

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

DATE ISSUED: xx xx, 2024	DATE EFFECTIVE: xx xx, 2024	NUMBER: SO24-0xx	PAGE: 1 of 45
TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: Manual Revision – 9-200 <u>Adult Stops, Searches, and Seizures and Warrants</u> 9-201 <u>Stops, Contacts and Weapons Pat-Downs Search and Seizure</u> 9-202 <u>Warrantless Searches</u> 9-203 <u>Strip Searches and Body Cavity Searches</u> 9-204 <u>9-202 Public Recording of Police Activities</u>			APPROVED BY:

MP-8806

Introduction:

Effective with the issuance of this Special Order, Chapter 9-200 of the MPD Policy and Procedure Manual shall be amended as follows:

9-201 Stops, Contacts and Weapons Pat-Downs Search and Seizure
(07/01/11) (01/25/16) (06/29/16) (10/05/16) (06/28/17) (xx/xx/24)

(A-D)

I. Purpose

~~The purpose of this section is to provide employees with legal guidance in order to conduct lawful searches and seizures. (10/05/16)~~

~~The term "officer" is used generically in this section and does not assume a level of rank, such as Patrol Officer. It includes all applicable sworn and non-sworn personnel. (10/05/16)~~

This policy sets forth the procedures for conducting lawful contacts and detentions, that are in compliance with federal, state, and local laws, by Minneapolis Police Department (MPD) sworn members.

II. Search and Seizure Guiding Principles Policy

MPD's guiding principles are:

- [A] Constitutional stops
- [B] Distinct and separate actions
- [C] Non-discriminatory policing

[D] Procedural justice and professional policing

[E] Gender and searches

A. Constitutional Stops and Seizures

Members Minneapolis Police Department employees shall conduct stops and seizures only in accordance with searches in as minimally intrusive a manner as possible, adhere to all MPD policies and to all the rights given to persons people under the United States Constitution, and the Minnesota State Constitution, and the MN Human Rights Act.

Minneapolis Police Department employees shall be responsible for understanding and performing assigned duties in accordance with the MPD's Search and Seizure Policy.
(06/28/17)

B. Distinct and Separate Actions

1. Voluntary contacts, field interviews, investigative detentions, vehicle stops, weapons pat-downs, searches, and arrests are distinct and separate actions, and each is governed by different legal and policy standards depending on the action.
2. Investigative detentions and voluntary contacts between the police and the community **do not** automatically justify a weapons pat-down or a search.
3. The nature of an interaction may change due to the member's actions during the interaction.

C. Non-Discriminatory Policing

Members are prohibited from any of the protected class statuses in P&P 5-104 to any degree when establishing reasonable suspicion or probable cause, except that:

Members may consider the protected class statuses in P&P 5-104 of a specific suspect or suspects in an ongoing criminal investigation when such information is part of a specific and detailed suspect description tied to a time and place. This consideration must be based on credible, reliable, and recent locally based information that links specific unlawful or suspicious activity to the person or group. The suspect description should also include other appropriate non-demographic identifying factors, such as clothing or an associated vehicle.

D. Procedural Justice and Professional Policing

Members shall use procedural justice and professional policing principles in accordance with P&P 5-109 during all contacts, including searches and seizures. Members shall apply the four pillars of procedural justice during all interactions, which are:

- **Voice:** Providing people the opportunity to explain their actions and ask questions before making a final decision.
- **Neutrality:** Making transparent, neutral decisions based only on relevant information.
- **Respect:** Being professional and courteous throughout the interaction and treat people with dignity and concern for their rights.

- **Trustworthiness:** Conveying trustworthiness throughout interactions by acting with professionalism, understanding, and transparency.

Such conduct fosters community trust, increases confidence in the police, and encourages greater cooperation to achieve shared public safety goals.

Members shall address, and in documentation, refer to people using names and pronouns appropriate to their gender as expressed or clarified by the person.

All members shall introduce or identify themselves by rank, last name, and agency, as soon as reasonable and practical.

E. Gender and Searches

1. In accordance with P&P 7-3001, transgender, gender queer, and non-binary people shall not be subject to more invasive, humiliating, or demeaning frisk and search procedures than other people in the field or in police facilities.
2. For a search, members shall, when feasible, ask transgender, gender queer, and non-binary people their preference with regard to the gender of the member searching them.

For example, “What gender member would you prefer to search you?”

- a. People’s preferences will be honored, when feasible.
- b. A person may be identified as transgender, gender queer, or non-binary if the person informs the member that they are transgender, gender queer, or non-binary, or if the member has a reason to believe that the person may be transgender, gender queer, or non-binary based on gender expression or prior interactions.

2. Searching Persons of the Opposite Sex

- ~~a. When practical, persons should be searched by an officer of the same gender if such an officer is on the scene or can arrive within a reasonable period of time. If the gender of the person to be searched is in question, officers shall ask the person to identify their gender before proceeding with the search.~~
- ~~b. Prior to the execution of an arrest or search warrant, where a female officer is likely to be needed, a female officer shall be included in the operation if possible.~~
- ~~c. A strip search shall be conducted and witnessed by at least two officers of the same gender as the person being searched.~~

III. Procedures-/Rules/Regulations

A. Voluntary Contacts

Voluntary contacts, such as business checks and directed patrols, shall be conducted in a friendly, professional manner. Most voluntary contacts do not require any written documentation or Body-Worn Camera (BWC) recording (see P&P 4-223 for activation

requirements.) If the member seeks information about a suspected crime, the voluntary contact becomes a field interview.

A. Searching People

1. An officer may conduct a Terry Frisk of a stopped person if the officer reasonably believes, based on specific and articulable facts, that the person may be armed and dangerous. A Terry Frisk is limited to a pat down of the person's outer clothing for weapons. (10/05/16)

[Moved to 9-202 [III-G]]

2. A full search of a person is not justified with reasonable suspicion. Generally, officers can legally conduct a full search of a person without a warrant only in the following circumstances: (01/25/16) (10/05/16)

a. Probable Cause and Exigent Circumstances; (01/25/16)

b. Search Incident to Arrest;

c. Medical Emergency/Life-Saving;

d. Plain View;

e. Consent Search.

[Moved to 9-202 – elaborated on each of these sections]

3. Searching an Arrestee's Property:

a. A custodial arrestee's property (purse, backpack, etc.) shall be searched prior to arrival at any jail, detention center, chemical testing unit, or investigative unit.

b. A non-custodial arrestee's property is not subject to search without consent unless reasonable articulable suspicion exists to believe that the individual is engaged in other criminal activity and the personal property may contain a weapon.

c. Items property inventoried will be searched according to protocol set forth by the Property and Evidence Unit.

[Moved to 9-202]

4. Searching Persons of the Opposite Sex

a. When practical, persons should be searched by an officer of the same gender if such an officer is on the scene or can arrive within a reasonable period of time. If the gender of the person to be searched is in question, officers shall ask the person to identify their gender before proceeding with the search.

b. Prior to the execution of an arrest or search warrant, where a female officer is likely to be needed, a female officer shall be included in the operation if possible.

~~c. A strip search shall be conducted and witnessed by at least two officers of the same gender as the person being searched.~~

[Moved to 9-201 [II-E]]

5. Strip Searches

~~a. A strip search includes the removal or rearrangement of clothing to permit the visual or manual inspection of any skin surfaces of a person's genitals, buttocks, anus or female breasts.~~

~~b. Strip Searches may be conducted only in the following circumstances:~~

~~i. Officers have probable cause to believe that evidence, or contraband exists and will be destroyed or lost in the absence of an immediate strip search; or~~

~~ii. Officers have probable cause to believe that an immediate search is necessary to prevent imminent danger to the suspect, officer or others.~~

~~c. The following procedure shall be followed when conducting a strip search, whether the person has been arrested or not:~~

~~i. Approval shall be obtained from a supervisor at the rank of Lieutenant or above before conducting a strip search. Such approval shall only be given after an on scene assessment by the supervisor, unless the circumstances prevent the supervisor from being on scene. If the supervisor is unable to respond to the scene, they shall document the reason why in a CAPRS supplement. (06/29/16)~~

~~ii. The supervisor approving the search shall be present when the search is conducted unless precluded from doing so by the issue of gender or other circumstances. (06/29/16)~~

~~aa. If the supervisor who authorized the strip search is prohibited from being present, a supervisor of the same sex as the person to be searched should be present when the search is conducted.~~

~~ab. If it is not reasonable or possible to have a supervisor of the same sex witness the strip search, the supervisor approving the search shall ensure that at least two officers of the same sex conduct/witness the search. (06/29/16)~~

~~iii. The search shall be performed in a location that affords the suspect privacy from persons not involved in the search. Officers shall be aware that strip searches conducted in the field could require extraordinary measures to ensure the suspect's privacy.~~

~~iv. The supervisor authorizing the strip search shall complete a CAPRS supplement articulating why the search was justified and necessary. The supplement will also explain:~~

- ~~• Which officers conducted the search;~~

- ~~Which officers were present for the search;~~
- ~~Where the search was conducted; and~~
- ~~How the search was conducted.~~
- ~~The reason for the supervisor's absence if the supervisor was unable to conduct an on-scene assessment or be present for the search. (06/29/16)~~

v. ~~Nothing stated in this policy shall preclude an officer from immediately recovering a weapon if the officer can articulate that any delay would cause imminent danger to the safety of the officer or others.~~

vi. ~~Nothing stated in this policy shall preclude an officer from collecting a urine sample for evidentiary purposes (e.g. DWI).~~

6. ~~Body Cavity Searches~~

a. ~~A body cavity search is a search that goes beyond visual or manual inspection of skin surfaces, so that it involves internal physical examination of body cavities, and in some instances, organs such as the stomach.~~

b. ~~With the exception of the mouth, body cavity searches shall only be performed by medical personnel, in a medical facility, pursuant to a search warrant or court order.~~

c. ~~Exigent circumstances such as the suspect placing illegal narcotics or contraband into their mouth does not require obtaining a search warrant or court order.~~

d. ~~Minimal physical force (which includes low control options such as joint manipulation, pressure points and verbal directions) may be used to recover suspected narcotics from a suspect's mouth. Force used shall not include any strikes or any type of force which restricts breathing or blood flow in the neck.~~

[Moved to 9-203]

