

Sheriff's P&P 3.47 Discrimination and Sexual Harassment

Policy Review for New Sheriff's Supervisors and Experienced Supervisors promoting to a new position



As a *new Sheriff's supervisor or an experienced supervisor promoting* to a new position, you are required to review the Sheriff's Policy and Procedure 3.47 Discrimination and Sexual Harassment **within 30 days** of your new assignment. P&P 3.47 follows this coversheet, and can also be found on the SharePoint site under Policy and Procedures.

Required Training for a new Sheriff's supervisor

Every two years, the State of California mandates a 2-Hour Sexual Harassment Prevention for Supervisors Training for all supervisory classes. The two-hour State-mandated course (AB 1825) defines sexual harassment, identifies potential harassing, discriminatory, and abusive conduct, and reviews policies and presents strategies to prevent and report sexual harassment in the workplace. This is an on-line training in the LMS.

The Department also requires a week long in-house Supervisor Training for *all first time supervisors* within a year of your promotion. Please email Patty Aline Patty.Aline@sdsheriff.org to get on the list for the next class.

In addition to the in-house class, new *Sheriff's Sergeants* please email Sheriff's In-Service ITrainclass@sdsheriff.org to be placed on the POST 80 Hour Supervisor class list.

New Detentions/Courts Sergeants will be contacted by Detentions Training Unit about additional supervisor training requirements.

Call us with your Questions

Sheriff's Employee Relations	(858) 974-2019 or (858) 974-2041
Sheriff's Internal Affairs	(858) 974-2065
Sheriff's Legal Affairs	(858) 974-2255

**3.47 DISCRIMINATION AND
SEXUAL HARASSMENT**

The San Diego County Sheriffs Department is committed to the basic foundation of human rights for all Department employees, including the right to exist peacefully, the pursuit of tolerance and understanding of others, and the right to seek fair play and self-determination.

In keeping with this commitment, it is this Department's goal to provide a work environment in which all individuals are treated with respect and dignity, free from discrimination. Each individual has the right to work in a professional atmosphere which promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. (Reviewed 05/01/15)

3.47 DISCRIMINATION AND SEXUAL HARASSMENT

Title VII of the U. S. Civil Rights Act of 1964 and Section 12940(h) of the California Government Code (Fair Employment and Housing Act) prohibit discrimination and sexual harassment. Discrimination and sexual harassment, whether verbal, physical, or environmental, is illegal, unacceptable and will not be tolerated within the San Diego County Sheriff's Department. This policy applies to all phases of pre-employment and employment.

Discrimination Definition

Discrimination is defined as unequal treatment of employees or applicants for employment (without adequate justification) because of their race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, gender, age, sexual orientation, political beliefs or other non-merit factors.

Sexual Harassment Definition

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, constitutes sexual harassment when:

- Submission of such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or,
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

➤ **Note: Sexually harassing conduct need not be motivated by sexual desire.**

Prohibited Discrimination and Sexual Harassment Behaviors Include

- Verbal Harassment

Repeated, unsolicited, derogatory comments, epithets, slurs, jokes, rumors or continued requests for social or sexual contact after being advised such behavior is unwelcome.

Generalized sexist statements and behavior not necessarily designed to elicit sexual cooperation but to convey insulting, degrading and/or sexist attitudes.

- Written Harassment

Sexually suggestive or obscene letters, notes, or invitations.

- Physical Harassment

Unwanted touching, physical interference or contact which impedes normal work movement when directed at an individual.

- Visual Harassment

Derogatory and/or sexually oriented pictures, posters, cartoons, or drawings, staring and/or leering.

San Diego County Sheriff ' s Department - Procedure Section

- Sexual Favors

Sexual advances which condition an employment benefit in exchange for sexual favors, or which may be perceived as such. Usually known as "quid pro quo" or "this for that" involving a person in a position of power over another.

Employee Rights

Department employees are assured the following rights:

- The right to a work environment free from discrimination and sexual harassment.
- The right to a full, impartial, and prompt investigation by management or a designee of a complaint regarding discrimination and/or sexual harassment.
- The right to a timely decision on a complaint after the full investigation has been completed.
- The right to file a complaint of discrimination or sexual harassment in employment with the State Department of Fair Employment and Housing and/or Federal Equal Opportunity Commission without seeking resolution through the Department.
- The right to file a complaint or be a witness to a complaint without fear of employer or employee retaliation.
- The right to confidentiality to the extent allowable in the normal scope of conducting an investigation.

