

## Elder Abuse

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with direction and understanding of their role in the prevention, detection, and intervention in incidents of elder abuse. It is the policy of the Barstow Police Department to treat reports of violence against elderly persons as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect(s). Financial crimes against the elderly are also considered a form of elder abuse.

### 326.2 DEFINITIONS

For purposes of this policy, the following definitions are provided (Welfare and Institutions Code § 15610 et seq. and Penal Code § 368).

**Dependent Adult** - Is any person residing in this state, between the ages of 18 and 64 years of age, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent Adult includes any person between the ages of 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in Health and Safety Code §§ 1250, 1250.2, and 1250.3.

**Elder** - Is any person residing in this state, 65 years of age or older.

**Financial Abuse** - Is a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property to any use or purposes not in the due and lawful execution of his or her trust.

**Abuse of an Elder or a Dependent Adult** - Is physical abuse, neglect, financial abuse, abandonment, isolation or other treatment with resulting physical harm, pain, mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**Adult Protective Services Agency** - Is a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

**Neglect** - Is the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

- (a) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- (b) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone instead of medical treatment.

**Barstow Police Department**  
Policy Manual

*Elder Abuse*

---

**326.3 MANDATORY REPORTING REQUIREMENTS**

Members of the Barstow Police Department are mandated reporters.

Employees who observe, have knowledge of, or are told by an elder or dependant adult about any form of abuse (physical abuse, abandonment, abduction, isolation, financial abuse, neglect) shall make a report and notify the appropriate social services representative as soon as practicable (see Welfare & Institutions Code § 15630 for reporting details). Failure to make a report within two working days is a misdemeanor (Welfare and Institution Code § 15630(h)).

All officers are responsible to ensure that cases of suspected elder abuse are forwarded to the District Attorney's Office, when appropriate, and any other regulatory agency that may be applicable based upon where the abuse took place (care facility, hospital) (Welfare and Institution Code § 15630(b)).

**326.3.1 RECORDS DIVISION RESPONSIBILITY**

The Records Division is responsible for the following:

- (a) Provide a copy of the elder/dependent abuse report to Adult Protective Services. This requirement is applicable even if the initial call was received from Adult Protective Services.
- (b) Retain the original elder/dependent abuse report with the initial case file.

**326.4 OFFICER'S RESPONSE**

All incidents involving actual or suspected elder and dependent abuse shall be fully investigated and appropriately documented.

**326.4.1 INITIAL RESPONSE**

Officers may be called upon to effect a forced entry as the first responder to the scene of an emergency involving suspected elder abuse. Entry should be immediate and may need to be forced when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if not already present.

**326.4.2 STABILIZE THE SITUATION**

Officers must quickly assess the situation in an effort to ensure the immediate safety of all persons. Officers shall also consider taking the following actions:

- (a) Attempt to identify the victim, suspect, and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible.
- (b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance, injuries for example, should be photographed as soon as practicable.

# Barstow Police Department

## Policy Manual

### Elder Abuse

---

- (c) Assess and define the nature of the problem. Officers should assess the available information to determine the type of abuse that may have taken place or the potential for abuse in the future that may be eliminated by intervention.
- (d) Make on-scene arrests when appropriate. Officers may arrest a person without a warrant when probable cause exists to believe that the person has committed an assault or battery, whether or not the assault or battery has in fact been committed, upon a victim 65 years of age or older to whom the suspect is related by blood or legal guardianship, provided the arrest is made at the time probable cause arises (Penal Code § 836). If an arrest is not otherwise required by law, officers should consider the consequences that the immediate arrest of a sole supporting family caretaker might have on the victim. The decision to arrest should be based on the best interests and caretaking needs of the elderly victim. The present and future safety of the victim is of utmost importance.

