



COTTAGE CITY POLICE DEPARTMENT

GENERAL ORDER

SUBJECT: **OFFICER DISCRETION**

NEW REVISED RESCINDS

APPROVED: *GM*
GEORGIA MILTENBERGER
ACTING CHIEF OF POLICE

Effective Date 8/22/2018

I. POLICY

- A. Cottage City 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. The Department will provide for uniformity of decisions and action, and eliminate unnecessary discretion by establishing policies, procedures, and guidelines.
- C. The General Orders contained in this manual are for this Department's use only. Therefore it is imperative that the exercise of discretion should be compatible with the "Rule of Law," Department policy, the "Laws of Arrest," and within the limits of the officer's authority as a sworn law enforcement officer.

II. SITUATIONS WHERE DISCRETION IS RESTRICTED OR ELIMINATED

- A. Discretion Regulated or Restricted by Statute of 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.

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 the officer exercises discretion, he/she must consider relevant factors, the overall situation, and then, using knowledge previously gained, training, and good judgment, then make an appropriate decision.
2. The 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. The 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 and that the formal placing of charges either by way of citation or arrest should not be made unless the violation is deliberate and/or repeated.
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/or an arrest does not fit the criteria listed in the "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 Prince George's County.

Note: An officer referring a citizen to the District Court Commissioner to apply for a charging document for a crime committed in the Cottage City must obtain a Central Complaint Number (CCN) and write the appropriate Event Report.

7. If an arrest is made based upon probable cause and good faith, but the arresting officer shortly thereafter determines that the formal placing of charges would be inappropriate, the defendant will be released, and the arresting officer shall submit the appropriate Event Report explaining the circumstances.