Employee's Role and Responsibility

There is no intent by this Department to regulate or control any personal, private relationships or social interactions of employees which are freely entered into by both parties.

It is this Department's expectation that employees will set an example of acceptable conduct by not participating in or condoning behavior that is offensive.

The following are suggestions for all employees to help establish and maintain a professional and healthy working environment, while at the same time preventing discrimination and sexual harassment from occurring:

- Make it absolutely clear that you are not interested in or flattered by uninvited, unwelcome discriminatory behavior, sexual advances or other inappropriate behavior.
- When appropriate, warn the harasser that the particular behavior is offensive and unwelcome. Be specific in advising the harasser about what conduct is offensive and unwelcome. Make it clear that you will take official action if the behavior continues. If you foresee a problem, document the incident.
- If the harassing behavior continues, notify your immediate supervisor or any supervisor, up to and including the Sheriff's Office, and document the notification. It is the employee's responsibility to bring discrimination and sexual harassment behavior to the attention of a supervisor to ensure proper follow-up action.

NOTE: You are not required to follow the chain of command when notifying the department of discrimination or sexual harassment behavior.

This Department prohibits any retaliation against the complaining party or witnesses supporting that individual.

Appropriate disciplinary action will be taken against all individuals found to have subjected any party involved in this process to retaliation.

Supervisor's Role and Responsibility

SECTION 3 Personnel

San Diego County Sheriff ' s Department - Procedure Section

- It is the responsibility of all supervisors to establish and maintain a working environment which is free from discriminatory intimidation, ridicule, and insult.
- Individual supervisors are responsible to report and/or effectively resolve all known discrimination and/or sexual harassment incidents.
- Any supervisor who is informed or becomes aware of a suspected discrimination and/or sexual harassment incident shall take prompt corrective action.
- It is the supervisor's obligation to document all incidents, and action taken thereafter, involving allegations of discrimination and sexual harassment. Whether the complaining party requests formal or informal action, the supervisor must follow through, either by the formal complaint process or by admonishing the harasser and documenting the incident.

Complaint Procedure

- It is the responsibility of all Sheriff's supervisors and managers to investigate and resolve any incidents or complaints of discrimination and/or sexual harassment. Whenever possible, complainants should first be directed to the employee's immediate supervisor. If circumstances dictate other action, employees may go to ANY supervisor to report the complaint.

Alternative methods of reporting are available to employees through the following agencies:

Employee Relations Division
9621 Ridgehaven Court
San Diego, CA 92123
(858) 974-2264

San Diego Sheriff's Department Internal Affairs Unit
9621 Ridgehaven Court
San Diego, CA 92123
(858) 974-2065

San Diego County Office of Ethics and Compliance (OEC)
1600 Pacific Highway,
Room 260
San Diego, CA 92101
(619) 531-5588

California State Department of Fair Employment and Housing (DFEH)
1-800-884-1684

Federal Equal Employment Opportunity Commission (EEOC)
555 West Beech Street Suite #504
San Diego, CA 92101
(619) 557-7274

- Supervisors receiving the complaint shall carefully and objectively listen to and evaluate the complaint. Supervisors will promptly and clearly inform the employee of his or her rights and how to protect them.

SECTION 3 Personnel

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The supervisor shall conduct an investigation to determine whether or not wrongful conduct has been committed and take appropriate action. The investigation should include talking with the accused harasser and any witnesses.

If a formal complaint is requested, the employee and/or supervisor will fill out a citizen's complaint form and forward it to the Internal Affairs Unit for follow-up and investigation.

If a formal complaint is not requested but, in the supervisor's opinion, is warranted, the same procedures apply.

If it is requested and warranted for the complaint to be handled on an informal basis, the supervisor should exercise discretion in effectively resolving the situation. The supervisor shall document the incident and all follow-up actions. The documentation shall be kept in the counseled employee's station performance file in accordance with Policy and Procedure Sections 3.3 and 3.20.

In any event, the supervisor will take action to stop the harassment and prevent any future incidents or retaliation against the complainant.

All situations which may involve discipline will be handled in accordance with the Peace Officer's Bill of Rights (Government Code 3300-3311) and Department Policy (Section 3.3 and 3.20). During the course of the investigation, the Department may temporarily or permanently reassign an involved subject(s) pending completion of a complaint.

