



**Agenda  
Minnetonka City Council  
Special Study Session  
Wednesday, March 2, 2022  
5:00 p.m.  
Minnehaha Room**

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1. Call to Order
2. Introductions/Roll Call
3. Diversity, Equity and Inclusion
4. Police policy and training discussion
5. Adjournment

The purpose of a study session is to allow the city council to discuss matters informally and in greater detail than permitted at formal council meetings. While all meetings of the council are open to the public, study session discussions are generally limited to the council, staff and consultants.



**Special Study Session Agenda Item #3  
Meeting of March 2, 2022**

**Title:** Diversity, Equity and Inclusion  
**Report From:** Moranda Dammann, Acting Assistant City Manager  
**Submitted through:** Mike Funk, Acting City Manager

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**Action Requested:** Affirm the city's commitment to diversity, equity and inclusion efforts and identified outcomes.

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**Summary Statement**

Although the city has been involved in diversity, inclusion, race and equity initiatives over the past number of years, recent events of civil unrest have brought to the forefront the need for greater organizational and community responses. This includes support and initial guidance to create a permanent city commission while simultaneously refocusing the work of the DEI task force.

**Strategic Profile Relatability**

- |  |   |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community           |
| <input type="checkbox"/> Sustainability & Natural Resources          | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management           | <input checked="" type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A   |   |

Statement: Create a community that is engaged, tolerant and compassionate about everyone

**Background**

Diversity, equity and inclusion efforts are not new to the community, and the city has played an increasing role over the last few years. In 2017, city staff established an internal diversity and inclusion (D & I) committee to assist in identifying organizational obstacles to city employment and services and develop an implementation plan to reduce or remove those obstacles. This committee has been reformed and renamed to the Internal Diversity Committee and continues to meet monthly.

Beginning in 2018, with the support of the city council, city of Minnetonka staff began participation in the year-long Government Alliance on Race and Equity (GARE) introductory cohort learning program. Additional inclusive work was done through an ideation session, police chief outreach, Hopkins Race and Equity Initiative and building relationships within the Minnetonka faith community.

Although the city was actively involved with initiating DEI efforts, the tragic murder of Mr. George Floyd and the subsequent events that followed created a heightened sense of urgency to conduct an in depth review of all efforts.

At the June 29, 2020 Minnetonka study session, council heard from city staff with the purpose of providing a historical review of the city's diversity and inclusion (D & I) efforts, short term actions, and to obtain guidance from the city council about future efforts. Research on a Human Rights Commission was also provided. To review this staff report, the information can be found [here](#), and attached.

In early 2021, the city council spent a variety of sessions together revamping the strategic profile. The vision and mission statement as well as the guiding principles were created with the community front of mind. Strategic priorities were changed to include community inclusiveness, safety and health in addition to livable and well-planned development. This process has shifted the way council and staff find purpose in daily operations and decision-making.

As Minnetonka City Council members and staff continued to navigate the sense of urgency surrounding community inclusiveness, a diversity, equity and inclusion community task force was created. This task force consists of 16 community members who were tasked with forming recommendations to present to the city council for discussion and action. This committee held its first meeting on June 15, 2021 and held five additional meetings after. The committee has not met since October.

Beginning in August 2021, Turnlane Consulting, led by Alex Clark, has been working directly with the DEI task force to create a unified approach to the work at hand. Turnlane has been instrumental in affirming community engagement initiatives, roles and actions and connecting and sharing amongst the task force members. Most recently, Turnlane has spent time connecting with members of the task force, city council and the internal diversity committee one-on-one.

Through these conversations common themes emerged. After further review and anticipating a long-term need staff is recommending the consideration of dual-track approach that includes the creation of a commission whose purpose include promoting understanding and tolerance, plus encouraging participation by under-represented groups. The primary functions may include education/outreach, public policy development and discrimination response. More details regarding these can be found in the June 29, 2020 packet information [linked](#) and attached.

However, anticipating needing 6-8 months for this commission to be created, staff is recommending the task force continues in a smaller focused group. This regroup of the task force would include those who have been actively engaging thus far, remove all council members and would continue to be collaborative with Turnlane Consulting. The city council is asked to affirm staff's recommended approach and provide initial guidance to creating a permanent city commission while simultaneously refocusing the task force.

The city of Minnetonka has recruited unsuccessfully twice for a Senior Diversity, Equity and Inclusion Coordinator. The city has consulted GovHR, USA to conduct a recruitment search with applications due March 14, 2022.

### **Discussion Questions**

1. Does the city council support staff's recommended dual-track approach to creating a commission while simultaneously regrouping the task force as stated above?
2. Does the council have other thoughts or direction for staff and the DEI Task Force to pursue?

**City Council Study Session Item #4  
Meeting of June 29, 2020**

**Brief Description:** Diversity and Inclusion Update

**Introduction**

In the wake of the death of Mr. George Floyd and the civil unrest that followed, the purpose of this agenda item is for staff to provide a historical review of the city's diversity and inclusion (D & I) efforts, outline short term actions, and obtain guidance from the city council about future efforts. In recent weeks, council and staff have received feedback from the community requesting action and looking for city leadership.

Diversity and inclusion efforts are not new to the community, and the city has played an increasing role over the last few years. Throughout 2017, 2018, and 2019, staff was immersed in a myriad of activities as described below. At times the efforts have had both challenges and successes. While staff continues to adjust and refine the focus and structure around the work, the level of interest and dedication remains within the organization. As the greater Minnesota metro, Hennepin County and our city grow with population and anticipated shifts in demographics, ensuring an inviting, welcoming, inclusive and equitable community is essential to the future success and vitality of Minnetonka.

It is anticipated that the city council will engage in a deeper conversation about this topic at the upcoming strategic planning session later this summer. However, this evening's discussion is preemptive to update the council on activities and to seek guidance from the council on direction in the near term.

**Current and Anticipated Action Steps**

As noted, there has been a foundation laid and work that was completed by staff in regards to increasing efforts related to diversity and inclusion. Although both staff turnover in key leadership positions over the last year and the impacts of the pandemic have admittedly slowed progress, a new team has been assembled with a renewed sense of urgency to continue building upon the work completed the last three years.

The following activities have been identified as short-term steps that staff have already initiated or have identified to pursue:

- Hosting of courageous conversations. Last week, City Manager GERALYN Barone created a series of three forums to create a safe space for coworkers to simply share how they are feeling about the tumultuous events over the last month. These were well attended.
- Continuing participation with Hopkins Race Equity and Inclusion (HREI). Additional information is listed below, but this has been a collaborative effort between jurisdictions to bring leaders together. HREI has hosted a number of forums and the forum scheduled for April 2020 was postponed due to the pandemic.
- Reconstituting the city's internal D & I committee, tasked with the following:
  - Reviewing mission and goals
  - Reviewing completed D & I work and GARE cohort work (see below for details)
  - Developing an updated work plan and implementation strategies

- Pursuing partnerships with YWCA and City of Richfield. City staff are exploring options for collaborative partnerships with the YWCA and the City of Richfield.
- Pursuing grant opportunity to fund D & I efforts. Staff is currently pursuing grants from the St. Paul Foundation and the McKnight Foundation to provide financial resources for these efforts. This is desirable because the 2020 budget has limited funding for expanded D & I activities.
- Exploring ways to engage the community on the issues of race, equity, diversity and inclusion, with the assistance of a consultant. A number of Minnetonka's comparable and surrounding cities have hired or will be discussing hiring (for 2021) dedicated staff. A consultant would provide immediate help to facilitate community engagement or other identified activities while the city determines long-term staffing. City council guidance is particularly desired on ways to engage the community.
- Considering dedicated funding for D & I in the 2021 budget, which may include additional staff depending on the scope of city efforts. Currently, the city does not have the capacity with existing staff to lead an extensive D & I program. During the upcoming strategic planning and 2021 budget processes, the council can identify long-term priorities and associated funding.

## **Background**

In 2017, city staff established an internal diversity and inclusion (D & I) committee to assist in identifying organizational obstacles to city employment and services and develop an implementation plan to reduce or remove those obstacles. The initial purpose was to help in retaining a positive workplace culture while unprecedented turnover occurred in the organization. The group was initially formed to help identify what the current workplace culture was, what had been lost and gained, and what was needed to do to ensure employees felt welcome and included. Former City Clerk David Maeda led this committee's work.

Beginning in 2018, with the support of the city council, city of Minnetonka staff began participation in the year-long Government Alliance on Race and Equity (GARE) introductory cohort learning program. GARE is a national network of government personnel working to achieve racial equity and advance opportunities for all. A goal for participation in the GARE program was to assist the staff D & I committee with one band of the inclusion spectrum, race and equity, by helping build capacity to analyze policies, practices and procedures. Former Assistant City Manager Perry Vetter led this committee's work.

As part of the cohort tasks, staff collected demographic information, created a racial equity narrative and learned the use of a racial equity toolkit for the evaluation of policies and procedures from a race and equity standpoint. Throughout the course of the cohort work, staff began the process of creating a racial equity statement and racial equity plan.

