

**FREDERICK POLICE DEPARTMENT
GENERAL ORDER**

Section 2: Traffic Operations **Order Number:** 218
Topic: ARRESTS FOR MOTOR VEHICLE OFFENSES **Issued by:** Chief of Police
Approved: 12/09/19
Review: Annually in December by Patrol Commander
Supersedes: G.O. 218 dated 10/8/18

.01 PURPOSE:

To establish criteria officers will use to determine whether or not those adult drivers arrested for traffic offenses are candidates for a District Court commissioner bond hearing - hence processing at Central Booking will be required.

.02 CROSS-REF:

G.O. [210](#) - "Traffic Law Enforcement"
G.O. [230](#) - "Traffic Accident Investigations"
G.O. [234](#) - "Fatal Accidents"
G.O. [270](#) - "DWI/DUI Enforcement"
G.O. [758](#) - "Officer Discretion"
Form OSB-11 DWI Release Form

.03 DISCUSSION:

.04 POLICY:

It is the policy of the Frederick Police Department to examine the totality of circumstances surrounding each traffic incident in which an arrest can be made. The Department will regulate the manner in which those **arrested** for motor vehicle violations are **released** from police custody. Both arrests and releases will be based upon articulable facts from the reporting officer which will be in full compliance with Title 26, Section 202 of the Maryland Vehicle Law, contained in the Annotated code of Maryland, Transportation Article.

.05 DEFINITIONS:

.10 GENERAL:

1. Arrests for traffic violations will be conducted with, and the under the authority of, Title 26, Section 202 of the Maryland Vehicle Law.
2. A person arrested under this section will be taken without unnecessary delay before a District Court commissioner, as specified in Section 26-401 of this title, *unless the criteria is met for the discretionary release of the individual and the individual's written promise to appear for trial.*
3. At no time will the arresting officer, during his investigation, use the discretionary release as a tool to obtain cooperation from the accused. Information or evidence obtained under duress is inadmissible in court.
4. To simplify, those traffic offenses for which an officer may, or must arrest as established by this General Order, will be divided into six (6) categories for analysis:
 - A. Questionable to Nonexistent Identification/Fail to Appear Risk;
 - B. Altered State of Mind Due to Alcohol and/or Drugs;

- C. Fatalities or Potential Fatalities;
- D. Suspensions/Revocations;
- E. Driving without a license; and,
- F. Miscellaneous.

.15 QUESTIONABLE TO NONEXISTENT IDENTIFICATION:

1. Discretionary release of these offenders is NOT applicable.
2. Officers who have stopped an offender and are not able to identify satisfactorily the driver through proper and legitimate identification cards, personal knowledge, official police department photographic files, Motor Vehicle Administration records check, or other reliable means have no other option than to make an arrest. These drivers will be taken to Central Booking for fingerprinting and photographing, and for a bond hearing.
3. Appendix A to this order is a guide that can be used in conjunction with personal knowledge, report management systems, and other available databases for the purpose of establishing identity.
4. Drivers who demonstrate to the officer the probability that they will disregard the traffic citation may be arrested as well, (Refer to Section .30) The officer must articulate the probable cause for this type of traffic arrest. These drivers will be taken to Central Booking for fingerprinting, photographing, and a bond hearing.

.20 ALTERED STATES DUE TO ALCOHOL OR DRUGS:

1. Discretionary release of these offenders **IS** applicable.
2. Refer to Section .45 of [G.O. 270](#) for further details.

.25 FATALITIES OR POTENTIAL FATALITIES:

1. Discretionary release of these offenders is NOT applicable.
2. When drivers are responsible for causing or contributing to an accident resulting in a death of any person, or which cause a personal injury to such a degree that it is reasonable to believe that the injured will not survive, the State's Attorney's Office (SAO) will be contacted **before** the placing of **any** charges. The issuance of non-incarcerable traffic citation may prevent the prosecution of more serious traffic offenses. Therefore, consult with the SAO prior to issuing any non-incarcerable citations. Refer to Section .60 of [G.O. 234](#).

.30 REVOCATIONS:

1. Discretionary release of these offenders is **NOT** applicable.
2. Traffic offenders whose driver's licenses are revoked will be arrested and taken to Central Booking for a bond hearing.

.31 SUSPENSIONS:

1. Discretionary release of these offenders **IS** applicable.
2. Traffic offenders whose driver's licenses are suspended for any violation of Section 16-303 will not be arrested. They will be cited and cautioned by the issuing officer that they are not permitted to drive until the suspension is withdrawn.

3. In cases where suspended drivers are not arrested and no statement of charges is completed, Officers will document their actions and issuance of the must appear citations in I/Leads.

.32 DRIVING WITHOUT A LICENSE:

1. Discretionary release of these offenders **IS** applicable.
2. Officers, when considering arresting those subjects in violation of Section 16-101 of the Transportation Article, will base their decision on the following factors:
 - A. Violators verifiable address;
 - B. Their ability to furnish proper identification; and
 - C. Their current and past history of violations for this offense
3. Appendix A to this order is a guide that can be used in conjunction with personal knowledge, report management systems, and other available databases for the purpose of establishing identity.
4. If an officer makes a custodial arrest for violation of Section 16-101 of the Transportation Article, the officer will articulate in an incident report narrative which circumstance(s) listed in subsection "2 A-D" (above) existed that caused the officer to make the custodial arrest in lieu of issuing the citation.

