

DC CORRECTIONAL TREATMENT FACILITY

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POLICY 14-100

CHAPTER 14: INMATE RIGHTS
 SUBJECT: SEXUAL MISCONDUCT AGAINST INMATES
 SUPERSEDES: JANUARY 15, 1997
 EFFECTIVE DATE: DECEMBER 1, 1997

413-2052

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APPROVED:

Lonnie Moore
 LONNIE MOORE
 WARDEN

NANCY MATHIAS HILLINGTON, CLERK
 U.S. DISTRICT COURT

14-100.1 PURPOSE:

To establish policy regarding sexual misconduct against inmates; to discourage and prevent sexual misconduct against inmates; and to establish uniform procedures for reporting, investigating, and adjudicating incidents of sexual misconduct. Hereafter, reference to investigation and adjudication procedures for complaints of sexual misconduct shall also include complaints of retaliation and breach of confidentiality.

14-100.2 AUTHORITY:

Corporate policy.

14-100.3 DEFINITIONS:

DCDC Contract Monitor - The person employed by the DCDC to serve as the on-site monitor of CCA's management agreement with DCDC and serve as the DCDC Director's on-site representative.

Employee - a volunteer, contract worker, or any person who is paid by CCA to serve as its agent.

Respondent - The person accused of sexual misconduct.

Retaliation - Restraint, interference, coercion, or a covert or overt act of vengeance, action or threat of action, taken against an inmate in response to the inmate's complaint of sexual misconduct or cooperation in the reporting or investigation of sexual misconduct, regardless of the merits or the disposition of the complaint. Examples of acts of retaliation are unnecessary discipline; intimidation; unnecessary changes in work or program assignments; unjustified transfers to other institutions or unjustified placement in involuntary protective custody; unjustified denials of privileges or services.

Sexual Misconduct - Sexual behavior by a CCA employee, volunteer, agent or individual working on behalf of CCA that is directed toward inmates under the care, custody or supervision of the DCDC or CCA. Sexual misconduct toward inmates includes acts or attempts to commit acts of sexual abuse, sexual harassment or invasion of privacy. Furthermore, sexual misconduct includes conversations or correspondence which demonstrates or suggests a romantic or intimate relationship between an inmate and employee.

1. Sexual Abuse - is defined as:

- a. Forced or coerced sexual act or sexual contact as defined by DC Code, Sections 22-4101 through 22-4106; or
- b. Any sexual act or sexual contact between an employee and an inmate (See DC Code, Section 22-4113 through 22-4114). Sexual contact shall include, but not be limited to, the touching of any clothed or unclothed

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body part for sexual reasons. Sexual contact between an inmate and an employee is sexual abuse even if the inmate "consents."

2. Sexual Harassment is defined as:

- a. Verbal or physical sexual contact that creates a hostile, offensive, or intimidating environment. This includes obscene or sexually offensive advances, gestures, and comments;
- b. Influencing or making promises involving, among other things, an inmate's safety, custody, privacy, housing, privileges, work detail, or program status in exchange for sexual favors; influencing or threatening an inmate's safety, custody, privacy, housing, privileges, work detail, or program status because the inmate has refused to submit to a sexual advance; or
- c. Creating an intimidating, hostile, or offensive environment to an individual or to others who observe sexually offensive behavior and/or sexually offensive language.

3. Invasion of Privacy - The act of observing, attempting to observe, or interfering in an inmate's personal affairs without a sound penological reason. Invasion of privacy includes failure of an employee of the opposite sex to announce his/her presence when entering an inmate's housing unit.

14-100.4

POLICY:

It is the policy of CCA to prohibit employees from engaging in romantic relationships with inmates. Acts of sexual misconduct against inmates or retaliation against inmates who refuse to submit to sexual advances are prohibited. Further, retaliation against individuals because of their involvement in the reporting or investigation of a sexual misconduct complaint is prohibited. CCA will fully investigate and discipline persons who violate this directive.

