

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 100</p> <p>AGENCY ADMINISTRATION/MANAGEMENT</p>	<p>OPR:  DIR</p>
	<p>DEPARTMENT ORDER: 125</p> <p><b><i>SEXUAL OFFENSE REPORTING</i></b></p>	<p>SUPERSEDES:  DO 125 (06/02/09)</p>
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## PURPOSE

The Department has zero tolerance for sexual contact of any kind with inmates and offenders including conduct, assault and/or contact, by inmates, staff, contractors, volunteers and others. This Department Order establishes the standards and accountability measures to prevent such conduct, regardless of location and to respond appropriately should a sexual conduct occur. This process includes meeting the medical and psychological needs of the victims. Allegations of sexual conduct shall be investigated and as warranted, result in disciplinary action and criminal prosecution. This Department Order complies with the Prison Rape Elimination Act of 2003, 42 U.S.C.A. 15601 through 15609. For other information relating to inmate and staff sexual conduct see Department Order #601, Administrative Investigations and Employee Discipline, and A.R.S. 13-1401 et al.

## PROCEDURES

### 125.01 SEXUAL CONDUCT AND SEXUAL ASSAULTS

- 1.1 All allegations and incidents of sexual conduct shall be investigated as outlined in Department Order #608, Criminal Investigations, and Department Order #601, Administrative Investigations and Employee Discipline.
- 1.2 Staff Misconduct - Staff sexual harassment and any sexual contact or conduct between staff and inmates or offenders is strictly prohibited. There is no consensual sexual contact between staff and inmates or offenders. A staff member who engages in Unlawful Sexual Conduct is subject to state and/or federal criminal prosecution.
  - 1.2.1 For purposes of this Department Order, Unlawful Sexual Conduct is defined as engaging in any act of a sexual nature with an inmate or offender who is in custody or under supervision of the Department, the Juvenile Corrections, a private prison facility or a city or county jail. A.R.S. 13-1419.
    - 1.2.1.1 The term "person" includes any of the following: A.R.S. 13-1419
      - 1.2.1.1.1 Employee of the Department of Corrections.
      - 1.2.1.1.2 Employee of a private prison, city or county jail.
      - 1.2.1.1.3 Contractor with the Department, private prison, city or county jail.
      - 1.2.1.1.4 Official visitor, volunteer or representative of the Department of Corrections, private prison, city or county jail.
    - 1.2.1.2 Any acts of a sexual nature, as defined below, conducted with the intent to arouse or gratify sexual desire, includes any:
      - 1.2.1.2.1 Completed, attempted, threatened or requested touching of the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks. A.R.S. 13-1419 or
      - 1.2.1.2.2 Exposing genitalia, anus, groin, breast, inner thigh, pubic area or buttocks. A.R.S. 13-1419 or

- 1.2.1.2.3            Photographing, videotaping, filming, digitally recording or otherwise viewing – with or without a device, an inmate or offender, while the inmate or offender is in a state of undress or partial undress, or while the inmate or offender is urinating or defecating. (A.R.S. 13-1419)
- 1.2.1.3            A.R.S. 13-1419 does not apply to:
  - 1.2.1.3.1            Acts conducted by persons lawfully married to the inmate or offender prior to incarceration in the Department. A.R.S. 13-1419.
  - 1.2.1.3.2            Acts conducted for a bona fide medical exam or a lawful internal search. A.R.S. 13-1419.
  - 1.2.1.3.3            Urinalysis Collection as outlined in Department Order #709, Substance Abuse, Detection and Control.
- 1.2.2            Sexual harassment, sexual contact or conduct does not apply to staff conducting pat down searches of inmates in the performance of their duties as outlined in Department Order #708, Searches.
- 1.2.3            Following an investigation, a person found to have engaged in unlawful sexual conduct with an inmate or offender is subject to disciplinary action including dismissal as outlined in Department Order #601, Administrative Investigations and Employee Discipline, and may be referred for criminal prosecution.
- 1.2.4            All employees, volunteers and contract employees are expected to have the highest ethical standards of honesty, integrity, impartiality and conduct in their interaction with inmates, offenders, other employees and the general public. For additional information relating to staff-inmate or offender conduct see Department Order #501, Employee Professionalism, Ethics and Conduct, and Department Order #601.
- 1.3            Inmate Sexual Assaults - Abusive sexual contact, nonconsensual sexual acts and any sexual contact between inmates is strictly prohibited. There is no consensual sex.
  - 1.3.1            An inmate who sexually assaults another inmate is subject to disciplinary action as outlined in Department Order #803, Inmate Discipline. All such disciplinary actions shall be treated as Major Violations with the sternest sanctions imposed. The inmate shall be classified to the highest custody level in accordance with Department Order #801, Inmate Classification. A.R.S. 13-1419
  - 1.3.2            Following an investigation, an inmate who is identified as sexually assaulting another inmate shall be referred for criminal charges as outlined in Department Order #608, Criminal Investigations, pursuant to A.R.S. 13-1406, Sexual assault; classification; increased punishment.
  - 1.3.3            If found or pled guilty following criminal prosecution, the sexually assaultive inmate (See DEFINITIONS) may receive an additional prison sentence and may be required to register as a sex offender upon release.

