

# Policy on Worker Relations Helps Ensure Office Integrity

Establishing and enforcing policies that guide employee relationships with offenders and ex-offenders is critical to ensuring the integrity of the sheriff's office. Policies on fraternization help prevent inappropriate relationships between ex-offenders/offenders, employees, contractors, volunteers, and arrestees. Policies also safeguard the reputation of the sheriff's office, serving both as a preventive measure and as a basis for response when faced with an inappropriate relationship.

The difficulty in establishing policies, however, is the attempt to balance legitimate interests of the organization with employees' rights to associate with whom they please. The difficulty increases when offenders, ex-offenders, probationers, or parolees are family members or friends of employees of the sheriff's office.

Here is a guide for sheriffs, based on a review of case law from federal courts and on sound operational practices.

Sheriffs should draft clear, narrowly drawn policies—only as broad as necessary to protect agencies' legitimate interests in security, employee job performance, and reputation. The guidelines should avoid such ambiguous phrasing as "don't engage in conduct that could bring discredit to the organization," or "conduct unbecoming an officer." Rather, policies should specifically address which associations are prohibited and need to be reported. Some examples of associations that should be specifically addressed include dating relationships, sexual relationships, friendships, memberships in the same clubs, religious organizations, and relationships with offender/ex-offender's family members.

Policies requiring employees to promptly inform agencies of their relationship with offenders/ex-offenders are constitutional. Failure to inform or provide timely notice can justify sanctions and termination.

Policies should address relation-

*By Nairi M. Simonian,*  
research fellow for the project on Addressing Prison Rape, National  
Institute of Corrections/Washington College of Law  
and Brenda V. Smith,  
director for the project on Addressing Prison Rape

ships and behavior that affect the interests of the sheriff's office. These include whether the relationship interferes with the employee's job performance, affects the reputation of the agency, or has impact on discipline and respect for the chain of command.

## Consider Who Is Covered

Sheriffs should consider whether other people—volunteers, vendors, contractors, medical personnel, teachers, clergy—who interact regularly with the jail should be covered by the policies. It would be wise for sheriffs to also include these groups in the policy and to ensure that they receive training on the policy.

Page 26: Research has shown that employees who display high emotional intelligence are more effective workers.

Page 29: Supervisors' influence on their staff depends on numerous factors.

Employees should receive notice regarding prohibited behavior and relationships. Sheriffs should consider providing employees, job applicants, and contractors with written notification of policies. Furthermore, all should acknowledge receipt of the information. Pre-service and in-service training about fraternization policies will further highlight the importance of policies for the safety, security, reputation, and integrity of the agency. Sheriffs should provide a forum for employees and others to ask questions and receive clarification on the policies. If the policies cover people outside the agency, the agency should provide the same training and notice provided to employees.

www.blackinton.com

Your commitment to service deserves our commitment to quality

**Blackinton**

TRADITION AND LEADERSHIP

V.H. BLACKINTON & CO., INC., 221 JOHN L. DIETSCH BLVD.  
P.O. BOX 1300, ATTLEBORO FALLS, MA 02763-0300  
TEL: 800-699-4436 CALL FOR DEALER IN YOUR AREA FAX: 508-695-5349

# Emotional Intelligence: A Clue To Success

By Christopher R. Capsambelis,  
associate professor of Criminology  
at the University of Tampa

**B**usinesses for several years have considered emotional intelligence as a criterion for selecting applicants and for promoting staff. Many sheriffs' offices are following suit. Extensive research has shown that employees who display high emotional intelligence are more effective workers.

The selection of candidates to become deputies and the promotion of deputies to supervisory positions are two of the most important tasks for sheriff executives. The selection process has remained fairly consistent for many years. Applicants are reviewed for cognitive abilities, psychological state, and background. Deputies up for promotion typically must pass written oral exams.

Many sheriffs have adopted the community policing philosophy, but may not have revised their selection procedures to attract the required candidates. Community policing requires skill in engaging the public in problem solving. Excellent interpersonal skills, superior judgmental and critical thinking skills, empathy for various cultures, lifestyles, and attitudes, and a sensitivity to problems that face the public are all important attributes of the successful community policing officer. In short, deputies require high emotional intelligence.