14-100.5

PROCEDURES:

A. INMATE NOTIFICATIONS

1. Each inmate shall be notified of the prohibition against sexual misconduct and of the requirements in this directive. Each inmate shall be provided with written information on sexual misconduct and how to report sexual misconduct.
2. The CTF shall take appropriate steps to communicate this directive to inmates with reading and language difficulties or physical limitations.
3. This directive shall be posted on inmate bulletin boards, placed in law libraries, and as appropriate, in inmate publications.

B. STAFF NOTIFICATIONS

1. This directive and any other written directives pertaining to procedures for handling allegations of sexual misconduct against inmates shall be given and thereafter made readily available to each CTF employee.
2. Volunteers, agents and individuals who conduct business in the CTF shall receive notification of the prohibition against sexual misconduct including procedures for prevention, reporting, investigation, and adjudication.

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C. RESPONSIBILITIES

1. CCA EMPLOYEES

- a. Each employee will strictly adhere to this policy by ensuring that his/her conduct does not constitute or promote sexual misconduct.
- b. Each employee who receives information, from any source, concerning sexual misconduct or who observes incidents of sexual misconduct, is required to immediately report the information or incident directly to the Warden or to the highest ranking official on duty at the time of the incident.
- c. Failure of an employee to report an allegation, or any facts and circumstances that would lead a reasonable person to believe that sexual misconduct is occurring or has occurred, shall subject the employee to discipline.
- d. No employee, manager or supervisor, except the investigator who is assigned to the complaint, shall conduct an inquiry or investigation into the circumstances related to the allegations.
- e. Any interference with an investigation of sexual misconduct or refusal to answer proper questions during an official investigation, may be grounds for discipline.

2. MANAGERS AND SUPERVISORS

In addition to responsibilities of all employees, managers and supervisors shall be responsible for the following:

- a. All sexual acts and sexual contact shall immediately be reported, by the Warden or the highest ranking staff person on duty, to the appropriate law enforcement authorities.
- b. When sexual acts or sexual contact is alleged, the on scene supervisor shall immediately secure the crime scene.
- c. The alleged victim shall immediately be given the necessary emergency treatment, without compromising the integrity of the physical evidence. If deemed necessary by institutional medical personnel, the inmate shall be transported to an outside medical facility.
- d. The official who receives the complaint must take immediate action in accordance with this directive to ensure the safety of the inmate.
- e. Failure to take other appropriate action, as defined in this directive, when sexual misconduct is alleged or has been determined to have occurred, shall subject the manager or supervisor to disciplinary procedures.

3. SEXUAL MISCONDUCT COORDINATOR

The Coordinator shall make an appropriate evaluation of all sexual misconduct complaints received from all sources and shall be the only authority responsible for initiating a sexual misconduct investigation.

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D. SEXUAL MISCONDUCT COMPLAINT REPORTING PROCEDURES FOR INMATES

1. Any inmate may make a confidential report of sexual misconduct through the twenty-four (24) hour telephone hotline. This number shall be given to inmates at intake and at orientation and shall be posted in areas accessible to inmates and in the Command Center.
2. An inmate may file a sexual misconduct complaint to the Facility Grievance Coordinator by forwarding a letter or utilizing CCA's inmate grievance system (IGP), as described in Policy 14-5, "Inmate Grievance Procedures", dated January 15, 1997. The inmate may file the complaint as an "emergency," as defined in CCA Policy 14-5 and forward it directly to the Warden.
3. An inmate may verbally advise any employee of acts or attempted act of sexual misconduct.