- 1.3.4 Inmates who knowingly or intentionally make false accusation(s) of sexual assault shall receive disciplinary action as outlined in Department Order #803, Inmate Discipline and may be criminally prosecuted under the applicable statute. All such disciplinary action shall be treated as Major Violations with the highest possible sanctions imposed. A.R.S. 13-2907.01
- 1.4 Retaliation against inmates or staff by other inmates or staff for reporting staff sexual conduct or harassment and inmate on inmate sexual assaults is prohibited. All acts of retaliation shall be investigated. If an act of retaliation is proven, the perpetrator(s) shall be subject to disciplinary action.
- 1.5 All issues related to reporting contract staff unlawful sexual conduct and harassment and inmate on inmate sexual assaults shall be coordinated through the Contract Beds Operations Director.

## **125.02 PREVENTION**

- 1.1 The Division Director for Offender Operations shall ensure every institution, including contract prisons, provides inmates with information on preventing sexual assault during their orientation (Attachment F). All material shall be made available to inmates and shall, at a minimum, include:
  - 1.1.1 Oral and written information in English and Spanish.
  - 1.1.2 Information on prevention, self-protection and avoiding sexual abuse.
  - 1.1.3 Treatment and counseling for inmate victims of sexual abuse.
  - 1.1.4 A simplified and expedient process for inmates to report sexual assaults.
- 1.2 The Department "Sexual Assault Awareness" pamphlet shall be provided to each inmate as part of the institutional orientation process. The pamphlet shall include material outlined in this Department Order and shall be written to be easily understood by all inmates. Assistance shall be given to inmates who speak languages other than English or who are identified as being unable to understand the material.
- 1.3 Wardens shall ensure information on preventing sexual assaults, inmate notification and informative posters are posted on inmate bulletin boards and are available to all inmates regardless of their custody level or location. The posters shall be developed and disseminated to every institution by Offender Operations.
- 1.4 Each unit Deputy Warden shall ensure staff conducting the orientation document each inmate's attendance in the Adult Inmate Management System (AIMS). The entries shall note the written materials outlined in 1.3 of this section were provided to each inmate and, if appropriate, oral and written translations were provided.
- 1.5 The Division Director for Offender Operations shall ensure Wardens identify all areas that are considered secluded and conducive to improper behavior.
  - 1.5.1 Access to areas identified as secluded and conducive to improper behavior shall be restricted or prohibited to inmates.

- 1.5.2 Supervisors shall ensure staff conducts rounds of secluded areas at routine and staggered intervals to prevent sexual conduct. Staff shall log rounds of secluded areas in Correctional Journals as outlined in Department Order #105, Information Reporting.
- 1.5.3 Wardens shall provide a written report to the Division Director for Offender Operations providing the location of all secluded areas and the manner in which access is controlled. This report shall be updated as necessary.

## 125.03 INTERVENTION

- 1.1 In the event an inmate is sexually assaulted, the inmate shall notify a staff member that a sexual assault has occurred. An inmate may report such occurrences at any time to any staff member.
  - 1.1.1 To preserve evidence, the assaulted inmate should be instructed not to wash, brush their teeth, shower or change clothing prior to notifying mental health practitioners, investigators, facilitate chain of command or receiving a medical evaluation.
  - 1.1.2 The Department shall take immediate action on all allegations of sexual conduct (includes conduct, assault and/or contact).
- 1.2 Staff who observe or become aware of a sexual assault or sexual conduct shall:
  - 1.2.1 If appropriate, intervene, separate the inmates and, if necessary, initiate the Incident Command System (ICS) as outlined in Department Order #706, Incident Command System.
  - 1.2.2 Immediately notify the shift commander by telephone or have another staff member make the notification. To protect the victim, notification shall not be made over the radio:
    - 1.2.2.1 Where the victim reports a sexual assault, staff shall separate the victim from other inmates for protection and to preserve the evidence, ensuring the inmate does not wash, brush their teeth, shower or change clothing prior to a physical examination conducted by medical staff. Staff shall remain with the inmate.
    - 1.2.2.2 The victim shall immediately be escorted for medical treatment, as deemed necessary by clinicians, and mental health assessment. At no time will staff leave the victim alone until evaluated by Mental Health staff.
  - 1.2.3 Identify and secure the crime scene until the Criminal Investigations Unit (CIU) investigator arrives.
  - 1.2.4 Complete an Information Report as outlined in Department Order #105, Information Reporting.
- 1.3 The shift commander shall:
  - 1.3.1 Initiate ICS, and consult with the Criminal Investigation Unit. If it is determined during the interview the alleged assault occurred within a timeframe where recovery of evidence is considered likely, generally 72 hours:

