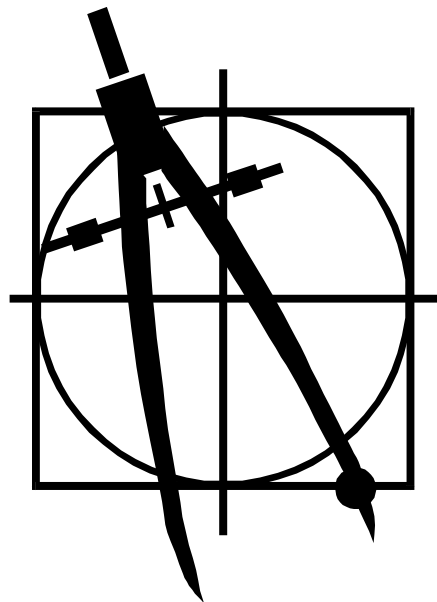


Staff Sexual Misconduct with Inmates

Policy Development Guide for Sheriffs and Jail Administrators



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Table of Contents

	<u>Page</u>
Acknowledgments	5
Introduction	6
Using this Guide	7
How Do I Know If My Agency Needs a Policy?	8
• What is Staff Sexual Misconduct?	8
• Definitions	9
• Red Flags – Are We Paying Attention?	11
• Writing Policies and Procedures	12
Triage Your Agency	13
Administrative and Management Practices	13
Security and Supervision	22
Investigations	26
Inmate Programming	28
Appendices	
Bibliography	33
Technical Assistance Available	37
About the Authors	38
Index	39
Articles - On the Internet	
• “Sexual Misconduct In Corrections,” by Elizabeth P. Layman, Susan W. McCampbell, Andie Moss, <i>American Jails</i> , November/December 2000. [www.cipp.org/sexual/article2.html]	
• “Investigating Allegations of Staff Sexual Misconduct with Inmates: Myths and Realities,” by Susan W. McCampbell and Elizabeth P. Layman, <i>Sheriff</i> , November – December 2001. [www.cipp.org/sexual/article2.pdf]	

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Introduction

Staff sexual misconduct with inmates is a challenging issue in corrections. Sexual misconduct compromises facility security and creates work environments that are negative for both staff and inmates. Allegations are disquieting and divisive for employees and the community. Staff sexual misconduct may be a random incident involving a "bad apple" employee, or it may be indicative of a breakdown of the jail's management and operational systems. Yet, how does an administrator know? What are the strategies to prevent misconduct as well as effectively and fairly investigate allegations?

For more information on the history of this issue, along with a brief exploration of agency culture, legal issues, operational practices and investigations - see the attachments to this Guide.

You may also contact NIC's Information Center at www.nicic.org.

The National Institute of Corrections has worked since 1994 to address staff sexual misconduct through policy and procedure development, training and improving investigations. The strategies that have emerged through this initiative as critical to addressing sexual misconduct are:

- Policies that establish the agency's zero tolerance for sexual misconduct;
- Definitions of prohibited behavior that are specific for both employees and inmates;
- Multiple ways for employees and inmates to report allegations;
- Operational procedures that support zero tolerance;
- Strong investigative policies and protocols;
- Training of employees, volunteers, and contractors; and
- Orientation of inmates to the agency's policies.

All but three states have criminal statutes addressing staff sexual misconduct with inmates. The presence, absence, or scope of a criminal statute does not relieve the Sheriff or jail administrator of the responsibility to clearly establish the agency's expectations and penalties for staff violators, along with protections and assistance for inmate victims.

This "Policy Development Guide" is an outgrowth of this NIC work with jails. While NIC cannot endorse a specific set of policies and procedures, this document provides tools for Sheriffs and jail administrators to use to assess their own organization and implement strategies to prevent staff sexual misconduct.

Few agencies will escape allegations of sexual misconduct. An agency that has taken steps to evaluate operations and implement effective strategies before an allegation will be in a better position to successfully investigate the allegation than an agency that reacts only after an allegation surfaces. By using this Guide agencies can be proactive, identifying and correcting deficiencies, preventing sexual misconduct and preserving facility security.

Using this Guide

Effectively addressing staff sexual misconduct with inmates is more than establishing just one policy that prohibits unprofessional behavior. While this is an essential first-step, the Sheriff and jail administrator need to carefully review operations and identify areas of the agency's strengths and weaknesses to prevent, address, and investigate misconduct. Operational practices must support the agency's zero tolerance policy on staff sexual misconduct.

The range of administrative and operational issues that potentially impact sexual misconduct is large. For example:

- Cross gender supervision;
- Monitoring of staff overtime;
- Inmate privacy considerations;
- Maintaining a professional work environment;
- Management support of line staff;
- Leadership and consistent role modeling of required behaviors; and
- Guidelines for on and off duty staff behaviors.

Consideration by agency leaders of the wide-range of issues associated with sexual misconduct will better prepare the organization to evaluate operations with an eye toward prevention. Finally, and importantly, the agency's practices must be consistent with written policies and procedures.

This Guide is designed to help you analyze your current policies and procedures. Reviewing and answering the questions posed in each section about your current operations, Sheriffs and administrators can identify both potential revisions to procedures, and topics for further review. Each question points the reader to the page number(s) where additional information can be found.

How Do I Know If My Agency Needs a Policy?

Sheriffs and jail administrators have an obligation to provide staff with specific direction regarding all aspects of operations – including defining the professional boundaries with inmates. While it seems chilling to recognize that some staff might not know these professional boundaries, there is sufficient evidence to support the view that staff may need more direction. And inmates as well. Defining prohibited behaviors and holding inmates accountable is also a part of the prevention strategy.

