
	GAITHERSBURG POLICE DEPARTMENT		
	Organization, Authority & Officer Discretion		
	GENERAL ORDER	101.1	
Effective Date	11/02/2021		
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE	DATE 11/02/2021

1. PURPOSE

The purpose of this directive is to outline the basic organization of the Department, its legally mandated authority and guidelines for the exercise of officer discretion.

2. POLICY

- 2.1. The Gaithersburg Police Department was established on April 1, 1963. The establishing ordinance vested the Chief of Police and members of the Department with the powers and authority to carry out their duties. Officers have a wide range of power and authority granted to them by statute, Common Law, City Charter and other ordinances.
- 2.2. The Department's organization provides for basic law enforcement service delivery through the use of resources assigned to the Operations, Special Operations and Administrative bureaus and the Office of the Chief of Police. The assignment to bureaus, functions and patrol shifts notwithstanding, all personnel function as a team to coordinate operations and communicate with each other, ensuring the highest level of efficiency and service.
- 2.3. Members are issued written directives that define limits of individual authority, provide guidelines for the exercise of discretion and address procedures to be followed in certain circumstances. By establishing policies, procedures and guidelines, the Department provides a framework for uniformity of decisions and promotes consistency in the use of discretion.

3. DEFINITIONS

- 3.1. **Fresh Pursuit** – Within the context of this directive, the term “fresh pursuit” refers to pursuit, that is continuous and without unreasonable delay, of a suspect who is fleeing to avoid arrest. Under Maryland Criminal Procedure Article, § 2-301, officers may, while in fresh pursuit, cross jurisdictional lines within the State in order to make an arrest. Fresh pursuit need not be instant pursuit.
- 3.2. **Fugitive from Justice** – Within the context of this directive, the term “fugitive from justice” refers to a person who, having committed or been charged with a crime in one state, has left its jurisdiction and is found within the territory of another state, when it is sought to subject the person to criminal process of former state.

- 3.3. Parking Enforcement Official** – Within the context of this directive, the term “parking enforcement official” refers to a civilian employee tasked with enforcement of Chapter 14 of the City of Gaithersburg Code of Ordinances, and thus synonymous with the term “code enforcement official” as referenced in Chapter 14.

4. PROCEDURE

4.1. Organizational Structure

- 4.1.1. The Department's organizational structure is based on function, unity of command, delineation of responsibility, accountability and the delegation of authority.
- 4.1.2. At every level of the organization, personnel are given the authority to make decisions necessary for the effective execution of their responsibilities.
- 4.1.3. The organizational chart is reviewed and updated as needed and is available to all personnel. A copy is posted outside of the Chief’s office and is also available in electronic format in PowerDMS and on the Police website where it is available to the public.
- 4.1.4. Office of the Chief of Police
- 4.1.4.1. The Chief of Police is responsible for the overall performance of the Department and for preparing and submitting its annual budget. To assist the Chief of Police in accomplishing the goals and objectives of the Department, personnel are delegated authority to perform the duties of their assignments.
- 4.1.4.2. The Office of the Chief of Police includes an ad-hoc internal affairs function. The Investigative Unit Supervisor is designated responsibility for the internal affairs function by the Chief of Police. In fulfilling the obligations of the function, the Unit Supervisor reports directly to the Chief of Police.
- 4.1.4.3. The Emergency Management Coordinator is a civilian position that reports directly to the Chief of Police. Among the duties performed by the Emergency Management Coordinator are Citywide emergency preparedness, grant coordination, budget development, personnel early warning system, training commission liaison, field training program coordinator, training coordinator and entry and maintenance of training records.
- 4.1.4.4. The Chief of Police, or designee, acts as the Department’s Public Information Officer (PIO).
- 4.1.5. Operations Bureau