- 1.3.1.1 If not already initiated, ensure the crime scene is secured and recorded as outlined in the applicable Unit Post Orders.
- 1.3.1.2 Access to the crime scene shall be controlled until the scene is cleared and released by a Criminal Investigator. The Criminal Investigator shall ensure:
  - 1.3.1.2.1 Other evidentiary items not directly associated with the crime scene, such as the clothing of the alleged victim and that of the suspect are secured and a chain of custody initiated.
  - 1.3.1.2.2 Each item suspected as contaminated with bodily fluids is stored in individual paper wrapping or a paper sack and a chain of custody is initiated.
- 1.3.2 Ensure the inmate victim is protected and has no contact with any other inmates. At no time will the victim be left alone until evaluated by Mental Health staff for suicide risk. The suspect(s) and the victim shall not be permitted to communicate and shall be escorted and held separately out of sight and sound from each other. The inmate victim shall be immediately protected on site, at the hospital and upon return to institution.
- 1.3.3 Ensure the inmate victim is immediately escorted to the Health Unit for examination, treatment and evaluation, and if determined appropriate by the investigator and/or medical and/or mental health provider, transported to the hospital emergency room for the collection of forensic evidence and medical treatment. At no time will staff leave the victim alone until evaluated by Mental Health staff.
- 1.3.4 Immediately contact Mental Health staff to provide assessment and intervention.
  - 1.3.4.1 After normal business hours, the shift commander shall contact the Mental Health Urgent Responder.
  - 1.3.4.2 The Mental Health Urgent Responder, if unable to respond in person, shall request the victim be interviewed over the telephone, ideally with a nurse present with the victim during the interview.
  - 1.3.4.3 After interviewing the victim, the Mental Health Urgent Responder shall consult with and advise the nurse of mental health interventions, such as the need for health/welfare or suicide watch.
  - 1.3.4.4 In the absence of a nurse, the Mental Health Urgent Responder shall provide direction about mental health interventions to security staff.
- 1.3.5 Preserve all evidence and ensure the victim does not wash, brush his/her teeth, shower or change clothing.

- 1.3.6 Notify the Criminal Investigations Unit (CIU) as outlined in Department Order #608, Criminal Investigations.
- 1.3.7 Question the victim only to determine the identity of the suspect, and where and when the alleged assault occurred.
- 1.3.8 Remove any identified suspect(s) from the area and isolate them until questioned by the investigator; ensure the suspect(s) do not wash, shower or change clothing.
  - 1.3.8.1 After the investigator(s) has completed the interview, the suspect(s) shall be taken to medical as outlined in 1.3.10.1 of this section.
  - 1.3.8.2 If the suspect is a staff member, contract employee or volunteer they shall be reassigned pending the completion of the investigations as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 1.3.9 If warranted, the CIU Investigator shall obtain a Court Order for the collection of forensic evidence. If the process for a Court Order is initiated, the suspect(s) shall not be permitted access to facilities/areas where evidence may be located, and/or to prevent destruction of evidence.
- 1.3.10 Ensure the inmate victim is escorted to the Health Unit for an examination and evaluation. When determined necessary by the Health Services staff, ensure the inmate victim is escorted to the local emergency room facility.
  - 1.3.10.1 If the suspect is identified as another inmate, the inmate suspect shall also be escorted to the Health Unit for evaluation and documentation.
  - 1.3.10.2 The inmate victim and the inmate suspect(s) shall be escorted and held separately. The inmates shall be out of sight or sound from each other and shall not be permitted to communicate.
  - 1.3.10.3 Health Services staff shall immediately contact Mental Health staff and provide clinical information discovered during the medical examination.
- 1.3.11 At the conclusion of the medical and mental health examination(s), or upon return from the emergency room, reassign the victim and the inmate suspect(s), if known, to the Complex Detention Unit or a segregation unit pending the outcome of the Protective Segregation Review and investigative process. The inmate victim and the inmate suspect(s) shall:
  - 1.3.11.1 Not be housed in cells next to each other if the inmate victim and the inmate suspect(s) are placed in the same detention or segregation unit.
  - 1.3.11.2 Be housed out of sight and hearing range from one another.

- 1.3.12 Ensure a Significant Incident Report is initiated as outlined in Department Order #105, Information Reporting, and proper notifications are made to at least the following:
  - 1.3.12.1 Warden.
  - 1.3.12.2 On-Site Duty Officer.
  - 1.3.12.3 Off-Site Duty Officer.
  - 1.3.12.4 Unit Deputy Warden.
  - 1.3.12.5 Unit Chief of Security.
  - 1.3.12.6 Central Office Communications Center.
- 1.4 Inmates who observe, are involved in or have knowledge of a sexual assault shall immediately report their observation to a staff member.
  - 1.4.1 Any instance of sexual conduct by staff and/or sexual assault by inmate shall be reported and shall be investigated as outlined in Department Order #608, Criminal Investigations.
- 1.5 Staff who receives sexual conduct/assault information from a source other than an inmate victim shall complete an Information Report and immediately forward it to the shift commander, who shall notify the Warden through the chain of command. The shift commander shall:
  - 1.5.1 Question the inmate victim and forward all information to CIU, who shall determine if further investigation is required.
  - 1.5.2 Begin the Protective Segregation process, if appropriate.
  - 1.5.3 Refer the victim to mental health services.
  - 1.5.4 If the victim identifies another inmate as the suspect, place the suspect(s) into administrative segregation pending the outcome of the investigation.

#### **125.04 HEALTH SERVICES**

- 1.1 When the victim arrives at medical, Health Services staff shall:
  - 1.1.1 Assess and provide any necessary emergency care and treatment. Medical staff shall evaluate the inmate and, if necessary, make arrangements with security staff for the inmate to be escorted to an outside medical facility or emergency room for treatment and the collection of forensic evidence.
  - 1.1.2 Ensure emergency treatment of the inmate is not delayed for any administrative reason.
  - 1.1.3 Notify the Facility Health Administrator of the alleged assault and the need for tertiary care at an outside facility. The Facility Health Administrator shall:
    - 1.1.3.1 Coordinate the collection of evidence with CIU.

