

Why We Are Addressing This Now

- ◆ National Awareness
- ◆ Systemic Pressures

What is Sexual Misconduct?

Any Behavior or act of a sexual nature by an employee, contractor, service provider, volunteer, or any person or entity acting on behalf of an agency directed to:

- a person under the care or custody of the department or agency
- any collateral contact of an offender
- victims or victim's families
- any other persons who have official contact with the department or agency on behalf of offenders

What is Sexual Misconduct Continued

Staff Sexual Misconduct includes but is not limited to acts or attempts to commit such acts as:

- * sexual assault
- * sexual abuse
- * sexual harassment
- * actions designed for sexual gratification of any party
- * conduct of a sexual nature or implication
- * sexual contact with the person
- * obscenity
- * unreasonable invasion of privacy and inappropriate viewing
- * conversations or correspondence which suggests a romantic or sexual relationship between parties

Myths of Staff Sexual Misconduct

Staff is clear about boundaries

Staff will report when there is a problem

Raising awareness will cause problems

Rookie officers are the problem

Misconduct is a male staff/ female offender issue

Offenders consent to sexual involvement

Staff understands and trust internal investigations

Realities of Staff Sexual Misconduct

Effective training is essential for staff to understand boundaries

The code of silence often does not allow for staff members to report a problem

Staff sexual misconduct will disrupt an institution

Misconduct is an issue for all staff members and all offenders

Because of the power a staff member holds over an offender, there can be no consent

Staff fear internal investigations

Consequences

What are the implications of staff sexual misconduct?

- * For the staff?
- * For the offenders?
- * For operations?
- * For the administrators?
- * For the legislature?
- * For families?
- * For the public?

Definition of Secure Confinement and Community Measures

Secure Confinement

Any institution where offenders are supervised by correctional officers 24 hours a day with no community interaction . This includes our modern idea of both jails and prisons

Community Measures

Non-prison programs that allow offenders to reside in the community while serving a criminal sentence. This includes our modern idea of parole, probation, half-way homes, pre-release centers, and home detention.

National Awareness

- Increased incarceration, especially of women
- Escalation of numbers of staff hired
- Media coverage focusing more on women in the criminal justice system
- Increased use of and awareness about community corrections
- Comparison to coverage of similar abuses in other institutions e.g. foster care, church, military & government

Church

➤ *Boston Globe, 2004*

A report commissioned by the US Conference of Catholic Bishops offered the most comprehensive survey of sexual abuse by a professional group. In Boston, it was found that the number of Catholic clergy accused of abuse approached 7%, far above the 4% national figure.

Foster Care

➤ *New York Times, 2003*

Three foster children in New Jersey were subjected to years of sexual abuse because the state's division of Youth and Family Services failed to remove them from a home in which the father had already be identified as a menace.

Government

➤ *The San Diego Union- Tribune, 2003*

Suit was filed in October of 2002 on behalf of 3 female police officers. The suit held that there was “continuing severe and pervasive course of discriminatory treatment, discriminatory harassment and a hostile work environment” at the police department

Military

➤ *The Washington Post, 2004*

Allegations of sexual assault in the U.S. Army have climbed steadily over the past five years. The problem has been abetted by weak prevention efforts, slow investigations, inadequate field reporting, and poor managerial oversight.

4 W's and the H of Secure Confinement

Who are the offenders?

Inmates who are under correctional watch by the judicial system and correctional officers within the institution

In 2003, there were 2,212,475 persons under correctional supervision. 2,079,149 of them were in secure confinement. 1,368,866 were male and 101,179 were female (DOJ, Prisoners in 2003. November 2004)

Where do they live?

Inside of the adult jail or prison which to which they are assigned

What is their world like?

Their world is ruled by the rules and culture of the institution where they live

With whom do they interact?

Prison or Jail officials, other inmates, correctional staff, and their visitors

How do you interact with them?

There are strict rules about what behavior is appropriate and the guidelines that govern the actions of correctional officers

4 W's and the H of Community Corrections

Who are the offenders?

Offenders in the community who are under the supervision of the judicial system and parole/ probation officers

In 2003, there were 6, 889, 800 persons under community corrections supervision. 87% of them were male and 13% were female (DOJ, Probation and Parole in the United States, July 2004)

Where do they live?

Within the community

What is their world like?

They live in a community such as our own, they may have jobs, go to church, and pick their children up from school

With whom do they interact?

Everyone. Their family, friends, parole officer, bank tellers, grocery store employees, and members of the community at large

How do you interact with them?