E. SEXUAL MISCONDUCT COMPLAINT REPORTING PROCEDURES FOR STAFF

1. Each employee who receives any information, from any source, concerning sexual misconduct is required to immediately report the information or incident to the Warden or the highest ranking staff person who is on duty at the time of the incident. In addition, each employee will submit a written report of each sexual misconduct incident to the Warden and the Contract Monitor before the end of his/her work day using Policy 5-1 Incident Reporting.
2. The Warden (or the highest ranking staff person on duty) shall make immediate verbal notification to the Coordinator when sexual misconduct is reported.
3. The Warden shall forward one copy of the written sexual misconduct reports to the Coordinator by the end of the work day.

F. THE COORDINATOR

1. If the Coordinator receives an allegation of sexual abuse via the telephone hot line or direct correspondence, the complaint must be verbally reported immediately to the Warden. The Coordinator will provide follow up written notification to the Warden by the close of the business day.
2. When the Coordinator notifies the Warden of complaints of sexual acts or sexual contact, the Warden must immediately notify the appropriate law enforcement authorities.
3. The Coordinator shall communicate with the law enforcement agency concerning the status of any investigation. The Coordinator must document the status of police investigations every thirty (30) days. The occurrence of a police investigation does not relieve CCA of the duty to investigate the complaint of sexual misconduct.
4. The Coordinator shall conduct an intake screening interview with the complainant regarding the report of sexual misconduct to determine whether the conduct complained of constitutes sexual misconduct and whether the investigation shall proceed.

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5. If the Coordinator requires guidance regarding sexual misconduct complaints, he/she shall consult with the Assistant Corporation Counsel assigned to the women prisoners' class action law suit or the CCA Corporate Office.
6. The Coordinator shall notify the Warden, verbally and in writing, of each complaint regarding sexual misconduct and whether the complaint is referred for investigation.
7. If the complaint is referred for investigation, the Coordinator shall provide written notification to the respondent, advising of the complaint, investigation procedures, confidentiality requirements and the prohibition of communication, intimidation or retaliation against the inmates.
8. The Coordinator shall then forward the complaint and the complaint intake/screening form to the investigator.
9. If a determination is made by the Coordinator that the complaint filed on behalf of an inmate does not involve sexual misconduct, the Coordinator shall deny the claim. However, if the complaint does state a violation of another policy, the Coordinator shall refer the complaint to the Warden for disposition. The Coordinator shall send notice of the rejection of the complaint, when it does not constitute sexual misconduct, to the Warden, the complainant (if the complainant is a third party informant, the notice will be sent to the victim) and to the Assistant Corporation Counsel.

G. INTERIM PROCEDURES DURING INVESTIGATION

1. Under appropriate circumstances the Warden may transfer or place a respondent on administrative leave pending the outcome of an investigation.
2. An employee who has been transferred during an investigation of sexual misconduct against a female inmate shall not be permitted to work with female offenders under any other circumstances. TransCor Officers who are under investigation for sexual misconduct against a female inmate shall not be assigned to escort any female inmates. An employee who has been determined to have engaged in sexual misconduct against a female inmate shall not be permitted to work with female offenders under any circumstance.
3. Whenever the decision is made not to transfer or place a respondent on administrative leave pending the outcome of an investigation, the respondent shall not be assigned to work in any area where he/she is likely to come into contact with the complainant. The respondent shall be advised by the Warden to make an immediate report if an assignment places him/her in contact with the complainant. The respondent shall also be advised that any contact with the inmates may be cause for disciplinary action.
4. The Warden shall decide if it is appropriate to return an employee to his/her original workplace after the investigation is completed.
5. When appropriate and necessary, the Warden may make appropriate housing accommodations for the inmate. Effort shall be made to minimize any disturbance of the inmate's housing location or program activities during the investigation of pending complaints.