- 1.1.3.2 Determine if hospital based treatment is necessary, and if necessary, ensure the proper notifications and arrangements are made to have the inmate escorted.
- 1.1.4 Explain to the inmate:
  - 1.1.4.1 Medical care is being provided for proper evaluation and treatment of any injuries.
  - 1.1.4.2 The necessity of the physical exam, including blood drawings and specimen collection.
  - 1.1.4.3 The necessity to check for sexually transmitted diseases.
- 1.1.5 Answer any questions the inmate may have regarding the examinations and specimen collection.
- 1.1.6 Advise the inmate that a chaplain will be available to meet with them if they so choose.
- 1.1.7 Notify Mental Health staff of the assault. (See section 125.05, 1.3 through 1.3.3.)
- 1.1.8 Document in the inmate's medical file all clinical actions taken, communications with the inmate, and any refusals of treatment or assessment.
- 1.1.9 Complete an information report as outlined in Department Order #105, Information Reporting, and forward it to the Facility Health Administrator.
- 1.2 The Facility Health Administrator shall ensure Information Reports and supporting documentation of inmate sexual assaults are processed through the chain of command to the Bureau Administrator, who shall forward the information to the Division Director for Program Services and the Division Director for Support Services.

## **125.05 MENTAL HEALTH SERVICES**

- 1.1 Mental Health Services - Any inmate who is the victim of staff sexual misconduct, staff sexual harassment, or inmate on inmate sexual assault shall be offered mental health services or assistance in recovery and protection from future incidents of misconduct and sexual assaults. Mental Health Services shall make referrals for long-term continuity of care and treatment for victims, and document the referrals in the inmate's medical records and on an information report.
- 1.2 Mental health professionals shall screen all current and new inmates regarding pre-incarceration histories of physical and/or sexual abuse.
  - 1.2.1 Inmates who report a history of abuse shall receive appropriate mental health services to minimize the likelihood of becoming victims of sexual conduct by staff, or sexual assault by another inmate.
  - 1.2.2 Screening may be conducted during reception and shall be addressed in initial classification and other classification actions.

- 1.3 Upon notification of an alleged sexual assault, Mental Health staff shall:
  - 1.3.1 Evaluate the inmate as soon as the inmate's physical evaluation and treatment allows and determine if a suicide or mental health watch is necessary.
  - 1.3.2 If after normal business hours, contact the Mental Health Urgent Responder as outlined in section 125.03.
  - 1.3.3 Continue to provide mental health follow-up consistent with the inmate's needs and services provided for individuals who are victims of sexual assault.

## 125.06 INVESTIGATIONS

- 1.1 Investigative Detention - An inmate may be placed in investigative detention, in accordance with the appropriate Department Order(s) as part of an active investigation.
  - 1.1.1 Unless exceptional circumstances apply, investigative detention is limited to 30 days. Extensions shall be requested as outlined in Department Order #608, Criminal Investigations. Any extensions shall be requested, in writing, from the Division Director for Offender Operations and approved in writing. A copy of extension requests and approvals shall be provided to the Warden.
  - 1.1.2 Investigative detention is not punitive in nature.
    - 1.1.2.1 Staff shall take all reasonable measures to ensure inmates so confined are afforded all privileges, in accordance with Department Order #804, Inmate Behavior Control.
    - 1.1.2.2 Any restriction or deviation shall be authorized by the Duty Officer and shall be documented by on-duty staff using an Information Report.
- 1.2 Wardens shall request investigations as outlined in Department Order #608, Criminal Investigations, and provide written notification to the Division Director for Offender Operations through the appropriate Regional Operations Director when an investigation involving a staff on inmate sexual assault allegation is opened. Once the criminal investigation is initiated, an administrative investigation shall be initiated as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 1.3 Investigations of inmate sexual assaults shall be actively pursued and closed upon exhaustion of all evidence processes and investigative leads.
- 1.4 In every case, investigators shall interview all potential witnesses, the victim and the suspect, if identified.
- 1.5 The investigator shall actively seek out potential witnesses by interviewing inmates who are housed with or work with the alleged victim.
- 1.6 Investigations of unlawful sexual conduct by staff - Both criminal and administrative investigators shall search for past investigations in their respective records systems concerning allegations of staff sexual misconduct and inmate sexual assaults, whether sustained or not, against the alleged perpetrator (staff member). Information of previous allegations shall be included in their reports respectively and shall include the disposition (substantiated, unsubstantiated, unfounded, etc.) of the investigation; to include disciplinary sanctions and convictions if appropriate. Management review at each level, as outlined in Department Order 601, shall verify the report contains this information.

