

Directives System

Manual : Human Resources and Training
RO : EEO

Section : HRT-04(01)
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Subject: General Provisions

To: All Supervisors and All Manual Holders of the Human Resources and Training Manual


Filing Instructions:

- Remove and destroy section HRT-04(01) (dated 02/01/2001) in its entirety and replace with the attached revised section.
- This directive is in effect until superseded.

Impact Statement: This directive is being revised to reflect current policy, programs, and responsibilities of the Secret Service Equal Employment Opportunity office.

Mandatory Review: The Responsible Office will review all policy contained in this section in its entirety by or before December 2008.

Questions regarding this policy should be directed to the Office of the Director, Equal Employment Opportunity Program, at 202-406-5540.


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Deputy Director

DCP#: HRT 2005-24

GENERAL PROVISIONS

Equal Employment Opportunity Policy

It is the policy of the Secret Service to provide equal employment opportunity throughout the Service for all employees, former employees, and applicants for employment who are otherwise eligible and qualified, without regard to such non-merit factors as race, color, religion, sex, national origin, disability (physical or mental), parental status, protected genetic information, sexual orientation, age, or reprisal for objecting to discrimination or prior or current participation in the Equal Employment Opportunity (EEO) complaint process. This policy applies to appointments, details, career development, training, reassignments, promotions, and assignments of work, and to any other actions or situations affecting employment status where the possibility exists for consideration of non-merit factors. All selections, except for those positions for which the Secretary of Homeland Security has approved age limits, shall be free from any discrimination based on age.

EEO Program Activities in Brief

The Director of the Secret Service exercises personal leadership in establishing, maintaining, and carrying out affirmative programs designed to promote equal employment opportunity. The Service conducts a continuing campaign to eradicate any vestige of prejudice or discrimination based upon race, color, religion, sex, age, disability (physical or mental), parental status, protected genetic information, sexual orientation, national origin, or reprisal for objecting to discrimination or prior participation in the EEO complaint process from its personnel policies, practices, and working conditions. Employees who engage in discriminatory practices face disciplinary action in accordance with applicable laws and regulations.

The EEO Program office facilitates the delivery of EEO training and training on the Prevention of Sexual Harassment to Secret Service employees on an annual basis. Managers and supervisors are responsible for fostering an attitude of acceptance and understanding of the EEO program and establishing a favorable climate for EEO activity within their jurisdictions.

The resources and activities directed toward furtherance of EEO policies and objectives include, but are not limited to, the elements listed below.

EEO Action Plan

The Equal Employment Opportunity Commission's (EEOC) Management Directive 715 (MD-715) provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII, and effective affirmative action programs under Section 501 of the Rehabilitation Act. MD-715 is the first directive issued by EEOC that identifies

the "Essential Elements" for structuring model equal employment opportunity programs. A model EEO program provides an agency with the necessary foundation for achieving a discrimination-free work environment.

There are six "Essential Elements" for maintaining "Model Agency" programs. They are as follows:

- Demonstrated commitment from agency leadership;
- Integration of EEO into the agency's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

Federal agencies must:

- Ensure that they are in full compliance with the law, including EEOC regulations, orders and other written instructions. See 42 U.S.C. § 2000e-16(b);
- Report agency program efforts and accomplishments to EEOC and respond to EEOC directives and orders in accordance with EEOC instructions and time frames; and
- Ensure that management fully and timely complies with final EEOC orders for corrective action and relief in EEO matters.

As part of the affirmative employment plan, the agency should have an up-to-date timeline of activities to effectuate its program of equal employment opportunity. Therefore, on a fiscal year basis the Secret Service develops an MD-715 Program Plan. The plan reports on accomplishments of the past year, analyzes the current EEO situation in the Service, and establishes specific goals for the coming year. The Service's MD-715 Program Plan is a comprehensive document that assists the Director in carrying out the spirit and intent of the overall EEO program. Furthermore, it provides assistance and guidance in planning, developing, and implementing the EEO program throughout the Service. The plan should be responsive and tailored to address any barriers or problems detected.

Affirmative Employment

The affirmative employment planning process requires federal agencies to develop planned actions designed to address any present effects of past discrimination. These actions are tailored efforts to make certain that qualified minorities, women, disabled veterans, and individuals with disabilities are given a full and fair opportunity to be represented in and progress within the agency's workforce. The Secret Service's efforts are outlined in the following Affirmative Employment Plans:

1. **Minorities and Women**
2. **Persons with Disabilities**
3. **Disabled Veterans**
4. **Federal Equal Opportunity Recruitment Plan (FEORP)**

Special Emphasis Programs

Special Emphasis Programs (SEPs) are designed to assist the organization in meeting its affirmative action responsibilities. SEPs are affirmative action programs established to increase the representation,

retention and advancement of their constituent groups in underrepresented occupations and grades. SEPs are also charged with promoting cultural awareness, identifying policies, procedures, and practices affecting their groups and advising management on actions, which may increase participation of minorities, women, and persons with disabilities in all Secret Service programs and activities. The Secret Service delivers the following six programs:

1. **Federal Women**
2. **Hispanic Employment**
3. **African American**
4. **Asian/Pacific Islander**
5. **Persons with Disabilities/Disabled Veterans**
6. **American Indian/Alaskan Native**

EEO Discrimination Complaints System

The Secret Service's Equal Employment Opportunity Program assures that all employees and applicants for employment have a full and fair opportunity at employment, career advancement, and access to programs. Any employee, former employee, or applicant for employment who believes that he/she has been discriminated against because of race, color, religion, sex, age, national origin, disability (physical or mental), parental status, sexual orientation, protected genetic information, or in reprisal for opposition to activities protected by civil rights statutes, or participating in proceedings to enforce those statutes may utilize the agency's EEO Discrimination Complaints System.

Alternative Dispute Resolution (ADR) Program

ADR is a variety of procedures used to resolve disputes. EEO Counselors offer ADR as an option to traditional EEO Counseling procedures during the EEO Complaint Process to help settle differences between parties by maintaining and reopening communications.

Outreach Initiatives

Presidential Executive Orders require federal agencies to establish plans, which will increase the participation of Hispanics, African Americans, American Indian/Alaskan Natives, Persons with Disabilities, and Asian/Pacific Islanders in federal programs. The Secret Service supports these initiatives through various student internship opportunities, excess computer donations, and community awareness activities. The Secret Service each year has representatives speaking with high school groups, community groups, law enforcement groups, and college placement officers concerning job opportunities and recruitment needs.

Prevention of Sexual Harassment

Sexual harassment is conduct of a sexual nature that is offensive and/or unwelcome to others. It is a form of sex discrimination and may be the basis of a successful EEO complaint if it meets guidelines established by the EEOC. Even if conduct does not meet the EEOC guidelines for sexual harassment, the Secret Service may initiate disciplinary action for conduct that adversely affects the work environment.

When a supervisor makes sexual favors a condition of receiving employment benefits or rights, he or she is clearly engaging in sexual harassment. However, any employee who engages in conduct that is sexual in nature and creates a hostile work environment is also engaging in sexual harassment. For this reason, it is important that a victim of unwanted sexual conduct tell the harasser that the conduct is unwelcome and/or offensive.

Sexual harassment violations may be caused by either males or females and the harasser can be the victim's supervisor, an employee, a contractor, a co-worker, a subordinate, or a member of the general public.

A victim of sexual harassment is anyone affected by the offensive conduct. The victim can be male or female, and can be the same sex as the harasser. The Secret Service is committed to providing a work environment free of improper or offensive sexual conduct, including conduct that does not meet the legal definition of sexual harassment. The Secret Service recognizes the right of all employees to be free of unsolicited and unwelcome sexual advances and intimidation. Moreover, the Secret Service recognizes that all employees have a right to work in an environment which does not subject them to unwelcome conversations containing sexually suggestive comments, innuendos or jokes, or workplace posters, photographs, screen savers, or other materials of a sexually suggestive nature.

Secret Service supervisors and managers have a responsibility to provide a professional work environment that is free from sexual harassment and other offensive behavior.

If any employee believes that he or she has been a victim of sexual harassment, he or she may contact:

- A supervisor;
- An Ombudsman
(Names may be obtained from the Ombudsman Program Coordinator at 202-406-5555);
- An EEO Counselor
(Names of counselors may be obtained by calling the EEO Program office at 202-406-5540 or through email at equal.opportunity@usss.dhs.gov);
- The Office of Inspection
- Personnel Division, Employee Relations Branch, at 202-406-5670; or
- The Sexual Harassment Hotline

In the Washington, D.C. area: 202-406-9800

Outside the Washington, D.C. area: 1-800-420-5558

For the hearing impaired: Dial 202-406-9805 to reach a TDD.

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Any employee who becomes aware of sexual harassment or other improper conduct has a responsibility to report such conduct to the appropriate supervisory official or one of the contacts from the above list.

Victims of sexual harassment may file a complaint under the Secret Service's EEO Discrimination Complaints System. Such complaints must be made within 45 days of the incident, or from the date of the last incident if the conduct is continuing in nature.

Victims who do not elect to file a discrimination complaint are encouraged to report incident(s) of sexual harassment or other improper conduct to the appropriate supervisor, the Office of Inspection, the EEO Program office, an Ombudsman, the Sexual Harassment Hotline, and/or the Personnel Division, Employee Relations Branch.

Recognition of EEO Accomplishments

Recognition for superior accomplishments in EEO may be provided through the Secret Service Awards Program (see PER-07(02)).

Reasonable Accommodation

The Rehabilitation Act of 1973, as amended, requires employers to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship. Title VII of the Civil Rights Act of 1964, as amended, requires employers to reasonably accommodate the religious practices of employees and prospective employees, unless the accommodation would result in undue hardship on the conduct of agency business. See HRT-04(05) for additional information.

Information to Employees

Information on the Secret Service's EEO program and program officials is available on the Secret Service intranet and public website. In addition, annually and at other appropriate intervals employees are informed of the Service's EEO program. EEO Counselors and Special Emphasis Program Managers are available to answer specific questions and to provide advice about matters brought to their attention.

EEO Program Evaluation

Under EEOC MD-715, the Secret Service is required to conduct a self-assessment of its workforce on an annual basis. For this assessment, the agency must collect and evaluate all the information and data necessary to make an informed assessment about the extent to which it is meeting its responsibility to provide employment opportunities for its employees (permanent and temporary), qualified applicants, and employees with disabilities. Further, it alerts the Service to potential barriers which may prevent individuals from any race, ethnicity, or sex group from realizing their full potential.

As part of the self-assessment, the agency looks at its workforce representation (permanent and temporary) in each grade level and in various occupational categories, the rates of selection for promotions, training opportunities and performance incentives, the rate of voluntary and involuntary separations, adverse actions, and the rates of new hires to the Service by race, ethnicity, sex, and disability status. Further, the Office of Inspection reviews and reports on EEO compliance posting operations as a part of regularly scheduled office inspections.

Program Evaluation and monitoring components also consists of systems for:

- EEO/Civil Rights Workload Analysis (CRWA) - defines/establishes minimum program levels for consistency in program delivery.
- Civil Rights Impact Analysis (CRIA) - Civil Rights impacts are alterations in people's civil rights status that occur in conjunction with a new policy, program, or project; are not attributable to any external factors; and are perceived by those affected as socially significant. CRIAs are composed of narrative and statistical information by race/sex/national origin/disability and are designed to (1) analyze impacts before an action begins; (2) provide alternatives (including no action) to recommend actions; (3) identify mitigation measures to negative impacts; and (4) monitor outcomes.
- Measuring EEO Performance - A process to measure and provide feedback on the EEO performance of management and supervisory-level employees to ensure accountability.

EEO Responsibilities

Below are summaries of EEO responsibilities in the Secret Service. The summaries do not include all EEO staff functions. Secret Service managers and supervisors, along with EEO officials, are expected to review appropriate EEO information to ensure that they have a thorough knowledge of their roles in the program.

