



Sheridan Police Department
Policies and Procedures
2.3 Replaces 101.5
Chapter 2 – Law Enforcement Role
Section 3 – Discretion & Diversion

Date: January 1, 2013
Updated: 08/27/2021

Signature:

Exercise of police discretion should be the product of sound enforcement policies, training and supervision. No single written directive could possibly cover all circumstances involving officer discretion. The use of police discretion involves the power to exercise judgment in the selection of a proper course of action consistent with department goals and objectives. This directive should be used as a guide for determining the proper course of action.

2.3.1 Situations Involving Discretion

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

- A. The method of enforcement of laws;
- B. The use of force; and
- C. Conflict and/or dispute resolution.

2.3.2 Use of Discretion

- A. Officers are vested with a broad range of discretion when deciding the appropriate action to be taken. Although every officer must enforce the law, an arrest may not be appropriate under all circumstances. Unless an arrest or other action is required by department directives, law, or orders of a superior officer, the officer's discretion to choose an appropriate course of action is explicitly recognized.
- B. A police officer will use the discretion vested in the position responsibly and exercise it in accordance with the law and departmental directives. The principle of reasonableness will guide the officer's determinations and the officer will consider all surrounding circumstances in determining whether any legal action will be taken. The principle requires that any restriction of individual freedom must be appropriate to the attainment of the governmental objectives to be achieved.
- C. Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public.
- D. All decisions must be tied to articulable reasons grounded in legal principles, professional judgment and fairness.
- E. Officers are accountable for their discretionary exercise of authority.
- F. It is the responsibility of supervisors to direct subordinates to perform their job duties within the parameters of established policies and procedures and to use proper judgment and discretion in situations not specifically covered in directives.

2.3.3 Factors Guiding Discretion

- A. In general, police officers, using sound professional judgment, may take the following factors into consideration when deciding whether or not to arrest a citizen:
 - 1. The seriousness and nature of the offense (generally, the more serious the offense, the more likely arrest is the preferred course of action; the use of discretion and alternatives to physical arrest will be sharply limited in felony situations.);
 - 2. The potential that arrest will effectively aid in the resolution of a conflict;
 - 3. The availability of legal alternatives to arrest that would adequately resolve the conflict or problem;
 - 4. The likelihood that the citizen will be deterred from future violations by warning and education;
 - 5. The officer's belief that the citizen made an honest mistake in violation of the law;
 - 6. The victim-witness's interest in prosecution;
 - 7. The likelihood of formal prosecution of the offense;
 - 8. Legitimate competing priorities for police resources;
 - 9. The officer's belief that the arrest will protect members of the community and/or the citizen.
- B. In order to guard against abuse of discretion, the following factors are among those that are improper for a police officer to consider in deciding whether or not to make an arrest:
 - 1. The citizen's economic status, race, ethnicity, gender, or other status for which the law prohibits legal discrimination;
 - 2. The revenue likely to be generated by fines or penalties imposed upon conviction;
 - 3. The personal or professional relationship that the citizen has with the police officer or with other influential citizens;
 - 4. The personal advantage to the officer for processing or avoiding processing of the arrest (e.g. overtime compensation, desire to finish tour of duty, avoidance of paperwork, etc.)
- C. The proper exercise of discretion does not relieve the investigating officer of the responsibility to conduct a thorough preliminary investigation of the event.

2.3.4 Diversion Programs and Social Service Referrals

- A. The department recognizes that diversion programs can be effective alternatives to the criminal justice process for some offenders and will support those efforts. Criteria for qualification in diversion programs include age, type of offense, and criminal history. Examples of situations that may be appropriate for diversion include:
 - 1. First time juvenile offenders;
 - 2. Mental illness; and
 - 3. Alcohol and drug abuse problems.
- B. In the course of performing their duties, officers often encounter people in need of help more appropriately provided by social service agencies. Members of the Sheridan Police Department will, when appropriate, make referrals to social service agencies. The department's role with regards to referrals to social service agencies is normally limited to non-criminal cases. Sheridan County social service agencies provide a wide range of services. A listing of services will be maintained in the dispatch center.