

# NEW HAVEN DEPARTMENT OF POLICE SERVICE

## GENERAL ORDERS



GENERAL ORDER **328**

EFFECTIVE DATE: JANUARY 15, 2012

### HARASSMENT, SEXUAL HARASSMENT AND ANTI-DISCRIMINATION

#### **328.1 PURPOSE**

The purpose of this General Order is to create a work environment free of harassment, sexual harassment, and discrimination. It will also define "sexual harassment" as outlined by the Equal Employment Opportunity Commission's Guidelines, to establish department policy concerning sexual harassment and discrimination, and to provide guidelines for processing complaints of harassment and other forms of alleged discrimination. Additionally, through education and leadership, this General Order is intended to set a tone of cooperation, inclusion, and respect.

#### **328.2 POLICY STATEMENT**

Unlawful harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964. The New Haven Department of Police Service is committed to maintaining a work environment free of discrimination. In keeping with this commitment, discrimination, including harassment, by any department member, sworn or civilian, on the basis of gender, race, religion, ethnicity, sexual orientation, marital status, age, or physical ability will not be tolerated. Discriminatory or harassing conduct, including sexual harassment, need not be directed at a particular individual to violate this policy.

#### **328.3 DEFINITIONS**

**HARASSMENT/HOSTILE WORK ENVIRONMENT:** Hostile work environment harassment occurs when unwelcomed comments or conduct based on age, ethnicity, gender, marital status, physical ability or disability, race, religion, sexual orientation or other legally protected characteristics unreasonably interferes with an employee's work performance or

creates an intimidating, hostile or offensive work environment. The victim can be anyone affected by the conduct, not just the individual at whom the offensive conduct is directed.

Other actions which may result in hostile work environment harassment, but are non-sexual in nature include, but are not limited to:

- Intrusive questions about one's private life
- Racially derogatory words, phrases, epithets or "jokes"
- Displaying of pictures and/or drawings which would offend a particular racial or ethnic group
- Comments about an individual's skin color or other racial/ethnic characteristics & disparaging remarks about an individual's gender that are not sexual in nature
- Negative comments about religious beliefs (or lack of religious beliefs)
- Negative stereotypes regarding birthplace or ancestry
- Negative comments regarding age
- Derogatory or intimidating references regarding mental or physical impairment
- Retaliatory actions against an employee that initiated or assisted in the reporting of a hostile work environment complaint

**SEXUAL HARASSMENT/HOSTILE WORK ENVIRONMENT:** Hostile work environment/sexual harassment is a form of sex discrimination which is prohibited by both federal law (Title VII) and similar state laws (Connecticut Discriminatory Employment Practices Act – Connecticut General Statute 46a-60). Sexual harassment has been defined by the Federal Equal Employment Opportunity Commission as unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex when:

- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.
- Submission to or rejection of the conduct is used as the basis for employment decisions.
- Submission to the conduct is an explicit term or condition of employment.

Examples of actions that may create sexual hostile environment harassment include, but are not limited to:

- Leering (i.e. staring in a sexually suggestive manner)
- Making offensive remarks about looks, clothing, or body parts
- Touching in a way that may make an employee feel uncomfortable, such as patting, pinching, intentional brushing against another's body, and even sexual assault
- Telling sexual or lewd jokes, making sexual gestures, etc.
- Sending, forwarding or soliciting sexually suggestive letters, notes, text messages, e-mails, or images
- "Jokes" about gender or gender-specific traits

- Displaying sexually offensive photographs or drawings
- Demands for sexual acts accompanied by implied or overt threats concerning work assignments, evaluations, or promotions

**WORKPLACE HARASSMENT/DISCRIMINATION:** Unwelcomed verbal or physical conduct based on race, color, religion, sex (whether or not of a sexual nature and including same-gender harassment and gender identity harassment), national origin, age (40 and over), disability (mental or physical), sexual orientation, or retaliation (sometimes collectively referred to as “legally protected characteristics”) constitutes harassment when:

1. The conduct is sufficiently severe or pervasive to create a hostile work environment; or
2. A supervisor’s harassing conduct results in a tangible change in an employee’s employment status or benefits (for example, demotion, termination, failure to promote, etc.).