Some questions to ask yourself in determining if your agency needs to revisit or update policies and procedures regarding professional boundaries and staff sexual misconduct.

1. Does my agency's code of conduct specifically identify sexual misconduct?
2. Does the code of conduct for employees include general prohibitions about being "over-familiar with inmates" or "conduct unbecoming"?
3. Does your agency's policies and procedures specifically define prohibited behaviors with inmates?
4. Do staff have, through training or experience, the skills they need to safely and effectively manage inmates and, particularly manage manipulative inmates?
5. Have investigations into allegations of sexual misconduct been sidetracked because investigations end in "he said/she said"?
6. Are you concerned about a "sexualized work environment" or staff/staff romantic relationships impacting the security of the facility?

These are broad indicators that might indicate that staff need more direction, supervisors require support and skills, and you need to assure that appropriate leadership is provided.

What is Staff Sexual Misconduct?

Sexual misconduct is more than just sex. Sexual misconduct is a wide range of inappropriate behaviors, perhaps associated more with exercise of "power" than to act of sex. In custodial settings, inmates are not capable "consenting" to sex or sexual misconduct with staff, just as those individuals with diminished mental capacity and juveniles are deemed unable to "consent." The custodial relationship establishes the boundaries for the "consent" issue. Consent is addressed in many state statutes and in several court decisions. Setting the tone in the organization that sexual misconduct seriously compromises facility security, and that inmates are incapable of "consenting" to these relationships helps establish an environment to prevent misconduct, as well as effectively investigation allegations of misconduct.

Definitions

These definitions are intended as **examples only**. As agencies develop definitions for their own policies and procedures they should review their state statute, as well as consult with legal representatives and human resources professionals.¹ Sheriffs and jail administrators are urged to develop definitions that are relevant for their facilities, taking into account their security needs and architecture.

Contractors - any person or corporation, other than an employee, providing any service to the agency for an agreed upon form of compensation from the agency. Contractors may include other local government agencies that contract with the organization for inmate labor.

Employee - any person compensated by the agency for working full-time, part-time, or by paid internship.

Hostile Work Environment - Harassment, speech or conduct that is, based on the judgment of a reasonable person, severe or pervasive enough to create a hostile or abusive work environment, based on race, religion, sex, national origin, age, disability, veteran status, or, in some jurisdictions, sexual orientation, political affiliation, citizenship status, marital status, or personal appearance.

Inmate - any person committed to the care and custody of the correctional organization or agency by any court or judicial sanction. This definition includes inmates assigned to programs such as pre-trial release, alternatives to incarceration, work or educational release, electronic monitoring, probation, parole, or in any capacity where agency employees are supervising the individual.

Professional Visitors - any person having access to the any of the agency's facilities, who provides a professional service to inmates or staff, including but not limited to, attorneys, para-legals, para-professionals, bail bondsmen, private medical professionals, investigators, polygraph examiners, clergy, unpaid interns, or researchers.

Sexual Abuse – includes, but is not limited to, subjecting another person to any sexual act or contact between an employee, volunteer or agency representative, and an inmate by force, persuasion, inducement, or enticement; any sexual act or contact in which an employee, volunteer or agency representative participates or forces any inmate to engage; subjecting another person who is incapable of giving consent by reason of their custodial status, physical or mental state; or rape, sexual molestation, prostitution or other form of sexual exploitation. **Note: most state statutes render inmates incapable of giving consent; therefore inmates cannot “consent” to relationships of a sexual nature with employee, volunteers, contractors or agency representatives, a concept that may be introduced into agency policy.**

Sexual Assault – Any sexual touching or contact, including but not limited to rape, sodomy or unlawful touching (please refer to your state's relevant statutes).

Sexual Contact – Behavior that includes, but is not limited to, all forms of sexual contact, intentional sexual touching or physical contact in a sexual manner, either directly or through clothing, of the genitalia, anus, groin, breasts, inner thighs, buttocks, with or without the consent of the person; or any touching with intent to arouse, humiliate, harass, degrade, or gratify the sexual desire of any person. **[Note: agencies should consider developing specific policy**

¹ “Training Curriculum for Investigating Allegations of Staff Sexual Misconduct with Inmates”, Center for Innovative Public Polices, Inc. October 2000. Definitions used with the permission of the authors.

guidance to staff regarding: touching, hugging, kissing, fondling, etc. between staff and inmates. Specific direction will provide direction to staff as well as facilitate investigations. Impact on inmate programming, especially therapeutic communities, AA, NA, and CA meeting, religious events, etc. should be reviewed as well, and specific guidelines provided to volunteers.]

Sexual Harassment – Includes, but is not limited to, all of the following, whether by staff or inmates: sexual advances; sexually offensive language, comments or gestures; influencing, promising or threatening any inmate's safety, custody status, privacy, housing, privileges, work or program status, in exchange for personal gain or favor of a sexual nature; creating or encouraging an atmosphere of intimidation, hostility or offensiveness as perceived by any individual who observes the sexually offensive behavior or language.

Sexual Misconduct - Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, visitor, contractors, or agency representative. This includes acts or attempts to commit such acts including but not limited to sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, obscenity and unreasonable invasion of privacy. Sexual misconduct also includes but is not limited to conversations or correspondence that suggests a romantic relationship between and inmate and any party referenced above.

