



# Minneapolis Police Department Policy and Procedure Manual

Number:  
9-200

## Volume Nine – Enforcement Policies

### Adult Stops, Searches, Seizures and Warrants

#### 9-202 Warrantless Searches

(xx/xx/24)

Revisions to prior policies: (07/01/11) (01/25/16) (06/29/16) (10/15/16) (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] Probably 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**

#### 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.

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:

1. Notify a supervisor.
2. Photograph the 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.

#### 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 individual or group of individuals, 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.

**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 dog 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.