



# Germantown Police Department

## Policy and Procedure

Subject	Date of Issue	TACP SCD Reference	Amends	Rescind	Dist.	Number
			YES	ALL	ALL	10-1
Citations and Vehicle Stops	February 8, 2019	10.1	By order of...			
	<i>Effective Date</i>	11.2	Richard L. Hall, Chief of Police			
	February 8, 2019	11.5				
		11.7	Previously Revised Date: 1-1-03; 10-1-13; 1-27-15, 2-2-17, 8-6-18			

### I. PURPOSE

The purpose of this policy is to outline the established guidelines and to define the rules and regulations for police officers regarding vehicle stops and the issuance of citations.

### II. POLICY

It is the policy of the Germantown Police Department for officers to initiate enforcement action in an unbiased, equal, fair, and impartial manner. Police officers will make arrests, conduct vehicle stops and issue traffic citations in accordance with constitutional guidelines, rules of criminal procedure, departmental regulations, directives and procedures. Department members will use preventive patrol and proactive enforcement, while minimizing conflict and promoting professional relationships with motorists, pedestrians and the court system.

### III. DISCUSSION

The duties and responsibilities of police officers are numerous and often intertwine. Many situations and circumstances that officers deal with allow for officer discretion; however, there are instances in which the laws are specific as to how particular circumstances are to be handled. Likewise, the department has preferred methods in dealing with certain situations.

### IV. PROCEDURE

#### A. Traffic Enforcement - General Guidelines

The traffic enforcement objectives of the department are to reduce traffic crashes and to aid in the safe and expeditious flow of vehicular and pedestrian traffic. The department seeks to achieve these objectives through a combination of effective enforcement, public education and cooperation with the traffic engineer's office.

#### 1. Enforcement Actions

- a. The two primary objectives of a traffic stop are:

- (1) Execution of traffic enforcement actions; and
  - (2) Promotion of voluntary compliance with traffic laws in the future.
- b. Enforcement actions will be conducted fairly, impartially and courteously using the most appropriate of the following methods:
- (1) Warnings: A warning may be issued to a violator when there is a minor traffic infraction, equipment violation, or when the act may be unique or one of which the driver may not be aware.
  - (2) Traffic Citations: A citation will be issued to a violator who jeopardizes the safe and efficient flow of traffic, including hazardous moving violations and equipment violations. The goal is to impact the driver in such a manner that the violation will not occur again, thereby making the roadways safer and reducing traffic crashes. Members will pay particular attention to those violations known to contribute to traffic crashes.
  - (3) Custodial Arrests: Refer to Policy 2-3 *Legal Requirements for Arrest* Violators may be physically arrested for:
    - (a) Traffic law violations involving operation of a motor vehicle under the influence of alcohol or drugs;
    - (b) Felonies and misdemeanors that involve the operation of a motor vehicle;
    - (c) Attempts by drivers to avoid apprehension by a law enforcement officer;
    - (d) Inability of a motorist charged with a violation to produce sufficient proof of his/her identity;
    - (e) When the officer has an articulable reason to believe that the operator will fail to appear to answer a citation or summons.

## 2. Other Considerations

- a. Juveniles: Refer to Policy 16-4, *Charging Instruments – Juveniles* for guidelines regarding citations issued to juveniles.
- b. Legislators: Legislators are not immune from arrest or citation. They may be issued citations, if warranted, while en route to

legislative sessions, but will not be arrested unless their condition would further endanger the public (e.g., D.U.I.). A Patrol supervisor will be contacted prior to making the arrest.

- c. **Members of the Military:** Persons en route to military duty may be issued citations, if warranted, but will not be arrested unless their condition would further endanger the public. A Patrol supervisor will be contacted prior to making the arrest.
- d. **Foreign Diplomats, Consular Officials and Their Families:** These persons are immune from most criminal processes. Immunity is determined by treaty obligations of the United States. However, traffic citations may be issued to diplomatic officials and families, regardless of their rank or status. A diplomat's vehicle may not be impounded or searched. Refer to Policy 2-9, *Diplomatic And Consular Immunity Rights of Foreign Citizen for additional guidelines related to diplomats and foreign officials.*