7. ~~Stopping or Searching People — Documentation~~

~~(10/05/16)~~

a. ~~Terry Stops (Investigative Detentions), Terry Frisks, and all other searches (including consent searches) must be justified under the law. Officers shall document the justification for any frisk(s) and/or search(es) conducted.~~

b. ~~Absent exigent circumstances, officers are responsible for knowing certain facts, to include: the name of the person encountered, as well as the reasonable suspicion, probable cause or other circumstances which served as the basis for the officer's actions.~~

c. ~~Documentation should be made via added remarks to the call in CAD (Computer Aided Dispatch) or by another method, unless a CAPRS report and supplement is required.~~

i. ~~Mobile Digital Computer (MDC) (10/05/16)~~

~~aa. Officers shall document information related to the detention in the Clear Call Disposition/Comments screen of their MDC for the following types of calls:~~

- ~~• Traffic Stop,~~
- ~~• Suspicious Person Stop,~~
- ~~• Suspicious Vehicle Stop,~~
- ~~• Attempt Pick-Up,~~
- ~~• Curfew Violation, and~~
- ~~• Truancy.~~

~~ab. Officers shall document the following information in their MDC for the required call types:~~

- ~~• The basis for the stop,~~
- ~~• The location of the stop,~~
- ~~• The race of the suspicious person(s),~~
- ~~• The age of the suspicious person(s),~~
- ~~• The gender of the suspicious person(s),~~
- ~~• Whether a person or vehicle was searched, and~~
- ~~• The reasons for any Terry frisk or other search of the person(s) prior to clearing the call.~~

~~d. A strip search of a person always requires a CAPRS report and supplement. All officers who witness and/or conduct a strip search shall complete a supplement.~~

~~B. Searching Vehicles~~

~~1. Generally, officers can legally search a vehicle in the following circumstances: (10/05/16)~~

~~a. Plain View;~~

~~b. Medical Emergency/Life-Saving;~~

~~c. Probable Cause;~~

~~d. Protective Weapons Sweep;~~

~~e. Search Incident to Custodial Arrest (this exception is limited in the context of vehicle searches); (10/05/16)~~

~~f. Inventory Search;~~

~~g. Consent Search.~~

~~2. Searching Vehicles—Documentation~~

~~a. If the search of a vehicle results in an arrest or seizure of evidence or contraband, a CAPRS report and supplement shall be completed and the officer must articulate in his/her supplement the legal justification for the search. The supplement shall contain all pertinent information concerning the search including:~~

- i. Legal justification for the search;
- ii. Results of the search;
- iii. Any damages that occurred;
- iv. Officers who conducted the search; and
- v. The name and date of birth of the consenting person (if applicable).

[Moved to 9-202 [III-E]]

b. If damage to property was caused during the course of a search and/or resulting seizure:

- i. A supervisor shall be notified;
- ii. Photographs shall be taken and property inventoried to document any known damages.

[Moved to 9-202 [III-J]]

c. If the search of a vehicle does **not** result in an arrest, property damage or seizure of evidence or contraband, the fact that a search occurred and the legal justification for it should be documented via added remarks to the call in CAD (Computer Aided Dispatch) or by another method.

C. Searching Dwellings and Buildings

1. A search warrant is always required to search dwellings and non-public areas of buildings, absent consent or exigent circumstances. Without a search warrant, officers may legally search a dwelling or building in the following circumstances:

- a. Hot Pursuit;
- b. Protect and Preserve Life;
- c. To Prevent the Destruction of Evidence;
- d. Serving an Arrest Warrant;
- e. Consent Search;

2. Searching Dwellings and Buildings—Documentation

a. If the search of a building/dwelling results in an arrest or seizure of evidence or contraband, a CAPRS report and supplement shall be completed and the officer must articulate in his/her statement the legal justification for the search. The supplement shall contain all pertinent information concerning the search including:

- i. Legal justification for the entry/search;

- ~~ii. Results of the search;~~
- ~~iii. Any injuries that occurred;~~
- ~~iv. Any property damages that occurred;~~
- ~~v. Officers who entered the property; and~~
- ~~vi. The name and date of birth of the consenting person (if applicable) and their relationship to the property searched.~~

~~b. If the search of a building/dwelling does **not** result in an arrest, property damage or seizure of evidence or contraband, the fact that a search occurred and the legal justification for it should be documented via added remarks to the call in CAD (Computer Aided Dispatch) or by another method.~~

~~c. Officers assigned to a search warrant shall complete a supplement stating their assignment and actions taken if they were responsible for:~~

- ~~• Using force to subdue or detain individuals;~~
- ~~• Causing damage;~~
- ~~• Locating, recovering or documenting evidence; or~~
- ~~• When directed by a supervisor.~~

[Moved to 9-301 [III-C]]

~~d. If damage to property or occurs during the course of a search and/or the resulting arrest or property seizure:~~

- ~~• A supervisor shall be notified;~~
- ~~• Photographs shall be taken to document any known damages. (10/05/16)~~

~~**Note:** If entry for a search is made forcibly to windows or interior or exterior doors, the report shall be additionally titled FENTRY.~~

~~e. When applicable, officers shall property inventory:~~

- ~~• Photographs documenting damages;~~
- ~~• Consent to Search form; and/or~~
- ~~• Audio and/or video recording of consent granted~~

[Moved to 9-301 [III-F]]

B. Field Interviews

Although these contacts do not rise to the level of a stop or arrest, community members may interpret them as inherently coercive because they are conducted by law enforcement.

1. Legitimate purposes

- a. A member may initiate field interviews for legitimate law enforcement purposes.
- b. Members shall not take actions that could create reasonable suspicion unless they have specific facts to justify those actions (such as “jump outs”).
- c. Members shall not target treatment facilities and prior arrestees for drug possession, based solely on knowledge of drug addiction.

2. Person is free to leave

- a. The person is free to end the field interview at any time and refuse to answer the member’s questions.
- b. Members shall inform the person that they do not have to respond to questions and are free to leave. If a person refuses to answer questions during a field interview, they must be permitted to leave and not coerced to stay (e.g., blocking path of the person’s vehicle, touching to restrict the person’s movement, holding the person’s property, etc.).
- c. Members shall reply in the affirmative if asked by the person whether they are free to leave or may decline to answer questions.
- d. Members shall use non-coercive words, tone of voice, and actions that inform a reasonable person that the encounter, as well as their responses are provided voluntarily.
- e. A person’s refusal to stop, refusal to answer questions, decision to end the encounter, or to walk or run away, cannot be used as the basis for establishing reasonable suspicion or restricting the person’s ability to leave.
- f. Members shall not engage in conduct that would lead a reasonable person to believe they must comply, provide identification, respond, or to do anything such as leave the area.

3. Member introduction

Before asking any questions, members shall introduce themselves by their rank, last name, and agency (P&P 5-109) unless exigent circumstances require gathering information immediately.

4. Explain the purpose

As soon as possible, after the member has introduced themselves and informed the person that they are free to leave, the member shall explain the purpose of the encounter (P&P 5-109).

5. Identification of the person

- a. If asking a person to identify themselves, members shall inform the person that providing identification is voluntary.
- b. People are not required to carry any means of identification, nor are people required to identify themselves or account for their presence in a public place.

6. BWC required

In accordance with P&P 4-223, BWC activation is required for field interviews.

7. Initiate a call for service

In accordance with P&P 7-103, a call for service shall be initiated for a field interview.

8. Duration

The duration of the field interview should be as brief as possible. The success or failure of a meaningful field interview rests on the members ability to put the person at ease and establish a rapport.

C. Investigative Detentions

1. Reasonable suspicion required

Reasonable suspicion is required for all investigative detentions. The following subcategories are factors in establishing reasonable suspicion:

a. Articulate facts

- i. The member must have specific, articulable facts that, along with reasonable assumptions, support a belief that the person is committing, is about to commit, or has committed a crime, petty misdemeanor, or traffic offense.
- ii. One factor alone is typically not sufficient to establish reasonable suspicion and circumstances will vary in each case.
- iii. An anonymous tip must be sufficiently detailed, and all facts and circumstances must indicate the tip's reliability to give rise to reasonable suspicion.
- iv. The mere speculation that a person is carrying a gun is not sufficient.
- v. Neither is a very general description based on demographics race and clothing.

b. Location

Members shall not make an investigative detention based solely on a person's presence in an area known for criminal activity.

i. A member may use the fact that a location is known for a particular type of criminal activity as one fact among multiple factors that, when combined, establish reasonable suspicion. To conclude that the type of criminal activity in a specific location contributes to establishing reasonable suspicion, the member should be able to articulate how the nature, frequency, and recency of the criminal activity are relevant to the suspected crime.

- For example, the fact that drug dealing is known to occur on a specific corner at a particular time of day within the past two weeks could be one fact that, when considered together with other facts, establishes reasonable suspicion that two people exchanging money on that corner at that time of day are engaged in a drug transaction.
- By contrast, the fact that there has been a recent increase of nighttime, forced rear window burglaries in a particular area does not help to establish reasonable suspicion that a person flagging down cars in that area during the daytime is a burglar.
- A location known for a specific type of criminal activity must be clearly defined (e.g., an address, a specific business location, a specific corner, a specific block or park, etc.) and cannot be a general area (e.g., a district, or an entire neighborhood) to be used as a factor in establishing reasonable suspicion.

i. Members shall avoid broad, boilerplate phrases such as “high crime area” when articulating reasonable suspicion.

c. Proximity to crime scene

Members shall not make an investigative detention based solely on a person’s proximity to the scene of a reported or suspected crime.

i. Members may use a person’s proximity to the scene of a specific reported or suspected crime as a factor in formulating reasonable suspicion that the person committed that specific crime. However, members must explain how close the person was to the scene and why it was reasonable to believe the person was involved, based on their proximity to the scene. Relevant factors to consider include how recently the crime occurred and whether the person could have travelled that distance in that time, whether the member observes the person’s behavior consistent with someone who just committed the crime, and whether the person matches any witness descriptions or observations of the incident.

ii. This does not prohibit a member from “freezing” a crime scene in accordance with P&P 10-100.

d. Presence in company of others

Members shall not make an investigative detention based solely on the person’s presence in the company of others suspected of criminal activity. The member must have additional reasonable articulable facts that the person is engaged, has been engaged, or is about to be engaged in criminal activity.

e. Response to police presence

- i. Sworn members shall not make an investigative detention based solely on a person's response to the presence of police, including a person's attempt to avoid contact with a sworn member (e.g., walking away, declining to talk, running away, or crossing the street to avoid contact). People may avoid contact with police for many reasons other than involvement in criminal activity.
- ii. Sworn members shall not intentionally provoke or attempt to provoke flight to justify an investigate detention or a foot pursuit (P&P 7-811).
 - For example, a member may not drive at a high rate of speed toward a group congregated on a corner, aggressively brake, and exit quickly with the intention of stopping anyone in the group who flees.

f. Unprovoked flight

If otherwise consistent with this policy, a member may conduct an investigative detention when a person in a location known for specific criminal activity runs, unprovoked, from the police and the member can articulate reasonable suspicion to believe the person is running because they are involved in the type of criminal activity prevalent in that location. This includes articulating how the person's unprovoked flight is linked to their suspected participation in the type of criminal activity prevalent in that location.

