

SUBSTITUTE ORDINANCE NO. 5858

ORDINANCE TO PROVIDE FOR POLICE REFORM, CODIFY POLICIES AND PROCEDURES FOR MEMPHIS POLICE OFFICERS RELATING TO TRAFFIC STOPS, USE OF FORCE, USE OF BODY CAMERAS, ANTI-PROFILING RULES, PERSONAL CONDUCT OF OFFICERS AND ESTABLISHING REPORTING REQUIREMENTS BY THE MEMPHIS POLICE DEPARTMENT FOR OFFICER MISCONDUCT AND INTERACTIONS WITH CITIZENS

WHEREAS, the wake of the interactions between Memphis Police Officers and the late Tyre Nichols, which led to his untimely and unfortunate death, the Memphis City Council has undertaken a review of MPD policies and procedures governing certain important activities involving interactions by such officers and the general public;

WHEREAS, the provisions of this Ordinance are not intended to inhibit legitimate police techniques to combat crimes against citizens nor are they intended to inhibit officers from using appropriate judgment and discretion in the performance of their duties and interactions with citizens and their fellow officers;

WHEREAS, the Council also recognizes that transparency in the policies MPD's law enforcement officers are required to observe and obey when interacting with citizens is necessary to give citizens confidence that MPD's law enforcement officers are truly committed to protecting and serving them;

WHEREAS, the Council has compiled and developed policies and procedures that cover the situations in which citizens often have interactions with police officers and to cover the activities of police officers that generate the most complaints for police misconduct.

NOW, THEREFORE, BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL AS FOLLOWS:

SECTION 1 SHORT TITLE

This Ordinance may be cited as the "2023 Comprehensive Justice in Policing Ordinance".

SECTION 2 TRAFFIC STOPS

I. Stopping the Traffic Violator for Issuance of Ticket

1. Officers shall make a traffic stop for the purpose of taking an enforcement action only on reasonable suspicion that the occupant or occupants of a vehicle committed a motor vehicle violation or some other offense.
2. Officers may only use a marked law enforcement vehicle to stop traffic violators absent exigent circumstances. "Marked law enforcement vehicle" means a law enforcement vehicle equipped with: (A) At least one (1) light bar assembly designed to display more

than one (1) steady burning, flashing, or revolving beam of light with three hundred sixty degrees (360°) visibility; (B) A horn, siren, electronic device, or exhaust whistle from which audible signals may sound; and (C) Graphics, markings, or decals clearly identifying MPD on at least three (3) of the following four (4) sides:

(i) Front; (ii) Rear; (iii) Left side; or (iv) Right side.

3. The following steps must be followed when stopping and approaching traffic violators and are intended to provide maximum safety for the officer, the violator, and others. Varying conditions regarding the engineering of the particular traffic artery, the urgency to stop the violator (drinking driver/ known or suspected felon), and the existing volume of traffic may require adjusting or altering the recommended procedure. These procedures are to be followed when possible, and are presented from the perspective that ideal conditions exist:
 - A. Once the determination has been made to stop the violator the officer should notify the dispatcher of the intended location of the traffic stop, license number, make of vehicle, model of vehicle, color of vehicle and number of occupants.
 - B. The officer should note the license number of the vehicle on a note pad, to be left inside the patrol vehicle if the dispatcher cannot be notified.
 - C. The officer should be thoroughly familiar with the area, and anticipate the appropriate location with ample space, appropriate lighting, and should avoid stops on hills, curves, intersections, private drives, and business locations which have limited parking spaces.
 - D. The officer should signal the violator to stop. This task should be accomplished by activating the blue light emergency system, hand signals, sounding horn, and if necessary sounding siren. These signals also alert other drivers of the intent of an officer and will usually facilitate securing the right of way for the stopping maneuver.
 - E. The violator should be signaled and directed to the right side of the roadway close to the curb, or onto the shoulder when feasible.
 - F. **On** multi-lane roadways, the officer should insure the safety of the violator during changes by gradually changing from lane to lane with violator until the right side of the roadway is reached.
 - G. Should the violator stop abruptly in the wrong lane or in another undesirable location, they should be promptly directed to move to a safer location. Officers should use the public address system to instruct violators to move to a safer location. If the officer's verbal directions and gestures are insufficient to bring understanding, the officer should exit from the patrol vehicle and give verbal instructions to the violator.
 - H. If the operator is suspected of drinking to the extent their driving abilities are impaired the violator should not be permitted to move their vehicle once it has stopped.
 - I. Once the violator has stopped in an appropriate location, the officer should position the patrol unit approximately 12 feet behind the violator's vehicle. The patrol unit should be positioned so that it will offer the officer some protection from oncoming traffic as well as cover from the violator. This position should be 2 feet outside and to the left of the violator's vehicle. This position provides maximum safety to the

violator, the officer, and all other traffic. The patrol car should not be left blocking the lane of traffic once the violator has pulled from the roadway at the completion of the stop.

