

SECTION 300: SEXUAL HARASSMENT

301: FEDERAL LAW

Title VII of the Federal Civil Rights Act of 1964 (42 U.S.C. §200(e) recognizes sexual harassment as a form of sexual discrimination. The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as follows:

“Unwelcome sexual advances, requests for sexual favors, and other 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.” 29 C.F.R. §1604.11 (a).

302: POLICY

It is the policy of this office to prohibit any form of sexual harassment of or by the Sheriff’s employees.

303: PURPOSE AND IMPORTANCE

The purpose of this policy is to provide uniform guidance and procedures regarding sexual harassment in conformity with applicable federal, state and local laws. This policy demonstrates the Sheriff’s commitment to compliance with the law concerning sexual harassment, establishes a process for the handling of sexual harassment complaints and responds to the potential impact of sexual harassment on absenteeism, productivity, and turnover.

304: APPLICATION

This policy applies to all employees and appointees of the Sheriff’s Office, including commissioned deputies. This policy covers both sexual harassment by either sex toward the other, and sexual harassment between members of the same sex.

305: DEFINITIONS

1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature constitutes sexual harassment. The sexual favors sought need not be personally for the person requesting the favors.
2. Sexual harassment may take either of two forms: “Quid Pro Quo” (this in exchange for that) harassment by a supervisor or other officer of greater rank, or “hostile environment” sexual harassment. Both forms of sexual harassment are equally prohibited by this policy.

3. Quid Pro Quo harassment takes place when submission to such conduct is made either an explicit or implicit term or condition of an individual's employment, or submission or rejection of the conduct by the individual is used for employment decisions such as performance appraisal, compensation, promotion, work assignments or similar matters. This conduct is unlawful and prohibited by this policy.
4. Hostile environment sexual harassment take place when such conduct, whether committed by a supervisor or non-supervisor, has the effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile, or offensive work environment. This conduct is also prohibited both by law and this policy.
5. Examples of prohibited conduct include, but are not limited to, sexual advances or propositions, repeated offensive sexual flirtations, continued or repeated comments about a person's body or any parts thereof, sexually offensive language or jokes, and display at work of sexually suggestive pictures or objects.
6. Sexually harassing conduct violations may be committed by supervisors, managers, other employees, and persons such as inmates who, although not employees, are on the premises administered by the Sheriff. Sexually harassing conduct by any of these individuals is strictly prohibited.

306: COMPLAINT PROCEDURE (FOR SEXUAL HARASSMENT MATTERS ONLY)

1. Alleged harassment by employees.
 - a. Employees who believe they have been sexually harassed by an employee or of the Sheriff should tell the person or persons harassing them that their behavior is offensive and must stop. The problem should be immediately reported to their direct supervisors. However, if the immediate supervisor is the person directly or indirectly responsible for the harassment, the employee should instead report the problem to another officer of greater rank at the site. In the rare event that all site personnel are involved, the employee may bring the matter directly to the attention of the Chief Deputy or the Chief Deputy's designated representative.
 - b. All complaints of sexual harassment will be investigated in a timely and responsible manner. To the extent possible, consistent with a thorough investigation, the information supplied by the complainant will be held confidential, except when released due to legal compulsion. Nothing herein shall prohibit the Sheriff from exercising discretion in disclosing any material or statements obtained from the complainant, witnesses or the accused, to any court, board, or agency, or from waiving any privilege to which the Sheriff is entitled. All witnesses and those interviewed during the investigation will be required to treat the matter as confidential. The purpose of confidentiality shall be to protect, to the extent practicable, both the complainant and the accused.
 - c. Investigation of sexual harassment complaints will be carried out in a serious manner and will, whenever practicable, include interviewing the complainant, all relevant witnesses, and the accused. Employees are to cooperate fully in such investigations. Employees who file a complaint or participate in investigations shall be protected from any form of retaliation arising out of the filing of the complaint or participation in the investigation. Any employee who impedes an investigation, covers up the truth of the matter, or retaliates against a complainant shall be subject to disciplinary action, which may include discharge.