Managers and Supervisors

Managers and supervisors at all levels throughout the Service are responsible for exercising personal leadership in establishing, maintaining, and carrying out a positive, continuing program designed to promote equal opportunity for all employees. Supervisory performance in furthering equal employment opportunity is a required annual performance rating consideration.

EEO Director

The EEO Director provides program leadership and oversight to the overall EEO Program for the Secret Service. As such, the EEO Director is responsible for development and evaluation of the EEO program and for providing technical advice and assistance in various aspects of the EEO program. The EEO Director also directs the Service-wide EEO staff in the performance of EEO functions.

Special Emphasis Program Managers

There are six (6) Special Emphasis Program Managers at the Secret Service:

- 1. Federal Women's Program Manager**
- 2. Hispanic Employment Program Manager**
- 3. African American Program Manager**
- 4. Asian/Pacific Islander Program Manager**
- 5. Persons with Disabilities/Disabled Veterans Program Manager**
- 6. American Indian/Alaskan Native Program Manager**

Each Special Emphasis Program Managers is responsible for fostering a positive and effective EEO program in the Service as it relates to their constituent group. This includes providing advice and guidance on matters affecting the employment, advancement, retention, and participation in external activities of their constituents in all Secret Service programs and activities.

EEO Counselors

EEO Counselors are responsible for establishing and maintaining an open channel through which employees may (confidentially if they so desire) express their views on EEO matters, raise questions, discuss claims, get answers, and on an informal basis, obtain resolution of problems connected with equal employment opportunity. (See HRT-04(03); HRT-04(04); HRT-04(06); HRT-04(07) and HRT-04(08) for information on how to file discrimination claims.)

MISCELLANEOUS STANDARDS (DEPARTMENT-WIDE)

The Department of Homeland Security (DHS) periodically may issue guidance pertaining to a specific Department- or Federal government-wide topic or issue which necessitates conveyance via a central, Component-level directive. Issuances of this type are included as appendices to this section.

The following appendices convey DHS policy and associated standards regarding the following:

- Appendix A Nondiscrimination in Law Enforcement and Screening Activities
- Appendix B Nondiscrimination for Individuals with Disabilities (Non-Employment)
- Appendix C Whistleblower Protection Awareness

Appendix A: Nondiscrimination in Law Enforcement and Screening Activities

DHS's mission is to ensure that the nation remains a safe, secure, resilient place where the American way of life can thrive. As former Secretary Tom Ridge explained, "[i]n all we do to secure America, our strategies and our actions must be consistent with the individual rights and civil liberties protected by the Constitution and the rule of law."

DHS policy prohibits all racial profiling at all times by any employee of DHS. It also makes clear that DHS personnel may only use race or ethnicity as a factor "when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest." The following is the Department's official policy on this issue:

"Racial profiling" is the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement, investigation, or screening activities. It is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity. The Department of Homeland Security (DHS) has explicitly adopted the Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," issued in June 2003. It is the policy of DHS to prohibit the consideration of race or ethnicity in our daily law enforcement and screening activities in all but the most exceptional instances, as defined in the DOJ Guidance. DHS personnel may use race or ethnicity only when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest. Of course, race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes or enterprises, may be considered, as stated in the DOJ Guidance.

Except as noted below, it is DHS policy, although not required by the Constitution, that tools, policies, directives, and rules in law enforcement and security settings that consider, as an investigative or screening criterion, an individual's simple connection to a particular country, by birth or citizenship, should be reserved for situations in which such consideration is based on an assessment of intelligence and risk, and in which alternatives do not meet security needs, and such consideration should remain in place only as long as necessary. These self-imposed limits, however, do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor.

Updated Department of Justice (DOJ) guidance issued in December 2014 has superseded the June 2003 guidance. The new guidance both expands the scope of the government activities covered and adds new covered characteristics to the existing prohibitions regarding race and ethnicity. Among other things, the revised policy: expands the characteristics it protects to include prohibitions on profiling on the basis of gender, national origin, religion, sexual orientation and gender identity, in addition to race and ethnicity; applies not only to Federal law enforcement officers but also State and local law enforcement officers participating in Federal law enforcement task forces; and now applies to national security, homeland security, and intelligence activities.

Note: While the United States Secret Service's (Secret Service) general law enforcement activities are expressly covered by the 2014 DOJ Guidance, footnote 2 states: "this Guidance does not apply to [...] protective, inspection, or screening activities." Notwithstanding this exemption, and as further outlined in the footnote, it is the policy of the Secret Service that all of its activities "must be conducted consistent with the Constitution and applicable Federal law and policy, in a manner that respects privacy, civil rights and civil liberties, and subject to appropriate oversight." Moreover, even for the exempted activities of

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protection, inspection, and screening, the DOJ Guidance should be considered as a guiding principle when assessing current, revised, or proposed operational policies and practices.

The December 2014 DOJ Guidance is included as an Appendix on the pages which follow.

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity”

U.S. Department of Justice

GUIDANCE FOR FEDERAL LAW ENFORCEMENT AGENCIES REGARDING THE USE OF RACE, ETHNICITY, GENDER, NATIONAL ORIGIN, RELIGION, SEXUAL ORIENTATION, OR GENDER IDENTITY



December 2014

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity” (continued)

INTRODUCTION AND EXECUTIVE SUMMARY

This Guidance supersedes the Department of Justice’s 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies. It builds upon and expands the framework of the 2003 Guidance, and it reaffirms the Federal government’s deep commitment to ensuring that its law enforcement agencies conduct their activities in an unbiased manner. Biased practices, as the Federal government has long recognized, are unfair, promote mistrust of law enforcement, and perpetuate negative and harmful stereotypes. Moreover—and vitally important—biased practices are ineffective. As Attorney General Eric Holder has stated, such practices are “simply not good law enforcement.”

Law enforcement practices free from inappropriate considerations, by contrast, strengthen trust in law enforcement agencies and foster collaborative efforts between law enforcement and communities to fight crime and keep the Nation safe. In other words, fair law enforcement practices are smart and effective law enforcement practices.

Even-handed law enforcement is therefore central to the integrity, legitimacy, and efficacy of all Federal law enforcement activities. The highest standards can—and should—be met across all such activities. Doing so will not hinder—and, indeed, will bolster—the performance of Federal law enforcement agencies’ core responsibilities.

This new Guidance applies to Federal law enforcement officers performing Federal law enforcement activities, including those related to national security and intelligence, and defines not only the circumstances in which Federal law enforcement officers may take into account a person’s race and ethnicity—as the 2003 Guidance did—but also when gender, national origin, religion, sexual orientation, or gender identity may be taken into account. This new Guidance also applies to state and local law enforcement officers while participating in Federal law enforcement task forces. Finally, this Guidance promotes training and accountability, to ensure that its contents are understood and implemented appropriately.

Biased law enforcement practices, as the 2003 Guidance recognized with regard to racial profiling, have a terrible cost, not only for individuals but also for the Nation as a whole. This new Guidance reflects the Federal government’s ongoing commitment to keeping the Nation safe while upholding our dedication to the ideal of equal justice under the law.

Two standards in combination should guide use by Federal law enforcement officers of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity in law enforcement or intelligence activities:

- In making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity to any degree, except that officers may rely on the listed characteristics in a specific suspect description. This prohibition applies even where the use of a listed characteristic might otherwise be lawful.

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity” (continued)

- In conducting all activities other than routine or spontaneous law enforcement activities, Federal law enforcement officers may consider race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons possessing a particular listed characteristic to an identified criminal incident, scheme, or organization, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity. In order to rely on a listed characteristic, law enforcement officers must also reasonably believe that the law enforcement, security, or intelligence activity to be undertaken is merited under the totality of the circumstances, such as any temporal exigency and the nature of any potential harm to be averted. This standard applies even where the use of a listed characteristic might otherwise be lawful.

DISCUSSION

The Constitution protects individuals against the invidious use of irrelevant individual characteristics. See *Whren v. United States*, 517 U.S. 806, 813 (1996). Such characteristics should never be the sole basis for a law enforcement action. This Guidance sets out requirements beyond the Constitutional minimum that shall apply to the use of race, ethnicity, gender, national origin,¹ religion, sexual orientation, and gender identity by Federal law enforcement officers.² This Guidance applies to such officers at all times, including when they are operating in partnership with non-Federal law enforcement agencies.

I. GUIDANCE FOR FEDERAL LAW ENFORCEMENT OFFICERS

A. Routine or Spontaneous Activities in Domestic Law Enforcement

In making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity to any degree, except that officers may rely on the listed characteristics in a specific suspect description. This prohibition applies even where the use of a listed characteristic might otherwise be lawful.

¹ As used in this Guidance, “national origin” refers to an individual’s, or his or her ancestor’s, country of birth or origin, or an individual’s possession of the physical, cultural or linguistic characteristics commonly associated with a particular country. It does not refer to an individual’s “nationality” (*i.e.*, country of citizenship or country of which the person is deemed a national), which may be relevant to the administration and enforcement of certain statutes, regulations, and executive orders.

² This Guidance is intended only to improve the internal management of the executive branch. It is not intended to, and does not, create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in an administrative, judicial, or any other proceeding. This Guidance does not apply to Federal non-law enforcement personnel, including U.S. military, intelligence, or diplomatic personnel, and their activities. In addition, this Guidance does not apply to interdiction activities in the vicinity of the border, or to protective, inspection, or screening activities. All such activities must be conducted consistent with the Constitution and applicable Federal law and policy, in a manner that respects privacy, civil rights and civil liberties, and subject to appropriate oversight.

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity” (continued)

Law enforcement agencies and officers sometimes engage in law enforcement activities, such as traffic and foot patrols, that generally do not involve either the ongoing investigation of specific criminal activities or the prevention of catastrophic events or harm to national or homeland security. Rather, their activities are typified by spontaneous action in response to the activities of individuals whom they happen to encounter in the course of their patrols and about whom they have no information other than their observations. These general enforcement responsibilities should be carried out without *any* consideration of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity.

- **Example:** While parked by the side of the George Washington Parkway, a Park Police Officer notices that nearly all vehicles on the road are exceeding the posted speed limit. Although each such vehicle is committing an infraction that would legally justify a stop, the officer may not use a listed characteristic as a factor in deciding which motorists to pull over. Likewise, the officer may not use a listed characteristic in deciding which detained motorists to ask to consent to a search of their vehicles.

Some have argued that overall discrepancies in certain crime rates among certain groups could justify using a listed characteristic as a factor in general traffic enforcement activities and would produce a greater number of arrests for non-traffic offenses (*e.g.*, narcotics trafficking). We emphatically reject this view. Profiling by law enforcement based on a listed characteristic is morally wrong and inconsistent with our core values and principles of fairness and justice. Even if there were overall statistical evidence of differential rates of commission of certain offenses among individuals possessing particular characteristics, the affirmative use of such generalized notions by law enforcement officers in routine, spontaneous law enforcement activities is tantamount to stereotyping. It casts a pall of suspicion over every member of certain groups without regard to the specific circumstances of a particular law enforcement activity, and it offends the dignity of the individual improperly targeted. Whatever the motivation, it is patently unacceptable and thus prohibited under this Guidance for law enforcement officers to act on the belief that possession of a listed characteristic signals a higher risk of criminality. This is the core of invidious profiling, and it must not occur.

The situation is different when an officer has specific information, based on trustworthy sources, to “be on the lookout” for specific individuals identified at least in part by a specific listed characteristic. In such circumstances, the officer is not acting based on a generalized assumption about individuals possessing certain characteristics; rather, the officer is helping locate specific individuals previously identified as involved in crime.

- **Example:** While parked by the side of the George Washington Parkway, a Park Police Officer receives an “All Points Bulletin” to be on the look-out for a fleeing bank robbery suspect, a man of a particular race and particular hair color in his 30s driving a blue automobile. The officer may use this description, including the race and gender of the particular suspect, in deciding which speeding motorists to pull over.