- J. The officer should exit from the patrol vehicle and be continuously alert for any suspicious movement or actions on part of the violator or other occupants in the violator's vehicle.
- K. The officer should approach from the rear of the violator's car, looking into the rear seat area, and stop at a point to the rear of the tailing edge of the driver's side door. This position should be maintained if there are only occupants in the front seat of the vehicle. From this position, the officer can communicate with the violator, keeping them in a slightly awkward position, and at the same time keep all occupants of the vehicle in view.
- L. In those cases where the violator's vehicle has occupants in both, the front and rear seats, the officer should approach to a point near the tailing edge of the rear driver's side door. From this position, the officer can communicate with the violator, keeping him in a slightly awkward position, and at the same time keeping all occupants of the vehicle in view.
- M. In those traffic stops made by two or three more officers, one officer should be responsible for all radio communications. During the traffic stop, all officers should dismount from the vehicle. At no time should the two officers approach the violator's vehicle side-by-side.

At night, the procedure is basically the same with the additional necessity of exercising caution in selecting an appropriate place for the traffic stop, signaling the violator and positioning the police vehicle. After the stop, the headlights should be on low beam for the safety of oncoming traffic, and emergency bar lights in use on patrol vehicle.

Officers may utilize a shining spotlight in rearview mirror of vehicle being stopped to make visibility in stopped vehicle clearer and offer better concealment for the officers.

II. Officer Violator Relations --Approaching the Traffic Violator

Once the officer has stopped the violator and approaches to a point where communications can begin, the following guidelines should be followed by the officer in terms of officer-violator relationships:

- A. Be absolutely certain the observations of the traffic violation were accurate, without reservation.
- B. Present a professional image in dress, grooming, language, bearing, and emotional stability.
- C. Be prepared for the contact by having necessary equipment and forms immediately available if they are to be used.
- D. Decide on the appropriate enforcement action based upon the observed violation not the violator's attitude. In most cases, it is advisable to have the form of enforcement action decided prior to initial contact with violator.
- E. GREET THE VIOLATOR WITH AN APPROPRIATE TITLE AND IN A COURTEOUS MANNER. ALWAYS BE MINDFUL OF HOW YOU ARE

PERCEIVED AND HOW YOU WOULD WANT AN OFFICER TO TREAT A MEMBER OF YOUR FAMILY.

- F. Inform the violator of the traffic law they have violated for which the traffic stop was made and the intended enforcement action. This statement by the officer should be made at the time of initial communication with the violator in such a way that the statement can be recorded on the officer's body camera. All subsequent statements should also be recorded.
- G. Ask for the violator's operator's license, vehicle registration and insurance verification, and accept only these forms.
- H. If the operator has no driver's license, obtain another document of identification.
- I. Take the time to fully explain your actions and allow the operator to discuss the violation. Do not argue, berate, belittle, or otherwise verbally abuse the violator.
- J. Complete the forms required for the enforcement action taken or exercise a verbal warning.
- K. Explain to the violator exactly what they are supposed to do in response to the action taken. Upon issuance, officers will advise the motorists of the following:
 - 1. Court appearance
 - 2. Optional or mandatory nature of court appearance

Issuance of Traffic Tickets:

Tennessee law requires citations to be issued for traffic violations. **Arrest of a traffic violator is permitted only in exceptional situations**, such as when the violator refuses to sign the citation.

- A. Traffic citations should be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, for violations including, but are not limited to, hazardous or non-hazardous violations, operating unsafe and improperly equipped vehicles and violating City traffic laws, such as speeding. If multiple infractions occur, check appropriate boxes or write in box provided on citation. WARNINGS, however, may be issued under following circumstances:
 - 1. There is a minor traffic infraction committed in those areas where traffic crash occurrences are minimal or non-existent.
 - 2. When the act may be due operation of an improperly equipped vehicle that does not under the circumstances jeopardize the safe and efficient flow of vehicular and pedestrian traffic
 - 3. Non-hazardous violations such as lack of illumination of a single brake light or head light, loosely secured but visible registration plate or any other minor mechanical violation.
 - 4. Or a violation of which the driver may not be aware.
- B. Traffic citations and traffic summons are to be issued only on public streets and roadways. Citations and summons are not to be issued on private property or upon public property, which is not a public street or roadway, except in the following circumstances:
 - 1. When the area in question has been designated as a restricted or prohibited parking zone. In such cases, only a traffic citation covering the specific parking violation should be issued.
 - 2. If an officer has observed an offender to be operating a vehicle on a public street or roadway and then pull onto private property, or onto public property,

which is not a street or roadway, then the officer may follow that person onto said property and issue the citation.