- d. When an employee who in lodging a complaint puts forward a reasonable claim of fear of physical harm, to the extent practicable, immediate steps will be taken to separate or protect the employee from the alleged harasser. The burden of transfer shall not automatically be assigned to either the complainant or the alleged harasser but shall be determined in light of circumstances involved. If an employee complains of a sexual assault that may constitute a crime, the matter shall immediately be brought to the attention of the Chief Deputy or Sheriff.
 - e. If at the completion of the investigation, the complaint appears to be valid and supported by the evidence, appropriate disciplinary action, (which may include discharge), designed to halt the harassment or prevent any recurrence will be taken. Until the investigation is complete, a decision is reached, and all internal appeals exhausted, temporary measures such as suspension or transfer may be utilized. Because it is the Sheriff's policy to encourage employees to come forward when they believe they have been sexually harassed, although an investigation may not reveal sufficient facts to warrant disciplinary action against an accused, the complainant shall be privileged in having brought the complaint, absent a finding supported by evidence that the complaint was entirely false and motivated by malice. In the latter instance, the employee who made the malicious and false accusation shall be subject to disciplinary action, which may include discharge, and such disciplinary action shall not be considered retaliation for the filing of the complaint.
 - f. Either the complaint or the accused may submit the findings and decisions reached at the conclusion of an investigation to the personal review of the Sheriff, by making a written request within five (5) working days of the date they are informed of the decision. The decision of the Sheriff shall be final.
2. Alleged harassment by inmates.
 - a. Harassment by inmates shall be treated as a disciplinary infraction and shall be subject to investigation and punishment according to the rules and procedures governing inmate behavior and discipline.
 - b. Personnel who are subject of or who observe acts of harassment by inmates shall report the infraction according to the disciplinary procedures of the facility.

3. Third parties that engage in harassment.
 - a. Harassment by third parties such as vendors, visitors, etc., who are neither employees nor inmates, will not be tolerated and shall be subject to investigation and appropriate corrective measures.
 - b. Personnel who are subjected to or who observe acts of harassment committed by third persons shall report the incidents(s) to the chief deputy or other supervisors within the department.

307: RESPONSIBILITIES

1. All employees will be held responsible and accountable for complying with this policy. All employees are expected to make a conscious effort to avoid any speech or conduct that may be perceived as sexual harassment. Employees who observe sexual harassment should: a) tell the offender to stop; b) support the victim; c) document their observations as specifically as possible; and d) discuss the problem with their supervisors and higher ranking officers.
2. All supervisors are assigned responsibility for implementing this policy, insuring compliance with and knowledge of its terms, and for taking immediate and appropriate corrective action where warranted. Supervisors must open and maintain communications channels to permit employees to raise concerns about sexual harassment without fear of retaliation; stop any observed sexual harassment; and treat sexual harassment matters with sensitivity confidentiality, and objectiveness. A Supervisor's failure to carry out these responsibilities may be reflected supervisor's performance review, salary adjustment, or may result in discipline or discharge.
3. Administration of the complaint procedure and the carrying out of timely and thorough investigations is assigned to the Chief Deputy. All investigations and internal and external reports shall be subject to the supervision and advice of the Chief Deputy. In some cases, the Chief Deputy may assign an attorney to conduct the investigation and write the investigation report. Persons accepting complaints are also responsible for making timely reports to the Chief Deputy of the filing of complaints and the results of investigations.

4. Supervisors are responsible to ensure that this policy is properly posted at their site and that every employee has personally received a copy of the policy. New employees should receive a copy during their initial orientation. This policy must be redisseminated whenever it is changed and not less often than once per year. Employees must sign an acknowledgment of personal receipt of a copy of the policy.
5. The Chief Deputy shall provide training programs to educate and sensitize all supervisory and non-supervisory personnel regarding this policy, and shall audit all investigations for consistency and effectiveness in the administration of disciplinary action.

308: INVESTIGATIVE PROCEDURES

1. In an instance in which the complainant wishes to pursue disciplinary action against the offender,
 - a. The Chief Deputy will seek statements from witnesses whenever the Chief Deputy believes witness statements can corroborate factual activity.
 - b. The Chief Deputy will interview the offender and require a written report.
 - c. At the interview, the Chief Deputy will instruct the offender not to discuss this matter with the complainant or to pursue any type of retaliatory action against the complainant.
 - d. When available evidence and written statements have been obtained, the Chief Deputy will meet with the Sheriff to determine if sexual harassment has taken place. The complainant and/or offender may again be interviewed at this time.
2. Disposition of Complaint
 - a. If it is determined that sexual harassment has taken place, the Chief Deputy will make a recommendation for disciplinary action, possibly including termination, to the Sheriff.
 - b. If it is determined that sexual harassment has not taken place, this will be reported to the complainant, the offender, and any supervisor involved. Reconciliation will be encouraged.