### 3. Uniform Enforcement Procedures

- a. **Speed Violations:** Speed violations contribute to motor vehicle crashes, property damage and increase the risk of personal injury. Enforcement of speed violations is a high priority, particularly in areas which have been identified through crash analysis as having high crash rates. Speed enforcement is also critical in school zones, near parks and playgrounds, in residential areas and where citizen complaints indicate that speeding violations are creating a hazard to public safety or impairing their quality of life. Consideration will be given to weather conditions, road construction activity and traffic volume.
- b. **Equipment Violations:** The officer will consider the continued safe operation of the vehicle and its general condition, as well as the type of equipment defect. Most equipment violations can be resolved by issuing a *courtesy warning*.
- c. **Public Carrier/Commercial Vehicle:** These violations will be handled in the same manner as private passenger vehicles, with the exception of enforcing laws, which apply only to these specialized vehicles.
- d. **Other Non-Hazardous Violations:** Officers may issue warnings, unless violations are flagrant or repetitive.
- e. **Multiple Violations:** The officer may cite all violations, but is permitted to cite the most serious violation and warn on the remainder. When violations are similar to the extent that elements

of one violation are included in the other and they occurred simultaneously, only the most serious violation will be cited.

- f. Other Violations Which Result in Collisions: If a violation results in personal injury or significant property damage, the violator will be cited for the offense.
- g. Pedestrian and Bicycle Violations: The enforcement of traffic laws pertaining to pedestrians and bicycles necessitates broad discretion by officers. Officers will concentrate efforts where crashes have been frequent and severe. Officers may consider the age of the violator and the potential for physical danger to the violator due to the unsafe act. If the violator is a young child, it may be appropriate to contact the child's parent to correct the problem. In most cases, a verbal warning is sufficient to correct the violator's behavior.

#### 4. Parking Enforcement

Officers will enforce parking regulations under applicable laws. This includes parking that obstructs public roadways, violations of handicapped parking spaces, blocking fire lanes and other parking violations. Officers will place the parking citation in a conspicuous location on the vehicle, which is usually on the front windshield.

#### 5. Hazardous Conditions Requiring Immediate Attention

Any officer learning of or observing any hazardous condition that requires immediate attention or repair shall notify the Communications Center. Communications will ensure prompt notification of appropriate agencies (such as street/highway departments and/or public utilities) to effect emergency repairs or restore essential services and assist in removal of debris from the roadway.

#### 6. Problem Conditions

A problem condition may exist that enforcement action cannot correct, such as design, traffic education or engineering deficiencies. In such cases, officers should:

- 1. Recognize the problem;
- 2. Report minor maintenance problems, such as downed signs and inoperative lights, to Communications for notification of the proper department;
- 3. Document problems, other than minor maintenance, to formally establish the department's awareness of the problem; and

4. Forward the documentation to the Patrol shift supervisor who shall act as a liaison with groups involved with traffic safety.

B. Completing and Issuing Citations for Violations

1. Officers will issue traffic, warning and parking citations to motorists using handheld electronic equipment. Officers will include all required fields on the electronic citation and then provide the violator a printed copy of the citation.
2. Court Appearance Requirements: Officers will direct persons cited to contact the Germantown Court Clerk's office regarding their court date and payment options. Officers shall advise individuals cited that this must be done within 20 days of the issuance of the citation.
3. Notes on Citations: The officer issuing the citation can make written and/or audio notes within the citation. The notes should include road conditions, weather conditions, any passenger information, location of vehicle at first observation, location of the officer at the time of observation, details of the violation itself, remarks of the driver, and any other pertinent details. This information will aid the officer with testifying in court.
4. Issuance: Germantown traffic citations shall only be issued for violations occurring on public streets and roadways in the Germantown city limits except as authorized by ordinance or statute.
5. Handwritten citations, warnings and parking citations can be issued if the electronic citation system is unavailable. In these situations officers shall print all information in a manner that allows it to be clearly legible on all copies of the citation, especially the hard copy given to the traffic violator. Printed citations shall be completely legible. Officers should use the back of the white copy of the citation for making notes about the traffic violation(s).

C. Private Property:

Traffic citations shall not be issued for violations occurring on private property, except in the following circumstances:

1. Under provisions of Tennessee Code Annotated 55-10-401, which provides that a person may be charged with D.U.I. for operating a vehicle on the premises of a shopping center, apartment complex, or other area frequented by the public while under the influence of an intoxicant or drug.
2. Suspended, cancelled, or revoked licenses on private property.
3. When an officer observes a person operating a vehicle in a reckless manner which endangers lives and property.