3. Leaving the scene of a private property vehicle crash witnessed by the officer.

Arrests Incident To A Traffic Stop

A. To Be A Legal Arrest, The Officer Must:

1. Restrict the arrestee's freedom of movement, **AND**
2. Tell the arrestee they are under arrest.

B. Officers may arrest a driver, based on probable cause, for state misdemeanor charges in the following circumstances:

1. Whenever, from personal investigation of the scene, driver's statements, or witness statements, there is probable cause to believe the defendant violated Tennessee Code Title 55, Chapter 8 or 10, **and** the vehicle crash resulted in personal injury or property damage over \$1,000.00 (TCA 40-7-103).
2. Whenever, from personal investigation at the scene, there is probable cause to believe a driver has committed D.U.I. regardless of personal injury or property damage **and** such person is arrested within four (4) hours of being transported to a medical facility or within four (4) hours of leaving the scene of the accident.

C. Officers SHALL arrest a driver without a warrant, if the driver is involved in an accident resulting in serious bodily injury or death and the driver:

1. Does not have a valid driver license, **AND**
2. Does not have evidence of financial responsibility. (TCA 55-10-119)

D. Justification to support using force to remove non-compliant individuals from a vehicle given the following conditions:

1. A lawful stop or detention has been made;
2. The officer has articulable reasonable suspicion/probable cause that the person may have committed a crime or safety concerns exist to order the driver from their vehicle;
3. The driver has been ordered to exit their vehicle;
4. The driver refuses to exit their vehicle;
5. The officer has called for Back-Up and a Supervisor to make the scene;
6. The driver has been advised of probable cause arrest;
7. The driver has been advised or warned that force will be used to remove driver;
8. Minimum amount of force necessary is used to remove driver from the vehicle; and
9. A physical arrest of the driver has been made.

It is critical to note that officers must articulate reason for removing said driver from

vehicle. Absent any other articulable justification, officers shall not use force to remove individuals from vehicles.

E. When an officer investigating a vehicle crash cannot establish reasonable and probable grounds to substantiate a charge the officer is only authorized to file a report of the interaction.

III. Searches Incident To A Traffic Stop

Searches can only be conducted after an arrest, but not when a traffic citation is issued. A search is not allowed incident to a traffic citation. If an officer has articulable facts to support a reasonable belief that the traffic offender poses a present danger to the officer's safety then the officer may frisk the traffic offender. The articulable facts supporting the frisk should be stated to the traffic offender on the record.

The arrest of an occupant of a motor vehicle does not automatically authorize a search of the motor vehicle incident to that arrest. Only two situations authorize a search of the interior of a motor vehicle incident to the arrest of an occupant.

One, the motor vehicle can be searched if the arrested occupant or other non-arrested occupants are unrestrained and within reach of the motor vehicle.

Two, the motor vehicle can be searched if it could contain evidence related to the crime the occupant was arrested for, such as robbery, theft or DUI. If the arrest crime could not have evidence related to it, such as driving while license revoked, the search of the motor vehicle incident to that arrest would not be lawful.

There are lawful ways to search a motor vehicle other than search incident to arrest. Consent, inventory and probable cause to believe the motor vehicle contains seizeable items are all lawful search methods if the appropriate facts are present.

If an officer makes an arrest of a traffic offender in bad faith or as a scheme to conduct an otherwise unlawful search, the search may be ruled illegal and the case would be lost.

IV. Possession Of Weapons By Persons Subject To A Traffic Stop

THIS POLICY SECTION IS UNDER REVIEW 7-01-21

An officer who comes in contact with a person in possession of a weapon should use caution and good judgment. Individuals may lawfully carry a knife or switchblade of any length and a handgun under Tennessee Code Annotated §39-17-1301, *et seq.* It is the intent of this section that lawful carrying of an handgun in a vehicle shall be controlled by Tennessee Code Annotated §39-17-1301, *et seq.* or any provision of Tennessee law and this section shall be construed consistent with this intent.. A person commits an offense who **possesses any deadly weapon with the intent to employ it** during the commission of, attempt to commit, or escape from any offense.

Individuals exercising their right to carry or possess a firearm in a vehicle should not be subject to investigatory detention unless an officer has reasonable suspicion that the aforementioned individual has committed or is about to commit a crime (i.e. the firearm is brandished towards someone). The officer may take control of the firearm and then determine whether the individual is carrying the firearm legally as part of the officer's investigation into suspected criminal activity. However, this does not prevent an officer from approaching an individual possessing a firearm in a vehicle for the purpose of engaging them in voluntary conversation regarding the circumstances of the carry.