- 4.1.5.1. The Operations Bureau Commander is under the direct supervision of the Chief of Police.
- 4.1.5.2. The Operations Bureau consist of Patrol, Canine and the Community Action Team.
- 4.1.5.3. The Patrol function is composed of six (6) patrol shifts under the command of the Operations Bureau Commander.
 - 4.1.5.3.1. Shift 1 & 2 (0600 hours to 1600 hours);
 - 4.1.5.3.2. Shift 3 & 4 (1500 hours to 0100 hours); and
 - 4.1.5.3.3. Shift 7 & 8 (2000 hours to 0600 hours).
- 4.1.5.4. Patrol supervisors are normally sergeants and report directly to the Operations Bureau Commander.
 - 4.1.5.4.1. Patrol officers report directly to their respective shift sergeant unless the sergeant is not on duty or immediately available, at which time they report to their corporal.
 - 4.1.5.4.2. The Operations Bureau Commander may designate a PO III to act in the capacity of Officer in Charge (OIC) for the patrol shift, in order to carry out the duties and responsibilities of a supervisor, for the rare instances when neither the sergeant nor the corporal are available.
 - 4.1.5.4.3. If a particular shift sergeant or corporal is not available on an incident scene, but another sergeant or an officer of higher rank is present, the officer of highest rank shall assume command of City Police personnel until properly relieved.
- 4.1.5.5. Patrol shifts are responsible for providing a continuous delivery of police service to the community, including but not limited to, assisting/protecting victims of crime, preventive patrol, maintenance of public order, discovery of hazards, response to citizen needs for service, investigation of crimes and incidents, arresting offenders, traffic direction and control, providing practical training and instruction and the provision of other services that accomplish the overall Department mission or objectives.
- 4.1.5.6. Operations Bureau personnel are also responsible for legal research and review, court liaison, overtime review, joint patrol coordination, preliminary investigations, evidence and in-custody property, traffic stop data entry, review of Department award nominations and other duties and responsibilities as

assigned or initiated.

4.1.5.7. Patrol officers may be assigned to other functions, when deemed to be in the best interests of the Department.

4.1.6. Special Operations Bureau

4.1.6.1. The Special Operations Bureau Commander is under the direct supervision of the Chief of Police.

4.1.6.2. The Special Operations Bureau consists of the following units: Street Crimes, Crime Analysis, Investigations and Traffic Safety and Enforcement.

4.1.6.2.1. The Street Crimes Unit is assigned to target serious crime issues, pattern crimes and problem areas and to perform other duties consistent with the mission of the Department.

4.1.6.2.2. The Investigative Unit is involved in many types of investigations and coordinates with Montgomery County and other allied agencies Investigative Units on cases, as needed.

4.1.6.2.3. Personnel assigned to the speed camera program, parking enforcement, Community Engagement Officer, and Community Services Officers fall under the supervision of the Special Operations Bureau Sergeant, who also oversees special events planning.

4.1.6.3. Special Operations Bureau personnel are also responsible for media relations, internal affairs and other duties and responsibilities as assigned or initiated.

4.1.7. Administrative Bureau

4.1.7.1. The Administrative Bureau Commander is under the direct supervision of the Chief of Police.

4.1.7.2. The Administrative Bureau is responsible for accreditation, petty cash management, policy development and review, planning and research, risk management, vehicle maintenance and fleet management, the quartermaster function, property / evidence function, recruitment, hiring and retention, NCIC/CJIS computer security, expungements, technology, purchasing, facilities and other duties and responsibilities as assigned or initiated.

4.1.7.3. Under the direction of the Administrative Bureau Commander, the Department's Accreditation Manager is responsible for research, policy development, continuous updating of policies

and procedures and overseeing standards review to ensure proposed policies and written directives meet the intent of CALEA standards.

- 4.1.7.4. The Police Administrative Services Supervisor who also serves as the office manager, reports directly to the Administrative Bureau Commander and is responsible for the supervision of civilian police service aides, who provide support services for the Department.
- 4.1.7.5. Fixed assets, seizures and forfeitures, cash management, computer data and Department records also fall within the responsibility and supervision of the Police Administrative Services Supervisor.

4.2. Legally Mandated Authority

4.2.1. Incorporated Municipality

- 4.2.1.1. Section 19, Sub-Section 41 of the Charter of the City of Gaithersburg, enumerates the power(s) of the City Council.
- 4.2.1.2. The City Charter authorizes the City Council to establish, operate and maintain a police force "which shall have, within the city, all the power and authority of police officers and deputy sheriffs generally within the scope of the police functions and powers in this state. Such police force and members thereof shall also be authorized to act outside the city to the extent necessary to transport prisoners to or from trial or to or from places of incarceration, or to engage in the pursuit of fleeing offenders, or to cooperate in the exercise of police functions by agreements between the city and other governmental jurisdictions."

4.2.2. General Authority of Police Officers

- 4.2.2.1. Maryland Public Safety Article, § 2-101, defines a "police officer" as a person who has the authority to enforce the general criminal laws of the State.
- 4.2.2.2. Maryland Transportation Article, Title 11, Sub-Title 147 defines a police officer as an officer authorized to direct or regulate traffic or to make arrests for violations of any of the provisions of the Maryland Vehicle Law, or of local or other traffic laws or regulations.
- 4.2.2.3. Sworn members of the Department shall enforce all applicable local, state and federal laws.

