

# FORT MYERS POLICE DEPARTMENT GENERAL ORDER 7.14

**TITLE:** Workplace Harassment

**INDEXING:** Workplace Harassment, Sexual Harassment, Hostile Work Environment, Quid Pro Quo Sexual Harassment, Racial Harassment

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## PURPOSE

The purpose of this directive is to ensure that all employees will enjoy a safe work environment free from unreasonable interference, intimidation, hostility, or offensive behavior on the part of supervisors, co-workers, or visitors. This directive acknowledges that harassment, sexual or otherwise, is against the law, and will not be tolerated by this agency.

## SCOPE

These procedures shall apply to all Fort Myers Police Department personnel.

## POLICY

It is the policy of the Fort Myers Police Department that all employees have the right to work in an environment free of all forms of harassment. This directive is not meant to prohibit normal social interrelationships among employees / members. However, this agency will not tolerate, condone, or allow harassment of its employees by other employees, volunteers, or other non-employees who conduct business with this agency. The department considers harassment and discrimination of others a form of serious employee misconduct and shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination. A violation of this policy can lead to discipline up to and including termination, with repeated violations, even if "minor," resulting in greater levels of discipline as appropriate. **(C.A.L.E.A. 26.1.3)**

## SECTION I: DEFINITIONS (CFA 11.07M a)

- A. **Sexual Harassment:** In general, sexual harassment can take two forms. First, sexual harassment exists when a member is requested or required to engage in or submit to a sexual act as a term or condition of a job benefit or assignment. Second, sexual harassment may arise when comments, conduct, or actions of a sexual nature by the employer, supervisors, or co-workers create an offensive or hostile working environment for a member.
1. The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as: the unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature when:

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

2. Sexual Harassment may include, but is not limited to:

- a. Unwanted sexual advances.
- b. Requests for sexual activity.
- c. Threats or insinuations that lack of sexual activity will adversely affect a member's employment, wages, promotion, or duty assignment.
- d. Derogatory comments or jokes about an individual's sexual preference.
- e. Lewd, obscene, or sexually suggestive comments or gestures.
- f. Unwelcome or uninvited physical contact, such as patting, pinching, grabbing, or by brushing against another's person's body.
- g. Placing obscene or sexually explicit photographs, books, magazines, greeting cards, cartoons, articles, graphics, or suggestive objects in the workplace.

3. Hostile Work Environment: Conduct, comments, or actions of a sexual nature that has as its purpose or effect the unreasonable interference with an individual's work, or the creation of an intimidating, hostile, or abusive work environment. Whether or not a work environment is abusive depends on all the surrounding circumstances. The factors to consider are:

- a. The frequency of the conduct.
- b. The severity of the conduct.
- c. Its effect on the employee's work performance.
- d. Repetitive conduct, rather than a single episode.

4. Quid-pro-quo Sexual Harassment: Making submission to sexual demands an implicit or explicit term or condition of employment or making decisions affecting someone's employment or compensation on the basis of whether the person submits to or rejects sexual demands.

B. General Workplace Harassment: Unreasonable conduct by a member that interferes with another member's status or performance, by creating an intimidating, hostile, or offensive working environment. Harassment usually involves a course of conduct. However, a single act may constitute harassment if it is sufficiently serious. Harassment includes, but is not limited to,

ridiculing, mocking, or belittling another member. Harassment does not include an assessment of a member's skills, abilities, or performance by a training officer, supervisor, or member of the chain-of-command.

- C. Racial Harassment: Verbal or physical conduct of a racial nature or with negative or stereotypical racial overtones.
  - 1. Examples of Racial Harassment include, but are not limited to:
    - a. Racially suggestive comments.
    - b. Off-color language or jokes of a racial nature.
    - c. Slurs, and other verbal, graphic, or physical conduct relating to an individual's race or ethnic origin.
    - d. Any display of racially derogatory pictures, greeting cards, articles, books, magazines, photos, or cartoons.
- D. Unwelcome Behavior: Conduct that the employee did not solicit or incite, and that the employee regards as undesirable or offensive.
- E. Discrimination: Any difference, distinction, or preference in treatment, access (opportunity to be assigned to specialized units), or impact (effect on organizational decisions), because of one's gender, race, color, religion, age, disability, pregnancy, marital status, linguistic preference, sexual orientation, social and family background, ethnic or national origin, or political beliefs where the difference or preference is not justified by business necessity or is not job-related.

## **SECTION II: RESPONSIBILITIES OF EMPLOYEES (CFA 11.07M b)**

- A. Supervisor's Responsibilities:
  - 1. Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes:
    - a. Monitoring the work environment on a daily basis for signs that harassment may be occurring.
    - b. Counseling all members on the types of behavior prohibited, and the agency's procedures for reporting and resolving complaints of harassment.
    - c. Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved members are within the supervisor's line of supervision.
    - d. Taking immediate action to limit the work contact between two (2) members where there has been a complaint of harassment, pending the investigation.
  - 2. Every supervisor who learns of an incident of harassment has a duty to report it. If any member notifies a supervisor of harassment in the workplace, either

verbally or in writing, that supervisor shall document the incident and forward the complaint to **Internal Affairs** via memorandum.

- B. Member Responsibilities: Each member of this agency is responsible for assisting in the prevention of harassment through the following acts:
1. Refraining from participation in, or encouraging of, actions that could be perceived as harassment.
  2. Reporting acts of harassment to a supervisor.
  3. Encouraging any member who confides that they are being harassed, to report these acts to a supervisor.
  4. Failure to take action to stop known harassment shall be grounds for discipline.