Carrying or possessing a firearm or firearm ammunition in a motor vehicle is legal if the person is not prohibited from possessing or receiving a firearm **and the person is in lawful possession of the motor vehicle.** ~~Passengers may not lawfully carry or possess a firearm without a permit, unless they are the registered owner of the vehicle.~~

Persons may not legally carry or possess a firearm or ammunition if any of the following conditions apply:

1. The person has a domestic violence conviction; (check JSSI, Communications)
2. The person is under indictment or pending indictment for a felony; (check Fugitive)
3. The person is a convicted felon (verify); (check JSSI, Communications - III)
4. The person is the subject of an order of protection or ex parte order; (check Communications, Fugitive)
5. Bail/ bond conditions prevent possession; (check Fugitive)
6. The person is a fugitive from justice; (check Fugitive, Communications)
7. The person has a dishonorable discharge from the military; (check Communications)
8. The person is a mental consumer;
9. The person is under the influence drugs/alcohol;
10. The firearm is prohibited, stolen, or the serial number is obliterated; (check Communications)
11. The individual is a juvenile or undocumented immigrant;
12. The firearm is possessed on school property;
13. The person is a driver of a vehicle provided by a government/private entity for the course of employment and that entity prohibits its drivers from carrying or possessing firearms or ammunition in their vehicle(s).

The following steps will assist officers in conducting field interviews and investigations.

1. Determine ownership of the vehicle and check the firearm to determine if it is stolen.
2. Determine ownership of the weapon.
 - In a situation where there are multiple occupants in a vehicle and no one claims ownership of a firearm, officers should make an arrest **if it is determined** that the owner is in unlawful possession of the firearm. Have all occupants of the vehicle complete Rights Waiver Forms and tag the firearm and Rights Waiver Forms as evidence.
 - If ownership cannot be determined, officers should take a memo, have all occupants' complete Rights Waiver forms, and tag the firearm as found property.
 - If an occupant is transported to a bureau for further investigation, the investigator will complete the Rights Waiver Form. (Rights Waiver questions may be incorporated into a Defendant Statement.) Scene officers will still complete Rights Waiver forms for all occupants not transported to a bureau.
3. Check each person for warrants and contact Fugitive concerning bail/bond conditions.
4. Contact an investigator 170 N. Main and have them request a criminal history check (Triple I/III) from Communications. The criminal history will advise if the person has been convicted of a crime or offense that prevents them from possessing a firearm by 18 U.S.C. 922(g). South Main GIB (or Economic Crimes) should be contacted during daytime business hours (B shift). Felony Response should be contacted after hours (C, D, and A shifts).

Once the investigation has concluded and there are no known felony convictions in any jurisdiction (which would require the seizure of the weapon and arrest of the individual as a convicted felon) the subject should be released and their weapon returned without further action.

Officers should not allow a legal weapon to remain in a vehicle that is not under the direct control of a person designated by the weapon's owner. That designee must be at least 18 years of age, not legally prohibited from possessing the weapon, and otherwise competent to safeguard the weapon.

If a firearm is tagged, the owner should be advised to contact the Legal Advisor's Office (901-636-3718) concerning the release of the weapon.

SECTION 3 GENERAL RULES OF CONDUCT MEMPHIS POLICE OFFICERS

The following Rules of Conduct apply to all members of the Memphis Police Department at all times including during the performance of duties incident to Traffic Stops:

- 1) Members must comply with all the stated policies, rules, regulations, orders, or directives of the Department.
- 2) A member shall not aid, abet, or incite another member to violate departmental regulations, duties, orders, policies or prescribed procedures.
- 3) A member shall act in accord with the constitution, statutes, ordinances, administrative regulations and the official interpretations thereof, of the United States, the State of Tennessee, the County of Shelby, and the City of Memphis.
- 4) A member shall be courteous, civil, and respectful in his/her conduct and manner towards all persons.
- 5) A member shall not be humiliate, ridicule or taunt any person. The use of coarse, profane, vulgar, racial, derogatory, or discourteous language to any other member or any citizen is prohibited, unless extenuating circumstances exist for the use of such language.
- 6) A member shall at all times consider it his or her duty to be of service to anyone in danger or distress and shall neither discriminate against nor show partiality for any person because of race, sex, religion, friendship, fraternal or social affiliations, or for any reason.
- 7) A member must present their current photo ID card upon request by any citizen or by any MPD or a Supervisor unless such action is likely to jeopardize the successful completion of a police assignment or undercover operation.
- 8) A member shall give their name, rank, badge number, or other identifiable information when so requested by other members of the Department or by a private citizen who has a legitimate need for the information, unless such action is likely to jeopardize the successful completion of a police assignment or undercover operation.
- 9) Any member who directly observes another member engaged in dangerous or criminal conduct or abuse of a subject shall take reasonable action to intervene.
- 10) A member shall immediately report to the Department any violation of policies and regulations or any other improper conduct which is contrary to the policy, order or directives of the Department. For sworn employees this reporting requirement also applies to allegations of uses of force not yet reported.
- 11) A member shall not use or direct violence, abuse, force, or threats against, or otherwise intimidate any person or member of this department.
- 12) A member shall not abuse their authority or official position in order to embarrass, degrade, oppress, torment, sexually harass, discriminate predicated on gender, or persistently without due cause take action against any person to prevent that person from exercising lawful or constitutionally protected conduct or exercising the same.
- 13) Under no circumstances will more than two police vehicles gather at any location at the same time unless:
 - They are answering a call for **service**;
 - They are on official police business; or
 - They have received a supervisor's approval.

