



Plymouth County Sheriff's Department

Joseph D. McDonald, Jr. Sheriff

POLICY 239

NUMBER OF PAGES 8

RELATED STANDARDS

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**Sexual Harassment,  
Harassment and Discrimination**

Plymouth County Sheriff's Department

POLICY

NUMBER OF PAGES

Section



Joseph D. McDonald, Jr. Sheriff

RELATED STANDARDS

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APPROVED:

Joseph D. McDonald Jr. Sheriff

DATE:

4-13-2012

**I. Purpose**

The purpose of this document is to make clear the Plymouth County Sheriff's Department policy concerning all forms of Sexual Harassment and / or Discrimination.

**II. Policy Statement**

- A. It is a policy of the Plymouth County Sheriff's Department that all employees of this Department be treated with dignity and respect. No employee should be subjected to any form of unlawful discrimination or sexual harassment by management, supervisors, co-workers or those who have business dealings with the Plymouth County Sheriff's Department.
  - 1. Sexual Harassment and / or Discrimination of any kind occurring in the work place or in any other work-related setting, will not be tolerated,
- B. Further, any retaliation against an individual complaining about such conduct or cooperating with the investigation of claims of Sexual Harassment and / or Discrimination is also unlawful and will not be tolerated.
  - 1. Any employee who engages in such conduct will be subject to immediate disciplinary action, including, immediate termination.
- C. Each supervisor and member of management is responsible for creating an atmosphere and environment free from sexual harassment and discrimination. Employees are responsible for respecting the rights of their co-workers.
- D. Supervisors and managers will not tolerate or condone such behavior, witnessed or which is brought to their attention:
  - 1. They will counsel and assist employees in resolving problems in accordance with this policy.
  - 2. When a supervisor or manager becomes aware of any discriminatory or sexual harassing behavior, s/he will immediately notify the Director of Human Resources to request initiation of the procedures provided in this policy.
- E. The Director of Human Resources will be responsible to:
  - 1. Consult with the Department's Legal Division to determine whether further review and / or investigation is warranted.
  - 2. Notify the Special Investigations Division of the complaint when further review and / or investigation is warranted.
- F. Supervisors / managers who fail to fulfill their responsibilities, in accordance with this policy, will be subject to discipline for failure to act upon complaints or take action if they knew or should have known of prohibited behavior.
- G. Consistent with Department policy, complaints made or information given regarding Sexual Harassment and / or Discrimination which are knowingly false will subject the offending employee to discipline up to and including discharge, and may subject the offender to civil and/or criminal penalties.

**III. Definitions**

Department – The Plymouth County Sheriff's Department.

Discrimination – Conditions of differential treatment, favoritism, or bias, which are non-merited or unwarranted and may be relative to race, color, religion, national origin, ancestry, sex, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status. These conditions, if sufficiently severe or pervasive create a hostile work environment.

Facility – The Plymouth County House of Correction and Jail Complex. (The Plymouth County Correctional Facility)

Harassment – refers to behavior which is not welcome, which is offensive, affects morale and therefore, interferes with the work effectiveness of its victims and, often, co-workers when such behavior is on the basis of race, color, religion, national origin, ancestry, sex, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status.

Hostile Environment - Behavior of a sexual nature that has the purpose or effect of unreasonably interfering with work performance, or behavior of a sexual nature that has the purpose of creating an intimidating, hostile, humiliating, or sexually offensive work environment

OR

harassment or abuse based on race, color, religion, national origin, ancestry, sex, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status, sufficiently severe and pervasive to interfere with a reasonable person's work performance.

Sexual Harassment – includes advances of a sexual nature, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment, or as a basis for employment decisions; or
2. Such advances, requests, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive working environment.
3. Sexual harassment is not limited to conduct by a male employee towards a female employee.
  - a. The victim may be male or female.
  - b. The harasser may be male or female.
  - c. The victim and harasser may also be of the same sex.

Hostile Environment - Behavior of a sexual nature that has the purpose or effect of unreasonably interfering with work performance, or behavior of a sexual nature that has the purpose of creating an intimidating, hostile, humiliating, or sexually offensive work environment.

"Quid Pro Quo" – means "this for that" and refers to circumstances when submission to, or rejection of sexual advances, requests, or behavior is made *explicitly or implicitly a term or condition of employment, or the basis for an employment decision.*

Retaliation – Any adverse action taken against an employee who complains about sexual harassment and / or discrimination or cooperates in any investigation of a sexual harassment, harassment and / or discrimination complaint.

