



University of Pennsylvania Police Department 4040 Chestnut Street, Philadelphia, Pa 19104		 
Directive: 19	Subject: Sexual Misconduct	Effective Date: 05/28/1996
Order of: Gary Williams, Chief of Police		Amended Date: 08/01/2023

I. Purpose

The purpose of this directive is to maintain a healthy work environment and to provide procedures for reporting, investigation, and resolution of complaints of harassment, sexual or otherwise.

II. Policy

It is the policy of the University of Pennsylvania Police Department (UPPD) that all employees have the right to work in an environment free of all types and forms of harassment. The department does not condone nor will it tolerate any types of harassment. Therefore, the department shall take direct and immediate action to remedy all reported instances of harassment, sexual or otherwise.

This policy is an internal mechanism for department employees only, and it is not meant to be a replacement for any other existing University policies. The University's Sexual Misconduct Policy, Resource Offices and Complaint Procedures information can be found in this Almanac supplement. This document concerns harassment, violence, stalking and other forms of misconduct. UPPD personnel shall be guided by University Policy No. 703, "Sexual Harassment Policy": <https://catalog.upenn.edu/pennbook/sexual-misconduct-resource-offices-complaint-procedures/> and University "Principles of Responsible Conduct": http://www.upenn.edu/audit/oacp_principles.htm. This policy does not preclude any employee from filing a complaint or grievance with another appropriate internal University department or outside agency.

III. Scope

This directive shall affect all UPPD employees.

IV. Definitions

- A. Sexual Violence: includes a range of behaviors in which an act of a sexual nature is taken against another individual without that person's consent or when the individual is unable to

consent. There are various types of sexual violence, including but not limited to sexual assault and rape (defined below).

- a) Sexual assault: (including but not limited to rape) is defined as having committed any of the following acts:
 - (1) Any physical sexual contact that involves the use or threat of force or violence or any other form of coercion or intimidation;
 - (2) Any physical sexual contact with a person who is unable to consent due to incapacity or mental or physical impairment. "Incapacity" or "impairment" include but are not limited to being under the influence of alcohol or drugs or being too young to consent.
- b) Rape: defined as sexual assault involving an act of penetration and includes acquaintance rape (assailant and victim know each other).
- c) Non-forcible sex acts: include unlawful sex acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent as defined by Pennsylvania law.
- d) Consent: is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other forms of sexual activity and the existence of a current or previous dating, marital or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication or other condition, is unable to lawfully give his or her consent.
- e) Relationship Violence: also commonly known as dating violence, is defined as an act or a pattern of abuse committed by a person involved in a social, sexual or romantic relationship, past or present, with the victim. Relationship violence can encompass a broad range of behaviors that may include physical violence, sexual violence, emotional violence and economic violence.
- f) Domestic Violence: is defined as abuse committed against an adult who is a spouse or former spouse, cohabitant or someone with whom the abuser has a child, has an existing dating or engagement relationship or has had a former dating or engagement relationship.
- g) Stalking: means engaging in a course of conduct directed at specific person(s) that would cause a reasonable person to fear for his or her safety the safety of others, or to suffer substantial emotional distress.

- B. Sexual Harassment: For the purposes of University policy, the term “sexual harassment” refers to any unwanted sexual attention that:
1. Involves a stated or implicit threat to the victim’s academic or employment status;
 2. Has the purpose or effect of interfering with an individual’s academic or work performance; and/or;
 3. Creates an intimidating or offensive academic, living or work environment.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, constitute sexual harassment 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.

V. Procedures

A. Prohibited Activity

1. No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person.
2. Department employees shall not make offensive or derogatory comments based on race, color, gender, sexual orientation, religion, national or ethnic origin either directly or indirectly to another person. Such harassment is a prohibited form of discrimination under Federal and State Employment Law as well as University policy, rules and regulations, and is also considered misconduct subject to disciplinary action by the department.

B. Employee'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 department employees on the types of behavior prohibited, and University and department policies and 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 employees are within his/her line of supervision; and

- d) taking immediate action to limit the work contact between two employees where there has been a complaint of harassment, pending investigation.
2. Each supervisor has the responsibility to assist any department employee, who comes to that supervisor with a complaint of harassment, in documenting and filing a complaint with the Deputy Chief of Investigations.
3. Each employee is responsible for assisting in the prevention of harassment through the following acts:
 - a) refraining from participation in, or encouragement of, actions that could be perceived as harassment;
 - b) reporting acts of harassment to a supervisor; and
 - c) encouraging any department employee who confides that he/she is being harassed, to report these acts to a supervisor.
4. Failure to take action to stop known harassment shall be grounds for discipline.

C. Complaint Procedures

1. Department employees encountering harassment shall tell the person that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
2. Any department employee who believes that he/she is being harassed shall report the incident(s) to his/her supervisor or a resource agency (i.e., Labor Relations, Office of Affirmative Action, Ombudsman's Office, etc.) as soon as possible so that steps may be taken to protect the employee from further harassment, and appropriate investigative and disciplinary measures may be initiated. Where this is not practical, the employee may disregard his/her normal chain of command and instead file a complaint with another supervisor, commander, Captain, Deputy Chief or Chief of Police.
 - a) If the complainant desires, the supervisor or other person to whom a complaint is given shall meet with the employee and document the incidents complained of, the person(s) performing or participating in the harassment, and the dates on which it occurred.
 - b) The employee taking the complaint shall expeditiously deliver the complaint to the Deputy Chief of Investigations for investigation.
3. If the complainant desires, the Deputy Chief of Investigations shall be responsible for the investigation of their complaint.

- a) The Deputy Chief of Investigations shall immediately notify the Chief of Police if the complaint contains evidence of criminal activity, such as battery, rape, attempted rape, etc., the appropriate prosecutor's office shall be notified.
 - b) The Deputy Chief of Investigations shall include a determination whether other employees are being harassed by the subject person, and whether other department members participated in, or encouraged the harassment.
 - c) The Deputy Chief of Investigations shall inform the parties involved of the outcome of the investigation.
 - d) The Deputy Chief of Investigations shall maintain a file of harassment complaints in a secure location. The Chief of Police shall be provided with an annual summary of these complaints via the chain of command.
4. There shall be no retaliation against any employee for filing a harassment complaint, or assisting, testifying, or participating in the investigation of such a complaint. Actions or omissions on the part of others against a complainant shall be fully investigated and discipline may be deemed appropriate.
 5. Complainants or department employees accused of harassment may file a grievance/appeal in accordance with Federal and State Law, and University and department rules and regulations when they disagree with the investigation or disposition of a harassment claim.

D. Compliance

Violations of this directive, or portions thereof, may result in disciplinary action.

E. Officers Assigned To Other Agencies

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this directive.

F. Application

This directive constitutes departmental policy, and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law. Violations of policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.