

Germantown Police Department

Policies and Procedures

Number: 2-7
Effective Date: January 1, 2003
Subject: Misdemeanor/Felony Firearms Charges
Previous Revisions:

I. PURPOSE

The purpose of this policy is to establish procedures for officers when arresting persons for violations of certain statutes dealing with firearms.

II. POLICY

It is the policy of the Germantown Police Department for officers to exercise extreme caution when dealing with persons suspected of being armed or suspected of violating statutes regarding firearms possession. Further, officers should follow the established procedures to ensure that persons suspected of firearms violations are properly charged and that all evidence is properly documented and preserved for courtroom presentation.

III. BACKGROUND

A. Tenn. Code Ann. 39-17-1307 - Unlawful carrying or possession of a weapon:

1. This statute states, in part, "A person commits an offense who carries with the intent to go armed a firearm, a knife with a blade exceeding four inches (4"), or a club."
2. A person charged under this statute should be charged with a Class C misdemeanor, unless the person's carrying a handgun occurred at a place open to the public where one (1) or more persons were present. In such case, the person should be charged with a Class A misdemeanor.
3. EXCEPTIONS FOR FELONY CHARGE:
 - a. If the person possessing a handgun has been convicted of a felony involving the use or attempted use of force, violence, or a deadly weapon or has been convicted of a felony drug offense, then the person should be charged with a Class E felony.

- b. If a person possesses any deadly weapon with the intent to employ it in the commission of or escape from an offense, then the person should be charged with a Class E felony. In such cases, the suspect must be charged with Tenn. Code Ann. 39-17-1307(c)(1) for the possession of the deadly weapon AND charged with the offense during which the weapon was employed.

IV. PROCEDURE

- A. It will be necessary for an arresting officer to check the arrest record of a person arrested and charged with one of the above offenses, to ascertain whether a misdemeanor or a felony charge should be placed. This information can normally be acquired by contacting the Communications Center, who may contact the Shelby County Records & Identification Section (R&I).
- B. If it can be determined that the defendant has been convicted (not just charged) of one of felony exceptions, a felony charge should be placed against the suspect. If the suspect has been charged or held to the state for the commission of one of the felony exceptions, but the disposition of the charges cannot readily be determined at the time of the arrest, the suspect should be charged with a misdemeanor.
- C. Proper documentation of evidence in cases dealing with firearms violations is imperative. At the scene of every arrest involving a firearms violation, the arresting officer will ensure that photographs are taken of the original location of every firearm seized by the Department. Further, each arresting officer should properly handle the firearm(s) so as not to destroy any fingerprint evidence, which might be present. The seized firearm should be properly secured in a suitable container for safekeeping and to maintain the proper chain of custody. A member of the Investigative Division will be responsible for checking the weapon for latent fingerprints and for attempting to restore any obliterated serial numbers, if applicable.
- D. Within the Investigative Division, a detective will be assigned to investigate all cases related to possession or use of firearms and to coordinate the activities of the Germantown Police Department with Project Safe Neighborhoods. This detective will be responsible for conducting a follow-up investigation to determine the status of the arrested party's prior convictions. This detective will be forwarded copies of all reports related to firearms violations, including, but not limited to persons charged under the following statutes:
 - 1. Tenn. Code Ann. 39-17-1307 - Unlawful carrying or possession of a weapon
 - 2. Tenn. Code Ann. 39-17-1302 – Prohibited Weapons

3. Tenn. Code Ann. 39-17-1309– Carrying weapons on school property
4. Tenn. Code Ann. 39-14-134 – Alteration of item’s permanent distinguishing numbers – Sale or possession of such item

V. 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.