

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING:	PUBLIC SAFETY COMMITTEE
DATE AND TIME:	<u>MONDAY, NOVEMBER 2, 2020</u> <u>6:00 p.m.</u> Special Public Works Meeting Immediately Following
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

NOTICE: Pursuant to the current recommendation of the Centers for Disease Control and Prevention limiting the size of public gatherings, capacity within the Board Room will be limited. Members of the body and citizens may also attend the meeting virtually through the WebEx platform, Meeting #: 126 929 5388 Password: AgXFuXT2r46 which can be accessed by phone at 408-418-9388 or by logging on at <https://villageofgermantown.my.webex.com/villageofgermantown.my/j.php?MTID=m2e06fbcff51af235ca9cf4499a6b85be>. Citizens wishing to view the meeting are encouraged to watch the live broadcast of the meeting through Channel 25 on Spectrum cable, or the livestream on the Village's website. Citizens not wishing to attend the meeting personally or virtually may submit any public comments by sending an email to comments@village.germantown.wi.us by 4 p.m. on the day of the meeting so that it can be provided to the members of the body for their consideration.

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with Wisconsin Statutes, Section 19.83 and 19.84 in such form that will apprise the general public and news media of subject matter that is intended for discussion and action.
- II. **ROLL CALL:** Chairperson Miller, Trustees Wing, Pieper and Myers.
- III. **PUBLIC COMMENT:** *Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes) Written Public Comments should be directed to comments@village.germantown.wi.us, by 4 p.m. on Monday, November 2, 2020.*
- IV. **APPROVAL OF MINUTES:** October 5, 2020, Regular Meeting.
- V. **REPORTS:**
 - A. Police Department.
 - 1. Monthly.
 - B. Fire Department.
 - 1. Monthly.
 - C. Overtime Reports.
 - 1. Police Department.
 - 2. Fire Department.
 - D. Policy Updates.
 - 1. Police Department:

- a. Policy 300 – Use of Force.
 - b. Policy 301 – Use of Force Review Boards.
 - c. Policy 302 – Handcuffing and Restraints.
 - d. Policy 303 – Control Devices and Techniques.
 - e. Policy 304 – Conducted Energy Device.
 - f. Policy 305 – Officer – Involved Shootings and Deaths.
 - g. Policy 306 – Firearms.
 - h. Policy 307 – Vehicle Pursuits.
2. Fire Department:
- a. None.

VI. **UNFINISHED BUSINESS:**

- A. None.

VII. **NEW BUSINESS:**

- A. Fire Department - Ordinance Amending Section 5.15 Burning Regulated, Restrictions and Limitations.
- B. Fire Department Ordinance to Rescind Ordinance 5.10 Structures with Light –Frame Truss
- C. Dispatch Comp Time.

VIII. **NEXT MEETING:** Set December 2020 Meeting Date and Time.

IX. **ADJOURNMENT:**

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

NOTICE is given that a majority of the Village Board may attend this meeting to gather information about an agenda item over which they have decision making responsibility. This may constitute a meeting of the Village Board per State ex rel. Badke v. Greendale Village Board, even though the Village Board will not take formal action at this meeting.

MEETING MINUTES
PUBLIC SAFETY COMMITTEE MEETING
OCTOBER 5, 2020
GERMANTOWN VILLAGE HALL BOARD ROOM

CALL: The meeting was called to order at 6:01 p.m. by Chairman Miller.

ROLL CALL: Chairman Miller, Trustee Myers and Trustee Wing were present. Trustee Pieper arrived at 6:02 p.m.

Also present were Police Chief Snow, Fire Chief Delain, Clerk Braunschweig, Attorney Sajdak.

PUBLIC COMMENT: Miller advised he received letters from 2 citizens who wished to be heard for Public Comment.

First was a letter from J. Oleson which expressed concerns with the following:

- Gehl Foods buying properties on Main Street
- Parking on Main Street hazards
- Saxony Village construction
- Noise
- Dog waste complaint
- Increased traffic/truck traffic

Miller advised the second letter was in regard to a licensing item on the agenda and would be brought up at that time.

APPROVAL OF MINUTES: a motion was made by Wing, seconded by Pieper, to approve the minutes of the August 3, 2020 Public Safety Committee meeting and the August 10, 2020 Special Public Safety Committee Meeting. Motion carried unanimously.

POLICE DEPARTMENT MONTHLY REPORT: Snow reported on the following:

- Presentation of commendations for Lt. Mikulec and Officer Duckert at the Village Board meeting tonight for work done in the drug unit
- Accreditation process is progressing nicely, policies will be introduced at about 10 per week and should be complete by February 2021
- Annual report has been completed, Snow complimented C.S. Schmidt on the work she did on the report and said he would answer any questions the committee may have
- Wing said the report was very well done and he liked the Policy Academy articles. He added that he would like to see more police involvement in these type of community programs with adults and juveniles
- Snow advised he is always looking for ways to connect with the public and further police relations with the community; he noted that he is looking into how to hold these types of programs with the new guidelines in place

- Pieper asked if Halloween Trick or Treat is still scheduled, Snow advised it is and officers are planning to be out in the neighborhoods
- Myers noted he was in the Citizen Police Academy in its 2nd year and learned a lot from it

FIRE DEPARTMENT MONTHLY REPORT: Delain reported on the following:

- They are getting back into their community programs
- Have restarted the fire inspections and initially had some resistance with the senior facilities but are working through that
- Public education events have begun, due to concerns with the public coming into the fire station they are holding these events at the Survive Alive Station
- Bell in Firemen's Park has been down for a couple years and is now being repaired and painted to bring it back into service
- Wing inquired into the costs for the bell project, Delain stated so far under \$1000 and there have been some donations pledged
- Joint event was held at the County Fair Park for Fire Prevention last weekend, was well attended

OVERTIME REPORTS:

Police Department – Snow advised the overtime budget is in good shape at this time, one officer currently on light duty due to squad accident

Fire Department – Delain said that the department has had a lot of overtime which was discussed at the budget meeting, they are looking at ways to work it out

POLICY UPDATES FOR POLICE & FIRE DEPARTMENT:

Police Department - the following policies were submitted for review:

1. Chief's Preface
2. 100 Law Enforcement Authority
3. 101 Chief Executive Officer
4. 102 Oath of Office
5. 103 Policy Manual
6. 200 Organizational Structure and Responsibility
7. 201 Department Directives
8. 202 Emergency Operations Plan
9. 203 Training
10. 204 Electronic Mail
11. 205 Administrative Communications
12. 206 Supervision Staffing Levels
13. 207 Former Officer Carrying Concealed Weapon

Snow advised that some of the policies are new and others are updated versions of current policies. He said the policies are provided and reviewed by Lexipol and can be adjusted to fit the needs of the department. Lexipol does background and maintenance on the policies to ensure they are in compliance with state statutes.

