

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Use of Discretion</b>			
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**Purpose**

This directive outlines the guidelines officers should consider when utilizing discretion.

**Policy**

Police officers, of necessity, exercise professional discretion in deciding whether or not to arrest citizens for violations of the law. Certain specific Wisconsin State Statutes, department policies, or orders of a supervisor may further limit an officer’s discretion and direct whether or not to effect an arrest.

**Factors to consider**

In general, police officers, using sound professional judgment, may take the following factors into consideration when deciding whether or not to arrest a person:

1. The seriousness and nature of the offense (generally, the more serious the offense, the more likely an arrest is the preferred course of action);
2. The potential that an 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 person will be deterred from future violations by warning and education;
5. The officer’s belief that the person made an honest mistake in violation of the law;
6. The victim’s interest in prosecution;
7. The potential that arrest will create more serious breaches of the peace or other problems (e.g., inciting riot);
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.

**Unacceptable factors**

Police officers will not base the decision to arrest or use an acceptable alternative to arrest on any of the following factors:

1. The person’s economic status, race, ethnicity, gender, or other status for which the law prohibits legal discrimination; See **Directive 1706** Bias based policing.
2. The revenue likely to be generated by fines or penalties imposed upon conviction;
3. The personal or professional relationship that the person has with the police officer or with other influential people;
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.).

By Order of:   
 Jeffrey Hingiss Chief of Police