



Oklahoma Department of Corrections
Inmates'
Guide to
Sexual
Misconduct

***How to Identify
And Address
Sexual Misconduct***

Revised 2016

The Oklahoma Department of Corrections is committed to ensuring a safe and humane environment for all inmates. An important part of a safe and humane environment is freedom from sexual misconduct by staff. For the purpose of this guide, staff includes Department of Corrections' employees, contract employees, contract employers, and volunteers. Inmates include those incarcerated as well as those under the supervision of the Probation & Parole. This guide explains inmates' rights and the safeguards that are in place for protection from sexual misconduct.

"Sexual misconduct" is the term used in this guide to describe certain kinds of prohibited staff behavior. Sexual misconduct includes sexual abuse, assault or harassment, over-familiarity and retaliation. These terms are defined in the next section of the guide and there are also examples of each.

The Oklahoma Department of Corrections cannot and will not tolerate any form of sexual misconduct. The Department recognizes the worth of each inmate and strives to treat inmates humanely. State statute prohibits inmate abuse, which includes sexual contact by a staff member and accordingly, the Department of Corrections maintains a zero tolerance policy with regard to sexual misconduct.

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 can have as an affirmative defense, a claim of consent in accordance with OP-030601 entitled "Oklahoma Prison Rape Elimination Act."

- 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.”

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.

Any alleged abuse (including sexual contact) of an inmate shall be immediately reported to the Inspector General or local law enforcement and will be investigated.

Most Oklahoma Department of Corrections employees do not engage in this kind of conduct and do not support staff members who do. They recognize that improper behavior tarnishes their reputation and jeopardizes the safety and security of the institution and the Probation and Parole district office. It is important that everyone, staff and inmates, do their part to reduce the harm that results from sexual misconduct. The purpose of this guide is to ensure inmates are aware of the safeguards that exist.

What is sexual misconduct?

Sexual misconduct is:

- Any sexual advance by staff members
- Requests for sexual favors by staff members
- Threats by staff for refusing sexual advances
- Verbal or physical conduct of a sexual nature toward an inmate by staff members, contract staff or volunteers of the Department of Corrections

- Invasion of privacy beyond that reasonably necessary for safety and security.

Examples of sexual misconduct may include but are not limited to:

- Any sexual act
- Intentional touching of genitals, anus, groin, breast or inner thigh area to gratify sexual desire
- Indecent exposure by a staff member in front of an inmate or
- Kissing.

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

What is sexual harassment?

Sexual harassment is staff engaging in sexual advances, requests for sexual favors or other offensive conduct of a sexual nature.

Examples of sexual harassment include but are not limited to:

- Demeaning references to an inmate's gender
- Derogatory comments about an inmate's gender
- Jokes about sex or gender specific traits
- Abusive, threatening, profane or degrading sexual comments and
- Touching, attention, or conduct of a sexual nature

What is over-familiarity?

Over-familiarity is staff engaging in or attempting to engage in conduct likely to result in intimacy or a close personal relationship with an inmate. Examples of behavior by staff and inmates that is prohibited include, but is not limited to:

- Flirting with each other
- Exchanging personal letters or gifts
- Requests or granting of special favors and
- Discussing personal matters unless it is an expectation of the staff member's job responsibilities

What is retaliation?

Retaliation is intimidation to prevent an inmate from filing a complaint or participating in an investigation of sexual misconduct. Our department prohibits any individual from interfering with an investigation, including intimidation or retaliation against witnesses. If an inmate believes that she/he is being denied privileges, or is being unfairly transferred or punished in some way because she/he filed a complaint or assisted in the investigation of a complaint, she/he should report this to the Warden, District Supervisor, or the investigator.

Reporting Sexual Misconduct

Sexual misconduct by staff is prohibited, but it must be reported before action can be taken. Reports from third parties are accepted. However, to assist in immediate, actions and accuracy of reported allegations; do not rely on anyone else to report misconduct. When it is experienced or seen, report it immediately.

To make sure that sexual misconduct is reported, the Oklahoma Department of Corrections has several ways for inmates to report confidentially. Inmates may use the reporting method with which they are most comfortable.

Reporting from a Correctional Center:

- Tell any staff member at the Correctional Center. It is part of their job to report any allegation, ensure the inmate's safety, and maintain confidentiality.
- Send a Request to Staff or letter to the Warden or facility head at the Correctional Center or Center.
- Send a Request to Staff or letter to the Inspector General at the Department of Corrections Central Office-

Inspector General
P.O. Box 11400
Oklahoma City, OK 73136-0400

Reporting while on Probation, Parole or GPS supervision:

- Tell any staff member at the Probation and Parole district office. It is part of their job to report any allegation, to ensure the inmate's safety, and to maintain confidentiality.
- Send a letter to the District Supervisor or the Administrator of Probation & Parole.
- Send a letter to the Inspector General at the Department of Corrections Central Office:

Office of Inspector General
P.O. Box 11400
Oklahoma City, OK 73136-0400

- In the event of a nonconsensual sexual act, the inmate should file a report with local law enforcement.

What happens to reports of sexual misconduct?

The Oklahoma Department of Corrections will investigate all allegations of sexual misconduct.

Members of the office of Inspector General, who have special training, will investigate allegations of:

- Sexual harassment
- Sexual misconduct
- Over-familiarity and
- Retaliation

During an investigation of sexual misconduct, a number of actions may occur if it is determined to be in the best interest of the inmate, the staff, the institution, or the Probation and Parole district office:

- Staff could be placed on restricted duty, barred from entering the institution, the Probation and Parole district office, relocated, or suspended.
- Incarcerated inmates could be relocated for their safety. Inmates under the supervision of Probation and Parole could be assigned to a new supervising officer. Inmates will never be punished for reporting sexual misconduct. In fact, every effort will be made to assure inmates' protection.

Keep in mind a thorough investigation takes time. The investigation must clearly support or refute any allegation with evidence, information gathered from witnesses, and documentation.

Possible Outcomes of an Investigation

After the investigation is finished, one of the following decisions will be reached:

- There is sufficient evidence to conclude the allegation is true. Results of the investigation will be sent to the District Attorney's Office, who will determine the filing of charges.
- There is insufficient evidence to conclude the allegation is or is not true. If the investigation proves the inmate made a false allegation, she/he could receive a disciplinary misconduct while incarcerated or, if on supervision, the court or addressed by Probation & Parole.
- There is not enough evidence to prove that the allegation is true, but there is evidence to prove that another law, policy or rule was violated.

Any staff member who sexually abuses or assaults an inmate will be disciplined up to and including discharge. Discipline and criminal prosecution are more likely to be successful if the abuse is reported immediately.

Just as important

Inmate on Inmate Sexual Assault and Abuse:

Definition: One or more inmates engaging in, or attempting to engage in a sexual act with another inmate or the use of threats, intimidation, inappropriate touching, or other actions and/or communications by one or more inmates aimed at coercing and/or pressuring another inmate to engage in a sexual act.

While incarcerated, no one has the right to pressure inmates to engage in sexual acts. Inmates do not have to tolerate sexual assault or pressure to engage in unwanted sexual behavior.

