



Sexual Misconduct and Harassment 1

The Oklahoma Department of Corrections recognizes that its biggest asset is its employees. It is understood that the management of this Department is only as good as the employees who make up the organization. The Oklahoma Department of Corrections' mission is to protect the public, the employees, and the inmates. To uphold the mission of the Department, as employees we must maintain the highest degree of professionalism.

The Oklahoma Department of Corrections believes that addressing inappropriate staff/inmate relationships is essential to assuring the safety of staff and inmates. Therefore, any manner of sexual misconduct which includes, sexual abuse, assault, sexual harassment, over-familiarity, or retaliation will not be tolerated, condoned, nor ignored.

Most Oklahoma Department of Corrections employees do not engage in this kind of conduct and do not support staff members who do. We recognize that staff misconduct and failure to follow professional standards tarnishes our reputation, credibility, and jeopardizes the safety and security of the institution and Probation and Parole District Offices. The Oklahoma Department of Corrections maintains a zero tolerance policy with regard to inmate sexual misconduct and inappropriate staff/inmate relationships. It is important that everyone, staff and inmates, do their part to reduce the harm that results from this kind of behavior. This information has been developed to help staff understand what inappropriate staff/inmate behavior is, how to avoid it, and what to do if it occurs. For the purpose of this brochure, the word "staff" and "employees" includes all Department of Corrections employees, contracted personnel, contract employers, volunteers, official visitors, and other agency representatives. In addition, inmates" includes both incarcerated and those under community supervision.

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What is sexual misconduct?

Sexual misconduct is when a person in a position of trust or authority engages in behavior of a sexual nature with an inmate. It is a breach of the professional relationship that exists between a correctional staff member and an inmate. Sexual misconduct distinctly alters the boundary between professional roles and personal relationships. In addition, sexual misconduct with an inmate is **ILLEGAL**.

Sexual misconduct is:

- any behavior or act of a sexual nature directed toward an inmate by an employee and one or more of the following:
- intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify sexual desire; or
- indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification; or
- kissing

Due to the inmate's custody or supervision status, in accordance with law (21 O.S. § 1111) and Department of Corrections procedures, no prohibited act of sexual misconduct or harassment (from OP-030601, "Oklahoma Prison Rape Elimination Act") can have as an affirmative defense, a claim of consent.

Sexual acts or sexual contacts between any staff person and an inmate, even if the inmate consents, initiates or pursues the contact, is always prohibited and always illegal.

What is sexual harassment?

Sexual harassment is any sexual or gender based behavior that adversely affects an inmate's environment as it pertains to their responsibilities of incarceration or supervision. It can occur without conscious intent, and it is not limited to explicit demands for sex. Sexual misconduct and/or sexual harassment are an abuse of power.

Sexual harassment can take many forms, including but not limited to:

- demeaning references to gender,
- derogatory comments about body or clothing,
- repeated staring, comments, or propositions of a sexual nature,
- jokes about sex or gender specific traits,
- conversations filled with sexually suggestive innuendoes or double meanings,
- displays or transmission of sexually suggestive pictures, objects or messages, and
- demands or acts of an intimate nature.

What is over-familiarity?

Over-familiarity involves the development of a personal relationship with an inmate with whom staff should keep a professional distance. Examples of behavior which constitute over-familiarity include but are not limited to:

- showing favoritism
- having personal discussions with inmates unless it is an expectation of the staff member's job responsibilities
- giving and accepting favors
- being overly defensive of inmate's conduct
- being overly sympathetic

- relaxing rules for "certain inmates"
- taking personal, rather than professional, interest in an inmate, and
- over-identifying with the inmates.

Indicators that an over-familiar relationship may be developing include:

- isolation from fellow staff,
- inmates in an unauthorized area or repeatedly out of their assigned area,
- staff spending an unexplainable amount of time with an inmate,
- accepting personal telephone calls or associating on a personal basis with inmates or their families unless it is an expectation of the staff member's job responsibilities,
- drastic behavior changes on the part of an inmate or staff (i.e., dress, makeup, and hair),
- staff sharing food or snacks with inmates, and believing an inmate is indispensable ("she/he is the only one who can do this job"),

The above list of behaviors and indicators is specific and many others have not been listed. However, this behavior can lead to sexual misconduct and harassment, or can even lead to blackmail by inmates. Staff can treat inmates with respect and concern without becoming overly familiar and will gain more respect from inmates as a result.

Retaliation

The Department strictly prohibits any staff member from interfering with an investigation including intimidation or retaliation against any inmate or staff witnesses.