While the above initiatives were primarily internally focused, a third effort was launched in 2017 with the creation of a community engagement officer within the police department. Officer Scott Marks leads this effort with the support of fellow officers to increase engagement externally in the community by a variety of methods. One of the most notable was the establishment of the faith leaders' consortium, inviting leaders of each local place of worship to join together for an ongoing dialogue. The police department, acting as a catalyst to the effort, has now created this network that is self-sustaining within the community. The group holds regular meetings to address topics of common concern and importance, and comes together during challenging situations that arise in the community. Most recently, Officer Marks hosted a joint video

conference following the death of George Floyd to discuss community action. On another front, Officer Marks has engaged management staff of several multi-family apartments with underrepresented populations with conversations on improving connections with the city. Finally, Officer Marks has led educational forums on implicit bias for employees, city council and boards and commission members.

### **Diversity and Inclusion Committee Update**

Throughout 2017 and 2018, the D & I committee met regularly to work on foundational issues to ensure that work goals were being met. Subgroups were formed to collect research on what other comparable cities were working on, conduct a peer review of our organization's shared values descriptions, and ensure inclusion of D & I initiatives within the traditional work of the organization (such as health rewards program requirements and meeting discussions). Other subgroups began review of current practices, such as recruitment and interview processes, employee events and how to improve the facility environment when hosting meetings or public engagements.

During 2018, the D & I committee paused its work due to a number of factors, most notably the strains on staff support due to personnel turnover; conducting special, primary and general elections; and particularly focusing on completing the GARE cohort. In the fall of 2018, staff reviewed the charge of the D & I committee and updated the group's direction.

### **GARE Cohort Work**

Starting in 2018, the city's ten-member GARE cohort work group included representation from most city departments and a linear cross section of the organization's hierarchy, including the city manager, several department directors, plus other supervisory and front-line employees. Throughout 2018 and 2019, the cohort team participated with other jurisdictions in monthly meetings and met regularly outside of those sessions to complete homework. During the process, each member personally grew with their individual ability to analyze and discuss the topic of racial equity. A summary presentation of the GARE research, data collection and work plan is attached.

At year end, the city's cohort members were surveyed to gather feedback on the GARE model. Although there was general frustration relating to how the materials were presented, leading to a lack of a linear learning progression and some logistics disorganization, staff also felt there were many benefits from participation. These included:

- Appreciating others' perspectives and broadening viewpoints
- Watching *Race and the Power of Illusion* video on redlining
- Learning about applying a different "lens" to view the world
- Meeting and networking with other committed cohort jurisdictions
- Learning different tools and methods for us to adapt and apply
- Differentiating between equality and equity
- Watching staff transform from feeling awkward with the topic to open discussions

To conclude the work of the staff cohort, a racial equity statement and plan was created, as follows:

*Goal: All people in Minnetonka are healthy, safe and thriving.*

To support that goal, planned implementation steps include developing an internal racial equity inventory, structure and learning action plan, along with developing a system to collect racial equity data specific to Minnetonka events.

### **Human Rights Commission Research**

In 2018, the city council expressed an interest in learning about the efforts of human rights commissions in other communities. Staff found at that time that of our ten comparison cities, Brooklyn Park, Eden Prairie, Edina and St. Louis Park have such advisory commissions, and Burnsville, Eagan, Lakeville, Maple Grove, Plymouth and Woodbury do not. At one time, Plymouth did have a commission; however, the city council disbanded the group several years ago.

Notable benefits for those communities with human rights commissions include promoting understanding and tolerance, plus encouraging participation by under-represented groups. Staff research indicates for those cities with a commission, the primary functions include education/outreach, public policy development, and discrimination response. More detail regarding these follows.

#### Education/Outreach

This is the most common endeavor the commissions coordinate and generally have the most direct impact on the community. Examples of educational activities include hosting forums or discussions with speakers, authors, or academics who present on a civil rights issue. Commissions have also sponsored sessions about the Holocaust, Islam, and the history of slavery in the U.S. Some host public gatherings to celebrate important days in human rights history, such as Martin Luther King Jr Day. A few cities sponsor a Human Rights Award, which formally recognizes a resident or business that is working to promote civil rights in the community.

#### Public Policy/Council Support

Another effort of some human rights commissions is to ensure city policies, practices, and procedures are free from bias. For example, ADA compliance, bias response policy, police body camera policy, and an inclusive comprehensive guide plan are reviewed to ensure that all residents are served fairly and without prejudice. A few groups create reports on human rights issues in their community to assist the city council with policy making decisions.

#### Discrimination Response

While all commissions help to maintain policies against discrimination, a number offer a direct outlet for those experiencing discrimination in their city. Sometimes referral is made to an independent mediator. If a resident makes a request for an investigation, all commissions refer the complaint to the Minnesota Department of Human Rights for action. Some cities send a letter of support if notified of an incident of potential bias.

Feedback from the commissions' staff liaisons indicate the need to set clear and specific goals for the commission. Some are directed by the city council, while others create a work plan that is then approved by the council. Developing a yearly work plan provides focus, and designating an annual budget for activities avoids having limited scope and impact. As with other city commissions, assigning the appropriate level of staff support is critical. Typical work completed



by staff includes meeting agenda/report/minutes preparation, research and policy development, and event planning, promotion, and execution.

At the time this information regarding human rights commissions was shared with the city council in 2018, the council did not express interest in pursuing the creation of a commission.

### **Additional Inclusion Work**

#### Police Chief Outreach

A group of engaged citizens, primarily people of color, from New Hope, Plymouth and Minnetonka meet regularly with the three police chiefs to discuss ways to enhance community trust with their police departments. These discussions started in late 2016 focusing on current issues and the role of policing. In addition to these discussions, the group participated in use of force simulation training at the police training facility. The group most recently met following the death of George Floyd.

#### City Event Ideation Session

In the fall of 2018, Elena Imaretska, Chief Innovation Officer for Brave New Workshop, Minnetonka resident, and park board member, facilitated a session with city staff and residents. The goal of the session was for staff and residents to get to know each other, build trust, and together ideate ways the city can make its community events more inclusive. At the conclusion of the session a list of 100 ideas to consider was generated. General themes included establishing and utilizing partnerships, enhancing communications, engaging neighborhoods, updating events, and adding resources. Staff assigned to organizing city activities plan ways to incorporate these ideas or adjust events to make them more inclusive.

#### Hopkins Race and Equity Initiative (HREI)

HREI was formed in 2015 as a collaborative effort between Hopkins Public Schools, the City of Hopkins, the Hopkins Police Department, and Gethsemane Lutheran Church to work on race and equity in the Hopkins area. During the summer of 2018 and again in 2019, Minnetonka's GARE cohort work group and Mayor Brad Wiersum participated in a one day event sponsored by HREI. This event was also attended by representatives of a number of surrounding cities and the Hopkins School District. Staff found the collaborative to be well organized with a mission to create opportunities to increase awareness and understanding. As noted, the group was scheduled to meet this past spring before being postponed due to the pandemic.

#### Minnetonka Methodist Church

Minnetonka Methodist Church has been working on diversity and inclusion efforts for a number of years and reached out to create a dialogue with city staff on how best to support each other's efforts. Staff discussed with representatives on how best to execute that strategy by discussing efforts, resources, networks, trainings and facilitated discussions. Several staff and city officials have participated in the church's restorative justice program, and police leadership have participated on speaker panels sponsored by the church.

### **Discussion Points**

- ***Does the city council have any questions or comments regarding the work of the GARE cohort work group, internal D & I Committee, or other work that has occurred the last couple of years?***
- ***Understanding the need for community engagement and conversation, does the city council support utilizing a consultant – at least in the short term?***
- ***Does the council have other thoughts or direction for staff to initially pursue?***

### **Summary**

Although the city has been involved in diversity, inclusion, race and equity initiatives over the past number of years, recent events of civil unrest have brought to the forefront the need for greater organizational and community responses. The city council is asked to affirm staff's recommended approach and provide initial guidance as the conversation continues in the next several months during the strategic planning and budgeting processes.

Submitted through:  
Geraldyn Barone, City Manager

Originated by:  
Mike Funk, Assistant City Manager



**Study Session Agenda Item #4  
Meeting of March 2, 2022**

**Title:** Police Policy and Training Discussion  
**Report From:** Scott Boerboom, Chief of Police  
**Submitted through:** Mike Funk, Acting City Manager

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**Action Requested:** Information sharing - no action needed

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**Summary Statement**

The police department will provide an overview of specific policies and training that have recently been of interest to the community and council.

**Strategic Profile Relatability**

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|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input checked="" type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources          | <input type="checkbox"/> Livable & Well-Planned Development  |
| <input type="checkbox"/> Infrastructure & Asset Management           | <input type="checkbox"/> Community Inclusiveness             |
| <input checked="" type="checkbox"/> N/A                              |  |

Statement: Police policy and training is paramount to maintaining trust and legitimacy with those served.

**Background**

The police department has an extensive policy manual that is designed to provide guidelines for handling various situations. The intent of the policy manual is to outline procedures, which will provide the public with the best police service available. No policy manual can cover all possible situations. Decisions are based on an awareness of law and guidelines set forth by the department. Officers face exigencies that arise daily and must use sound discretion and common sense. The policy manual is designed to assist them in making those decisions.

The policy manual has 74 policies covering a wide range of job related topics. The Minnesota Board of Peace Officer Standards and Training (POST) have 18 model policies that must be adopted by every agency. Other policies are developed based on state laws and/or best practices. Agency discretion on the content within a POST required policy is limited.