Examples of facts that may establish a link between a person's unprovoked flight and the type of criminal activity prevalent in a location include:

- The member observes the person engaging in actions consistent with the occurrence of the specific crime prevalent at that location.
- The member has personal knowledge that the person has committed the crime previously.
- The member has personal knowledge that there was a recent call for service about that crime being committed at that location.

g. False information

Members shall not rely on information known at the time of reliance to be materially false or incorrect in establishing reasonable suspicion or probable cause (PC).

2. BWC required

- a. In accordance with P&P 4-223, BWC activation is required for investigative detentions.
- b. If activation was not already required, BWCs shall be activated as soon as the member observes activity on which they base their reasonable suspicion.
- c. When feasible, members shall state the basis for the detention on their BWC prior to making contact with the person or vehicle.

3. Notify dispatch

Members shall notify MECC, including the location of the detention, the number of persons being stopped, whether additional units are needed, and when safe to do so, a brief basis for the detention.

4. Backup

Members shall determine whether the circumstances warrant a request for backup assistance and whether the investigative detention can and should be delayed until such backup arrives.

5. Length of detention

- a. An investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the detention.
- b. The investigative detention shall not involve any delays that are unnecessary to the legitimate investigation of the members.
- c. An investigative detention may turn into an arrest if it lasts for an unreasonably long time.

6. Scope of stop

- a. The scope of the stop must be tied to the basis for it.
- b. Members shall limit questions to those relevant and necessary to resolve the members suspicions.

7. Conversion to arrest

Actions that would indicate to a reasonable person that they are being arrested or indefinitely detained may convert an investigative detention stop into an arrest, which would require PC or an arrest warrant.

These actions may include displays of weapons, handcuffing the person, other shows of force or uses of force, etc.

8. Further actions

Unless justified by the reasonable suspicion for the initial detention, members must have additional, specific justification, to further restrict a person's freedom during an investigative detention by doing any of the following:

- Taking a person's identification or driver's license away from the immediate vicinity.
- Ordering a driver or occupant motorist to exit a vehicle.
- Directing a person to stand (or remain standing), sit, or lie in any place not of their choosing.
- Applying handcuffs.

- Transporting a person any distance away from the scene of the initial stop (including for the purpose of witness identification).
- Placing a person into a police vehicle.
- Any use of force, including pointing a firearm.
- Performing a weapons pat-down.

9. Introduce member

- a. Before asking any questions, members shall introduce themselves by their rank, last name, and agency (P&P 5-109) unless exigent circumstances require gathering information immediately.
- b. Members conducting an investigative detention stop shall provide the person with their business card or similarly accessible identification, which must include their first name, last name, and badge number.

10. Inform person of detention

Members shall inform the person detained that they are **not** free to leave and shall explain the reason for the detention, as soon as feasible after making contact.

11. Transport

- a. Members shall not transport a person who is the subject of an investigative detention to another location (including a precinct) for fingerprinting, questioning, or other investigatory purposes, unless one the following conditions apply:
 - The member has PC to make an arrest of the person.
 - The person requests to speak with members in a different location and is transported for questioning.
 - For the safety of the member or the person who was stopped for questioning.
- b. If a person will be transported, members shall transport the person no farther than necessary, to minimize the duration and intrusiveness of the stop.
- c. When a transport is requested or necessary, members shall notify a supervisor of the request or the intent to transport.
- d. When a transport is requested or necessary, members shall document the transport in the Police Report and via BWC.

12. Release of the person

Members shall immediately release a person from an investigative detention if the member no longer has reasonable suspicion that the person is committing, is about to commit, or has committed a crime, and the member has not developed PC to arrest within a reasonable time.

This may occur when, upon stopping the person, the member learns that the person is not a specific suspect being sought or that the person's actions or behaviors are justified and do not indicate a violation of law.

13. Explain reasons

If releasing a person from an investigative detention, the member shall explain the reason for the initial investigative detention and the reason for the release in a Police Report.

14. Provide record of the detention

When members complete an investigatory detention that does not result in a citation or arrest, the member shall provide a card to the people involved in the interaction with the member's first and last name, and the case control number that corresponds to the interaction and corresponds to the underlying documentation that may exist.

15. Transport back to initial location

If the person was taken to another location, provide return transportation to the scene of the initial detention. If the conditions at the original scene are dangerous for the member or the person, the person should be returned as close as possible to the location.

16. Weapons Pat-Downs

a. Justification

i. A member must have specific and articulable facts, combined with rational assumptions from these facts, that the person is armed and presently dangerous to complete a weapons pat-down. Weapons Pat-Down's shall not be performed solely for officer safety (members must articulate the factors beyond the boilerplate term). Members should consider the following factors when considering whether to complete a weapons pat-down:

- The type of crime suspected, particularly when it is a crime of violence where the use or threat of deadly weapons is involved.
- The hour of the day and the location where the stop takes place.
- The number of members present at the time of the stop.
- Prior knowledge from dispatch or another source, that indicates the person may be armed and presently dangerous.
- Visual indications that suggest the person is carrying a firearm or other deadly weapon, such as a bulge under the person's clothing, although members shall be mindful that most people carry mobile phones, wallets, or other personal items in their pockets and a bulge could indicate such personal items.
- Whether the person is engaging in erratic, suspicious or nervous behavior.
- Whether the person is acting in a threatening manner or refusing to cooperate, comply or follow instructions.

ii. Weapons pat-downs shall not be used to conduct full searches designed to produce evidence or other incriminating material. See P&P 9-202 for more information on the plain feel exception.

iii. Members shall not conduct a weapons pat-down based solely on a person's consent.

b. Distinct actions

An investigative detention and a weapons pat-down are two distinct actions, and both require independent reasonable suspicion (e.g., to stop a person there must be reasonable suspicion of criminal activity, but to stop a person and perform a weapon pat-down there must be reasonable suspicion of criminal activity for the investigative detention and reasonable suspicion that the person is armed and presently dangerous for the weapons pat-down).

c. Two members

Whenever available, weapon pat-downs should be conducted by at least two members, including one who performs the weapon pat-down and another who provides protective cover.

d. Gender identity preference

If a member of the same gender or the person's stated gender preference is present, that member shall conduct the weapons pat-down when available and appropriate.

e. Outer clothing only

Members are permitted only to pat the outer clothing of the person.

i. Members shall not place their hands in pockets or reach into an article of clothing unless the member feels an object, they reasonably believe is a weapon, such as a firearm, knife, club, or other item, that could be used to harm the member or others.

ii. The member shall not manipulate an object underneath clothing in an effort to determine the nature of the object.

f. Other objects being carried

i. Members shall not open an object that a person is carrying, such as a handbag, suitcase, briefcase, sack, or other object that may conceal a weapon. Instead, the member should place it out of the person's reach.

ii. The member shall not manipulate the exterior or search the interior of the object the person is carrying.

iii. If the member reasonably suspects that harm may result if the unsearched object is returned to the person, the member may briefly feel the exterior of the object in order to determine if the object contains a weapon or other dangerous item.

g. Suspected weapon identified

- i. If, during a weapons pat-down, the member feels an item which is the shape and size of a weapon that could be used to harm the member or others, the member may reach into or disturb the article of clothing and remove the item.
- ii. If the person detained is arrested because an unlawful weapon was found, a search incident to arrest may be conducted in accordance with P&P 9-202.

h. Plain Feel

If, during a permissible weapons pat-down, or during the process of removing a suspected weapon found during a permissible weapons pat-down, the member discovers other items which are immediately apparent to be contraband or evidence of a crime, the member may lawfully seize those items, and the items may be considered when establishing PC to make an arrest or to conduct a search of the person.

i. Release of the person

If the person detained is to be released because no weapon was found, and there is no PC for an arrest, the member shall immediately release the person in accordance with the related sections under investigative detentions above.

j. Identification

- i. If no weapons are found during the weapon pat-down and members have no other reasonable suspicion of criminal activity, members shall not ID the person.
- ii. If unlawful weapons are found, members may ID the person.

17. Report required

Following an investigative detention, the member shall complete a Police Report, and shall include the following information:

- a. A detailed description of the circumstances that led to the investigative detention, including the facts that established reasonable suspicion for the detention (prior to the detention being made).
- b. Approximate duration of the detention.
- c. A complete description of the person, including height, weight, hair color, eye color, skin tone, identifying features (e.g., tattoos, scars, etc.), clothing type and color, and any other notable features or descriptors relevant to reasonable suspicion.
- d. The location of the detention, including the address or nearest intersection.
- e. The outcome of the detention, including whether a citation was issued, an arrest was made, a warning was issued, or the person was released due to the lack of continuing reasonable suspicion.

- f. Whether a weapons pat-down was done, and if so, the facts establishing reasonable suspicion that the person was armed and presently dangerous, and that the pat-down was necessary, and whether anything was identified during the pat-down.
- g. Whether a search was conducted based on PC, and if so, the facts establishing PC for the search.
- h. Whether a search returned any unlawful weapons, narcotics, or other contraband, and the nature of the contraband.
- i. Whether the investigative detention began as a voluntary contact or field interview.
- j. Whether the person was moved from the initial stop location, and if so, where they were taken to, and why they were moved from the stop location.
- k. If the member receives information during the call or the facts that the member observes indicate that a person has or is experiencing behavioral health disabilities.
- l. Members **shall not** use boilerplate language alone when describing the basis for an investigative detention.
- m. Members shall use specific and descriptive language individualized to the person stopped and the circumstances of the stop to describe the basis of the contact. The amount of detail required depends on the complexity of the encounter.

D. Consent Searches Prohibited During Stops

In accordance with P&P 9-202, members shall not conduct a search based on consent during a pedestrian or vehicle stop. Members may **only** conduct a search during a pedestrian or vehicle stop if there is a basis for the search other than consent.