Fire Department: none

UNFINISHED BUSINESS: none

NEW BUSINESS

ANIMAL FANCIER LICENSE – CRYSTAL PRADO, N96 W15250 COUNTY LINE ROAD: Miller advised the second letter he received was regarding this license application and was received from the Thom family. The letter objected to the applicant having more than 3 dogs.

Discussion followed with Wing noting that the applicant was requesting this license for an additional kitten, not a dog. Myers asked if there were any complaints on file with the police department for this applicant, Snow advised there were none. A motion was made to approve the Animal Fancier's License for Crystal Prado by Pieper and seconded by Myers.

Further discussion followed with Mr. Thom calling into the meeting to voice his concerns with this application. He advised that there has been a lack of control demonstrated by the applicant for the animals already in their possession, and he has had conversations with them in the past to keep their dogs quiet. Wing told Mr. Thom that the applicant currently has 2 dogs and 1 cat and is requesting a license for an additional cat. He encouraged Mr. Thom to contact the police department if there are problems with barking dogs.

Clerk Braunschweig advised the committee they could make the motion for approval conditional upon the applicant being limited to 2 dogs and 2 cats. Wing amended the motion to limit the applicant to 2 dogs and 2 cats. Amended motion seconded by Myers and carried unanimously. Original motion to approve carried unanimously.

ORDINANCE 14-2020 AMENDING THE OFFICIAL TRAFFIC MAP AND CONTROL DEVICES: Miller noted that this item has been discussed at past meetings but had not yet been acted on. Attorney Sajdak stated that this would give authority to the Director of Public Works instead of the Police Chief to change signs.

A motion was made by Myers, seconded by Wing, to forward Ordinance 14-2020 to Village Board with a recommendation of approval. Motion carried unanimously.

ORDINANCE 15-2020 CREATING SECTION 9.21 PROHIBITING RESIDENTIAL PICKETING: Sajdak advised that due to recent events in the Village, and in discussions with the police department, it was decided to look into an ordinance that would give the police department tools to help maintain order in these types of circumstances. Wing noted that the exception to this ordinance would be labor disputes.

A motion was made by Myers, seconded by Wing, to forward Ordinance 15-2020 to Village Board with a recommendation of approval. Motion carried unanimously.

ORDINANCE 16-2020 CREATING SECTION 7.20 RELATING TO COMPLIANCE WITH TRAFFIC CONTROL DEVICES ON PRIVATE STREETS: Sajdak advised this would give authority to the police department to enforce traffic violations in areas with private roadways, these would be municipal citations not state citations. When asked for clarification, Snow advised that the department currently is limited to what they can enforce on private roadways and this would allow the department to address traffic concerns that happen on private roadways.

A motion was made by Myers, seconded by Wing, to forward Ordinance 16-2020 to Village Board with a recommendation of approval. Motion carried unanimously.

NEXT MEETING: Monday, November 2, 2020 at 6:00 p.m., Village Hall Boardroom.

ADJOURNMENT: There being no further business, the meeting was adjourned at 6:45 p.m.

Recorded by,

Julie L. Barth
Secretary

Overtime Report for Police & Fire Departments

2020 Year to date through:

18-Oct-20

2020						2019			
Empl #	Employee Name	Total OT Hours Paid	Total Cost of OT Paid	Total OT Hrs to Comp	Time off Hours	Total OT Hours Paid	Total OT Hrs to Comp	ANNUAL Total of OT hours worked	ANNUAL Total OT to Pay
Police Dept									
90	Ball, Brian	2.00	128.73	31.75	47.63	0.00	77.63	77.63	0.00
93	Bartelt, Adam	2.25	102.06	87.75	131.63	22.25	222.38	244.63	1,009.26
92	Bloch, Ryan	254.00	14,698.98	19.25	28.88	228.25	90.38	318.63	13,208.83
115	Case, Robert	0.00	0.00	9.00	13.50	0.00	84.00	84.00	0.00
122	Duckert	54.00	2,356.29	110.75	166.13	22.75	72.00	94.75	0.00
118	Farnsworth, Cody	13.00	589.68	62.00	93.00	21.50	162.00	183.50	975.24
153	Jones, Matthew	29.50	1,492.11	84.75	127.13	65.00	74.25	139.25	3,287.70
101	Jones, Shawn	0.00	0.00	65.75	98.63	49.25	51.75	101.00	3,169.98
88	Laux, Kevin	39.00	2,256.93	86.50	129.75	54.25	91.38	145.63	3,139.45
126	Majkowski	21.25	927.24	66.25	99.38	18.25	56.63	74.88	879.01
142	Marten, Shawn	0.00	0.00	126.00	189.00	0.00	3.00	3.00	0.00
102	Mikulec, Daniel	0.00	0.00	0.00	0.00	54.25	93.38	147.63	3,139.45
119	Onela, Michael	0.00	0.00	92.00	138.00	37.75	168.38	206.13	1,712.34
138	Olson, Toni	84.75	5,026.52	37.75	56.63	132.25	73.13	205.38	7,843.75
137	Pesch, Justin	168.00	8,497.44	57.25	85.88	131.25	76.50	207.75	6,638.63
133	Pierce, Catherine	0.00	0.00	71.50	107.25	0.00	196.13	196.13	0.00
96	Pierzchalski, David	0.00	0.00	208.50	312.75	93.25	204.38	297.63	5,396.38
106	Radtke, Oliver	39.00	1,813.50	110.50	165.75	0.00	0.00	0.00	0.00
98	Rechlicz, Justin	99.00	5,729.13	25.25	37.88	141.25	92.25	233.50	8,174.14
84	Schmittinger, Jayna	37.00	1,614.50	40.75	61.13	0.00	0.00	0.00	0.00
121	Schubert, Matthew	0.00	0.00	60.75	91.13	0.00	0.00	0.00	0.00
89	Schulz, Zachary	8.25	397.36	73.75	110.63	45.50	122.63	168.13	2,191.51
97	Spreiter, Jared	48.25	2,323.96	103.00	154.50	166.50	167.63	334.13	8,019.47
99	von Bereghy, Darren	116.75	6,756.32	112.75	169.13	250.00	169.50	419.50	14,467.50
95	Whealon, Shaun	50.75	2,302.02	42.75	64.13	116.25	122.25	238.50	5,273.10
Total Police			57,012.78					*	88,525.72
Annual Budget			90,000.00						90,000.00