The study session discussion will focus on seven policies that we believe have an interest to our council and the community. All but two are policies required by POST which provides a model policy that is adopted with little change. The policies to be discussed include;

- #103 - Code of Ethics / Oath of Office
- #201 - Authorized Use of Force\*
- #202 - Vehicle Pursuits\*
- #203 - Allegations of Misconduct\*
- #204 - Professional Conduct\*
- #212 - Impartial Policing\*
- #357 - Race and Gender Data Collection

\*POST model policies

The department is in the process of migrating its policies to the Lexipol software platform. Lexipol provides fully developed, state-specific policies researched and written by subject matter experts and vetted by attorneys. These policies are based on nationwide standards and best practices while also incorporating state and federal laws and regulations where appropriate.

In addition to the policies, annual training must be completed in which officers receive continuing education credits. Officers are required to have a minimum of 48 hours every three years. Training lesson plans are created with specific learning objectives that must be approved by POST. On average, Minnetonka officers receive approximately 70 hours of training per year.

In addition to the race and gender data collection policy, the department has created an interactive dashboard that will be displayed on our city website. The dashboard provides data pertaining to race, gender, juvenile, and if a person or vehicle was searched during a traffic or pedestrian stop. The data collection started April 8, 2021 and the dashboard will be updated monthly. A demonstration of the dashboard will be included during this study session.

### **Discussion Questions**

None

# MINNETONKA POLICE DEPARTMENT

Directive #103

EFFECTIVE DATE: January 2004, December 2014

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**SUBJECT: *MINNETONKA POLICE DEPARTMENT***

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## MISSION:

The Minnetonka Police Department is committed to preserving a safe community while providing quality customer service.

## CORE VALUES: FAIR

Fairness – we will provide service free of bias or injustice.

Accountability – we will take responsibility for our actions.

Integrity – we will adhere to our code of values.

Respect – we will be respectful in our interactions with others.

## VISION:

The Minnetonka Police Department strives for excellence through the development of forward-thinking leadership, technology, innovation and professional employees.

## SHARED VALUES

- 1) Adaptable Learning and Innovation
  - We support on-going learning, recognizing and growing from our mistakes, and strive to continually improve both as individuals and as an organization.
  - We support individual and organizational flexibility that encourages active innovation and reasonable risk-taking.
  - Every day we have an opportunity to use our individual talents to do great work.
- 2) Authentic Communication

Our communication processes allow for:

  - meaningful two-way communication (active listening);
  - people to be “in the know”;
  - open-minded responses to feedback;
  - healthy disagreements; and
  - being direct in a respectful way.
- 3) Healthy Human Relationships
  - We take personal responsibility for our own actions and for doing what we say we are going to do.
  - We enjoy a healthy atmosphere of trust and respect by being trustworthy and respectful.

- We are fair and reasonable in our dealings with each other, our customers, and throughout the organization.
  - Our work environment supports the need to balance our careers with family and other important facets of our lives.
  - We are committed to our own emotional and physical health.
  - We strive to maintain a healthy and safe working environment.
- 4) Contagious Enthusiasm
- Our climate supports a workplace that emanates positive energy and that is enjoyable (i.e., fun).
  - We don't take ourselves too seriously.
- 5) Outcome Focused Teamwork
- We clearly understand what outcomes are expected of us.
  - Our work reflects our focus on excellence and on providing exceptional customer service.
  - Teamwork and cooperation are the norm in our organization.
- 6) Shared Success
- We equally share responsibility for achieving quality results.
  - We freely celebrate our successes in our workplace.
  - Meaningful recognition and rewards for excellent service occur frequently and often spontaneously.

#### LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secret unless revelation is necessary in the performance of duty.

I will never act officiously or permit personal feelings, prejudice, political beliefs, aspirations, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession, law enforcement.

#### OATH OF OFFICE

- 1) As a law enforcement officer I recognize my primary responsibility is to serve the public. In order to achieve this end, I solemnly swear to uphold the Constitution of the United States and of the State of Minnesota and to enforce the laws of the United States and the State of Minnesota and the ordinances of the City of Minnetonka.
- 2) I recognize it is my obligation to understand these laws, the limits and responsibilities that are placed upon me, and to keep myself informed of all matters that affect the performance of my duties.
- 3) My actions will at all times uphold the highest standards of professional law enforcement. I will seek to give only the highest example of honesty and good citizenship and refrain from any activities that would discredit the department, my profession, or me.
- 4) I will never use the power of my office for personal gain by seeking or expecting privileges or gratuities and will always conduct myself as a professional law enforcement officer striving to improve the status and quality of law enforcement and its personnel. I will extend the benefits of fair and impartial law enforcement to all people and never allow my personal opinion, guilt or innocence, to affect my professional judgment.

# MINNETONKA POLICE DEPARTMENT

## Directive #201

**EFFECTIVE DATE: March 1, 2021, December 20, 2021**

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**SUBJECT: *AUTHORIZED USE OF FORCE***

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### PURPOSE:

The purpose of these rules is to establish a departmental procedure regarding the use of force and deadly force in accordance with:

- MSS §626.8452 Deadly Force and Firearms Use; Policies and Instruction Required.
- MSS §626.8475 Duty to Intercede and Report.
- MSS §609.06 Authorized use of Force
- MSS §609.065 Justifiable Taking of a Life
- MSS § 609.066 Authorized Use of Deadly Force by Peace Officers

### POLICY

It is the policy of the Minnetonka Police Department to ensure officers respect the sanctity of human life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. Officers shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the officer.

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

Officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.



## DEFINITIONS

- A. Bodily Harm – Physical pain or injury.
- B. Great Bodily Harm - Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- C. Deadly Force - Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- D. De-Escalation - Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- E. Other Than Deadly Force - Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
- F. Choke Hold - A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.
- G. Authorized Device - A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
  - a. obtained training in the technical, mechanical and physical aspects of the device; and
  - b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

## PROCEDURE

- A. General Provisions
  - 1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
  - 2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.

3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

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

4. Officers must, without delay, report each instance involving the use of force to the on duty supervisor. Each use of force incident must be documented in an incident report. The documentation must contain the type of force used and the details justifying the use of force. Further, officers must complete a Minnetonka Police Use of Force report. The chief of police, or designee, will review all Use of Force reports.

The officer’s supervisor must review all reports and make additional inquiries when necessary, to determine if the force used was in compliance with this and other relevant laws and policies. If the supervisor feels there may have been a violation of a department policy they must prepare an inter-office memo to the chief outlining their concerns. When appropriate, the chief shall order an investigation following the guidelines set forth in Directive # 203 “Service Inquiries/Complaints of Employee Conduct/Actions”.

#### B. Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

1. present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
2. physically or verbally able to do so.

#### C. Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

#### D. De-escalation

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape of

a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

E. Use of Other Than Deadly Force

When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:

1. effecting a lawful arrest; or
2. the execution of legal process; or
3. enforcing an order of the court; or
4. executing any other duty imposed upon the officer by law; or
5. defense of self or another.

F. Use of Certain Types of Force

1. Except in cases where deadly force is authorized as articulated in MSS §609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
  - a. Chokeholds
  - b. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
  - c. Securing a person in any way that results in transporting the person face down in a vehicle.
2. Less than lethal measures must be considered by the officer prior to applying these measures.

G. Use of Deadly Force

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply:
  - a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - i. can be articulated with specificity.
    - ii. is reasonably likely to occur absent action by the law enforcement officer; and
    - iii. must be addressed through the use of deadly force without unreasonable delay; or
  - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).

3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
4. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

#### H. Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to
  - a. Provide techniques for the use of and reinforce the importance of de-escalation.
  - b. Simulate actual shooting situations and conditions; and
  - c. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
3. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
4. Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
  - a. Less Lethal Impact Devices - When feasible, less lethal impact devices should be used in situations to incapacitate a subject with a minimal potential for causing death or serious physical injury, instead of using other use of force tactics. Officers should avoid targeting the head, neck, chest and groin of the subject.
  - b. Baton – A straight stick or expandable baton may be used in self-defense or in defense of a third party, to subdue a violently resisting subject, as a temporary restraining device, as a barricade or repelling device in crowd control situations, or when other methods are not practical and circumstance warrant the use of a baton. When employed, the baton is primarily used to ward off blows or kicks from an assailant or to restrain resisting subjects. Strikes delivered with a baton should be delivered to those areas of the body which will render the subject temporarily incapacitated. The preferred target areas are center mass of the arms, legs and body. Officers should avoid contact with joints if possible. The head, neck, sternum, spine and groin should be avoided unless deadly force applies.
  - c. Chemical Agents – Officers may use department issued chemical agents as an option. Caution should be used in situations where a subject is intoxicated, enraged or mentally ill since these persons may have a reduced sensitivity to chemical agents. Chemical agents shall not be used if resistance is minor and not hazardous to officers or other persons, in a punitive manner or on a restrained subject who is under control.

- d. Electronic Control Device – ECDs may be used to control a subject whose behavior is actively resistant or the subject is reasonably anticipated to become physically aggressive, combative or the subject's behavior places the officer, the subject, or others unnecessarily at risk of injury if control or apprehension is attempted using other means. When possible officers should announce the presence and the intended use of the ECD to other officers involved and to the subject if tactically warranted.

