NOTE: FAILURE BY ANY SUPERVISOR OR MANAGER TO CARRY OUT THESE DUTIES MAY BE CAUSE FOR DISCIPLINE.

Duty of All Supervisors and Managers to Report

Supervisors and managers have an affirmative duty to report potential violations of the Policy. Supervisors and managers are required to report potential violations of the Policy to the Intake Specialist Unit as provided below even when a complaining or reporting party requests that no action be taken. The supervisor or manager shall:

- Immediately notify the Intake Specialist Unit of the incident(s) or complaint and any initial steps taken by the supervisor or manager; and
- Complete a Policy Of Equality Report form POE-001 ("POE Report Form") and promptly file the original with the Intake Specialist Unit with copies to: (a) the reporting party's Unit Commander, unless the complaint is against the Unit Commander, in which case it shall be sent to the Department's Equity Commander; and (b) the Equity Oversight Panel.

Additional Duties of All Supervisors and Managers

Supervisors and managers are also responsible for:

- Being aware of and understanding the Policy and Procedures, as well as any modifications that may be made to them;
- Actively monitoring the work environment to ensure that discrimination, harassment, and/or retaliation are not occurring;
- Informing Department members under their supervision of the types of behavior prohibited, and the Department's procedures for reporting and resolving complaints arising under the Policy;
- Stopping conduct that violates the Policy and taking immediate and appropriate action whether or not the involved Department members are within their line of supervision;
- Taking immediate action to prevent retaliation towards the complaining party (if there is one), and to deter and eliminate any hostile work environment. If a situation requires separation of the involved parties, particular care must be taken to avoid actions that appear to punish the complaining party.

Supervisors and managers have the foregoing duties whether or not a complaint has been made.

Additional Duties of Unit Commanders

In addition to the duties described above, Unit Commanders have the following duties:

- Ensuring that blank POE report forms POE-001 are maintained in a prominent and accessible place in every Unit. It is the further duty of the Unit Commander
to ensure that the location, availability, and purpose of these forms are made known to each Unit member; and
• Performing all duties required by the Outside Vendor Policy Regarding Discrimination, Harassment, and Retaliation.

3-01/122.10 POLICY OF EQUALITY - PROCEDURES - INFORMATION ABOUT THE POLICY AND PROCEDURES

Office of the Ombudsperson

The Office of the Ombudsperson functions as a specialized resource for all Department members concerning the Policy of Equality and these Procedures. The Office of the Ombudsperson shall respond to inquiries, including anonymous inquiries, about the Department's Policy and Procedures and provide information to Department members about, among other things, their rights and responsibilities and complaint and investigation procedures concerning equity matters.

The Office of the Ombudsperson is not a complaint intake Unit. However, if a caller provides enough information to indicate a violation of the Policy, the Office of the Ombudsperson must report the matter to the Intake Specialist Unit. The Office of the Ombudsperson shall notify each caller of this obligation.

QUESTIONS ABOUT THIS POLICY

Any Department member who has questions about the meaning or interpretation of this Policy should contact the Office of the Ombudsperson. They may be reached at:

Office of the Ombudsperson (323) 890-5348

3-01/122.15 POLICY OF EQUALITY - PROCEDURES - EQUITY COMPLAINT PROCESS

Reporting Complaints

Any Department member who believes he or she has been subjected to conduct that violates the Policy is encouraged to report the matter to:

• Any Department supervisor or manager (whether or not in the Department member's chain-of-command); or
• The Intake Specialist Unit at (323) 890-5371.

Non-supervisory Department members are also encouraged to report potential violations of the Policy directed toward another to a supervisor, manager, or to the Intake Specialist Unit, the number for which has been provided above.
Supervisors and managers shall report potential violations of the Policy in accordance with the procedures detailed above.

- **The Intake Specialist Unit**

The Intake Specialist Unit, staffed by both sworn and civilian Department members, is an initial point of contact for Department members who wish to report a violation of the Policy. Department members are not required to identify themselves when contacting the Intake Specialist Unit.