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity” (continued)

B. All Activities Other Than Routine or Spontaneous Law Enforcement Activities

In conducting all activities other than routine or spontaneous law enforcement activities, Federal law enforcement officers may consider race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons possessing a particular listed characteristic to an identified criminal incident, scheme, or organization, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity. In order to rely on a listed characteristic, law enforcement officers must also reasonably believe that the law enforcement, security, or intelligence activity to be undertaken is merited under the totality of the circumstances, such as any temporal exigency and the nature of any potential harm to be averted. This standard applies even where the use of a listed characteristic might otherwise be lawful.³

As noted above, there are circumstances in which law enforcement officers engaged in activities relating to particular identified criminal incidents, schemes, organizations, threats to national or homeland security, violations of Federal immigration law, or authorized intelligence activities may consider personal identifying characteristics of potential suspects, including race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity. Common sense dictates that when a victim describes the assailant as possessing a certain characteristic, law enforcement officers may properly limit their search for suspects to persons possessing that characteristic. Similarly, in conducting activities directed at a specific criminal organization or terrorist group whose membership has been identified as overwhelmingly possessing a listed characteristic, law enforcement should not be expected to disregard such facts in taking investigative or preventive steps aimed at the organization’s activities.

Reliance upon generalized stereotypes involving the listed characteristics is absolutely forbidden. In order for law enforcement officers to rely on information about a listed characteristic, the following must be true:

- The information must be relevant to the locality or time frame of the criminal activity, threat to national or homeland security, violation of Federal immigration law, or authorized intelligence activity;
- The information must be trustworthy; and
- The information concerning identifying listed characteristics must be tied to a particular criminal incident, a particular criminal scheme, a particular criminal organization, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity.

³ This Guidance does not prohibit the accommodation of religious beliefs and practices consistent with the U.S. Constitution and federal law. The Guidance also does not prohibit officials from considering gender when “the gender classification is not invidious, but rather realistically reflects the fact that the sexes are not similarly situated.” *Rostker v. Goldberg*, 453 U.S. 57, 79 (1981).

DOJ “Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity” (continued)

Because law enforcement and intelligence actions are necessarily context-specific, in applying each of these factors, law enforcement officers may properly account for relevant facts and circumstances, such as any temporal exigency and the nature of any potential harm to be averted. However, in all cases, law enforcement officers must reasonably believe that the law enforcement or intelligence activity to be undertaken is merited under the totality of the circumstances.

The following policy statements more fully explain these principles.

1. *Law Enforcement Officers May Never Rely on Generalized Stereotypes, But May Rely Only on Specific Characteristic-Based Information*

This standard categorically bars the use of generalized assumptions based on listed characteristics.

- **Example:** In the course of investigating an auto theft ring in a Federal park, law enforcement officers could not properly choose to target individuals of a particular national origin as suspects, based on a generalized assumption that those individuals are more likely to commit crimes.

This bar extends to the use of pretexts as an excuse to target minorities. Officers may not use such pretexts. This prohibition extends to the use of other, facially neutral factors as a proxy for overtly targeting persons because of a listed characteristic. This concern arises most frequently when aggressive law enforcement efforts are focused on “high crime areas.” The issue is ultimately one of motivation and evidence; certain seemingly characteristic-based efforts, if properly supported by reliable, empirical data, are in fact neutral.

- **Example:** In connection with a new initiative to increase drug arrests, law enforcement officers begin aggressively enforcing speeding, traffic, and other public area laws in a neighborhood predominantly occupied by people of a single race. The choice of neighborhood was not based on the number of 911 calls, number of arrests, or other pertinent reporting data specific to that area, but only on the general assumption that more drug-related crime occurs in that neighborhood because of its racial composition. This effort would be improper because it is based on generalized stereotypes.
- **Example:** Law enforcement officers seeking to increase drug arrests use tracking software to plot out where, if anywhere, drug arrests are concentrated in a particular city, and discover that the clear majority of drug arrests occur in particular precincts that happen to be neighborhoods predominantly occupied by people of a single race. So long as they are not motivated by racial animus, officers can properly decide to enforce all laws aggressively in that area, including less serious quality of life ordinances, as a means of increasing drug-related arrests. *See, e.g., United States v Montero-Camargo*, 208 F.3d 1122, 1138 (9th Cir. 2000) (“We must be particularly careful to ensure that a ‘high crime’ area factor is not used with respect to entire neighborhoods or communities in which members of minority groups regularly go

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about their daily business, but is limited to specific, circumscribed locations where particular crimes occur with unusual regularity.”).

By contrast, where law enforcement officers are investigating a crime and have received *specific information* that the suspect possesses a certain listed characteristic (e.g., direct observations by the victim or other witnesses), the officers may reasonably use that information, even if it is the only descriptive information available. In such an instance, it is the victim or other witness making the classification, and officers may use reliable incident-specific identifying information to apprehend criminal suspects. Officers, however, must use caution in the rare instance in which a suspect’s possession of a listed characteristic is the only available information. Although the use of that information may not be unconstitutional, broad targeting of discrete groups always raises serious fairness concerns.

- **Example:** The victim of an assault describes her assailant as an older male of a particular race with a birthmark on his face. The investigation focuses on whether any men in the surrounding area fit the victim’s description. Here investigators are properly relying on a description given by the victim, which included the assailant’s race and gender, along with his age and identifying personal characteristic. Although the ensuing investigation affects individuals of a particular race and gender, that investigation is not undertaken with a discriminatory purpose. Thus use of race and gender as factors in the investigation, in this instance, is permissible.

2. *The Information Must be Relevant to the Locality or Time Frame*

Any information that law enforcement officers rely upon concerning a listed characteristic possessed by persons who may be linked to specific criminal activities, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity must be locally or temporally relevant.

- **Example:** Five years ago, DEA issued an intelligence report that indicated that a drug ring whose members are known to be predominantly of a particular ethnicity is trafficking drugs in Charleston, SC. An agent operating in Los Angeles reads this intelligence report. In the absence of information establishing that this intelligence is also applicable in Southern California or at the present time, the agent may not use ethnicity as a factor in making local law enforcement decisions about individuals who are of the particular ethnicity that was predominant in the Charleston drug ring.

3. *The Information Must be Trustworthy*

Where the information relied upon by law enforcement officers linking a person possessing a listed characteristic to potential criminal activity, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity is unreliable or is too generalized and unspecific, reliance on that characteristic is prohibited.

- **Example:** ATF special agents receive an uncorroborated anonymous tip that a male of a particular ethnicity will purchase an illegal firearm at a Greyhound bus terminal

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in an ethnically diverse North Philadelphia neighborhood. Although agents surveilling the location are free to monitor the movements of whomever they choose, the agents are prohibited from using the tip information, without more, to target any males of that ethnicity in the bus terminal. *Cf. Morgan v. Woessner*, 997 F.2d 1244, 1254 (9th Cir. 1993) (finding no reasonable basis for suspicion where tip “made all black men suspect”). The information is neither sufficiently reliable nor sufficiently specific.

In determining whether information is trustworthy, an officer should consider the totality of the circumstances, such as the reliability of the source, the specificity of the information, and the context in which it is being used.

- *Example:* ICE receives an uncorroborated anonymous tip indicating that females from a specific Eastern European country have been smuggled into Colorado and are working at bars in a certain town. Agents identify a group of women wearing t-shirts with the logo of a local bar who seem to be speaking an Eastern European language. The agents approach the group to ask them questions about their immigration status. Because the women match the specific information provided by the tipster, the information is sufficient under the circumstances to justify the agents’ actions.

4. *Characteristic-Based Information Must Always be Specific to Particular Suspects or Incidents; Ongoing Criminal Activities, Schemes, or Enterprises; a Threat to National or Homeland Security; a Violation of Federal Immigration Law, or an Authorized Intelligence Activity*

These standards contemplate the appropriate use of both “suspect-specific” and “incident-specific” information. As noted above, where a crime has occurred and law enforcement officers have eyewitness accounts including the race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity of the perpetrator, that information may be used. Law enforcement officers may also use reliable, locally or temporally relevant information linking persons possessing a listed characteristic to a particular incident, unlawful scheme, or ongoing criminal enterprise, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity—even absent a description of any particular individual suspect. In certain cases, the circumstances surrounding an incident, ongoing criminal activity, threat to national or homeland security, or a violation of Federal immigration law, will point strongly to a perpetrator possessing a specific listed characteristic, even though law enforcement officers lack an eyewitness account.

- *Example:* The FBI is investigating the murder of a known gang member and has information that the shooter is a member of a rival gang. The FBI knows that the members of the rival gang are exclusively members of a certain ethnicity. This information, however, is not suspect-specific because there is no description of the particular assailant. But because law enforcement officers have reliable, locally or temporally relevant information linking a rival group with a distinctive ethnic character to the murder, the FBI could properly consider ethnicity in conjunction with other appropriate factors in the course of conducting their investigation. Agents

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could properly decide to focus on persons dressed in a manner consistent with gang activity, but ignore persons dressed in that manner who do not appear to be members of that particular ethnicity.

- **Example:** Local law enforcement arrests an individual, and in the course of custodial interrogation the individual states that he was born in a foreign country and provides other information that reasonably leads local law enforcement to question his immigration status. Criminal background checks performed by the local law enforcement agency reveal that the individual was recently released from state prison after completing a lengthy sentence for aggravated sexual assault. Local law enforcement contacts ICE to inquire as to the individual’s immigration status. When ICE’s database check on the immigration status of the arrestee does not locate a record of the individual’s lawful immigration status, ICE sends an officer to the jail to question the individual about his immigration status, whereupon the individual states that he entered the United States without authorization and has never regularized his status. ICE assumes custody of the individual and processes him for removal from the United States. ICE properly relied on the facts presented to it, including that the arrestee was born in a foreign country, in searching its immigration database and conducting its subsequent investigation.

In addition, law enforcement officers may use a listed characteristic in connection with source recruitment, where such characteristic bears on the potential source’s placement and access to information relevant to an identified criminal incident, scheme, or organization, a threat to national or homeland security, a violation of Federal immigration law, or an authorized intelligence activity.

- **Example:** A terrorist organization that is made up of members of a particular ethnicity sets off a bomb in a foreign country. There is no specific information that the organization is currently a threat to the United States. To gain intelligence on the evolving threat posed by the organization, and to gain insight into its intentions regarding the U.S. homeland and U.S. interests, the FBI may properly consider ethnicity when developing sources with information that could assist the FBI in mitigating any potential threat from the organization.

5. *Reasonably Merited Under the Totality of the Circumstances*

Finally, when a law enforcement officer relies on a listed characteristic in undertaking an action, that officer must have a reasonable belief that the action is merited under the totality of the circumstances. This standard ensures that, under the circumstances, the officer is acting in good faith when he or she relies in part on a listed characteristic to take action.

- **Example:** A law enforcement officer who is working as part of a federal task force has received a reliable tip that an individual intends to detonate a homemade bomb in a train station during rush hour, but the tip does not provide any more information. The officer harbors stereotypical views about religion and therefore decides that investigators should focus on individuals of a particular faith. Doing so would be

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impermissible because a law enforcement officer’s stereotypical beliefs never provide a reasonable basis to undertake a law enforcement or intelligence action.

Note that these standards allow the use of reliable identifying information about planned future crimes, attacks, or other violations of Federal law. Where officers receive a credible tip from a reliable informant regarding a planned crime or attack that has not yet occurred, the officers may use this information under the same restrictions applying to information obtained regarding a past incident. A prohibition on the use of reliable prospective information would severely hamper law enforcement efforts by essentially compelling law enforcement officers to wait for incidents to occur, instead of taking pro-active measures to prevent them from happening.

- **Example:** While investigating a specific drug trafficking operation, DEA special agents learn that a particular methamphetamine distribution ring is manufacturing the drug in California, and plans to have couriers pick up shipments at the Sacramento, California airport and drive the drugs back to Oklahoma for distribution. The agents also receive trustworthy information that the distribution ring has specifically chosen to hire older women of a particular race to act as the couriers. DEA agents may properly target older women of that particular race driving vehicles with indicia such as Oklahoma plates near the Sacramento airport.