When in uniform, officers shall carry the ECD in an approved holster on their duty belt. Officers in plain clothes or administrative assignments shall secure the ECD on a belt or tactical vest when executing search warrants, on preplanned apprehension or enforcement details or any other time use of other than lethal force can be reasonably anticipated. It is recommended that officers carry the ECD on their reaction side.

ECDs should not be used if the subject is obviously pregnant, or known to be pregnant, actively operating a motor vehicle, likely to fall from an elevated position or into a body of water or in the presence of flammable liquids, fumes or explosives. Officers should avoid aiming the ECD at the head, face, neck or groin of the subject.

If the subject is not incapacitated after the initial shock, additional shocks may be delivered as required to bring the subject under control. If needed the ECD may be used as a contact ECD device with or without the electrode cartridge removed.

Following deployment, the ECD probes should be removed as soon as the subject is under control and removal can be safely performed. Officers will summon EMS if appropriate or requested by the subject. Photographs of the area where the probes made contact should be obtained. Probes should be properly packaged, along with the cartridge and wires in accordance with the handling of sharps and biohazards and placed into evidence. Each discharge, including accidental discharges but excluding training discharges, shall be brought to the attention of the shift supervisor as soon as practical. Involved ECDs shall be forwarded to the chief's designee for downloading prior to being placed back into service.

6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

- I. Recordkeeping Requirements

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

- J. Notification

Officers using deadly force or otherwise discharging a firearm outside of training or animal control must immediately report the incident to the on-duty supervisor. The supervisor will immediately notify the chief of police and when appropriate will implement the provisions of

Directive #213 for investigations of firearms discharges.

K. Alternative Impact Weapons

Officers may find it necessary to use an alternative impact weapon for self-defense or for the defense of others. In exceptional circumstances a flashlight, portable radio or other device may be employed as an impact weapon following the same rules governing batons.

L. Patrol Knives

Officers are allowed to carry fixed or folding knives as a utility tool. A knife may be used as a defensive weapon in circumstances of self-defense or defense of another when deadly force would be reasonable.

M. Prohibited Items

Items such as blackjacks, saps, sap gloves and brass knuckles or other unauthorized devices must not be carried by officers when acting in official capacity.

N. Exceptions

The chief of police may authorize the use of certain equipment deemed to be outside the scope of this policy.

# MINNETONKA POLICE DEPARTMENT

## Directive #202

**EFFECTIVE DATE:** January 1, 2004, August 2006, May 2007, May 2012, June 2016, March 2018, April 9, 2021, November 17, 2021

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**SUBJECT:** *VEHICLE PURSUITS*

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### **PURPOSE:**

Vehicle pursuits can be a necessary tool to apprehend actual or suspected violators of the law who refuse to voluntarily comply with a lawful order to stop. Vehicle pursuits can be dangerous to the officer, the suspect and the public and restrictions must be placed on their use. Further, officers must carefully exercise their discretion to pursue a fleeing suspect even if authorized by this policy.

### **GENERAL PROVISIONS:**

- 1) Pursuits are among the most controversial and visible of all police enforcement activities. When an officer is about to engage in, or is in a pursuit situation, a decision must be made to initiate, continue, or end the pursuit.
- 2) It is difficult, if not impossible, to detail how a fleeing motorist should or should not be apprehended. Department policy, state law, supervisory, and individual judgment all must dictate the course of action.
- 3) Justification for the pursuit must be limited to what reasonably appears to be the facts known or perceived by an officer at the time of the pursuit.
- 4) Because the primary concern in a pursuit is public safety, officers and supervisors should have a plan to direct the safest, most expeditious possible outcome of the pursuit.
- 5) Officers must remember that the immediate apprehension of the suspect is generally not more important than the safety of the public and the pursuing officers.

### **MINNESOTA STATE STATUTES:**

Drivers of authorized emergency vehicles are granted certain exemptions from traffic laws when exercising official duties, provided that due regard is used for public safety. See MN Statute:

169.17 Emergency Vehicles

169.03 Emergency Vehicles; Application (Sub 5)

609.487 Fleeing a Police Officer in a Motor Vehicle

## **DEFINITIONS**

**Pursuit Tactics** – Pursuit tactics are attempts to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, tire deflation devices, boxing-in, P.I.T., blocking, roadblock or ramming procedures.

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

**Blocking or Vehicle Intercept** – A slow-speed maneuver where law enforcement vehicle(s) intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit or preventing the continuation of a pursuit. Blocking is not a moving or stationary road block.

**Precision Immobilization Technique (P.I.T.)** – A tactic used by trained police personnel to end pursuits by initiating contact between a police squad car and the pursued vehicle under certain circumstances. The technique can be used in any police pursuit where the circumstances of the pursuit meet training guidelines.

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

**Roadblock** – A tactic designed to stop a violator's vehicle by intentionally placing a vehicle or other immovable objects in the path of the violator's vehicle.

**Tire Deflation Device** – A device that extends across the roadway and is designed to puncture the tires of the pursued vehicle.

**Vehicle Pursuit** – An event in which, after a peace officer has initiated a vehicular stop and the driver resists the signal or order to stop by increasing speed, taking evasive action or otherwise refusing to stop the vehicle, the peace officer pursues the vehicle with the intention of effecting a stop.

**Termination of a Pursuit** – A pursuit shall terminate when the pursuing officer(s) turns off the emergency equipment, resume routine vehicle operation and informs dispatch, or when the suspect vehicle stops.

**Deadly Force** – Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. Intentional vehicle contact, not likely to result in death or great bodily harm, shall not be considered deadly force under this policy.

## **GENERAL POLICY**

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer if the following conditions are met.



Officers shall only initiate a pursuit if the violator conduct fits into the SHARKS acronym :

- a) Sexual assault at the felony level.
- b) Homicide including attempted or anticipated.
- c) Aggravated assault with a weapon.
- d) Aggravated Robbery with a deadly weapon seen.
- e) Kidnapping
- f) Significant signs of driving impairment due to alcohol, drugs or medical emergency.

### **EVALUATING THE CONTINUANCE OF THE PURSUIT**

In evaluating whether to engage in or continue a pursuit, an officer must consider the safety of the public and the safety of officers. Considerations include but are not limited to the following:

- a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officer, innocent motorists and others.
- c) The identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- d) The degree of recklessness exhibited by the pursued driver.
- e) Road and weather conditions.
- f) The time of day and/or the density of traffic and pedestrians.
- g) Whether the vehicle is a motorcycle or similar vehicle.
- h) The officer's familiarity with the area.
- i) Special hazards such as parades, road construction, school zones, etc.
- j) The amount of assistance available.
- k) Other persons in or on the pursued vehicle (e.g. passengers, co-offenders and hostages).
- l) The police vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle unless exigent circumstances exist.

### **PRIMARY UNIT RESPONSIBILITIES**

- 1) An officer engaging in a pursuit must notify the communications center as soon as reasonably possible that a pursuit is underway and minimally provide the following information, if available:
  - a) Police unit identification
  - b) Location, direction and approximate speed of the vehicle(s)
  - c) Vehicle description, including license number, if known
  - d) The reason for the pursuit, including suspected law violations
  - e) The description and/or number of occupants in the vehicle being pursued
  - f) Information regarding the use of firearms, threat of force, hostages or other unusual hazards.
  - g) Any additional information which would be helpful for assisting officers and the supervisor.

- 2) The primary pursuing officer will be in charge of the pursuit unless relieved of that responsibility by a supervisor.
- 3) The officer should transmit the location and direction of travel whenever the direction of travel changes or whenever practical and safe to do so.
- 4) If the primary officer initiates a pursuit outside of Minnetonka, they should request the controlling dispatcher notify the on duty Minnetonka sergeant.

### **ASSISTING UNIT RESPONSIBILITIES**

- 1) Assisting unit(s) should notify the communications center upon joining the pursuit.
- 2) The assisting unit may assume the responsibility to report the progress of the pursuit, allowing the primary unit officer the ability to devote full attention to driving.
- 3) A pursuit will normally involve no more than three units. Additional units may be needed based on such factors as the nature of the offense, the number of suspects, and the character of the area. A supervisor may authorize more than three participating units in a pursuit when appropriate.
- 4) Officers may not pursue on streets parallel to the pursuit unless specifically authorized to do so by a supervisor.

### **AIRCRAFT ASSISTANCE**

When available, aircraft assistance should be requested. The air unit should support the activities and resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. The primary and secondary ground units should consider whether the participation of an aircraft warrants their continued involvement in the pursuit.

### **COMMUNICATION CENTER RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, Hennepin County Sheriff's Office Dispatch will be responsible for the following (Minn. State Statue 626.8458 Subd. 2 (4):

- 1) Coordinate pursuit communications of the involved units and personnel.
- 2) Notify and coordinate with other involved or affected agencies as practicable.
- 3) Ensure that a field supervisor is notified of the pursuit.
- 4) Assign an incident number and log all pursuit activities.
- 5) Broadcast pursuit updates as well as other pertinent information as necessary.

