



# Minneapolis Police Department Policy and Procedure Manual

Number:  
5-100

## Volume Five – Code of Conduct and Use of Force

### Code of Conduct

#### 5-104 Non-Discriminatory Policing

(06/27/01) (12/24/01) (12/01/08) (07/24/15) (11/17/15) (09/26/22) (xx/xx/xx)

##### I. Purpose

Non-discriminatory policing is essential to maintaining trust and public confidence in the legitimacy of the Minneapolis Police Department's (MPD's) mission, vision, values, and goals (P&P 0-102). Discriminatory behavior in policing, including racial profiling, alienates people from police, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people law enforcement is sworn to protect and serve.

##### II. Policy

It is the policy of the Minneapolis Police Department (MPD) to engage only in non-discriminatory policing, by providing services and enforcing laws in a fair and equitable manner to all.

- A. Every member of the MPD shall perform their duties in a fair and objective manner.
- B. Members, regardless of rank or title, shall not discriminate, harass, or retaliate on the basis of protected class status or immigration status, in any of their duties. Members shall not condone discrimination, including through inaction, passive acceptance, or by implying agreement.
- C. Members shall not use discriminatory, derogatory, or biased language or take actions to taunt or denigrate a person, regarding a person's protected class status or immigration status. This includes when talking to or about a person.
- D. Members shall not physically display material that may be considered discriminatory, derogatory, or biased regarding a person's protected class status or immigration status, in or on City property. Such materials include, but are not limited to, calendars, cartoons, and posters.
- E. Members shall not post, display, or transmit content on their personal social media accounts or through City technology that is disparaging or evidences knowing and intentional discrimination toward a person or group based on protected class status or immigration status, and that would lead an objectively reasonable person to doubt the member's ability to perform the duties of a peace officer in a fair and impartial manner (see also P&P 5-107, P&P 5-108, the City's Electronic Communications Policy, and the City's Social Media Policy).

### **III. Procedures/Regulations**

#### **A. Non-Discriminatory Policing**

Investigative detentions, pedestrian and vehicle stops, arrests, searches, and property seizures by members shall be based only on the standard of reasonable articulable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution and Article 1, Section 10 of the MN Constitution. Members must be able to articulate specific facts, circumstances and conclusions that support reasonable articulable suspicion or probable cause for the law enforcement action (see P&P 9-100, P&P 9-200, P&P 9-300).

1. Except as provided below, members shall not consider a person's protected class status, or substitutes for, or stereotypes of race or national origin, to any extent or degree, when taking, or refraining from taking, any law enforcement action. This includes pedestrian and vehicle stops, investigations, arrests, using covert social media investigative techniques, using force, and establishing either reasonable articulable suspicion or probable cause.
  - a. When making law enforcement decisions, including during stops, detentions, investigations, etc., members may consider a person's protected class status only if:
    - i. The demographic descriptors are part of a specific and detailed suspect description tied to a time and place that refers to a person with a particular demographic category and that includes other appropriate non-demographic identifying factors. This consideration must be based on credible and recent information that links specific unlawful or suspicious activity to the person or group, as part of an ongoing criminal investigation.
    - ii. The person is a crime victim and their demographic descriptors are specifically related to an element of the crime (such as a crime of bias).
2. Members shall not consider a person's immigration status, to any extent or degree, when taking, or refraining from taking, any law enforcement action, except for the limited exceptions in P&P 9-401. This includes pedestrian and vehicle stops, investigations, arrests, using covert social media investigative techniques, using force, and establishing either reasonable articulable suspicion or probable cause.
3. Interactions that demonstrate a discriminatory motive or impact as evidenced by a member's language or conduct, taking into account the totality of the circumstances, are prohibited.

#### **B. Duty to Intervene**

Members shall intervene when they are witness to and have a reasonable opportunity to prevent or mitigate harm caused by discriminatory conduct by another member, by verbally or physically interacting to prevent or alter the course of events (P&P 2-102).

**C. Duty to Report**

Any member who observes or is otherwise aware of another MPD member (regardless of that member's assignment, tenure or rank) engaging with a person in a manner that they know or reasonably should know amounts to a violation of this non-discriminatory policing policy, shall report the incident as soon as it is safe to do so, in accordance with P&P 2-101.

