

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

DATE ISSUED: September 12, 2023	DATE EFFECTIVE: September 15, 2023	NUMBER: SO23-026	PAGE: 1 of 11
TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: Manual Revision – 5-100 Code of Conduct <u>5-109 Malignment and Misinformation</u> 5-102 Professional Conduct			APPROVED BY: <i>Chief O'Hara</i>

MP-8806

Introduction: Chapter 5-100 is being updated to add policy 5-109 Malignment and Misinformation, which incorporates a clause from 5-102 ([III-D-2-i]).

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

5-109 Malignment and Misinformation
(09/15/23)

1. Employees shall not publicly criticize or ridicule the Department, its policies, the City, another employee, an elected official, or a member of the public, or other employees as to the performance of their duties in a manner which is defamatory, obscene, unlawful, or in any other manner which impairs the effective operation of the Department or in a manner which displays a reckless or knowing disregard for the truth. ~~This regulation shall not be construed so as to impair the exercise of free speech by employees on matters of public concern.~~
[Moved from 5-102]
2. Employees shall not knowingly disseminate (including verbally, in writing, electronically, etc.) any false information, or un-verifiable or un-substantiated rumors or gossip, about the Department, the City, another employee, an elected official, or a member of the public, in a manner which is defamatory, obscene, unlawful, or in any other manner which impairs the effective operation of the Department, or in a manner which displays a reckless or knowing disregard for the truth.

5-102 Professional Conduct

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

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)

I. Purpose

This policy is established in accordance with MN Statute section 626.8457 Subd. 2 to define unprofessional conduct and to govern the investigation and disposition of cases involving alleged unprofessional conduct by peace officers.

II. Policy

A. Investigation and Discipline

It is the policy of the Minneapolis Police Department to investigate circumstances that suggest a peace officer or other employee has engaged in unbecoming conduct and to impose disciplinary action when appropriate.

B. Use of Discretion

The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. When exercising such discretion, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

1. All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers shall be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution, Section 10 of the MN Constitution, MN statutes and MPD policies (such as P&P 9-200, P&P 7-601 and P&P 10-400).
2. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause.

C. Conduct that Detracts from the Public's Faith (Principle Two)

1. Employees shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system.
2. Employees shall carry out their duties with integrity, fairness and impartiality.

III. Procedures/Regulations

A. Obey Laws (Principle One)

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

1. Rationale

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

2. Rules

- a. Peace officers shall not knowingly exceed their authority in the enforcement of the law.
 - i. Officers shall not arrest any person or search any premises except with a warrant or where such arrest or search is authorized without warrant under the laws of Minnesota and the United States.
- b. Employees shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants, and preservation of evidence, except where permitted in the performance of duty under proper authority.
- c. Employees shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.
 - i. Officers shall not falsely arrest or direct any malicious prosecution against any person.
- d. Employees, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction.
- e. Employees must obey lawful orders, but an employee must refuse to obey any order the employee knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order the employee shall, if feasible, request the issuing employee to clarify the order. An employee refusing to obey an order shall be required to justify their actions.
- f. Employees will not, according to MN Statute section 626.863, knowingly allow a person who is not a peace officer to make a representation of being a peace officer or perform any act, duty or responsibility reserved by law for a peace officer.

B. Truthfulness

1. Rationale

Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The peace officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.

2. Scope

- a. These requirements apply to any report or communication, whether verbal or written, concerning official MPD or City business.
 - i. This includes information given to or intended for others.
 - ii. This includes information before courts or hearings.
- b. This includes questions about any action taken that relates to the employee's employment or position, regardless of whether such information is requested during a formal investigation or during the daily course of business.

3. Rules

Employees shall not willfully or knowingly make an untruthful statement or knowingly omit pertinent information, pertaining to their official duties or to their employment.

- a. Employees shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- b. Employees shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.

C. Impartiality (Principle Three)

Employees shall perform their duties and apply the law impartially and without prejudice or discrimination.

