

THURMONT POLICE DEPARTMENT			
GENERAL ORDER	<i>Date Issued:</i> October 1, 2013	<i>Effective Date:</i> October 1, 2013	<i>Order No:</i> Chapter 3.4
<i>Authority: Chief of Police</i> Gregory L. Eyer		<i>Manual Page No:</i>	
<i>Subject:</i> Discrimination and Sexual Harassment		<i>Replaces Page No:</i>	
<i>CALEA Standard:</i> 26.1.3	<i>Distribution:</i> ALL	<i>Amends:</i>	<i>Number of Pages:</i> 7
<i>Related Documents:</i>		<i>Rescinds:</i> Order dated February 15, 2007	

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

I. PURPOSE:

To specify preventive and corrective measures for discrimination and sexual harassment problems.

II. DISCUSSION:

Harassment may be either expressed by statements or implied by gestures or actions. It is the duty of all employees to ensure that harassment does not occur in any manner, whether in their own conduct or by allowing others to perform inappropriately.

III. POLICY:

It is the policy of the Thurmont Police Department that all employees be able to perform their duties free from intimidation, humiliation, or insult of any kind. The Department will not tolerate offensive physical or verbal abuse or discriminatory action of **any** nature from its employees. The Department will maintain a working environment free from all forms of sexual harassment or intimidation. Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature are serious violations and will not be condoned or permitted. Any employee who violates this policy will be subject to

appropriate disciplinary action up to and including termination. Failure by supervisory personnel to maintain proper control over discrimination and harassment may be cause for disciplinary action against the supervisor.

IV. DEFINITIONS:

Discriminate – To treat unequally or make a distinction in favor of or against a person or thing on the basis of race, age, sex, religion, or national origin.

Harass – To annoy, disturb, or irate persistently, which includes the terms, “badger, bait, bother, hound, pester, plague, torment, ridicule,” etc.

“Quid Pro Quo Harassment” – means “something for something.” This type of harassment occurs when an employee is required to choose between submitting to inappropriate behavior, demands, remarks, sexual advances, etc., or lose a tangible job benefit. Generally occurring between a supervisor and a subordinate, a claim must meet the following criteria:

1. The harassment was based on sex;
2. The individual was subjected to unwelcome sexual advances (express or implied), and
3. A tangible economic benefit of the job was conditioned on the individual’s submission to the unwelcome sexual advances. (i.e., “You must go out to dinner with me if you want to keep your job.”)

“Hostile Work Environment” – is defined as/created when there is unwelcome conduct and/or a pattern of harassment that is so severe or pervasive as to alter or change the conditions of the individual’s employment and create an abusive, intimidating, hostile, or offensive work environment. **Any** discriminatory behavior or harassment can result in a hostile work environment.

1. It does not require an impact on an economic benefit,
2. It can involve co-workers or third parties, not just supervisors,
3. It is not limited to sexual advances – it can include hostile or offensive behavior based on the person’s sex, race, religion, etc.
4. It can occur even when the conduct is not directed specifically at the individual but still impacts on his or her ability to perform the job, and
5. It typically involves a series of incidents rather than one incident, although a single offensive incident may constitute this type of harassment.

The criteria that must be met in a claim of harassment based on a hostile work environment are:

1. The conduct was unwelcome,

2. The conduct was severe, pervasive, and regarded by the claimant as so hostile or offensive as to alter his or her conditions of employment, and
3. The conduct was such that a reasonable person would find it hostile or offensive. (I.e., Displaying bulletins, cartoons, etc., which may be interpreted as offensive, demeaning, or derogatory; employing gestures, words, or phrases which may be offensive; employing oral or physical characteristics which are considered stereotypical of a particular group or persons; encouraging or engaging in retaliatory acts directed at any person/group exercising their rights against discriminatory activities; or condoning or failing to attempt to stop any of the aforementioned discriminatory activities.)

“Third Party Harassment” occurs when:

1. An employee witnesses sexual conduct in their workplace and finds the conduct to be offensive, even if the conduct was not directed toward the employee, or
2. A person outside of the Department, such as a vendor, service person, etc. harasses an employee or engages in unwelcome, inappropriate behavior that is unwanted and unwelcome. The Department can be held liable for harassing conduct of a third party employee(s) if the department has knowledge and some ability to address the improper behavior.

“Unwelcome sexual Conduct” – is considered harassment if the employee did not solicit or invite it, and the employee regarded the conduct as undesirable or offensive. (I.e., Sexual comments, overtures, or gestures of a provocative or suggestive nature; jokes or innuendoes intended for or directed to another employee; suggestive, offensive, or demeaning looks or sexually offensive “art” or written material in the work place, etc.)

