

Sixth District Department of Correctional Services POLICY	Issue Date 10/18/13	Effective Date 02/10/17	Policy Number 2407-17
Subject SEXUAL MISCONDUCT WITH OFFENDERS COMMUNITY CONFINEMENT STANDARDS (PREA Discipline)		Review Month June	Author 0590 (MLA)
Rescinds 2407-13	Reference Prison Rape Elimination Act-Community Confinement Standards, United States Department of Justice Final Rule 28 C.F.R. Part 115, Docket No. OAG-131, RIN 1105-AB34, May 17, 2012 PREA Standards §115.276, 115.277, 115.278		

PURPOSE:

To establish policy in regard to discipline for Prison Rape Elimination Act (PREA) related matters.

POLICY:

It is policy of the Sixth Judicial District, Department of Correctional Services, to provide a safe, humane, and secure environment, free from the threat of sexual violence and sexual harassment for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution and tracking. The Sixth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Sixth Judicial District, Department of Correctional Services and is maintained current by the District Director or the Designee.

PROCEDURE:

1. Disciplinary Sanctions for Staff §115.276:
 - A. Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
 - B. Termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse.
 - C. Disciplinary sanctions for violations of policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed the staff member's disciplinary history and the sanctions imposed for comparable offenses by other staff with similar histories.

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PROCEDURE: (continued)

- D. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
2. Corrective Action for Contractors and Volunteers §115.277:
 - A. Any contractor or volunteer who engages in sexual abuse is prohibited from contact with offenders and is reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
 - B. The facility takes appropriate remedial measures, and considers whether to prohibit further contact with offenders, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.
3. Disciplinary Sanctions for Offenders §115.278
 - A. Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or following a criminal finding of guilt for offender-on-offender sexual abuse.
 - B. Sanctions are commensurate with the nature and circumstances of the abuse committed the offender's disciplinary history and the sanctions imposed for comparable offenses by other offenders with similar histories.
 - C. The disciplinary process considers whether an offender's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, are imposed.
 - D. If the facility offers therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility considers whether to require the offending offender to participate in such interventions as a condition of access to programming or other benefits.
 - E. The Department may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
 - F. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

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PROCEDURE: (continued)

- G. The Department may, in its discretion, prohibit all sexual activity between offenders and may discipline offenders for such activity. The Department may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

BY ORDER OF:

Bruce Vander Sanden, Director