4. For leaving the scene of a private property crash witnessed by the officer.
5. Parking violations.
6. A driver fails to provide sufficient proof of vehicle insurance under TCA 55-12-139.

D. Refusal of Violator to Sign the Citation/Summons

1. When a traffic violator refuses to sign a citation, the officer should make it as clear as possible that in signing, the driver is not admitting guilt but that he/she is only acknowledging receipt of the summons and agreeing to appear in court.
2. In the event the offender refuses to sign the agreement to appear in court and to waive the issuance and service upon the offender of a warrant, then it shall be the duty of the officer, in whose presence the offense is committed, forthwith to place the offender under arrest and take the offender before the proper authority, procure a warrant, serve the same upon the offender and book the offender into jail as in other cases of violations. The authority issuing the warrant shall take bail from the accused for appearance in court for trial, or in lieu thereof, commit the offender to jail. This section references Tennessee Code Annotated 7-63-104, Arrest When Offender Refuses to Sign Agreement to Appear.
3. A supervisor will be called to the scene when a violator refuses to sign a citation and prior to the arrest of the violator.

E. Issuance of Citation After Crash Investigation

The procedure as to giving citations in lieu of arrests shall also apply when an officer makes a personal investigation at the scene of a traffic crash or makes a personal investigation at the place of a violation, as a result of which the officer has reasonable and probable grounds to believe that the driver of any vehicle involved in the crash has violated any traffic ordinance, law, or regulation; or in the case of violations other than traffic crashes, the officer has reasonable and probable grounds to believe the owner or occupant of property involved in a violation has violated any ordinance, law, or regulation. This section references Tennessee Code Annotated 55-10-207, Traffic Citation in Lieu of Arrest for additional information.

F. Traffic and Parking Citation Accountability

1. The citation handheld electronic equipment will be obtained by each patrol officer prior to their shift. The device will be synched at the end of each shift to submit all issued citations to a supervisor for review. The device will be returned to the police department at the end of each shift.

2. Patrol supervisors will review issued citations. Approved citations will be submitted into Police records and Court files electronically.
3. Handwritten Citations
  - a. Individual supplies of summonses and parking citations will be obtained from shift supervisors. Citation books will be issued by number. The issuing supervisor will document the beginning and ending numbers of each book issued, the receiving officer's name, and the issuing officer's name.
  - b. Officers must account for each citation issued to them. Officers will retain a copy of each citation. Failure to produce unaccounted for citations may result in disciplinary action.
  - c. When a citation book has been completed, the officer will submit all twenty-five blue copies to a shift supervisor for review.
4. When an officer issues a citation, the citation number will be documented in the narrative on the mobile computer.

G. Charging Non-Drivers with Traffic Offenses

Tennessee Code Annotated 55-10-201 establishes that every person who aids or abets in the commission of any act declared to be illegal by Chapters 8 or 10 of the Motor Vehicle Section of the Code shall be guilty of the offense the driver committed. It further states that any accessory shall be guilty of such offense and that anyone who willfully causes or permits another to violate any provision of Chapters 8 and 10 shall be guilty of the same offense as the driver.

To charge one other than the operator of the vehicle with a violation of the law because he/she was a party to that crime, the individual must have either:

1. Encouraged or forced the driver to violate the law; or
2. Have had knowledge that the driver was violating the law, did not attempt to halt the illegal actions, and had control over who was driving the car, (i.e., owner, renter, or custodian of the car).

D.U.I. charges could be placed against the owner of a car who was neither intoxicated nor driving when he/she knew the driver to be intoxicated or impaired and permitted him/her to drive. The proper charge would be aiding and abetting driving under the influence, Tennessee Code Annotated 55-10-401.

Aiding and abetting reckless driving charges could be placed against all individuals in a car who encourage the driver to operate his/her vehicle recklessly. This charge would be appropriate if a group went out joyriding.

Even though only one person was behind the wheel, all participated in the crime by willfully encouraging the driver to proceed in such a reckless manner. Officers must know and be able to articulate that the passenger actively encouraged the unlawful action to bring these charges.

Tennessee Code Annotated 55-10-201 is not a criminal offense in itself, but simply a codification of the common law theory of aiding and abetting offenses. It gives officers the authority to charge persons with aiding and abetting a particular offense.