- 1.7 Staff shall cooperate during any investigation as outlined in Department Order 601. Failure to cooperate shall subject the offending staff member to disciplinary action including dismissal.
- 1.8 Wardens shall temporarily remove staff under investigation for staff unlawful sexual conduct from contact with inmates pending final resolution of the investigation. Such removal may entail reassignment or Administrative Leave with Pay in accordance with applicable Department Orders and shall be documented in writing as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 1.9 The resignation of a staff member during the course of an investigation does not preclude an on-going criminal investigation.
  - 1.9.1 Investigators shall continue to complete investigations and, if appropriate, refer the case to the appropriate prosecuting authority.
  - 1.9.2 Resignation of a staff member under these circumstances shall be considered in anticipation of disciplinary action or a resignation not in good standing, unless there is credible evidence to the contrary.
  - 1.9.3 Wardens shall complete a memo, as outlined in Attachment D, identifying the staff member is ineligible for rehire and forward it to the Human Services Bureau with a copy to the Inspector General. The staff member shall be identified in the database as ineligible for rehire.
  - 1.9.4 In the event an employee "resigns in lieu of termination" during an administrative investigation, Wardens and Deputy Wardens, in consultation with the Division Director for Offender Operations, shall review the circumstances of the investigation and determine if there are sufficient administrative concerns to continue the inquiry.
    - 1.9.4.1 Wardens shall complete a memo, as outlined in Attachment D, identifying that the staff member is ineligible for rehire and forward it to the Human Services Bureau with a copy to the Inspector General.
    - 1.9.4.2 The staff member shall be identified in the database as ineligible for rehire. This decision shall be documented in writing.
- 1.10 The Inspector General shall ensure staff who maintain the database creates a tracking system allowing Department management to determine when a staff member:
  - 1.10.1 Has been the principal subject of an investigation for inappropriate staff-inmate relationships involving an inmate more than two times within five years.
  - 1.10.2 Resigns during the course of an investigation of an inappropriate staff-inmate relationship.
  - 1.10.3 Resigns in lieu of termination during an investigation of an inappropriate staff-inmate relationship.
  - 1.10.4 Is dismissed as a result of an investigation of an inappropriate staff-inmate relationship.

- 1.11 A staff member who has been the principal subject of an investigation for staff unlawful sexual conduct or sexual harassment shall be the subject of a management review during which appropriate action shall be taken regarding the employee. This provision does not apply to staff members that are criminally prosecuted for unlawful sexual conduct or sexual harassment. Options include:
  - 1.11.1 Meeting with a supervisor.
  - 1.11.2 Referral to the employee assistance program.
  - 1.11.3 Retraining or reassignment to a different unit or institution.
- 1.12 Staff Discipline - Department staff members found to have engaged in staff unlawful sexual conduct and/or staff sexual harassment are subject to disciplinary action up to and including dismissal as outlined in Department Order #601, Administrative Investigations and Employee Discipline, and may be referred to the County Attorney for prosecution.
  - 1.12.1 Contract Beds staff is subject to discipline as provided for by the contract and may be referred for criminal prosecution.
  - 1.12.2 As outlined in Department Order #501, Employee Professionalism, Ethics and Conduct, prohibited staff behaviors include, but are not limited to:
    - 1.12.2.1 Any acts or actions prohibited by the Department such as horseplay, taking or sending messages (verbal or written), or the introduction of contraband.
    - 1.12.2.2 Any unprofessional conduct such as improper use of language, lewd gestures, staring or leering, or engaging in personal conversation with an inmate.
    - 1.12.2.3 Any sexual contact or physical touching.

## **125.07 EMPLOYMENT SCREENING**

- 1.1 The Human Services Bureau shall screen all applicants for Department positions in accordance with Department Order #504, Recruitment and Hiring, Department Order #602, Background Investigations and applicable statutes as well as the RUSH Technical Manual.
  - 1.1.1 The Contract Beds Operations Director shall ensure employees of contract prisons undergo required background checks conducted by the Department's Background Investigation Unit.
- 1.2 For all Department positions with significant inmate contact, the hiring authority in conjunction with the Human Services Bureau shall ensure prospective staff members undergo a background check in accordance with Department Order 602, and Department Order 504, prior to job offer. The Human Services Bureau shall ensure the hiring authority is notified of the outcome.
  - 1.2.1 For Contract Beds, the Human Services Bureau shall coordinate notification of the hiring authority through the Contract Beds Operations Director.

- 1.2.2 Health Services Bureau and Mental Health Services may employ contract licensed medical providers.
- 1.3 Health Services and Mental Health Services may offer conditional appointments to direct-hire medical position employees pending final completion of the background investigation. Staff hired under such conditions shall complete a "Conditional Appointment" Waiver (Attachment E). Final completion of the background investigation shall be accomplished no later than 90 days from the date of hire. Contract bed facilities may offer conditional appointments to prospective health care staff.
- 1.4 Where inmates are employed by an off-site contractor, only those contract employees who have direct supervisory responsibilities or who may be involved in one-on-one situations, are required to undergo a background investigation. Background investigation and training shall remain a requirement designated in all contracts.
  - 1.4.1 All Department contracts shall outline this requirement in writing. The prospective contractor shall sign the agreement prior to any inmates actually beginning work at the site.
  - 1.4.2 Wardens shall ensure that such work sites are inspected and that adequate security measures are in place.
- 1.5 Contractors and Service technicians (such as product delivery or repair) who have infrequent access to the institutional areas and are supervised are not required to have a complete background check. Volunteers who conduct group sessions are not required to have a background investigation. These individuals shall be required to have an ACIC/NCIC check prior to entering the institution.
  - 1.5.1 Background investigations shall be conducted as outlined in Department Order #602, Background Investigations.
  - 1.5.2 Whether or not the applicant has ever worked in a Department or other correctional facility, and if so, whether or not they were the subject of investigations and allegations of inappropriate staff-inmate relationships. (Including queries of Department databases and Personnel Services Bureau rehire information.)