### **SUPERVISOR RESPONSIBILITIES**

- 1) Upon being notified of the pursuit, a supervisor should acknowledge the pursuit via radio and verify the following:
  - a) The reason for the pursuit

- b) The number of units involved in the pursuit
  - c) The radio frequency being utilized
  - d) Whether affected neighboring agencies are being notified
- 2) The supervisor should monitor the pursuit to ensure that proper procedures are being followed and provide assistance, coordination, and direct the termination, if appropriate.
  - 3) The supervisor shall control and manage department officers when the pursuit enters another jurisdiction assuring adequate patrol coverage remains within the city.

### **UNMARKED POLICE UNIT**

Officers operating unmarked vehicles, provided the vehicle is equipped with emergency lights and siren, may engage in a vehicle pursuit. As soon as a fully marked vehicle becomes available to take over the pursuit, the unmarked vehicle should withdraw as the primary unit.

### **ASSISTANCE TO PERSONS INJURED IN A PURSUIT**

- 1) The communications center must be notified immediately of any accident and they must notify the appropriate Emergency Medical Services (EMS) provider.
- 2) If the pursuing officer becomes aware of a potentially significant injury to a third party resulting from the pursuit, the officer must terminate the pursuit and provide medical assistance as necessary unless an assisting unit in the immediate vicinity stops to render such assistance.
- 3) Any other units may continue the pursuit if sufficient assistance to the accident victim is being provided.

### **INTER-JURISDICTIONAL PURSUITS**

- 1) In any pursuit that crosses jurisdictional boundaries, officers should observe their own department policies governing pursuits.
- 2) The use of regional radio channels for pursuits provides announcement to other agencies that a pursuit is underway. Requests for assistance from other agencies should be specific and detail the nature of the assistance needed.
- 3) The initiating agency will be in charge of the pursuit. All assisting officers must follow the direction of the officer in charge, unless it violates their own policies. The initiating agency will be in charge of any arrest(s). If an accident occurs, the agency serving the accident location will determine who will investigate the accident.
- 4) Notification from another jurisdiction of a pursuit in progress may not be construed as a request to join the pursuit.
- 5) Officers may not become involved in another agency's pursuit unless specifically requested and authorized by the Minnetonka supervisor, or unless it is clearly demonstrated that the unit from the outside agency is unable to request assistance, or the emergency nature of the situation dictates the need for assistance.

- 6) The supervisor may allow a Minnetonka officer to trail another agency's pursuit within our jurisdiction for the purpose of giving them directions and warning them of potential hazards.

### **WRONG WAY PURSUITS**

As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:

- 1) Availability of an air unit.
- 2) Maintain visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
- 3) Request other units to observe exits available to the suspect(s).
- 4) Shutting down vehicle traffic on that roadway.

### **PURSUIT TERMINATION**

- 1) In the judgement of the pursuing officer or supervisor, the level of danger created by the pursuit outweighs the necessity for immediate apprehension. Officers and supervisors will not be disciplined for their decision to terminate a pursuit.
- 2) Violator stops, crashes or other cessation of movement.
- 3) Conduct all pursuit stops as high risk stops to reduce the possibility of injury to officers and suspects. When possible, the officer who was the primary unit in the pursuit should refrain from being the officer who takes the violator into custody upon the pursuit termination.
- 4) Supervisor directs the termination of a pursuit. The officers involved in the pursuit will immediately stop their involvement in a pursuit, deactivate emergency lights and resume normal driving procedures.
- 5) Contact with the violator is lost. Officers will discontinue emergency driving procedures, deactivate emergency lighting and resume normal patrol driving.
- 6) No officer can be disciplined for terminating a pursuit.

### **PURSUIT TACTICS**

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to Department policies guiding such use. Officers who have not received Department-approved training in the application and use of any intervention tactic or equipment shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

1) Precision Immobilization Technique (P.I.T.)

Because the primary concern in all pursuits is the safety of the public, it is essential that all pursuits be ended quickly. Once an officer is certain that a subject is starting to flee, the officer should immediately look for and utilize opportunities to end the pursuit with Precision Immobilization Technique (P.I.T.). Early proper use of this technique will accomplish the goals of public safety and apprehension/arrest of the suspect. P.I.T. should be attempted at reasonable speeds based on evaluation of the circumstances of the pursuit and will only be attempted by officers who have successfully completed Department-approved training on its use. Officers must consider the safety of the public, their own safety, and the safety of the suspect in determining whether the technique will be attempted. The P.I.T. maneuver should not be attempted on a vehicle pulling a trailer, a motorcycle, or a bus unless deadly force is authorized.

Upon deployment of P.I.T., intentional vehicle contact that does not create a substantial risk of causing death or great bodily harm may be used to restrict further movement of the subject vehicle. This intentional vehicle contact shall not be considered deadly force under this policy. Factors to consider when using intentional vehicle contact include speed, location of contact, obstructions, passengers and pedestrians.

2) Ramming

Ramming a fleeing vehicle may be considered only after other reasonable tactical means at the officer's disposal have been exhausted or reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:

- a) The suspect is an actual or suspected felon or an impaired driver who reasonably appears to represent a serious threat to the public if not apprehended. The actual or suspected crime does not include the crime of fleeing.
- b) The suspect is driving a motor vehicle while aware of and consciously disregarding a substantial and unjustifiable risk that the driving may result in harm to another.
- c) If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.

3) Blocking or Vehicle Intercept

Blocking or vehicle intercept may be considered a use of force and must conform to our Use of Force policy.

Blocking or vehicle intercept may be considered in cases involving drivers who pose a threat to public safety and/or when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver

attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics and after giving consideration to the following:

- a) The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers or other members of the public.
- b) Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
- c) The target vehicle is stopped or traveling at a low speed.
- d) At no time should civilian vehicles be used to deploy this technique.
- e) If intentional vehicle contact is made, it may be considered a use of force and must conform to our Use of Force policy. Factors to consider when assessing vehicle contact include speed, location of contact, obstructions, passengers and pedestrians.

#### 4) Tire Deflation Devices

Each officer should receive training in the proper use and deployment of the tire deflation device prior to its use.

- a) Deployment of the tire deflation device should be made in an area of the roadway that is as straight as possible and allows for adequate cover for the deploying officer. The squad driven by the deploying officer should, if possible, be parked off the roadway to protect the deploying officer. Officers should relay to pursuing officers the location of the tire deflation device via radio as soon as practical.
- b) Following deployment and when reasonably safe to do so, the tire deflation devices should be removed from the roadway to prevent unwanted punctures.
- c) The tire deflation device should not intentionally be used on motorcycles unless the criteria for the use of deadly force is present.
- d) Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle.
- e) The use of tire deflation devices for pursuits originating outside of, but travelling through, Minnetonka is authorized. Per BCA reporting policy the use of tire deflation devices exclusively does not constitute active involvement in the pursuit.

#### 5) Roadblock

- a) The use of roadblocks may only be authorized by the supervisor.

- b) The location should be chosen to minimize the potential of injury. In particular, there should be sufficient sight distance to allow a vehicle to avoid a collision. Other factors to consider include lighting, road configuration, and amount and direction of traffic.
- c) An avenue of escape must be provided.
- d) Vehicles used in a roadblock must not be occupied. All emergency lights must be activated.
- e) The dispatcher and pursuing vehicles must be notified of the location.

6) Boxing (moving roadblock)

- a) Should only be used in situations that conform to the safe application of multiple police vehicles surrounding a suspect vehicle and gradually reducing speed to terminate the pursuit.
- b) Should only be used when the pursued vehicle is traveling at low speeds or is stopped.

7) Deadly Force/ Use of firearms

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

**TRAINING**

- 1) All officers will receive training on emergency vehicle operation in compliance with POST board standards, and complete an annual review of the department directive on vehicle pursuits.
- 2) Information obtained from a review of previous department pursuits will be considered in the overall training needs of the department and recommendations for any policy changes.
- 3) The training for this policy should include an analysis of the discretion exercised in deciding when to pursue or terminate a pursuit.

**POST PURSUIT PROCEDURES**

- 1) A State Pursuit Reporting Form must be completed on every pursuit involving our agency.
- 2) The primary officer and the supervisor must complete a police report on all pursuits involving Minnetonka officers.

- 3) Copies of the pursuit form and any accompanying reports must be routed through the director of patrol to the chief of police.
- 4) The reports associated with a pursuit will be reviewed at the regularly scheduled supervisory meetings.



# MINNETONKA POLICE DEPARTMENT

## Directive #203

EFFECTIVE DATE: June 2002, January 2004, March 2005, May 2012, November 2015

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SUBJECT: *SERVICE INQUIRIES/COMPLAINTS OF EMPLOYEE CONDUCT/ACTIONS*

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### PURPOSE:

It is the policy of the Minnetonka Police Department that all allegations of employee misconduct or criticism of its services be acknowledged and addressed. To succeed in this endeavor, this directive establishes a comprehensive departmental process to respond to such inquiries and complaints. Its purpose is to provide citizens with a fair and effective avenue to voice their legitimate grievances against the actions of the police department, yet to protect departmental employees from false charges of misconduct and wrongdoing.

### OBJECTIVES:

- 1) To maintain the community's support and confidence in its police department by providing a process that assures responsiveness to citizens' inquiries and complaints.
- 2) To create a process for dealing with inquiries and complaints, whether originating internally or externally, that permits the police department to monitor departmental compliance with established laws, departmental directives, and norms.
- 3) To clarify employee's rights and the due process protection that will be afforded departmental employees in the investigation of inquiries and complaints.

