

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

DATE ISSUED: XX XX, XX	DATE EFFECTIVE: XX XX, XX	NUMBER: SOxx-0xx	PAGE: 1 of 12
TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: Manual Revision – 5-104 Impartial and ProfessionalNon-Discriminatory Policing <u>5-109 Procedural Justice and Professional Policing</u>			APPROVED BY:

MP-8806

Introduction:

Effective with the issuance of this Special Order, Sections 5-104 and 5-109 of the MPD Policy and Procedure Manual shall be amended as follows:

5-104 ~~Impartial and Professional~~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

~~A. The reality or public perception of 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.~~

~~B.A. This anti-racial profiling policy is established in accordance with MN Statute section 626.8471 Subd. 4 to govern the conduct of peace officers engaged in stops of citizens and other law enforcement actions.~~

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.

H. Definitions

[Moved to [IV]]

Racial profiling: has the meaning given to it in MN Statute section 626.8471, Subd. 2. which states:

1. ~~"Racial profiling" means any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of an individual rather than:~~
 - a. ~~the behavior of that individual; or~~
 - b. ~~information that leads law enforcement to a particular individual who has been identified as being engaged in or having been engaged in criminal activity.~~
2. ~~Racial profiling includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search.~~
3. ~~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 subject.~~

III.II. Policy

A. It is the policy of the Minneapolis Police Department (MPD) to ~~reaffirm our commitment to impartial engagement only in non-discriminatory~~ policing, ~~and to reinforce procedures that serve to assure the public we are by~~ providing service and enforcing laws in a fair and equitable manner to all.

B. ~~It is the policy of the Minneapolis Police Department that every aspect of our professional service must demonstrate our commitment to procedural justice, which means to treat others with dignity, giving them voice and respect, being neutral in our decision making and working to build trust.~~

[Moved to 5-109]

C.B. Every ~~employee member~~ of ~~this department~~ the MPD shall perform their duties in a fair and objective manner.

C. ~~Members, regardless of rank or title, shall not discriminate, harass, or retaliate on the basis of protected class status, in any of their duties. Members shall not condone discrimination, including through inaction, passive acceptance, or by implying agreement.~~

D. ii. ~~Employees~~ Members shall not use ~~any~~ discriminatory, derogatory or biased ~~terms~~ language or take actions to taunt or denigrate a person, regarding ~~the characteristics described above~~ a person's protected class status. ~~This includes when talking to or about a person.~~

[Moved from 5-102]

E. i. ~~Employees~~ Members shall not physically display material that may be considered discriminatory, derogatory, or biased regarding ~~the characteristics described above~~ a person's protected class status, in or on City property. Such materials include, but are not limited to, calendars, cartoons, and posters.

[Moved from 5-102]

~~F. iii. Digital material is covered by P&P 5-107 and by the City's Electronic Communications policy. 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, 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).~~

[Moved from 5-102]

IV.III. Procedures/Regulations

A. Impartial-Non-Discriminatory Policing

~~1. Policing impartially, not racial profiling, is standard procedure for the MPD, meaning:~~

Investigative detentions, pedestrian and vehicle stops, arrests, searches, and property seizures by ~~peace officers~~members ~~will~~shall be based only on ~~a 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, ~~and peace officers~~Members must be able to articulate specific facts, circumstances and conclusions that support reasonable articulable suspicion or probable cause for ~~investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures~~the law enforcement action (see P&P 9-100, P&P 9-200, P&P 9-300).

~~2.1.~~Except as provided below, ~~peace officers~~members shall not consider ~~race, ethnicity, color, national origin, ancestry, immigration status, gender identity or expression, age, creed, religion, sexual orientation, marital status, parental 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~~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 in establishing either reasonable suspicion or probable cause.

a. When making law enforcement decisions, during stops, detentions, investigations, etc., membersPeace officers may ~~take into account the reported descriptors above~~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. of a specific suspect or suspects usingThis consideration must be based on credible, reliable, and recent, ~~locally based~~information that links specific, ~~suspected,~~ unlawful or suspicious activity to ~~a particular individual or the person or group of individuals, as part of an ongoing criminal investigation.~~

~~a.~~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).

