

	KANSAS CITY MISSOURI POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	<b>PERSONNEL POLICY</b>	12/2/2021	12/2/2021	315
SUBJECT			AMENDS	
Policy Series 300 – Employee Relations 315 – Workplace-Related Incidents of Sexual Misconduct, Domestic/Dating Violence				
REFERENCE		RESCINDS		
PPBM 310 Discrimination and/or Harassment PPBM 820 Employee Assistance Program				

## I. INTRODUCTION

The purpose of this written directive is to ensure the Kansas City Missouri Police Department's (Department) commitment to a safer and more supportive organizational climate and to the prevention and reduction of the occurrences and effects of workplace-related incidents of sexual misconduct, domestic violence, and dating violence. The Department recognizes violence presents unique issues for its members, volunteers, consultants, and contractors. This written directive provides guidelines that have been adopted by the Office on Violence Against Women (OVW), U.S. Department of Justice, for grant-funded projects.

## II. TERMINOLOGY

- A. **Adjudication** – A formal judgement that includes a conviction, issuance of a final protection order, court-ordered diversion, or other judicial finding that the member, volunteer, consultant, or contractor has engaged in domestic violence, dating violence, sexual assault, or stalking.
- B. **Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:
1. The length of the relationship.
  2. The type of relationship.
  3. The frequency of interaction between the persons involved in the relationship.
- C. **Hostile Work Environment** – A workplace in which the conduct of supervisors or coworkers has created a discriminatory environment that a reasonable person would find so abusive or intimidating that it impacts the ability to work. In order to constitute a hostile work environment, the following guidelines should be met: the harassment was unwelcome, was based on the employee's status in a protected class, and the harassment was sufficiently severe and pervasive enough to alter the conditions of their employment.

1. Conduct that amounts only to ordinary socializing in the workplace, such as occasional horseplay, occasional use of abusive language, tasteless jokes, and occasional teasing, does not constitute an abusive or hostile work environment.
  2. Moreover, isolated incidents, unless extremely serious, will not amount to a hostile work environment.
  3. Additionally, often, hostile work environment does not exist where many of the claimed hostile actions fell within the scope of common managerial functions.
- D. **Inappropriate Humor** – Alleged jokes or humorous statements that make explicit or implicit references to violence or discrimination directed at an individual, group of individuals, or property.
- E. **Retaliation** – A negative action (e.g., unfavorable assignment, transfer, demotion, termination, or other tangible or material employment action) taken against an individual who engages in activities protected by this written directive. Protected activities include, but are not limited to, making a report and giving a statement as a witness in an investigation under this written directive.
- F. **Sexual Assault** – Any nonconsensual sexual act proscribed by Federal, tribal, or state law, including when the victim lacks capacity to consent.
- G. **Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.
- H. **Sexual Misconduct** – Sexual misconduct by law enforcement, some of which may constitute a criminal act, may be directed at colleagues, citizens, residents, detainees, arrestees, youths, and crime victims or witnesses. Any behavior by a member that takes advantage of their position in law enforcement to:
1. Misuse authority and power (including force) in order to commit a sexual act,
  2. Initiate sexual contact with another person who is in law enforcement custody,

3. Participate in any sexual contact with another person while on duty with or without that person's consent.
- I. **Sexual Violence** – Any sexual act or behavior that is perpetrated against someone's will when someone does not or cannot consent.
- J. **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- K. **Workplace** – Buildings and property owned or controlled by the Board of Police Commissioners such as Department vehicles, other assigned work locations or telework, or locations in which the employee is representing the Department (such as during conferences, workshops, community meetings).

### III. POLICY

- A. The Department supports a comprehensive workplace education and training program to prevent violence.
- B. The Department supports members, volunteers, consultants, and contractors who are impacted by violence.
- C. Persons covered by this policy include full and part-time members, volunteers, consultants, and contractors engaged by or in any location or event controlled or sanctioned by the Department.
- D. The Department recognizes and respects the right to privacy and the need for confidentiality and autonomy for members, volunteers, consultants, and contractors. The Department will maintain the confidentiality regarding violence to the extent allowed by law, unless to do so would result in physical harm to any person, and/or jeopardize safety within any location or event controlled by the Department.
- E. The Department will notify the member, volunteer, consultant, or contractor, to the extent possible, when information regarding the investigation must be released to protect the safety of individuals.
- F. There are numerous resources available for survivors of workplace violence. Some of those resources are listed below.
  1. Metropolitan Organization to Counter Sexual Assault
  2. Kansas City Anti-Violence Project