6. *National and Homeland Security and Intelligence Activities*

Since the terrorist attacks on September 11, 2001, Federal law enforcement agencies have used every legitimate tool to prevent future attacks and deter those who would cause devastating harm to our Nation and its people through the use of biological or chemical weapons, other weapons of mass destruction, suicide hijackings, or any other means. “It is ‘obvious and unarguable’ that no governmental interest is more compelling than the security of the Nation.” *Haig v. Agee*, 453 U.S. 280, 307 (1981) (quoting *Aptheker v. Secretary of State*, 378 U.S. 500, 509 (1964)).

The years since September 11 have also demonstrated that Federal law enforcement officers can achieve this critical goal without compromising our cherished value of equal justice under the law. Every day, Federal law enforcement officers work to keep our Nation safe, and they do so without invidious profiling. The standard embodied in this Guidance thus applies to Federal law enforcement agencies’ national and homeland security operations, which will continue to focus on protecting the public while upholding our values.

National security, homeland security, and intelligence activities often are national in scope and focused on prevention of attacks by both known and unknown actors, not just prosecution. For example, terrorist organizations might aim to engage in acts of catastrophic violence in any part of the country (indeed, in multiple places simultaneously, if possible). These facts do not change the applicability of the Guidance, however. In order to undertake an action based on a listed characteristic, a law enforcement officer must have trustworthy information, relevant to the locality or time frame, linking persons possessing that characteristic

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to a threat to national security, homeland security, or intelligence activity, and the actions to be taken must be reasonable under the totality of the circumstances.

- **Example:** The FBI receives reliable information that persons affiliated with a foreign ethnic insurgent group intend to use suicide bombers to assassinate that country’s president and his entire entourage during an official visit to the United States. Agents may appropriately focus investigative attention on identifying members of that ethnic insurgent group who may be present and active in the United States and who, based on other available information, might be involved in planning some such attack during the state visit.
- **Example:** A citizen of Country A, who was born in Country B, lawfully entered the United States on an F-1 student visa. The school that the individual was supposed to attend notifies ICE that he failed to register or attend the school once in the United States, in violation of the terms of his visa. ICE has intelligence that links individuals with ties to Country B who have registered at that school to a designated terrorist organization that has made statements about launching an attack against the United States. ICE selects the individual for investigation, identification, location, and arrest. Once taken into custody, the individual is questioned and a decision is made to place him into removal proceedings and to detain him during those proceedings. ICE’s decision to prioritize this immigration status violator for investigation and arrest was proper because it was based upon a combination of the factors known about the individual, including his national origin, school affiliation, and behavior upon arrival in the United States.

Good law enforcement work also requires that officers take steps to know their surroundings even before there is a specific threat to national security. Getting to know a community and its features can be critical to building partnerships and facilitating dialogues, which can be good for communities and law enforcement alike. Law enforcement officers may not, however, target only those persons or communities possessing a specific listed characteristic without satisfying the requirements of this Guidance.

- **Example:** An FBI field office attempts to map out the features of the city within its area of responsibility in order to gain a better understanding of potential liaison contacts and outreach opportunities. In doing so, the office acquires information from public sources regarding population demographics, including concentrations of ethnic groups. This activity is permissible if it is undertaken pursuant to an authorized intelligence or investigative purpose. The activity would not be permitted without such an authorized purpose or in circumstances that do not otherwise meet the requirements of this Guidance.

ADDITIONAL REQUIREMENTS

In order to ensure its implementation, this Guidance finally requires that Federal law enforcement agencies take the following steps on training, data collection, and accountability.

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Training

Training provides agents and officers with an opportunity to dedicate their attention to a task, to learn about the factual application of theoretical concepts, and to learn from their colleagues. Training also provides an opportunity to ensure that consistent practices are applied across the agency.

Law enforcement agencies therefore must administer training on this Guidance to all agents on a regular basis, including at the beginning of each agent’s tenure. Training should address both the legal authorities that govern this area and the application of this Guidance. Training will be reviewed and cleared by agency leadership to ensure consistency through the agency.

Data Collection

Data collection can be a tremendously powerful tool to help managers assess the relative success or failure of policies and practices. At the same time, data collection is only useful to the extent that the collected data can be analyzed effectively and that conclusions can be drawn with confidence.

Each law enforcement agency therefore (i) will begin tracking complaints made based on the Guidance, and (ii) will study the implementation of this Guidance through targeted, data-driven research projects.

Accountability

Accountability is essential to the integrity of Federal law enforcement agencies and their relationship with the citizens and communities they are sworn to protect. Therefore, all allegations of violations of this Guidance will be treated just like other allegations of misconduct and referred to the appropriate Department office that handles such allegations. Moreover, all violations will be brought to the attention of the head of the Department of which the law enforcement agency is a component.

Appendix B: Nondiscrimination for Individuals with Disabilities (Non-Employment)

DHS is committed to strengthening and supporting full inclusion and equal opportunity for persons with disabilities in its programs and activities, through enforcement and compliance with requirements of the Rehabilitation Act of 1973, as amended, including Section 504 of the Act which states:

"No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency..." (29 U.S.C. § 794)

DHS Management Directive 065-01, "Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment)" establishes the DHS policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504 of the Rehabilitation Act of 1973, as amended (Section 504). Note that DHS Directive 065-01 is not focused on the accommodation needs of Federal employees with disabilities (which is already addressed under various other regulations and directives), but instead addresses the need for equal access and accommodations for individuals with disabilities encountered or served by DHS programs and activities.

As established under DHS Directive 065-01, the following is the Department's official policy on this issue:

1. *It is the policy of DHS to ensure nondiscrimination based on disability in DHS-conducted programs and activities, and for DHS Components to provide equal opportunity for qualified individuals with disabilities served or encountered in DHS-conducted programs and activities, through:*
 - a. *Program accessibility, including by providing equal opportunity to access programs, services, and activities and delivering these in the most integrated setting appropriate to the individual's needs;*
 - b. *Physical access, including by providing accessible new construction and alterations in accordance with the Architectural Barriers Act of 1968 (as amended) and the Department's Section 504 regulation; and*
 - c. *Effective communication, including by providing auxiliary aids and services for persons who are deaf or hard of hearing or are blind or have low vision, and by modifying practices and materials to ensure effective communication with persons with intellectual or developmental disabilities.*
2. *It is the policy of DHS to provide any necessary modifications to afford a qualified individual with a disability full enjoyment of the program or activity, unless modifications of policies, practices, and procedures would fundamentally alter the nature of the program, service or activity, or result in undue financial and administrative burdens to DHS. It is the policy of DHS to engage in an interactive and individualized process to identify reasonable accommodations and modifications. In ensuring effective communication with individuals with disabilities, it is the policy of DHS to give primary consideration to the auxiliary aid requested by the individual with the disability.*

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All Secret Service employees and personnel interacting with or providing information to the public are encouraged to utilize the resources located on the DHS Disability Access Webpage at www.dhs.gov/disability-access-department-homeland-security. These resources include a copy of DHS Management Directive 065-01, a brief Commemorative Video on the nondiscrimination principles of Section 504, and a publication entitled "A Guide for Interacting with People Who Have Disabilities."

Appendix C: Whistleblower Protection Awareness

The Secret Service, along with the Department of Homeland Security (DHS), is committed to protecting the rights of employees who report what they reasonably believe are violations of law, rule, or regulation, gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety. By unifying efforts with employees and citizens, the Department, the DHS Office of Inspector General, and the U.S. Office of Special Counsel aim to protect the integrity, effectiveness, and efficiency of all DHS programs.

The following posters must be printed and displayed in all office areas where employee notices are posted. For any poster that is currently displayed in the office, check the revision date in the lower right corner to ensure the most recent poster is displayed. (To download/print a copy of each of the posters listed below, copy the Internet address into your browser).

- DHS OIG Hotline Poster
https://www.oig.dhs.gov/assets/Hotline/DHS_OIG_Hotline-optimized.jpg
- Prohibited Personnel Practices Poster
<https://osc.gov/Documents/Outreach%20and%20Training/Posters/Prohibited%20Personnel%20Practices%20Poster.pdf>
- Whistleblower Retaliation Poster
<https://osc.gov/Documents/Outreach%20and%20Training/Posters/Reprisal%20for%20Whistleblowing%20Poster.pdf>
- Hatch Act – Further Restricted Employees Poster
<https://osc.gov/Documents/Outreach%20and%20Training/Posters/The%20Hatch%20Act%20and%20Further%20Restricted%20Employees%20Poster.pdf>

Other helpful resources can be found on the DHS Whistleblower Protection Web site which may be accessed at <http://dhsconnect.dhs.gov/org/comp/mgmt/dhshr/emp/Pages/Whistleblower-Protection.aspx>.

This site provides information to help employees easily determine what they should report, how to report suspected issues, what training DHS offers, what legal protections are available, in addition to a number of other helpful tools and guidance.

MISCELLANEOUS STANDARDS (U.S. SECRET SERVICE)

Coverage

This section includes standards of conduct which are not lengthy enough to require separate sections, but which are nonetheless important and applicable to all concerned (i.e., miscellaneous standards). Most of these standards are not otherwise specifically described under the Standards of Ethical Conduct for Employees of the Executive Branch (see 5 CFR Part 2635), Department-Wide Employee Rules of Conduct, or in other United States Secret Service (Secret Service) manual sections and directives.

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Membership or Participation in Bias-Motivated Groups or Activities

Employees may not use or engage in, on or off duty, abusive, derisive, profane, or demeaning statements, conduct, or gestures evidencing hatred or invidious prejudice to or about another person or group on account of any protected class including race, color, religion, national origin, sex (including pregnancy, sexual orientation, gender expression, or gender identity), age, disability, or protected genetic information. Employees who engage in such conduct will be subject to disciplinary action in accordance with applicable laws and regulations when the conduct adversely affects the efficiency of the service (i.e., either the employee's ability to accomplish their duties satisfactorily or some other legitimate Government interest).

Further, employees may not, in person, electronically, or online, knowingly become or remain members of, or participate in, or advocate for, a hate group or otherwise knowingly associate themselves with the hate-motivated activities of others. An employee's membership, participation, or association could reasonably be taken as tacit approval of the prejudice-related aspects of those groups or activities and will subject employees to disciplinary action in accordance with applicable laws and regulations when it adversely affects the efficiency of the service. As used here "hate group" or "hate-motivated activities" are defined as an organization, association, event, or activity, the sole or a primary purpose of which is to advocate or promote hate, violence or invidious prejudice against individuals or groups on account of any protected class including race, color, religion, national origin, sex (including pregnancy, sexual orientation, gender expression, or gender identity), age, disability, or protected genetic information.

Sexual-Related Misconduct

Sexual harassment is strictly prohibited. See Professional Responsibility Manual section RES-04, Prevention of Harassment in the Workplace, and Office of the Director Manual section HRT-04(03), EEO Discrimination Complaints System, for more information.

In addition, employees may not solicit prostitutes or exchange money or items of value for sexual services regardless of whether the payment is made or negotiated prior to the act. This prohibition continues to apply even if prostitution is legal in a particular location or if an employee did not intend to pay for sexual services at the time they were rendered. Further, employees may not engage in indecent or lascivious acts, on or off duty. This includes inappropriately acting in a manner to appeal to or gratify the sexual

desires of the employee, victim, or both as well as intentionally exposing an intimate body part to public view. Finally, employees also may not engage in sexual, intimate, or romantic activities in an inappropriate location (such as Government property or Government owned, leased, or rented vehicles (GOVs)), or while on duty.