~~b. This information may be used in the same way officers use specific information regarding age, height, weight, etc. about specific suspects.~~

~~e.2. 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. Professional Policing~~

[Moved to 5-109]

~~In an effort to prevent the perception of biased law enforcement peace officers shall use the following practices when contacting any citizen, regardless of the reason for the contact:~~

- ~~1. Be courteous, respectful, polite and professional.~~
- ~~2. Introduce or identify themselves to the citizen and explain the reason for the contact as soon as practical, unless providing this information will compromise the safety of officers or other persons.~~
- ~~3. Ensure that the length of any detention is no longer than necessary to take appropriate action for the known or suspected offense.~~
- ~~4. Attempt to answer any relevant questions that the citizen may have regarding the citizen/officer contact, including relevant referrals to other agencies when appropriate.~~
- ~~5. Provide their name and badge number when requested, preferably in writing or on a business card.~~
- ~~6. Explain and/or apologize if the officers determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).~~
- ~~7. If asked, provide the procedures for filing a complaint about police services or conduct, in accordance with P&P 2-104.~~

G. Duty to Intervene

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

B. Duty to Report

~~Employees~~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 promptly report any suspected or known instances of bias based policing to a supervisor 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.

C. 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).

C.D. Supervisor Responsibility

3. 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.
4. Supervisors will be held accountable for the completeness and accuracy of their reviews (P&P 1-406).
5. Supervisors who fail to identify and document prohibited discriminatory conduct, as detailed in this policy, may be subject to discipline. Supervisors shall ensure all personnel in their command are familiar with the content of this policy and are in compliance.

D.B. Duty to Report

~~Employees shall promptly report any suspected or known instances of bias-based policing to a supervisor (in accordance with P&P 2-101).~~

E.B. Duty to Intervene

~~Employees shall intervene, when reasonable to do so, to prevent any biased-based actions by another employee (P&P 2-102).~~

F.E. 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.

F. 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.

G. State Requirement for Policy

The MPD must establish and enforce a written policy on non-discriminatory policing governing ~~This anti-racial profiling policy is established in accordance with MN Statute section 626.8471 Subd. 4 to govern the conduct of peace officers engaged in stops of citizens~~ during encounters with community members and during other law enforcement actions, in accordance with MN Statute section 626.8471 Subd. 4.

H. 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.

IV. H. Definitions

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). 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), 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, immigration status, 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: ~~has the meaning given to it in MN Statute section 626.8471, Subd. 2. which states:~~

~~3. "Racial profiling" means a~~any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of ~~an individual~~a person rather than ~~either of the following~~ (MN Statute section 626.8471, Subd. 2):

~~d. The behavior of that individual~~person;

~~e. Information that leads law enforcement to a particular individual~~person who has been identified as being engaged in or having been engaged in criminal activity.

~~4.1.~~Racial profiling includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search.

~~5.2.~~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 ~~subject~~suspect, as detailed in P&P 5-104.

5-102

Professional Conduct

(09/26/22) (01/30/23) (09/15/23) (xx/xx/xx)

Revisions to prior policies: (10/20/88) (05/05/89) (10/18/92) (02/28/93) (04/01/93) (10/28/94) (01/10/97) (03/21/97) (03/12/99) (01/05/00) (01/26/05) (04/01/05) (05/03/05) (09/07/05) (05/23/07) (12/14/07) (03/25/08) (04/23/10) (11/15/13) (11/17/15) (01/05/16) (07/28/16) (06/18/18) (06/16/20)

III. Procedures/Regulations

C. Impartiality (Principle Three)

~~Employees shall perform their duties and apply the law impartially and without prejudice or discrimination. In accordance with P&P 5-104, members shall only in non-discriminatory policing, by providing services and enforcing laws in a fair and equitable manner to all.~~

~~1. Rationale~~

~~Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Employees must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, ethnicity, color, national origin, ancestry, immigration status, gender identity or expression, age, creed, religion, sexual orientation, marital status, parental 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.~~