### DEFINITIONS:

- 1) *Chief* means the chief of police or the chief's designee.
- 2) *Service Inquiry* means a question as to the conduct or actions of an employee of the Minnetonka Police Department.
- 3) *Complaint* means an inquiry that alleges misconduct on behalf of an employee of the Minnetonka Police Department.
- 4) *Disciplinary Action* means the following:
  - Oral Reprimand
  - Written Reprimand
  - Suspension
  - Demotion or
  - Discharge

The term *Disciplinary Action*, however, does not include counseling and training provided by an employee's supervisor in methods of performance, whether originating internally or externally, unless the documentation of that activity specifically states it is an oral or written reprimand.

- 5) Employee means all voluntary and compensated personnel of the Minnetonka Police Department, including the Minnetonka Police Reserves and Explorers.
- 6) Formal Statement means the following:
  - a) The questioning of an employee in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the employee.
  - b) Note: The application of Minn. Stat. §629.89 is limited to situations where a “formal statement” is taken. The requirements of this statute are not applicable to situations where informal interviews are held and no recorded or transcribed statements are made, except that all rights to notice, representation and advisory of rights and privileges existing by policy, union contracts or personnel rules will continue to be applicable.
- 7) Inquiry means a report by an individual on the way police services were or were not provided by employees of the Minnetonka Police Department or the specific actions of an employee of the Minnetonka Police Department.
- 8) Question means an inquiry that relates to the actual and authorized methods of providing police services by the Minnetonka Police Department.
- 9) Performance Matter means a specific issue relating to the manner of how police services are delivered by an employee of the Minnetonka Police Department that would not be classified as misconduct due to one or more of the following factors:
  - a) The inquiry relates to a minor violation;
  - b) The inquiry is likely to be resolved by training and counseling even if the alleged facts are true.
  - c) There is no known pattern of similar conduct by the employee; and
  - d) There is no evidence of bad faith or intent to do wrong.

Minor issues such as attitude, demeanor, courtesy, tardiness, and attendance will frequently be classified in this category.
- 10) Misconduct means an act or omission by an employee of the Minnetonka Police Department which does not conform to prevailing law, department directives, or personnel rules, and which could result in disciplinary action if sustained.
- 11) Individual reporter means any person(s), whether identified or anonymous, who objects to the way police services were or were not provided by the Minnetonka Police Department, or the specific action of an employee of the Minnetonka Police Department. It may also include a Minnetonka Police Department supervisor who becomes aware of a performance matter and addresses those issues immediately with the employee.

## AUTHORITY:

The assigned director and/or chief of police is responsible for monitoring the compliance with the directive, for documenting, controlling, and reviewing all *inquiries* and *complaints*, and for coordinating all internal investigations, where the *inquiry* has been *referred* for formal investigation.

## PROCEDURES:

### 1) Initial Receipt of Inquiry/Complaint

- a) All persons who make an inquiry/complaint must be referred to the immediate supervisor of the employee about whom such inquiries are made. If the employee's immediate supervisor is not available, the individual must be referred to the supervisor on duty. If the citizen is only requesting a complaint form and does not wish to discuss the incident or identify themselves, they must not be required to do so.
- b) All persons who make an inquiry/complaint against the chief of police shall be directed to the city manager or mayor. Upon receiving the complaint the city manager or mayor shall immediately have the complainant complete a complaint form and assign an administrative case number. The complaint will not be considered until the complainant signs the complaint form.
- c) The city manager or mayor should refer investigations of alleged misconduct against the chief of police to an outside law enforcement agency or criminal justice agency.
- d) The supervisor receiving an inquiry that does not involve employee misconduct (e.g., a mere disagreement with an employee) may, at his or her discretion, attempt to informally resolve the matter. Informal resolution may include providing the complainant with an explanation of the facts and circumstances surrounding the employee's conduct, or otherwise attempting to clarify any misunderstanding between the involved employee(s) and the citizen(s).
- e) The supervisor who has informally resolved an inquiry must prepare an inter-office memo, which may be in the form of an e-mail, to the division director setting forth the substance of the inquiry and a description of how the matter was resolved. This memo must then be forwarded to the chief of police.
- f) The inquiry provisions may not be construed to preclude the chief of police from reviewing any report or inquiry, and taking whatever actions are deemed appropriate even though the complainant does not wish to pursue the matter further.

### 2) Complaints Not Informally Resolved:

- a) The supervisor must, upon receipt of an inquiry/complaint for which informal resolution is not proper, prepare an inter-office memo (or e-mail). This memo must be forwarded to the division director by 0800 the next working day.

- b) The director who receives the documented *inquiry* will classify the *inquiry* as one of the following, based upon the definitions contained in this policy:
  - i) A *Question*;
  - ii) A *Performance Matter*; or
  - iii) A *Complaint*

The director must route a copy to the chief of police. The chief's administrative assistant will assign a file # and log the inquiry.

3) Inquiries Classified As A Question:

- a) If the documented *inquiry* is classified as a *question*, the director receiving the documented *inquiry* must determine whether the *question* involves issues of broad departmental implications or issues isolated to the unit over which the director has authority and control.
  - i) Where the issues involved in a *question* are isolated to the unit over which the director has authority and control, the director may respond to the question or assign it as may be appropriate for further investigation and recommendations.
  - ii) Where the issues involved in a *question* have broader department implications, the director should consult with the chief of police.

4) Inquiries Classified As A Performance Matter

- a) If the documented *inquiry* is classified as a *performance matter*, the director receiving the documented *inquiry* will assign it to an appropriate supervisor for resolution.
- b) The supervisor to whom the *performance matter* is assigned will discuss the incident with the employee(s) involved in the incident.
  - i) The supervisor may contact the reporting party, if necessary, to acquire a firm understanding of the alleged facts.
  - ii) The supervisor should not make a specific determination of whether the alleged conduct occurred or whether it constitutes a violation of any directive.
  - iii) The focus of the discussion with the employee(s) involved will be to discuss alternatives, if any, that might have led to a more positive outcome.
- c) The supervisor assigned to resolve the *performance matter* must then submit a report to the appropriate division director briefly outlining the following information:
  - i) Name of Employee;
  - ii) Details of the incident, emphasizing the subject of the inquiry, if not adequately documented in previous reports;

- iii) Action taken; and,
- iv) Recommendations for further counseling or training or reference to the supervisor's actions to accomplish this purpose, if appropriate.

Note: There is no intent to make specific findings on any such incident but rather, to encourage meaningful discussion between supervisors and employees on how a given situation might have been handled differently, if appropriate.

- d) Upon completion of the follow-up action by the investigating supervisor, the original documents and report must be returned to the director who originally assigned the *performance matter*. Based upon that report, the director must ensure the disposition is added to the inquiry database and proceed with one of the following actions:
  - i) Place the report and documentation of training, counseling or a performance notice in the employee's evaluation file, which would be removed at the end of the evaluation period.
  - ii) Place the report in the employee's departmental employee file maintained in the chief's office for a predetermined period, indicating that if there are no further similar training or counseling issues raised as of a particular date, the report should be removed and destroyed;
  - iii) Review the report with the chief of police and if no further action is deemed necessary the report will be offered to the employee and/or destroyed.
  - iv) Refer the incident to the chief of police for review as a formal complaint and the initiation of a formal internal investigation. (An investigator will be assigned and formal statements will be taken from all principals in a setting and under circumstances appropriate to an internal investigation of a *complaint*.)

An employee must be advised of the action taken by the director under clause d, above.

#### 5) Inquiries Classified As A Complaint

- a) If the documented *inquiry* is classified as a *complaint*, the director receiving the documented *inquiry* must forward a copy of the documented *inquiry* to the chief of police for the assignment of an Internal Investigation Number and notification as required under this directive.
  - i) The chief of police must assign the *complaint* to an appropriate supervisor for investigation.
  - ii) The supervisor assigned to investigate a *complaint* must conduct the investigation and make a report to the divisional director.
  - iii) The divisional director must draft a findings of fact report for the chief's review. The chief will then review all documentation to determine what disciplinary action, if any, will be taken.

(1) Employee Statements:

- (a) The process for taking statements from sworn officers must comply with the following:
  - (i) A signed statement has been taken from the person alleging facts, which may constitute a basis for disciplining an employee.
    - 1. In certain instances, a formal complaint signed by the chief of police or the chief's designee, based on facts made known, even where those facts are received from an anonymous source, may serve as the required signed statement under this provision. In those instances, the chief of police is deemed the complainant.
  - (ii) The employee has been given a summary of the allegations which should include a brief description of the events from which the complaint arises, the facts giving rise to the alleged misconduct and the directive which may have been violated if the facts alleged are found to be accurate.
  - (iii) An employee must be notified in writing of the time and place where a formal statement is to be taken.
    - 1. Any such meeting will be held in a city facility during the employee's regularly scheduled shift, whenever possible.
  - (iv) The employee will be entitled to have an attorney and union representative of the employee present during the meeting.
    - 1. When the employee has initially elected to appear without an attorney or union representative, the employee may subsequently make a request for such representation and the meeting must be adjourned for a reasonable period of time to allow the employee to obtain the presence of an attorney or union representative.
  - (v) The meeting during which a formal statement is to be taken from an employee must be recorded.
    - 1. The employee is also entitled to record the meeting, if the employee so elects.
    - 2. The employee is entitled to a copy of the tape recording of the meeting upon submitting a request in writing.
  - (vi) The employee must be advised in writing or on the recording that any admissions made in the course of a formal statement may be used as evidence of misconduct or as a basis for discipline.
  - (vii) The employee is entitled to receive a copy of any formal statement made by the employee and must initial the formal statement acknowledging that a copy has been received.