1. Any member who fails to report a violation of this non-discriminatory policing policy as required above may be subject to discipline to the same severity as if they themselves engaged in the prohibited conduct (P&P 2-101).
2. Whenever an appropriate reviewer (such as a supervisor conducting a review or an Internal Affairs investigator) identifies a potential violation of this policy, the reviewer shall determine whether other members witnessed conduct that any member would reasonably understand violated this policy and whether they reported the incident, as required.

**D. Retaliation Prohibited**

Members shall not retaliate against a person who claims that an MPD member discriminated against that person or another person (P&P 2-104, P&P 2-105, P&P 2-106, and the Minnesota Human Rights Act).

**E. Supervisor Responsibility**

1. When reviewing members' reportable use of force and other enforcement related contacts (such as investigatory stops, vehicle stops, detentions, searches, citations, and arrests), supervisors must identify whether the members violated this policy.
2. Supervisors will be held accountable for the completeness and accuracy of their reviews (P&P 1-406).
3. Supervisors who fail to identify and document prohibited discriminatory conduct, as detailed in this policy, may be subject to discipline.

**F. Report Violations to POST**

1. Alleged violations of this policy shall be reported to POST in accordance with the reporting requirements in MN Statute section 626.8457.
2. Internal Affairs shall coordinate the required reporting to POST.

**G. Training**

Members shall receive training, at least 8 hours annually, on the requirements of this policy. The training will emphasize that discriminatory behavior in policing in the form of either

selective enforcement or non-enforcement of the law, including the selection of enforcement or non-enforcement practices based upon stereotypes or bias, is prohibited by the law and MPD policy.

#### H. State Requirement for Policy

The MPD must establish and enforce a written policy on non-discriminatory policing governing the conduct of peace officers during encounters with community members and during other law enforcement actions, in accordance with MN Statute section 626.8471 Subd. 4.

#### I. Transparency

As part of the MPD's commitment to transparency and accountability, the MPD will publish in a conspicuous place on its publicly accessible webpage an analysis of aggregate data for the preceding month. that includes:

- The number of members who MPD found to have violated the non-discriminatory policing policy.
- The number of members who received coaching for violations of the non-discriminatory policing policy.
- The number of members who received formal discipline for violations of the non-discriminatory policing policy.
- Aggregate demographic information about the race or ethnicity, age, and gender of people subjected to treatment in violation of the non-discriminatory policing.

## Glossary

**Discriminatory Behavior in Policing:** Making law enforcement decisions, based on considerations of a person's protected class status (except the limited considerations described in P&P 5-104) or immigration status (except the limited considerations described in P&P 9-401). Discriminatory behavior in policing is demonstrated by a discriminatory motive or impact as evidenced by the member's language or conduct, taking into account the totality of the circumstances.

**Discrimination:** Any act, attempted act, policy or practice, which results in the unequal treatment, separation or segregation of a person, or which otherwise adversely affects any person, based on the person's protected class status.

**Non-Discriminatory Policing:** Making law enforcement decisions without consideration of a person's protected class status (except the limited considerations described in P&P 5-104) or immigration status (except the limited considerations described in P&P 9-401), treating people in a fair, impartial and equitable manner, and applying the law in an objective manner.

**Protected Class Status:** Protected classes and statuses include race, ethnicity, color, national origin, ancestry, sex, gender identity or expression, age, creed, religion, sexual orientation, marital status, parental status or familial status, disability (including pregnancy), genetic information, veteran's status, status with regard to public assistance, and any other protected class status under state, federal, and local laws.

**Racial profiling:** Any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of a person rather than either of the following (MN Statute section 626.8471, Subd. 2):

- The behavior of that person.
  - Information that leads law enforcement to a particular person who has been identified as being engaged in or having been engaged in criminal activity.
1. Racial profiling includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search.
  2. Racial profiling does not include law enforcement's use of race or ethnicity to determine whether a person matches a specific description of a particular suspect, as detailed in P&P 5-104.