

PUBLIC CORRECTIONAL POLICY ON STAFF SEXUAL MISCONDUCT WITH OFFENDERS / DETAINEES

2005-4

Policy Statement:

Staff sexual misconduct with offenders/detainees in correctional environments is illegal and will not be tolerated. Staff sexual misconduct includes, but is not limited to, committing or attempting to commit acts such as sexual assault, sexual harassment, sexual contact, obscenity, unnecessary invasion of privacy, behavior of a sexual nature or implication, and conversations or correspondence suggesting a romantic or sexual relationship. Sexual misconduct may occur between individuals of the opposite or same sex. There can never be "consensual sex" in a custodial or supervisory relationship. Any sexual misconduct between employees or agents and offenders/detainees is inconsistent with the professional and ethical principles of the American Correctional Association. ACA advocates for the prompt reporting and thorough professional investigation of all allegations of misconduct by those with the responsibility and authority to handle such matters.

ACA recommends that correctional agencies should:

- A. Support the Prison Rape Elimination Act and sexual safety;
- B. Establish, publicize and enforce a zero-tolerance policy regarding all forms of sexual misconduct;
- C. Develop and adopt specific, clear and concise policies and definitions that clarify interpretations of the term "sexual misconduct" and that provide clear direction for the agency's response to violations of the policies;
- D. Foster an environment in which the reporting of alleged sexual misconduct is encouraged and in which reports may be made without fear of reprisal;
- E. Establish partnerships with prosecutors, medical providers, mental health providers, and others who can provide advice, support, and direct services to victims of staff sexual misconduct;
- F. Develop policies and procedures that clearly explain the investigative process to staff and offenders, including policies on transfer and movement or separation of the people alleged to be involved;
- G. Provide orientation and ongoing in-service training to staff, volunteers and contractors emphasizing the zero-tolerance policy, explaining state law, case law and administrative policies on the issue of staff sexual misconduct;
- H. Establish investigative policies and procedures that include the processes for reporting and thoroughly investigating every allegation involving sexual misconduct, including appropriate measures to protect the complainant during an investigation; incorporate health care and mental health protocols; and provide intensive training, resources and support for personnel assigned to investigate allegations;

- I. Provide offender/detainee orientation and ongoing education on staff sexual misconduct that includes information on the zero-tolerance policy, how to report allegations, how to obtain medical and mental health services, how to seek relief against retaliation for reporting allegations, and possible disciplinary actions for making false allegations;
- J. Report all instances of sexual misconduct to the proper authorities for investigation and possible criminal action; and
- K. Provide a process that reviews each investigated incident of sexual misconduct that is either substantiated or unsubstantiated by a multi-disciplinary team within the facility;
- L. Establish a systematic process for the collection of data that document the number of sexual misconduct allegations, the nature of each allegation and the resolution of the allegation.
- M. Promote facility design that enables effective supervision in facilities; and
- N. Establish relationships and protocols with outside law enforcement and prosecutorial agencies to pursue the prosecution of perpetrators of sexual misconduct when there is a suspected violation of law.

This Public Correctional Policy was unanimously ratified by the American Correctional Association Delegate Assembly at the Winter Conference in Phoenix on Jan. 12, 2005. It was last reviewed and affirmed at the 145th Congress of Correction in Indianapolis, IN on August 19, 2015.