H. SEXUAL MISCONDUCT INVESTIGATIONS

1. The investigator shall conduct a thorough and objective investigation of all allegations. The investigation shall include interviewing the complainant, the informant, the alleged victim if the information is received from another source, the respondent, witnesses, and the reviewing all documents and physical evidence.
2. The investigator shall contact the Coordinator directly for interview scheduling and coordination. All inmates and employees shall receive at least three (3) days advance notice of scheduled interviews and shall be advised of the right to legal and/or union representation. The Warden shall ensure that the inmate is allowed a legal call upon request to secure the presence of counsel.
3. If the inmate or employee being interviewed has legal/union representation, the investigator will explain that only the person being interviewed shall answer the questions but he/she can consult with the representative prior to answering questions.
4. The investigator shall advise each individual interviewed in the course of an investigation that any intimidation, retaliation or breach of confidentiality by an employee is a separate offense which is subject to disciplinary action.
5. The investigator shall draft a statement detailing testimony from each complainant, respondent and witness.
6. The investigator shall permit the employee or inmate to read and make any necessary corrections/changes to the statement prior to signing it. The name of the confidential informant will be deleted from the copies of the report distributed by the Coordinator.
7. The investigator shall submit a final written report to the Warden within thirty (30) days (excluding Saturdays, Sundays and legal holidays) of knowledge of the incident. The report will include the investigator's factual findings and a conclusion as to whether there is evidence to support a conclusion that sexual misconduct has occurred. This report will be provided to the Coordinator.

I. POST-INVESTIGATION PROCEDURES

1. Copies of sexual misconduct investigations, where the complainant is a female inmate, shall be forwarded to the Contract Monitor.
2. The Warden shall provide a written notice to the inmate, within forty-eight (48) hours as to whether there was evidence that supported a conclusion that sexual misconduct occurred. The notice shall also inform the inmate of appeal procedures. The inmate shall sign acknowledgment of receipt of this notice and the Warden shall forward a copy to the Coordinator.
3. In cases where the complaint was made by an individual other than the alleged victim, the third party informant/witness shall not be notified of the findings and recommendations. The affected inmate shall however receive notification of the findings.
4. The Warden shall inform the employee of the investigator's findings and recommendations and shall take appropriate disciplinary action against employees who are found to have engaged in sexual misconduct.

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6. Within fifteen (15) calendar days of receipt of the investigator's written report, the Warden or appropriate management official will take appropriate disciplinary action against employees who are determined guilty of sexual misconduct.
6. The Warden shall advise the Coordinator in writing of disciplinary action taken against an employee who was determined to have engaged in sexual misconduct, breach of confidentiality or retaliation against an inmate. He/she shall also advise the Coordinator in writing of actions taken pursuant to other recommendations resulting from the investigation, regardless of a finding of sexual misconduct.

J. CONFIDENTIALITY

1. The sexual misconduct complaint and all documents pertinent to the complaint, including the identity of the informant, the respondent and the victim, will be handled in a confidential manner and will only be revealed on a need to know basis, to include the respondent, witnesses, the Coordinator, and the Warden. The Security Chief shall be informed when criminal sexual behavior is reported.
2. Any inmate who reports an act of sexual misconduct may request and be treated as an anonymous informant.
3. To further maintain confidentiality, written notification of the investigation to employees shall be issued directly from the Coordinator. Inmate notification shall be handled as legal mail.
4. Each party contacted in the course of an investigation will be advised that any intimidation, retaliation, or breach of confidentiality is a separate actionable disciplinary offense.

K. COUNSELING

Based upon an inmate's request, an inmate who has been the victim of sexual misconduct will be provided psychological counseling by a mental health professional. Any employee who receives a report of sexual misconduct will advise the inmate that psychological counseling is available.

L. INMATE APPEALS

1. After receipt of notice, an inmate who is dissatisfied with the investigation or resolution of a complaint of sexual misconduct, or the inmate's attorney, may appeal by letter to the Director of the DCDC through the DCDC Contract Monitor within five (5) calendar days of receiving written notice of the outcome of the investigation.
2. An inmate, or the inmate's attorney, may submit a written request signed by the inmate to the Coordinator in order to review the investigation report. The Coordinator must review and edit the report to remove confidential information, including but not limited to the identity of confidential informant(s), medical information, personnel record information or information that will compromise security issues. An unedited and edited version shall be maintained in the Coordinator's files.
3. The Director will notify the inmate and the Warden in writing of the results of the appeal within ten (10) calendar days. The Director shall forward a copy of all documents relevant to the appeal to the Coordinator.