Additional Assistance/resources

Supervisors and employees who are unsure how to proceed with a complaint or situation of this type may contact the Sheriff's Employee Relations Manager for additional information and guidance. (06-06-14)

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **SEXUAL HARASSMENT COMPLAINT PROCEDURE** POLICY NUMBER: **111**

EFFECTIVE DATE: **June 20, 2000**

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REVISED DATE: **March 2015**

POLICY

It is the policy of the Board of Supervisors that the County of San Diego will provide a work environment free of sexual harassment.

Definition of Sexual Harassment:

The Federal Equal Employment Opportunity Commission defines sexual harassment in the workplace as unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

EMPLOYEE RIGHTS

1. To a harassment-free work environment.
2. To present a complaint to a Departmental Human Resources Officer or manager in the employee's chain of command, who will discuss the matter only with those persons having a business need to know.
3. To an impartial and prompt investigation by a Departmental Human Resources Officer or other trained investigator. The investigator will treat the matter as confidential to the extent possible, but information will need to be communicated to those with a need to know.
4. To review the findings and conclusions from the investigation into the matter.
5. To a timely decision from the appointing authority, or designee, after full consideration of all relevant facts and circumstances.
6. To be represented by a person of the complainant's choosing at all steps of the process.
7. To be free from reprisals after filing a complaint.
8. To have the appointing authority personally receive those complaints that employees feel uncomfortable discussing with managers at lower levels of the organization.

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PROCEDURE

In the interest of ensuring that all concerned be aware of their individual responsibilities in connection with sexual harassment allegations, the following information is provided.

Note: All alleged incidents of sexual harassment will be investigated, to the extent that the County deems appropriate, in a thorough, impartial and confidential manner. Every effort will be taken to complete a Departmental investigation within thirty calendar days of receiving a written complaint.

Steps To Take In The Event of Sexual Harassment:

Responsibility of Employee Who Feels Harassed:

The County strongly encourages any employee who feels that he/she has been subject to harassment or other offensive conduct to let the offending person know immediately and firmly that the conduct at issue is unwelcome, offensive, and inappropriate and must stop.

1. If an employee who feels he/she has been harassed is not satisfied with the offending person's response or prefers not to confront the offending person, the employee is encouraged to immediately report the conduct to his/her supervisor, Departmental Human Resources Officer, or manager in the individual's chain of command.

The conduct should be reported within 20 calendar days but not later than one year following a specific single incident or recognition that he/she was being subjected to sexual harassment.

Note: If the harassment is of such a nature as to dissuade an individual from reporting it within his/her Department, he/she may report it directly to the Director of the County's Office of Ethics and Compliance (OEC) or the Director of Human Resources.

2. The employee should prepare and submit a written report of the facts of the incident(s) and the name(s) of the individual(s) involved, using the report form attached to this policy.

Note: Employees who feel they have been discriminated against with regard to any personnel action(s) may file a formal complaint with the Civil Service Commission under Civil Service Rule VI.

3. The employee should cooperate in any investigation of the reported conduct, and should treat the matter as confidential.
4. If the employee is not satisfied with the Department's response, the employee may file a request with the OEC for review and conciliation.

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If the final response of the appointing authority and/or OEC is not satisfactory, the employee may file a complaint with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).

Responsibility of Observer of an Apparent Inappropriate Action or Work

Environment

1. Promptly document your observations in case of an investigation.
2. Report observations to your supervisor. If you are a supervisor, you should report your observations to the Departmental Human Resources Officer or the supervisor(s) of the employee.

Responsibility of Alleged Harasser

1. Stop the behavior alleged to be offensive.
2. Take the complaint seriously.
3. Promptly document what occurred.
4. Keep your own records.
5. Cooperate with any investigation.

Responsibility of Supervisor and/or Departmental Human Resources Officer

All supervisors should exercise reasonable care in preventing harassment by working with the appropriate officials. Any supervisory/management employee who receives a complaint or learns of a potential violation should promptly report the incident to his/her superiors and/or a Departmental Human Resources Officer, and if necessary, take immediate action to diffuse volatile circumstances.

A. Initial Action:

1. Take the complaint seriously. Do active listening.
2. Discuss with the employee. Ask the employee to document the complaint on the County's report form and ask the employee to sign the documentation. If the employee refuses to prepare and/or sign a report, note that your documentation of the information provided was read to and understood by the employee.
3. If necessary, contact County Counsel or the OEC for technical advice.
Note: If management determines a detailed, fact-finding investigation is necessary, proceed to B.
4. Discuss with the alleged harasser, advising about the County's sexual harassment policy and definition of sexual harassment.
5. Document the actions taken regarding the complaint at each step.
6. If possible, meet with the employee and the alleged harasser to achieve a closure where each has a mutual understanding of the issue and its resolution.
7. Follow up with the employee to ensure that the issue is resolved.

