

# Germantown Police Department

## Policies and Procedures

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**Number:** 2-8  
**Effective Date:** January 1, 2003  
**Subject:** Deadly Force  
**Previous Revisions:**

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### I. PURPOSE

The purpose of this policy is to establish guidelines and procedures pertaining to the use of force, specifically the use of deadly force.

### II. POLICY

It is the policy of the Germantown Police Department that officers shall use only the minimum amount of force which is consistent with the accomplishment of their duties and must exhaust every other reasonable means of prevention, apprehension, or defense before resorting to the use of deadly force.

### III. DEFINITIONS

- A. Violent Felony: A felony in which the suspect has used, threatened to use, or attempted to use force that will cause death or serious bodily injury.
- B. Deadly Force: That amount of force that is sufficient to, intended to, or may be reasonably expected to inflict serious bodily injury and/or death. This includes the discharge of any firearm at, near, or in the direction of any individual.
- C. Juvenile: Any person under the age of eighteen (18) years.
- D. Probable Cause: Facts and circumstances known to a reasonable and prudent police officer, which lead him to reasonably conclude that a crime has been committed and that the suspect committed the crime. Probable cause exists when facts and circumstances within an officer's knowledge, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in believing that an offense has been, or is being, committed. Probable cause is such belief as would appear reasonable to the ordinary and prudent police officer of similar experience under like circumstances. Such belief is not reasonable if the officer is reckless or negligent in having such belief or in acquiring or failing to

acquire any knowledge or belief of fact or of law which is material to the justifiability of his use of force.

- E. Exhaustion of All Other Reasonable Means: All other reasonable means have been exhausted when an officer has tried to control conflict by using all alternate methods other than deadly force; however, all other reasonable means may be considered to have been exhausted when an officer analyzes a set of circumstances and honestly and reasonably concludes that any other means will be ineffective, useless, or hazardous to the officer or some innocent third party. In order to qualify as having exhausted all other reasonable means, the officer must be able to show that his use of deadly force was IMMEDIATELY necessary. The officer must also have communicated his identity and purpose to the suspect, unless these facts are already known by the suspect or cannot REASONABLY be made known to the suspect under the circumstances. Where feasible, warning should be given the suspect by identifying himself as an officer, or by an oral order to halt, or by an oral warning that deadly force might be used. In deciding whether the use of deadly force is reasonably necessary, the officer must consider whether other action on his part could eliminate the immediate need for deadly force.

#### IV. USE OF DEADLY FORCE AUTHORIZED

Pursuant to state law, deadly force may be used in the following circumstances AFTER ALL OTHER REASONABLE MEANS OF APPREHENSION OR PREVENTION HAVE BEEN EXHAUSTED:

- A. In self-defense where the officer has been attacked with deadly force, is being threatened with the use of deadly force, or where the officer has probable cause and reasonably perceives an immediate threat of deadly force.
- B. In defense of others where a third party has been attacked with deadly force, is being threatened with the use of deadly force, is in danger of serious bodily injury or death during the actual commission of a crime against his/her person, or where the officer has probable cause and reasonably perceives an immediate threat of deadly force to a third party.
- C. To prevent the commission of a violent felony in progress.
- D. If the officer has probable cause to believe that a fleeing suspect has committed a violent felony.
- E. If the officer has probable cause to believe that a suspect poses a threat of serious physical harm to the officer or to others unless he/she is immediately apprehended.
- F. To kill an animal which poses a direct threat to the safety of the officer or other persons.