## **125.08 MONITORING**

- 1.1 The Inspector General or designee shall semi-annually provide a written report to the Director and Deputy Director outlining each actual incident of inmate sexual assault(s), whether by staff or inmates. This report shall include:
  - 1.1.1 The name(s) of the involved inmate(s).
    - 1.1.1.1 For the victim: their name, ADC number, race, physical characteristics, whether or not physical injury occurred, and any gang affiliations.
    - 1.1.1.2 For the sexually assaultive inmate, if identified: their name, ADC number, race, physical characteristics, any gang affiliations and, if applicable, the disposition of any criminal actions.
  - 1.1.2 The name(s) of the involved staff member(s).

- 1.1.3 The time, date and location of the incident(s).
- 1.1.4 The number of cases in which investigations sustained employee misconduct and the type of misconduct, and whether or not the case was referred for prosecution.
- 1.1.5 The numbers of cases in which employees were exonerated or the allegations were not sustained.
- 1.1.6 The number of cases in which the sexual assaultive inmate is identified and if the allegations were sustained, whether or not the case was referred for prosecution.
- 1.1.7 The numbers of cases in which the sexual assaultive inmate was exonerated or the allegations were not sustained.
- 1.1.8 The facts of the incident.
- 1.1.9 Any relevant history of sexual assaults for the victim or perpetrator, whether staff or inmate.

1.2 **SECTION DELETED**

- 1.2.1 **SECTION DELETED**
- 1.2.2 **SECTION DELETED**
- 1.2.3 **SECTION DELETED**
- 1.2.4 **SECTION DELETED**
- 1.2.5 **SECTION DELETED**

**125.09 CONFIDENTIALITY**

- 1.1 The Department encourages victims of unlawful sexual conduct to report the conduct and the Department encourages cooperation in its investigation and prosecution. The identity and dignity of the victim will be protected to the fullest extent possible.
- 1.2 Except as required for investigations and criminal prosecution, any information relating to data collection, inmate and staff reports, verbal or written, including all records and information associated with claims of unlawful sexual conduct, Information Reports, investigation reports, inmate information, case disposition and medical and counseling evaluation findings shall be treated as confidential. See Department Order #105, Information Reporting.

- 1.3 Staff shall follow existing instructions in preserving confidentiality except as provided for in instructions relating to investigations.
- 1.4 Any staff member who violates confidentiality is subject to disciplinary action as outlined in Department Order #601, Administrative Investigations and Employee Discipline.

**125.10 TRAINING** - Topics and material shall be relevant to all staff and inmates.

- 1.1 The Staff Development and Training Bureau shall conduct training classes, which include a video addressing staff unlawful sexual conduct and staff sexual harassment, and inmate on inmate sexual assaults. New staff shall be shown the video during pre-service training and shall complete the Viewing Acknowledgment Form (Attachment B).
- 1.2 Training classes shall be delivered to all employees, to include volunteers and contractors, with inmate contact, consisting of a minimum of eight hours of instruction for pre-service and in-service training, which addresses at a minimum:
  - 1.2.1 Training staff what to do when an actual or suspected sexual assault has occurred or been reported.
  - 1.2.2 Understanding the identification and referral process when an alleged sexual abuse occurs.
  - 1.2.3 How to report staff unlawful sexual conduct and sexual harassment, including when, how and to whom it should be reported. Emphasis shall be placed on each staff member's obligation to monitor, observe and report such behavior of other staff, and the disciplinary consequences for failing to do so.
  - 1.2.4 Recognizing inmates who may be vulnerable to sexual assault and possible intervention strategies.
  - 1.2.5 Recognizing inmates who appear to be having difficulty or require protection, such as an inmate with injuries or one who suddenly becomes very quiet and withdrawn.
  - 1.2.6 Recognizing an inmate who may be, is being, or has been sexually abused or the victim of extortion.
  - 1.2.7 Recognizing victims who may be at risk for suicide.
  - 1.2.8 Recognizing the signs of sexual abuse.
  - 1.2.9 Recognizing inmates who may be prone to victimizing other inmates, especially in regards to sexual behavior.
  - 1.2.10 Preserving confidentiality regarding investigations and allegations of sexual assault and unlawful sexual conduct.
  - 1.2.11 Preservation of crime scenes and evidence in a sexual assault allegation.
  - 1.2.12 Basic understanding of sexual abuse prevention and response techniques.
  - 1.2.13 Recognizing that inmates who are having difficulty adjusting to the institutional environment or who are experiencing specific problems with other inmates may display verbal and non-verbal signs of anxiety or act out aggressively and methods of intervention.

- 1.2.14 The identification of what constitutes staff unlawful sexual conduct and/or staff sexual harassment and how to report such incidents.
- 1.2.15 An explanation of how inmates are harmed by staff unlawful sexual conduct and sexual harassment.
- 1.2.16 Descriptions of how the security of the facility is jeopardized by staff unlawful sexual conduct and harassment.
- 1.2.17 A statement of the legal consequences and disciplinary actions of engaging in staff unlawful sexual conduct and/or staff sexual harassment.
- 1.2.18 Instruction on supervising, observing and interacting with opposite gender inmates including, where appropriate, knock and announce situations.
- 1.2.19 Instruction on the privacy interests that inmates retain while incarcerated.
- 1.2.20 Unlawful sexual conduct and inappropriate staff inmate relations for all non-correctional staff including contractors and contract employees.
- 1.3 All newly hired Correctional Administrators and Correctional Officers shall receive at least 16 hours of pre-service training addressing staff unlawful sexual conduct and staff sexual harassment. Training shall include the video and will address the topics listed in 1.2.1 through 1.2.20 of this section.
- 1.4 All non-correctional staff including contractors or contract employees, except medical contractors, with significant inmate contact and volunteers with inmate contact shall receive eight hours of pre-service training addressing the topics listed in 1.2.1 through 1.2.20 of this section upon hire or assignment to an institution.
  - 1.4.1 Contractors and Service Technicians (such as product delivery or repair) who have infrequent access to institution areas and are supervised are not required to attend training.
  - 1.4.2 Where an off-site contractor employs inmates, only those contract employees who have direct supervision responsibilities, or who may be involved in one-on-one situations shall be required to attend training. Each contract shall outline this requirement in writing.