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8. Promptly submit written report of findings and recommendation(s) for any further remedial action to the appointing authority. All written documentation is to be kept in the Department's confidential files. Any personnel or other remedial action should also be kept in the Department personnel file of the employee(s) who received it. If this documentation includes formal discipline, then it shall also be placed in Department of Human Resource's master file.

B. If harassment is repeated and/or if management has determined that a more detailed fact-finding investigation is necessary:

1. Formally investigate or request superior to initiate a formal investigation. Continue written documentation.
2. Advise the alleged harasser of the complaint, of the County's sexual harassment policy and of the potential for disciplinary action. Document the discussion with the alleged harasser.
3. Get witness reports (do not coerce). Ask open-ended questions.
4. Establish factual evidence; make factual conclusions on whether sexual harassment policy was violated. Recommend actions in conjunction with Departmental Human Resources Officer to appointing authority.
5. Advise employee that recommended remedial actions constitute resolution of the issue. Ask employee to report any further harassment or retaliation.
6. Promptly submit written investigative report of findings and recommendation(s) for any further remedial action(s) to the appointing authority. All written documentation is to be kept in the Department's confidential files. Any personnel or other remedial action should also be kept in the Department personnel file of the employee(s) who received it. If this documentation includes formal discipline, then it shall also be placed in Department of Human Resource's master file.

Note: In all cases, the Departmental Human Resources Officer should keep the appointing authority fully informed of the status of the complaint, actions taken and progress made.

Responsibility of Appointing Authority

1. Take final action toward complaint resolution.
2. Promptly send copy of final investigative report and description of final action to OEC within 30 calendar days after final action.
3. If charging employee indicates the complaint was not resolved to his/her satisfaction, advise employee of right to file a request for review and conciliation with OEC or a complaint with the CSC (Rule VI for Discrimination Complaints), and/or a complaint with the California DFEH and/or the Federal EEOC.

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4. If, upon completion of an investigation, there is a finding that the County of San Diego's policy on sexual harassment was violated, take remedial action and/or issue discipline following consultation with the Department of Human Resources and County Counsel as appropriate to individuals who are guilty of, and supervisors and/or managers who permit such activity or offensive work environment to occur. Disciplinary action may range from a memorandum of discussion to termination, depending on the severity of the offense. In addition, the appointing authority should be alert to instances where referral for training and/or counseling may be appropriate. Victims and offenders also may be referred to the Employee Assistance Program.
5. Take any actions as necessary to protect complaining parties and witnesses against any reprisals by other County employees.

For further information regarding this policy, please contact Department of Human Resources (619) 531-5100.

REFERENCES

Administrative Manual, 0010-11, Discrimination Complaint Procedures (Internal)
Administrative Manual, 0010-13, Departmental Employee Discrimination Complaint Procedure
Board of Supervisors Policy C-22, Sexual Harassment Policy

SUPERCEDES

DHR Policy 1140, Procedures for Dealing with Alleged Sexual Harassment; and DHR Policy 111, revised July 15, 2003.

APPROVED BY:

Original document approved and signed by Susan Brazeau on 03/16/2015.

Susan Brazeau, Director
Department of Human Resources

DHR POLICY NUMBER 111 ATTACHMENT

SEXUAL HARASSMENT INCIDENT(S) REPORT

The following guidelines are intended to clearly document the incident(s) of sexual harassment
(Please attach additional pages as needed):

1. Name of reporting employee/individual: _____

2. Name(s) of alleged harasser(s): _____

3. Relationship of accused to reporting employee: _____

4. When/where incident(s) occurred:

5. Describe the incident(s):

6. Describe any related history leading up to the incident(s):

7. Recount specific language of the incident(s) of alleged sexual harassment:

8. Describe any physical contact relative to the sexual harassment incident:

9. List any names of witnesses and describe any action(s) they took:

10. List names of any supervisory staff that have knowledge of the incident:

Acknowledgement:

I have read and reviewed the information contained in this report. I agree that this report accurately describes the incident(s) to the best of my understanding.

Reporting Employee / Individual

Date