
	<b>GAITHERSBURG POLICE DEPARTMENT</b>		
	<b>Sexual and Unlawful Harassment</b>		
	<b>GENERAL ORDER</b>	<b>200.2</b>	
<b>Effective Date</b>	<b>07/01/2022</b>	<b>26.1.3, 31.3.1</b>	
<b>Authorized by:</b>	<b>Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE	DATE 06/02/2022

## **1. PURPOSE**

- 1.1. The Department is committed to providing a work environment in which all employees are treated with respect and dignity. The purpose of this directive is to inform personnel of regulation, law and City policy concerning sexual and other unlawful harassment and establish Department policy that includes procedure for filing and addressing complaints.
- 1.2. Observance and enforcement of these guidelines are intended to provide all employees with a work environment that is productive and free from sexual and other forms of unlawful harassment. This directive also serves as a means to ensure compliance with applicable provisions of the City of Gaithersburg's Discrimination and Harassment Policy, Gaithersburg City Code, the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 and as amended by the Equal Employment Opportunity Act of 1972.

## **2. POLICY**

- 2.1. It is the policy of the Department to maintain a work environment free from unlawful harassment and intimidation. The unlawful harassment of any City employee by another City employee is strictly forbidden. Sexual and other forms of unlawful harassment are a matter of personal perception and effect, not necessarily of intent. This conduct undermines the integrity of the employment relationship, upsets morale and interferes with the productivity of victims and their co-workers. Sexual and other forms of unlawful harassment are considered unbecoming conduct and may also potentially be violations of city, state or federal law.
- 2.2. While the Department cannot attempt to regulate normal social interaction, or relationships entered into freely, sexual and other forms of unlawful harassment within the Department are treated as serious violations of Department policy and are not tolerated.
- 2.3. This policy applies to all employees of the Department. Conduct prohibited by this policy is unacceptable in the workplace, or any location that can be reasonably regarded as an extension of the workplace, including but not limited to, business trips, off-site business-related social functions, or any facility where City business is being conducted and discussed.

### 3. **DEFINITIONS**

- 3.1. **Unlawful Harassment** - Within the context of this directive, the term “unlawful harassment” refers to an act or course of conduct, directed toward another, such as verbal or physical actions that defame or show hostility toward an employee on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, political opinions or affiliations, or lawful employee organization activities.

Harassment also includes prohibited acts directed toward the individual’s family, friends, or associates; perceived by the alleged victim to be intended to create an intimidating, hostile, or offensive work environment; interfere, or apparently intend to interfere, with the alleged victim’s work performance; and sexual harassment.

Not all unlawful harassment is considered sexual harassment, but all sexual harassment is unlawful harassment.

- 3.2. **Sexual Harassment** - Within the context of this directive, the term “sexual harassment” refers to an unwelcome act or course of behavior that is sexual in nature, personally offensive to the alleged victim, or interferes with the ability of the alleged victim or coworkers to effectively carry out the duties of their positions. This includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct.

Conduct of a sexual nature constitutes sexual harassment when submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of employment, the basis for employment decisions affecting the employee, or unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment does not include occasional compliments of a socially acceptable nature, but refers to verbal or physical conduct which is unsolicited, offensive and detrimental to an individual.

### 4. **PROCEDURE**

#### 4.1. **General Conduct**

- 4.1.1. No member of this Department shall engage in the unlawful harassment of any person based on that person’s race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, political opinions or affiliations, or lawful employee organization activities.

- 4.1.2. This policy applies to a member's conduct, whether on or off duty, when the member is clearly identified or identifiable as an employee of the City of Gaithersburg.
- 4.1.3. This policy protects persons who are job applicants, employees, candidates for promotion and members of other law enforcement agencies from unlawful harassment.
- 4.1.4. Differences in individual values and culturally diverse customs may make it difficult for employees to recognize their own behavior or that of their peers, subordinates, or others as sexual harassment.

## **4.2. Complaints**

- 4.2.1. Complaints of sexual and other unlawful or prohibited harassment will be handled in accordance with the provisions of law, this directive and consistent with the City's Discrimination and Harassment Policy.
- 4.2.2. An offended employee is encouraged to clearly tell the offending individual that the behavior is unwelcome, offensive and/or inappropriate and request that the conduct stop immediately. However, such action by the offended employee is not required prior to reporting an incident or initiating a complaint.
- 4.2.3. Any employee who believes that he or she has been subjected to prohibited or unlawful harassment, or has witnessed another individual being subjected to such harassment, is strongly encouraged to promptly report the incident.
  - 4.2.3.1. If the matter involves the employee's supervisor, the employee is authorized to deviate from the chain of command to report the incident to a non-involved supervisor, bureau commander, or the Chief of Police.
  - 4.2.3.2. If the matter is of such a nature that the member reasonably fears reporting the incident to a supervisor, bureau commander, or the Chief of Police, the member is authorized to report the complaint to the Human Resources Director or City Manager.
  - 4.2.3.3. When practical, employees are expected to use the established chain of command for the handling of complaints, insofar as the offender is not a member of the employee's direct chain of command.
- 4.2.4. Retaliation against any employee who alleges being a victim of unlawful harassment, or against any employee who provides information in the course of an investigation into claims of unlawful

harassment, is prohibited.

- 4.2.5. Any employee, who in good faith, brings a complaint, provides information for an investigation, or testifies in any proceeding under this policy, will not be subject to adverse employment consequences based upon such involvement or be the subject of retaliation.
- 4.2.6. Retaliation in any form, against a complainant who exercises his or her right to make a complaint under this policy, is strictly prohibited and will itself be cause for appropriate disciplinary action.
- 4.2.7. Any employee who knowingly makes a false accusation of unlawful or prohibited harassment, or who knowingly provides false information in the course of the investigation of a complaint, may be subject to disciplinary action.

#### **4.3. Investigations**

- 4.3.1. Regardless of the type of complaint (formal or informal), the Department may conduct a formal investigation into the matter, or may have an outside agency conduct the investigation in conjunction with, or in lieu of, the internal investigation.
- 4.3.2. All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved, however confidentiality cannot be guaranteed.
- 4.3.3. Any investigation or decision must be based on all available facts, to determine whether a particular action or incident constitutes unlawful harassment. Negative consequences to the offender place a responsibility on supervisors and employees to report factual and truthful information in filing and investigating complaints of unlawful harassment.

#### **4.4. Disciplinary Action**

- 4.4.1. Disciplinary action arising from a sustained complaint of sexual or other unlawful or prohibited harassment shall be handled in accordance with General Order 208.1 – Disciplinary System.

#### **4.5. Training**

- 4.5.1. The City will provide information and training to all employees regarding the discrimination and harassment policy, prevention of unlawful discrimination and harassment and the procedure to be followed in filing complaints when unlawful discrimination or harassment has allegedly occurred.

- 4.5.2. Training will be provided during the orientation process at the time of hire and at other regular intervals as determined by the City Manager and Human Resources Director.
- 4.5.3. Administrators and supervisors may periodically receive specialized training to assist in creating an environment of respect in the workplace and in recognizing, responding to and resolving complaints of unlawful discrimination and harassment.
- 4.5.4. Supervisors and Department instructors may also provide training to employees, at intervals determined by need, or at the direction of the Chief of Police.