The Intake Specialist Unit shall be responsible for directing any reports concerning equity issues to the Equity Unit for investigation and resolution. The Intake Specialist Unit also shall assist Department members in finding the right point of contact for questions regarding the Policy and Procedures or equity issues.

The Intake Specialist Unit shall contact the complainant during the course of the investigation to ensure that no retaliation is occurring. The Intake Specialist Unit shall make prompt notification to the appropriate parties if an issue of retaliation is raised.

- **Supervisors and Managers**

Department members also may report potential violations of the Policy and/or Procedures to any Department supervisor or manager as defined above.

**Investigating Complaints: The Equity Unit**

The Equity Unit is responsible for promptly and effectively investigating reports of conduct that violates the Policy or Procedures. Equity Unit investigations shall be immediate, thorough, objective, and complete. Equity Unit investigations shall be as confidential as reasonably possible consistent with the Department's obligation to conduct a full and effective investigation. Upon conclusion of the investigation, the Equity Unit investigators shall present their findings to the Equity Oversight Panel for review.

The Equity Unit investigator(s) assigned to the case shall conduct an initial investigation to determine whether there has been a potential violation of the Policy and/or Procedures. If the initial investigation indicates a potential violation of the Policy and/or Procedures, the investigator shall open an administrative investigation at the direction of an Equity Unit Lieutenant, who may seek the advice or concurrence of the Equity Commander or Equity Unit attorney. Any decision not to open an administrative investigation shall be forwarded to the Equity Oversight Panel for review.
Review of Equity Unit Investigations

- The Equity Oversight Panel

The Equity Oversight Panel is an independent oversight body which, in accordance with the procedures described in this section, shall have authority and be responsible for reviewing Equity Unit investigations and making appropriate determinations for violations of the Policy and/or Procedures. The Equity Oversight Panel shall meet bi-monthly, or more frequently if necessary, to discuss and review each Equity Unit investigation.

In addition, the Equity Oversight Panel shall be responsible for, among other matters, monitoring and evaluating the quality of the Equity Unit investigations and the effectiveness of the Policy and Procedures. The Equity Oversight Panel shall also serve as an equity policy advisor to the Department.

- The Review Process

The review process shall consist of the following steps:

a. The Equity Oversight Panel shall receive a thorough briefing from and have the opportunity to question the investigator(s) who handled the Equity Unit investigation. The subject's Chief and/or Unit Commander may attend the briefing. In addition, the Equity Oversight Panel shall have the authority to command the appearance of any Department member deemed necessary to a full and effective resolution of the complaint or incident. Any information relied upon by the Equity Oversight Panel to reach its decisions must be reflected in the subject's investigation package, including any new information received from any attendee to the Equity Oversight Panel's briefing.

b. The Equity Oversight Panel shall meet to discuss and deliberate on the Equity Unit case presented. A representative from County Counsel and the Office of Affirmative Action Compliance may be present to offer advice as required under applicable Protocols. The subject's Chief and/or Unit Commander may be present at the request of the Equity Oversight Panel members. After discussion, the Equity Oversight Panel shall determine appropriate dispositions and discipline, if discipline is warranted. The Equity Oversight Panel immediately shall cause to be forwarded to the Sheriff for review all cases where its final recommended discipline determination exceeds 15 days suspension (See "Sheriff's Review of Discipline in Excess of 15 Days Suspension," below.).

c. In all cases, the Equity Oversight Panel may direct the Equity Unit to conduct further investigation. If further investigation is directed, another review shall be held in accordance with this section after the investigation.

d. The Equity Oversight Panel shall communicate its recommendations to the Equity Unit, which shall notify the appropriate parties. The Equity Unit
shall issue a Letter of Intent to Impose Discipline to the subject or, where appropriate, inform the subject that the complaint was unfounded or unresolved. At the same time, the Equity Unit shall issue a letter to the complainant indicating that the complaint was either founded, unfounded, or unresolved and that, if founded, appropriate corrective action was determined. Proposed disciplinary action shall be kept confidential until the Equity Unit receives the determinations regarding dispositions and discipline from the Equity Oversight Panel or Sheriff or his delegate.

