

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

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TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: Manual Revision – 5-104 Impartial and Professional <u>Non-Discriminatory</u> Policing 5-109 <u>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/24)

I. Purpose

- A. The reality or public perception of profiling based on a person’s protected class, 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.
- B. 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 community members ~~citizens~~ and other law enforcement actions.

~~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.~~

II. ~~III.~~ Policy

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

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

B. Discrimination on the basis of protected class status is prohibited.

C. Members shall not use language or take actions to taunt or denigrate a person, including using racist or otherwise derogatory language (P&P 5-102).

~~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.~~ Every employee of this department shall perform their duties in a fair and objective manner.

[Moved to [A-1]]

III. ~~IV.~~ Procedures/Regulations

A. ~~Impartial~~ Non-Discriminatory Policing

Investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by members ~~peace officers~~ will be based on a standard of reasonable 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 members ~~peace 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.

[Moved from below]

~~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 will be based on a standard of reasonable 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 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.

[Moved above]

1. ~~2.~~ Except as provided below, members ~~peace officers~~ shall not consider a person's protected class status when taking, or refraining from taking, any law enforcement action. This includes when conducting pedestrian or vehicle stops, investigations, arrests, using covert social media investigative techniques, using force, and ~~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~~ establishing either reasonable suspicion or probable cause.÷
 - a. ~~Members~~ Peace officers may take into account the reported descriptors above of a specific suspect or suspects using credible, reliable, recent, locally-based information that links specific, suspected, unlawful or suspicious activity to a particular person individual or group of people individuals, as part of an ongoing criminal investigation.
 - b. This information may be used in the same way ~~members~~ officers use specific information regarding ~~age, height, weight, clothing,~~ etc. about specific suspects.
2. Members of all ranks and titles shall not engage in or tacitly or explicitly approve of discriminatory policing.

Interactions are prohibited that demonstrate a discriminatory motive or impact as evidenced by a member's language or conduct, taking into account the totality of the circumstances.

B. Professional Policing

[Moved section 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.~~

B. ~~E.~~ Duty to Intervene

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

C. ~~D.~~ 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).

Regardless of tenure or rank, any member who observes another MPD member engaging with a person in a manner that they reasonably believe amounts to discriminatory policing, shall report that incident as soon as it is safe to do so, in accordance with P&P 2-101, and if they do not do so, may be subject to discipline as if they themselves engaged in the discriminatory conduct.

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. Accountability

As with all policies, members shall be responsible for knowing and complying with the requirements of this policy, and members who violate this policy will be held accountable and may be subject to discipline.

F. ~~C.~~ Supervisor Responsibility

1. Supervisors shall ensure all ~~members~~ personnel in their command are familiar with the content of this policy and are in compliance.
2. 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 the non-discriminatory policing policy (P&P 1-406).
3. Supervisors will be held accountable for the completeness and accuracy of their reviews (P&P 1-406).

G. 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.

H. Training

Members shall receive training, at least annually, on the requirements of this policy, and that emphasizes that discriminatory 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.

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 at a minimum:

- 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 Policing: Discriminatory or bias-based policing, means taking law enforcement actions that demonstrate 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 or which otherwise adversely affects any person, based on the person's protected class status.

Non-Discriminatory Policing: Impartial or non-discriminatory policing means making law enforcement decisions without consideration of a person's individual demographics (except in the limited instances described in this policy), 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, 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.

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 a person ~~an individual~~ rather than either of the following:
 - a. The behavior of that person ~~individual~~; ~~or~~.
 - b. Information that leads law enforcement to a particular person ~~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.

5-109 **Procedural Justice and Professional Policing**

(xx/xx/24)

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

I. Pillars of Procedural Justice

Procedural justice refers to the perception of fairness in an encounter with police. Procedural justice is essential to building public trust and police legitimacy (the public's belief that the police can be trusted to act properly and in the public interest), which are critical to protecting and serving the public effectively.