[Covered by 5-104]

~~1. Rules~~

- ~~a. Employees shall provide every person in our society with professional, effective and efficient law enforcement services.~~

~~[Covered by 5-104]~~

- ~~b. Employees shall not allow their law enforcement or official decisions to be influenced by race, ethnicity, color, national origin, ancestry, immigration status, gender identity or expression, age, creed, religion, sexual orientation, marital status, parental 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 (in accordance with P&P 5-104 Impartial and Professional Policing).~~

~~[Covered by 5-104]~~

- ~~i. Employees shall not physically display material that may be considered discriminatory, derogatory, or biased regarding the characteristics described above, in or on City property. Such materials include, but are not limited to, calendars, cartoons, and posters.~~

~~[Moved to 5-104]~~

- ~~ii. Employees shall not use any discriminatory, derogatory or biased terms regarding the characteristics described above.~~

~~[Moved to 5-104]~~

- ~~iii. Digital material is covered by P&P 5-107 and by the City's Electronic Communications policy.~~

~~[Moved to 5-104]~~

5-109 Procedural Justice and Professional Policing

~~(XX/XX/XX)~~

~~Revisions to prior policies: (12/24/01) (12/01/08) (07/24/15) (09/26/22)~~

I. Purpose

Procedural justice refers generally to the actual or perceived fairness and professionalism of encounters with police. Research shows that people's perceptions of law enforcement encounters are more influenced by the way people are treated during the interaction than the outcome of the interaction. Perceptions of the encounter can affect not just views of the specific interaction but also of police legitimacy within the community. Procedural justice practices help ensure people are treated fairly and with proper respect as human beings, and help foster positive interactions, establish and maintain public confidence, public trust, and police legitimacy, which are critical to protecting and serving the public effectively.

I. Principles of Procedural Justice

The LEED model describes the principles of procedural justice:

Listen: Listen actively and allow people to share their perspective during the encounter.

- Listening to a person's perspective is important to conducting a fair and neutral decision-making process.
- Engaging and using active listening with community members prior to reaching a conclusion leads to more informed decision-making and increases community members' acceptance of the resolution.
- Giving people a voice makes them feel that they are a part of the process and that they have input in the decision, even if it does not impact the decision.

Explain: Provide clear and understandable explanations for a member's actions and decisions, explain what the person can or cannot do, and explain what is going to happen.

- Ensuring people know why and how decisions are made fosters understanding and cooperation with the decision-making process and outcome.

Equity: Ensure police actions are fair, free of bias, and demonstrate consideration of the person's input.

- Procedural justice is ultimately about fairness and consistency in both the process and outcomes of policing interactions. When the public perceives interactions as fair, these interactions contribute to public trust and police legitimacy.
- Making transparent, neutral decisions based only on relevant information, and conducting law enforcement encounters and actions (including voluntary contacts, field interviews, investigative stops, weapons pat-downs, vehicle stops, searches, interrogations, citation issuance, and arrests, among others) in strict accordance with Minneapolis Police Department (MPD) policy, demonstrates neutral decision-making and fair treatment, and helps avoid accusations or perceptions of discriminatory policing or bias.

Dignity: Treat everyone with respect and dignity, regardless of the situation.

- Being professional and courteous throughout the interaction, with concern for people's rights, demonstrates respect and dignity.

II. Policy

A. B. It is the policy of the Minneapolis Police Department (MPD) that every aspect of our professional service must demonstrate ~~our a~~ commitment to professional policing and procedural justice, which means listening to people, explaining members' actions, to treat others with dignity, giving them voice and respect, being using neutral in our decision-making rooted in equity, and ~~working to build trust~~ treating people with dignity.

[Moved from 5-104]

B. Members shall treat all people with courtesy and dignity that is deserving of every person as a human being. Members shall act, speak, and conduct themselves with a high degree of

ethics and professionalism at all times, maintaining professional demeanor in all contacts with the public.