## V. USE OF DEADLY FORCE PROHIBITED

The use of deadly force is prohibited in the following circumstances:

- A. To apprehend or arrest a person for a misdemeanor offense.
- B. To affect the arrest of any person for escape from the commission of any misdemeanor offense.
- C. As warning shots.
- D. To apprehend or arrest a person known to be or believed to be a juvenile, unless the use of deadly force is immediately necessary in the defense of the officer's life or of another person's life when all other reasonable means have been exhausted. The officer's knowledge or belief of a person's age may be based upon factors such as the officer's previous knowledge of the person, his/her observations of the person's appearance, or upon reliable information given to him/her by other persons.
- E. To apprehend or arrest a person fleeing from a felony which is not a violent felony. This includes, but is not limited to, felonies such as auto theft, larceny, embezzlement, fraud, burglary of an auto, or any other felony, which does not involve the use of deadly force, attempted use of deadly force, or threatened use of deadly force.
- F. From or at any moving vehicle, except in a case where a violent felony has been committed in the officer's presence and the officer has determined that there is a much greater threat to innocent lives by not using deadly force. In making this determination, the officer must consider the consequences of stray shots endangering innocent parties and must consider the consequences of the vehicle going out of control at a high rate of speed. Officers should be extremely cautious in using deadly force in self-defense when the deadly force used by the other person is an automobile and the other person is trying to get away. The suspect's intentions are usually ambiguous, and the officer can usually escape harm at least as well by evading the vehicle as he/she can by standing his/her ground and firing at the oncoming vehicle. An officer almost never has a safe, effective shot at a moving vehicle. This is particularly true when an officer is involved in a high-speed chase and is shooting from a moving vehicle.
- G. In any other case where the officer does not have a clear field of fire and cannot be virtually certain that only the suspect will be hit and that the potential for harm to innocent persons is minimum.

## **VI. NOTIFICATION PROCEDURES WHEN WEAPONS ARE FIRED**

When any officer of the Germantown Police Department discharges any firearm, whether on duty or off duty, regardless of the type of firearm, the officer will immediately report the incident to the dispatcher who will notify the Shift Supervisor. The Shift Supervisor will proceed to the scene of the shooting and will begin an immediate investigation and notify the Chief of Police of the incident. The Shift Supervisor will prepare the Supervisor's Shooting Incident Report and will also have the officer prepare a Firearms Use Report.

The Internal Affairs Unit and a Shooting Investigation Team will be notified and will respond for an on-the-scene investigation in all shooting incidents, including:

- A. Any shooting by an officer, either on duty or off duty, regardless of the weapon, which involves death or injury to a suspect, other officers, or a citizen.
- B. Any shooting by an officer, either on duty or off duty, regardless of the weapon, where a suspect has been fired upon.
- C. Any incident where an officer has been shot by a suspect.
- D. All accidental shootings by an officer that occur, on duty or off duty, resulting in property damage involving a police issued weapon listed as a police service weapon.

## **VII. INVESTIGATION**

- A. The Chief of Police or designee will designate a shooting investigation team. Team members will be assigned as needed and will consist of the City Prosecutor or his designate, a Firearms Instructor, a detective, a crime scene investigator, and a police legal advisor. Other department personnel may be assigned to assist the team as necessary.
- B. The primary objective of the Shooting Investigation Team is to investigate any and all shooting incidents involving police officers which occur as a result of intervention by officer(s) in a crime, self defense, or defense of another situation. When this happens, the Shooting Investigation Team will be called to handle the investigation of the incident including obtaining statements, supplemental reports, state reports and presentation to the Shelby County Grand Jury. Criminal charges placed against a suspect wounded during the commission of a crime will be handled by the Shooting Investigation Team.

## **VIII. REVIEW PROCEDURES**

All reports, including the Firearms Use Report, Supervisor's Shooting Incident Report, Crime Scene Report, and Bureau Report, and copies of arrest reports, offense reports, and memos will be presented by the Internal Affairs Unit to the Chief of Police for review. Upon reviewing all initial reports, the Chief of Police will take the following action:

- A. Order a new and/or any additional investigations as required.
- B. Concur with the investigative findings that the officer(s) was justified in the use of deadly force and order notification of the officer of said findings by letter.
- C. Concur with the investigative findings that the officer(s) was not justified in the use of deadly force and direct administrative processing of the Statement of Charges issued by the Shoot Team Commander under the established disciplinary procedures.

## **IX. REVIEW PROCESS**

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

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