



*State of North Carolina
Department of Correction
Division of Prisons*

Chapter: F
Section: .3400
Title: **Sexual Violence
Elimination Policy**
Issue Date: 07/02/07
Supersedes: NEW

POLICY & PROCEDURES

.3401 AUTHORITY

This policy is issued by the Director of the Division of Prisons given the authority to manage and direct the total operations of the Division and to establish such rules and regulations as the Director prescribes.

.3402 PURPOSE

The purpose of this policy is to provide guidelines for the prevention, detection, response, investigation, prosecution and tracking of inmate on inmate and staff on inmate sexual assaults/misconduct.

.3403 APPLICABILITY

This policy applies to all inmates, and to all persons employed by the Division of Prisons, volunteers, agents of the Department, and contractors assigned to a facility and/or providing services to inmates.

.3405 DEFINITIONS

- (a) **Aggressor:** - The inmate or staff member who commits a sexual assault and/or sexual misconduct.
- (b) **Investigator** – The DOP staff member assigned or designated to administratively investigate a report of alleged sexual assault/misconduct.
- (c) **Sexual Assault** - Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person, or of any object into the sex organ, mouth or anus of another person, by the use of force or threat of force.
- (d) **Sexual Misconduct** – Completed, attempted, threatened, or requested sexual acts or occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification. Forms of sexual harassment including willful and intentional indecent exposure of private parts of the body in the presence of another, touching of private parts of another person, the possession of sexually explicit pictures of inmates or staff and the taking of such photographs.

- (e) **PREA Support Person:** - A designated employee that has been specially trained to support an alleged victim/inmate during the investigation of the alleged sexual assault/misconduct.

.3406 POLICY

The North Carolina Division of Prisons is committed to a standard of zero-tolerance of sexual assault/abuse of inmates, either by staff or by inmates. Therefore, it is the policy of the Division of Prisons to provide a safe, humane and appropriately secure environment, free from the threat of sexual assault/misconduct for all inmates, by maintaining a program of prevention, detection, response, investigation, prosecution and tracking.

.3407 PROCEDURES

(a) Employee Training

- (1) All new employees shall receive instruction related to the prevention, detection, response and investigation of sexual assault/misconduct.
- (2) Each facility shall provide training on inmate sexual assault/misconduct issues during staff in-service training, every year.
- (3) Specialized training shall be offered periodically through the Office of Staff Development and Training (OSDT) in coordination with the Office of Victim Services to employees designated as PREA Support Persons.
- (4) Each facility shall employ or provide access to the services of a licensed mental health professional.
- (5) Additional training may be offered at individual facilities or through the Office of Staff Development and Training.
- (6) The Office of Staff Development and Training shall approve all lesson plans or materials utilized for basic training or in-service training on inmate sexual assault/misconduct.

(b) Inmate Education

- (1) All inmates shall receive during orientation at reception and at their assigned facilities, information, orally and in writing, about sexual assault/misconduct, which addresses:
 - (A) Prevention
 - (B) Self-protection

- (C) Reporting sexual assaults/misconduct
 - (D) Evidence collection and preservation
 - (E) Treatment and counseling
 - (F) Appropriate staff-inmate relationships
- (2) Appropriate provisions shall be made as necessary for inmates not fluent in English, persons with disabilities and those with low literacy levels.
 - (3) All materials provided to inmates on the subject of sexual assault/misconduct and any lesson plans used during any presentations on this topic shall be approved by the Division's Sexual Violence Oversight Committee.
- (c) General Provisions
- (1) All inmates shall receive a mental health screening at reception. This screening shall include a review of any history of sexual abuse-victimization or sexually predatory behavior.
 - (2) Any housing concerns noted by mental health staff regarding an inmate's history of sexual abuse-victimization or sexually predatory behavior shall be communicated to the inmate's facility management. Facility management shall then interview and discuss with the inmate these concerns. As a result of said interview facility staff may facilitate a bed or unit reassignment and/or a transfer request if deemed appropriate, consistent with standard procedures.
 - (3) Staff has a duty to report any findings in which inmates are having sexual relationships with other inmates, as well as staff having sexual relationships with inmates. Staff must report this information through the chain of command.
 - (4) The facility investigator shall report allegations of inmate sexual assault/misconduct, as defined by this policy, along with the dispositions of investigation, to facility management and enter appropriate information into OPUS. All case records associated with claims of sexual assault/misconduct, including incident reports, investigation reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling shall be retained in accordance with the DOC Records Retention Schedule.
- (d) Reporting and Investigation of Sexual Assaults
- (1) **Initial Report and Separation:** An inmate may report a sexual assault to any employee. Any employee that receives a report of a sexual assault or possible sexual assault, whether verbally or in writing, shall immediately notify the shift

supervisor and complete a written statement for an incident report. The shift supervisor shall assure that the alleged victim/inmate and aggressor are physically separated, either through the placement of one or both inmates in segregation or some other effective means. The alleged inmate/victim shall be advised by the employee receiving the report and/or the shift supervisor to not shower or otherwise clean themselves, or if the assault was oral, to not drink, eat, brush their teeth, or otherwise take any action that could damage or destroy evidence. If an alleged assault has occurred, or other circumstances dictate, arrangements shall be promptly made to have the alleged inmate/victim examined by medical services. All allegations of sexual assault shall be reported to facility management and documented.