Sexualized Work Environment - A work environment in which the behaviors, dress, and speech of either staff and/or inmates create a sexually charged workplace. Sexually explicit talk, inappropriate emails, posted cartoons, jokes, or unprofessional dress characterizes a sexualized work environment. In a sexualized work environment, often the off-duty staffs' behaviors, dating, and activities bleed over into the everyday work environment. In a sexualized work environment talk or actions have sexual overtones. A sexualized work environment severely erodes the professional boundaries among staff, and consequently between staff and inmates.

Violation of Privacy Rights of Inmates – This includes, but is not limited to, the act or the attempted act of observing or interfering with an inmate's personal affairs without a reasonable need to do so for the immediate safety and security of the inmate, employees, or others within the institution. Violations may include unreasonable intrusive viewing of an inmate's use of the shower, toilet, or in areas where inmate dress, outside legitimate security needs. Acts that may also be included consist of: failing to announce his/her presence when entering a housing unit in a non-emergency situation; reading personal mail or written materials of an inmate when not required for safety and security of the institution or persons therein.

Visitors - Any person having access to any of the agency's facilities for personal and/or official reasons.

Volunteer - any person who, by mutual agreement with the agency, provides the agency with any service without compensation, or who voluntarily assists inmates or the agency in the course of their official duties.

These definitions of the various elements of sexual misconduct are intended to help agency's begin the process of developing specific direction to staff. This Guide provides further information about what agency administrators can consider as they develop their policies and procedures.

Red Flags – Are We Paying Attention?

The National Institute of Corrections has conducted training for several years on this topic. During the training, participants are asked to list those behaviors that they now see as **RED FLAGS** -- events, actions or activities that should have tipped them off sooner to the possibility of staff sexual misconduct. Here are samples of participants' comments.

- Over-identifying with the inmate ("my inmate") or their issues (i.e. blind to inmate's actions)
- Horse-play, sexual interaction between staff and inmates
- Inmates knowing personal information about staff
- Staff isolation from other staff
- Inmate has letters or photos of staff
- Staff granting special requests or showing favoritism
- Inmates in an unauthorized area, or repeatedly out of their assigned place
- Staff spending an unexplainable amount of time with an inmate
- Telephone calls to and from staff/inmates
- Inmate grape-vine, inmate snitches, inmate/staff rumors
- Staff in the facility during "off hours"
- Pregnancy or a diagnosis of sexually transmitted disease (STD)
- Staff overly concerned about an inmate
- Drastic behavior of appearance change on the part of an inmate or staff - dress, make-up, hair
- Staff having sole involvement with a particular inmate
- Indispensable inmate: "Only one who can do this job."
- High/low number of inmate grievances
- Inmate wanting to go to work early or volunteering to stay late
- Staff confronting staff over an inmate
- Staff intercepting inmate disciplinary infractions or editing infractions
- Staff tracking outside inmate calls (number and content of call)
- Isolated posts/positions/work assignments
- Staff can't account for time
- Staff's family being involved with inmate's family
- Increase in contraband in an area
- Staff working in a secluded area with inmate(s)
- Staff taking inmates out of cell at unusual times
- Staff in personal crisis (divorce, ill health, bankruptcy, death in family)
- Staff who consistently work more overtime than peers and who volunteer to work overtime
- Unusual balance, or activity, in an inmate's commissary account
- Staff having excessive knowledge about an inmate and his/her family
- Staff intervening, or helping with the inmate's personal life, legal affairs
- Staff sharing food or snacks with inmates
- Staff testifying for an inmate, requesting special treatment for an inmate
- Staff delegating their duties to inmates (supervisor or cleaning, assignments)
- Staff bringing in large amounts of food, soda, snacks
- Overhead conversations between staff and inmates which is sexualized in nature, or refers to the physical attributes of staff or inmates
- Inmate sexual activity
- Sexual or personal banter between staff and staff, or staff and inmates
- Inmates using staff's first name; staff using inmates' first name

Writing Policies and Procedures

The information in this Guide is intended to help Sheriffs and jail administrators consider the scope of issues associated with prevention and investigation of allegations of staff sexual misconduct. NIC has developed a document to help agencies with the process of writing or updating policies and procedures. This document is:

Martin, Mark D., “Developing/Revising Detention Facility Policies and Procedures,” National Institute of Corrections, Jails Division, June 1996
www.nicic.org/pubs/1996/013551.pdf

This publication is available on the NIC website, as noted above, or you may contact the NIC Information Center at (800) 877-1461, or email at asknicic@nicic.org.

Triage Your Agency's Operations

Review each question in the following sections as it relates to your agency's policies, procedures and operational practices on staff sexual misconduct. If you find a "no" response, you can reference the page number(s) immediately following for further direction and information.

Administrative and Management Practices - Policy Issues

Policy Question	Yes	No	Page#(s)
Does the agency have a specific zero tolerance policy?	Yes	No	15
Is there a specific policy regarding staff sexual misconduct?	Yes	No	15
Does the policy include specific prohibited behaviors?	Yes	No	15
Does policy define the sexual harassment, hostile work environment, and sexual misconduct?	Yes	No	9, 15
Does the policy require mandatory reporting of allegations of sexual misconduct by employees and inmates?	Yes	No	15
Is training required about this policy for staff, volunteers, civilians and contractors?	Yes	No	15, 21
Does the policy authorize investigations?	Yes	No	15, 26
Are stakeholders were involved in policy development.	Yes	No	15
Is zero tolerance mandated for contractors?	Yes	No	16
Does a policy define rules of conduct for contractors?	Yes	No	16
Does a policy exist for crisis management plans and crisis de-briefings when allegations are made?	Yes	No	19
Is the employee assistance program aware of the agency's sexual misconduct policy?	Yes	No	19
Are mental health protocols in place to assist staff who are involved as target, witness or complainant?	Yes	No	19
Does policy provide a consistent, written employee disciplinary system?	Yes	No	17