6) Notification To The Citizen:

- a) *Questions* – The reporting citizen of a *question* should be notified by the department that the *inquiry* has been classified as a *question* and that it has been referred to staff personnel for further development of the issues raised and definition of the appropriate policies and procedures of the department.
- b) *Performance Matter* – Upon the receipt of an *inquiry* and determination that it will be handled as a *performance matter*, the director must notify the reporting citizen of receipt of the *performance matter* and the fact that it has been assigned to a supervisor for resolution.
- c) *Complaints* – Upon the receipt of an *inquiry* and determination that it will be handled as a *complaint*, the chief of police must notify the reporting citizen in writing of receipt of the *complaint*, its impending investigation, and the name of the investigator.

INVESTIGATIONS

- 1) The chief of police or the chief's designee may determine that any *inquiry, complaint, or question* will be dealt with as an internal investigation and may determine the appropriate means of investigating such matters, including any of the following:
  - a) Investigation by a director
  - b) Investigation by a supervisor
  - c) Investigation by a designated person or a designated outside agency
- 2) The chief of police or his/her designee must:
  - a) Notify the reporting party as indicated above
  - b) Forward the necessary documents to the supervisor assigned
  - c) Notify the employee(s) who are subject to the investigation of its existence and impending investigation
    - i) This requirement may be waived if any such notification would jeopardize the conduct of the investigation; however, a notification must occur prior to the formal interview of any employee who is the subject of the investigation.
    - ii) The notification to any employee(s) who is subject to an investigation must include the following information:
      - (1) Notice of the investigation and the supervisory employee assigned to conduct the investigation
      - (2) The directive the employee's conduct may have violated if the alleged complaint is sustained
      - (3) A brief factual description of the details of the *complaint*

d) An investigation will be conducted and a report will be made in the following format:

- (1) Allegation of Employee Misconduct
- (2) Letter of Complaint
- (3) Notice to Officer of Allegations of Misconduct
- (4) Personnel Investigation Checklist
- (5) Investigation Log
- (6) Investigative Reports
- (7) Police Reports
- (8) Statements
- (9) Finding of Fact
- (10) Final Disposition

3) Investigative Procedures:

- a) The investigator must commence the investigation with a view toward gathering all evidence that tends to prove or disprove the occurrence of the misconduct that has been alleged. If, however, during the course of the investigation it comes to the attention of the investigator that other misconduct may have occurred, the investigator must immediately bring these issues to the attention of the chief of police.
- b) Investigators must make every effort to protect the confidential nature of the investigation. Investigators must exercise due care to ensure that no unauthorized person gains access to investigative information.
- c) No employee may assume any role in actively investigating a complaint of employee misconduct unless assigned by the chief of police to do so.
- d) Upon written order by the chief of police, an employee of this department, including the accused employee, must truthfully answer all questions relating to any employee's performance of official duties or fitness for office that may be asked of them in the course of an investigation. The intentional failure to do so may be the basis for disciplinary action, including dismissal.
- e) Upon completion of the investigation, the Investigator must prepare a report that sets forth in detail the following information:
  - i) A summary of the initial complaint and allegations.
  - ii) A description of all steps taken by the investigator during the course of the investigation.
  - iii) A summary of all interviews conducted during the course of the investigation.



- f) All reports prepared by the Investigator in the course of the investigation must be attached to the report to the chief of police. The investigator may neither make nor maintain any copies.

4) Review:

- a) Investigators will forward all completed investigations to the assigned director for review and drafting of a finding of fact.
- b) The director will forward the completed file to the chief of police.
- c) The chief of police, upon review of the file, may order a hearing to aid in his/her determination of a finding.

5) Findings:

- a) Upon the completion of the internal investigation, the chief of police will make one of the following findings:
  - i) Sustained – The accused employee committed all or part of the alleged acts of misconduct.
  - ii) Not Sustained – The investigation produced insufficient information to clearly prove or disprove the allegations.
  - iii) Exonerated – The alleged act occurred, but was justified, legal, and proper.
  - iv) Unfounded – The alleged act did not occur.
- b) If a complaint is sustained, the chief of police may take one or more of the following recommendations or sanctions:
  - i) Training or counseling (not disciplinary)
  - ii) Oral reprimand
  - iii) Written reprimand
  - iv) Suspension
  - v) Demotion
  - vi) Discharge

6) Final Disposition:

- a) The chief of police will;
  - i) Notify all complainants in writing of the results of the internal investigation
  - ii) Notify employee(s) that were the subject of the investigation of the chief's findings
  - iii) Notify the appropriate collective bargaining unit if required by contract

- 7) The assigned director will ensure all paper work is completed and the case is properly filed.
- 8) Appeals:
  - a) When a sustained disposition is final, the accused employee may appeal the disposition according to the employee's labor agreement, City of Minnetonka Personnel Rules, or if applicable, through the Minnesota Veteran's Preference Act.
  - b) The chief of police will accept appeals from complainants as appropriate.

# MINNETONKA POLICE DEPARTMENT

## Directive 204

**EFFECTIVE DATE: January 1, 2004, June 2012**

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**SUBJECT: *PROFESSIONAL CONDUCT OF POLICE DEPARTMENT EMPLOYEES***

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### PURPOSE:

The Minnetonka Police Department will use the contents of this manual to formalize its expectations and internal controls on the issue of employee conduct. This policy defines conduct unbecoming a peace officer as set forth by the Minnesota Board of Peace Officer Standards and Training. It may supplement the ethical standards contained in other portions of this manual. This policy pertains to all departmental members.

### GENERAL PROVISIONS

- 1) The effective policing of a community depends on respect, trust, and confidence. Conduct or behavior of employees that detracts from this confidence and trust is detrimental to the public and the professional police community. It is the policy of the Minnetonka Police Department that all employees will comply with all principles listed in the policy. The department will accept and investigate complaints and circumstances suggesting that an employee has engaged in "conduct unbecoming" and impose actions appropriate to eliminate the behavior.
- 2) This policy applies to all employees of this agency engaged in official duties, whether within or outside of the territorial jurisdiction of this agency. Unless otherwise noted, this policy also applies to off duty conduct as well. Conduct not mentioned under a specific rule but which violates a general principle is prohibited. This policy is organized into eight principles governing employee conduct. Each principle is followed by the rationale explaining the principle and a set of rules.

### PRINCIPLE I

Employees must conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Minnesota Constitution, and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Rationale - Police employees conduct their duties pursuant to a grant of limited authority from the community. Therefore, employees must understand the laws defining the scope of their enforcement powers. Employees may only act in accordance with the powers granted to them.

## **RULES**

- 1) Employee may not knowingly exceed their authority in the enforcement of the law.
- 2) Employee may not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants and preservation of evidence.
- 3) Employees may not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the constitutions and laws of the United States and state of Minnesota.
- 4) Employees, whether on or off duty, may not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction in which the employee is present, except where permitted in the performance of duty under proper authority.

## **PRINCIPLE II**

Employees must refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system.

Rationale - Community cooperation with the police is a product of its trust that employees will act honestly and with impartiality. Law enforcement officials, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.

## **RULES**

- 1) Employees must carry out their duties with integrity, fairness, and impartiality.
- 2) Employees may not knowingly make false accusations of any criminal ordinance, traffic or other law violation. This provision will not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- 3) Employees must truthfully, completely and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
- 4) Employees must not take action knowing it will violate the constitutional rights of any person.
- 5) Employees must obey lawful orders, but should refuse to obey any orders the employee knows would require the employee to commit an illegal act. If in doubt as to the clarity of an order, the employee must, if feasible, request the issuing employee to clarify the order. An employee refusing to obey an order is required to justify his or her actions.

- 6) Employees learning of conduct or observing conduct which is in violation of any law or policy of this department must take necessary action and report the incident to their immediate supervisor, who must forward the information to the chief of police. If the misconduct is committed by the employee's immediate supervisor, the employee must report the incident to the immediate supervisor's supervisor.

### **PRINCIPLE III**

Police department employees must perform their duties and apply the law impartially and without prejudice or discrimination.

Rationale – Law enforcement effectiveness requires public trust and confidence. Communities must have faith in the fairness and impartiality of their police. Department employees must refrain from fostering disharmony in their communities based upon diversity, and perform their duties without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

### **RULES**

- 1) Employees must provide every person in our society with professional, effective and efficient law enforcement services.
- 2) Employees may not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, sex, and marital status, status with regard to public assistance, disability, sexual orientation or age.

### **PRINCIPLE IV**

Employees may not, whether on or off duty, exhibit any conduct, which discredits them or the department, or otherwise impairs their ability or that of other employees or the department to provide law enforcement services to the community.