Avoiding Inappropriate Staff/Inmate Relationships

Inappropriate staff/inmate relationships can be avoided by maintaining a professional demeanor. Following are behaviors which will prevent staff from becoming involved with inmates and maintaining professionalism:

- maintain professional distance,
- focus behavior on duties and assignments,
- do not become overly familiar with any particular inmate,
- do not share personal information,
- when speaking to inmates about other staff refer to them as Ms. or Mr.,
- when speaking to inmates refer to them as Ms. or Mr. and their last name,
- do not accept gifts or favors from inmates, and
- be knowledgeable of the Departmental policy and procedure, code of conduct, and facility rules and regulations.

Reporting

Employees are held accountable by Department policy and procedure and the code of conduct to report any inappropriate staff/inmate behavior **immediately**. All efforts will be made to ensure confidentiality and no retaliation will occur against the reporting staff member. Staff who fails to report will be held accountable and sanctioned through disciplinary action and possible prosecution.

Some Other Things to Consider

As long as you have a responsibility to maintain custody, evaluate work performance, and/or provide input to issues that affect inmates' release dates or their return to prison, it is not possible to have a relationship as equals.

Inappropriate relationships between inmates and staff are rarely ever a secret. Inappropriate relationships can undermine professional careers by subjecting staff to disrespect and manipulation by other inmates that may be aware of the situation.

Once in a relationship, professional judgment may become clouded and the normal defenses that exist to protect staff may be compromised. When acting on emotions, staff may make decisions which would otherwise be considered inappropriate in a corrections environment, either in custody or in the community.

Others will be judging staff decisions for professionalism and trustworthiness. Staff's conduct and the decisions that are made will reflect not only on the staff's own reputations, but on that of their peers and the Department of Corrections.

Because of the difference in power between inmates and staff, there can never be a consensual or equal relationship between inmates and staff.

Further, staff's personal and professional reputation may be jeopardized because of unprofessional conduct. Their effectiveness as a staff member of the Oklahoma Department of Corrections their careers and even their families can be negatively impacted or destroyed

If staff question professional boundaries with an inmate or feel uncomfortable with an inmate's actions or advances, staff should talk to a respected person or bring the matter to the attention of their supervisor, before it gets out of control.

Inmates depend upon staff to provide for their board and care, ensure their safety, address their health care needs, supervise their work and conduct while incarcerated and under community supervision and to act as role models for socially acceptable conduct.

State Statute and Policy

It is important to point out that inmate abuse, which includes sexual contact with an inmate, is a Felony and is punishable for up to fifteen years incarceration.

In accordance with state law (21 O.S. § 1111) and Department of Corrections' procedures, no prohibited act of sexual misconduct with inmates can have as an affirmative defense, a claim of consent.

- Consensual sexual intercourse with an inmate is by its nature an assault and defined by law as rape in the second degree, a felony.
- Sexual misconduct includes any sexual behavior that is directed towards an inmate.

To fully understand the scope of this crime it is very important to note the definition of "Sexual Misconduct" which is: "any act or attempted act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act including the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person."

Effective November 1, 2000, sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state is defined by law as a felony.

The Department of Corrections, in an effort to continually promote the professionalism of our staff, will pursue prosecution of any staff member who is involved in this type of activity. In other words, any physical contact with an inmate of a sexual nature could result in prosecution for a felony which is punishable up to 15 years in prison. If you have any questions, do not hesitate to contact your supervisor for clarification.

Ten Questions to Ask Yourself About Your Relationships With Inmates

- | | YES | NO |
|--|--------------------------|--------------------------|
| 1. Do you look forward to seeing a particular inmate when you come to work? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Have you done anything with an inmate you would not want your spouse or your supervisor to know about? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Would you be reluctant to have a co-worker observe your interactions or behavior with an inmate? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do you talk about personal matters with inmates? Do you believe you can ask an inmate to do personal favors for you? Have you ever received personal advice from an inmate? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Have you said anything to an inmate you would not want overheard by co-workers or supervisors? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Do you have thoughts or fantasies of touching a particular inmate? Does this extend to planning how you can be with the inmate? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Do you think you have a right to touch an inmate wherever and whenever you want to? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Do you have a feeling of not being able to wait to share good/bad news with a particular inmate? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Do you think inmates are not allowed to say no to you, no matter what you ask? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Have you allowed inmates to talk about past sexual experiences or sexual fantasies when not an expectation of your job or tell sexual jokes in your presence? | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered YES to one or more of these questions, you should discuss this issue with your supervisor before it's too late.