Procedural justice practices are crucial for fostering positive interactions and are used by members to ensure people are treated fairly and with proper respect as human beings. Using procedural justice practices should result in the person feeling they were treated fairly and with consistency, dignity and respect, that they were given voice, that the member was neutral, impartial in decision-making, and transparent, and that the member conveyed trustworthy motives.

Conduct that conforms to these practices has the potential to build confidence in the police and foster the community's willingness to cooperate with police to advance shared public safety goals. Procedural justice is the foundation of community policing.

The four pillars of procedural justice are:

Voice: Providing people the opportunity to explain their actions and ask questions before making a final decision.

- Listening to a person's perspective is important to conducting a fair 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.

- Having a voice makes people 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.

Neutrality: Making transparent, neutral decisions based only on relevant information.

- 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.
- 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 MPD policy, demonstrates neutral decision-making and fair treatment, and helps avoid accusations or perceptions of discriminatory policing or bias.

Respect: Being professional and courteous throughout the interaction and treat people with dignity and concern for their rights.

Trustworthiness: Conveying trustworthiness throughout interactions by acting with professionalism, understanding, and transparency.

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

II. Policy

A. 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.

B. To ensure members are policing in a procedurally just manner, they shall treat all people with the courtesy and dignity that is deserving of every person as a human being, and act, speak, and conduct themselves in a professional manner, and maintain a courteous, professional attitude in all contacts with the public.

III. Procedures/Regulations

A. All members shall use the following measures whenever reasonably possible while conducting law enforcement actions and interacting with others:

[Moved from 5-104]

1. ~~1-~~ Be courteous, and treat people with a high degree of ethics, professionalism, and respect-respectful, polite and professional.
2. ~~2-~~ Introduce or identify themselves to the person by rank, last name, and agency, as soon as reasonable and practical-citizen and.
3. ~~E~~ Explain the reason for the contact as soon as practical, unless providing this information will compromise the safety of ~~members-officers~~ or other ~~people~~ persons.

- 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.
4. Inform the person that they are being recorded by a BWC, 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)
 5. When people express or clarify names and pronouns appropriate to the person's gender identity, address the person, refer to the person in documentation and use honorifics that match the names and pronouns expressed or clarified by the person regardless of the person's recorded gender identity on an identification card.
 6. ~~4-~~ Attempt to answer any relevant questions that the ~~person-citizen~~ may have regarding the ~~interaction-citizen/officer contact~~, including relevant referrals to other agencies when appropriate, unless doing so would jeopardize a legitimate investigative purpose.
 7. Explain actions throughout the encounter.
 8. ~~3-~~ Ensure that the length of any detention is no longer than necessary to take appropriate action for the known or suspected offense.
 9. Ensure that the purpose of any reasonable delays is explained to the person.
 10. ~~5-~~ Provide their business card, including their first and last name and badge number, when requested, ~~preferably in writing or on a business card.~~
 11. ~~6-~~ Explain and/or apologize if the officers determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop). If the reasonable suspicion for the stop is dispelled or the stop was made in error (P&P 9-201), 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 apologize for any inconvenience.
 12. ~~7-~~ 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 advise the person when it becomes feasible.
- C.** Members should express appreciation if the person is cooperative during the encounter.
- D.** Members shall use de-escalation techniques whenever possible, in accordance with P&P 5-301. Not only does this decrease the chances of the use of force or a violent outcome, but it also allows the member to listen to and communicate productively with the person.
- 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.

F. Minors are particularly attuned to procedural justice. A minor’s earliest interactions with law enforcement can have a lasting impact on their perceptions of the legitimacy of the justice system and their likelihood of reoffending. Additionally, members should be mindful of the fact that not all problems that minors encounter are best dealt with by the criminal justice system, and diversion strategies may provide a more effective resolution than traditional enforcement methods (See P&P 8-100 and P&P 8-300).

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