Sheriff's Review of Discipline in Excess of 15 Days Suspension

The Sheriff shall have the authority to review all cases of discipline in excess of 15 days suspension, including demotion and termination. For these cases, the Sheriff shall have the authority to adopt or modify the discipline and/or reopen the investigation if deemed necessary.

The Sheriff may delegate the aforementioned authority to the Undersheriff or an Assistant Sheriff.

Skelly Hearings

Where applicable, the subject Department member may elect to have a hearing on discipline (a "Skelly" hearing) before the discipline is imposed. If the subject elects to have a Skelly hearing, the Department shall designate a Skelly officer.

Information presented by the subject at the Skelly hearing that was known to the subject at the time of the subject's Equity Unit investigation but not disclosed shall not be grounds for overturning the Equity Oversight Panel's recommendation. If the subject presents new facts during the Skelly hearing (i.e., facts discovered subsequent to the subject's Equity Unit investigation), the Skelly officer shall send the case back to the Equity Unit for further investigation.

The Skelly officer shall promptly communicate, in writing, the factual and legal basis for any decision to modify the Equity Oversight Panel's determinations to the Sheriff and to the Equity Oversight Panel. Failure to do so may be grounds for discipline.

Grievance Procedures

- **Department Member Rights**

  Department members also may grieve disciplinary actions according to the terms of applicable memoranda of understanding ("MOU") negotiated by the Department and the union representing said members. As such, these MOUs may require separate or additional procedures according to their respective terms.
Supervisors' and Managers' Responsibilities

Any supervisor authorized to conduct grievances shall promptly communicate, in writing, to the Equity Oversight Panel and to the subject's Chief the factual and legal basis for any decision to modify the Equity Oversight Panel's determinations. Failure to do so may be cause for discipline.

Information presented by the subject during the grievance that was known to the subject at the time of the subject's Equity Unit investigation but not disclosed shall not be grounds for overturning the Equity Oversight Panel's recommendation. If the subject presents new facts during the grievance (i.e., facts discovered subsequent to the subject's Equity Unit investigation), the supervisor authorized to conduct the grievance shall send the case back to the Equity Unit for further investigation.

Appeals To Civil Service

Department members also may appeal final determinations of discipline to the Civil Service Commission in accordance with the Civil Service Rules. Where the final discipline determination exceeds 15 days suspension, the Department may not settle a Civil Service Commission case without prior approval by the Sheriff or his designee. In all other cases, the Department may not settle a Civil Service Commission case without prior approval by the Equity Oversight Panel.

3-01/122.20 POLICY OF EQUALITY - PROCEDURES - EXTERNAL COMPLAINT MONITORING

The Department's Affirmative Action Unit, in conjunction with the County's Office of Affirmative Action Compliance, will receive and process all external discrimination, harassment, and retaliation complaints. Where appropriate, the Affirmative Action Unit will forward the complaint to the Equity Unit for investigation and resolution.

3-01/122.25 POLICY OF EQUALITY - PROCEDURES - CONFIDENTIALITY

The Department shall maintain all complaint-related information in confidence to the extent possible given the Department's obligation to conduct a full and effective investigation. For more information concerning confidentiality, Department members should contact the Office of the Ombudsperson.

The Department shall keep all information and material reviewed confidential in accordance with California Penal Code §§ 832.7 and 832.8, California Evidence Code § 1043 et seq., and any other provision regarding the confidentiality of peace officer personnel records.
The definition of sexual harassment includes many forms of offensive behavior.

An employer might avoid liability if
- the harasser is not in a position of authority, such as a lead, supervisor, manager or agent;
- the employer had no knowledge of the harassment;
- there was a program to prevent harassment; and
- once aware of any harassment, the employer took immediate and appropriate corrective action to stop the harassment.

Filing a Complaint
Employees or job applicants who believe that they have been sexually harassed may file a complaint of discrimination with DFEH within one year of the harassment.

DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence to establish discrimination occurred and settlement efforts fail, the Department may file a formal accusation. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed by DFEH on behalf of the complaining party.

If the Commission finds that discrimination has occurred, it can order remedies including:
- Fines or damages for emotional distress from each employer or person found to have violated the law
- Hiring or reinstatement

- Back pay or promotion
- Changes in the policies or practices of the involved employer

Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

For more information, see DFEH publication 159 “Guide for Complainants and Respondents.”

For more information, contact DFEH toll free at (800) 884-1684
TTY number at (800) 700-2320 or visit our web site at www.dfeh.ca.gov

In accordance with the California Government Code and ADA requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette as a disability-related reasonable accommodation for an individual with a disability. To discuss how to receive a copy of this publication in an alternative format, please contact DFEH at the numbers above.

State of California
Department of Fair Employment & Housing

DFEH-185 (04/04)

Sexual Harassment

The Facts About Sexual Harassment
The Fair Employment and Housing Act (FEHA) defines sexual harassment as harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. The following is a partial list of types of sexual harassment:
- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Actual or threatened retaliation
- Leering; making sexual gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters
- Making or using derogatory comments, epithets, slurs, or jokes
- Sexual comments including graphic comments about an individual's body; sexually degrading words used to describe an individual; or suggestive or obscene letters, notes, or invitations
- Physical touching or assault, as well as impeding or blocking movements
The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

**Employers’ Obligations**

All employers must take the following actions against harassment:

- Take all reasonable steps to prevent discrimination and harassment from occurring. If harassment does occur, take effective action to stop any further harassment and to correct any effects of the harassment.
- Develop and implement a sexual harassment prevention policy with a procedure for employees to make complaints and for the employer to investigate complaints. Policies should include provisions to:
  - Fully inform the complainant of his/her rights and any obligations to secure those rights.
  - Fully and effectively investigate. The investigation must be thorough, objective, and complete. Anyone with information regarding the matter should be interviewed. A determination must be made and the results communicated to the complainant, to the alleged harasser and, as appropriate, to all others directly concerned.
  - Take prompt and effective corrective action if the harassment allegations are proven. The employer must take appropriate action to stop the harassment and ensure it will not continue. The employer must also communicate to the complainant that action has been taken to stop the harassment from recurring. Finally, appropriate steps must be taken to remedy the complainant’s damages, if any.
- Post the Department of Fair Employment and Housing (DFEH) employment poster (DFEH 162) in the workplace (available through the DFEH toll-free number [800] 884-1684 or web site).
- Distribute an information sheet on sexual harassment to all employees. An employer may either distribute this pamphlet (DFEH 185) or develop an equivalent document that meets the requirements of Government Code section 12950(b). This pamphlet may be duplicated in any quantity. **However, this pamphlet is not to be used in place of a sexual harassment prevention policy, which all employers are required to have.**
- All employees should be made aware of the seriousness of violations of the sexual harassment policy. Supervisory personnel should be educated about their specific responsibilities. All employees must be cautioned against using peer pressure to discourage harassment victims from complaining.
- A program to eliminate sexual harassment from the workplace is not only required by law, but is the most practical way for an employer to avoid or limit liability if harassment should occur despite preventive efforts.

**Employer Liability**

All employers, regardless of the number of employees, are covered by the harassment section of the FEHA. Employers are generally liable for harassment by their supervisors or agents. Harassers, including both supervisory and nonsupervisory personnel, may be held personally liable for harassing an employee or coworker or for aiding and abetting harassment.

Additionally, the law requires employers to take “all reasonable steps to prevent harassment from occurring.” If an employer has failed to take such preventive measures, that employer can be held liable for the harassment. A victim may be entitled to damages, even though no employment opportunity has been denied and there is no actual loss of pay or benefits.

In addition, if an employer knows or should have known that a nonemployee (e.g. client or customer) has sexually harassed an employee, applicant, or person providing services for the employer and fails to take immediate and appropriate corrective action, the employer may be held liable for the actions of the nonemployee.