4.2.3. Municipal Infractions

- 4.2.3.1. Officers are authorized by the City of Gaithersburg Code of

Ordinances, Chapter 1, Section 1-8, to issue a citation in lieu of making a physical arrest if the officer has reasonable cause to believe that a person has violated a provision of the City Code.

4.2.3.2. Officers are authorized, pursuant to the City of Gaithersburg Code of Ordinances, Chapter 14, Section 14-4, to impound any vehicle which impedes traffic or constitutes a threat to the public safety.

4.2.3.3. Officers and parking enforcement officials are authorized, pursuant to the City of Gaithersburg Code of Ordinances, Chapter 14, Section 14-5, to place a parking violation notice on any vehicle found to be in violation of the City Code.

4.2.3.4. Civilian parking enforcement personnel may enforce City Ordinances for parking violations.

4.2.4. Warrants and Summonses

4.2.4.1. In accordance with Maryland Rules, Title 4, Rule 4-212, police officers or sheriffs are authorized to serve criminal process and mandates that an officer serving a warrant or summons shall give the defendant a copy of it.

4.2.4.2. When a warrant is placed into the hands of an officer, he or she is not bound to inquire into the particulars of the complaint. If the warrant is in due form and issued by a person authorized to issue it, the officer's duty is to execute service of it without question.

4.2.4.2.1. A warrant will not be issued "in blank" with a view of later inserting the defendant's name, or other information.

4.2.4.2.2. Officers will not serve warrants "in blank" because they are void and therefore not valid for service.

4.2.4.2.3. No one, other than the warrant's issuer, has the authority to alter a warrant.

4.2.4.3. The warrant, which has been issued upon the finding of probable cause, will protect the officer. A warrant remains in force until it is returned as served or recalled by the court.

4.2.4.4. Even if the defendant has been arrested on the strength of a warrant and escapes, he or she may be arrested again on the same warrant if a return of service has not been executed.

4.2.4.5. Officers are authorized to serve and execute search warrants, pursuant to the provisions of the Maryland Criminal Procedure Article, § 1-203 and Maryland Rules, Title 4, Rule 4-601.

4.2.5. Taking Persons into Custody / Arrests

- 4.2.5.1. Officers are authorized to take a juvenile into custody, pursuant to the provisions of the Courts and Judicial Proceedings Articles, § 3-814 and § 3-8A-14:
 - 4.2.5.1.1. If the juvenile is a runaway; or
 - 4.2.5.1.2. Pursuant to the laws of arrest; or
 - 4.2.5.1.3. If the juvenile is in danger due to his or her surroundings; or
 - 4.2.5.1.4. Pursuant to an order of the court.
- 4.2.5.2. Officers are authorized to take mentally disordered persons into custody and transport to the nearest hospital open for admissions, without a court order, pursuant to Health-General Article, § 10-622 and 10-624, if the officer believes that:
 - 4.2.5.2.1. The individual has a mental disorder; and
 - 4.2.5.2.2. The individual presents a danger to the life or safety of the individual or of others.
- 4.2.5.3. Pursuant to the provisions of the Maryland Criminal Procedure Article, § 9-109 and 9-114, officers have the authority to arrest a fugitive from justice.
- 4.2.5.4. Officers are granted the authority, in the Maryland Correctional Services Article, § 11-803, to arrest an escapee on the strength of a retake warrant issued by a local or regional detention facility.
- 4.2.5.5. Pursuant to the Maryland Correctional Services Article, § 6-107, officers are authorized to arrest or retake an alleged parole violator.
- 4.2.5.6. The Uniform Code of Military Justice sets out, and the federal courts have affirmed, the authority of civil law enforcement officers to arrest deserters from the armed forces and deliver them to the branch of the service from which they deserted.
- 4.2.5.7. Pursuant to the provisions of the Maryland Criminal Procedure Article, § 2-106, an officer transporting a defendant to a District Court Commissioner in another Maryland county, has the same authority to maintain custody as if the arrested person was being taken before a District Court Commissioner in Montgomery County.

4.2.6. Limited Statewide Jurisdiction and Fresh Pursuit

- 4.2.6.1. Officers have the authority to enforce laws and take necessary

actions when acting under mutual aid.

4.2.6.2. Officers have the authority to enforce criminal laws and take necessary actions when exercising the powers and authority granted them under the Limited Statewide Jurisdiction provisions of the Maryland Criminal Procedure Article, § 2-102.