State Aid Reimbursement 0.00 10/28/2020 **Total year end actual = \$1 \$ 105,585.50**
 * (difference from report due to personnel changes)
 2018 State Aid Reimb \$0.00
 2018 'Hunting/Concealed Carry Permit 0.00

Note: Overtime hours to comp are reflected in regular wages

Fire Dept - Full Time

*	593 Smith, Steve	6.75	226.60			29.75	998.71
Fire Dept Regular Part-time							
		Overtime Hrs	True OT cost			OT Hours	True OT Cost
**	515 Diamantopoulos	366.50	11,337.03			474.50	11,057.96
**	517 Dymond	166.50	5,405.70			474.50	11,057.96
**	518 Lazovik	232.25	7,468.60			229.00	5,396.53
**	521 Rigden	216.50	5,353.82			86.50	1,442.43
**	563 Rossman	306.75	11,218.79			306.00	9,469.94
**	617 Hass, Thomas		0.00			47.50	1,019.96
**	625 Goetz, Steve	168.00	5,445.68			67.00	713.36
**	653 Asmondy		0.00			60.00	1,059.35
**	672 Krieg, Caitlyn	307.00	12,588.02			779.50	19,718.95
**	694 Mayer, Andrea	84.00	2,569.57			237.75	6,075.71
**	698 Wolf	469.25	13,041.06			334.50	7,620.55
		74,428.27				74,632.70	

Effective July 24, 2013 - POC's over 53 hours/week

	Hrs over 53	2020	2019 Hours	2019 Cost
***	505 Wilson, Taylor	1,493.96	52.50	1,325.21
***	506 Thiel, Brent	160.56	16.25	384.73
***	517 Dymond, Daryn	0.00	96.75	2,630.65
***	525 Schuster, Andrew	1,524.48	1.00	25.49
	527 Daemmrigh, Craig	305.88		
	528 Weisflog, Susan	736.88		
	549 Niggemeier, C	44.38		
	603 Piette, C	849.26		
***	639 Rammel, Brian	0.00	26.75	785.06
***	658 Silvis, Peter	8,963.84	18.00	452.79
***	674 Creegan, James	744.52	17.75	444.78
***	682 Beffel, Elizabeth	156.69		
***	683 Martinich, Michael	325.00		
***	689 Holms, Ryker	226.98	11.50	287.39
***	690 Holms, Mitchell	892.41	11.50	287.39
***	697 Holms, Spencer	422.63	30.25	824.80

total POC overtime 0.00 16,847.47 282.25 7,448.29

* Full time, hours are over and above the 20 normal overtime hours reflected in their base wages

** Part time hours worked over and above 53 normal hours in one week, which are paid at 1.5 times

True OT Cost thru:
18-Oct-20 95,496.11Last year's true OT Cost
\$ 126,663.68

Budget -- included within general wages

Total Fire Dept - OT wages paid through 12.31.19 \$126,663.68
 Total Fire Dept - OT wages paid through 12.31.18 \$54,212.93
 Total Fire Dept - OT wages paid through 12.31.17 \$54,311.11
 Total Fire Dept - OT wages paid through 12.31.16 \$103,222.05
 Total Fire Dept - OT wages paid through 12.31.15 \$129,824.98

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

The Wisconsin Law Enforcement DAAT Manual shall be the guideline for all use of force incidents.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - The intentional use of a firearm or other instrument that create a high probability of death or great bodily harm.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Germantown Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force

Germantown Police Department

Policy Manual

Use of Force

and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person,

Germantown Police Department

Policy Manual

Use of Force

and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. 968.14).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

Germantown Police Department

Policy Manual

Use of Force

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Germantown Police Department for this specific purpose.

300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.4 DEADLY FORCE APPLICATIONS

When feasible, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may

Germantown Police Department

Policy Manual

Use of Force

also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the CEW or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

Use of Force

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:

Germantown Police Department

Policy Manual

Use of Force

1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 TRAINING LIEUTENANT RESPONSIBILITY

The Training Lieutenant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 POLICY AVAILABILITY

This policy shall be made available to the public at no charge upon request (Wis. Stat. § 66.0511(2)).

300.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

Germantown Police Department

Policy Manual

Use of Force

300.10 USE OF FORCE ANALYSIS

At least annually, the Operations Captain should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Use of Force Review Boards

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Germantown Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

301.2 POLICY

The Germantown Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

301.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training, the dispatching of animals, or recreational use.

The Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Captain will convene the Use of Force Review Board as necessary. It will be the responsibility of the supervisor of the involved employee to notify the Captain of any incidents requiring board review. The involved employee's supervisor will also ensure that all relevant reports, documents, and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Captain should select five Use of Force Review Board members from the following, as appropriate:

- Representative of the detective bureau
- Lieutenant in the involved member's chain of command
- Operations division supervisor

Germantown Police Department

Policy Manual

Use of Force Review Boards

- A peer officer
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Captain for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

Germantown Police Department

Policy Manual

Use of Force Review Boards

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

302.2 POLICY

The Germantown Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

302.3 USE OF RESTRAINTS

Only members who have successfully completed Germantown Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist restraints, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

Germantown Police Department

Policy Manual

Handcuffing and Restraints

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

302.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

302.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be safety-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

302.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS

Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide

Handcuffing and Restraints

assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly restraints, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

Germantown Police Department

Policy Manual

Handcuffing and Restraints

- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

302.9 TRAINING

Subject to available resources, the Lieutenant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

Germantown Police Department

Policy Manual

Handcuffing and Restraints

- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices and Techniques

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Germantown Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.4 RESPONSIBILITIES

303.4.1 PATROL LIEUTENANT RESPONSIBILITIES

The Patrol Lieutenant may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

303.4.2 FIREARMS INSTRUCTOR RESPONSIBILITIES

The Firearms Instructor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Firearms Instructor or the designated instructor for a particular control device. The inspection shall be documented.