**IV. Employee Responsibilities**

- A. Employees are responsible for their conduct and ensuring that their behavior does not in any way or manner, verbally or by action, sexually harass or discriminate against any person s/he may come in contact with during the performance of their duties.
- B. Each employee, supervisor and manager is required to fully cooperate in any investigation regarding the allegation of Sexual Harassment and / or Discrimination.
- C. Every supervisor and / or manager is required to intervene and stop any retaliation, Sexual Harassment and / or Discrimination they witness, or is reported to them or learned of, and to immediately report it to the Director of Human Resources.
  - 1. A written report detailing the incident should also be filed with the Director of Human Resources as soon as possible.
  - 2. Supervisors will be responsible for wrongful conduct of which they have known or should have known.
- D. All employees who have witnessed prohibited conduct are required to report the conduct immediately.
- E. Relations between supervisors and subordinate employees should be friendly in aim, yet impartial. Supervisors and / or managers are required to disclose personal relationships of a romantic nature, with a subordinate, in writing to the Director of Human Resources.

**V. Examples Of Prohibited Conduct**

Examples of prohibited conduct include, but are no limited to:

- A. Any form of retaliation because an individual has refused to engage in social and/or sexual behavior; or has complained of Sexual Harassment and / or Discrimination or cooperated in an investigation of a Sexual Harassment and / or Discrimination complaint, to include, but is not necessarily limited to:
  - 1. Not granting promotions or lateral moves,
  - 2. Making negative statements about the victim's personal or work conduct,
  - 3. Demoting an employee,
  - 4. Salary or benefit increases.
  - 5. Refusing to enforce disciplinary measures against an inmate who has been identified as harassing another staff member, and / or otherwise condoning such behavior;
- B. Touching a person on any part of the body in an unprofessional manner, including, but not limited to:
  - 1. Pinching
  - 2. Groping
  - 3. Kissing
  - 4. Patting
- C. Continuing to ask a person to socialize after work when that person has verbally indicated no interest in such activities;

- D. Displaying sexually explicit pictures, objects, cartoons or posters;
- E. Dissemination of sexually explicit voice mail, e-mail, graphics, downloaded material or websites;
- F. Referring to or calling a person an endearing, demeaning, or sexualized term;
- G. Use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life and/or sexual orientation, comment on an individual's body;
- H. Unwelcome sexual advances – whether they involve physical touching or not;
- I. Leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- J. Inquiries into one's sexual experiences;
- K. Discussion of one's sexual activities.
- L. Harassment on the basis of their race, color, religion, national origin, ancestry, sex, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status
- M. Discrimination, as defined by law.

#### **VI. Complaint Procedure**

- A. An employee who perceives any comments, gestures or other actions of another employee including a supervisor, contractor, a volunteer or visitor to be sexually harassing or discriminating should communicate to that person that such behavior is unwelcome. However, failure to express that the actions / statements are unwelcome will not prevent the employee from filing a complaint, nor will it exonerate a harasser,
- B. Complaints of sexual harassment and / or discrimination shall be processed in accordance with the following procedures:
  - 1. Step One : If an individual believes s/he is being sexually harassed, or discriminated against, the individual should immediately:
    - a. Firmly confront the harasser,
    - b. State the conduct which you object to,
    - c. Indicate that you find such conduct offensive, intimidating and/or embarrassing;
    - d. Insist that s/he stop the conduct immediately,
    - e. Report the harassment to their supervisor, the Director of Human Resources, the Personnel Manager or any staff member of the rank of Lieutenant or above.

NOTE: In some instances, the employee may be reluctant to confront the harasser directly, particularly when the harasser is the employee's immediate supervisor. In such cases, the employee can go directly to Step Two.

- 2. Step Two : An individual who wants to discuss his/her situation or make a complaint should immediately contact his/her supervisor, department head, the Director of Human Resources, the Personnel Manager or any staff member of the rank of Lieutenant or above. You should bring with you all documentation or other corroboration of the sexual harassment and / or discrimination which you might have.
  - a. A written complaint should be filed with the Director of Human Resources or the Personnel Manager.

- b. The following information from the employee making the complaint is required:
  - 1. A description of the incident(s) and the conduct objected to, specific words used and/or actions made,
  - 2. The name of the alleged offender,
  - 3. Date(s) and time(s) the incidents took place,
  - 4. Location(s) of each incident,
  - 5. The name(s) of any witnesses,
  - 6. Any other details or information requested by the Director of Human Resources or the Personnel Manager.
- c. While a written complaint is usually the most efficient and effective way to deal with such complaints, an individual may initiate these procedures by making an oral report.