<u>Policy Question</u>	Yes	No	Page#(s)
Does policy require a background investigation of a prospective employee including past behavior of violence or abuse?	Yes	No	18
Are applicants advised of the zero tolerance policy prior to hiring?	Yes	No	18
Does the agency review and assess the operational impact of data from shakedowns, internal investigations, inmate grievances and staff grievances?	Yes	No	21
Are there formal written rules of conduct for employees with on and off duty rules, reporting requirements and current personnel information?	Yes	No	18
Are overtime, gender specific posts and supervision of staff addressed in policy?	Yes	No	18
Does policy address employee work place privacy?	Yes	No	19
Are phones, radios, email and Internet use covered in privacy policies?	Yes	No	19
Does the agency have a comprehensive media policy?	Yes	No	20
Does the agency have a policy about releasing information about current and former employees, volunteers or contractors?	Yes	No	20
Does the facility provide public tours?	Yes	No	20
Are volunteers screened, supervised and evaluated?	Yes	No	21
Is there a policy on contraband and searches of volunteers?	Yes	No	21
Does the agency specify a report writing format and train employees how to write and submit reports?	Yes	No	19

<u>Policy Question</u>	Yes	No	Page#(s)
Does the agency formally recognize and reward employees?	Yes	No	17
Is there an effective employee grievance system?	Yes	No	17
Is analysis of staff grievances required by policy?	Yes	No	17
Are employee performance appraisals done at regular intervals?	Yes	No	17
Are exit interviews conducted with all employees?	Yes	No	19

Policy Issues - Administrative

Agency Policy:

- The agency's position on staff sexual misconduct is a matter of policy.
- Policy establishes a zero tolerance for staff sexual misconduct with offenders.
- The policy includes specific prohibited behaviors, not just "over-familiarity" or "conduct unbecoming".
- Policy addresses and defines prohibited behavior between staff and staff, staff and inmates, contractors and inmates, inmates and volunteers, etc.:
- Touching, hugging, kissing, sexual assault, penetration, fondling, inappropriate viewing, sexual conduct, sexual harassment, sexual abuse, sexual gratification, romantic relationships, post-release relationships between staff/inmates.

The policy addresses:

- Mandatory reporting by inmates and staff;
- The reporting process, including multiple avenues for reporting allegations by staff and inmates;
- Safeguards for those who report;
- Consequences for failing to report;
- Consequences of making deliberately malicious or false reports by staff, inmates
- Training for all persons who have contact with, communication with or who supervise inmates:
 - Certified and civilian staff
 - Vendors/contractors
 - Volunteers
 - Other agency personnel (parks, recreation, transportation);

- Orientation of inmates to the agency's policies and procedures regarding zero tolerance, reporting, safeguards, and consequences of deliberately false or malicious reports.
- Policy establishes the agency's authority to conduct investigations (criminal, administrative, both) into allegations. (See also investigative policies and procedures)
- Policy addresses involvement of stakeholders in the development of procedures.

Assignment of Staff/Cross Gender Supervision:

- Procedures establish guidelines for cross gender assignments, along with an oversight by a supervisor. Cross gender supervision policies address EEO requirements and labor/management contract issues.
- The agency consciously makes staffing assignments and includes an assessment of the impact on inmate security and cross gender issues. Care should be taken to insure that staff in cross gender assignments are provided support and to prevent the casual assignment of staff.

Contract Management:

The agency's process for advertising and awarding contracts for services includes:

- Zero tolerance for sexual misconduct and required contractor compliance;
- Defines prohibited behavior for contractors;
- Specifies the training requirements for contractors;
- Establishes the reporting requirements and timetables for contractors for allegations or suspicions of sexual misconduct; and
- Defines procedures for barring contractors from working in the facility during investigations of allegations.
- The contract award document(s) incorporate the agency's policies and procedures on professional behavior and sexual misconduct, as well as other related security mandates.
- If the contract involves medical or mental health services, the issues of how incidents of potential sexual misconduct involving medical/mental health confidentiality will be disclosed by medical staff to the jail's administration.

Data Analysis:

The agency considers:

- Plotting, on a floor plan, reports of contraband, sexual misconduct complaints, complaints of favoritism, misconduct, etc. by housing unit, time and date.
- The plotting correlates complaints and staff assignments.
- Investigation reports recommend areas of potential improvement in policy, operations, training and related administrative areas (e.g., hiring, screening of employees).

Employee Commendation and Awards:

- The agency regularly and publicly recognizes and rewards employees for outstanding behavior. The program has value to employees and provides meaningful acknowledgment.

Employee Discipline Process:

- Employee confidence in the discipline and internal investigation systems is essential to reporting allegations of misconduct as well as breaking down any code of silence.
- Progressive discipline approach should be taken, as appropriate, for more serious offenses.
- Staff receive, and sign for, copies of the policy.
- The policy should conform to current labor/management agreements.
- Data generated from analyses of employee discipline is used in modifying agency management and operational practices.

Employee Grievance System:

- The agency has an effective employee grievance process that allows issues to be surfaced and solved.

Employee Performance Appraisal:

- The agency's staff performance appraisal process contributes to a positive work environment, provide the opportunity to comment on the positive performance of subordinates and correct or improve the areas that need attention.

Employee, Payroll:

- The agency reviews overtime worked by staff, track shifts, and related information. The agency's overtime policy addresses assignment of employees to insure that misconduct isn't facilitated when staff volunteers only to work specific posts.