- (2) Medical Services Responsibilities: Medical Services will follow medical protocol, which includes provisions for examination, documentation and transport to the local emergency department when appropriate, where the following will occur: collection of forensic evidence, testing for sexually transmitted diseases, counseling, and prophylactic treatment. Medical Services will ensure that the inmate receives medical follow-up and is offered a referral for mental health services.
- (3) PREA Support Persons: A designated PREA Support Person shall be notified as soon as possible, but no later than the next business day, that an alleged sexual assault has occurred. This person will consult with the investigator on the case and offer assistance as is appropriate based on their training. With the inmate victim's consent, the PREA Support Person may sit in on administrative interviews of the inmate. The PREA Support Person may not however, in any manner, obstruct or interfere in the course of the investigation.
- (4) Investigation of Sexual Assaults: If an alleged sexual assault is reported or discovered, an immediate preliminary investigation shall occur. If there is evidence that an assault may have occurred, the superintendent shall be immediately notified, and in addition to the provisions in section VI(D)(1) the following steps shall be taken by the investigator, if present, or the shift supervisor if the investigator is not present:
 - (A) Notification shall be immediately made to local law enforcement and the facility investigator. If a designated PREA Support Person is on site they shall also be notified. Otherwise, they shall be notified no later than the next business day.
 - (B) In preparation of transporting the inmate to the hospital's emergency room medical protocol shall be followed in order to preserve any possible evidence. If appropriate, the bed sheet and inmate's clothing shall be placed in an evidence bag with an appropriate chain of evidence form attached.

- (C) In order to preserve the integrity of the investigation, one person, or a specific team, shall be designated to investigate an incident, and only that person(s) shall be involved in the collection of evidence and interviewing of potential witnesses. A thorough investigation is necessary to ensure the potential for prosecution if it is determined that criminal activity has been committed.
- (D) A determination shall be made, based upon the amount of time that has passed since the alleged incident and the possibility of evidence still existing, as to whether the alleged aggressor, if known, should be placed in a segregation cell to preserve forensic evidence. If an inmate is placed in a segregation cell for purposes of preserving forensic evidence, the inmate shall be strip searched and all possessions taken from him or her and a paper gown issued.
- (E) A determination shall be made, based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the crime scene. If it is determined that evidence may still exist and it is possible, the crime scene shall be secured and any potential evidence shall remain in place for law enforcement examination and investigation. If the crime scene cannot be secured, the crime scene shall be photographed and/or videotaped, and the evidence, if any, collected, and placed in an evidence bag with an evidence form attached.
- (F) The only persons that should be entering a secured crime scene are law enforcement, the investigator, or medical staff, as needed.
- (G) A log shall be maintained of anyone entering the crime scene and at what time they entered. Anyone entering the crime scene should be videotaped as additional documentation.
- (H) The area shall remain secured as a crime scene until the law enforcement releases it.
- (I) When the alleged inmate/victim returns from the emergency room, he or she shall be placed in administrative segregation for protective housing. If the facility does not have segregation housing available, the inmate shall be placed in another designated single cell or transferred, if necessary, to a facility with a single cell available. Placement in protective housing under this provision does not require that the inmate be placed on watch status unless such a status has been otherwise initiated. The inmate shall be listed as a protective control pending the investigation. Care should be taken by staff not to penalize the inmate/victim because of the allegations.

- (J) The alleged aggressor shall be held in segregation under investigation until the investigation is complete, unless other circumstances require the transfer of the alleged aggressor. During the course of the investigation the alleged victim and the alleged aggressor shall remain separated.
 - (K) Forensic evidence collected by the emergency room hospital will only be released to law enforcement. Facility staff should not attempt to retrieve this evidence from the hospital.
 - (L) In any incident involving a staff member as an aggressor, the staff member shall remain separated from the victim until the conclusion of the investigation. This may involve reassignment or administrative leave pending the investigation.
 - (M) Retaliation against an inmate making an allegation of a sexual assault is not to be allowed. Management is responsible for ensuring that retaliation does not occur by either staff or inmates.
 - (N) Inmates will be held accountable for knowingly making false allegations of sexual assault against staff or another inmate. If it is clearly established that a false accusation has been made, the inmate may face disciplinary action.
- (5) Prosecutions: The facility investigator and law enforcement investigator shall work together with the local county prosecutor's office to assure appropriate criminal prosecution of cases of sexual assault. Every care is to be taken to ensure that evidence is not contaminated, and that the crime scene is preserved, if at all possible. The investigation shall be done in a very thorough manner to ensure that the most complete case possible can be provided to the local District Attorney's office to aid in any prosecution.


Director of Prisons

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