- 14) Members shall not, under any circumstances, erase or delete, or instruct or require any other person to erase or delete, any recorded images or sounds from any camera or other recording device that is or was in the possession of a citizen or non-member, or that has been voluntarily turned over or seized for law enforcement purposes.
- 15) Members shall maintain cameras and other recording devices that are in Department custody so that they can be returned to the owner intact with all images or recordings undisturbed in a timely manner. In the case that a recording in the Department's custody is considered contraband or has been determined to be contraband by the AG's office, the recording and/or device will not be returned.
- 16) Officers shall never use excessive force, unnecessary force or any force or violence that is unprovoked, needless, or not required during performance of their duties when making an arrest or in dealing with a prisoner or any person, as is the case of deadly force to protect property as contrasted with protecting life.

SECTION 4 USE OF FORCE BY MPD LAW ENFORCEMENT OFFICERS.—

(1) DEFINITIONS.—In this subsection:

(A) DEESCALATION TACTICS AND TECHNIQUES.—The term “deescalation tactics and techniques” means proactive actions and approaches used by a MPD law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person’s voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical techniques, slowing down the pace of an incident, waiting out a subject, creating distance between the officer and the threat, and requesting additional resources to resolve the incident.

(B) NECESSARY.—The term “necessary” means that another reasonable MPD law enforcement officer would objectively conclude, under the totality of the circumstances, that there was no reasonable alternative to the use of force.

(C) REASONABLE ALTERNATIVES.—

(i) IN GENERAL.—The term “reasonable alternatives” means tactics and methods used by a MPD law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, de-escalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation without the use of force.

(ii) DEADLY FORCE.—With respect to the use of deadly

force, the term “reasonable alternatives” includes the use of less lethal force.

(D) TOTALITY OF THE CIRCUMSTANCES.—The term “totality of the circumstances” means all credible facts known to the MPD law enforcement officer leading up to and at the time of the use of force, including the actions of the person against whom the MPD law enforcement officer uses such force and the actions of the MPD law enforcement officer.

(E) DEADLY/EXCESSIVE FORCE.—The term “deadly force” and/or excessive force means that force which a reasonable person would consider likely to cause death or serious bodily harm, including—

- a. the discharge of a firearm;
- b. a maneuver that restricts blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neck holds, and carotid artery restraints; and
- c. multiple discharges of an electronic control weapon.

(F) USE OF FORCE.—The term “use of force” includes—

- a. the use of a firearm, electronic control weapon, explosive device, chemical agent (such as pepper spray), baton, impact projectile, blunt instrument, hand, fist, foot, canine, or vehicle against an individual;
- b. the use of a weapon, including a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy device, or firearm, against an individual; or
- c. any intentional pointing of a firearm at an individual.

LESS LETHAL FORCE.—The term “less lethal force” means any degree of force that is not likely to cause death or serious bodily injury.

(2) PROHIBITION ON LESS LETHAL FORCE.—A MPD law enforcement officer may not use any less lethal force unless—

(A) the form of less lethal force used is necessary and proportional in order to effectuate an arrest of a person who the officer has probable cause to believe has committed a criminal offense; and

(B) reasonable alternatives to the use of the form of less lethal force have been exhausted.

(3) PROHIBITION ON DEADLY/EXCESSIVE USE OF FORCE.—

A MPD law enforcement officer may not use deadly force against a person unless—

(A) the form of deadly or excessive force used is necessary, as a last resort, to prevent imminent and serious bodily injury or death to the officer or another person;

(B) the use of the form of deadly or excessive force creates no substantial risk of injury to a third person; and

(C) reasonable alternatives to the use of the form of deadly or excessive force have been exhausted.

(4) REQUIREMENT TO GIVE VERBAL WARNING.—When feasible, prior to using force against a person, a MPD law enforcement officer shall identify himself or herself as a MPD law enforcement officer, and issue a verbal warning to the person that the MPD law enforcement officer seeks to apprehend, which shall—

(A) include a request that the person surrender to the law enforcement officer;

and

(B) notify the person that the law enforcement officer will use force against the person if the person resists arrest or flees.