Employee Recruiting, Screening, Hiring:

- The agency's background investigation procedures identify past behaviors of applicants of violence, sexual abuse, domestic battery, and other indicators of inappropriate behavior. If the agency uses pre-employment psychological testing, it has been validated.
- Applicants are informed of the agency's policies regarding sexual misconduct.

Employee Rules of Conduct:

- The agency's employee code of conduct includes zero tolerance for staff sexual misconduct.
- The agency specifies acceptable, as well as prohibited behavior, on and off duty, including dating and romantic relationships among staff and, especially between staff and supervisors.
- The agency defines appropriate and inappropriate staff relationships in the workplace, with consequences for inappropriate behaviors.
- The agency policy addresses relationships between employees and individuals that were previously under the supervision of the facility or agency.
- The agency specifies dress code for employees, and includes enforcement responsibilities.
- The agency requires that employees immediately notify the agency of changes in personal address and phone numbers.
- The agency periodically audits employee telephone numbers, comparing records of inmate telephone calls to employee telephone numbers.

Employee Work Assignments:

- Policy addresses the amount of overtime employees may work.
- Procedures require review of the overtime hours and locations worked by employees.

- Procedures identify any gender specific posts, and provides written justification.
- The agency has a policy requiring availability of staff of both sexes on all work shifts.
- The agency has a policy addressing cross gender supervision.

Employees Work Site Privacy:

- The agency establishes, in writing, the expectations for privacy for employees, inmates, contractors, visitors, volunteers, and others.
- The policy addresses searches of persons and property, lockers, vehicles, workspace, as well as telephone, radio, Internet, emails, and both employee and visitor parking lots.
- The agency posts signs regarding their policy.
- Employees sign the policy acknowledging the agency's privacy and surveillance policies (may be included in signature for policy manual).
- The agency specifies what items (and quantify) employees, volunteers, contractors, and visitors may bring into the facility.

Exit Interviews:

- The agency considers a process by which staff, volunteers, or contractors who are leaving employment have exit interviews. The process is established to provide for honest feedback, and highlight any issues of misconduct.

Medical and Mental Health Support to Staff/Employee Assistance Programs

- The agency considers procedures for medical and mental health (employee assistance programs) for staff who become involved as subjects or witnesses in allegations of sexual misconduct.
- The agency considers the impact of allegations of sexual misconduct on the facility's entire workforce, as well as the shift from which the allegations arise. Staff need a means to ask questions, address anxiety or anger regarding the incident, and begin moving past the incident. Peer debriefing and/or other professional intervention are means to address these matters.
- The agency's provider of employee assistance programs is involved with planning for referrals of employees who have been alleged to be involved with staff sexual misconduct; who have reported allegations; or who are witnesses to allegations. This coordination precedes any initial incident, and includes periodic review of outcomes and effectiveness by the agency administrator and the employee assistance program.

- The agency has a policy regarding referral to employee assistance programs of staff that are in any way involved in an incident, including during investigations.

Public and Media Relations:

- Agency policies define when the public will be informed of allegations.
- Agency policies define responses to public inquiries concerning allegations and investigations.
- Agency policies define when information is released about victims, complainants, victims, witnesses and perpetrators, including release of photos, identifying information.
- Agency policies specify which of the public and stakeholders are involved with development and/or modification of agency policies and procedures.

Release of Information about Current or Former Employees, Volunteers, Contractors:

- Agency personnel procedures specify what information is released about current and former employees, volunteers and contractors about completed or on-going investigations related to staff sexual misconduct.

Report Writing:

- Procedures specify a report-writing format that assists in identifying problems, accurately identifying events, and supports investigations.
- Staff should receive on-going training in report writing and be constantly reviewed by supervisors for compliance.

Tours:

- Procedures specify how tours are conducted, including insuring inmate privacy
- If the agency provides public tours of inmate areas, announcing the tours in advance to provide inmates privacy options should be addressed in the policy.

Training:

- The agency has a plan for training employees, volunteers, contractors about staff sexual misconduct, including during recruit and in-service training regarding the agency's policy on sexual misconduct, prohibited behaviors and reporting requirements.
- Training should include agency policy, state statutes, penalties, reporting requirements, "red flags", issues of "consent", and an overview of the investigation process. In-service training should cover the basics with emphasis on lessons

learned from closed investigations and any changes in practice. Staff are given the skills they need for managing inmates, including manipulative inmates.

Volunteers, Selection, Screening, Training, Supervision, Evaluation, Rules of Conduct:

- The agency's volunteer program provides:
 - Volunteers are screened, trained and monitored while providing services in the facility;
 - Training specifically addresses sexual misconduct.
 - Volunteers are given direction as to the agency's policy regarding touching, hugging, etc.;
 - Volunteers are informed of mandatory reporting requirements, how to report, and time limits;
 - Volunteers are advised of the consequences of involvement in prohibited behaviors;
 - Volunteers are provided with lists of what are acceptable and unacceptable items to be brought into the facility; and
 - Volunteers' knowledge of policy and procedures is recorded.
- Searches and security controls for volunteers need to be in place, including movement restrictions, access to keys, tools, weapons and other security devices.

Work Environment:

- The agency periodically assesses the work environment to insure it is professional. This includes review of staff/staff and staff/inmate name-calling and harassment, and elimination of any hostile work environment elements. The agency reviews the work place to insure that it has not become "sexualized", eroding professional boundaries between staff and inmates.
- The agency policy makes distinctions among sexual misconduct, sexual harassment and hostile work environment.