You can see them at the store, at church, in your office, at their homes, in their place of employment, or at your child's school.

Litigation

Amador v. NY State Department of Correction Services **(S.D.N.Y. 03 Civ. 0650)**

Suit was filed in behalf of individual current and released women inmates for injunctive and declaratory relief and monetary damages for sexual abuse in New York state prison.

Lucas v. White (F. Supp. 2d 1046 1999)

In Dublin, California, three female inmates were awarded \$500,000 in damages after male staff from the men's security unit "sold them as slaves to male inmates."

Women Prisoners of the District of Columbia Department of Corrections v. District of Columbia (D.D.C. 1994)

The Court ordered that the District of Columbia to adopt order prohibiting sexual harassment involving employees and female inmates, to take appropriate steps to prevent and remedy sexual harassment, to provide diagnostic evaluations for women prisoners as they provide for.

Litigation Continued

***Smith v. Cochran* (216 F. Supp2d. 1286)**

Non-consensual sex between offenders and government employees with authority over the offender violates clearly established federal law

***Belvin v. Georgia* (470 S.E.2d 497)**

The court held that the term probation officer includes a surveillance officer and is therefore prohibited from sexual contact with another person who is a probationer or a parolee under the supervision of said probation or parole officer.

***Sepulveda v. Ramirez* (967 F. 2nd 1413)**

The court found that a male parole officer observing a female parolee urinate for urinalysis violates a parolee's Fourth Amendment rights.

Media Coverage

Virginia Ex-Deputy Guilty of Having Sex With Inmates (Washington Post, 2004)

Ex-deputy of Alexandria, VA was convicted of intimidating two female inmates into having sex with him while they were in custody. The jury found the man guilty of two counts of carnal knowledge of an inmate, but the ex-deputy, a 13-year veteran of the sheriff's office, was found not guilty of an abduction charge in connection with one of the women. Prosecutors accused him of abusing his authority as a deputy to extract sex from the women who were in a work-release program; the women felt as though they had to comply to stay in the program. At the time of conviction, the jury recommended that the ex-deputy serve six years in prison, three years for each count. In April of 2004 the ex-deputy was sentenced to the full six years in prison as well as having to pay \$840.00 in restitution for the counseling costs of one of the victims. Upon release, the ex-deputy will also be placed on three years of probation.

Media Coverage Continued

Misconduct, drugs ignored at halfway houses suit says by Zachery Kouwe (Denver Post, November 9, 2003)

Reporting on a court case brought by employees of two halfway houses claiming that the Colorado Department of Corrections, the Colorado Department of Public Safety, and the Adams Board of Commissioners knew about illegal sexual activity occurring in the halfway house involving staff and clients.

Inmate Sex Scandal Roils South Carolina: Culture of Corruption Alleged; Investigations Launched by Sue Anne Pressley (Washington Post, January 23, 2001)

Covering numerous allegations of sexual intercourse between inmates and prison staff.

Studies

NO ESCAPE: Male Rape in U.S. Prisons (Human Rights Watch, 2004)

Report from the Human Rights Watch chronicling male-on-male prisoner rape in the United States. The report makes recommendations to the U.S Congress, the National Institute of Corrections, the Civil Rights Division of the Department of Justice, to state agencies, and to state and local prosecutors on how to best identify, report, and prosecute those involved in male prisoner rape. Above all they argue that in order to do this agencies need clear and informative legislation and policies on how to deal with male rape in prisons.

U.S. Department of Justice National Institute of Corrections, *Sexual Misconduct in Prisons: Law, Remedies, and Incidence (2000)*

Report found continued activity on the issue of staff/inmate sexual misconduct, increase in legislation, slight increase in litigation related to the issue & improvement in written and implementation of specific internal policies prohibiting staff sexual misconduct with inmates.