(5) DUTY TO INTERVENE AND REPORT.--MPD law enforcement officers shall have a duty to intervene in cases where another law enforcement officer is using excessive force against a civilian and to report any such incidents to.

(6) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Beginning in the six (6) months after the date of enactment of this Ordinance and each fiscal year thereafter MPD shall—

(A) report to the Mayor and the Memphis City Council, on a quarterly basis information regarding—

a) any incident involving the use of deadly force against a civilian by a MPD law enforcement officer and any reported interventions by other MPD law enforcement officers related thereto;

(ii) any incident involving the shooting of a local law enforcement officer or by a civilian;

(iii) any incident involving the death or arrest of a local law enforcement officer;

(iv) any incident during which use of force by or against a local law enforcement officer which is not reported under clause (i), (ii), or (iii);

(v) deaths in custody; and

(vi) uses of force in arrests and booking;

(B) establish a system and a set of policies to ensure that all use of force incidents and related interventions are reported by MPD law enforcement officers; and

(2) ADDITIONAL REPORT INFORMATION REQUIRED.—

(A) IN GENERAL.—The report required under paragraph (1)(A) shall also contain information that includes, at a minimum—

(i) the national origin, sex, race, ethnicity, age, disability, English language proficiency, and housing status of each civilian against whom a MPD law enforcement officer used force;

(ii) the date, time, and location, including whether it was on school grounds, and the zip code, of the incident and whether the jurisdiction in which the incident occurred allows for the open-carry or concealed-carry of a firearm;

(iii) whether the civilian was armed, and, if so, the type of weapon the civilian had;

(iv) the type of force used against the officer, the civilian, or both, including the types of weapons used;

(v) the reason force was used;

(vi) a description of any injuries sustained as a result of the incident;

(vii) the number of officers involved in the incident;

(viii) the number of civilians involved in the incident; and

(ix) a brief description regarding the circumstances surrounding the incident, which shall include information on—

a) the type of force used by all involved persons;

b) the legitimate police objective necessitating the use of force;

c) the resistance encountered by each MPD law enforcement officer involved in the incident;

d) the efforts by MPD law enforcement officers to—

(aa) de-escalate the situation in order to avoid the use of force; or (bb) minimize the level of force used;
and

e) if applicable, the reason why efforts described in subclause (d) were not attempted.

SECTION 5 RACIAL PROFILING.-

(A) The term "racial profiling" means the practice of a law enforcement officer relying, to any degree, on actual or perceived race, ethnicity, national origin, religion, gender, gender identity, or sexual orientation in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a person with a particular characteristic described in this paragraph to an identified criminal incident or scheme.

(B) The term "routine or spontaneous investigatory activities" means the following activities by a law enforcement officer:

- 1) Interviews.
- 2) Traffic stops.
- 3) Pedestrian stops.
- 4) Frisks and other types of body searches.
- 5) Consensual or nonconsensual searches of the persons, property, or possessions (including vehicles) of individuals using any form of public or private transportation, including motorists and pedestrians.
- 6) Data collection and analysis, assessments, and predicated investigations.

(C) MPD shall-maintain adequate policies and procedures that :

- 1) prohibit racial profiling;
- 2) provide for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement officers;
- 3) require an Officer, who conducts a routine or spontaneous investigatory activity identified in Section 5 (B), to collect, record, and submit the following information:
 - a. The date, start and end time, and location (nearest intersection and zip code) of the routine or spontaneous investigatory activity;
 - b. The year, make and model of the vehicle;
 - c. The primary reason for stop, including any dispatch code if associated with the stop, and any following reasons for stop or citations;

- d. Any actions related to traffic stop such as warrant checks or car/ personnel searches (frisking), removal of individuals from vehicle, use of handcuffs or restraint of occupants, of any individuals subject to search;
 - e. If the traffic stop resulted in any use of force, the reason for use of force, what force was used, if there were injuries to the officer or person, and if there was a need for medical assistance;
 - f. If the traffic stop resulted in arrest and why;
 - g. If the traffic stop resulted in the recovery of contraband, or illegal items and substances; delineated by type (i.e. drugs, guns, stolen items);
 - h. If a vehicle or any personal effects were seized damages, or injuries were incurred;
 - i. The location, race, ethnicity, national origin, gender, and age of all individuals subject to the traffic stop, if known by the officer or if based on the voluntary disclosure of the race, ethnicity, national origin, gender, and/or age by the individuals subject to the stop.
 - j. Any request by the officer for the individual to self-identify his or her race, ethnicity, gender, and age, which shall be signed by both the officer and the individual and provided to the individual for their personal records, shall state that self-identification will not affect the outcome of the investigation, detention, or arrest of the individual being stopped and shall contain a unique log number will be presented to the driver and recorded by the officer.
 - k. The name of any ongoing MPD operations or task forces related to the traffic stop;
 - l. The name of the officer who conducted the traffic stop and any other officers who arrived on scene, if any; and
 - m. 911 job IDs, Computer Aided Dispatch, and Records Management Systems related information leading to or used during the traffic stop.
- 4) Require any Officer, who conducts an arrest or arrests in connection with a routine or spontaneous investigatory activity, to collect, record, and submit the following information:
- a. The name of the arresting officer
 - b. Reason for arrest(s)
 - c. Time of arrest(s)
 - d. Location of arrest(s) if different from the original stop
 - e. Name of transporting officer
 - f. Time the individual was delivered to jail for booking
- 5) Require any complaints made to Internal Affairs or to a Commanding Officer relating to a routine or spontaneous investigatory activity to be recorded by MPD as part of MPD's record of the corresponding routine or spontaneous investigatory activity.