Policy Issues - Security and Supervision

Policy Question	Yes	No	Page#(s)
Are there protections for staff working in direct supervision housing units against isolation and over-identification with inmates?	Yes	No	23
Is there a written policy for assigning staff to cross gender posts?	Yes	No	18
Are supervisors required by policy to frequently check cross gender posts?	Yes	No	18
Does the policy agency analyze complaints by shift and/or by time?	Yes	No	17
Is there a policy on inmate record security?	Yes	No	24
Are professional visitors covered in the staff sexual misconduct policy?	Yes	No	25
Does policy control selection, assignment, supervision and movement of inmate workers?	Yes	No	24
Does a policy exist on maintenance and surveillance of the facility?	Yes	No	25
Are inmate visits regulated by written rules and supervised?	Yes	No	25
Is there a policy on inmate reporting of allegations of sexual misconduct, including multiple ways to report?	Yes	No	24
Does the agency policy address outside agencies that supervise inmates?	Yes	No	24
Is training provided to other agency personnel who supervise inmates?	Yes	No	24
Does policy address cross gender visual surveillance of inmates?	Yes	No	25, 31

<u>Policy Question</u>	Yes	No	Page#(s)
Is contraband introduced by staff, volunteers, contractors, inmates and visitors reviewed and analyzed?	Yes	No	23
Is there a policy for transports and court security?	Yes	No	23
Is there a policy for key control, counts and cross gender searches?	Yes	No	25
Is there a policy for facility and cell searches?	Yes	No	25
Is there a policy for inmate movement internally?	Yes	No	25
Is there a policy for inmate property control?	Yes	No	25

Policy Issues - Security and Supervision

Contraband:

- Procedures provide that reports of shakedowns and contrabands seized are analyzed to establish patterns, including contraband that indicates possible involvement of staff, volunteers, and contractors.

[Examples: clothing, make-up, perfume, books, magazines, medication, toiletries]

Courthouse Operations/Transportation:

- Procedures provide safeguards for any cross-gender transportation outside the facility, including searches. If no same sex staff are present, mileage and time logs, including radio reporting should be considered.
- Vehicles should be searched before and after each use and remain locked. Keys should be signed out and accounted for by a supervisor.
- Cross gender transports should be documented accordingly including mileage and transport time taken.

Direct Supervision:

- Management practices and procedures provide alternative means of raising complaints other than the correctional staff assigned to the housing unit.
- The agency works to help prevent staff isolation.

Evidence:

- Procedures and training provide:
 - Staff recognition of evidence, procedures;
 - Collection and preservation; and
 - Chain of custody.
- Agency procedures and training require staff to identify and preserve evidence, including the preservation of the crime scene and limiting access to the scene.
- Agency procedures address how evidence is collected and the chain-of-custody.

Inmate Records:

- Documentation is preserved for the investigative process
- Storage areas should be secured with limited access.

Inmate Reporting Procedures:

Agency procedures address:

- How inmate reports are forwarded to administrators;
- Time limits for forwarding reports;
- Penalties for not forwarding reports; and
- Orientation of inmates on reporting procedures.

Inmate Workers:

- Procedures provide that inmate workers be continuously supervised in work areas. Movement restrictions and penalties should be in place.
- Inmate workers in areas outside the security perimeter should be continuously supervised with suggested mandatory radio/phone check-in by the staff at regular intervals.
- The agency considers the sex of staff assigned to cross gender details to prevent misconduct and/or false allegations.

Outside Agencies That Supervise Inmates:

The agency notifies agencies that supervise inmates of:

- The agency's zero tolerance policy;
- Prohibited behaviors by those supervising inmates; and
- Reporting requirements.
- A Memorandum of Understanding (MOU) should be developed with each agency

who supervises inmates, clearly establishing the inter-agency roles if sexual misconduct is reported or alleged.

- The agency provides training to personnel from other agencies who supervise inmates about the inmates zero tolerance policy, prohibited behaviors, and reporting requirements.

Security Procedures and Key Control:

The agency reviews their procedures to limit the opportunities for misconduct including:

- Inmate count procedures;
- Facility and cell searches;
- Shakedowns;
- Inmate observation and visual surveillance in toilet, shower, dressing areas;
- Inmate privacy;
- Inmate hygiene;
- Work practice matches policies and procedures;
- Sign-in, sign-out by all those entering the security perimeter;
- Key control – including missing, broken or non-operational keys;
- Inmate privacy [The agency notifies offenders of their policies regarding privacy and surveillance, through the inmate handbook and during orientation.];
- Same gender strip searches;
- Emergency and routine pat / strip searches; and
- Supervision of shower and toilet areas.

Visiting, Monitoring:

- Staff, on a continual or frequent basis, should monitor inmate visits (family, professional). The visitation areas should be well lit and provide for easy viewing. Cameras, for continual recording or monitoring, should also be utilized if available.

Investigative Issues

Policy Question	Yes	No	Page#(s)
Are staff trained in evidence identification, collection and preservation?	Yes	No	26
Is there a policy on use of informants and intelligence collection?	Yes	No	25
Is there a comprehensive policy on criminal / internal investigation?	Yes	No	26
Is there a policy for oversight and investigation chain of command?	Yes	No	26
Is there a policy for confidentiality of investigations?	Yes	No	26
Is there a policy for coordination with the prosecutor?	Yes	No	26
Are supervisors and staff informed of lessons learned and behaviors that may be "red flags?"	Yes	No	26

Policy Issues – Investigations

Intelligence:

- The agency has a policy regarding the collection of intelligence and use of inmate informants. The policy addresses reliability, identification and documentation of informants along with procedures for documenting information.