4.2.6.3. Pursuant to the Maryland Criminal Procedure Article, § 2-301 and Department policy, an officer may engage in fresh pursuit and:

4.2.6.3.1. Arrest a person anywhere in the State and hold that person in custody; and

4.2.6.3.2. Return the person to the jurisdiction in which a court has proper venue for the criminal offense alleged to have been committed by that person.

4.2.7. Maryland Traffic Citations and Traffic Arrests

4.2.7.1. Officers are authorized, pursuant to the Maryland Transportation Article, § 26-201, to charge a person with a violation of the Maryland Transportation Article, if the officer has probable cause to believe that the person has committed or is committing a violation of:

4.2.7.1.1. Federal Regulation 25-111;

4.2.7.1.2. COMAR;

4.2.7.1.3. The Maryland Vehicle Law;

4.2.7.1.4. A traffic law or ordinance of any local authority;

4.2.7.1.5. Title 9, Subtitle 2 or Subtitle 3 of the Maryland Tax-General Article;

4.2.7.1.6. Article 56, Section 148 of the Annotated Code of Maryland.

4.2.7.2. Pursuant to the provisions of the Maryland Transportation Article, § 26-202, an officer may arrest a person without a warrant if the person has committed or is committing the violation within the view or presence of the officer, and the violation is any of the following:

4.2.7.2.1. A violation of TA 21-1411 or TA 22-409 relating to vehicles transporting hazardous materials;

4.2.7.2.2. A violation of TA 24-111 or TA 24-111.1 relating to the failure or refusal to submit a vehicle for weighing or to remove excess weight from it.

- 4.2.7.3. An arrest is also authorized if a person has committed or is committing a violation of the Maryland Transportation Article within the view or presence of the officer and either:
 - 4.2.7.3.1. The person does not furnish satisfactory evidence of identity; or
 - 4.2.7.3.2. The officer has reasonable grounds to believe that the person will disregard the traffic citation (TA 26-202).
- 4.2.7.4. An arrest is authorized within the officer's jurisdiction, if an officer has probable cause to believe that the person has committed a violation and the violation is any of the following listed offenses:
 - 4.2.7.4.1. Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
 - 4.2.7.4.2. Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;
 - 4.2.7.4.3. Failure to stop, give information, or render reasonable assistance as required by TA 20-102 and TA 20-104, in the event of an accident resulting in bodily injury to or death of any person;
 - 4.2.7.4.4. Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
 - 4.2.7.4.5. Failure to stop or give information as required by TA 20-103 through TA 20-105 in the event of an accident resulting in damage to a vehicle or other property;
 - 4.2.7.4.6. Any offense that caused or contributed to an accident resulting in bodily injury to or death of any person; or
 - 4.2.7.4.7. Fleeing or attempting to elude a police officer (may be outside the jurisdiction).
- 4.2.7.5. A person may be arrested if an officer has probable cause to believe that the person has committed the violation, and the person is issued a citation and refuses to acknowledge its receipt by signature (TA 26-203).

4.2.7.6. Persons who are not residents of Maryland may be arrested if an officer has probable cause to believe that:

4.2.7.6.1. The person has committed the violation; and

4.2.7.6.2. The violation contributed to an accident.

4.3. Officer Discretion

4.3.1. Department policy generally provides guidelines for officers to consider in exercising discretion.

4.3.1.1. Officers are expected to utilize their knowledge, training and good judgment to make appropriate decisions concerning charging violators, while considering the relevant factors, circumstances and overall situation.

4.3.1.1.1. Frequently, a verbal or written warning for very minor offenses may be sufficient.

4.3.1.1.2. The formal placing of charges may not be necessary unless the violation is deliberate or repeated.

4.3.1.2. Officers are encouraged to make referrals to outside agencies (e.g. Social Services, Wells Robertson House, Crisis Center), as reasonable and appropriate, when an arrest may not be the most effective means to address an underlying problem.

4.3.1.3. An officer making a referral is not relieved from his or 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.

4.3.2. When a written directive mandates a specific procedure for responding to or handling certain circumstances or situations, discretion is either restricted or prohibited. The written directive will describe the individual officer's required course of conduct or action.

4.3.2.1. Officers will be cognizant of laws that do not allow for an officer to exercise discretion, such as those involving mandatory arrests and the placing of certain charges. In such instances, officers shall comply with applicable statutes.

4.3.2.2. Any conflict between Department directives and applicable law will be resolved in favor of the applicable law.