.35 MISCELLANEOUS:

1. Discretionary release of these offenders **IS** applicable.
2. Offenses covered under Title 26, Section 202 of the Maryland Vehicle Law which have not been specifically addressed in the above four (4) categories are covered here. Officers choosing to make an arrest for these violations will weigh the totality of the circumstances surrounding the violation before affecting an arrest. If the accused has valid identification and it is reasonable to believe that the accused will appear for court, then discretionary release is applicable.
3. The criteria for discretionary release is:
 - A. The accused is a Maryland resident; and,
 - B. The accused is mentally and physically suitable for release.

.37 EXCEPTIONAL CIRCUMSTANCES:

In the event of an *exceptional* circumstance such as a natural disaster, severe lack of manpower, emergency response priorities, medical condition of the prisoner, etc., supervisors have the authority to allow an officer to "release" **any driver** without being taken to Central Booking for a bond hearing; however, the entire incident must be documented, and the officer must issue the must appear citations. The use of this discretion will be the "exception" as opposed to the "norm."

.40 ARRESTING OFFICER'S RESPONSIBILITIES:

1. The officer will:
 - A. Carefully weigh the facts of the traffic offense and determine whether or not Maryland Vehicle Law allows an arrest for the violation, and if so, whether an arrest

is appropriate. If the arrest is permissible and appropriate, the officer must be able to support his actions through articulable written facts;

- B. Follow established procedures required to complete all necessary paperwork, to include a detailed supplemental report describing the probable cause utilized to make the arrest, disposition of the arrestee and his vehicle, and
- C. Carefully review the discretionary release criteria for the specific traffic offense to determine if the accused is a candidate for release. If the accused is, the officer will notify the patrol supervisor, and brief the supervisor on the facts of the case.

2. **For violations of Section 21-902:**

- A. Once the officer has the supervisor's *conditional* approval to release the accused, the officer must allow the accused the ability and/or means to use a phone to contact a responsible adult. The officer will determine the length of time he will need to complete the paperwork and find out how soon that responsible adult can arrive at Headquarters. Officers will **NOT** wait until all paperwork is completed before attempting to contact a responsible party for the accused.
- B. Once the accused finds a responsible party, the arresting officer will speak to this party and inform the responsible party that release of the accused will be conditional upon the following:
 - (1) He must be able to prove, upon arrival to Headquarters, that he is at least 18 years of age;
 - (2) He must sign a release (Form OSB-010);
 - (3) He must arrive at Headquarters within twenty (20) minutes from the time established for the completion of the paperwork; and,
 - (4) He must arrive at Headquarters sober, and not under the influence of alcohol and/or any illegal drugs.
- C. If these conditions cannot or are not met, then the accused will be taken to Central Booking for a bond hearing.
- D. Prior to the release of the accused, the officer's paperwork will either be complete or to the point that the release of the accused would not be problematic. The officer will ensure that all citations are issued to the accused at the time of release and that the accused receives a copy of same.
- E. The officer will ensure that the accused and the responsible party have been warned not to go back to the accused's vehicle and allow the accused to drive until a period of 12 hours has passed. The responsible party must sign the departmental release form.
- F. Refer to Section .47 of [G.O. 270](#) entitled "DWI/DUI Enforcement" when dealing with a subject who has been arrested for DWI/DUI and whose alcohol concentration is so low that the Courts and Judicial Proceedings, Section 10-307 presume he is not driving DWI/DUI.

.50 SUPERVISOR'S RESPONSIBILITIES:

1. In those cases where the accused needs to have a responsible and sober adult respond to Headquarters, the supervisor will give *conditional* permission to the officer to release the accused provided the accused can get the responsible adult to respond to Headquarters in a timely manner.

2. The supervisor will ensure the officer's paperwork is either complete or completed to the point where the release of the accused would not be problematic.

Appendix A
 Officer(s) guide to determine identity and verifiable address
 Used in conjunction with other investigative resources

Document	Required Support Documentation
Driver's License or ID card issued by a State	Stand alone
Driver's License or ID card issued by an outlying possession of the United States provided it contains a photograph or information such as name, DOB, gender, height, and address	Stand alone with photo ID cards issued without photo require additional Proof of identity and Proof of Address
United States Passport	Proof of Address
ID card issued by federal, state or local government agencies provided it contains a photograph or information such as name, DOB, gender, height, and address	Stand alone with photo ID cards issued without photo require additional Proof of identity and Proof of Address
U.S. Military ID Card	Proof of Address
U.S. Military dependent ID card	Proof of Address
School ID card with photograph	Proof of Address
Permanent Resident Card	Proof of Address
Foreign passport	Proof of Address
Foreign Driver's License provided it contains a photograph or information such as name, DOB, gender, height, and address	Proof of Address
Consulate ID card provided it contains a photograph or information such as name, DOB, gender, height, and address	Proof of Address

Proof of Address:

The following is a list of items that can be used to show proof of verifiable address. This list is not all inclusive

- Residential service contract (refers to services performed at the address of residence; for example, cable or satellite television, or other service contract);
- Checking or savings account statement;
- Installment contract from a bank or other financial institution;
- Life insurance card or policy;
- Major credit card or Department/Retail store credit card bills with billing address
- Canceled check with imprinted name and address;
- Residential rental contract (apartment lease or other rental of real property) (current formal contract or agreement between landlord and tenant which includes all signatures);

- Property tax bill or receipt;
- Mortgage account or proof of home ownership (Deed, Title, Bill of Sale or Statement from Maryland Assessment and Taxation);
- First class or priority mail from a federal, state or local government agency to include the contents and envelope;
- Copy of federal or MD income tax return filing not more than 18 months old, with proof of filing;
- Sales tax or business license;