303.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Germantown Police Department

Policy Manual

Control Devices and Techniques

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor for disposition. Damage to Village property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

303.6 CHEMICAL AGENT GUIDELINES

Chemical agents may be used for crowd control, crowd dispersal, or against barricaded suspects based on the circumstances. Only the Patrol Lieutenant, Incident Commander, or SWAT Team Commander may authorize the delivery and use of chemical agents, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of chemical agents to control any fires and to assist in providing medical aid or gas evacuation if needed.

303.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

303.7.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

303.7.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

Control Devices and Techniques

303.8 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

303.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

303.9.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.

Control Devices and Techniques

- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

303.9.3 SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles at the beginning of each shift to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

303.10 TRAINING FOR CONTROL DEVICES

The Training Lieutenant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.

Germantown Police Department

Policy Manual

Control Devices and Techniques

- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

303.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Electronic Control Devices.

304.2 POLICY

The CEW is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING CEWS

Only members who have successfully completed department-approved training may be issued and carry the CEW.

CEWs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the CEW and cartridges that have been issued by the Department. Uniformed officers who have been issued the CEW shall wear the device in an approved holster on their person.

Members carrying the CEW should perform a spark test on the unit prior to every shift.

When carried while in uniform, officers shall carry the CEW in a weak-side holster on the side opposite the duty weapon.

- (a) All CEWs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers may carry two cartridges on their person when carrying the CEW.
- (c) Officers shall be responsible for ensuring that their issued CEW is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the CEW at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CEW should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but

Conducted Energy Device

is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CEW in the related report.

304.5 USE OF THE CEW

The CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the device. Although the CEW is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE CEW

The CEW may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CEW to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CEW on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Conducted Energy Device

Because the application of the CEW in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The CEW shall not be used to psychologically torment, elicit statements or to punish any individual.

304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CEW probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE CEW

Officers should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CEW against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the CEW appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CEW, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one CEW at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all CEW discharges. The expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

304.5.6 DANGEROUS ANIMALS

The CEW may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

Germantown Police Department

Policy Manual

Conducted Energy Device

304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEWs while off-duty.

Officers shall ensure that CEWs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all CEW discharges in the related incident report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation, and arcing the device (other than spark testing) will also be documented on the report form.

304.6.1 INCIDENT REPORT

Items that shall be included in the incident report are:

- (a) The type and brand of CEW and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of CEW activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CEW was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Lieutenant should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Lieutenant should also conduct audits of data downloads and reconcile CEW reported deployments with recorded activations. CEW information and statistics, with identifying information removed, should periodically be made available to the public.

304.6.2 REPORTS

The officer should include the following in the incident report:

- (a) Identification of all personnel firing CEWs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions

Conducted Energy Device

- (e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CEW probes from a person's body. Used CEW probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CEW probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CEW probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CEW.

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CEW may be used. A supervisor should respond to all incidents where the CEW was activated.

A supervisor should review each incident where a person has been exposed to an activation of the CEW. The device's onboard memory should be downloaded through the data port by a supervisor or Firearms Instructor and saved with the related incident report. Photographs of probe sites should be taken and witnesses interviewed.

Conducted Energy Device

304.9 TRAINING

Personnel who are authorized to carry the CEW shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CEW as a part of their assignment for a period of six months or more shall be recertified by a department-approved CEW instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEWs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Lieutenant. All training and proficiency for CEWs will be documented in the officer's training file.

Command staff, supervisors and investigators should receive CEW training as appropriate for the investigations they conduct and review.

Officers who do not carry CEWs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Training Lieutenant is responsible for ensuring that all members who carry CEWs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEWs during training could result in injury to personnel and should not be mandatory for certification.

The Lieutenant should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the CEW and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the CEW.

Officer-Involved Shootings and Deaths

305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action or omission of an officer while on-duty or off-duty but performing activities that are within the scope of the officer's duties (Wis. Stat. § 175.47).

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

305.2 POLICY

The policy of the Germantown Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Germantown Police Department would control the investigation if the suspect's crime occurred in Germantown.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

305.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved GPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved GPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 - 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any GPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Patrol Lieutenant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional GPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. Each involved GPD officer should be given an administrative order not to discuss the incident with other involved officers or GPD members pending further direction from a supervisor.
 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

305.5.3 PATROL LIEUTENANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Patrol Lieutenant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Captain.

All outside inquiries about the incident shall be directed to the Patrol Lieutenant.

305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Captain
- Outside agency investigators (if appropriate)
- Washington County District Attorney
- Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated (Wis. Stat. § 164.02(1)(b)).

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

1. Involved GPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
2. Requests from involved non-GPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved GPD officer. A licensed psychotherapist may also be provided to any other affected GPD members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints until investigators or lab personnel can properly retrieve it.

Each involved GPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Captain or designee to make schedule adjustments to accommodate such leave.

305.6 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death. In the event of a death, the investigation must be conducted by no less than two investigators, one of whom is the lead investigator and neither of whom is employed by the GPD (Wis. Stat. § 175.47(3)(a)).

If the officer-involved death being investigated is traffic-related, the investigation must include the use of a crash reconstruction unit from a law enforcement agency separate from GPD (Wis. Stat. § 175.47(3)(b)).

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) GPD supervisors and Captain personnel should not participate directly in any voluntary interview of GPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

305.6.1 REPORTS BY INVOLVED GPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved GPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved GPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved GPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

305.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective Bureau supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Bureau supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Captain.

305.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved GPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Captain and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - (a) Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - (b) If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Wis. Stat. § 164.02(1)(b)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 - (c) Administrative interviews should be recorded by the investigator. The officer may also record the interview.
 - (d) The officer shall be informed of the nature of the investigation (Wis. Stat. § 164.02(1)(a)). If an officer refuses to answer questions, he/she should be given his/her Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - (e) The Captain shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 - (f) Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 - (g) Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

305.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Village Attorney's Office, as appropriate.

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Germantown Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Captain is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Captain personnel.

305.10.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

Germantown Police Department

Policy Manual

Officer-Involved Shootings and Deaths

305.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Patrol Lieutenant, Detective Bureau Sergeant, and Public Information Officer in the event of inquiries from the media.

No involved GPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Captain.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

305.12 REPORTING

If the death of an individual occurs in the Germantown Police Department jurisdiction and qualifies to be reported to the Wisconsin Department of Justice, the Operations Division will ensure that the Administrative Assistant is provided with enough information to meet the reporting requirements (Wis. Stat. § 165.845(2)).