309: *The Sheriff reserves the right to initiate sexual harassment procedures in the absence of a specific complaint but upon the report or observation by any employee of activity which could be deemed sexual harassment. Further, BPSO reserves the right to initiate disciplinary action, including termination, upon the report or observation of repeated offensive behavior whether or not it has been determined to constitute sexual harassment under the law.*

310: MODIFICATIONS OF THIS POLICY

The Sheriff reserves the right to alter, abolish, modify, or amend this policy at any time at his sole discretion, with or without individual notice to employees.

311: ACKNOWLEDGMENT OF POLICY

Every employee/appointee of the BPSO shall read and sign an acknowledgment in the form of that appearing on the following page.

312: BEAUREGARD PARISH SHERIFF'S OFFICE SEXUAL HARASSMENT POLICY SUPPLEMENT as required by the Louisiana Sheriffs' Association, Louisiana Sheriffs' Law Enforcement Program.

To the extent that Section 312 is in conflict with Section 306 of the current Beauregard Parish Sheriffs' Office Employee Handbook for Full-time, Part-time Employees and Reserve Deputies, the following provisions shall prevail:

1. Statement of Policy

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, sex, age or national origin. Sexual harassment is included among the prohibitions.

Sexual harassment, according to the Federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, request for sexual favors or other verbal or physical acts of a sexual or sex based nature where:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or
- (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

It is also unlawful to retaliate or take reprisal in any way against anyone who has articulated any concern about sexual harassment or discrimination, whether that concern relates to harassment or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in the Statement of Prohibited Conduct which follows. These examples are provided to illustrate the kind of conduct proscribed by this policy; the list is not exhaustive.

Sexual harassment is unlawful. The Sheriff's Office of Beauregard Parish is committed to vigorously enforcing its sexual harassment policy at all levels.

2. Statement of Prohibited Conduct

The Sheriff's Office considers the following conduct to represent some of the types of acts which violate the sexual harassment policy:

A. Physical assaults of a sexual nature, such as:

- (1) Rape, sexual battery, molestation or attempts to commit these assaults; and
- (2) Intention physical conduct which is sexual in nature, such as grabbing another employee's body.

B. Unwanted sexual advances, propositions or other sexual comments such as:

- (1) Sexually oriented remarks or jokes about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated that such conduct in his or her presence is unwelcome;
- (2) Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;
- (3) Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

C. Sexual or discriminatory displays of publications in the work place, such as:

- (1) Displaying pictures, posters, calendars, or other materials that are sexually suggestive, or pornographic.
- (2) Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place, other than rest rooms or similar semi-private lockers/changing rooms.

D. Retaliation for sexual harassment complaints, such as disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained and/or testified about, or resisted harassment, discrimination or retaliation.

3. Penalties for Misconduct

Any employee's commission of acts of sexual harassment or retaliation against a sexual harassment complainant or witness will result in appropriate sanctions, up to and including dismissal, against the offending employee, depending upon the nature and severity of the misconduct.

A written record of each action taken pursuant to this policy will be placed in the offending employee's personnel file. The record will reflect the conduct, or alleged conduct, and the warning given, or other discipline imposed.

4. Procedures for Making, Investigating and Resolving Sexual Harassment and Retaliation Complaints.

- (A) Complaints – Complaints of acts of sexual harassment and retaliation that are in violation of the sexual harassment policy will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. A complaint need not be limited to someone who was the target of harassment or retaliation. Anyone who has suffered or observed sexual harassment or retaliation should report it to their immediate supervisor. In the event that it would be inappropriate to report such concerns to one's immediate supervisors, the report may be made to the Sheriff directly. In the event that a female employee would prefer to report a concern about sexual discrimination or harassment to another female, such concerns may be reported to any female supervisory officer of the Sheriff's Office. While employees are encouraged to report to their immediate supervisor or the individuals noted above, employees who desire to report complaints to another supervisory officer of the Sheriff's Office staff may do so.

Only those who have an immediate need to know, including the person to whom a report was made, the alleged target of the harassment or retaliation, the alleged harasser or retaliator, and any witness may obtain the identity of the complainant. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint or who has provided evidence in connection with a complaint, is a separate actionable offense and subject to discipline under this policy.

- (B) Cooperation – An effective sexual harassment policy requires the support and example of personnel in positions of authority. The Sheriff's Office agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with the Sheriff's Office sponsored investigations of sexual harassment or retaliation may be sanctioned by suspension or dismissal. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other Sheriff's office employees, and/or retaliate against sexual harassment complainants or witnesses may be sanctioned by suspension or dismissal.

