may be exercised in some areas, such as public order crimes and a variety of minor criminal offenses. In situations where justice may be served by alternative means, the officer may consider this a viable alternative. Referral to social service agencies, informal resolution, and warnings may better serve the needs of the violator and the community than an arrest.

The appropriate use of discretion in these matters allows for justice to best be served. Officers must ensure these measures are used in an appropriate manner.

Special Situations (04-02-03)

Officers may encounter situations which may tax their ability to arrive at a proper or sound decision, or may wish another officer's review of the situation before proceeding with the call. On such occasions, officers are encouraged to consult their immediate supervisor as may be warranted.

Alcoholic Beverages O.C.G.A 3-3-23 (04-02-04)

O.C.G.A 3-3-23 (a) states it is unlawful for any person knowingly to violate any prohibition contained in section 03-3-23, relating to furnishing alcoholic beverages to, and purchasing, attempting to purchase, and possession of alcoholic beverages by, a person under 21 years of age.

Discretion and flexibility may be exercised in some areas, such as public order crimes and a variety of minor criminal offenses, however in accordance with O.C.G.A 3-3-23 officers shall adhere to the following protocols and procedures when dealing with non-juvenile persons under 21 years of age in violation of O.C.G.A 03-3-23.

- A. Officers shall arrest by issuance of a citation, **not custodial arrest**, any person accused of the following violations:
 1. No person under 21 years of age shall purchase, attempt to purchase, or knowingly possession any alcoholic beverage;
 2. No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic;
 3. No person under 21 years of age shall misrepresent his or her identifies or uses any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- B. The Citation shall detail the specific charges against the person and the date upon which the person is to appear and answer the charges.

- C. The exceptions to the above include the following:
1. A religious ceremony;
 2. For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the Georgia; and
 3. Consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person when possession is in the home of the parent or guardian and such parent or guardian is present.
- D. If the arresting officer has probable cause to believe that a person accused of violation of the above code sections is intoxicated to the extent that he or she poses a danger to himself or herself or to the person or property of another, the arresting officer may effect a custodial arrest of such person in addition to the issuance of a citations, summons or accusation.
- E. Nothing in this policy shall be construed to invalidate an otherwise valid arrest by citation, summons or accusation of a person who is intoxicated and who has committed an offense under the laws of this state other than that provided for in Code Section 3-3-23.
- F. For offenders who are under the age of 17 refer to the Juvenile Offender policy 02-32.