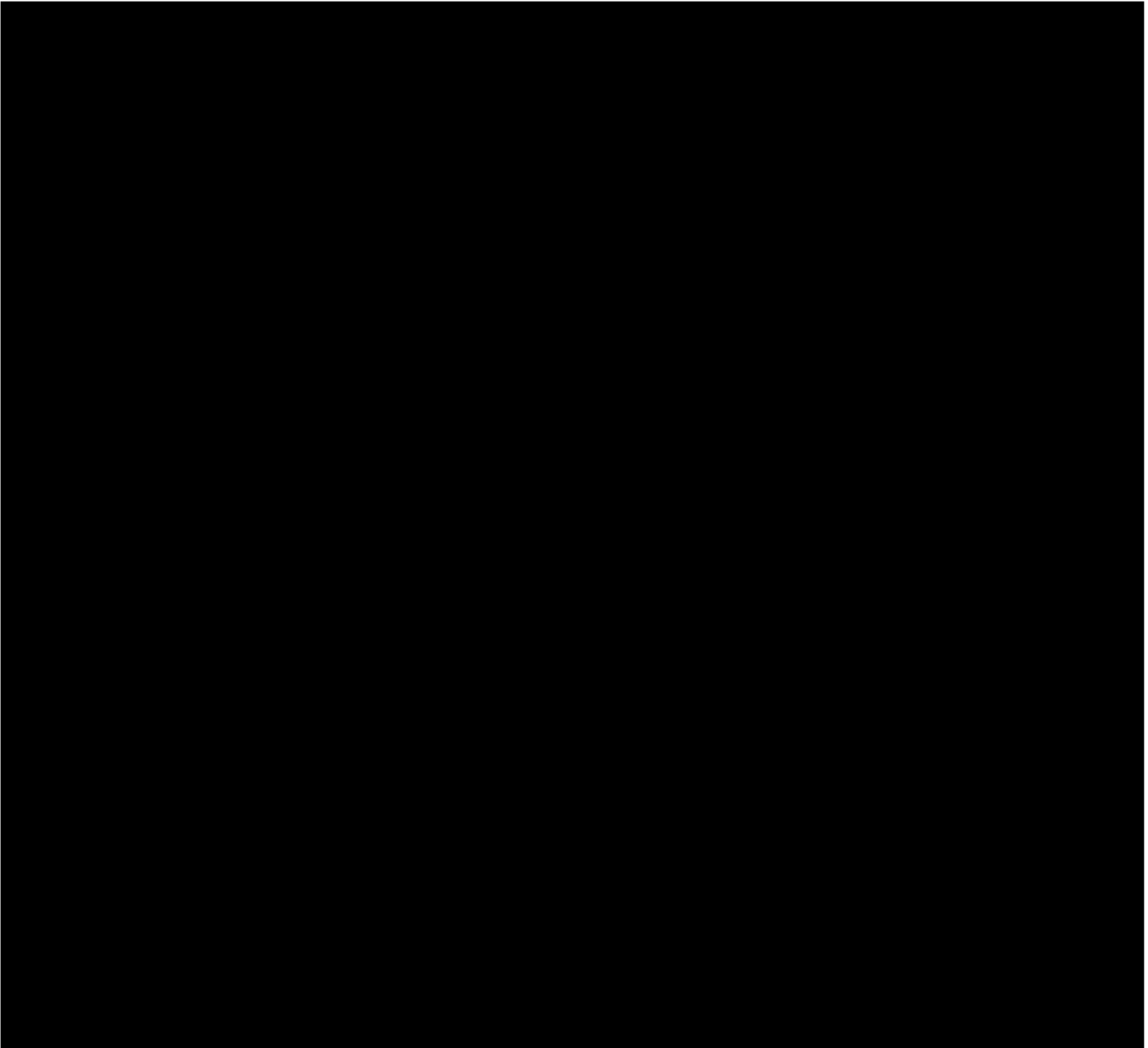
Employees who engage in this type of misconduct will be subject to disciplinary action in accordance with applicable laws and regulations when the conduct adversely affects the efficiency of the service.

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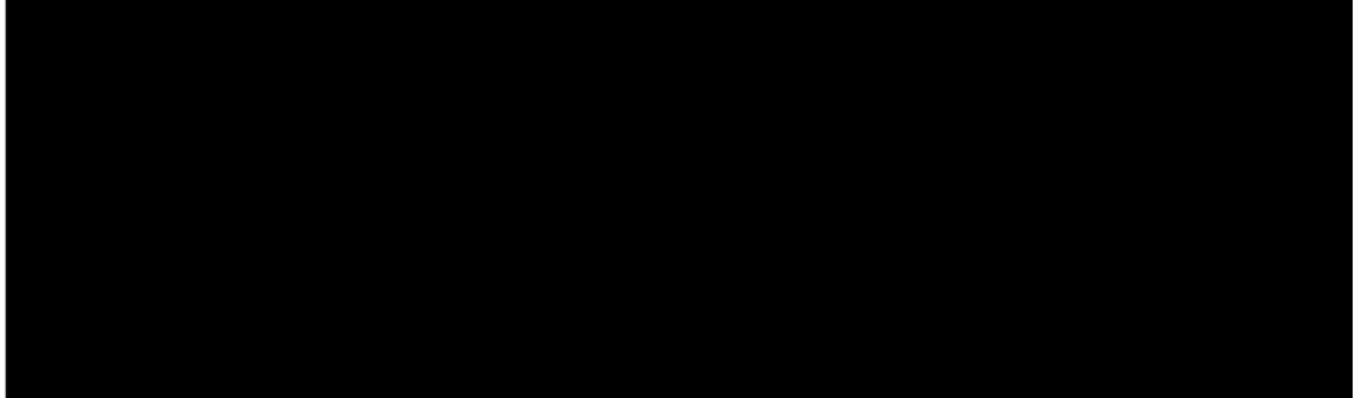


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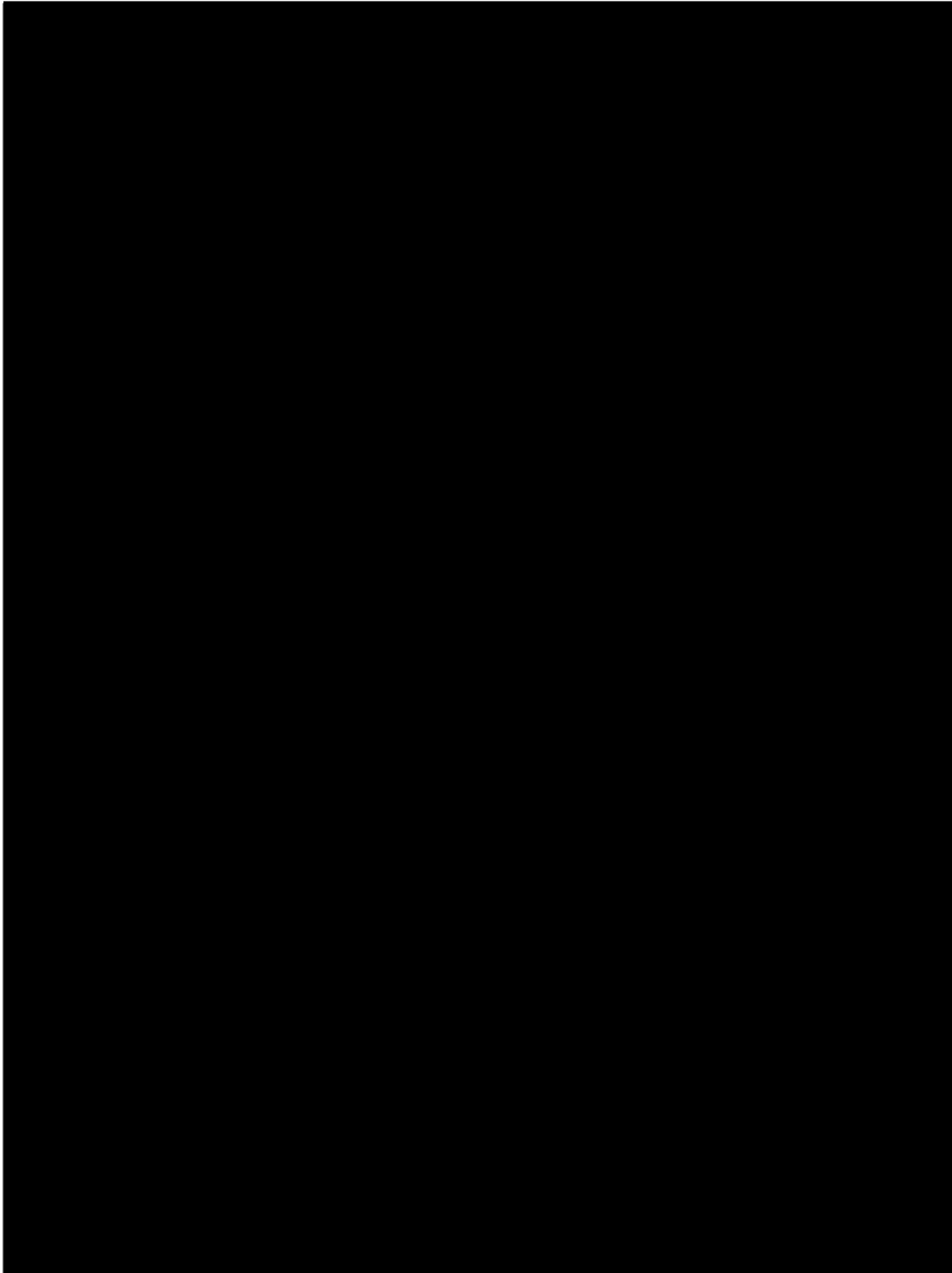


