

## Overview Investigatory Stops, Detentions, and Searches

Select Quotations from Governing MPD Policies (*See also* Attachment A (containing Policies 9-200 & 9-300))

### 5-103 USE OF DISCRETION

POLICE ACTION - LEGALLY JUSTIFIED: Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected.

#### 5-104.01 PROFESSIONAL POLICING (12/24/01) (12/01/08)

Officers shall utilize the following practices when conducting pedestrian and vehicle stops:

- Ensure that the length of detention is no longer than necessary to take appropriate action for the known or suspected offense.
- Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).

### 5-107 PROCEDURAL CODE OF CONDUCT

- No officer shall arrest any person or search any premises except with a warrant or where such arrest or search is authorized without warrant under the laws of the United States.

### Significant Statutory Guidance and Case Law

Both the United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may briefly stop and detain an individual for purposes of investigation when the officer has a “reasonable, articulable suspicion” of criminal activity. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn.2008). A suspect driving a motor vehicle is “seized” when an officer activates his overhead lights and siren and pulls his squad car behind the suspect’s moving car. *See State v. Bergerson*, 659 N.W.2d 791, 795 (Minn. App. 2003) (stating that activating overhead lights to communicate to driver that he is not free to leave generally constitutes a seizure).

An initially valid stop may become invalid if it becomes “intolerable” in its “intensity and scope.” *Terry v. Ohio*, 392 U.S. 1, 18, 88 S.Ct. 1868, 1878 (1968). “In determining whether a police officer's conduct turned an investigative stop into an unlawful arrest, courts must specifically consider the aggressiveness of the police methods and the intrusiveness of the stop against the justification for the use of such tactics.” *State v. Balenger*, 667 N.W.2d 133, 139 (Minn.App.2003), *review denied* (Minn. Oct. 21, 2003)

The use of handcuffs is generally associated with a formal arrest. *United States v. Newton*, 369 F.3d 659, 676 (2d Cir. 2004) (“Handcuffs are generally recognized as a hallmark of a formal

arrest.”). “[B]riefly handcuffing a suspect while the police sort out the scene of an investigation does not per se transform an investigatory detention into an arrest, nor does placing the suspect in the back of a squad car while the investigation proceeds.” *State v. Munson*, 594 N.W.2d 128, 137 (Minn.1999). Generally, “such restraint must be temporary, and thus, absent other threatening circumstances, once the pat-down reveals the absence of weapons the handcuffs should be removed.” 4 Wayne R. LaFave, *Search and Seizure*, § 9.2(d) at 411 (5th ed.2012) (quotations omitted).

**ATTACHMENT A**

**City of Minneapolis**

---

# 9-200 Search and Seizure

## I. PURPOSE

To provide employees with legal guidance in order to conduct lawful searches and seizures.

The term "officer" is used generically in this document and does not assume a level of rank, such as Patrol Officer. It includes all applicable sworn and non-sworn personnel.

## II. POLICY

Minneapolis Police Department employees shall conduct searches in as minimally intrusive a manner as possible, adhere to all MPD policies and to the rights given to persons under the United States Constitution and the Minnesota State Constitution.

Minneapolis Police Department employees shall be responsible for understanding and performing assigned duties in accordance with the MPD's Search and Seizure Policy and the guidelines set forth in the Minneapolis Police Department Search and Seizure Guide and Training Manual, and it is hereby incorporated by reference.

## III. PROCEDURES / RULES / REGULATIONS

### A. Searching People

1. A full search of a person is not justified with reasonable suspicion; it requires probable cause or other condition outlined below. Officers can legally search people without a warrant in the following circumstances:
  - a. Probable Cause;
  - b. Search Incident to Arrest;
  - c. Medical Emergency/Life-Saving;
  - d. Plain View;
  - e. Consent 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.
3. 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.
4. 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:
    - 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

- 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. Supervisory approval shall be obtained before conducting a strip search. Such approval shall only be given after an on-scene assessment by the supervisor.
  - ii. The supervisor shall be present when the search is conducted unless precluded from doing so by the issue of gender.
    - 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.
    - If it is not reasonable or possible to have a supervisor of the same sex witness the strip search, the supervisor shall ensure that at least two officers of the same sex conduct/witness the search.
  - 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.
  - 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).

#### 5. 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.

#### 6. Searching People – Documentation

- a. Terry Stops (Investigative Detentions), Terry Frisks, and searches (to include consent searches) must be justified under the law. Officers must be able to provide 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 probable cause 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.
- 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. Officers can legally search a vehicle in the following circumstances:
  - a. Plain View;
  - b. Medical Emergency/Life-Saving;

**City of Minneapolis**

---

## 9-300 Warrants

### 9-301 SEARCH/ARREST WARRANT REQUIREMENTS (06/19/02) (08/01/02) (08/08/07)

Search warrants shall be drawn up by investigating officers or supervisors. If any doubt exists as to probable cause for the warrant, a city or county attorney shall be contacted for assistance. Officers shall follow all listed requirements on the warrant including serving a copy of warrants and inventory receipts to the affected parties.