- 6) Cover any other situations that the Police Chief/Director determines to be necessary to eliminate racial profiling by MPD law enforcement officers; and

D. MPD shall (i) create an online electronic database available to the public in an exportable .csv format for collecting, compiling, storing, and analyzing the information reported by Officers pursuant to this section, within (1) one year of the effective date of this ordinance and (ii) develop procedures and policies to reasonably ensure information entered into the database, is complete and accurate.

E. MPD shall publicly publish the full report in an exportable .csv format online within (6) six months after creation of the online electronic database and subsequent monthly reports thereafter with updated information.

SECTION 6 TRAINING ON RACIAL BIAS AND DUTY TO INTERVENE AND REPORT.

(a) **IN GENERAL.**—The Director/Chief of MPD shall establish a training program for MPD law enforcement officers that covers racial profiling, implicit bias, and procedural justice; and the discharge by MPD law enforcement officers of the duty to intervene and report in cases where another law enforcement officer is using excessive force against a civilian.

(b) **MANDATORY TRAINING FOR MPD LAW ENFORCEMENT OFFICERS.**—The Director/Chief of MPD shall require each MPD law enforcement officer to complete the training programs established under subsection (a).

SECTION 7 BODY CAMERAS

(a) USE OF BODY CAMERAS

(1) MPD law enforcement officers shall wear a body camera.

(2) **REQUIREMENTS FOR BODY CAMERAS.**—A body camera required under paragraph (1) shall—

(A) have a field of view at least as broad as the officer's vision; and

(B) be worn in a manner that maximizes the camera's ability to capture video footage of the officer's activities.

(b) REQUIREMENT TO ACTIVATE.—

(1) **IN GENERAL.**—Both the video and audio recording functions of the body camera shall be activated whenever a MPD law enforcement officer is responding to a call for service or at the initiation of any other law enforcement or investigative stop between a MPD law enforcement officer and a member of the public, except that when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer shall activate the camera at the first reasonable opportunity to do so.

(2) ALLOWABLE DEACTIVATION.—The body camera shall not be deactivated until the stop has fully concluded and the MPD law enforcement officer leaves the scene.

(3) The term “enforcement or investigative stop” means an action by a MPD law enforcement officer in relation to enforcement and investigation duties, including traffic stops, pedestrian stops, abandoned vehicle contacts, motorist assists, commercial motor vehicle stops, roadside safety checks, requests for identification, or responses to requests for emergency assistance.

(c) NOTIFICATION OF SUBJECT OF RECORDING.—A MPD law enforcement officer who is wearing a body camera shall notify any subject of the recording that he or she is being recorded by a body camera as close to the inception of the stop as is reasonably possible.

(d) EXCEPTIONS—Notwithstanding subsection (d), the following shall apply to the use of a body camera:

(1) Prior to entering a private residence without a warrant or in non-exigent circumstances, a MPD law enforcement officer shall ask the occupant if the occupant wants the officer to discontinue use of the officer's body camera. If the occupant responds affirmatively, the MPD law enforcement officer shall immediately discontinue use of the body camera.

(2) When interacting with an apparent crime victim, a MPD law enforcement officer shall, as soon as practicable, ask the apparent crime victim if the apparent crime victim wants the officer to discontinue use of the officer's body camera. If the apparent crime victim responds affirmatively, the MPD law enforcement officer shall immediately discontinue use of the body camera.

(3) When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a MPD law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer's body camera. If the person seeking to remain anonymous responds affirmatively, the MPD law enforcement officer shall immediately discontinue use of the body camera.

(e) RECORDING OF OFFERS TO DISCONTINUE USE OF BODY CAMERA.—Each offer of a MPD law enforcement officer to discontinue the use of a body camera made pursuant to subsection (d), and the responses thereto, shall be recorded by the body camera prior to discontinuing use of the body camera.