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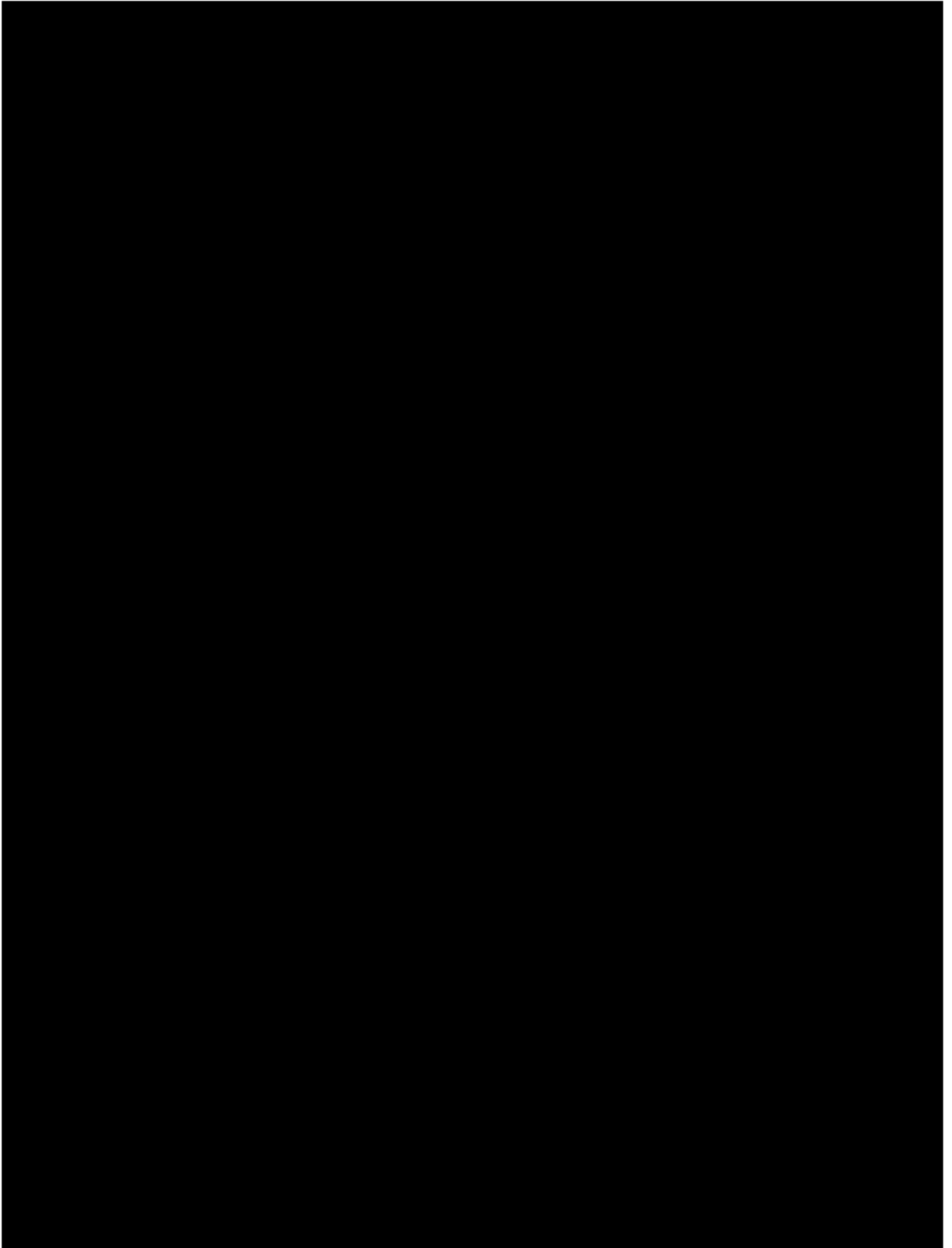
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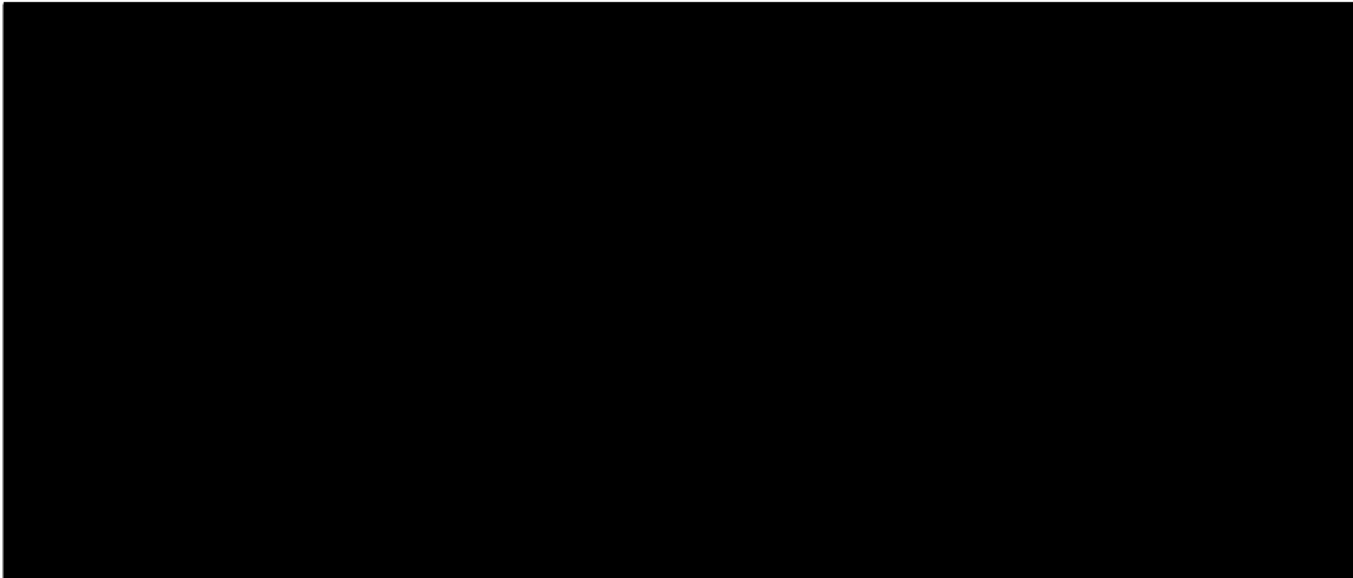
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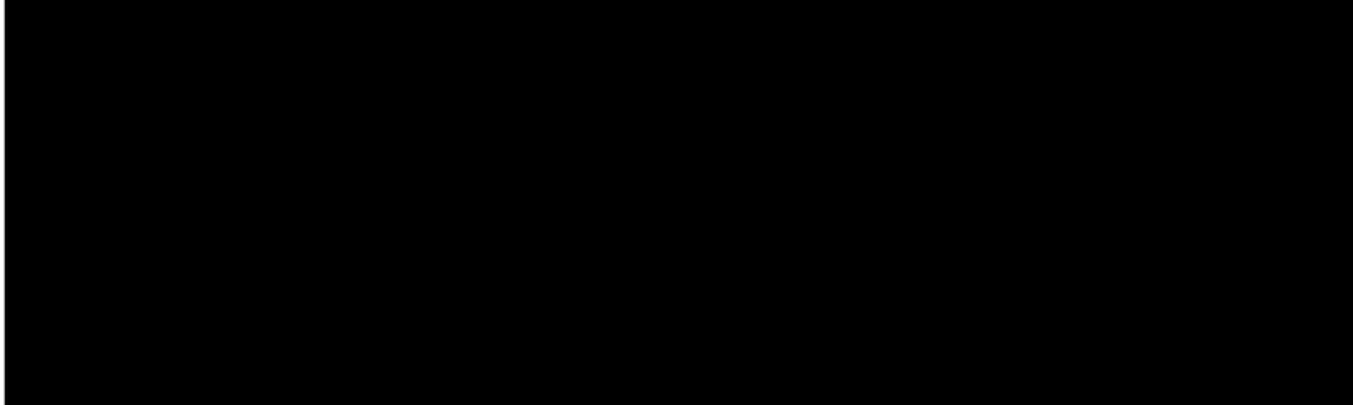
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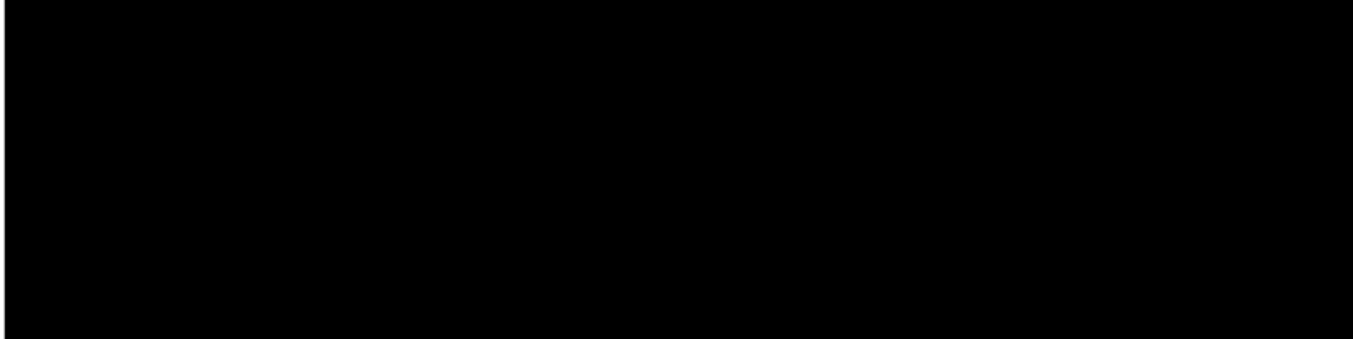




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PREVENTION OF HARASSMENT IN THE WORKPLACE

Purpose

This policy provides the United States Secret Service (Secret Service) anti-harassment policy and the procedures for promptly reporting and addressing allegations of discriminatory harassment that occur in the workplace. The Secret Service will take all reasonable steps to prevent harassment in the workplace, and to correct any harassing conduct that does occur before it becomes severe or pervasive. The Secret Service will not tolerate retaliation against those who complain of harassment, assist in the investigation of a report of harassment under this policy, or participate in the complaint process. This policy does not cover complaints of harassment made pursuant to the Equal Employment Opportunity (EEO) complaints process. See Office of the Director Manual section HRT-04(03), EEO Discrimination Complaints System.

Policy

The Secret Service is committed to providing a work environment free of discrimination or harassment. Employment decisions such as hiring, promotion, training, and issuing awards, must be made exclusively on the basis of job-related criteria, e.g., employees' knowledge, skills, abilities, and performance. Disciplinary/adverse actions must be taken solely based on employees' conduct and/or performance.

This policy prohibits discriminatory harassment having a direct nexus to the individual's position or responsibilities, which occurs on-duty, off-duty, face-to-face, via electronic/digital means (e.g., telephone, email, social media, websites, chat applications, etc.), through a third party, or through other means. Such conduct is prohibited regardless of whether it occurs during working hours or on Secret Service property.

Prohibited harassment includes, but is not limited to, any unwelcome conduct, whether verbal, nonverbal, or physical, that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive, or hostile work environment. The harassment must be based on a protected basis, such as an individual's race, color, national origin, age (40 or older), religion, sex (including pregnancy, sexual orientation, gender expression, or gender identity), disability (physical, mental, or an individual's need for a reasonable accommodation), marital status, parental status, protected genetic information, political affiliation, prior protected activity, or any other basis as provided under anti-discrimination statutes, regulations, or Executive Orders.

When the term "harassment" is used in this policy, it refers only to harassment based on a protected basis.

The Secret Service prohibits harassment even if it does not rise to the level of legally actionable harassment. Although a single utterance, joke, or act may not rise to a level that may constitute legally actionable harassment, it still has no place at the Secret Service, and may result in a disciplinary or other adverse action being taken against the offending employee.

While it is not possible to list all circumstances that may be prohibited harassment, some examples of conduct that may violate Secret Service policies include, but are not limited to:

- Inappropriate or derogatory comments, slurs, name calling, jokes, remarks, gestures, insults, rumors, mockery, or epithets based on or related to a protected basis;
- Acts of violence, actual or implied threats of violence, veiled threats of violence, intimidation, or ridicule based on or related to a protected basis;
- Displaying objects, cartoons, pictures, signs, memes, or posters of a derogatory or discriminatory nature as related to a protected basis;
- The display, presentation, creation, or depiction – irrespective of size, type, or manner of display – of symbols, photographs, images, other printed or electronic material, or physical medium that would reasonably be construed to encourage oppression or hatred (e.g., a noose, swastika, or any other symbol widely identified with oppression or hatred) toward an individual or group based on that individual or group's protected basis;
- Unwanted physical contact of any type related to a protected basis;
- Electronically writing, transmitting, or forwarding material of a discriminatory and/or offensive nature as related to a protected basis;
- Circulating or posting written or graphic materials that show hostility toward individuals or groups because of a protected basis, including on social media;
- Engaging in reprisals or threats against anyone who opposes discriminatory, harassing, or offensive behavior that is related to a protected basis; and
- Any intentional acts of intolerance committed against a person, a group of individuals, or involving the defacement/vandalism of property, that is motivated, in whole or in part, by an individual's bias against characteristics that are considered a protected basis, and that are intended to, or are more likely than not to, have the effect of intimidating others or inciting others to similar conduct.

Harassment or other discriminatory conduct in the workplace by or against supervisors, managers, non-supervisory employees, contractors, applicants, or visitors to the Secret Service is prohibited and subject to appropriate disciplinary action.

Employees, contractors, and applicants are responsible for timely reporting allegations of workplace harassment to management of the Secret Service. Once an allegation of workplace harassment is reported, management is responsible for taking prompt action to refer the allegation for investigation, and, if necessary, to take corrective action to address the situation in consultation with the Office of the Chief Counsel (LEG). See Professional Responsibility Manual section ISP-02, Intake Procedures, for further information regarding management reporting and referral requirements.

The Secret Service will promptly and thoroughly investigate allegations of workplace harassment. The Secret Service will take immediate and appropriate corrective action when it determines that harassment based on a protected basis has occurred.

Information regarding claims of harassment will be kept confidential to the extent possible.

Coverage

This policy prohibits workplace harassment based on a protected basis by or against employees of the Secret Service, contractors, vendors, applicants for employment, or other individuals with whom Secret Service employees come into contact by virtue of their work for the Secret Service.

Anti-Harassment Program

The Secret Service's Anti-Harassment Program (AHP or Program) is located within the Office of Professional Responsibility (RES). The Program is responsible for conducting inquiries into allegations of harassment based on a protected basis and engaging in prompt, thorough, and impartial fact-finding. The Program also facilitates the delivery of anti-harassment training and provides advice and guidance on matters associated with anti-harassment issues.

