

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: PREA – HIRING, PROMOTIONS AND DISCIPLINE

P- 900

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
October 02, 2014	07-11-24	06-04-15	07-11-24

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REFERENCE: PREA DOJ § 115.17, § 115.76, § 115.77, § 115.78, DBPPM I-100

POLICY

The Kern County Sheriff's Office (KCSO) adheres to all Federal, State, and local County ordinances governing its employment, hiring, investigation and termination policies and practices.

KCSO has multiple procedures in place to facilitate the hiring, retention, or promotion of employees. Procedures are in place that require KCSO to decline or terminate the services of any contractor or volunteer who has been convicted of sexual abuse or sexual harassment, or who has a civil or administrative adjudication against them for sexual abuse or sexual harassment.

Additionally, prior arrests and/or detentions of peace officer applicants may disqualify them for employment.

DEFINITION(S):

DOJ: Department of Justice, a federal department responsible for enforcing federal laws, including all civil rights legislation.

FBI: Federal Bureau of Investigations, a federal law enforcement agency that is the principle investigative arm of the Department of Justice.

EPR: Employee Performance Review, a process for evaluating and documenting an employee's performance.

D-500: A file maintained by a supervisor between rating periods consisting of documents pertaining to an employee that aids the supervisor in writing an accurate and thorough EPR.

DIRECTIVE #1

KCSO shall not hire, promote, or contract with anyone who has engaged, or attempted to engage in sexual abuse in a penal institution or who has been convicted of engaging in non-consensual sexual activity accomplished by force, threats, or other forms of coercion.

KCSO shall not hire, promote, or contract with anyone who has a civil judgment or administrative adjudication against them for engaging or attempting to engage in non-consensual sexual activity accomplished by force, threats, or other forms of coercion.

Procedure A: Hiring

KCSO performs criminal history records check on all applicants, which may include the submission of fingerprints to DOJ and FBI.

KCSO requires all applicants to disclose on their Personal History Statement Application any accusation of discrimination against them, (including, but not limited to, sexual harassment, racial bias, sexual orientation harassment) by a co-worker, superior, subordinate, or customer.

KCSO contacts prior employers to learn of any past performance, behavior, or legal issues that could be deemed disqualifying for employment, including substantiated allegations or resignations while an investigation is pending.

- For contractor and volunteer applicants, KCSO may contact prior employers dating back five (5) years.
- For civilian applicants, KCSO will contact prior employers dating back ten years.
- For peace officer applicants, KCSO will contact all prior employers. KCSO provides the following admonition to all applicants in writing;
- *Deliberate misstatements or omissions can and often will result in your application being rejected, regardless of the nature or reason for the misstatements/omissions.*

KCSO sends inquiry letters to all law enforcement agencies adjacent to each of the applicants' prior residences to learn of any activities or actions that could disqualify applicants for employment.

KCSO is a subscriber to both DOJ and FBI's fingerprint alert system. For the duration of their employment, KCSO will receive notification of any arrest and the charges against any employee or contractor.

KCSO will impose on its employees a continuing affirmative duty to disclose any misconduct that may disqualify an applicant from employment or that may merit discipline of an employee. This includes written applications, personal history statements, interviews for hiring and/or promotions, and written self-evaluations.

Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination.

Unless prohibited by law, KCSO will provide prospective employers information regarding substantiated allegations of sexual abuse or sexual harassment involving a present or former employee.

Procedure B: Promotions / Special Assignments

KCSO utilizes EPR's and interviews for all promotions and specialty assignments. An employee rating of "standard or above" is required by the County of Kern Personnel Department and KCSO prior to an employee submitting an application for promotion or a special assignment position.

Employee performance issues of a minor nature and /or corrective action discipline shall be documented in the employee's D-500 file for inclusion into the annual EPR.

Employee performance issues of a serious nature resulting in punitive discipline shall be documented in the employee's agency personnel file and County personnel file.

Consideration for promotion or special assignment which will require incarcerated person contact shall include a review of the employee's D-500 file, EPR, agency personnel file and/or County personnel file to ensure no allegations of sexual abuse or harassment have been made and substantiated.

Procedure C: Staff Discipline

KCSO shall appropriately discipline staff for substantiated allegations of sexual abuse or sexual harassment.

- Substantiated sexual abuse by a KCSO staff member shall be grounds for termination.

- Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff in lieu of termination, shall be reported to any relevant licensing bodies, unless the activity was clearly not criminal.

Procedure D: Incarcerated Person Discipline

Incarcerated people shall not be subject to disciplinary sanctions pursuant to DBPPM I-100 if the suspect(s) will be referred for criminal prosecution.

Consensual sexual activity between incarcerated people is a facility rule violation and incarcerated people are subject to disciplinary action:

- Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the incarcerated person's disciplinary history, and the sanctions imposed for comparable offenses by other incarcerated people with similar histories.
- The disciplinary process shall consider whether an incarcerated person's mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, should be imposed.
- As a condition of access to programming or other benefits, KCSO may require the incarcerated person to participate in a program designed to address and correct underlying reasons or motivations for the abuse.
- The agency may discipline an incarcerated person for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute false reporting or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- KCSO prohibits all sexual activity between incarcerated people and may discipline incarcerated people for such activity. KCSO will not, however, deem such activity to constitute sexual abuse if it determines that the activity was consensual.

Procedure E: Corrective Action for Contractors and Volunteers

KCSO shall terminate services from any contractor or volunteer for any substantiated allegation of sexual abuse involving an incarcerated person.

- Any contractor or volunteer who engages in sexual abuse of an incarcerated person shall be prohibited from contact with incarcerated people and shall be reported to law enforcement agencies. Such conduct shall be reported to relevant licensing bodies.
- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, the facility shall take appropriate remedial measures, and shall consider whether to prohibit all further contact by the contractor or volunteer with incarcerated people.