



CITY OF FAIRFAX POLICE DEPARTMENT

GENERAL ORDER

Subject POLICE DISCRETION		Number 1-23
Effective Date August 22, 2016	Rescinds General Order 1-23, dated 4-20-01	
Accreditation Standards Fifth Edition 1.2.6, 1.2.7, 44.2.1	Authority Colonel Carl R. Pardini Chief of Police	

PURPOSE:

To define the limits of individual discretion and provide guidelines for exercising discretion within those limits.

POLICY:

The exercise of police discretion should be the product of sound enforcement policies, training, and supervision. No single written directive could possibly cover all circumstances in which police officers make instantaneous and irrevocable decisions or other critical judgments. These decisions affect human life and safety, property rights, and personal liberty. The use of police discretion involves the power to exercise judgment in the selection of a proper course of action from available alternatives. This directive should be used as a guide for determining proper courses of action.

DISCUSSION:

N/A

PROCEDURE:

I SITUATIONS INVOLVING DISCRETION

A. Situations where officers are normally confronted with decisions that may require the use of discretion include:

1. The method of enforcement of laws.
2. The use of force.
3. Prosecution and plea bargaining.
4. The resolution of conflict or disputes.
5. Goals and Objectives.
6. Special Enforcement Details.

B. An officer's discretion may be restricted or eliminated entirely by:

1. Statute or City Ordinance.
2. Court decisions.
3. Rules and Regulations or written directives of the Department.
4. A lawful order by a superior.

C. Although it is impossible to outline the parameters of discretion for every type of police activity, officers must exercise discretion in a manner that is consistent with:

1. Philosophy and goals of the Department.
2. Pertinent laws and court decisions.

3. Direction, supervision, and orders received from superiors.
4. Rules, Regulations, General Orders and Special Orders.
5. The sense of justice and fairness that would be expected by the ordinary, reasonable, and prudent member of the community.

II USE OF DISCRETION

- A. Although every officer must enforce the law, an arrest may not be appropriate every time there appears to be probable cause to make one. Unless an arrest is required by departmental directives, orders of a superior officer, or mandated by state statute (i.e. domestic violence cases) the officer's discretion to choose an appropriate course of action is explicitly recognized.
- B. Officers are accountable for their discretionary exercise of authority. Although an officer may be disciplined for their decision in cases where it is inconsistent with department directives, sound judgment, professional standards or orders, the officer is more likely to be advised or ordered to act differently in the future. The balance between individual discretion and the rule of law can be maintained only if officers are willing to submit their actions to scrutiny.
- C. In order to guard against abuse of discretion, the following guidelines apply:
 1. In dealing with situations which appear to be disorderly or irregular rather than dishonest or violent, an officer may decide to advise, warn, cite, or defuse the situation in some other way not amounting to arrest.
 2. Generally, more latitude is allowed when dealing with a juvenile offender.
 3. Generally, more latitude is allowed with nonviolent misdemeanors as opposed to felonies, provided the offense poses no immediate threat to public safety;
 4. Although violations of the law may occur in some circumstances, discretion may be used if law enforcement objectives can be served by an action other than arrest.
 5. Improper discretionary use of authority, as outlined in this General Order, may be deemed a neglect of duty.

Colonel Carl R. Pardiny / Chief of Police

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