Firearms

306.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

306.2 POLICY

The Germantown Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Firearms Instructor. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Captain. This exclusion does not apply to the carrying of a single knife that is not otherwise prohibited by law.

306.3.1 HANDGUNS

The authorized department-issued handgun is the Smith & Wesson, M&P 2.0, 9mm. The following additional handguns are approved for on-duty use:

MAKE	MODEL	CALIBER
Smith & Wesson	Shield	2.0 9mm

306.3.2 SHOTGUNS

The authorized department-issued shotgun is the Benelli, Super 90, 12 gauge. The following additional shotguns are approved for on-duty use:

MAKE	MODEL	CALIBER
Benelli	Super 90	12 gauge

Germantown Police Department

Policy Manual

Firearms

When not deployed, the shotgun shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

306.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR-15. The following additional patrol rifles are approved for on-duty use:

MAKE	MODEL	CALIBER
Colt	AR-15	223 Remington

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

306.3.4 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief of Police or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and on the department list of approved firearms.
- (b) The firearm shall be inspected by the Firearms Instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.

Germantown Police Department

Policy Manual

Firearms

306.3.5 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Firearms Instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Firearms Instructor, who will maintain a list of the information.

306.3.6 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines (Wis. Stat. § 941.23):

- (a) A personally owned firearm shall be used, carried, and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Firearms Instructor for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Firearms Instructor.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

Germantown Police Department

Policy Manual

Firearms

- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Germantown identification cards under circumstances requiring possession of such identification.

306.3.7 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Firearms Instructor when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

306.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

306.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Firearms Instructor.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Firearms Instructor.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Firearms Instructor.

306.4.2 HOLSTERS

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

Germantown Police Department

Policy Manual

Firearms

306.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Firearms Instructor. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

306.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Firearms Instructor. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

306.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quickdraws except as instructed by the Firearms Instructor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present or under the direction of a firearms instructor.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded outside of the vehicle.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas, or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Firearms Instructor approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Instructor will be immediately removed from service. If

Germantown Police Department

Policy Manual

Firearms

the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in locked lockers at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles removed from authorized vehicles shall be unloaded in a safe manner outside the vehicle and then stored in the appropriate equipment storage location.

306.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Wis. Stat. § 948.55).

306.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment (Wis. Stat. § 941.20(1)(b); Wis. Stat. § 941.20(1)(bm)).

306.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training four times per year with their duty firearms. In addition all members will qualify at least annually with their duty firearms and shall meet or exceed the standards set by the Wisconsin Law Enforcement Standards Board (Wis. Stat. § 165.85). Members will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to the training Lieutenant prior to the end of the required training or qualification period.

Germantown Police Department

Policy Manual

Firearms

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - (a) Unauthorized range make-up

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

306.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Captain or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or a recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

306.7.1 DESTRUCTION OF ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, CEW, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

306.7.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Firearms

306.7.3 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

306.8 FIREARMS INSTRUCTOR DUTIES

The range will be under the exclusive control of the Firearms Instructor. All members attending will follow the directions of the Firearms Instructor. The Firearms Instructor will maintain a roster of all members attending the range and will submit the roster to the Training Lieutenant after each range date. Failure of any member to sign in and out with the Firearms Instructor may result in non-participation or non-qualification.

The Firearms Instructor has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Firearms Instructor has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until it has been inspected and approved by the Firearms Instructor.

The Firearms Instructor has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry. The Firearms Instructor shall ensure that the handgun qualification standards set by the Wisconsin Law Enforcement Standards Board are either met or exceeded by each officer (Wis. Stat. § 165.85).

The Firearms Instructor shall complete and submit to the Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided, and, on a form that has been approved by the Department, a list of each member who completes the training. The Firearms Instructor should keep accurate records of all training shoots, qualifications, repairs, maintenance, or other records as directed by the Training Lieutenant.

306.9 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Germantown Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also

Germantown Police Department

Policy Manual

Firearms

carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

- (c) The Germantown Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Germantown Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

306.10 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her Germantown identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property,

Germantown Police Department

Policy Manual

Firearms

installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

Vehicle Pursuits

307.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law (Wis. Stat. § 346.03(6); Wis. Admin. Code § LES 3.07).

Another purpose of this policy is to minimize the potential for pursuit-related crashes. Vehicle pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

307.1.1 PHILOSOPHY

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the risk to public safety created by vehicle pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicle pursuit due to the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicle pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officers conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An individual's unreasonable desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

307.2 DEFINITIONS

Definitions related to this policy include:

Vehicle pursuit - An event involving one or more peace officers attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle by using high speed or other evasive tactics, such as increasing the speed of the vehicle, extinguishing the lights of the vehicle, disregarding traffic warning signs, stop signs, red lights, driving off a roadway, turning suddenly or driving in a legal manner but willfully failing to yield to an officer's signal to stop (Wis. Stat. § 85.07(8)(a)).

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more law enforcement vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Germantown Police Department

Policy Manual

Vehicle Pursuits

Pursuit Intervention Technique (PIT) - A low-speed maneuver intended to terminate the pursuit by causing the violator's vehicle to spin out and come to a stop.

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing a vehicle or other immovable object in the path of the violator's vehicle.

Tire deflation device, spikes or tack strips - A device that extends across the roadway and is designed to puncture the tires of the pursued vehicle.

307.3 OFFICER RESPONSIBILITIES

It is the policy of this department that a vehicle pursuit shall be conducted with the visible signal of at least one flashing, oscillating or rotating red light, or a blue and red light, and also an audible signal by means of a siren or exhaust whistle activated on an authorized emergency vehicle (Wis. Stat. § 346.03(3)).

The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway (Wis. Stat. § 346.03(5)).

307.3.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer (Wis. Stat. § 346.03; Wis. Admin. Code § LES 3.07(1)(a)).

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit (Wis. Stat. § 346.03(6)):

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- (c) The apparent nature of the fleeing suspect (e.g., whether the suspect represents a serious threat to public safety).
- (d) The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (e) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.

Germantown Police Department

Policy Manual

Vehicle Pursuits

- (f) The pursuing officer's familiarity with the area of the pursuit, the quality of communication between the pursuing units and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (g) The weather, traffic and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (h) The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) The availability of other resources, such as aircraft assistance.
- (l) The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the prisoner in transport. A unit containing more than a single prisoner should not participate in a pursuit.