## IMPLEMENTATION

Within 90 days of the effective date of this Department Order:

- The Inspector General or designee shall develop and maintain a records retention system to track inmate-on-inmate, or others on inmate sexual assaults for both state and private prisons.

## DEFINITIONS

**SEXUAL ASSAULT** - A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person. A.R.S. 13-1406

**SEXUAL CONTACT** - Any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact. A.R.S. 13-1401

**STAFF** - Correctional series employees, maintenance workers, kitchen workers, teachers, parole, counselors and any other person with direct access to inmates or offenders. While not normally considered "staff," for the purposes of this Department Order, the definition will include all such individuals employed by the Department, contractors, and employees of a contractor or volunteers.

Pursuant to 42 USCA, Chapter 15609, Prison Rape Elimination Act, **SEXUAL ASSAULT** means any sexual contact and includes:

- A. CARNAL KNOWLEDGE** - Means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.
- B. ORAL SODOMY** - Means contact between the mouth and the penis, the mouth and vulva, or the mouth and the anus.
- C.** - The term 'rape' means -
  - 1. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcible or against the person's will.
  - 2. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity.
  - 3. The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.
- D. SEXUAL ASSAULT WITH AN OBJECT** - The use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.
- E. SEXUAL FONDLING** - The touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for purpose of sexual gratification.

{Original Signature on File}

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Charles L. Ryan  
Director

## ATTACHMENTS

- Attachment A, Inspector General Poster
- Attachment B, Viewing Acknowledgment
- Attachment C, Department Order Acknowledgment
- Attachment D, Employee Resignation - Sample Memorandum
- Attachment E, Conditional Appointment - Sample Memorandum
- Attachment F, Inmate Orientation to Prison Rape Elimination Act (PREA),

## AUTHORITY

A.R.S. 13-1406, Sexual Assault; Classification; Increased Punishment

A.R.S. 13-1419, Unlawful Sexual Conduct; Correctional Employees; Persons In Custody; Classification

A.R.S. 13-1401, Definitions

A.R.S. 36-3702, Notice of Release; Immunity

42 U.S.C.A. 15601 through 15609, Prison Rape Elimination Act of 2003, P.L. 108-79

## INSPECTOR GENERAL

ARIZONA DEPARTMENT OF CORRECTIONS  
INSPECTOR GENERAL BUREAU  
1831 WEST JEFFERSON  
PHOENIX, AZ 85007  
MAIL CODE 930

You may write to the Inspector General Bureau in regard to staff sexual misconduct and/or staff sexual harassment, and inmate on inmate sexual assaults. Such writing may be in the form of an inmate letter or as an official correspondence through the U.S. mail. No staff member may retaliate against you for your correspondence, and except for required investigations and necessary consultations with prison administration,\* your communication will be kept confidential. You may still file a grievance or report the behavior through other authorized channels if you desire.

You may place your correspondence in either the box provided for US Mail in accordance with the appropriate mail regulations, or if you prefer, you may use the lockbox at your unit provided for official correspondence with the Inspector General Bureau.

\*Staff are required to take action if you report staff sexual misconduct and/or staff sexual harassment, or inmate on inmate sexual assault as a victim or as a witness. Such action may include official department investigations and interviews.

## INSPECTOR GENERAL

ARIZONA DEPARTMENT OF CORRECTIONS

INSPECTOR GENERAL BUREAU

1831 WEST JEFFERSON

PHOENIX, AZ 85007

MAIL CODE 930

Usted puede escribir a la Oficina del Inspector General en lo que respecta a la mala conducta sexual de empleados y / o el acoso sexual de empleados, y ataques sexuales de preso contra preso. Tal puede ser escrito en la forma de una carta de preso o como una correspondencia oficial a través del correo de los EE.UU. Ningún miembro del departamento puede tomar represalias contra usted por su correspondencia, y con excepción de las investigaciones necesarias y las consultas necesarias con la administración penitenciaria, La comunicación se mantendrá confidencial. Usted todavía puede presentar una queja o reportar la conducta a través de otros canales autorizados si lo desea.

Usted puede colocar su correspondencia, ya sea en la casilla correspondiente para el correo de los EE.UU. de conformidad con las normas apropiadas de correo, o si lo prefiere, puede usar la caja de seguridad en su unidad siempre y para la correspondencia oficial con la Oficina del Inspector General.

El personal están obligados a tomar medidas si reportar la mala conducta sexual del empleado y / o acoso sexual del empleado, o preso en asalto sexual recluso como víctima o como testigo. Tal acción podrá comprender las investigaciones oficiales del departamento y las entrevistas.