Rationale – A law enforcement official's ability to perform his or her duties is dependent upon the respect and confidence communities have for our employees and law enforcement officers in general. Employees must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

### **RULES**

- 1) Employees may not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided in rule IV (3).

- 2) Employees may not consume alcoholic beverages to the extent that they would be rendered unfit for the employee's next scheduled shift. An employee will not report for work with the odor of an alcoholic beverage on his or her breath. (See Minnetonka City Policy 7.5 for guidance on a suspected violation.)
- 3) Employees may not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the employee must inquire of the prescribing physician whether the medication will impair the employee in the performance of their official duties. The employee must immediately notify their supervisor if a prescribed medication is likely to impair their performance during their next scheduled shift.
- 4) Employees, while on duty, may not commit any act which, as defined under Minnesota law or city policy, constitutes sexual harassment, including but not limited to, making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- 5) Employees, while off duty, may not engage in any conduct which the employee knows, or reasonably should know, constitutes an unwelcome sexual advance or request for sexual favor, or unwelcome sexually motivated physical contact or other unwelcome verbal or physical conduct or communication of a sexual nature.
- 6) Employees may not commit any acts, which as defined under Minnesota law constitute sexual assault or indecent exposure. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- 7) Employees may not commit any acts which, as defined under Minnesota law, constitute (a) domestic abuse, or (b) the violation of a court order restraining the employee from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the employee from the petitioner's home or workplace.
- 8) Employees may not, in the course of performing their duties, engage in any sexual contact or conduct constituting lewd behavior, including but not limited to, showering or receiving a massage in the nude, exposing themselves or otherwise making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy for the department.
- 9) Employees must avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the employee or department. This rule does not prohibit those associations that are necessary to the performance of official duties, or where such associations are unavoidable because of the employee's personal or family relationships.

## **PRINCIPLE V**

Employees must treat all members of the public courteously and with respect.

Rationale – Police department members are the most visible form of local government. Therefore, employees must make a positive impression when interacting with the public and each other.

## **RULES**

- 1) Employees must exercise reasonable courtesy in their dealings with the public, fellow employees, superiors and subordinates.
- 2) No employee may ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person to do anything reasonably calculated to incite a person to violence.
- 3) Employees must promptly advise any inquiring citizen of the department's complaint procedure, and must follow the established departmental policy for processing complaints.

## **PRINCIPLE VI**

Employees may not compromise their integrity, nor that of department or profession, by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing their official acts or judgments, or by using their status as a police department employee for personal, commercial, or political gain.

Rationale – For a community to have faith in its police department, employees must avoid conduct that does or could cast doubt upon the impartiality of the individual employee or the department.

## **RULES**

- 1) Employees may not use their official position, identification cards, badges, uniforms and/or equipment for (a) personal or financial gain for themselves or another person; (b) obtaining privileges not otherwise available to them; and (c) avoiding consequences of unlawful or prohibited actions.
- 2) Employees may not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
- 3) Employees must refuse favors or gratuities, which could be reasonably interpreted as capable of influencing official acts or judgments.

- 4) Unless required for the performance of official duties, employees may not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- 5) Employees must:
  - a) Not authorize the use of their names, photographs or titles in a manner that identifies them as an employee of this department in connection with advertisements for any product, commodity or commercial enterprise;
  - b) Maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
  - c) Not make endorsements of political candidates, while on duty, or while wearing any or all of the department's uniforms, or while wearing clothing or equipment which would give the appearance of a department uniform.

This section does not prohibit officers from expressing their views on existing, proposed or pending criminal justice legislation in their official capacity as authorized by the chief of police.

## **PRINCIPLE VII**

Employees may not compromise their integrity, or that of their department or profession, by taking or attempting to influence actions when a conflict of interest exists.

Rationale – For the public to maintain its faith in the integrity and impartiality of law enforcement employees and their departments, employees must avoid taking or influencing official actions where the employee's actions would or could conflict with the employee's appropriate responsibilities.

## **RULES**

- 1) Unless required by law or policy, employees must refrain from becoming involved in official matters, or influencing actions of other employees in official matters, impacting the employee's immediate family, relatives, or persons with whom the employee has or had a significant personal relationship.
- 2) Unless required by law or policy, employees must refrain from acting or influencing official actions of other employees in official matters impacting persons with whom the employee has or had a business or employment relationship.



- 3) Employees may not use the authority of their position as a law enforcement employee or information available to them due to their status for any purpose or personal gain including, but not limited to, initiating or furthering personal and/or intimate interactions of any kind with persons with whom the employee has had contact while on duty.
- 4) Employees may not engage in any off-duty employment if the position compromises or would reasonably tend to compromise the employee's ability to impartially perform the employee's official duties.

### **PRINCIPLE VIII**

Employees must observe the confidentiality of information available to them due to their status as police department employees.

Rationale – Police department employees are entrusted with vast amounts of private and personal information, or access thereto. Employees must maintain the confidentiality of such information to protect the privacy of the subjects of that information, and to maintain public faith in the employee and department's commitment to preserving such confidences.

### **RULES**

- 1) Employees may not knowingly violate any legal restriction, role, or department policy for the release or dissemination of information.
- 2) Employees may not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
- 3) Employees may not divulge the identity of persons giving confidential information except as required by law or department policy.

### **Application for Licensed Police Officers**

Any disciplinary actions arising from violations of this policy will be investigated in accordance with Minnesota Statute 626.89, Peace Officer Discipline Procedures Act and the law enforcement agency's policy on Allegations of Misconduct as required by POST Board Rules, Minn.R. pt. 6700.2000 to 6700.2600.

# MINNETONKA POLICE DEPARTMENT

Directive #212

EFFECTIVE DATE: January 1, 2002/Revised January 1, 2004

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SUBJECT: *IMPARTIAL POLICING*

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## PURPOSE:

This policy is intended to reaffirm our department's commitment to impartial/unbiased policing and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in a fair and equitable manner to *all*.

## POLICING IMPARTIALLY

- 1) Investigative detentions, pedestrian and vehicle stops, arrests, searches and proper seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures.
- 2) Except as provided in paragraph (3), officers may not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion or probable cause
- 3) Officers may take into account the descriptors in paragraph (2) of a specific suspect(s) based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals. This information may be used in the same manner officers use specific information regarding age, height, weight, etc. about specific suspects or persons.

## PREVENTING PERCEPTIONS OF BIASED POLICING – PROCEDURAL GUIDELINES

- 1) SWORN PERSONNEL - In an effort to prevent the perception of biased law enforcement, officers must utilize the following guidelines:
  - a) Be respectful and professional
  - b) Introduce or identify yourself to the citizen and state the reason for the contact as soon as practical, unless providing this information will compromise officer or public safety
  - c) Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense
  - d) Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact, including relevant referrals to other agencies when appropriate

- e) Provide your name and badge number when requested, preferably in writing or on a business card
  - f) Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop)
- 2) NON-SWORN PERSONNEL – In an effort to prevent the perception of biased law enforcement, non-sworn personnel must utilize the following guidelines:
- a) Be respectful and professional
  - b) Introduce or identify yourself to the citizen and state the reason for the contact as soon as practical
  - c) Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense
  - d) Attempt to answer any relevant questions the citizen may have regarding the contact, including relevant referrals to other agencies when appropriate
  - e) Provide your name and employee number when requested, preferably in writing or on a business card

#### SUPERVISION AND ACCOUNTABILITY

Supervisors must ensure that all personnel in their command are familiar with the content of this policy and must make reasonable efforts to ensure they are operating in compliance with it.

# MINNETONKA POLICE DEPARTMENT

## Directive 357

**EFFECTIVE DATE: December 16, 2021**

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**SUBJECT: *Race and Gender Data Collection***

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### PURPOSE

The purpose of enacting this policy is to establish a uniform method on the collection of race and gender data from traffic and pedestrian stops as well as establishing a benchmark which to compare the data. Furthermore, the data will be shared publicly through the department's webpage, annual report and other appropriate means.

### POLICY

It is the policy of the Minnetonka Police Department for its officers to collect data on race and gender during specific police contacts with the public. Other data, such as whether the subject or vehicle was searched during the contact may be collected as well.

### PROCEDURE

The department, in cooperation with Hennepin County Dispatch, will establish a list of call types, or problem nature codes, that will require the recording of race and gender data upon the selection of a closing disposition on the officer's MDC. The identified problem nature codes will be primarily calls in which an officer has discretion over initiating, e.g. traffic stops or subject stops.

It is recognized that accurately determining race on physical appearance can be extremely difficult, therefore using their perception, officers should select the race, using the NIBRS race definitions, and gender of the subject they had contact with. In an effort to avoid escalating a contact, officers should generally avoid asking the subject which race or gender they identify as. Unless no contact was made with a subject, officers should not classify the race or gender as unknown.

### BENCHMARK

Race and gender data is being collected primarily on traffic and subject stops of people who frequent Minnetonka as residents, for work, for recreation or for a variety of other reasons, including merely passing through. The race and gender data collection is not exclusive to Minnetonka residents. Therefore, the use of census data, which is exclusive to Minnetonka residents, as a comparison to the race and gender data collected during traffic and subject stops should not be used. Because it represents the same demographic as traffic and subject stops, traffic crash data will be used as the comparison benchmark.