307.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risk of continuing the pursuit reasonably appears to outweigh the risk resulting from the suspect's escape (Wis. Admin. Code § LES 3.07(1)(c)).

Operating an emergency vehicle in a pursuit with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of reckless disregard for the safety of others (Wis. Stat. § 346.03(5)).

The above factors on when to initiate a pursuit are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean to discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit:

- (a) The distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.

Germantown Police Department

Policy Manual

Vehicle Pursuits

- (b) The pursued vehicle's location is no longer definitely known.
- (c) The officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuit vehicle has an emergency equipment failure that causes the vehicle to no longer qualify for use in emergency operations (Wis. Stat. § 346.03(3)).
- (e) Extended pursuits of violators for misdemeanors not involving abuse or risk of serious harm (independent of the pursuit) are discouraged.
- (f) The hazards to uninvolved bystanders or motorists.
- (g) When the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time (Wis. Stat. § 346.175(3)(a)).
- (h) When directed to terminate the pursuit by a supervisor.
- (i) When it is necessary to stop to render aid to an injured person and no other officer is available to do so (Wis. Admin. Code § LES 3.07(1)(c)(5)).

307.3.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Vehicle speeds shall be taken into consideration to prevent endangering public safety, officer safety and the safety of the occupants of the fleeing vehicle (Wis. Stat. § 346.03(6)).

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit.

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle, thus making its operation unsafe.

307.4 PURSUIT UNITS

Pursuit units should be limited to three vehicles (two units and a supervisor). However, the number of units involved will vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect. All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

Distinctively marked patrol vehicles should replace unmarked vehicles involved in a pursuit whenever practicable.

Germantown Police Department

Policy Manual

Vehicle Pursuits

307.4.1 MOTORCYCLE OFFICERS

A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a police motorcycle as primary and/or secondary pursuit unit as soon as practicable.

307.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with a red or blue emergency light and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing units as long as the vehicle is operated in compliance with all traffic laws.

307.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to him/herself or other persons.

The primary unit should notify Dispatch, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable, provide information including, but not limited to:

- (a) The reason for the pursuit.
- (b) The location and direction of travel.
- (c) The speed of the fleeing vehicle.
- (d) The description of the fleeing vehicle and license number, if known.
- (e) The number of occupants.
- (f) The identity or description of the known occupants.
- (g) The weather, road and traffic conditions.
- (h) The identity of other agencies involved in the pursuit.
- (i) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics.

307.4.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit is responsible for:

- (a) Immediately notifying the dispatcher of his/her entry into the pursuit.

Germantown Police Department

Policy Manual

Vehicle Pursuits

- (b) Remaining at a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Serving as backup to the primary unit once the subject has been stopped.

307.4.5 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Officers may proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation (Wis. Stat § 346.03(2)(a)).
- (c) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing units shall exercise due caution and slow down as may be necessary for safe operation when proceeding through controlled intersections.
- (d) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from an available air unit.
 - 2. Maintaining visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
 - 3. Requesting other units to observe exits available to the suspect.
- (e) Notifying the Wisconsin State Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.
- (f) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and a clear understanding of the maneuver process exists between the involved officers.

307.4.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Vehicle Pursuits

Non-pursuing personnel needed at the termination of the pursuit should respond in an appropriate manner, observing the rules of the road.

The primary unit, secondary unit and supervisor should be the only units operating under emergency conditions (emergency lights and siren) unless other units are assigned to the pursuit.

307.4.7 PURSUIT TRAILING

In the event that the initiating unit from this agency relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect.

The term "trail" means to follow the path of the pursuit at a safe speed, while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units to clearly indicate an absence of participation in the pursuit.

307.4.8 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider whether the participation of an aircraft warrants their continued involvement in the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit should recommend terminating the pursuit.

307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately notifying involved officers and Dispatch of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.

Germantown Police Department

Policy Manual

Vehicle Pursuits

- (e) Directing that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft assistance is requested, if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Control and manage GPD units when a pursuit enters another jurisdiction.
- (j) Preparing a post-pursuit critique and analysis of the pursuit for training purposes.

307.5.1 PATROL LIEUTENANT RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Patrol Lieutenant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Patrol Lieutenant has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command.

The Patrol Lieutenant shall review all pertinent reports for content and forward them to the Captain.

307.6 COMMUNICATIONS

Radio communications will be conducted on the pursuit channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units may whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

307.6.1 DISPATCH RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Dispatch will be responsible for:

- (a) Coordinating pursuit communications of the involved units and personnel.
- (b) Notifying and coordinating with other involved or affected agencies as practicable.
- (c) Ensuring that a field supervisor is notified of the pursuit.
- (d) Assigning an incident number and logging all pursuit activities.
- (e) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (f) Notifying the Patrol Lieutenant as soon as practicable.

307.6.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating the vehicle. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

Vehicle Pursuits

307.7 INTERJURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

307.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Germantown Police Department officers will discontinue the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Germantown Police Department is requested by the agency assuming the pursuit. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation. A supervisor should coordinate with the agency managing the termination point to determine the supervisor's need to respond or otherwise assist in the investigation. The supervisor should obtain any information that is necessary for inclusion in any reports from the agency managing the termination point.

The role and responsibilities of officers at the termination of a pursuit that was initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose peace officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered this jurisdiction, the supervisor should consider these additional factors:

- (a) Ability to maintain the pursuit
- (b) Circumstances serious enough to continue the pursuit
- (c) Adequate staffing to continue the pursuit
- (d) The public's safety within this jurisdiction

Vehicle Pursuits

(e) Safety of the pursuing officers

As soon as practicable, a supervisor or the Patrol Lieutenant should review a request for assistance from another agency. The Patrol Lieutenant or supervisor, after consideration of the above factors, may decline to assist in or assume the other agency's pursuit.

Assistance to a pursuing outside agency by officers of this department will terminate at the Village limits provided that the pursuing peace officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall notify the initiating agency of the termination of the pursuit, provide appropriate assistance to peace officers from the initiating and other involved agencies including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

307.8 PURSUIT INTERVENTION

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, tire deflation devices, blocking, boxing-in, PIT, ramming or roadblock procedures.