#### 326.4.3 SUPPORT PERSONNEL

The following person(s) should be considered if it appears an in-depth investigation is appropriate:

- (a) Patrol Supervisor
- (b) On-Call Detective
- (c) Evidence Collection Personnel
- (d) Protective Services Agency Personnel
- (e) Appropriate Governmental Agency for Medical Care Facilities

#### 326.4.4 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependant adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

#### 326.5 ELDER ABUSE REPORTING

Every allegation of elder abuse shall be documented. When documenting elder/dependent abuse cases the following information should also be included in the report:

- Current location of the victim.
- Victim's condition/nature and extent of injuries, neglect or loss.
- Names of agencies and personnel requested and on scene.

Reporting of cases of elder/dependent abuse is confidential and will only be released as per Policy Manual § 810.

Barstow Police Department  
Policy Manual

Elder Abuse

---

Officers investigating elder/dependent abuse shall complete State of California form SOC 341 (Report of Suspected Dependent Adult/Elder Abuse) for the mandatory cross reporting of elder abuse cases.

## Discriminatory Harassment

### 328.1 PURPOSE AND SCOPE

This policy is intended to prevent department members from being subjected to discrimination or sexual harassment. Nothing in this policy creates a legal or employment right or duty that is not created by law.

### 328.2 POLICY

The Barstow Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The department will not tolerate discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the department may be more comprehensive than State or Federal law. Conduct that violates this policy may not violate State or Federal law but still could subject an employee to discipline.

### 328.3 DISCRIMINATION PROHIBITED

The Barstow Police Department prohibits all forms of harassment by members of the department and will not tolerate acts of discrimination that affect the overall operation of the department or the right of any employee to be free from such discrimination or harassment.

#### 328.3.1 DISCRIMINATION

The department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks, making slurs or offensive jokes, stereotyping, engaging in threatening acts, making indecent gestures, pictures, cartoons, posters or material, making inappropriate physical contact, or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to the department's commitment to a discrimination free work environment.

# Barstow Police Department

## Policy Manual

### Discriminatory Harassment

---

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

#### 328.3.2 SEXUAL HARASSMENT

The department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

#### 328.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and the California Fair Employment and Housing Commission guidelines.
- (b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

#### 328.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Human Resource Manager or the City Manager.

# Barstow Police Department

## Policy Manual

### Discriminatory Harassment

---

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

#### 328.4.1 SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensure that their subordinates understand their responsibilities under this policy.
- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notify the Chief of Police or Human Resource Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

#### 328.4.2 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.
- (c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.
- (d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling employees or issuing discipline, in a manner that is consistent with established procedures.



# Barstow Police Department

## Policy Manual

### Discriminatory Harassment

---

#### **328.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the department that all complaints of discrimination or harassment shall be fully documented and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

##### **328.5.1 SUPERVISORY RESOLUTION**

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome. However, if the member feels uncomfortable, threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

##### **328.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but not be limited to, details of the specific incident, frequency dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command, but may also file a complaint directly with the Chief of Police, Human Resource Manager or the City Manager.

##### **328.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS**

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the department. Employees who believe that they have been harassed or discriminated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way alter or extend those filing requirements.

#### **328.6 NOTIFICATION OF DISPOSITION**

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint. Any written notification will come from the Chief of



# Barstow Police Department

## Policy Manual

### Discriminatory Harassment

---

Police, Human Resources Manager, or the City Manager, or their designee, and will remain confidential to the extent possible.

#### **328.7 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the Human Resource Manager, or the City Manager, whichever is most appropriate.
- (b) All complaints of harassment or discrimination shall be maintained by the department for the same period as any other citizen complaint, which shall be at least five (5) years (Penal Code § 832.5(b)).

#### **328.8 TRAINING**

This policy shall be reviewed with each new employee. The employee shall certify by signing a department or City approved form that he/she has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during his/her term of employment.

All employees shall receive annual training for anti-harassment and anti-discrimination, which shall include the requirements of this policy and shall be documented in the employees annual performance evaluation.

##### **328.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT**

Members with questions or concerns regarding discrimination or sexual harassment are encouraged to contact a supervisor, manager, the Chief of Police, or the Human Resource Manager, or they may contact the California Department of Fair Employment and Housing.