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4. An appeal will not delay the implementation of authorized management actions.

M. TRAINING

"Prevention of Sexual Misconduct Training" training will be developed and conducted for all CCA employees, volunteers and inmates.

1. EMPLOYEE TRAINING

- a. The Training Manager shall conduct mandatory Pre-service and annual in-service training for all paid employees and contract employees. Certified trainers on "Prevention of Sexual Misconduct Against Inmates" shall conduct training which shall include education concerning DC law and CCA/CTF policies and procedures for recognizing, preventing, reporting, investigating and disciplining employees for acts of sexual misconduct.
- b. Specified employees shall receive forty (40) hours of specialized training in working with female offenders. Semi-annual enhancement training on special issues relating to working with female offenders will be conducted for select employees.

2. INMATE TRAINING

- a. The Warden shall ensure that training for inmates in the prevention of sexual misconduct against inmates is conducted at Orientation when each inmate is transferred into the facility. The training shall include education concerning DC law and CCA policies for recognition, prevention, reporting, investigation and discipline. Inmates shall be advised of the prohibition of sexual misconduct. Additionally, inmates shall be issued an informational handout designed to help recognize and report sexual misconduct to include the use of the confidential hotline telephone number. Documentation of inmate training shall be maintained in the inmate's institutional record and the attendance roster shall be maintained by the Assistant Warden for Programs.

N. EMPLOYEE DISCIPLINARY CAUSES

1. CCA will impose stringent disciplinary action against persons found in violation of this policy, up to and including termination.
2. Managers and supervisors who fail to report or take appropriate actions when instances or complaints of sexual misconduct against inmates are brought to their attention will also be subject to disciplinary action, up to and including termination.

O. DISSEMINATION:

1. The Warden will issue a copy of this Policy to each employee, supervisor and manager under his/her authority.
2. The Program Manager/ Supervisor shall ensure that all new employees, except Correctional Officers, receive a copy of this directive within five (5) days of entry on duty.
3. The Training Manager shall ensure that all new Correctional Officers receive a copy of this policy within five (5) days of entry on duty.

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4. Both incumbent and new employees shall sign for receipt of this policy on the "Acknowledgment" form (Attachment 1) which shall be forwarded to the Coordinator for filing.

P. REPORTING

1. The Coordinator shall maintain a central filing and reporting system for incidents of sexual misconduct against inmates which shall include: a copy of all complaints and related documentation; reports including investigative findings; correspondence; appeals and appeal findings; correspondence from attorneys; and disciplinary actions taken against any employees.
2. The Coordinator shall maintain statistics which shall include the following data: the number of complaints received; the number of complaints in which a finding of sexual misconduct was made; the number of complaints in which a finding of no sexual misconduct was made; and discipline taken against employees and other administrative actions taken.
3. On a quarterly basis, the Coordinator shall compile and provide the Program Analysis Officer, DCDC, with the information required in section (P)(2) above.

14-100.6 REVIEW:

This policy will be reviewed as needed by the Vice President, Legal Affairs.

14-100.7 APPLICABILITY:

All staff and programs.

14-100.8 ATTACHMENT(S)

Acknowledgment Form

14-100.9 REFERENCES:

DC Law 10-287, Anti-Sexual Abuse Act of 1994.

Court Order in Civil Action 92-2052 (U.S.D.), Women Prisoners of the District of Columbia Department of Corrections vs. DC, dated December 13, 1994.

This Policy is to be used in conjunction with CCA Policy 14-5, Inmate Grievance Procedures.

This Policy is to be used in conjunction with CCA Policy 8-3, Crime Scene Procedures.