

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 10, 2009

GENERAL ORDER A-01

SUBJECT: AUTHORITY - LIMITS AND DISCRETIONARY USE

PURPOSE

- 1 - The purpose of this General Order is twofold:
 - (a) To establish the legal authority that is vested in sworn police officers employed by the City of Berkeley; and
 - (b) To define discretion and authority; and, to establish a policy for its use by sworn personnel of the Berkeley Police Department.

DEFINITIONS

- 2 - Discretion is defined as the freedom or authority to make decisions and choices. Authority is defined as the power to enforce laws.

Discretion is not limited to what is authorized or what is legal, but includes all that is within the limits of the officer's authority.

POLICY

- 3 - The quality of police service depends upon the manner in which **it** is exercised. It is the policy of the Berkeley Police Department that sworn officers should always seek to **be courteous and respectful, exercise sound discretion in the performance of their duties, and enforce laws in a fair and impartial manner.**

PROCEDURES

- 4 - California Penal Code Section 830.1 establishes "any police officer of a city" as a peace officer. The authority of any such peace officer extends to any place in the State of California:
 - (a) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him/her; or
 - (b) Where he/she has the prior consent of the Chief of Police, or person authorized by him/her to give such consent, if the place is within a city or of the Sheriff or person authorized by him/her to give such consent, if the place is within a county; or
 - (c) As to any public offense committed or which there is probable cause to believe has been committed in his/her presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 10, 2009

GENERAL ORDER A-01

- 5 - When sworn personnel are faced with a situation where discretion can be exercised, they shall carefully evaluate the circumstances and consider the following areas:
- (a) Federal, state, and local statutes
 - (b) Case law
 - (c) Training
 - (d) Departmental policies and procedures
 - (e) Consultation with a supervisor: should also be considered when further clarification is needed.
- 6 - A sworn employee exercising discretion must carefully evaluate the circumstances. For example:
- (a) In a misdemeanor crime situation the use of discretion is sharply limited. An arrest for a misdemeanor can only be made without a warrant:
 - (1) Whenever the officer has probable cause to believe that the person to be arrested has committed a public offense in his/her presence. (See California Penal Code Section 836).
 - (2) When a person is under the age of 18 and the officer has reasonable cause to believe the minor is a person described in sections 601, and 602 of California Welfare and Institutions Code. (See California Welfare and Institutions Code Section 625).
 - (b) In the investigation of a felony a greater degree of discretionary judgment is permitted. An arrest for a felony can be made without a warrant:
 - (1) When a person arrested has committed a felony, although not in the officer's presence;
 - (2) Whenever the officer has probable cause to believe the person to be arrested has committed a felony. (See California Penal Code Section 836).

References: CALEA Standards Manual
California Penal Code Sections 830.1 and 836
General Order C- 10
California Welfare and Institutions Code Section 625