307.8.1 WHEN USE IS AUTHORIZED

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

307.8.2 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

307.8.3 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and are subject to the requirements for such use. Officers shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety, and when officers

Vehicle Pursuits

reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risk involved, this technique should only be employed by officers who have received training in such tactics and after giving consideration to the following:

1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers or other members of the public.
 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
 4. The target vehicle is stopped or traveling at a low speed.
 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the PIT will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box in a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) Tire deflation devices should be deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Prior to the deployment of spike strips, the officer shall notify pursuing units and the supervisor of the intent and location. Officers should carefully consider the limitations of such devices as well

Vehicle Pursuits

as the potential risk to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor, and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risk of injury or death to occupants of the pursued vehicle, officers or other members of the public.

307.8.4 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary under the circumstances to properly perform their lawful duties.

Unless relieved by a supervisor, the primary officer should coordinate efforts to apprehend the suspect following the pursuit. Officers should consider the safety of the public and the involved officers when formulating plans to contain and capture the suspect.

307.9 REPORTING AND REVIEW REQUIREMENTS

All appropriate reports shall be completed to comply with local and state regulations (Wis. Stat. § 85.07(8)(b)).

- (a) The primary officer shall complete appropriate crime/arrest reports.
- (b) The primary officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining available information, the on-duty field supervisor shall promptly complete a department email, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This should minimally contain the following information:
 - 1. Date and time of pursuit
 - 2. Length of pursuit in distance and time
 - 3. Involved units and officers
 - 4. Initial reason and circumstances surrounding the pursuit
 - 5. Starting and termination points
 - 6. Alleged offense, charges filed or disposition: arrest, citation or other release
 - 7. Arrestee information should be provided if applicable
 - 8. Injuries and/or property damage
 - 9. Medical treatment

Germantown Police Department

Policy Manual

Vehicle Pursuits

10. The outcome of the pursuit
 11. Name of supervisor handling or at the scene
 12. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted
- (d) After receiving copies of reports, logs and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign the completion of a post-pursuit review as appropriate to the circumstances.
- (e) At least annually, but no later than June 30th of every even-numbered year, the Chief of Police or the authorized designee shall direct a documented review and analysis of department vehicle pursuits to minimally include policy suitability, policy compliance, policy modification and training needs (Wis. Stat. § 346.03(6)).

307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all certified sworn employees will participate, no less than biennially, in at least four hours of training addressing this policy, pursuit guidelines, driving techniques, new technology and the importance of vehicle safety and protecting the public at all times. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others. At least four hours of the training curriculum will be based on the model standards promulgated by the Law Enforcement Standards Board (LESB) and shall be delivered by a LESB-certified Emergency Vehicle Operations and Control (EVOC) instructor (Wis. Stat. § 165.85; Wis. Admin. Code § LES 3.07(4)). For purposes of LESB reporting obligations, the time period for annual training begins July 1st, and ends June 30th.

307.9.2 POLICY REVIEW

Certified members of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments (Wis. Stat. § 346.03(6)).

ORDINANCE NO. 18-2020

AN ORDINANCE AMENDING SECTION 5.15 OF THE
MUNICIPAL CODE PROHIBITING THE BURNING OF
MATERIALS NOT ORIGINATING ON THE SAME PROPERTY

WHEREAS, the Village Board previously adopted Section 5.15 of the Municipal Code which regulates burning within the Village; and

WHEREAS, upon the recommendation of the Fire Chief, the Village Board desires to prohibit the burning of materials which do not originate on the property upon which the burning occurs; and

WHEREAS, the fire prevention standards are in the interest of the community's health, safety and welfare;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I

Section 5.15 of the Municipal Code of Germantown is hereby amended as follows (NOTE: added text is underlined; deleted text is ~~struck through~~):

5.15 - BURNING REGULATED.

(1) PERMIT REQUIRED.

(a) Except as provided for in subsection (b), no person shall kindle or allowed to be kindled any open fire in the Village without first obtaining a burning permit from the Village Fire Department. Permits can be obtained from the Fire Department in any manner established by Department Policy. The Fire Chief or its designee reserves the right, after inspection, to deny any requested permit if in the judgment of the Chief or designee, hazardous conditions exist. Such permits shall be posted on the premises of the burning site at all times when such burning is taking place. Any permit issued hereunder shall be for a period not to exceed one-month in duration.

(b) No burning permit shall be required for the following:

1. Cooking and recreational fires in barbecue pits, grills and outdoor fireplaces, except that such fires must otherwise with the locational and safety requirements of the NFPA 1.

2. Indoor domestic and commercial incinerators.

3. Fires authorized by the Fire Chief which are set for the practice and instruction of firefighters.

(c) Recreational Fire Defined. When used in this section, "recreational fire" shall mean an outdoor fire used for pleasure, religious, ceremonial, cooking, warmth or similar purposes that is contained in an outdoor fireplace or pit which has a maximum width of 3 feet in diameter and a maximum height of 2 feet and which burns materials other than yard waste, rubbish or debris.

(2) All outdoor burning shall comply with NFPA 1.

(3) RESTRICTIONS AND LIMITATIONS.

(a) Notwithstanding anything herein to the contrary, no burning shall be allowed:

1. When the wind velocity exceeds 12 miles per hour as indicated by the National Weather Service.

2. During periods when the Village President, Village Fire Chief or their Designee, or the Department of Natural Resources has issued a burning ban.

3. Before 8:00 a.m. and after 8:00 p.m., except for cooking and recreational fires. All open burning shall be extinguished by 8:00 p.m.

(b) All open fires shall be constantly attended by a competent person equipped with either a garden hose or a fire extinguisher available and ready for use.

(c) Approved burning shall take place 30 feet or more from any structure, flammable liquid or other materials that constitute a potential fire hazard or any location approved in writing by the Fire Chief.

(d) There shall be no open burning of yard wastes in accumulations greater than 5 feet in diameter nor 2½ feet in height.

(4) PROHIBITED BURNING. No person should burn, or attempt to burn, the following:

(a) Garbage.

(b) Materials emitting toxic fumes or substances, noxious odors or creating health hazards.

(c) Flammable liquids or other materials which may create a fire hazard.

(d) Building materials, waste materials and rubbish resulting from building construction, demolition, or site clearings.

(e) Any materials that are brought on-site from another property.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION IV

This ordinance shall take effect and be in full force upon its passage and the day after publication.

Introduced by _____ on _____, 2020.