Internal Investigations:

- Policies, procedures and protocols governing internal investigations address:
 - Complaints received either orally or in writing, how received and processed;
 - The internal path and external paths or reports and where information can be "lost";
 - Confidentiality of information, those who reports, witnesses, etc.;
 - Management of the incident scene and who may access the scene;
 - Crime scene management, evidence collection, processing, storage, and lab testing and reporting;
 - Designation of staff authorized to order and initiate the investigations;
 - Supervision of the investigation, including investigatory chain of command;
 - Use of surveillance technology and undercover personnel;
 - Protocols for covert operations;
 - Re-assignment of staff who are involved as complainant, witness or subject,

including maintenance of confidential information;

- At what point, if any, the investigation can be made public and/or shared with staff
- What staff are told when and investigation is initiated and during the course of the investigation;
- Qualifications, selection and training process for investigators;
- Differentiation between criminal and administrative investigations, including use of Miranda and Garrity;
- Location of interviews;
- Protocols for involvement of mental health professionals in interviews of vulnerable inmates;
- Recording of interviews, i.e. tape or video, interviews;
- Production of DNA by employees and inmates;
- Coordination with the prosecutor and/or other law enforcement agencies;
- Procedures for interviewing released inmates or inmates held in other facilities;
- Memorandum of understanding (MOU) with cooperating agencies -- law enforcement, crime lab, sexual assault treatment center, prosecutor, etc.;
- Decision-making regarding inmate's request for considerations in exchange for information (quid pro quo);
- Housing on inmates during investigations (subject, victim, witness);
- Protection against retaliation, and the appearance of retaliation, for staff (witnesses or those who report) and inmates;
- Supervision of investigators;
- Content and formats for investigative reports, including findings and recommendations;
- Designation of investigation outcomes (founded, unfounded, etc.) including differentiation between allegations that are unfounded, those that are false and deliberately malicious;
- Review of investigatory conclusions to improve agency operations;
- Job description of investigators;
- Protocols for taking witness and victim statements;
- Procedures for referral to employee assistance programs;
- Communicating with the witnesses, victims during an investigation;
- Reporting to the state's central criminal records exchange;
- Reporting to the state's sexual offender registry;
- Reporting to state licensing agencies for physicians, nurses, psychologists, clergy;
- Process of receiving reports from outside the organization/agency.

Inmate Programming Issues

Policy Question	Yes	No	Page#(s)
Are inmates provided access to medical/mental health services?	Yes	No	30
Are mental health and/or medical assistance available to inmates after reporting allegations or critical incidents?	Yes	No	30
Are medical and mental health providers required to report suspicions of sexual misconduct?	Yes	No	16, 30
Are inmates informed of sexual misconduct policies?	Yes	No	29, 30
Are inmates informed of reporting procedures?	Yes	No	29, 30
Is there an effective classification process?	Yes	No	29
Is there an inmate discipline policy for making false or malicious reports?	Yes	No	29
Is there an effective inmate grievance procedure?	Yes	No	30
Is data analysis of inmate grievances required?	Yes	No	17
Is each inmate issued an inmate handbook that states the proper reporting procedures, contraband definitions, assistance and privacy expectations?	Yes	No	30
Are all program areas well lit and easily observed by staff?	Yes	No	32
Are female inmates provided programming according to their special needs?	Yes	No	29
Is there a policy for inmate privacy?	Yes	No	31
Is there a policy for inmate dress code, appropriate for each sex?	Yes	No	29
Is there a policy on inmate sexual behavior with other inmates?	Yes	No	31
Are rules regarding inmate sexual behavior with other inmates enforced?	Yes	No	31

Policy Question	Yes	No	Page#(s)
Are inmate rules of conduct established and enforced?	Yes	No	29

Policy Issues – Inmate Programming

<p>Female Inmates:</p> <ul style="list-style-type: none"> The agency has a program plan for women offenders that address their specific needs.
<p>Inmate Admission and Orientation:</p> <ul style="list-style-type: none"> Inmates should be informed about their right to be free from sexual misconduct from all facility employees, contractors and volunteers. Reporting guidelines and procedures are clearly explained to inmates at orientation. Inmate orientation includes specific, language appropriate rules about required behaviors, prohibitions against sexual activity with staff, contractors, volunteers, etc., provides for multiple reporting paths, discusses rules for false reporting, and answers questions in a meaningful way. Process is in place to report allegations of staff sexual misconduct that arrestees report in other agencies, facilities, etc.
<p>Inmate Classification:</p> <ul style="list-style-type: none"> The facility's inmate classification system promotes a safe environment for staff and inmates, and has been validated. Procedures to prevent retaliation, or the appearance of retaliation, and how to report retaliatory conduct if and when it occurs is provided to inmates, victims and/or witnesses.
<p>Inmate Disciplinary Procedures:</p> <ul style="list-style-type: none"> Procedures address the steps to be taken to discipline an inmate for malicious reporting of an incident. These steps are the same for any inmate infraction. False reporting should be included in the inmate handbook as a violation. False reporting is differentiated from findings of "insufficient evidence" or "unfounded"
<p>Inmate Dress Code:</p> <ul style="list-style-type: none"> The agency has a specific inmate dress code, which is enforced.

- The agency reviews the types of clothing/uniforms issued to inmates in terms of gender appropriateness. A review of uniforms issued to female inmates includes undergarments and sleeping clothing. Clothing used in recreation is gender appropriate.