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.

2. Rules

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

- 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.
- ii. Employees shall not use any discriminatory, derogatory or biased terms regarding the characteristics described above.
- iii. Digital material is covered by P&P 5-107 and by the City's Electronic Communications policy.

D. Conduct that Discredits (Principle Four)

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

1. Rationale

A peace officer's ability to perform their duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Employees must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

2. Rules

- a. Employees shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in [c].
 - i. Off-duty employees shall not carry any firearm or ammunition while under the influence of alcohol or any controlled substance.
- b. Employees shall not consume alcoholic beverages to the extent the employee would be rendered unfit for the employee's next scheduled shift. An employee shall not report for work with the odor of an alcoholic beverage on the officer's breath.
 - i. No employee shall be under the influence of alcohol while on duty or while taking any off-duty law enforcement action (P&P 5-200).
 - ii. A reading of .02 blood/alcohol concentration is considered under the influence of alcohol.
 - iii. All alcohol testing shall be conducted in accordance with the conditions and procedures in P&P 3-1000.
- c. In accordance with P&P 3-501, employees shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed.

- i. When medications are prescribed, the employee shall inquire of the prescribing physician whether the medication will impair the employee in the performance of the employee's duties.
 - ii. The employee shall immediately notify the employee's supervisor if a prescribed medication is likely to impair the employee's performance during the employee's next scheduled shift.
 - iii. Employees shall not take any law enforcement action on or off-duty (P&P 5-200) while impaired by a controlled substance.
 - iv. All drug testing shall be conducted in accordance with the conditions and procedures in P&P 3-1000.
- d. Employees, whether on or off duty, shall not engage in any conduct which the employee knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law and in accordance with P&P 2-105, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
 - e. Employees shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
 - f. Employees shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the employee from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the employee from the petitioner's home or workplace.
 - g. Employees, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the MPD (see P&P 10-202).
 - h. Employees shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the employee or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the employee's personal or family relationships.
 - ~~i. Employees shall not publicly criticize or ridicule the Department, its policies or other employees as to the performance of their duties in a manner which is defamatory, obscene, unlawful, or in any other manner which impairs the effective operation of the Department or in a manner which displays a reckless or knowing disregard for the truth. This regulation shall not be construed so as to impair the exercise of free speech by employees on matters of public concern.~~

- ~~i. j-~~ Employees shall remain alert, observant, and occupied with Department and City business during their tour of duty.
- i. When on duty, employees shall devote their entire attention to the business of the Department and the City.
- ii. Employees shall not conduct personal or private business while on duty.
- iii. Officers shall not engage in policing for private interests while on duty.
- iv. Employees shall not take excessive time for meals.

E. Courtesy and Respect (Principle Five)

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

1. Rationale

Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.

2. Rules

- a. Employees shall exercise reasonable courtesy in their dealings with the public, other employees, superiors and subordinates.
 - i. Civilian employees shall give their name and employee number to any person upon request, and sworn employees shall identify themselves in accordance with P&P 5-104.
 - ii. Employees shall treat all fellow employees with respect and shall be civil at all times with one another.
 - iii. When on duty in the presence of other employees or the public, sworn employees should be referred to by rank.
 - iv. Employees performing official duties or representing the MPD shall not use derogatory, indecent or unnecessarily harsh language, whether spoken or in written materials or electronic communications.
 - aa. Employees performing official duties or representing the MPD shall not use profanity to insult, address or reference a person or group.
 - ab. Employees performing official duties or representing the MPD shall not otherwise use profanity while in the presence of the public, except when excusable due to an employee's response to an emergency.
- b. Employees shall not ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person.

- i. Employees shall not willfully mistreat or give inhumane treatment to any person held in custody.
- c. Employees shall promptly advise any inquiring citizen of the complaint procedure and shall follow the established policy for processing complaints, in accordance with the Complaint Process Manual.