- C. Complaints of harassment against an inmate will be handled in accordance with Policy 430, Inmate Disciplinary Plan and any other relative Department Policy and Procedure.

## **VII. Investigation and Resolution of Complaints**

Upon receiving a complaint of sexual harassment or discrimination, supervisors / managers will:

- A. Immediately inform the Director of Human Resources of this fact.
- B. Any investigation shall include separate interviews with the complainant, the person charged, and any relevant witness(es), and getting written reports from all those interviewed.
- C. Any questions posed in the Department's investigation of harassment shall be respectful of the rights of employees and unions under Massachusetts General Law. 150E.
- D. Written documentation of any investigation will be filed by the Investigating Officer as assigned by the Sheriff or designee, directly to the Legal Division.
- E. The Legal Division will forward any investigative reports along with a recommendation directly to the Sheriff or his designee.
- F. To the extent appropriate the Department will inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

## **VIII. Department Action**

- A. The Plymouth County Sheriff's Department views allegations and concerns about Sexual Harassment and / or Discrimination very seriously and will respond promptly and decisively to instances where complaints of such conduct are brought to our attention by use of the established procedures which are set out and explained in this written policy.
- B. Where it has been demonstrated to our satisfaction that unlawful or inappropriate conduct has occurred, the Department will promptly act to deal with and eliminate any such conduct. Plymouth County Sheriff's Department will impose such corrective action as is necessary up to and including termination.
- C. An employee who is found to have engaged in conduct which constitutes Sexual Harassment and / or Discrimination, retaliation (or any other improper conduct) will be subject to disciplinary action up to and including discharge.
  - 1. Records of disciplinary actions will be made a part of the employee's personnel record.

2. Employees should be aware that engaging in Sexual Harassment and / or Discrimination can result in civil and/or criminal penalties.
- D. Volunteers and contractors found to have engaged in conduct which constitutes Sexual Harassment and / or Discrimination or retaliation will be subject to action up to and including:
1. Loss of contract for services,
  2. Revocation of access, etc.,
  3. And can be subject to civil and/or criminal penalties.
- E. Visitors to the facility found to have engaged in conduct which constitutes Sexual Harassment and / or Discrimination or retaliation will be subject to, but not necessarily limited to:
1. Restriction or denial of further access to the facility,
  2. And can be subject to civil and/or criminal penalties.
- F. Consistent with Department policy, complaints made or information given regarding Sexual Harassment and / or Discrimination which are knowingly false will subject the offending employee to discipline up to and including discharge, and may subject the offender to civil and/or criminal penalties.

#### **IX. Reviews and Appeals**

- A. The General Counsel will:
1. Maintain confidential files of all Sexual Harassment and / or Discrimination cases filed;
  2. Review such documentation for compliance with Department policy and law and appropriate decisions;
  3. Advise and make recommendations to managers and supervisors for improvement of their handling of such complaints;
  4. Monitor such complaints and advise and make recommendations to the Sheriff as to trends, problems, etc., for the improvement of the Department's management and policy with respect to harassment or discrimination.
- B. Complainants may file complaints directly with, any appropriate county, state, or federal agency, or court, as provided by law.
1. The Massachusetts Commission Against Discrimination (MCAD) enforces the state law prohibiting sexual harassment and may be reached as follows:  
  
Massachusetts Commission Against Discrimination  
One Ashburton Place, Room 601  
Boston, Massachusetts 02108-1532  
Telephone: 1-617-727-3990  
  
Massachusetts Commission Against Discrimination  
436 Dwight Street, Suite 220  
Springfield, Massachusetts 01103  
Telephone: 1-413-739-2145

2. The Equal Employment Opportunity Commission (EEOC) enforces the federal law prohibiting sexual harassment and may be reached as follows:

Equal Employment Opportunity Commission  
One Congress Street, Room 1001  
Boston, Massachusetts 02114  
Telephone: 1-617-565-3200

Equal Employment Opportunity Commission  
1801 L Street N.W.  
Washington, DC 20507  
Telephone: 1-202-663-4900

**X. Confidentiality**

While there can be no guarantee of complete confidentiality, the investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

**XI. Applicability**

This policy applies to all department employees, contractors, volunteers, visitors and inmates.

**XII. Responsible Staff**

The Superintendent, Assistant Superintendent of Field Services, Director of Human Resources, Director of the Civil Division, Assistant Superintendent of BCI and General Counsel, will be responsible for implementing and monitoring this policy in their respective areas of responsibility.

**XIII. Attachment List**

The following attachments are included with this document:

1. Complaint Form: Report of Harassment
2. Policy Receipt Form