E. Traffic Stops

In addition to the other requirements for investigative detention, the following additional requirements specific to stops involving vehicles apply:

1. Limitation regarding questioning passengers

While members may professionally greet passengers in a vehicle, members shall not question or require identification from passengers during a vehicle stop for a traffic violation or violations unless:

- a. The member has reasonable suspicion or PC that the passenger has committed a crime or an applicable traffic violation (such as not wearing a seat belt).
 - i. If a member sees a passenger without their seat belt buckled during a vehicle stop, this provides them with reasonable articulable suspicion to ID and cite the passenger.

- b. The member has a basis to believe that the passenger is being trafficked, experiencing domestic violence, is at risk from the driver or another person in the vehicle, or otherwise appears to require immediate medical assistance.
- c. The member is confirming that the passenger is willing and able to drive the vehicle away to avoid impound of the vehicle.

2. Vehicle stops limited for certain types

1. Searching Vehicles—Documentation

~~a. If the search of a vehicle results in an arrest or seizure of evidence or contraband, a CAPRS report and supplement shall be completed and the officer must articulate in his/her supplement the legal justification for the search. The supplement shall contain all pertinent information concerning the search including:~~

- ~~i. Legal justification for the search;~~
- ~~ii. Results of the search;~~
- ~~iii. Any damages that occurred;~~
- ~~iv. Officers who conducted the search; and~~
- ~~v. The name and date of birth of the consenting person (if applicable).~~

Members shall not initiate a traffic stop when the only offenses are those listed below unless it is a commercial vehicle, or the member determines that the driver is operating the vehicle unsafely or creating an imminent safety hazard based on the totality of the circumstances:

- Failure to display registration tabs.
 - Driving with expired registration tabs.
 - Failure to illuminate license plate.
 - Rim or frame obscuring license plate, except for the plate letters and numbers.
 - Driving with only one functioning and visible headlight, brake light, or taillight.
 - Driving with only one functional sideview mirror present.
 - Driving without a rearview mirror, with the rearview mirror obstructed, or with an item dangling from the rearview mirror.
 - Driving without working windshield wipers.
 - Failure to signal a lane change or a turn.
 - Cracked windshield unless it substantially obscures the driver's view.
 - Window tint does not comply with Minnesota law.
- a. Members may lawfully stop or detain a driver for operating a vehicle in an unsafe manner or creating an imminent hazard to safety, even if they are engaged in one or more of the prohibited offenses.
 - b. The member shall document on their BWC and in the Police Report the unsafe operation or imminent safety hazard.

- c. Simply because a driver is engaging in one or more of the above offenses (i-x) does not necessarily mean that they are operating the vehicle in an unsafe manner or creating an imminent hazard to safety. The member must determine if the driver is operating the vehicle unsafely or creating an imminent safety hazard based on the totality of the circumstances.
- d. Members may mail a notice of repair issues to a vehicle owner when the only offenses are in the above list.

3. No citations for equipment violations

Members shall not issue a citation for any equipment violation including those in the above offenses list, subject to the following exceptions:

- a. If an equipment violation on a motor vehicle resulted in a motor vehicle crash or harm to another the driver may be cited or charged by complaint.
- b. If the member feels the equipment issue poses an imminent safety hazard or causes a public nuisance (e.g. loud mufflers, etc.), the member shall advise the driver to park the vehicle and get the issue resolved prior to driving the vehicle again.
- c. If a member encounters the same person operating the same vehicle with unresolved, imminent safety hazards or causing a public nuisance within a reasonable timeframe following the initial encounter, they may issue a citation.

This does not permit members to initiate a stop for one of the above listed offenses.

4. Non-equipment violations

- a. This policy does not limit the ability of members to arrest people who have committed a criminal offense or have any outstanding warrants.
- b. If the incident does not involve an equipment violation, the member shall still inform the driver of the equipment violation when appropriate and available.

5. ~~4-~~ Issuing a Lights On! Coupon

[Moved from 7-601]

~~All MPD employees conducting motor vehicle stops for equipment violations shall issue a Lights On! Coupon in Lieu of traffic citations, when available and applicable.~~

For the below equipment issues, members shall not issue a citation but may issue a Lights On! Coupon. If a Coupon is issued, then the officer-member should shall advise the driver or recipient of the location at in which the repair can be made.

- a. Applicable violations

Lights On! Coupons can be issued for the following equipment violations:

- Headlights,

- Turn signals,
- Rear lights,
- Rear license plate lights (subject to the conditions in section [c]),
- Parking lights,

b. Coupons not available

If Lights On! Coupons are not available, but the incident meets the Lights On! criteria, the ~~member officer~~ shall do all of the following:

- ~~ii. Advise the driver of the equipment violation,~~
- ~~iii. Provide a Blue Card (P&P 4-608) to the driver, and~~
- ~~iv. Advise the driver to bring the Blue Card to the nearest precinct to get a Lights On! Coupon.~~

~~c. Coupon supply~~

Lights On! Coupons will be stocked at each precinct.

- ~~i. If no coupons are available, members officers shall request more coupons through their chain of command.~~
- ~~ii. The Chief's office will coordinate delivery of additional coupons.~~

~~e. Inoperable license plate light~~

- ~~i. Officers may not initiate a traffic stop for an inoperable license plate light to provide the driver with a Lights On! Coupon or a Blue Card.~~
- ~~ii. If a vehicle with an inoperable license plate light is stopped for an independent, permissible reason, officers shall issue a Lights On! Coupon for the inoperable license plate light or a Blue Card if the coupon is not available, in lieu of a traffic citation.~~

~~2. Incidents involving other violations~~

~~a. Other equipment violations~~

~~If the incident does not meet the criteria of the Lights On! Program, the officer shall advise the driver of the equipment violation, subject to the following exception:~~

- ~~i. The driver may be cited or charged by complaint in incidents where an equipment violation on a motor vehicle resulted in a motor vehicle crash or harm to another.~~

~~b. Non-equipment violations~~

- ~~i. This policy does not limit the ability of officers to arrest individuals who have committed a criminal offense or have any outstanding warrants.~~

ii. ~~If the incident involves a non-equipment violation, the officer shall still advise the driver of the equipment violation and issue a Lights On! Coupon when applicable, in addition to any other actions taken during or in relation to the stop.~~

3. ~~Public safety risk~~

~~If the officer feels the equipment issue poses an unreasonable risk to public safety, the officer shall advise the driver to park the vehicle and get the issue resolved prior to driving the vehicle again.~~

4. ~~MDC Clear Form~~

~~Officers shall complete the coupon section of the MDC Clear Form by selecting Yes, No or Not Available.~~

6. Marijuana

- a. The odor of marijuana does not provide members PC to search a vehicle, cite, or arrest a person.
- b. Members will need additional evidence such as packaging, behavior indicating the person is under the influence, etc. in order to cite or any arrest a person for marijuana.
- c. This provision does not prevent members from conducting a field sobriety test during a vehicle stop.

7. ~~A. Initiating a traffic stop~~

[Moved from 7-601]

~~When making a traffic law enforcement (TLE) stop, the initiating squad shall:~~

- a. Members shall ensure that their BWC is activated prior to initiating the stop, in accordance with P&P 4-223.
- b. Members shall state the basis for the stop on their BWC upon initiating the stop, when appropriate.
- c. ~~1. Members shall n~~otify the dispatcher of the location of the stop and the license number of the vehicle being stopped, and initiate a call for service in accordance with P&P 7-103-7-100 Communications.

~~2. Request a back up unit or roll by assist from the dispatcher, if one is needed or desired.~~

~~• It is no longer a Department procedure to automatically start a roll by or back up to a TLE if the stop is made by a one-officer (able) squad.~~

B. Conditions for Initiating a Stop

~~Officers shall not initiate a traffic stop when the only offense is one of the following:~~

- ~~Expired tabs~~
- ~~An item dangling from the rearview mirror, unless that object impairs the driver's ability to operate the vehicle safely~~
- ~~Inoperable license plate lights~~

F. Disorderly Conduct and Obstruction of Legal Process

Conducting any of these in public or private space is considered disorderly conduct:

- Engaging in brawls or fights (see exception below).
- Disturbing an assembly or meeting, not unlawful in its character.
- Engaging in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonable to arouse, alarm, anger, or resentment in others.

Intentionally conducting any of these offenses is considered obstructing legal process:

- Obstructing, hindering, or preventing the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge of conviction of a criminal offense.
 - Obstructing, resisting, or interfering with a peace officer while the member is engaging in performance of official duties.
 - Interfering with or obstructing a firefighter while they are engaging in performance of official duties.
 - Interfering with or obstructing members of an ambulance service personnel crew (i.e. EMTs, paramedics, etc.) who are providing, or attempting to provide emergency care.
 - Using threatening or forceful endeavors to obstruct any member.
1. If members encounter people that are engaged in disorderly conduct or obstruction of legal process (or both), members shall do the following. These requirements do not apply when a person is actively involved in an assault, engaged in a physical altercation, or using physical force to obstruct a member, firefighter, or ambulance service personnel crew:
 - a. Activate their BWC (P&P 4-223).
 - b. Announce over the radio their location and that they are issuing a warning for disorderly conduct or obstruction, if appropriate.
 - c. Request that the person or people stop engaging in the conduct or legal obstruction.
 - d. Permit a reasonable amount of time based on the totality of the circumstances for the people or persons to comply with the request to.
 - e. Ensure the warning is recorded on their BWC.
 2. When issuing a warning for either disorderly conduct or legal obstruction of legal process, members shall state that the person or people are not being detained and are free to leave.

3. The warning shall be documented on BWC, Computer Aided Dispatch (CAD), and by police radio. If the people or person stops the conduct than members do not have to document the warning in a Police Report.
4. If the people or the person does not stop the conduct after a reasonable amount of time and given the totality of the circumstances, members have discretion to either detain and issue the appropriate citations or arrest the person or people engaging in the conduct.
5. All enforcement activities that take place shall be documented in a Police Report.

G. Supervisory Review of Stops

1. Preliminary review

- a. Supervisors shall first complete an initial review of all reports of stops in accordance with P&P 4-601 Report Responsibility to ensure the report contains all of the required elements. Supervisors shall approve or return the report for revision by the end of their shift.
- b. Supervisors are responsible for reviewing any pending reports by the end of their shift. This includes reports generated from part-time or other similar assignments in that precinct.
- c. No report shall sit in the pending queue longer than 24 hours without a supervisor review and approval.
- d. If all elements of the report are not completed accurately and thoroughly, the supervisor will send the report back to the member. The member must make the necessary changes and send the report back to the supervisor before the end of their shift.

