

Germantown Police Department

Policies and Procedures

Number: 2-1
Effective Date: January 1, 2003
Subject: Arrests General
Previous Revisions:

I. PURPOSE

The purpose of this policy is to outline the established guidelines within which Germantown Police Officers are allowed to make arrests.

II. POLICY

It is the policy of the Germantown Police Department for officers to make arrests when appropriate and within the guidelines established by the Tennessee Code Annotated and the policies and procedures of this Department. It is also the policy of the Germantown Police Department that an officer use a state misdemeanor charge, rather than a city ordinance, whenever possible in a criminal case

III. MISDEMEANORS OBSERVED BY AN OFFICER

An officer witnessing a misdemeanor may make an arrest without a warrant. Two types of misdemeanor charges exist - state misdemeanors and city ordinances. The difference between the two is that state misdemeanors carry jail time and increased fines. City ordinance violations are civil in nature and can only result in a fine to the suspect. Each officer will maintain an up-to-date list of all charges. City ordinance charges may be used in cases where an appropriate state charge does not exist.

IV. STATUTORY GUIDELINES

Under state laws, arrests may be made under the following circumstances:

- A. **Persons By Whom Arrest is Made:** An arrest may be made by either (1) an officer under a warrant, (2) an officer without a warrant, or (3) a private person.
- B. **Offense in Presence of Magistrate:** When a public offense is committed in the presence of a magistrate, he may, by verbal or written order, command any person to arrest the offender, and thereupon proceed as if he had been brought before him on a warrant of arrest.

- C. Grounds for Arrest by Officer Without Warrant: An officer may, without a warrant, arrest a person:
1. For a public offense committed or a breach of the peace threatened in his presence.
 2. When a person has committed a felony, though not in his presence.
 3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.
 4. On a charge made, upon reasonable cause, of the commission of a felony by the person arrested.
 5. Who is attempting to commit suicide.
 6. Who has violated a domestic violence statute (Tenn. Code Ann. 39-3-601)
- D. Grounds for Arrest by Private Persons No Fees Allowed: A private person may arrest another: (1) for a public offense committed in his presence; (2) when the person arrested has committed a felony, although not in his presence; (3) when a felony has been committed and he has reasonable cause to believe that the person arrested committed it. Provided that a private person who makes an arrest of another pursuant to the provisions of state law shall receive no arrest fee or compensation therefor.
- Whenever a suspect is arrested by a private person (a citizen's arrest), it is required that the suspect be turned over to an officer as soon as possible. An officer taking custody of a suspect in this situation acts as transporting officer.
- E. Disposition of Person Arrested by Private Person: A private person who has arrested another for a public offense shall, without unnecessary delay, take him before a magistrate or deliver him to an officer.
- F. Persons Arrested by Bystander and Delivered to Officer: An officer may take before a magistrate, without a warrant, any person who, being engaged in the commission of a public offense, is arrested by a bystander and delivered to him, and anyone arrested by a private person as provided by state law.

Officers of this department will make arrests in the following categories:

1. Felonies
2. Misdemeanors
 - a. State
 - b. City

V. REVIEW PROCESS

An annual review of this policy will be conducted to determine if it should be revised, cancelled or continued in its present form.

This policy shall remain in effect until revoked or superseded by competent authority.