



Jeffrey R. Gahler.  
Sheriff

# HARFORD COUNTY SHERIFF'S OFFICE PERSONNEL POLICY

## Sexual Harassment/Workplace Harassment/ Discrimination

<b>Distribution:</b>	<b>All Employees</b>	<b>Index:</b>	<b>PER 0301</b>
<b>Responsible Unit:</b>	<b>Human Resources</b>	<b>Rescinds:</b>	<b>MAN5700</b>
<b>DLI Program:</b>		<b>MD Code:</b>	<b>See References</b>

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### 1. Purpose

To provide agency members with a workplace free from sexual harassment and discrimination and maintain a zero tolerance in dealing with any forms of sexual harassment, workplace harassment, or discrimination.

### 2. Policy

The Harford County Sheriff's Office prohibits discrimination and/or harassment based on age; ancestry; color; creed; gender identity or expression; genetic information; marital status; mental or physical disability; national origin; pregnancy; race; religious affiliation, belief or opinion; sex; or sexual orientation; or any other attribute protected by law.

### 3. Definitions

**DISCRIMINATION:** The unequal treatment of persons for reasons unrelated to ability, including those acts prohibited by Federal and State law.

**HARASSMENT:** The unwelcome conduct toward an individual because of sex, race, color, age, disability (mental or physical), religion, marital status, sexual orientation, ancestry or national origin, or any other attribute protected by law.

**RETALIATION:** Taking action against an employee because he has opposed any unlawful employment practice, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under 42 USC, Section 2000e - 3(a).

### 4. References

42 U.S.C. 2000e, Equal Employment Opportunities.

29 C.F.R. § 1604.11.

EEOC Policy Guidance on Sexual Harassment, Number N-915-050 (1990). et seq.

International Association of Chiefs of Police Model Policy, *Harassment & Discrimination*.

## 5. Procedures

- A. Discrimination and/or harassment based on age; ancestry; color; creed; gender identity or expression; genetic information; marital status; mental or physical disability; national origin; pregnancy; race; religious affiliation, belief or opinion; sex; or sexual orientation is prohibited by the statutes, rules and regulations in Subsection 4, above.
- B. The policies and procedures contained in this section apply to all employee-to-employee and employee-to-citizen contacts as listed in subsection E of this section.
- C. Harassment
  - 1. May be present in varying degrees.
  - 2. Is generally applied or defined by the individual or group affected;
  - 3. Includes:
    - a. using or condoning the use of derogatory or demeaning words, phrases, written material or mimicking; or
    - b. retaliating or encouraging retaliation against a person who is exercising his rights concerning discriminatory acts.
- D. Sexual Harassment
  - 1. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
    - a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
    - b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
    - c. such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
  - 2. Sexual harassment is an infringement of an employee's right to work in an environment free from unwanted sexual attention and sexual pressure of any kind.
  - 3. Sexual demands in the work place, especially between a supervisor and a subordinate may threaten a person's economic livelihood and create an atmosphere that is not conducive to maximum productivity.
  - 4. Sexual harassment does need not to involve a male supervisor and a female subordinate. It may also apply in reverse. Pressure can be directed by a person of either sex against a person of the opposite or same sex or from a co-worker or a supervisor.
  - 5. The victim may not be the person harassed but could be anyone affected by the offensive conduct.
  - 6. The following is a partial list of the types of activities which could be considered sexual harassment depending on the facts and circumstances:

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- a. unwanted or offensive physical touching;
  - b. "off color" jokes;
  - c. unwanted, unwelcome and unsolicited propositions or gifts;
  - d. offensive language;
  - e. holding up to ridicule a member of one sex to others;
  - f. the placement of sexually explicit material in the work areas, social or electronic media and/or in desks, etc.;
  - g. notes and other messages either signed or anonymous placed on bulletin boards, in lockers, social or electronic media and/or in desks, etc.;
  - h. the required wearing of particular types of clothing or the inference that wearing particular types of apparel will enhance one's career;
  - i. attempted transfer, demotion, dismissal, etc. after refusing or resisting sexual advances;
  - j. demeaning comments or actions;
  - k. unwanted, unwarranted and unsolicited advances, on or off duty, when such action relates to the employee-employer relationship;
  - l. non-verbal suggestive or insulting noises, leers, whistles, or gestures;
  - m. verbal or physical conduct of a sexual nature that insinuates either explicitly or implicitly that an Agency members submission to or rejection of sexual advances will in any way influence any personnel decision regarding the Agency members job, wages, performance evaluation, advancement, assigned duties, shifts, eligibility for training or any other condition of employment or career development; or
  - n. requesting or ordering employees to perform tasks that are not part of their job specifications, such as making coffee, obtaining lunch or doing personal shopping for supervisors.
7. Any intentional false accusations or statements shall result in disciplinary action against the individual providing false information.

**E. Applicability**

This policy applies in all:

1. Situations where personnel interact with others, and the:
  - a. employee is acting as a representative of the HCSO;
  - b. employee is on duty or the situation takes place during work hours; or
  - c. employee's actions or comments may be interpreted as those of an HCSO employee or the HCSO itself.
2. Matters of employee relations, including, but not limited to:
  - a. opportunities for employment, promotion, transfer, education and training;

- b. supervision;
- c. performance appraisals;
- d. internal investigations; and
- e. discipline, demotion and termination.

#### F. Work Environment

- 1. Employees must treat each other with mutual trust, respect, fairness and dignity.
- 2. The strength of the HCSO in accomplishing its mission depends on the ability of its employees to communicate and function effectively.
- 3. A work environment that nourishes respect and fairness among co-workers enhances morale and encourages similar relationships with the public.