2. Comprehensive review

- a. Supervisors shall complete a comprehensive review of all elements of the report within 72 hours of the search. The comprehensive review may be done at the same as the preliminary review or can be completed within 72 hours.
- b. The supervisor conducting the comprehensive review shall document and report:
 - i. Stops that appear unsupported by PC or are otherwise in violation of MPD policy or law.
 - ii. “Boilerplate” or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indications that the reports or forms may contain information that was not accurate at the time it was reported.
 - iii. Lack of clarity with respect to the specific role and involvement of each MPD member, including specifying which member saw or heard information or engaged with or observed a person engaging in a particular manner or completing a particular activity.

- iv. Violations of the non-discriminatory policing policy (P&P 5-104).
- c. If further review is necessary to properly assess one of the above required elements (i-iv) or any other potential policy or legal issues, the supervisor shall send the comprehensive review to the shift Lieutenant or another secondary reviewer (which can be a supervisor at least one rank above the person who completed the report that is being reviewed).
- d. The secondary reviewer shall review relevant BWC video and other evidence as necessary to complete the review.
- e. If violations or misconduct is found during any review of the report, the supervisor or secondary reviewer shall make a referral to Internal Affairs.
- f. Supervisors who fail to conduct complete, thorough, and accurate reviews of stops may be subject to discipline.

IV. Definitions

Boilerplate Language: Words or phrases that are standardized, “canned” or patterned and that do not describe a specific event, situation or set of circumstances (e.g., “furtive movement” or “fighting stance”). The use of boilerplate language alone is restricted or prohibited, as described in policy.

Reasonable Suspicion: An objective legal standard that is less than probable cause but more than a hunch or mere speculation.

1. Reasonable suspicion, which must be articulable, depends on all circumstances which the member observes and the reasonable assumptions that are drawn based on the member’s training and experience.
2. Reasonable suspicion can result from a combination of particular facts, which may appear harmless in and of themselves, but taken together amount to reasonable suspicion.
 - a. Reasonable suspicion should be founded on specific and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation in regard to the person, as either witnessed or known by the member.
3. Accordingly, reasonable suspicion must be described with reference to facts or observations about a particular person’s actions or the particular circumstances that a member encounters.
4. In accordance with P&P 5-104, the physical characteristics of a person are never, by themselves, sufficient. Instead, members may take into account the reported descriptors in P&P 5-104 of a specific suspect or suspects using credible, reliable, recent, locally based information that links specific, suspected, unlawful or suspicious activity to a particular person or group of people, and when the description also includes other appropriate non-demographic identifying factors (such as clothing or an associated vehicle).

Probable Cause (PC): Where facts and circumstances taken as a whole, known to the member at the time of the arrest, would lead a reasonable member to believe that a particular person has committed or is committing a crime. As with reasonable suspicion, probable cause is based upon an objective assessment of the facts and circumstances presented to or known by the member.

Mere Speculation: Assertions, ideas, or conjectures based on minimal or no evidence, often characterized by guesswork or assumptions without substantial support from facts or reliable information.

Types of Contacts:

Detention/Stop: If a reasonable person under the circumstances would believe they are not free to leave, a “detention” and/or “stop” has occurred. This includes, arrests, investigative detentions, vehicle stops, some crisis interventions, and health and welfare situations.

Arrest: Taking a person into custody, which may be imposed by force or may result from a person submitting to a member. An arrest is a restraint of greater scope or duration than an investigatory stop or detention. An arrest requires probable cause that a crime was committed or is being committed. This includes booking, citing in lieu of booking, and releasing pending charges.

Investigative Detention: An investigative detention is the temporary involuntary detention and questioning of a person where the person was stopped based on reasonable suspicion that the person is committing, is about to commit, or has committed a crime, petty misdemeanor, or traffic offense.

1. An investigative detention occurs whenever a member uses words or takes actions to:
 - Make a person halt or stop or restrict their ability to leave.
 - Compel a person to perform some act, such as ordering a person to show their hands, sit on a curb, etc.
2. If a reasonable person under the circumstances would believe that they are not free to leave, a “detention” and/or “stop” has occurred.

Pretext Stop: A stop initiated by members for a minor violation, with the actual purpose of investigating or searching for evidence of another, unrelated crime.

Vehicle Stop: The involuntary detention of a vehicle and the driver or the occupants of the vehicle.

Vehicle Stop- Criminal Investigation: Stopping a vehicle based on reasonable suspicion that the driver or occupants are committing, are about to commit, or have committed a crime. This is a type of investigative detention.

Vehicle Stop- Traffic Violation: Stopping a vehicle for a traffic violation for which the member has probable cause to believe occurred.

Voluntary Contact: A consensual and non-investigative encounter between a member and a person, with the intent of engaging in a casual or non-investigative conversation (e.g.,

chatting with a local business owner or resident). The person is free to leave or decline any request by the member at any point.

Field Interview: A voluntary contact during which a member may ask questions or try to gain information about possible criminal activity while making it clear that the person is free to leave and not obligated to answer the member's questions.

Weapons Pat-Down: Also known as a "frisk" or "terry frisk," a weapons pat-down is a brief, non-probing running of the hands over the outside of a person's clothing, without manipulating objects. Weapon pat-down's are authorized when a member has reasonable suspicion that the person is armed and presently dangerous.

Search: Sometimes called a "full search," is an inspection, examination or viewing of people, places, or items in which a person has a legitimate expectation of privacy. A search may be physical, visual, informational, or virtual.

1. A physical search could include grasping, prying into or manipulating persons or objects (e.g., reaching into a purse or pocket, feeling inside of the trunk of a car; physical manipulation of a duffel bag, etc.).
2. In some circumstances, a canine sniff may constitute a search as well (see P&P 7-807 Authorized Use of Canines).
3. Collecting someone's DNA from their person is a search.
4. An informational or virtual search could include searching of certain types of paper or electronic records for information.

9-202 — Public Recording of Police Activities

[Moved to 9-204]

9-202 Warrantless Searches

(xx/xx/24)

Revisions to prior policies: (07/01/11) (01/25/16) (06/29/16) (10/05/16) (06/28/17)

I. Purpose

This policy establishes procedures for the Minneapolis Police Department (MPD) to conduct lawful and non-discriminatory searches and seizures in compliance with federal, state, and local laws, ensuring the protection of a person's privacy and dignity. Members shall adhere to all relevant guiding principles listed in 9-201.

II. General Warrantless Search Procedures

A. Warrantless Search Justification

1. Probable cause and reasonable suspicion

Reasonable suspicion and probable cause (PC) must be based on specific and objective articulable facts or observations about how a person behaves, what the person is seen or heard doing, and the specific circumstances or situation that are either witnessed or known by the member.

a. Physical characteristics or location

i. When establishing reasonable suspicion or PC for a search based on a person's location or demographic characteristics such as race or ethnicity, members must link specific and detailed suspect descriptions with the relevant time and place.

ii. The physical characteristics of a person, including generic clothing descriptions, are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person.

b. Anonymous tips

An anonymous tip must be detailed enough, with supporting facts and circumstances that demonstrate its reliability, to justify reasonable suspicion.

c. Mere suspicion

The mere suspicion that a person is carrying a gun is not sufficient.

2. Scope of justification

Members shall not conduct a search beyond the scope of the underlying justification for the search. Any search conducted past that point requires either a warrant or another exception to the search warrant requirement.

3. False information

Members shall not use or rely on information known to be materially false or incorrect to justify any type of search.

4. Results from impermissible search

Items or contraband recovered from a search which was not permissible under this policy shall not be used as justification for the search.

5. Discoveries during an exigent circumstances search

Discoveries made during a warrantless search under exigent circumstances may be used to establish PC for a warrant.

B. Body Worn Cameras (BWCs)

In accordance with P&P 4-223, BWC activation is required for searches.

C. Property Condition

Members shall conduct searches with due regard and respect for private property interests and in a manner that minimizes damage.

Members shall leave property as close as reasonably possible to its pre-search condition.

D. Recording Devices

Community members' recording devices and the data on the devices shall be handled in accordance with P&P 9-204.

III. Exceptions to Warrant Requirements

Searches of people, vehicles and buildings may only be conducted without a warrant in a limited set of circumstances. The exceptions to the warrant requirement are described below.

[A] Search incident to arrest

[B] Inventory search

[C] Plain view

[D] Consent search

[E] Probable cause search of a vehicle

[F] Custodial searches

[G] Weapons pat-down

[H] Exigent circumstances

[1] Medical emergency/lifesaving

[2] Destruction of evidence

[3] Hot pursuit

[F] Implied consent screening and breath test

A. Search Incident to Arrest

A member may conduct a warrantless search incident to arrest which includes a search of the person being arrested and the area in their immediate control when all following factors are present:

- Members have PC to make an arrest for an applicable offense.
- Members have authority to make an arrest.
- Members have the intent to make an arrest.

The exception for a search incident to arrest only applies to felonies, gross misdemeanors, and misdemeanors with a Rule 6 reason.

1. Removal from area of control

If an arrestee has been removed from the area and is rendered incapable of gaining “immediate control” of items in that area, a warrantless search incident to arrest may no longer be conducted of that area.

2. Searching the person

A search incident to arrest shall include a weapons pat-down (P&P 9-201) and search of the persons pockets. It may also include search of any articles of property found on the person, and the minor manipulation of clothing that does not expose a person’s groin or genital area, buttocks, female breasts, or more than the waistband or upper portions of the undergarments.

3. Vehicles

If an arrestee for an applicable offense is an occupant or was recently an occupant of a vehicle, a limited search of the passenger compartment of the vehicle (including glove box, center console or containers therein) may be conducted, if one of the following conditions applies:

- The arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search.
- There is reasonable suspicion that a search of the passenger compartment will uncover evidence related to the crime for which the occupant was arrested.

4. Residences

a. When a person is arrested in a residence for an applicable offense, members may only search the immediate area where the arrest occurred.

b. Members may only search other areas of the residence if one of the following conditions applies:

- They reasonably believe that member safety is threatened.
- They reasonably believe that another person’s safety is threatened (such as a possible kidnapping).
- There is a reasonable chance the arrested person might escape or destroy evidence.