ARIZONA DEPARTMENT OF CORRECTIONS  
"MAKING CHOICES A HIGHER STANDARD"  
VIEWING  
ACKNOWLEDGMENT

**Directions: Please clearly print the requested information. This form will be placed in your permanent personnel file.**

I certify that on \_\_\_\_\_, I viewed the video, *Making Choices: Don't Cross the Line*.

**Name:** \_\_\_\_\_ **SSN:** \_\_\_\_\_

**Organization/Unit:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Distribution: Employee  
PACE File  
Training Office  
Central Office Personnel File

Contract Prison Distribution:  
Training File  
Corporation Personnel file

**ARIZONA DEPARTMENT OF CORRECTIONS**

**DEPARTMENT ORDER 125  
"SEXUAL OFFENSE REPORTING"  
AND  
"RESPONDING TO PRISONER RAPE PART II"  
READING  
ACKNOWLEDGMENT**

**Directions: Please clearly print the requested information. This form will be placed in your permanent personnel file.**

I certify that on \_\_\_\_\_, I read Department Order 125, Sexual Offense Reporting and understand the material.

**Name:** \_\_\_\_\_

**EIN:** \_\_\_\_\_

**Organization/Unit:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Distribution:** Central Office Personnel File  
Institution/Bureau Personnel File  
PACE File

**Contract Prison Distribution:**

Training File  
Corporation Personnel file

ARIZONA DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE

**TO:** \_\_\_\_\_, Inspector General  
**FROM:** Warden  
**SUBJECT:** Employee Resignation, Case # \_\_\_\_\_

\_\_\_\_\_  
(NAME) assigned to \_\_\_\_\_  
(WORK LOCATION) as a \_\_\_\_\_  
(JOB TITLE)  
is the principal subject of an staff sexual misconduct or staff sexual harassment investigation.

(PROVIDE A BRIEF NARRATIVE DESCRIBING THE CIRCUMSTANCES OF THE CASE.)

The employee resigned on \_\_\_\_\_ prior to the completion of the investigation. There is no credible evidence the employee did not commit the alleged act. This employee will fall under the no-rehire guidelines established by Department Order 125, Sexual Offense Reporting.

Please contact me if you need further information.

XX/XX/s (author's initials)

cc: Administrator, Contracts/Community Development Bureau  
Central Office Personnel File

(EXAMPLE)

**ARIZONA DEPARTMENT OF CORRECTIONS  
CONDITIONAL APPOINTMENT**

(FOR INMATE HEALTH SERVICES STAFF OR CONTRACT PRISON HEALTH CARE STAFF ONLY)

Effective \_\_\_\_\_, I will be conditionally hired in a position affected by the Prison Rape Elimination Act. By affixing my signature below, I acknowledge my continued employment is contingent upon my successful completion of a background investigation.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
ASSIGNMENT

cc: Institutional/Bureau Personnel File  
Central Office Personnel File  
Staffing Unit

**Inmate Orientation  
To  
Prison Rape Elimination Act (PREA)**

- ◆ Inmate orientation to Prison Rape Elimination Act (PREA), shall include at a minimum, the following information:
  - ◇ Acts of sexual assault are not acceptable behaviors in the Department.
  - ◇ There is no consensual sex between staff and inmates.
  - ◇ Identification of what constitutes sexual assault and unlawful sexual conduct.
  - ◇ Ways to avoid a sexual assault, which may include:
    - When possible avoid isolated areas. (This will vary depending on the geographical layout of the institution or unit.)
    - When possible stay within eyesight of correctional staff.
    - Be aware of body language. Do not walk with your head down and eyes lowered. Walk with confidence.
    - Do not accept food, cigarettes or other items from other inmates. Do not incur debt in any manner; you may be expected to "repay" these debts with sex.
    - Beware of inmates who say they will protect you; protection frequently has a cost.
    - Do not offer information about your family, friends or financial support.
    - Do not purchase large amounts from the inmate stores or otherwise give the impression of having access to money.
  - ◇ Encouraging inmates who are subjects of or who witness sexual assaults to report sexual assaults or threats of sexual violence to a staff member.
  - ◇ Reinforcing the idea if an inmate becomes a victim of a sexual assault, it is not their fault; they should not be ashamed of being a sexual assault victim.
  - ◇ The inmates or staff found guilty of such behaviors shall be subject to disciplinary action and referral to the appropriate County Attorney for investigation leading to the filing of criminal charges.
  - ◇ The Department will make every effort to ensure the safety and protection of the victim.
  - ◇ Mental and medical health treatment and a physical examination are essential for the inmate's health and the health of their families if they are sexually assaulted while incarcerated.
  - ◇ Preserving confidentiality regarding investigations and allegations of sexual assaults.
  - ◇ Mental Health, Chaplains and religious volunteers are available for support as needed, however they are required to report all PREA allegations if inmate discusses during course of counseling.

- ◇ Outlining the consequences of being identified as a sexually assaultive inmate.
- ◇ Sexual activity while in prison increases the risk of contracting the HIV virus and AIDS.
- ◇ How to report sexual assault, including when, how and to whom it should be reported.
- ◇ The consequences of false reporting of sexual assault.
- ◆ Instructions regarding staff responses to the inmate who has been sexually assaulted.
- ◆ Methods of preserving evidence in a sexual assault allegation or investigation.