F. Avoiding Influence (Principle Six)

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

1. Rationale

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

2. Rules

- a. Employees shall not use their official position, identification cards or badges for: (1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.
- b. Employees shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the Chief.
- c. In accordance with P&P 5-105, employees shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- d. Unless required for the performance of official duties, employees shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit employees from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- e. Employees shall:
 - i. not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection with advertisements for any product, commodity or commercial enterprise (in accordance with P&P 1-306);
 - ii. maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
 - iii. not endorse or oppose political candidates while on duty or while wearing the MPD's official uniform (in accordance with P&P 1-306).

- f. This section does not prohibit employees from expressing their views on existing, proposed or pending criminal justice legislation, as may be required by their duties in their official capacity.

G. Conflicts of Interest (Principle Seven)

Employees shall not compromise their integrity, nor that of their agency or profession, by taking or attempting to influence actions when a conflict of interest exists.

1. Rationale

For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies, employees must avoid taking or influencing official actions where those actions would or could conflict with the employee's appropriate responsibilities.

2. Rules

- a. Unless required by law or policy an employee shall refrain from becoming involved in official matters or influencing actions of other employees in official matters impacting the employee's immediate family, relatives, or persons with whom the employee has or has had a significant personal relationship.
- b. Unless required by law or policy an employee shall refrain from acting or influencing official actions of other employees in official matters impacting persons with whom the employee has or has had a business or employment relationship.
- c. An employee shall not use the authority of their position as an employee or information available to them due to their status as an employee for any purpose of personal gain including but not limited to initiating or furthering personal or intimate interactions of any kind with persons with whom the employee has had contact while on duty.
 - i. Employees shall not make referrals to any attorney or other business from on duty contacts.
- d. In accordance with P&P 3-801, an employee shall not engage in any off-duty employment if the position compromises or would reasonably tend to compromise the employee's ability to impartially perform the employee's official duties.
- e. Employees shall not interfere with any criminal investigation being conducted by this Department or any other law enforcement agency.
 - i. Employees shall not knowingly communicate in any manner, either directly or indirectly, any information that may assist persons suspected or accused of criminal acts to escape arrest or punishment or which may enable them to dispose of evidence.
 - ii. Employees shall not recommend a dismissal, reduction of charges, or other disposition of a pending criminal case which has been previously filed in any

criminal court or before a grand jury except by written approval of their division commander. A copy of the approval will be kept in the case file.

- iii. Employees shall not interfere with the attendance of witnesses or their testimony through coercion, bribery or other means.
- iv. Employees shall not attempt to have any traffic citation reduced, voided, or stricken from the calendar for personal or monetary consideration. See P&P 7-608 Dismissal of Traffic/Parking Charges and Citations regarding the dismissal process.
- f. Officers shall not render aid or assistance in civil cases except to prevent an immediate breach of the peace or to quell an existing disturbance. Officers may inform any citizen of the steps necessary to institute a civil suit or advise citizens on protecting their rights.

H. Record and Confidentiality (Principle Eight)

Employees shall observe the confidentiality of information available to them due to their status as employees.

1. Rationale

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

2. Rules

- a. In accordance with P&P 4-500, employees shall not knowingly violate any legal restriction for the release or dissemination of information.
- b. Employees shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
- c. In accordance with P&P 4-500, employees shall not divulge the identity of persons giving confidential information except as required by law or MPD policy.
- d. In accordance with P&P 4-500, employees shall not give any lawyer, bondsman, agent of either, or any other person unauthorized or confidential information regarding prisoners in confinement, suspects in a case, property held, or records of the Department.
- e. Employees shall not knowingly remove or destroy, or cause such action, to any report, document, or record without authorization.

I. Application

Any disciplinary actions arising from violations of this policy shall be investigated in accordance with P&P 2-100, MN Statute section 626.89, Peace Officer Discipline Procedures Act and the MPD's policy on Allegations of Misconduct as required by MN Rules sections 6700.2000 to 6700.2600.