5. Personal items

Members may only search personal items such as wallets, backpacks, or other bags under the search incident to arrest exception if the arrestee had them in their actual and exclusive possession at or immediately preceding the time of the arrest.

6. Cell phones

a. Members shall not search digital information on an arrestee’s cell phone or other device without the owner’s consent or a warrant.

- b. If members find abandoned cell phones or other electronic devices, they may search them for the sole purpose of identifying the owner of the property. The search must cease upon identifying the owner of the property. If the member views evidence of a crime on a device, they must cease the search and secure a warrant for the device.

B. Inventory Search

2. Searching an Arrestee's Property:

- a. ~~A custodial arrestee's property (purse, backpack, etc.) shall be searched prior to arrival at any jail, detention center, chemical testing unit, or investigative unit.~~
- b. ~~A non-custodial arrestee's property is not subject to search without consent unless reasonable articulable suspicion exists to believe that the individual is engaged in other criminal activity and the personal property may contain a weapon.~~
- c. ~~Items property inventoried will be searched according to protocol set forth by the Property and Evidence Unit.~~

1. Administrative nature

- a. Inventory searches are not searches that are incident to arrest. They are administrative in nature and are conducted to:
 - Protect and account for property of the arrested person or property in an impounded vehicle.
 - Protect the member and the MPD from false claims.
 - Secure any dangerous items from MPD or jail facilities.
- b. Inventory searches are not a substitute for obtaining a search warrant or consent.

2. Temporal proximity

Inventory searches of personal property or vehicles must occur as close in time as practical to placing an arrestee in a secure facility or impoundment of the vehicle.

3. When inventory searches are required

Inventory searches shall be done for all vehicles to be impounded in accordance with 7-700, all personal property for safekeeping, and all property that has accompanied an arrestee to a secure policy facility, except in the following cases:

- a. Vehicles that are locked shall be treated as a sealed unit and shall not have an inventory search done.
- b. Inventory searches shall not be done for items or vehicles that are considered evidence and must remain untouched pending a search warrant.

C. Plain View

1. The plain view exception applies when a member, who has the right to be in a position to see objects in plain view, inadvertently discovers contraband or evidence after making a lawful intrusion into a constitutionally protected area, such as a residence or a vehicle, and has PC to believe the items are contraband. In such cases, the objects are subject to seizure without a warrant.
2. The member must have PC to believe that the items in plain view are contraband or evidence, and they must be immediately recognizable as such.
3. Once the inadvertent discovery is made, members may have PC to seek a warrant for a more thorough search.
4. If members view evidence or contraband in a vehicle that is in a constitutionally protected area, members will just document if they find something during the plain view search, not that they needed PC to search the vehicle. The vehicle being in a constitutionally protected area is the PC for completing a plain view search.
5. If members are lawfully inside a residence and see something that could be considered evidence or contraband, they must document what they discovered, and how they were lawfully in the residence.

D. Consent Search

1. Consent searches prohibited during stops

Members shall not conduct a search based on consent during a pedestrian or vehicle stop. Members may **only** conduct a search during a pedestrian or vehicle stop if there is a basis for the search other than consent.

2. Reasonable suspicion required

- a. To request to conduct a consent search of a person or property for evidence of a crime, members must have both of the following:

- Reasonable suspicion that a crime has been committed.
- Reasonable suspicion that either the person is involved in the crime or possesses evidence of the crime, or the place to be searched contains evidence of the crime.

- b. If a member has reasonable suspicion that a crime has been committed, and reasonable suspicion that the person is involved in the crime or possesses evidence of the crime or the place to be searched contains evidence of the crime, a person who has the authority to give consent may provide consent for a warrantless search with an established scope and may revoke their consent at any point.

3. Capacity to consent

- a. Prior to conducting a consent search, members shall make a good faith effort to determine whether the consenting person has capacity to provide consent.

Factors to consider include:

- Age.
 - Capacity for understanding.
 - Education of the person.
 - Actual or perceived physical and mental coercion.
 - Exploitation.
- b. If the person requests further explanation of their rights or if it is apparent that the person giving consent has difficulty reading or understanding their rights, the member shall explain until the person acknowledges their full understanding of the consent.
- c. If appropriate, members shall provide required services in accordance with P&P 7-1001 Limited English Proficiency (LEP) and P&P 7-1002 Communicating with Deaf or Hard of Hearing Individuals.
- d. Consent searches involving minors shall also follow P&P 8-300 Minor Search, Seizure, and Arrest.

4. Authority over property

Consent can only be given by a person who the member can demonstrate, or that the member can reasonably articulate, has the authority to give consent to search the property.

- a. If two or more people with equal apparent authority over the property are present and disagree about permission to search, the consent search shall not be conducted.
- If a minor child living with a parent or guardian pays rent or a similar circumstance applies and they have exclusive control over an area such as their room, a closet, etc., the above limitation could apply when the parent gives permission to search but their minor child refuses permission to search areas of the home that are in the exclusive control of the child.
- b. All cohabitants (roommates) or business partners who are present must affirmatively provide their consent prior to the search. Consent to search is not allowed if one cohabitant or business partner objects to the consent, even if another person gives permission.
- c. Landlords cannot give consent to search if a lease or rental agreement is still valid.
- d. Consent is valid if the third-party giving consent has equal authority over the business or residence and it can be concluded the absent person assumed the risk the cohabitant (roommate) might permit a search.

5. Scope of consent

- a. When requesting consent, the scope of the search must be established and may be limited in any way the person wishes.
- b. If the search exceeds the authorized scope, it must be justified by another exception or will be unlawful.

6. Refusal to consent

The member requesting consent shall affirmatively explain that the person has a right to refuse, limit, and revoke consent at any time and that the person will not be punished or detained longer if they refuse.

- a. Members shall not use a person's refusal to give consent to search as a factor in establishing reasonable suspicion or PC.
- b. Members shall not tell a person that refusal to provide consent may lead to adverse consequences, such as arrest or warrantless seizure of their property.

7. Revoking consent

- a. The person providing consent may stop the search at any point and must be able to communicate their request to stop the search.
- b. If the consent search has begun, but the person then decides to revoke their consent:
 - i. The member shall immediately cease the search unless another exception to the search warrant requirement applies.
 - ii. The member shall not use threats or other forms of coercion to obtain or induce the person not to revoke consent.
 - iii. The member may retain custody of evidence lawfully seized prior to revocation of consent, even if property return is requested.

8. Recording consent

- a. Members shall record the person giving consent with their BWC or through another approved MPD audio and video recording method.
- b. The person giving consent shall sign the Consent to Search Receipt and Inventory form (MP-3003). The form shall be inventoried.

9. Documentation

Members shall document in the Police Report:

- The circumstances giving rise to reasonable suspicion for a search.
- How consent was obtained (verbally, in writing, or both).
- How the search was conducted.

- Whether anything was seized during the search.
- The location of any evidence that was discovered, and the name of the member who found and seized the evidence.
- Whether the search resulted in an arrest.

E. Probable Cause Searches of Vehicles

1. If a member has PC to believe that a vehicle contains evidence of a crime or contraband, the member may conduct a warrantless search anywhere in the vehicle where the evidence or contraband sought may reasonably be found, except the trunk or locked containers. Searches of the trunk and locked containers require a warrant. The scope can include applicable unlocked containers within the vehicle regardless of the ownership of those containers.
2. Prior to conducting a search that will likely cause damage to a vehicle, members are encouraged to secure a warrant, when appropriate.
3. Members shall not conduct a warrantless search of a vehicle located in a driveway or within the curtilage of a home (area immediately surrounding a home).

F. Custodial Searches

1. When a detainee is transported in a police vehicle, members shall ensure that the detainee is searched by the arresting member and the transporting member before being placed in a police transport vehicle.
2. Generally, the arresting member and the transporting member should both conduct the search.
3. The transporting member shall ensure the transport vehicle is inspected for any property left inside prior to placing the detainee in the vehicle and again after the detainee is removed from the vehicle.
4. If any evidence is found in the vehicle, the transporting member shall ensure it is inventoried according to P&P 10-400.

G. Weapons Pat-Downs

Also known as a “frisk” or “terry frisk,” a weapons pat-down is a brief, non-probing running of the hands over the outside of a person's clothing to feel for a weapon.

An officer may conduct a Terry Frisk of a stopped person if the officer reasonably believes, based on specific and articulable facts, that the person may be armed and dangerous. A Terry Frisk is limited to a pat down of the person’s outer clothing for weapons

A member must have specific and articulable facts, combined with rational assumptions from these facts, that the person is armed and presently dangerous to complete a weapons pat-down. Weapons Pat-Down’s shall not be performed solely for officer safety (members must articulate the factors beyond the boilerplate term). Weapons pat-downs shall be conducted in accordance with P&P 9-201 (Stops, Contacts and Weapons Pat-Downs).

H. Exigent Circumstances

A warrantless search conducted due to exigent circumstances is valid only as long as the exigent circumstances last. When the exigency has ended, any further search must be justified by a warrant or another exception to the warrant requirement.

1. Medical emergency/lifesaving

The need to protect or preserve life or avoid serious injury may justify a search or an entry into a residence or non-public building where there is a reasonable expectation of privacy that would otherwise be illegal absent an emergency.

It is important to remember that while a search or entry may be justified under the emergency doctrine, a warrant will generally need to be obtained prior to further investigation or seizure of evidence.

a. Justification for search

Members may conduct a warrantless search for a medical emergency or life-saving purposes when:

- i. The member has a reasonable, objective belief that there is an immediate need to protect the lives or safety of themselves or the public, or a specific person needs immediate help.
- ii. The member has a reasonable basis to associate the emergency with the place to be searched.
- iii. A reasonable person in the same situation would similarly believe that there is a need for immediate assistance.
- iv. The search must be conducted absent a motivation or desire to discover evidence or make an arrest.
- v. Members shall not conduct the search as a pretext for an investigatory search.

b. Unconscious person

Members shall attempt to rouse a suspected unconscious person prior to conducting a search. Suspected unconsciousness alone does not support a reasonable, objective belief of a need for immediate assistance.

c. Ending search

Members shall cease the search immediately upon the emergency ending or otherwise dispelling the reason for the non-criminal investigation.

2. Destruction of evidence

- a. When members have a reasonable belief that evidence of a felony is about to be removed or destroyed, members may make a warrantless entry into a residence or

non-public building, to secure the premises and evidence and freeze the scene until a warrant is obtained.