V. PROCEDURE:

A. General

1. Sexual innuendo, off-color humor or physical contact such as patting, pinching or brushing against another’s body may be interpreted as sexual harassment by some employees. While recognizing that such communication or physical contact might not be intended as sexual harassment, it is important to avoid even the appearance of impropriety. Incidents of discrimination and sexual harassment may result in civil liability to the department and/or individual employees.
2. All employees must refrain from:

- a. Threatening, demanding or insinuating – explicitly or implicitly – that an employee’s refusal to submit to sexual favors or advance will adversely affect their employment;
- b. Creating a harassing/discriminatory environment by such actions as offensive sexual flirtations, advances, verbal abuse, unwanted or unsolicited touching, or any such conduct that has the purpose or effect of unreasonably interfering with an individual’s work environment.
- c. Taking retaliatory action of any kind against a person who makes a discrimination/harassment complaint; or
- d. Exhibiting any other conduct that is considered harassment/discrimination based upon race, color, religion, age, national origin or sex.

B. Employee Responsibility

1. Offensive communications or physical contacts of a sexual nature will not be tolerated. If an employee believes that they are being discriminated against or harassed (sexually or otherwise) by any employee or non-employee in the work environment, they shall promptly take the following steps:
 - a. They are strongly encouraged to place the offending employee upon notice that such communication or physical contact is unwelcome.
 - b. They are to report the incident to their superior, requesting that a written record be made of the efforts to solve the problem. If the supervisor is the individual committing the alleged harassment/discrimination, such conduct should be reported to the next higher supervisor within the chain of command. Due to the personal nature of this type of complaint, if an employee feels uncomfortable speaking to the supervisor, they may report the alleged activity to any supervisor with the understanding that whomever they speak to will advise the subordinate’s immediate supervisor, via confidential memo, unless that supervisor is the subject of the complaint.
 - c. An employee may also file a complaint with the Human resources Department for the Town of Thurmont; a Human Rights Violation with the Frederick County Human Relations Commission; a complaint with the Equal Employment Opportunity Commission (EEOC); or a complaint with the Maryland Human Relations Commission. It is strongly recommended that employees use internal remedies prior to utilizing outside agencies.

C. Management responsibility

1. Supervisory personnel will be held accountable for the proper conduct of all subordinates under their supervision and will maintain their work place free of harassment and discrimination. They will discuss this procedure with all their subordinates; take measures to stop any such conduct should it occur; inform subordinates of their right to file complaints about such conduct; and inform any victim of or witness, including the parents of a minor child; to an incident involving discriminatory behavior of their right to file a complaint with the Department.
2. Supervisory personnel will ensure that all employees receive training as mandated by MPCTC pertaining to Discrimination and Sexual Harassment. During this training this policy will be read and discussed with all personnel. Additional training and more frequent reviews of this policy may be directed by the Chief of Police.

D. Investigation

1. In all cases, supervisory personnel receiving a complaint in any form shall immediately forward the complaint in written form via confidential memo through the chain of command to the Chief who will assign the case to the appropriate personnel for a complete investigation. The goals of any investigation will be to ascertain the facts and contribute to the immediate cessation of any harassment.
2. A complete confidential record will be maintained in the files of the Chief of Police.
3. Due to the seriousness with which these allegations are considered, employees who intentionally initiate false discrimination/harassment allegations will be subject to disciplinary action.

E. Confidentiality

1. To protect the confidentiality of a member who files a complaint; to encourage the reporting of any incidents of harassment; and to protect the reputation of any employee who might wrongfully be accused of harassment, information concerning a complaint of harassment will not be released by any employee to anyone in or out of the Department, except as provided in established rules governing investigations of the Department.

F. Non-Retaliation for Reporting:

1. There will be no retaliation or discrimination against any employee for reporting a case of harassment. Any such behavior will not be tolerated and will be reported by the employee and dealt with promptly and severely by management.
2. If the investigation reveals that the complaint is valid, prompt measures will be taken designed to stop the harassment immediately and prevent its reoccurrence.

G. Workplace Relationships:

1. Any involvement between employees must be voluntary and desired by both parties. Many problems have developed in police departments because of dating relationships, and they can interfere with our goal of having a sound professional environment. If you are asked for a date by a co-worker and you do not want to go out with the other employee, it is imperative that your response to the request is firm and definite. After this firm and definite response is made, it is inappropriate for the requesting party to make any further attempt to initiate a dating relationship. Repeated requests for a dating relationship constitute sexual harassment. It is also inappropriate for any relationship to interfere with normal work operations in any manner. Personnel who desire to become involved with someone in the workplace must adhere to the following guidelines:
 - a. There will be no dating activities on department time or property.
 - b. There shall be no use of company property to arrange dating activities.
 - c. All behavior between employees shall be behavior conducive to a sound professional work environment at all times when on department property or department time. Hand holding, kissing, hugging, sexual comments and other behavior generally associated with a dating relationship are inappropriate while on department time or department property.
 - d. Any relationship involving personnel at different levels on the chain of command or when one party has functional supervision of another shall be reported by the person of higher rank immediately to his/her supervisor. Failure to report this relationship is a violation of this policy. The supervisor receiving this information shall immediately inform the Chief and Deputy Chief of this relationship.

ATTACHMENTS:

DOCUMENT DATES:

Amended Date: 10/1/2013

Review Date:

Review Date:

Rescinds:

Order Written by: Chief of Police

Order Edited and Approved by: Chief of Police

*CALEA Standards included in this Order
26.1.3*