Harassment that results in a tangible employment action occurs when a management official’s harassing conduct results in some significant change in an employee’s employment status (e.g. hiring, firing, promotion, failure to promote, demotion, formal discipline, such as suspension, undesirable reassignment, or a significant change in benefits, a compensation decision, or a work assignment). Only individuals with supervisory or managerial responsibility can commit this type of harassment.

#### **328.4 NON- HARASSMENT**

The anti-discrimination statutes are not a general civility code. Thus, federal law does not prohibit simple teasing, off-hand comments, or isolated incidents that are not extremely serious. Rather, the conduct must be so objectively offensive as to alter the conditions of the individual’s employment. The conditions of employment are altered only if the harassment culminates in a tangible employment action or is sufficiently severe or pervasive to create a hostile work environment. Report any incident of harassment immediately to your supervisor, or any member of management.

#### **328.5 REPORTING PROCEDURE**

- Any person who alleges or has witnessed discrimination and/or harassment by another member of this Department, whether he or she is sworn or civilian must report it as soon as possible to their immediate supervisor or other person of authority.
- Filing a complaint or otherwise reporting discrimination and/or harassment will not reflect upon the individual’s status, nor will it affect future employment, work assignments, or future promotions.
- The right of confidentiality, for both the accuser and the accused, will be respected consistent with the Department’s legal obligations; with the necessity to investigate allegations of misconduct; and with the necessity to take corrective action when this conduct has occurred.

- Complaints of sexual harassment which involve possible criminal behavior, (i.e. rape, assault, indecent liberties, sexual abuse or other related criminal offenses) will be investigated by the Unit designated by the Chief of Police.
- During investigative stages, the Department will keep sexual harassment complaints confidential, to the fullest extent possible.
- Department policy and the law forbid retaliation against anyone who has reported sexual harassment in good faith.

The act of reporting an incident to the New Haven Police Department in no way replaces the right of an employee to utilize the complaint procedure of his or her own collective bargaining unit. Neither does the act of reporting to the Department preclude an individual from filing a complaint with the New Haven Commission on Equal Opportunities, the City's Affirmative Action Officer, the Connecticut Commission on Human Rights and Opportunities, the United States Equal Employment Opportunity Commission, the Office of Civil Rights of the United States Department of Education or any other appropriate city, state or federal agency. Individuals considering using those agencies should investigate specific requirements and note that they generally have strict deadlines for filing.

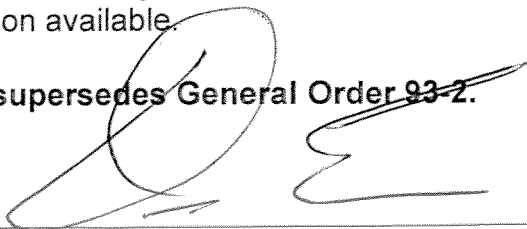
Although sexual harassment is most frequently thought of as male supervisors harassing women of lower rank or employee status, the reality is that harassment occurs at all levels. The law is gender inclusive and prohibits the sexual harassment of men by women, women by men, men by men and women by women. Peer harassment is one of the most common forms of sexual harassment and is unacceptable at the New Haven Department of Police Services, as is any other form of inappropriate activity including sexist, racist and homophobic behavior.

An employee who believes that he or she is the victim of sexual harassment should not hesitate to attempt to end the harassment. If the harassment is not stopped by such direct action the employee, or any other employee aware of the situation, should report the behavior immediately to any supervisor.

### **328.6 CORRECTIVE ACTION**

Once the investigation relative to the complaint is complete, the person(s) found to have been engaged in the harassment and/or discrimination will be disciplined promptly at the discretion of the Chief of Police or Board of Police Commissioners once the appropriate charges leveled against the accuser(s) have been properly identified. Counseling, training, remedial training, suspension, termination of employment and/or arrest will be the courses of action available.

**This supersedes General Order 93-2.**



Dean Esserman  
Chief of Police

12/19/2011

Date