(f) ENFORCEMENT.—

(A) IN GENERAL.—If any MPD law enforcement officer, or any employee or agent of MPD fails to adhere to the recording requirements of this section or intentionally interferes with a body camera’s ability to accurately capture video footage, or otherwise manipulates the video footage captured by a body camera during or after its operation appropriate

disciplinary action shall be taken against the individual officer, employee, or agent;

(B) **PROOF COMPLIANCE WAS IMPOSSIBLE.**—The disciplinary action requirement may be overcome by contrary evidence or proof of exigent circumstances that made compliance impossible. The non-compliant officer, or any employee or agent of MPD who is wearing a body-worn camera shall be required to provide an explanation if an activity that is required to be recorded by the body-worn camera is not recorded.

(g) **DATA COLLECTION AND REPORTING REQUIREMENTS FOR MPD**

MPD shall collect and report to the Mayor and the Memphis City Council statistical data during any reporting period on—

- (1) The number of incidences that a MPD law enforcement officer, or any employee or agent of MPD was disciplined pursuant to paragraph A hereof and the discipline imposed in each instance.
- (2) The number of incidences during the reporting period that a MPD law enforcement officer, or any employee or agent of MPD was not disciplined pursuant to paragraph A hereof and the reason(s) why discipline was not imposed in each instance.
- (3) The number and disposition of complaints against MPD law enforcement officers, or any employees or agents of MPD for failing to adhere to the recording requirements for body cameras, intentionally interfering with a body camera's ability to accurately capture video footage, or otherwise manipulating the video footage captured by a body camera during or after its operation.
- (4) The number of MPD law enforcement officers who have been promoted to the rank of Captain and above with any history of discipline for failing to adhere to the recording requirements for body cameras, intentionally interfering with a body camera's ability to accurately capture video footage, or otherwise manipulating the video footage captured by a body camera during or after its operation.

SECTION 8 SEMI-ANNUAL REPORTING REQUIREMENTS BY MPD

Commencing not later than six (6) months after the date of enactment of this Ordinance, and semi-annually thereafter, MPD shall submit to the Mayor and the Chairman of the Memphis City Council a report covering the previous six months that shall contain:

1. The information required by Section 4, subsection (6) of this Ordinance ;
2. The information required by Section 7 of this Ordinance;
3. The total number of routine or spontaneous investigatory activities identified in Section 5(B) of this Ordinance during the reporting period, which report shall include demographic data such as the total number of routine or spontaneous investigatory

activities disaggregated by type of activity, location, race, ethnicity, national origin, gender, and age.

4. The total number of arrests from routine or spontaneous investigatory activities identified in Section 5(B) of this Ordinance during the reporting period. This report shall include demographic data such as the total number of arrests disaggregated by type of activity, location, race, ethnicity, national origin, gender, and age.
5. The total number of complaints received by MPD's Internal Affairs Bureau and the total number of closed complaints by MPD's Internal Affairs Bureau during the reporting period, including:
 6. The total number of complaints characterized as allegations of bias based on race or ethnicity, gender or gender identity, and age;
 7. The total number of closed complaints characterized as allegations of bias based on race or ethnicity, gender or gender identity, and age;
 8. The total number of complaints characterized as allegations of excessive force during the commission of a traffic stop;
 9. The total number of closed complaints characterized as excessive force during the commission of a traffic stop;
10. The status of the adoption and implementation of policies and procedures by MPD under subsections (5)(C)-(E);
11. The status of the adoption and implementation of training programs by MPD under Section (6) hereof;
12. A description of any other policies and procedures that the Director/Chief of MPD believes would facilitate the elimination of racial profiling and any best-practice policy changes that were implemented by MPD over the preceding year.

SECTION 9 INDEPENDENT AUDIT AND OF MPD TRAINING PROGRAMS

The Police Chief/Director shall conduct an audit annually of the training programs and techniques taught to police recruits and police officers to assess whether such training is in accordance with Tennessee law and best practices. The audit shall be conducted by an independent third party with expertise in police training to be selected by the Chief of Police and the Mayor. The party selected and the professional services contract shall be approved by the Memphis City Council. Police Chief/Director shall prepare and present a report to the Mayor and Members of the Memphis City Council that addresses any recommendations by the expert and the effectiveness or lack thereof regarding compliance by MPD law officers with their obligations against use of excessive/deadly force, racial bias and profiling, misuse of body cameras and failures to intervene and/or report.

SECTION 10 REPEAL PROVISION.

This ordinance shall expressly repeal and replace all prior ordinances in conflict herewith including but not limited to Ordinance Nos. 5848, 5849, 5850 and 5853.

SECTION 11 SEVERABILITY.

All provisions of this Ordinance are hereby severable and if any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 12 EFFECTIVE DATE

This Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR

Councilman Carlisle

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CHAIRMAN

Martavius Jones