The Program is overseen by the AHP Manager (AHPM). The AHPM is responsible for the efficient operations of the AHP with principal oversight of the ongoing development, administration, and evaluation of the Program. The AHPM serves as the point of contact and facilitator for all inquiries of workplace harassment referred to the AHP for investigation and monitors those investigations for timely completion. The AHPM provides guidance, support, and subject matter expertise to employees, investigators, supervisors, and any others involved in the process. Duties also include attending the Intake Groups when harassment allegations are being considered.

Authorities and References

1. Title 5, United States Code (U.S.C.) Section 2302, "Prohibited Personnel Practices."
2. Title 5, U.S.C., Chapter 75, "Adverse Actions."
3. Title VII of the Civil Rights Act of 1964, as amended, Title 42, U.S.C., Section 2000e et seq.
4. Age Discrimination in Employment Act of 1967, as amended, Title 29, U.S.C., Section 621 et seq.
5. The Rehabilitation Act of 1973, as amended, Title 29, U.S.C., Section 791 et seq.
6. The Genetic Information Nondiscrimination Act of 2008, as amended, Title 42, U.S.C., Section 2000ff et seq.
7. The Civil Service Reform Act of 1978, Title 5, U.S.C. Section 2302.
8. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, EEOC Notice No. 915.002, June 18, 1999.
9. EEOC September 2005 report 'Model EEO Programs Must Have an Effective Anti-Harassment Program'.
10. EEOC Management Directive 715, "Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act" (October 1, 2003).
11. Department of Homeland Security (DHS) Policy Statement 256-06, "Anti-Harassment Policy Statement."
12. DHS Directive 256-01, "Anti-Harassment Program."
13. DHS Instruction 256-01-001, "Anti-Harassment Program."
14. Presidential Executive Orders, Department of Homeland Security (DHS) policies, and Secret Service policies which prohibit discrimination and harassment on the basis of sexual orientation and status as a parent.

Definitions

Decision-Maker

A supervisor or other management official senior to the individual(s) accused of harassment, designated by senior management to address a particular allegation of harassment, who: (1) implements appropriate interim measures if warranted, and (2) after reading the fact-finding report, may take corrective action, as appropriate. Decision-makers include the Office of Integrity (ITG).

Fact-Finder

A neutral third party responsible for investigating and recording testimonial and documentary evidence concerning an allegation of discriminatory harassment. Under this policy, fact-finders are special agents assigned to RES, Inspection Division (ISP). Except as otherwise noted, fact-finders will receive training in interviewing and other investigative techniques, report writing, and conducting inquiries into harassment allegations, including instruction on what constitutes prohibited harassment.

Fact-Finding

An inquiry into the testimonial and documentary evidence concerning an allegation of discriminatory harassment conducted by fact-finders working with the AHP.

Fact-Finding Report

A narrative detailing the testimonial and documentary evidence concerning an allegation of harassment, along with copies of any documentary evidence collected during the Fact-Finding.

Protected Activity

An action taken by an employee to address discrimination or harassment based upon a reasonable belief that a circumstance or circumstances in the workplace may violate EEO laws. Protected activities include, but are not limited to, threatening to file or filing an EEO complaint; participating in the investigation of an EEO complaint; or requesting accommodation of a disability or for a religious practice.

A complaint of workplace harassment based on a protected basis investigated by the AHP pursuant to this policy is protected activity.

Protected Basis

The classes that are protected from employment discrimination by law. Protected bases include race, color, national origin, age (40 or older), religion, sex (including pregnancy, sexual orientation, gender expression, and gender identity), disability (physical, mental, or an individual's need for a reasonable accommodation), marital status, parental status, protected genetic information, political affiliation, prior protected activity, or any other basis as provided under anti-discrimination statutes, regulations, or Executive Orders.

Retaliation

Taking an adverse action or actions against any individual for reporting discrimination or discriminatory harassment, assisting another individual in reporting discrimination or discriminatory harassment, providing information related to a report of discrimination or discriminatory harassment, participating in the EEO complaint process or AHP investigatory process, or opposing conduct that the individual reasonably believes constitutes unlawful discrimination or harassment.

Sexual Harassment

A form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964. In 1980, the EEOC issued guidelines defining sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any of three criteria are met:

1. Submission to the conduct is made either explicitly or implicitly a term or condition of employment;
2. Submission to or rejection of the conduct is used as a basis for employment decisions; or
3. The conduct has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may be verbal or physical, exhibited by a man to a woman, by a woman to a man, or between individuals of the same gender. Examples of behaviors that could constitute sexual harassment include offensive sexually oriented verbal kidding, teasing, or joking; repeated unwanted sexual flirtations, advances, or propositions; verbal abuse of a sexual nature; graphic or degrading comments about an individual's appearance or sexual activity; offensive visual conduct, including leering, making sexual gestures, and the display of offensive sexually suggestive objects, pictures, cartoons, or posters; unwelcome pressure for sexual activity; offensively suggestive or obscene text or chat messages, notes or emails; offensive physical contact such as patting, grabbing, pinching, or brushing against another's body; or disseminating internet links with sexually-themed content.

Unlawful Harassment

Harassing conduct that violates federal law. Under federal law, harassing conduct becomes unlawful when it is "so objectively offensive as to alter the conditions of the victim's employment," or culminates in a tangible employment action. The law concerning unlawful harassment is not a general civility code, and does not prohibit simple teasing or offhand comments; however, the Secret Service prohibits harassment, even if it does not rise to the level of actionable harassment under the law.

Reporting Harassment

Any person who believes that they have been subjected to or witnessed discriminatory harassment in violation of this policy is encouraged to report the harassment in order to take advantage of the preventive and corrective opportunities provided by the Secret Service.

Any person may report conduct believed to violate this Anti-Harassment Policy to a supervisor, to any other management official, to ISP, or to the AHP. Contact information is listed below:

AHP

Office202-406-5443
Secure AHP Online ReportingAHP Intranet Page

ISP

Office202-406-6300
Secure ISP HotlineISP Intranet Page

A person may also report workplace harassment to the Secret Service's, Equity, Diversity, and Inclusion Program (EDI) by contacting the office directly or by using EDI's Prevention of Harassment Hotline. Reports of harassment received on the EDI Hotline will be referred to the AHP for appropriate action. Contact information for EDI is listed below:

EDI

Office202-406-5540
EDI Prevention of Harassment Hotline
Washington, DC area.....202-406-9800
Outside the Washington, DC area.....1-800-420-5558
TDD deaf and hard of hearing.....202-406-9805

Note: EDI's Prevention of Harassment Hotline is a tool for employees to report incidents of misconduct, discrimination, or harassment against themselves or others.

Responsibilities

The below listed entities are responsible for the following:

Anti-Harassment Program

- Ensuring compliance with all Departmental and Secret Service Anti-Harassment Policies;
- Developing and managing policies, guidance, and programs regarding the prevention of harassment in the workplace;
- Providing direction and authority on the growth and management of the Secret Service AHP;
- Representing the AHP on the Intake Groups when harassment allegations are presented;

- When the basis of a harassment complaint is not apparent in the initial examination of a complaint, conducting inquiries sufficient to determine if the harassment is said to be based on a protected basis, and terminating inquiries within the AHP if a determination is made that the harassment is not claimed to have been based on a protected basis;
- When it is determined that an allegation of harassment is based on a protected basis, conducting inquiries into harassment allegations; engaging in prompt, thorough, and impartial fact-findings; and producing fact-finding reports containing the information developed during these inquiries;
- Notifying the individual(s) alleging discriminatory workplace harassment when the allegation has been referred to the AHP;
- Informing management officials and other appropriate offices of allegations of discriminatory workplace harassment being investigated by the AHP so managers and officials can take interim remedial measures (if needed) pending the conclusion of the AHP's fact-finding inquiry;
- Ensuring that the DHS Anti-Harassment Policy Statement, the Secret Service Anti-Harassment policy, and the Secret Service Reporting Procedures are posted/appear in conspicuous locations on the Secret Service's intranet or, for employees who do not have access to the intranet, in a physical location accessible by those employees;
- Providing copies of the Secret Service harassment Reporting Procedures to Secret Service offices and divisions. Offices and divisions are required to post these procedures in a physical location accessible to employees.
- Providing a copy of the DHS Anti-Harassment Policy Statement, the Secret Service Anti-Harassment policy, and Secret Service Reporting Procedures to new employees as part of orientation;
- Distributing an Official Message to all Secret Service employees the DHS Anti-Harassment Policy Statement and Secret Service Reporting Procedures at least once per year;
- Coordinating with the Equal Employment Opportunity Director to confirm that each employee takes mandatory anti-harassment training annually and that employee compliance is tracked and reported;
- Ensuring, in coordination with LEG and EDI, that supervisors and managers undergo additional training on their responsibilities in responding to allegations of harassment;
- Ensuring that Fact-Finders conducting inquiries under the AHP undergo additional training, in compliance with DHS Office for Civil Rights and Civil Liberties (CRCL) requirements, on how to address their responsibilities;
- Providing technical assistance, guidance, and advice to Fact-Finders conducting AHP inquiries and providing feedback on the fact-finding report;
- Advising the Director of the Secret Service, or other persons who need to know, of allegations of discriminatory harassment referred to the AHP and the resolution of those allegations under this policy;
- Tracking and developing annual statistical reports of harassment claims under this policy; and
- Annually, or upon request, providing a report of the nature of all allegations of harassment to DHS CRCL, including the number of complaints, separately the number of sexual harassment complaints, and the completion rate of mandatory anti-harassment training.

Inspection Division

- Conducting prompt and impartial investigations into all allegations of harassment based on a protected basis referred to the AHP;
- Coordinating with the AHP on matters involving harassment allegations or complaints;
- Completing DHS CRCL approved training, as well as additional training developed by the AHP, regarding their roles and responsibilities as Fact-Finders; and
- Preparing the fact-finding report.

Equal Employment Opportunity Director

- Posting and disseminating the Prevention of Discrimination and Harassment within the Secret Service policy statement on the Secret Service intranet page;
- Ensuring that each employee takes mandatory anti-harassment training annually and that management tracks and reports compliance of all employees in the Secret Service;
- Ensuring, in coordination with the AHP, that employees receive training about the Secret Service Anti-Harassment policy and the procedures to follow in connection with filing complaints of harassment with EDI;
- Referring reports of harassment received through the EDI Prevention of Harassment Hotline to the AHP for investigation;
- Processing EEO complaints of discrimination alleging harassment that concern a protected basis, to include sexual harassment; and
- Informing the AHP of all EEO counseling activity alleging harassment.

Office of Integrity

- Taking appropriate disciplinary actions;
- Notifying the AHP of actions taken regarding anti-harassment fact-finding reports referred to ITG; and
- As requested, providing a statistical report to the AHP of all allegations of harassment referred to ITG, which includes dates and actions taken on each claim.

Secret Service Supervisors and Managers

Secret Service supervisors and managers are responsible for maintaining a work environment in which harassment is not tolerated and taking proactive measures to prevent harassment. Allegations of discriminatory harassment are taken seriously and management will not condone offensive behavior.

Reporting Harassment Allegations

When supervisors or managers become aware of an allegation of hostile work environment or harassment, they must refer the allegation up through their chain of command to the Assistant Director (AD)/Executive Chief (EC)/Uniformed Division (UD) Chief. This referral should be made immediately once the allegation is brought to the attention of the supervisor or manager, and no later than two calendar days after the supervisor or manager becomes aware of the allegation. Where sexual harassment is alleged, RES/ISP must be notified concurrently with the referral to the AD/EC/UD Chief.

All such allegations must be reported up the chain of command, even when the allegation is not made in writing, does not conform to a particular format, or there is a question as to whether the employee is making a claim based on a protected basis or wants the allegation to be reported up the chain of command. Failure to report an allegation of a hostile work environment or harassment in accordance with required timeframes to the AD/EC/UD Chief, and for sexual harassment allegations, to RES/ISP, could result in disciplinary action against the supervisor, manager, or executive to whom it was reported.