3. A Brief Guide to Missouri Sexual Assault Survivors' Rights pamphlet developed by the State of Missouri Department of Public Safety.
- G. The Department will discipline and/or hold accountable members, volunteers, consultants, and contractors who use violence, which – in certain cases – may include assistive and supportive measures such as requiring counseling.
  - H. This written directive does not prevent disciplinary action being taken against a member if the member knowingly makes a false allegation or complaint of workplace-related incidents of sexual misconduct, domestic violence, and dating violence, or knowingly provides false information during any investigation.
  - I. The Department will assure that members, volunteers, consultants, and contractors who use violence or are adjudicated are prohibited from occupying positions that could undermine the Department's mission – as well as the missions of other agencies. The Department will remove the member, volunteer, consultant, or contractor from any position that may undermine the Department's ability to carry out OVW grant-funded projects.
  - J. The Department may grant an exception to Section III, I, and allow a member who has been adjudicated of workplace related violence so long as the Department can establish the member has met the following qualifications:
    1. No victim/survivor of workplace related violence used by the member, nor any family member or friend of a victim/survivor of workplace related violence by the member, will encounter the member in any Department controlled capacity;
    2. The member has proved accountability, restoration, and rehabilitation; and
    3. The Department's mission would benefit from the member's experience.
  - K. All terminations of a member or contractual relationship with a volunteer, consultant, or contractor related to this written directive must be reported to OVW.

- L. Forms of sexual misconduct may include, but are not limited to, the following:
1. Any sexual criminal act (e.g., sexual assault, rape, prostitution, sex trafficking);
  2. Sexual extortion (e.g., taking or refraining from law enforcement action, such as asking for or requiring sexual favors in exchange for not ticketing or arresting a civilian, or requiring sexual favors from a subordinate for changes in shifts, assignments, or positive performance evaluations);
  3. Inappropriate physical contact of a sexual nature (e.g., inappropriate or unnecessary searches, or frisks) with any other person, such as suspects, victims, witnesses, or another Department member;
  4. Officer-initiated sexual contact while on duty or engaging in civilian-initiated sexual contact while on duty;
  5. Off-duty sexual behavior on workplace premises;
  6. Voyeuristic actions that are sexually motivated (e.g., looking in windows of residences for sexually motivated reasons, taking photographs for sexual gratification, searching the individual's home for nude or partially clothed photographs);
  7. Unnecessary contacts/actions taken by members, volunteers, consultants, and contractors for personally and/or sexually motivated reasons (e.g., unwarranted call backs to crime victims, making a traffic stop to get a closer look at the driver for non-professional reasons, unnecessarily asking an individual to remove clothing or expose themselves, unnecessary assignment to keep another member in close proximity); and
  8. Inappropriate and unauthorized use of Department resources (including electronic devices and other equipment) and/or information systems for reasons other than legitimate law enforcement purposes (e.g., looking up personal details about victims, witnesses, or contacts contained in law enforcement records).

#### **IV. PROCEDURES**

- A. Allegations of sexual misconduct by Department members will generally be investigated as follows:
  - 1. The Department's Sex Crimes Unit (SCU) or the Internal Affairs Unit (IAU) will conduct the criminal investigation (for those allegations of criminal behavior).
  - 2. The IAU will conduct the administrative investigation.
  - 3. The Chief of Police (COP), or designee, has the discretion to refer an investigation, whether criminal and/or administrative, to an outside agency to avoid any potential conflicts of interest or the appearance of such.
  
- B. All workplace-related incidents of sexual misconduct, domestic violence, dating violence, discrimination/harassment, or retaliation complaints involving members will be accepted and investigated fully within 45 days of receipt of the complaint.
  
- C. All Department members, volunteers, consultants, and contractors have a duty to report any known, suspected, or alleged act of sexual misconduct perpetrated by a Department member, volunteers, consultants, and contractors of which they are aware by following the procedures outlined in written directive entitled, "Discrimination and/or Harassment."
  
- D. The Department will assist the victim in developing a workplace safety plan. The safety plan may include but is not limited to:
  - 1. Flexible scheduling and leave policies so that the victim/survivor can access health care, counseling, legal support, and attend to other needs;
  - 2. Adjustments to job site infrastructure, including relocating to another work station, changing contact information, and enhancing security protocols;
  - 3. Support in reporting to law enforcement, if the victim/survivor so chooses.

- E. The investigation, regardless if it is conducted by HRD, Internal Affairs, an outside investigator, and/or a supervisor/commander, will follow the process outlined in the written directive entitled, "Investigation, Discipline, and Appeals of Members."



Richard C. Smith  
Chief of Police

Adopted by the Board of Police Commissioners this 16<sup>th</sup> day of November, 2021.



Mark C. Tolbert  
Board President

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