Studies Continued

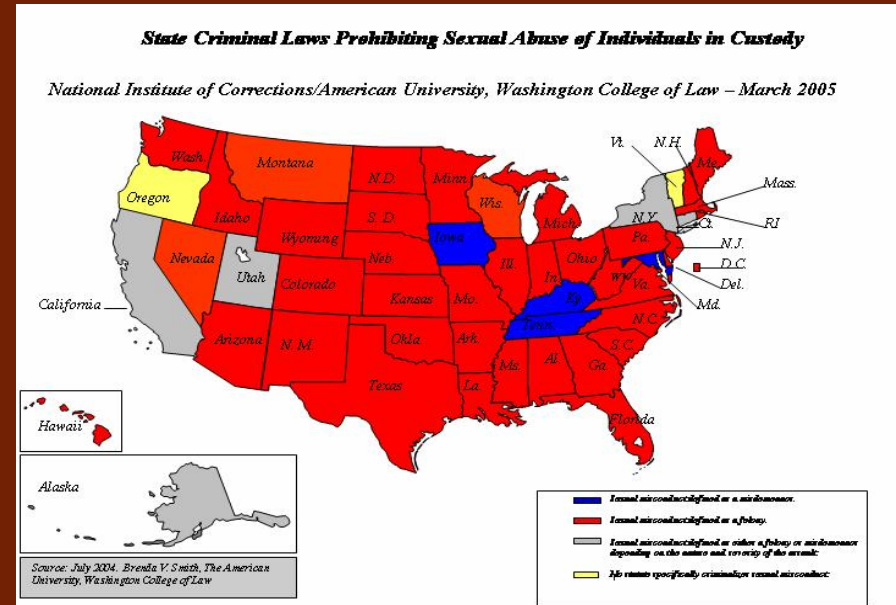
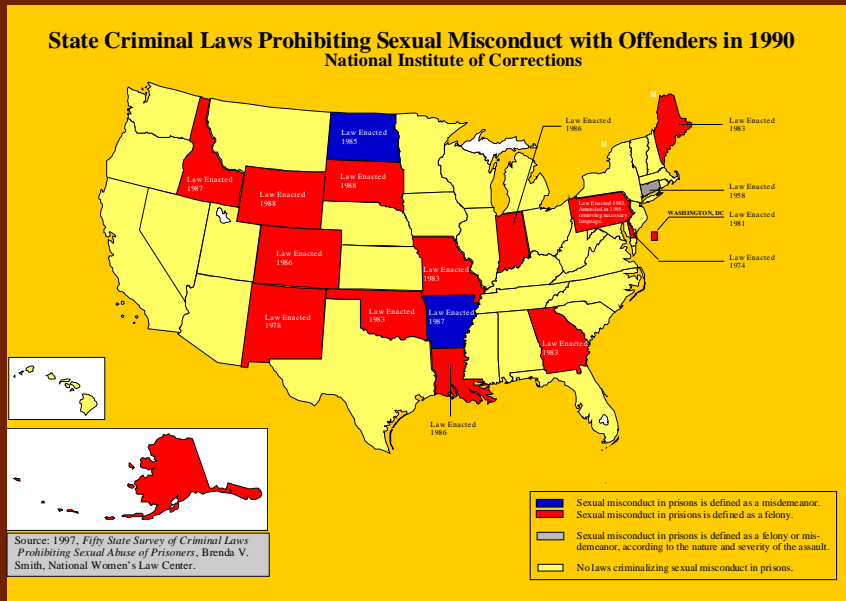
U.S. Government Accounting Office, *Women in Prison: Sexual Misconduct by Correctional Staff* (1999)

After examining four correctional systems, Texas, the Federal Bureau of Prisons, California and the District of Columbia, the report concluded that misconduct in correction facilities occurs and is underreported and also found participation in training programs that address sexual misconduct.

U.S. Department of Justice National Institute of Corrections, *Sexual Misconduct in Prisons: Law, Agency Response, and Prevention* (1996)

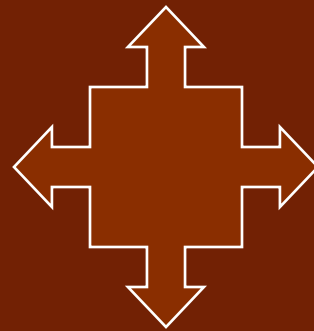
Report found “significant activity” among state departments of corrections on the issue of staff/inmate misconduct, significant litigation related to the issue, and poor policies addressing the issue.

Rise in Legislation: Comparison of state statutes in 1990 and 2005



Systemic Pressures

Premature promotions due to increased number of management/supervisory positions needed



Diminished staff training resources & ineffective training -- hesitancy to be specific on sensitive issues

Public policy & attitude towards offenders

More "free world" abuse of power cases

Summary

- Increase of public awareness in issues of abuse both in societal and correctional settings
- Increased Litigation
- Growth of Offender Population
- Increase in numbers of staff needed to run an agency
- Premature Promotions due to increased number of management/ supervisor positions needed

Summary Continued

- Diminished funding for staff training
- Ineffective training- hesitancy to be specific on sensitive issues
- Public policy and attitude towards offenders
- Unclear staff/ offender boundaries in community corrections and secure confinement