Tennessee Code Annotated 55-10-202 is directed specifically at owners of automobiles and people who have control over the driving of an automobile (i.e., employer-chauffeur relationship). This makes it unlawful for them to require or knowingly permit the operation of the vehicle in an unlawful manner. This charge should be placed whenever the non-driver has the right to determine who shall drive the car. Tennessee Code Annotated 55-10-202 is a separate criminal offense and should be used in addition to a charge of aiding and abetting when appropriate.

Another section that can be used is Tennessee Code Annotated 55-10-501, which deals with drag racing.

Proof to sustain a conviction based on any of these three statutes will need to be great. Discretion must be exercised in bringing charges against one other than the driver.

#### H. Errors on Citations

If an error or an omission of necessary information is discovered after a citation has been issued, officers will not correct the citation unless the violator is contacted and the violator is informed of the corrections. If the officer is unable to contact the violator, the citation will be turned in without corrections. The officer will be responsible for contacting the court clerk's office to amend the information, and a written memorandum outlining the error or mistake will be forwarded to the Court.

#### I. Cancellation of Citation or Summons

Once a summons or citation has been issued, whether for traffic or criminal violations, it cannot and shall not be voided by any officer of the Department. Officers should reference Tennessee Code Annotated 55-10-204 for additional information.

#### J. Traffic Stops

1. Complete rules of procedure for traffic stops are not possible, as situations vary widely. Some general guidelines, however, if combined with law



enforcement experience and common sense, can reduce risks to officers and to violators.

2. Officers making traffic stops should attempt to direct the violator to a suitable stopping point. The following should be considered in making stops:

a. **Location:** When choosing a location to stop the violator, keep in mind lighting conditions, visibility to other motorists, traffic flow and escape routes. If the violator does not stop in accordance with the directions, the violator can be asked to move the vehicle to a more appropriate location after the initial contact.

Do not block private driveways and accesses to businesses or residential areas by a traffic stop when you can avoid doing so. If this is not possible, make reasonable efforts to minimize the inconvenience.

If a traffic contact has to be made at a hazardous location, assist drivers to get safely back into the traffic flow.

b. **Positioning of Vehicles:** Park behind the violator's vehicle providing protection for yourself and the traffic violator.

c. **Use of Emergency Lights:** In order to give as much warning as possible to other motorists, use your vehicle's available emergency lights.

d. **Notification of Communication Center:** Before leaving the police vehicle to contact a traffic violator, inform Communications of the vehicle, license plate number, location of the traffic stop, and briefly state the reason for the stop.

e. **Approaching the Violator:** Use caution in approaching the violator's vehicle. Safety procedures include checking other traffic before exiting the police vehicle, watching the violator's and passenger's actions inside the vehicle, and proper positioning at the violator's vehicle while contacting the occupant(s).

f. **Driver Contact:** Upon initial contact, the officer shall tell the violator why he/she is being stopped, obtain driver's license, registration and insurance information. Do this courteously but briefly, and do not argue with the violator about guilt or innocence.

Officers should complete the contact quickly without delaying the violator any longer than is necessary. Whenever appropriate, officers should help the violator get back into traffic safely.

3. Professional Demeanor and Actions During a Traffic Stop

Traffic violation enforcement is one of many routine police tasks. For violators, however, it frequently is an emotional experience. In many cases, this is the only contact that a person has with this Department. Officers should be aware of these conditions and should strive to make each contact educational and to leave the violator with the impression that the officer has performed a necessary task in a professional and courteous manner. The officer should attempt to respond calmly to confrontation. Professional law enforcement officers do not permit their own emotional responses to a violator to affect their judgment or actions, and penalties or bonding requirements shall neither be imposed nor withheld on such grounds.

4. Referral of Driver(s) for License Reexamination

In the course of an officer's related activities, he/she may identify certain individuals that have a physical, mental, or other condition that prevents or limits that individual from exercising adequate care and/or operation of a motor vehicle. In cases where the officer feels it is necessary to request administrative action from the Department of Safety, the officer will complete the Department of Safety form recommending the individual to be reexamined to determine their fitness to safely operate a motor vehicle. The form will be forwarded to the officer's supervisor.

5. Reflective Traffic Vests

All department officers, when directing vehicular traffic, shall wear a reflective vest or other high visibility clothing to increase officer safety and recognition by drivers.

Exception: Exigent circumstances may cause a reflective vest or high visibility clothing to become a hindrance to law enforcement function. Department supervisors may grant exceptions for special situations; for example, traffic control at a tactical call out, or other emergency calls for service.

## 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.