#### G. Retaliation

- 1. Any form of retaliation for reporting discrimination, harassment or gender bias will not be tolerated.
- 2. Threats or acts of retaliation against witnesses reporting, testifying, or supporting a complaint of discrimination, harassment or gender bias are prohibited.
- 3. Acts of retaliation will result in disciplinary action as appropriate and may include termination.

#### H. Responsibilities

- 1. Victims or other persons who have knowledge of an incident of discrimination, harassment or sexual harassment are encouraged to initiate the appropriate action to address the situation.
- 2. Persons in a position of authority (e.g., supervisors, commanders, etc.) who have knowledge of an incident of discrimination, harassment or sexual harassment will initiate action or ensure that the appropriate actions relative to such an incident are taken.
- 3. A person in a position of authority who fails to take the appropriate action will face disciplinary action.

#### I. Complaint Processing

- 1. Incidents of discrimination, harassment or retaliation will be promptly reported.
- 2. Attempts will be made to address the circumstances at the lowest possible level with the intent to immediately correct the situation and prevent further occurrences.
- 3. Reporting Options
  - a. Informal Action
    - i. An employee subjected to, or having knowledge of a suspected harassment situation may personally confront the antagonist and make it understood that the behavior(s) or

activities are considered to be a form of harassment, are unwanted, and must cease. If resolved satisfactorily, no further action is necessary.

- ii. If the circumstances are such that direct confrontation with the alleged antagonist would further aggravate the situation, the incident should be reported directly to the Office of Professional Standards (OPS) using Complaint Against Personnel (Form IA-028).
- iii. In addition to reporting the incident to the OPS, the aggrieved employee may advise the antagonist's supervisor or the aggrieved employee's supervisor of the incident.

b. Formal Action Within the HCSO

- i. An employee may initiate formal action by written or verbal notification.
- ii. Notification may be made to any supervisor or commander, OPS, or the Office of Human Resources.

c. Formal Action Outside of the HCSO

- i. Reports of harassment may be reported directly to the Baltimore District Office of the Equal Employment Opportunity Commission of the Maryland Commission on Civil Rights.
- ii. Reports to these departments have separate filing requirements which may be associated with both.

4. Processing Complaints of Discrimination, Harassment or Retaliation

- a. Except in those cases where the incident is settled directly between the victim and the alleged aggressor, Complaint Against Personnel (Form IA-28), will be completed by the victim, supervisor or commander immediately after the incident occurs or is reported and forwarded to OPS in accordance with HCSO policy PER 0201.
- b. For the purposes of this policy, the Complaint Against Personnel (Form IA-028) is exempt from the chain of command and may be forwarded directly to the Office of Professional Standards.
- c. Any information received alleging that the Sheriff is the accused shall be forwarded by the Office of Professional Standards to the Chief Deputy.
- d. If the complaint is against the Sheriff, the Chief Deputy shall:
  - i. notify the Office of the Attorney General;
  - ii. request the assistance of an outside law enforcement agency to conduct the investigation;
  - iii. serve as the primary point of contact with the investigating agency; and
  - iv. ensure the complete cooperation of the Sheriff's Office during the course of the investigation.
- e. Any information received pertaining to a sexual harassment, workplace harassment or discrimination shall be handled with confidentiality.

5. When a complaint of discrimination, harassment, sexual harassment and/or retaliation is made, commanders and managers will:
  - a. review the proper reporting procedure with the aggrieved employee and the accused employee's supervisors;
  - b. make a preliminary inquiry into the incident within 10 days of being notified;
  - c. ensure that an investigation is conducted and disciplinary actions are taken as provided in HCSO policy if the behavior complained of constitutes discrimination, harassment and/or sexual harassment or other serious misconduct;
  - d. prevent a potential continuing course of unwanted conduct by ensuring that a supervisor contacts the accused to:
    - i. advise the accused that if the alleged conduct/behavior is occurring, that is not appropriate and must cease immediately; and
    - ii. caution the accused against retaliatory acts.
  - e. monitor personnel affected by the investigation to prevent continuation of the conduct or retaliation for actions taken to resolve it;
  - f. maintain personal contact with the victim to alleviate fear and to assure the victim that steps are being taken to resolve the complaint;
  - g. contact the victim at least every 15 days to provide updates on case progress and, upon completion of the investigation, the final disposition; and
  - h. contact the victim within 60 days after disposition to ensure that there has not been any continuation of improper conduct, threats of retaliation or retaliation.
6. Commanders and managers who fail to follow the guidelines in subsection 5 above will be subject to disciplinary action.

J. Office of Professional Standards (OPS)

1. The OPS, in consultation with the Chief Deputy, will determine if the complaint will be investigated as an allegation of discrimination or harassment versus some other form of misconduct.
2. The OPS investigators will:
  - a. fully investigate all cases of alleged complaints of harassment and/or discrimination;
  - b. ensure the investigation is given immediate attention;
  - c. respond with sensitivity to the feelings and needs of the victim; and

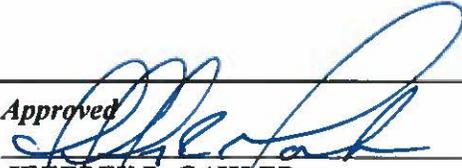
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- d. keep in personal contact with the victim to alleviate fear and to assure that everything possible is being done to resolve the complaint.

E. Disposition

- 1. The Chief Deputy will notify the complainant, via letter, of the final outcome of the investigation.
- 2. Documentation related to the investigation and any subsequent disciplinary action will be maintained in accordance with Agency policy by the Office of Professional Standards.

Approved   
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**JEFFREY R. GAHLER**  
**SHERIFF**  
DATE 9/29/16