### **SECTION III: REPORTING PROCEDURES**

- A. Employees encountering harassment shall tell the person doing the harassing that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
- B. Any employee who believes that he / she is being harassed shall report the incident(s) to their supervisor, as soon as possible, so steps may be taken to protect the employee from further harassment, and appropriate investigative and disciplinary measures may be initiated.
- C. Where this is not practical, (supervisor is harassing the employee), an employee may bypass his / her immediate chain of command and report the complaint of harassment to the next level, file a complaint directly to **Internal Affairs**, or he / she may file their complaint with the Director of Human Resources.
1. The supervisor, or other person to whom a complaint is given, shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment, and the dates of occurrence.
  2. The employee taking the complaint shall expeditiously deliver the complaint to the appropriate investigative authority.
- D. **Internal Affairs (IA)**, at the direction of the Chief of Police or designee, shall be responsible for the investigation of any complaint alleging harassment. The **Professional Standards Bureau** Commander, in coordination with the affected employees Bureau Commander, shall decide if the complaint shall be handled formally or informally (supervisor's or manager's intervention, counseling, and documentation).
1. In making that determination, the **Professional Standards Bureau** Commander shall consider the following:
    - a. The wishes of the offended employee.
    - b. The seriousness of the alleged harassing behavior.
    - c. Any past disciplinary actions.
- E. Disciplinary Action: Discipline up to and including termination may result when:

1. A complaint of workplace / sexual harassment was sustained.
2. A complaint was found to be false. (Handled under G.O. 9.1, Section IIA(37) Untruthfulness)
3. There was a failure to report the conduct by other employees or supervisors.
4. Retaliation took place against the complainant.

F. No employee shall knowingly file a false harassment complaint against any member of the Fort Myers Police Department, due to a personal vendetta, or as a means of retaliation against a department member for requiring proper job performance.

#### **SECTION IV: TRAINING**

A. Training: This agency's harassment policy will be clearly and effectively communicated to all members and supervisors. Workplace harassment training is mandatory and shall be conducted as needed.

1. Supervisors shall ensure that training concerning harassment and discrimination in the workplace shall be provided to all newly hired non-sworn employees within (6) six months of their employment date.
2. Newly hired sworn members will be provided with such training during orientation and / or the Field Training Program. Individuals who are hired as temporary civilian employees to attend the police academy shall be provided training about harassment and discrimination during the pre-academy training.
3. Periodic training will be presented and may be via bulletins, roll-call briefings, or other methods that provide effective learning and shall be recorded with class training rosters. All rosters / logs shall be forwarded to the Training Division.
4. Remedial training is mandatory for all offending members not terminated, and that training shall be completed within (30) days after the investigation has been completed.
5. The Training Division shall schedule refresher training in harassment and discrimination for all employees on a regular basis.

#### **SECTION V: RETALIATION**

A. Retaliation: To be considered retaliation, the following actions must occur:

1. The employee engages in a legally protected activity, such as filing a complaint of harassment.
2. There is an adverse employment action.
3. There is a causal connection between the protected activity and the adverse employment action.

B. Retaliation is a form of employee misconduct. Retaliation against any employee for filing a harassment complaint, or assisting, testifying, or participating in the investigation of such a complaint, is strictly prohibited and will not be tolerated. Any evidence of retaliation shall be considered a separate violation of this policy and shall be investigated by Internal Affairs.

- C. This policy does not preclude an employee from filing a harassment complaint directly with the E.E.O.C. or the City's Human Resources Division.
- D. An employee will not be denigrated in any manner, or under any circumstances, for filing a harassment complaint.
- E. Monitoring to ensure that retaliation does not occur is the responsibility of all managers, supervisors, and the Internal Affairs Section. Incidents of retaliation shall immediately be reported to Internal Affairs.

## **SECTION VI: LIABILITY**

- A. Warnings Regarding Member Liability: These warnings are provided to enhance members' awareness, not to dissuade any reporting of improper actions.
  - 1. This policy does not stop at the door or at the end of a shift. Members' actions are subject to this policy at social events, out of town training, or wherever the member may be in any way associated with this agency.
  - 2. If an investigation reveals that harassment has occurred, the harasser may also be held liable for his or her actions under state or federal anti-discrimination laws or in separate civil legal actions.

## **REFERENCES:**

United States Constitution, 14<sup>th</sup> Amendment  
42 U.S.C. 2000e(a)(1), Section 703(a)(1) of the Civil Rights Acts of 1964 and 1972  
Federal Civil Rights Statute, 42 U.S.C. 1983  
Equal Employment Opportunity Commission, 29 CFR, Section 1604.11(a)(1985)  
State of Florida Constitution, Article 1, Section 9 (61)  
Florida Department of State, General Records Schedule GS2  
Florida State Statute 112.042  
Florida State Statute 112.533, Police Officers Bill of Rights (Regarding Internal Affairs Investigations)  
Florida State Statute 760.10  
City of Fort Myers Policy 202.1 – Workplace Harassment  
FMPD General Order 7.1 – Internal Affairs  
FMPD General Order 7.2 – Disciplinary Process  
FMPD General Order 7.3 – Grievance Procedures

## **APPROVED:**

**[Electronic Signature on File]**

**08/27/2024**

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**Jason Fields, Chief of Police**  
**Fort Myers Police Department**

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**Date**