Inmate Grievance Procedures:

- The inmate grievance process should comply with professional standards and case law. Grievances are monitored for evidence of misconduct.
- Grievance procedures prevent retaliation against inmates

Inmate Handbook:

The inmate rules of conduct/handbook:

- Specify prohibited behaviors among inmates and between staff and inmates;
- Privacy expectations are outlined;
- Contraband is defined and examples given;
- Reporting requirements are outlined for sexual misconduct and other activities;
- Assistance for inmates who need help is defined;
- Enforcement of rules is uniform among all shifts;
- Written rules for inmates are specific, in a grade appropriate level. Other languages are available as needed.; and
- The agency enforces the rules of conduct.

Inmate Health and Mental Health Services:

- Policy provides inmate access to health and mental health services.
- Policy includes the conditions under which medical and mental health staff notify administrators of suspicions of sexual misconduct. Time lines and reporting channels are established.
- Investigative protocols define when mental health professionals are involved in allegations or in investigations.

Inmate Housing Assignments:

- Housing assignments should be based on an objective classification assessment. Staff should not be able to change housing assignments in the unit they supervise without accessing the appropriate process and approvals.

Inmate Movement:

- Procedures provide that inmates move through approved areas only and at times when allowed.
- Inmates found in prohibited areas should be questioned and events documented.

- Random searches should be conducted on inmates during movement.
- Procedures should address who is authorized to remove inmates from housing for interviews etc.

Inmate Privacy

- Policies and procedures address inmate privacy, balancing security needs of the facility.
- Procedures address routine cross gender visual surveillance of areas such as toilets, showers and dressing areas.

Inmate Professional Visiting:

- Professionals visiting the facility, i.e. law enforcement, attorneys, para-legals, clergy should be required to sign in. The visit is monitored at constant or frequent intervals.
- Good visibility should be established in any area designated for these visits.
- Professional visitors are informed of the agency's zero tolerance policy.

Inmate Programs and Services:

- All program providers should be trained regarding the agency's zero tolerance policies for sexual misconduct.
- Security staff should monitor inmates as appropriate during programs. Program areas should be well lit and easily observed.

Inmate Property:

- Careful inventories should be maintained.
- The inmates should not have access to property and only selected staff should be in property area.
- Deposits to inmate accounts should be monitored. Staff should not be allowed to deposit funds.

Inmate Sexual Behavior/Activity with Other Inmates:

- Policy, procedures and the inmate handbook delineate prohibited sex-related behaviors.
- Training provides staff with the skills needed to manage inmate sex-related behaviors.

Physical Plant:

- The agency assures that maintenance is conducted in areas impacting security and surveillance. Blind spots are identified and addressed.
- The agency identifies areas of the facility in which events are occurring.

Searches:

- The agency procedures address cross gender searches during both routine and emergency operations.
- The agency procedures address cross gender visual surveillance during routine and emergency operations.

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Technical Assistance

The National Institute of Corrections provides technical assistance to agencies requiring further assistance with addressing, preventing and investigating allegations of staff sexual misconduct with inmates. This assistance may include:

- Short term technical assistance providing subject matter experts to visit an agency, assess issues as defined by the agency head, and providing specific recommendations; and
- Training for agency decision-makers and trainers.

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Index

- Agency sexual misconduct policy, 15
- Assignment of Staff, 16
- Bibliography, 33
- Contraband, 23
- Contract Management, 16
- Courthouse Operations, 23
- Cross Gender Supervision, 16
- Data Analysis, 17
- Definitions, 9
- Direct Supervision, 23
- Employee Assistance Programs, 19
- Employee Commendations and Awards, 17
- Employee Discipline Process, 17
- Employee Exit Interviews, 19
- Employee Grievance System, 17
- Employee Medical Services, 19
- Employee Mental Health Services, 19
- Employee Payroll, 18
- Employee Performance Appraisal, 17
- Employee Recruiting, Screening, Hiring, 18
- Employee Rules of Conduct, 18
- Employee Work Assignments, 18
- Employee Work Site Privacy, 19
- Evidence, 24
- Garrity, 27
- Hostile Work Environment, 9
- Inmate Classification, 29
- Inmate Disciplinary Procedures, 29
- Inmate Dress Code, 29
- Inmate Grievance Procedures, 30
- Inmate Handbook, 30
- Inmate Health Services, 30
- Inmate Housing, 30
- Inmate Mental Health Services, 30
- Inmate Movement, 30
- Inmate Orientation, Sexual Misconduct Policy, 29
- Inmate Privacy, 31
- Inmate Programs and Services, 31
- Inmate Property, 31
- Inmate Records, 24
- Inmate Reporting of Sexual Misconduct, 24
- Inmate Sexual Behavior/Activity with Other Inmates, 31
- Inmate Supervision, Outside agencies, 24
- Inmate Transportation, 23
- Inmate Workers, 24
- Inmate, Privacy Issues, 31
- Inmates, Female, 29
- Intelligence, 26
- Internal Investigations, 26
- Key Control, 25
- Media Relations, 20
- Miranda, 27
- Outside Agencies, 24
- Physical Plant, 32
- Policies and Procedures, Writing, 12
- Public Relations, 20
- Red Flags, 11
- Release of Information, 20
- Report Writing, 20
- Searches, 32
- Security Procedures, 25
- Sexual Abuse, 9
- Sexual Contact, 9
- Sexual Harassment, 10
- Sexual Misconduct, 10
- Sexual Misconduct, definitions, 9
- Sexualized Work Environment, 10
- Surveillance, Cross Gender, 25
- Technical Assistance, 27
- Tours, 20
- Training, 20
- Training, Available from NIC, 27
- Transportation, 23
- Trustees, 24
- Using this Guide, 7
- Visiting, Professional, 25, 31
- Volunteers, 21
- Work Environment, 21