The late Reuben M. Bar-On, a social psychologist, defined emotional intelligence as, "an array of non-cognitive capabilities, competencies, and skills that influence one's ability to succeed in coping with environmental demands and pressures." Bar-On believed that emotional intelligence addresses the emotional, personal, social, and survival dimensions of intelligence, which may be more useful for daily functioning than the more traditional cognitive aspects

Sheriffs should include the policies when soliciting proposals and contracts.

Policies should be in place before considering employee discipline. Relationships that predate policies may be managed and monitored, but probably cannot be prohibited.

For example, an employee with an incarcerated spouse could be prohibited from working in the same facility, but probably could not be prohibited from employment if the relationship predated the enactment of the policies and if no security or performance interest is at stake.

In sheriffs' offices, where there are fewer options for employee assignments, monitoring and managing the relationship is a viable option, unless there is documentation that the relationship endangers the safety of the facility, employees, or inmates.

Sheriffs should ensure that policies are applied and enforced consistently and uniformly to all similarly situated employees. Ensuring that timely action is taken when employees inform the sheriff or when the relationship comes to light is also important. Failure to act uniformly may subject the sheriff and the office to civil liability and claims of discrimination. Selective enforcement also can put the policies at risk.

Courts are likely to analyze the nature of the relationship and the impact of correctional policies on the

relationship on a case-by-case basis. Agencies should have procedures that require reporting, evaluating, and responding to these relationships on a case-by-case basis. These procedures will help prevent legal challenges to the policies. In determining whether personal relationships affect job performance, sheriffs should:

- Examine the nature of the relationship between the employee and the offender and ex-offender.
- Determine whether the behavior is likely to affect operations of the agency or the job performance of the employee.
- Determine whether safety, security and/or the reputation of the agency will be jeopardized.

Any policy prohibiting relationships between staff and an offender/ex-offender must have a legitimate correctional purpose, meaning that there must be some connection between the policy and the harm the policy seeks to address. Examples of harm include safety, security, integrity, and morale of the department. When the policy reasonably and legitimately addresses one or a combination of these harms, courts are likely to uphold the policy as constitutional.

For more information,  
contact Nairi M. Simonian  
at [nicresearch@wcl.american.edu](mailto:nicresearch@wcl.american.edu).

Here are some cases related to this article. Sheriffs should consider reviewing the cases with legal counsel.

- *Akers v. McGinnis* (352 F.3d 1030 (6th Cir. 2003)) Reviews department rule on fraternization as they applied to a probation officer and bookkeeper who had non-sexual contact with offenders.
- *Fugate v. Phoenix Civil Service Board* (791 F.2d 736 (9th Cir. 1986)) Determines whether officers had a First Amendment right to engage in sex with prostitutes with public money.
- *Keeney v. Heath*, (57

## Source Material

- F.3rd 579 (7th Cir. 1995)) Examines whether a county jail officer could be fired for not ending her relationship with an offender and for continuing to visit the offender after he was transferred to another facility.
- *Reuter v. Skipper* (832 F. Supp. 1420 (D. Or. 1993)) Examines the termination of a jail officer for her relationship with an ex-felon when the relationship predated enactment of the agency's policy and Oregon state law prohibiting sexual abuse of person in custody.
- *Thorne v. The City of El*

*Segundo* (726 F.2d 459 (9th Cir. 1983)) Reviews anti-fraternization rules as they apply to relations between correctional employees.

- *Via v. Taylor* (224 F. Supp. 2d 753 (D. Del. 2002)) Determines whether the plaintiff's relationship with a parolee was protected by the First Amendment.
- *Weiland v. City of Arnold* (100 F. Supp. 2d 984 (E.D. Mo. 2000)) Determines whether city had an interest in order and efficiency that outweighed the officer's associational or privacy interest in continuing his dating relationship with a felony probationer.