III. Procedures/Regulations

B. Professional Policing

[Moved from 5-104]

A. All members shall use the following measures while conducting law enforcement actions and professional service interactions:

~~In an effort to prevent the perception of biased law enforcement peace officers shall use the following practices when contacting any citizen, regardless of the reason for the contact:~~

~~1. Be courteous, respectful, polite and professional.~~

1. Introduce or identify themselves to the ~~citizen~~ person by rank, last name, and agency, as soon as reasonable, practical, and safe.

2. ~~Explain and explain~~ the reason for the contact as soon as practical, unless providing this information will compromise the safety of ~~officers~~ members or other ~~persons~~ people.

a. For a person who was stopped for a traffic stop or investigative detention, this includes informing the person of the reason why they were stopped.

b. Members shall not ask a person stopped for a traffic stop if they know why they have been stopped.

3. Inform people during interactions that they are being recorded by a BWC and by in-car camera equipment (when applicable), unless doing so would be unsafe, impractical, or not feasible. This requirement applies regardless of whether the person asked. (P&P 4-223)

~~3. Ensure that the length of any detention is no longer than necessary to take appropriate action for the known or suspected offense.~~

4. Attempt to answer any relevant questions that the ~~citizen~~ person may have regarding the ~~citizen/officer contact~~ interaction, including relevant referrals to other agencies when appropriate, ~~unless doing so would jeopardize a legitimate investigative purpose.~~

5. If multiple parties are involved, gather information from all involved parties before taking action (when feasible), and engage in neutral decision-making.

6. Explain actions throughout the encounter.

7. Ensure that the length of any detention is no longer than ~~reasonably~~ necessary to take appropriate action for the known or suspected offense.

8. Ensure reasonable delays are explained to the people involved.

5.9. Provide victims or people in professional service interactions with the victim assistance card (“blue card”), including the member’s rank, last name and badge number, in accordance with P&P 4-608. Provide their name and badge number when requested, preferably in writing or on a business card.

10. For any person who a member stopped or detained, the member shall provide the person with a victim assistance card (“blue card”) that includes the member’s first and last name, badge number, and the case number. Members may also meet this requirement by providing this information on their business card or a similar card.

11. Upon request by any other person, members shall provide the person with a victim assistance card (“blue card”) that includes the member’s first and last name and badge number. Members may also meet this requirement by providing this information on their business card or a similar card.

6.12. If the reasonable articulable suspicion for the stop is dispelled or the stop was made in error (P&P 9-201), members shall immediately release the person, Explain the reason for the stop and the release, thank the person for their patience, ask if they have any questions related to the interaction, and/or apologize if the officers determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop) for any inconvenience.

7.13. If asked, provide the procedures for filing a complaint about police services or conduct, in accordance with P&P 2-104.

B. Exigent circumstances (e.g., a suspect fleeing police) may make it impracticable to immediately implement the above steps. In such cases, members shall implement the steps when practical.

C. When people express or clarify names and pronouns appropriate to their gender identity, members shall address the person, refer to the person in documentation, and use honorifics for the person that match the names and pronouns expressed or clarified by the person, regardless of the person’s recorded gender identity on an identification card.

D. Members shall use de-escalation techniques and tactics whenever feasible, in accordance with P&P 7-802, which can help gain people’s voluntary compliance and safely resolve a situation.

E. Members shall ensure the safety of all people in their encounters, including during placement in custody, searches, arrests, processing and transports, in accordance with P&P 9-100, P&P 9-200 and P&P 9-300.

IV. Definitions

Police Legitimacy: The public’s belief that the police can be trusted to act properly and in the public interest.

Professional Policing: Treating people with dignity, humanity, and respect, regardless of background or circumstances, while protecting their rights and freedoms and adhering legal

boundaries. Professional policing is a service-oriented philosophy rooted in integrity, and is demonstrated through competence, empathy, and impartiality.

Professional Service Interaction: When a member is assisting a community member during an in-person encounter, and the member will be out of service for more than a short time or is using MPD tools or resources to provide assistance (including a squad). This does not include providing basic verbal assistance (such as giving directions).

DRAFT