- b. If entry is made to prevent the destruction of evidence, except in exceptional circumstances such as danger to members or the public, members shall not seize the evidence or contraband.
- c. Members shall secure the premises and the evidence and await the arrival of a search warrant.

3. Hot pursuit

- a. Members may enter a residence or non-public building if they are in “hot,” or “fresh,” pursuit of a fleeing felony suspect.

In accordance with MN Statute section 626.69:

- i. This also includes “the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed.”
- ii. “Fresh pursuit, as used therein, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.”
- b. Members are not allowed to make a warrantless hot pursuit entry when there is only probable cause of a misdemeanor or a minor offense. Examples of misdemeanors include DUI, traffic offenses, curfew violations, citation offenses, and non-arrestable violations.

Factors to consider in making an entry include:

- Whether the crime involved is a crime of violence.
- Whether there is reasonable basis to believe the suspect is armed.
- Whether there is an objectively reasonable basis to believe the suspect committed the crime.
- Whether there is an objectively reasonable basis to believe the suspect is on the premises.
- Whether there is an objectively reasonable basis to believe that the suspect is likely to escape if not swiftly apprehended.
- Whether police identified themselves and gave the suspect a chance to surrender prior to entry.
- The manner in which the suspect made entry.

I. Implied Consent Screening and Breath Test

Any person who drives, operates, or is in physical control of a motor vehicle within Minnesota consents, subject to the provisions of MN Statute sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test for the purpose of determining the presence of alcohol, a controlled substance or its metabolite, or an intoxicating substance. (MN Statute section 169A.51 Subd. 1)

1. Preliminary screening test

When a member has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated MN statute section 169A.20 (driving while impaired), MN Statute 169A.31 (alcohol-related school bus or Head Start bus driving), or MN Statute 169A.33 (underage drinking and driving), the member may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner for this purpose. (MN Statute section 169A.41 Subd. 1)

2. Chemical breath test

A chemical breath test may be required of a person when a member has PC to believe the person was driving, operating or in physical control of a motor vehicle, while impaired (MN Statute section 169A.20), and one of the conditions specified in MN Statute section 169A.51 Subd. 1(b) exists.

J. Damage to Property

If damage to property occurs (such as to a building or vehicle), the member shall: ~~was caused during the course of a search and/or resulting seizure:~~

1. Notify a supervisor A supervisor shall be notified;
2. Photograph the damages Photographs shall be taken and property inventoried to document any known damages.

Additionally title the Police Report FENTRY if entry for a search is made forcibly to windows or interior or exterior doors.

K. Submitting Reports for Searches

1. Members conducting searches shall notify an on-duty supervisor of any pending reports before the end of their shift, and are encouraged to alert the supervisor as soon as the report is completed.
2. The report shall be reviewed for approval by an on-duty supervisor.
3. Before the member is relieved from their shift, they shall ensure that the report is approved, including any necessary revisions.
4. Reports shall contain the following elements:
 - a. A detailed description of the circumstances that led to the search, including the facts that established PC for the search.
 - b. The outcome of the search, including whether anything was found, and a complete description of anything that was found.

- c. Members are prohibited from using only boilerplate language when describing the basis for a search.
- d. Members shall use specific and descriptive language individualized to the person searched and the circumstances of the search to describe the basis of the search. The amount of detail required depends on the complexity of the encounter.

L. Supervisory Review of Searches

1. Preliminary review

- a. Supervisors shall first complete an initial review of all reports of searches in accordance with P&P 4-601 Report Responsibility to ensure the report contains all of the required elements and members are adhering to MPD policies. Supervisors shall approve or return the report for revision by the end of their shift.
- b. Supervisors are responsible for reviewing any pending reports by the end of their shift. This includes reports generated from part-time or other similar assignments in that precinct.
- c. No report shall sit in the pending queue longer than 24 hours without a supervisor review and approval.
- d. If all elements of the report are not completed accurately and thoroughly, the supervisor will send the report back to the member. The member must make the necessary changes and send the report back to the supervisor before the end of their shift.

2. Comprehensive review

- a. Supervisors shall complete a comprehensive review of all elements of the report within 72 hours of the search. The comprehensive review may be done at the same as the preliminary review or can be completed within 72 hours.
- b. The supervisor conducting the comprehensive review shall document and report:
 - i. Searches that appear unsupported by PC or are otherwise in violation of MPD policy or law.
 - ii. “Boilerplate” or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indications that the reports or forms may contain information that was not accurate at the time it was reported.
 - iii. Lack of clarity with respect to the specific role and involvement of each MPD member, including specifying which member saw or heard information or engaged with or observed a person engaging in a particular manner or completing a particular activity.
 - iv. Violations of the non-discriminatory policing policy (P&P 5-104).

- c. If further review is necessary to properly assess one of the above required elements (i-iv) or any other potential policy or legal issues, the supervisor shall send the comprehensive review to the shift Lieutenant or another secondary reviewer (which can be a supervisor at least one rank above the person who completed the report that is being reviewed).
- d. The secondary reviewer shall review relevant BWC video and other evidence as necessary to complete the review.
- e. If violations or misconduct is found during any review of the report, the supervisor or secondary reviewer shall make a referral to Internal Affairs.
- f. Supervisors who fail to conduct complete, thorough, and accurate reviews of searches may be subject to discipline.

9-203 Strip Searches and Body Cavity Searches

(xx/xx/24)

Revisions to prior policies: (07/01/11) (01/25/16) (06/29/16) (10/05/16) (06/28/17)

I. Purpose

The purpose of this policy is to ensure that people's privacy and dignity are preserved to the greatest extent possible, and that strip searches and body cavity searches are limited to the minimum extent necessary. Members shall adhere to all relevant guiding principles listed in 9-201.

II. Policy

A. Conditions for Body Cavity and Strip Searches

1. Privacy

- a. The MPD recognizes the intrusiveness of these searches on a person's privacy and will use the least intrusive means to achieve its law enforcement purpose. As such, it is imperative that members consider the importance of a person's privacy when determining the necessity for an allowable strip search or body cavity search under the Fourth Amendment.
- b. Such searches shall be conducted with due recognition and deference for the human dignity of those being searched and only with proper authority and justification in accordance with MPD policy.

2. Safety

The use of strip searches and body cavity searches may, under the rarest of conditions, be necessary to protect the safety of MPD members, civilians, other people in custody, and to safeguard the security and related interests of holding facilities.

3. Evidence

The use of strip searches and body cavity searches may, under the rarest of conditions, also be necessary to detect and secure evidence of criminal activity.

B. Strip Searches

1. Respect and dignity

- a. Strip searches shall be limited to the minimum extent necessary.
- b. Strip searches shall only be conducted in a manner preserving the dignity and privacy of the person to the greatest extent possible.

~~1. Strip Searches~~

~~a. A strip search includes the removal or rearrangement of clothing to permit the visual or manual inspection of any skin surfaces of a person's genitals, buttocks, anus or female breasts.~~

2. Probable cause required

Strip searches may be conducted only in the following circumstances:

- a. ~~i. Officers~~ Members have probable cause to believe that evidence, or contraband exists and will be destroyed or lost in the absence of an immediate strip search, ~~or~~
- b. ~~ii. Officers~~ Members have probable cause to believe that an immediate search is necessary to prevent imminent danger to the suspect, member ~~officer~~ or others.

~~b. The following procedure shall be followed when conducting a strip search, whether the person has been arrested or not:~~

3. Supervisor approval required

- a. Approval shall be obtained from a supervisor at the rank of Lieutenant or above before conducting a strip search.
- b. Such approval shall only be given after an on-scene assessment by the supervisor, unless the circumstances prevent the supervisor from being on-scene.
- c. If the supervisor is unable to respond to the scene, they shall document the reason why in the Police Report. ~~a CAPRS supplement. (06/29/16)~~

4. Same gender required

A strip search shall be conducted by a member of the same gender as the person being searched and shall also be witnessed by another member or supervisor of the same gender as the person being searched.

5. Supervisor presence required

- a. The supervisor approving the search shall be present when the search is conducted unless precluded from doing so by the issue of gender or other circumstances. ~~(06/29/16)~~
- b. If the supervisor who authorized the strip search is prohibited from being present, a supervisor of the same ~~sex~~ gender as the person to be searched should be present when the search is conducted.
- c. If it is not reasonable or possible to have a supervisor of the same ~~sex~~ gender witness the strip search, the supervisor approving the search shall ensure that at least two ~~officers~~ members of the same ~~sex~~ gender conduct and witness the search. ~~(06/29/16)~~

6. Privacy required

- a. ~~Officers~~ Members shall be aware that strip searches conducted in the field could require extraordinary measures to ensure the suspect's privacy.
- b. The search shall be performed in a location that affords the suspect privacy from ~~persons~~ people not involved in the search.
 - i. ~~Nothing stated in this policy shall preclude an officer from immediately recovering a weapon if the officer can articulate that any delay would cause imminent danger to the safety of the officer or others.~~
 - ii. ~~Nothing stated in this policy shall preclude an officer from collecting a urine sample for evidentiary purposes (e.g. DWI).~~

7. Touching areas prohibited

Members shall not touch breasts, buttocks, genitalia, or body cavities of the person being searched.

8. Body worn camera

In accordance with P&P 4-223:

- a. All strip searches shall be recorded by at least one member present during the entirety of the strip search, including all pre-search instructions provided to the person being searched.
- b. The camera shall be positioned to ensure that only audio data of the search is collected, and that the person being searched is not captured on video.

9. Documentation

The supervisor authorizing the strip search shall ~~complete a CAPRS supplement~~ articulate why the search was justified and necessary in narrative text within the Police Report. The ~~supplement~~ documentation shall ~~will~~ also include ~~explain:~~

- Which ~~officers~~ members conducted the search.
- Which ~~officers~~ members were present for the search.
- Where the search was conducted, ~~and~~
- How the search was conducted.
- The reason for the supervisor's absence if the supervisor was unable to conduct an on-scene assessment or be present for the search. (06/29/16)

10. Weapons

Nothing stated in this policy shall preclude a member from immediately recovering a weapon if the member can articulate that any delay would cause imminent danger to the safety of the member or others.

11. Urine sample

Nothing stated in this policy shall preclude a member from collecting a urine sample for evidentiary purposes (e.g., DWI).

C. Body Cavity Searches

~~a. A body cavity search is a search that goes beyond visual or manual inspection of skin surfaces, so that it involves internal physical examination of body cavities, and in some instances, organs such as the stomach.~~

1. Due regard

Body cavity searches shall only be performed with due recognition of privacy and hygienic concerns.