Search and/or arrest warrants shall be executed in accordance with Minn. Stat. §626.15. A warrant can only be executed between 0700 hours and 2000 hours, unless the court authorizes a nighttime search outside of these hours. Whenever feasible, uniformed officers shall be present during the execution of any warrant. Investigators shall use the available SWAT Team (Special Weapons and Tactics) on all high-risk warrants. (See Volume 9, section on Planned Arrest and Search Warrant Procedures for more details). (08/08/07)

The presence of media or other third parties during the execution of a warrant is prohibited unless their presence is necessary to aid the execution of the warrant. (08/08/07)

At the conclusion of a warrant, officers shall return the searched location to some semblance of order (i.e., drawers will be placed back into dressers, clothes removed from drawers will be placed back inside, mattresses will be returned to their bed frames, etc.).

All case investigators shall document in a CAPRS report any damage done to property as a result of police actions. This documentation shall include damage done by the SWAT Warrant Detail to gain access to the premise and damage done by investigators as a result of lawfully searching for evidence. Damage done to vacant premises shall also be documented. This documentation must include the condition and detailed description of the property damaged; i.e., hollow core door vs. six panel oak door, porcelain sink vs. oak vanity with marble sink, etc. (08/08/07)

Investigators shall inform the Minneapolis Emergency Communications Center (MECC) and the on-duty supervisor of the involved precinct of the location where the warrant is to be served. When a squad is needed to assist an investigator with a search warrant, the district squad for the location where the warrant will be served shall be called upon to assist. If they are not available, MECC will contact another squad.

In the best interest of officer safety, MPD officers initiating a warrant in another jurisdiction shall contact the Communication Center that dispatches for the affected jurisdiction and request contact with the officer in charge. Where the potential of deadly force is an issue and could be contemplated, the law enforcement jurisdiction where the warrant is to be served should be responsible (depending on capability) for entry and securing the scene prior to the visiting jurisdiction assuming control.

### 9-302 WARRANT ARRESTS (06/19/02)

MPD officers may serve warrants within the State of Minnesota. Officers in contact with a person suspected to be wanted on a warrant shall confirm that the warrant exists through MECC. If a warrant does exist for the individual, the suspect shall be transported to the Hennepin County Adult Detention Center (HCADC).

If a warrant is from out of state, officers shall obtain the number of the warrant from MECC and provide it to personnel at the HCADC.

### 9-303 PLANNED ARREST AND SEARCH WARRANT PROCEDURE (06/19/02)

An on-duty team from the Special Weapons and Tactics (SWAT) shall be used for serving all high-risk warrants described in the MPD Matrix Guidelines. SWAT personnel shall be used in all other situations where a "preplanned" entry in to a building or dwelling is necessary to arrest a suspect(s) who is believed to be armed and/or dangerous or when entry to the location may be hazardous or impeded because of warning systems, reinforced doors, or other

impediments. (08/08/07)

The purpose of the team is to provide trained personnel and special equipment for the safe and expeditious execution of planned searches and arrests. Investigating officers will assist the operation and make all associated arrests.

A supervisor shall be present at briefings and executions of all planned search warrants.

Emergency or exigent circumstances can be cause to deviate from this policy. The emergency or exigent circumstances must be documented by the investigator or investigative supervisor in charge. The investigator/ affiant is responsible for completing the Search Warrant Risk Assessment form for all search warrants, whether the warrant team is utilized or not.

If available, suspect photographs should be obtained prior to serving felony warrants or when attempting felony pick-ups.

Requests for the SWAT's on-duty team will be made to MECC. A SWAT team supervisor will designate the responding team members and direct them to a prearranged location for a briefing with the investigating officers. Tactical considerations for entering a dwelling and securing occupants is the responsibility of SWAT. (08/08/07)

Requests for SWAT assistance by outside agencies for serving search or arrest warrants shall also be referred to the on-duty Special Weapons and Tactics Team supervisor. (08/08/07)

### **9-304 WARRANT PROCESSING - ADDITIONAL CHARGES (06/19/02)**

Officers arresting a suspect who also has outstanding warrants, may process the suspect on both the warrant and the additional offense.

### **9-305 NIGHTCAPPED WARRANTS (06/12/02)**

A nightcapped warrant is one that is signed by a judge authorizing the arrest of a party at any time. Non-night capped misdemeanor warrants may be executed at any time if the person is found on a public highway or street. In the event the individual is not discovered on a public highway or street, non-night capped misdemeanor warrants may only be executed Monday through Saturday between the hours of 0800 and 2200. There are no time restrictions on the execution of gross misdemeanor and felony warrants.

Last updated Sep. 27, 2011

## **Connect with the City**



©1997-2014 City of Minneapolis, MN