If an allegation is made against an AD or EC, the allegation should be reported to the AD RES for transmittal to the Deputy Director and Chief Operating Officer and a Senior Executive Service (SES) Intake. Any allegation made against the AD RES should be reported to the Chief Counsel. Information on avoiding conflicts of interest is provided below.

Collecting Preliminary Information

Supervisors and managers may be called upon to gather preliminary information about a harassment allegation in order to facilitate the referral of the allegation to Intake. Such preliminary inquiry is limited in scope, with the purpose of obtaining only basic information. This preliminary inquiry is not and should not constitute a Fact-Finding. Gathering preliminary information does not delay or suspend the required timeframes for reporting the allegation up the chain of command, to RES/ISP, or ultimately referring the allegation to the appropriate Intake Group.

Communications with Affected Parties

Supervisors are also responsible for promptly notifying the employee making the harassment allegation that the potential misconduct is being referred to the Intake Group (unless the matter involves a DHS Office of Inspector General or ongoing investigation, in which case the supervisor should contact ISP prior to notifying the employee to ensure notification is appropriate at that time), and the status of the complaint following Intake Group consideration (unless the matter has been referred to the AHP, in which case the AHP will provide this notification).

Supervisors are also responsible for notifying the employee who is the subject of the harassment allegation that the potential misconduct has been referred to the Intake Group. See Office of the Director Manual section ITG-06(01), Disciplinary and Adverse Actions - General.

Supervisors and managers can be held accountable for not only their behavior, but also that of their employees. Managers and supervisors should understand that when an allegation of workplace harassment is reported by employees, former employees, contractors, applicants, visitors, or others, the Secret Service may be held legally liable for such conduct unless it takes immediate and appropriate action to investigate and respond to the allegation.

Supervisors and managers must further ensure that employees are not retaliated against for reporting harassment, opposing harassment, or participating in a harassment inquiry or fact finding investigation. Management officials may not seek to discipline an employee for bypassing the chain of command to report a complaint of harassment.

Offices must also ensure that the Secret Service's harassment reporting procedures are posted in a physical location accessible by employees.

Assistant Directors, Executive Chiefs, and the UD Chief

An AD/EC/UD Chief who receives an allegation of harassment is responsible for promptly reporting the allegation to RES-ISP for presentation to the appropriate Intake Group as potential misconduct. See ITG-06(01). Such allegations must be referred for presentation to Intake no later than seven business days of being notified of the complaint. Failure to report an allegation of hostile work environment, harassment, or sexual harassment to the Intake Group could result in disciplinary action against the Executive to whom it was reported.

If an allegation of harassment is made against an SES level employee, the allegation will be forwarded by the AD/EC to AD RES for transmittal to the Deputy Director and Chief Operating Officer and a SES Intake.

Failure to refer an allegation of harassment to Intake or to an SES Intake could result in disciplinary action.

Assistant Director, Office of Professional Responsibility

When an allegation of harassment is reported against an AD/EC, AD RES is responsible for bringing this matter to the attention of the Deputy Director and Chief Operating Officer and for referral of the matter to a SES Intake.

When an allegation of harassment is reported against the AD RES, the Chief Counsel is responsible for bringing this matter to the attention of the Deputy Director and Chief Operating Officer and for referral of the matter to a SES Intake.

Intake Group

The Intake Group will review the matter and where appropriate, refer the matter to the AHP for a fact-finding investigation if such allegations could constitute prohibited harassment under this policy (*i.e.*, actions taken wholly or in part based on an individual's protected basis). The AHPM serves as a member of the Intake Group or SES Intake Group when an allegation of harassment is being reviewed.

Secret Service Employees

Secret Service employees are responsible for acting professionally and refraining from harassing conduct. Employees must avoid behavior that has the effect of creating an intimidating, hostile, offensive, or abusive work environment for other employees, contractors, or the public. Employees who engage in such prohibited behavior may be subject to corrective, disciplinary, or adverse action. Secret Service employees are to become familiar with the provisions of this policy, comply with all requirements of the policy, and cooperate fully with any inquiry under this policy.

Employees, including supervisors and managers, are also required to complete the workplace harassment prevention computer-based training module, available in the Performance and Learning Management System (PALMS) annually. New employees should acknowledge that they have been provided the Secret Service Anti-Harassment policy, which incorporates the DHS Anti-Harassment Policy Statement and the Secret Service's reporting procedures, on the Secret Service Form (SSF) 3218, Employee Certification. If an employee is unwilling or unable to sign the acknowledgement, the supervisor should note provision of the Secret Service Anti-Harassment policy on the SSF 3218. New employees are also to acknowledge that they have been provided a briefing on the AHP during orientation on the SSF 4399, New Employee Orientation Certification.

The Secret Service cannot correct harassing conduct if the conduct is not reported. Secret Service employees are responsible for reporting allegations of inappropriate conduct, to include harassment, to their supervisor or manager, other senior management officials, the AHP, an EEO Counselor, or to the Inspection Division (ISP) before it becomes a pattern of misconduct so severe or pervasive and offensive as to constitute a hostile work environment.

Investigation into Allegations of Harassment

Upon receipt of an allegation of harassing conduct, a supervisor must promptly report the incident through their chain of command to the AD/EC's office for referral of the matter to the Intake Group, or the SES Intake Group. The supervisor may be asked to gather preliminary information associated with the allegation for presentation to the Intake Group.

If a report of harassment is received through the EDI Prevention of Harassment Hotline, ISP, the AHP, or another source, the AD/EC of the affected office(s) will be advised so that they may refer the matter to the Intake Group. After receipt of the allegation, the Intake Group will review the information and, insofar as the allegation of harassment appears to be or may be based on a protected basis, the Intake Group will refer the matter to the AHP for investigation.

In some instances, it may be difficult to know whether harassing conduct is occurring due to a protected basis. When receiving reports of harassment, the Intake Group and the AHPM will construe allegations broadly, and conduct appropriate inquiries to develop facts relevant to whether the conduct at issue is related to a protected basis.

Inquiries will be conducted as expeditiously as possible, such that a determination as to whether any corrective action is needed can be made and such action effectuated as quickly as possible. The fact-finding inquiry will begin no later than ten (10) calendar days after the AHP receives the complaint for investigation.

During the investigation, the fact-finder will develop a thorough, impartial record, containing sufficient information upon which decision-makers can reasonably determine whether corrective action is appropriate. At a minimum, the fact-finder should interview the individual who is alleged to have been harassed, the individual who is alleged to have engaged in the harassing conduct, and any witnesses with relevant information about the allegation. In addition, the fact-finder should collect any relevant

documentary evidence. In some instances, where the harassing conduct alleged is not severe or pervasive, and the number of witnesses involved is low, the AHPM may refer the matter for a simplified inquiry. Prior to conducting a simplified inquiry, the AHPM should consult with LEG to determine if such an inquiry is appropriate under the circumstances.

After gathering relevant evidence, the fact-finder develops a fact-finding report. The fact-finding report contains sufficient information upon which a decision-maker can reasonably determine whether harassment occurred. If a report requires more than thirty pages, the report shall contain a summary from the fact-finder describing all of the evidence contained in the report, including any witness statements and other documentary evidence, along with copies of the statements and other evidence. Reports (including the identity of the person making the report) and any summary of the investigation or other documentation prepared under this procedure are kept confidential to the extent possible, consistent with a thorough and impartial fact-finding.

Copies of the fact-finding report containing the details of the investigation are submitted to the AD/EC where the allegation originated, ITG, and LEG. LEG will provide reports to the EEO Director when relevant. The decision-maker(s) will decide whether corrective action is necessary (see below) and will report what, if any, action was taken to the AHP.

Interim Remedial Measures

Once a report of possible harassment is referred to the AHP for investigation, the AHPM will inform management officials senior to the individual(s) accused of harassment, the AD/EC of the directorate where the individual is assigned, and LEG so that, where appropriate, the directorate may swiftly take interim remedial measures to ensure that potentially harassing or retaliatory conduct does not occur while the inquiry into the allegations is conducted. Before taking interim remedial measures, or making a decision not to take interim remedial measures, the manager shall consult with LEG.

Action to Be Taken upon Completion of the Fact-Finding Investigation

Upon completion of the investigation, management shall promptly evaluate the evidence and, after consultation with LEG and the AHPM, determine the appropriate action to take.

If the investigation finds evidence sufficient to determine that an employee did engage in harassment prohibited under this policy, he or she may be subject to appropriate corrective action including:

- Disciplinary action, up to and including removal. See ITG-04, United States Secret Service Table of Penalties.
- Additional training, reassignment of the individual found to have engaged in harassing conduct, or other action proportionate to the severity of the harassment that occurred and designed to ensure that the harassment does not re-occur.
- Placement on administrative leave.

Action that is adverse or burdensome to a victim of harassment is not appropriate corrective action.

Decision-makers will inform the AHPM, in writing, of the corrective actions taken, and provide the AHPM

with a brief explanation of any decision not to take corrective action. In cases where ITG is a decision-maker, ITG will provide this notification to the AHP and the directorate of the individual who was alleged to have been harassed.

Within ten business days of making or being advised of determinations regarding appropriate corrective action, the appropriate directorate will advise the individual who was alleged to have been harassed whether corrective action was, will be, or will not be taken. However, such notification will not include the specific nature of any employment action taken. The directorate should consult with LEG and the AHPM before making this notification.

In cases where corrective action was determined to be necessary, the AHPM will follow up with the employee who was harassed within ninety business days of that decision. At a minimum, the follow-up consists of actions sufficient to ensure that harassing conduct has not recurred. If the individual raises new allegations of harassment or retaliation, the new allegations will be processed as set forth in the provisions above.

Fact-finding reports may reveal misconduct such as rude or disruptive behavior that does not constitute harassment in violation of this policy. In such instances, ITG will review the report to determine whether disciplinary action is appropriate.

Avoiding Conflicts of Interest

Because the AHPM and the officials responsible for supporting and supervising the functioning of the AHP are responsible for the management functions of publishing Anti-Harassment Procedures and conducting fact-findings regarding harassment allegations, they may not also be responsible for managing, advising, or overseeing the EEO pre-complaint or complaint process.

The AHP must avoid conflicts of interest in arranging for and/or conducting inquiries into reports of harassment. A conflict of interest exists where the individual alleged to have engaged in the harassing conduct oversees the AHP or is a senior management official with indirect oversight of the AHP. A conflict of interest may also exist where the AHP could not reasonably be expected to conduct an impartial inquiry.

If a conflict of interest is determined to exist, the AHP shall refer such allegations to CRCL for assignment to another Component AHP for purposes of conducting the fact-finding inquiry. After the inquiry is conducted, the fact-finding report is returned to the Secret Service for action pursuant to the provisions outlined above. If the individual alleged to have engaged in the harassing conduct is the AHPM, CRCL will consult with the DHS Office of the General Counsel to identify an appropriate decision-maker.

Relationship with Other Procedures

The AHP does not affect an employee's right to file an EEO complaint of harassment or discrimination. Reporting an allegation of harassment to the AHP does not take the place of filing an EEO complaint with the EDI office. Likewise, reporting an allegation of harassment to the AHP does not toll, or affect in any way, the deadlines or time limits associated with the EEO complaint process (e.g., the requirement to initiate the EEO complaint process within 45 calendar days of the most recent incident of alleged discrimination or harassment).

Employees may also file complaints directly with the Office of Special Counsel (OSC) (www.osc.gov), alleging harassment or discrimination. OSC investigates and prosecutes allegations of prohibited personnel actions. Filing a complaint under the AHP does not affect an employee's right to file a complaint

with the OSC. Similarly, filing a complaint with OSC does not prevent an employee from also filing a separate complaint with the EEO Office.

Records Management

The maintenance of records and any disclosures of information from these records shall be in compliance with the Privacy Act of 1974, as amended, 5 U.S.C. § 552a. To request Agency records associated with the AHP inquiries and fact-findings, individuals must contact the Freedom of Information Act/Privacy Act Program.

Questions

If you have any questions regarding this policy, please contact the Anti-Harassment Program at 202-406-5443 or Anti-HarassmentProgram@USSS.DHS.GOV.