2. Supervisor approval required

- Approval shall be obtained from a supervisor at the rank of Lieutenant or above before requesting a body cavity search.
- Such approval shall only be given after an on-scene assessment by the supervisor unless the circumstances prevent the supervisor from being on-scene.
- If the supervisor is unable to respond to the scene, they shall document the reason why in the Police Report.

3. Search warrant required

- ~~b. With the exception of the mouth, nose, and ears, body cavity searches shall only be performed pursuant to a search warrant or court order (in addition to probable cause) by medical personnel, in a medical facility, pursuant to a search warrant or court order.~~
- Members shall consult with their immediate supervisor to determine whether sufficient probable cause exists to seek a search warrant for a body cavity search.

4. Medical professional required

Body cavity searches shall only be conducted by licensed medical professionals under sanitary conditions.

5. Contraband in mouth

- a. ~~e.~~ Exigent circumstances such as the suspect placing illegal narcotics or contraband into their mouth does not require obtaining a search warrant or court order.
- b. ~~d.~~ Minimal physical force (which includes low control options such as joint manipulation, pressure points and verbal directions) may be used to recover suspected narcotics from a suspect's mouth. Force used shall not include any strikes or any type of force which restricts breathing or blood flow in the neck.
- c. In accordance with P&P 7-350, if members observe any serious medical issue, they shall immediately provide medical attention and contact EMS.

III. Definitions

Body Cavity Search: A body cavity search involves an internal examination of a person's body cavities, such as the genital or anal regions. This search extends beyond a visual inspection of the skin and may include physical contact or intrusion into the body cavity. In some cases, it can also involve the internal examination of organs such as the stomach.

Strip Search: A strip search means any search of a person requiring the removal or rearrangement of some or all clothing to permit the visual inspection the person's groin or genital area, buttocks, or breasts.

The following does not constitute a strip search:

1. The removal or rearranging of clothing reasonably required to render medical treatment or assistance.
2. The removal of articles of outer clothing, such as coats, ties, belts, shoes.
3. A weapons pat-down (P&P 9-201) that includes minor manipulation at or around the waistband of the pants, including the untucking and shaking out of a person's shirt, which may expose the waistband of a person's undergarments only.

9-204

9-202 Public Recording of Police Activities

(05/05/16) (xx/xx/24)

I. Purpose

The purpose of this policy is to acknowledge and protect the ~~constitutional and~~ legal rights of citizens to photograph and make audio and video recordings of Minneapolis Police Department (MPD) members ~~personnel~~. This policy provides employees with guidance in dealing with situations in which they are being recorded. Members shall adhere to all relevant guiding principles listed in 9-201.

II. Policy

A. General Public Recording of Police Activities

1. ~~A.~~ The Minneapolis Police Department MPD recognizes that ~~members~~ people of the general public have an ~~unambiguous First Amendment~~ a right to record police officers while they are conducting official business or while acting in an official capacity in any public space, unless such recordings interfere with police activity. ~~Officers~~ Members should assume that a ~~member~~ person of the public is likely to be observing and possibly recording their activities at all times.
2. ~~B.~~ Members shall be aware that recording of people, places, buildings, structures and events is a common and normally lawful activity. If a person is taking photographs or recording from a place where he or she has a right to be, this activity by itself does not constitute suspicious activity.
3. ~~C.~~ In public areas, anyone has the same right to photograph and record as people of the media. In areas open to the public, members of the general public have the same right to photograph and record as a member of the media. No one person is required to have or display “press” credentials in order to exercise the right to record events, including police activity.
4. ~~D.~~ Members shall not tell people who are recording police activity in a place where they otherwise have a right to be that recording police activity is not allowed, requires a permit, or requires consent of the member or others being recorded.~~an officer’s consent.~~
5. ~~E.~~ The warrantless seizure of recording equipment or recording materials ~~protected by the First Amendment (e.g., cameras, phones, photos, videos, etc.)~~ will undergo strict scrutiny be strictly scrutinized in court and is subject to and has a higher standard for of reasonableness under the Fourth Amendment.
6. ~~F.~~ Employees Members **shall not** erase, ~~or~~ delete, or request any person to erase or delete any files, media or recorded images or sounds from any camera or other recording device that is in possession of any person, or that has been seized or voluntarily turned over. Such action may constitute a violation of the First, Fourth and Fourteenth Amendments.

III. Definitions

Police Duties: ~~Police duties discharged in a public setting may include a range of activities, including detentions, searches, arrests or uses of force.~~

Public Space/Setting: ~~Public settings include but are not limited to: parks, sidewalks, streets and locations of public protests. The right to record also extends to an individual’s home or business, common areas of public and private buildings, and any other public or private facility at which an individual has a right to be.~~

III. Procedures/ Regulations

B. ~~A.~~ Responding to Public Recording of Police Activities

1. When ~~an employee~~ a member observes a citizen taking photographs, ~~or~~ audio, or video recording in a setting at which that person has a legal right to be present, the ~~employee~~ member **shall not**:
 - a. Order that person to cease recording;
 - b. Demand that person's identification;
 - c. Demand that the citizen provide a reason for recording;
 - d. Detain that person for recording or investigation of a recording;
 - e. Intentionally block or obstruct recording devices;
 - f. In any way threaten, intimidate or otherwise discourage an individual from recording.
2. The right to record does not grant a citizen the right to interfere with police activity. A person ~~commits an~~ is committing a criminal offense if ~~the person with criminal negligence~~ they interrupts, disrupts, impedes or otherwise physically interferes with a ~~peace officer~~ member while the member ~~officer~~ is performing a duty or exercising authority imposed or granted by law.
 - a. A person's recording of a member's ~~officers'~~ activity from a safe distance, without any action to obstruct the activity or threaten the safety of a member ~~an officer~~, does not constitute interference.
 - b. If a person is recording activity from a position that impedes or threatens the safety of ~~officers~~ members or their ability to perform their duties, a member ~~an officer~~ may direct the person to move to a position that will not interfere. ~~Officers~~ Members shall not order the person to stop recording.
 - c. If a person is recording activity from a position that impedes or threatens the safety of ~~members~~ of the public, the ~~officer~~ member shall direct the person to move to a safe position that will not interfere. ~~Officers~~ Members shall not order the person to stop recording.
 - d. ~~Citizens~~ People have the right to express criticism of the police activity being observed. As long as that expression does not jeopardize the safety of any member ~~officer~~, suspect, or bystander, and does not violate the law or incite others to violate the law, the expression does not constitute interference. Members shall not order a person to stop criticizing the police but may ask the person to back away if their presence is physically obstructing police activity or if the volume of the speaker is interfering with police activity

C. ~~e.~~ Arrests

1. ~~i.~~ Any arrest of a person who is recording ~~officers~~ members in a public place shall be related to an objective, articulable violation of the law unrelated to the act of recording. The act of recording does not provide grounds for detention or arrest.

2. ~~ii.~~ If safe to do so, ~~officers~~ members shall call a supervisor to the scene **before** any restrictive police actions are taken, and the supervisor must approve any related arrest.
3. ~~iii.~~ If an arrest is made prior to supervisor arrival due to exigent circumstances, the arrestee shall not be transported to a holding or detention facility until the supervisor is present and has approved the arrest.
4. ~~iv.~~ An arrest of a person does not provide an exception to the warrant requirement justifying a search of the ~~individual's~~ person's recording equipment or media. While equipment may be secured incident to an arrest, downloading, viewing or otherwise accessing files or media requires a search warrant.

D. ~~B.~~ Handling of Evidence on a Recording Device

1. ~~Citizens~~ People have a high expectation of privacy for the contents of cellular phones and other recording devices. Absent arrest of the recording party, recording equipment shall not be confiscated.
 - a. ~~Officers~~ Members shall not order ~~an individual~~ a person to show recordings that have been made of police activity.
 - b. A supervisor must be notified before ~~a member~~ an officer takes any action involving a person's recording device, including a request for voluntary consent to search or seizure of the device.
2. If ~~an officer~~ a member reasonably believes that evidence of a serious crime has been recorded by a member of the public, the ~~officer~~ member shall immediately request a supervisor respond to the scene.
 - a. With approval of the supervisor, the ~~officer~~ member may ask the person in possession of the recording if ~~he or she~~ they will consent to voluntarily allow the ~~officer~~ member to take possession of the recording device or media and process it as evidence.
 - i. The ~~officer~~ member shall not, implicitly or explicitly, coerce consent to take possession of any recording device or information it may contain.
 - b. If the ~~individual~~ person refuses to voluntarily provide the recording or device and the ~~officer~~ member reasonably believes that the recording will be destroyed, lost, tampered with or otherwise rendered useless as evidence before a warrant can be obtained, the ~~officer~~ member shall notify a supervisor.
 - i. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the seizure of the device without a warrant.
 - aa. Any such seizure must be a temporary restraint intended only to preserve evidence, for no longer than reasonably necessary for the officer, acting with diligence, to obtain a warrant to seize the evidence.
 - ab. A warrant must be obtained in order to examine or copy the recording and the chain of custody must be clearly documented.

- ac. The recording or device shall be processed as evidence (see P&P 10-400) and a DIMS download station shall **not** be used for retrieval (see P&P 4-217).
- c. In exigent circumstances when ~~an officer~~ a member reasonably believes that an immediate search of the recording is necessary to prevent death or injury, the ~~officer~~ member shall notify a supervisor.
 - i. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the seizure and search of the device without a warrant. The supervisor shall notify the Watch Commander if a search is approved.
 - ii. Photographs, videos, or recordings that have been seized as evidence and are not directly related to the exigent circumstances will not be viewed until a search warrant has been obtained.
- d. Any recording devices or media taken into custody shall be returned as soon as practical.
- e. ~~Employees~~ Members who view or listen to a recording from a person ~~citizen~~ or conduct a forensic examination of the recording or device, shall undertake reasonable efforts to ensure only materials that constitute potential evidence are accessed. ~~Employees~~ Members will refrain from examining any materials not relevant to the investigation.

II. ~~III.~~ Definitions

Police Duties: ~~Police duties discharged in a public setting may include a range of activities, including detentions, searches, arrests or uses of force.~~

Public Space/Setting: Public settings include but are not limited to parks, sidewalks, streets, and locations of public protests. The right to record also extends to an individual's home or business, common areas of public and private buildings, and any other public or privately owned facility which is generally open to the public or at which an individual has a right to be.