Adopted: _____, 2020 Vote: Ayes: Nays: Absent:

Dean Wolter, Village President

ATTEST:

Deanna Braunschweig, Village Clerk

Approved as to form:

Brian C. Sajdak, Village Attorney

Published:

The Business of the Germantown Public Safety Committee

Submitted by: Chief John Delain

Agenda Item: New Business

Meeting Date: 11/2/20

Item Name: Update to ordinance 5.15 Burning Regulated

Agenda item description:

Section 3 of Municipal Code 5.15 Burning Regulated does not specify where the yard waste was generated. Recently, the Fire Department has received complaints that Landscaping companies are burning yard waste that was generated by their clients and hauled to their shops where it is then burned causing a disturbance to their neighbors.

GFD is suggesting the code be updated with a restriction that “any yard waste that is burned must originate on the property where the burning is taking place”.

Back up included: ☒ yes ☐ No

5.15 - BURNING REGULATED.

(1) PERMIT REQUIRED.

- (a) Except as provided for in subsection (b), no person shall kindle or allowed to be kindled any open fire in the Village without first obtaining a burning permit from the Village Fire Department. Permits can be obtained from the Fire Department in any manner established by Department Policy. The Fire Chief or its designee reserves the right, after inspection, to deny any requested permit if in the judgment of the Chief or designee, hazardous conditions exist. Such permits shall be posted on the premises of the burning site at all times when such burning is taking place. Any permit issued hereunder shall be for a period not to exceed one-month in duration.
- (b) No burning permit shall be required for the following:
 - 1. Cooking and recreational fires in barbecue pits, grills and outdoor fireplaces, except that such fires must otherwise with the locational and safety requirements of the NFPA 1.
 - 2. Indoor domestic and commercial incinerators.
 - 3. Fires authorized by the Fire Chief which are set for the practice and instruction of firefighters.
- (c) Recreational Fire Defined. When used in this section, "recreational fire" shall mean an outdoor fire used for pleasure, religious, ceremonial, cooking, warmth or similar purposes that is contained in an outdoor fireplace or pit which has a maximum width of 3 feet in diameter and a maximum height of 2 feet and which burns materials other than yard waste, rubbish or debris.

(2) All outdoor burning shall comply with NFPA 1.

(3) RESTRICTIONS AND LIMITATIONS.

- (a) Notwithstanding anything herein to the contrary, no burning shall be allowed:
 - 1. When the wind velocity exceeds 12 miles per hour as indicated by the National Weather Service.
 - 2. During periods when the Village President, Village Fire Chief or their Designee, or the Department of Natural Resources has issued a burning ban.
 - 3. Before 8:00 a.m. and after 8:00 p.m., except for cooking and recreational fires. All open burning shall be extinguished by 8:00 p.m.
- (b) All open fires shall be constantly attended by a competent person equipped with either a garden hose or a fire extinguisher available and ready for use.
- (c) Approved burning shall take place 30 feet or more from any structure, flammable liquid or other materials that constitute a potential fire hazard or any location approved in writing by the Fire Chief.
- (d) There shall be no open burning of yard wastes in accumulations greater than 5 feet in diameter nor 2½ feet in height.

(4) PROHIBITED BURNING. No person should burn, or attempt to burn, the following:

- (a) Garbage.
- (b) Materials emitting toxic fumes or substances, noxious odors or creating health hazards.
- (c) Flammable liquids or other materials which may create a fire hazard.
- (d) Building materials, waste materials and rubbish resulting from building construction, demolition, or site clearings.

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

ORDINANCE NO. 19-2020

AN ORDINANCE REPEALING SECTION 5.10 OF THE MUNICIPAL CODE
RELATING TO LIGHT-FRAME TRUSS-TYPE CONSTRUCTION

WHEREAS, the Village Board previously adopted Section 5.10 of the Municipal Code relating to standards for certain structures of light-frame truss-type construction within the Village; and

WHEREAS, upon the recommendation of the Fire Chief, the Village Board desires to eliminate these standards because they are unnecessary and costly; and

WHEREAS, the fire prevention standards are in the interest of the community's health, safety and welfare;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I

Section 5.10 of the Municipal Code of Germantown is hereby repealed in its entirety.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION IV

This ordinance shall take effect and be in full force upon its passage and the day after publication.

Introduced by _____ on _____, 2020.

ORDINANCE NO. 19-2020

Page 2

Adopted: _____, 2020 Vote: Ayes: Nays: Absent:

Dean Wolter, Village President

ATTEST:

Deanna Braunschweig, Village Clerk

Approved as to form:

Brian C. Sajdak, Village Attorney

Published: _____

The Business of the Germantown Public Safety Committee

Submitted by: Chief John Delain

Agenda Item: New Business

Meeting Date: 11/2/20

Item Name: Rescind Ordinance 5.10 Structures with Light-Frame Truss-Type Construction

Agenda item description:

Section 5.10 of the Municipal Code (Structures with Light-Frame Truss-Type Construction) was enacted around 2017. The intent of this ordinance was to give fire department responders a “heads up” to the type of building construction they may be entering. While the original intent of this ordinance was good; the implementation, definition, cost, and need for this ordinance out way the original intent. All fire responders are trained through the Technical Colleges and departmental training on how to identify, and safely work within these structures.

The Fire Department is recommending removing this ordinance.

Back up included: ____ yes No ____

BUSINESS OF THE PUBLIC SAFETY COMMITTEE
GERMANTOWN, WI

MEETING DATE: November 2, 2020

AGENDA ITEM: New Business

ITEM TITLE: Dispatcher Compensatory Time Increase

SUBMITTED BY: Communications Supervisor Lynn Schmidt

SUMMARY EXPLANATION:

The Police Department is requesting to increase the limit of accrued compensatory time for Dispatchers from 40 hours to 42.5 hours.

The policy manual currently allows 40 hours of comp time to be accrued for non-union hourly employees which equals one week of work for those who work an 8 hour day. Dispatchers work an 8.5 hour day (42.5 hour work week) so 40 hours will not give them a full week off. This request is to revise the policy to show an exception for dispatchers which would allow them to accumulate 42.5 hours of compensatory time.

ATTACHMENT: ORDINANCE__ RESOLUTION____ OTHER ____

RECOMMENDATION: Revise the policy manual to show an exception for Police Dispatchers which would allow them to accumulate 42.5 hours of compensatory time instead of the current 40 hours granted.