



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**

Police Chief: John Fitzgerald

GENERAL ORDER: 5-1 SOUND JUDGMENT AND REASONABLE DISCRETION

DATE: 3/2/2016 Pages: 2 ◇ New ◇ Amended ◆ Revised 5-1

I. POLICY

- A. Village officers shall be issued general orders to define the limits of individual authority, provide guidelines for the exercise of discretion, and address procedures that must be followed in certain circumstances. This policy is based on the fact that an officer is faced with a myriad of situations almost daily making it difficult for a law enforcement agency to make rules or write policies to address every conceivable situation.
- B. Officers must exercise sound judgment in those situations that are not specifically addressed by our General Orders. Such judgment or discretion will be sound when it is consistent with overarching department policy, and state and/or local law, and is within the limits of the officer's authority as a sworn police officer.
- C. Officers are encouraged and invited to seek supervisory guidance and/or approval whenever they are uncertain about how best to proceed in any situation. The Sergeant, Lieutenant and the Chief are available—whether or not they are on duty—to provide guidance to officers. The Chief of Police would much rather get a call at any time of the day or night from an officer seeking guidance than learn of a problem after the fact

II. SITUATIONS WHERE DISCRETION IS RESTRICTED OR ELIMINATED

- A. Discretion Regulated or Restricted by Statute or General Order
 - 1. Department policy generally gives officers guidelines to consider in exercising their discretion, except when a general order dictates a specific procedure for responding to and/or handling certain circumstances or situations. In those instances, discretion is either restricted or eliminated since the general order will describe the individual officer's course of conduct or action using words such as 'must' 'will' or 'shall' or similar directive language.

- 2. Officers will be especially cognizant of those laws which remove an officer's discretion regarding mandatory arrest, the placing of certain charges, etc., and in those instances, officers will comply with the applicable statute governing such conduct.
- 3. Any conflict between Department General Orders and applicable laws will be resolved in favor of applicable laws.

B. Exercising Discretion

- 1. Before an officer exercises discretion, he/she must consider relevant factors, the overall situation, and then, using knowledge previously gained, training, and good judgment, make an appropriate decision.
- 2. An officer exercising such discretionary judgment will not normally be held to be totally wrong by a supervisor, although the supervisor may point out factual errors or other alternatives which might have been more appropriate. It is from this learning experience that an officer's discretion improves and develops.
- 3. Since oftentimes an arrest may not solve or address an underlying problem, the Department encourages its officers to make referrals to public and private agencies that provide services of a varied nature to the community.
- 4. An officer making a referral is not relieved from his/her duties and responsibilities regarding the completion and submission of required reports, keeping the victim informed of the status of the case, and any follow up investigation.
- 5. Officers must be cognizant of the fact that frequently, a verbal or written warning to violators for very minor offenses may be sufficient to educate and deter future infractions.
- 6. There are some situations in which a minor crime is alleged i.e., simple assault, but not committed within the officer's presence or view, and

a warrantless arrest *is not permitted pursuant to Maryland's laws of arrest*. In those instances in which a lawful arrest cannot be made, an appropriate referral would be to the nearest District Court Commissioner's Office or the State's Attorney's Office for Montgomery County.

Note: An officer referring a citizen to the District Court Commissioner to apply for a charging document for a crime committed in the Village **must** obtain a report number and write the appropriate report.

7. If an arrest is made based upon probable cause and in good faith, but the arresting officer shortly thereafter determines that the formal placing of charges would be inappropriate, the officer shall promptly release the arrested individual and return the person to the location where the officer initially met the person, or otherwise take the person to a safe location of their choosing within a reasonable distance of the Village. The arresting officer shall submit the appropriate report fully explaining the facts and circumstances.

This directive voids the previous version dated 8/6/2009