



**DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS**

Program Statement

OPI: DIRECTOR
Number: 3350.2F
Date: January 27, 2012
Supersedes: 3350.2E (2/21/07)
Subject: Elimination of Sexual Abuse, Assault and Misconduct

1. **PURPOSE AND SCOPE.** This directive establishes uniform procedures for recognizing, preventing, reporting, investigating and adjudicating incidents of sexual abuse, sexual assault and sexual misconduct against inmates who are confined in DC Department of Corrections (DOC) owned, operated and contract facilities. This directive complies with District of Columbia Code, Title 22 Criminal Offenses and Penalties, Chapter 30 Sexual Abuse and incorporates guidelines from the Prison Rape Elimination Act (PREA) of 2003, American Correctional Association (ACA) Standards and the current DOC zero tolerance policy against sexual abuse of inmates.

2. **POLICY**
 - a. DOC strictly prohibits the sexual assault of any persons who works, visits or who is confined in any of its facilities.

 - b. DOC strictly prohibits sexual abuse and sexual misconduct against persons in the official custody of DOC and its contract facilities. DC Code § 22-3001 defines sexual abuse to include the commission of sexual acts and sexual contact.

 - c. DC law and DOC do not recognize a defense of consensual sexual contact between staff and inmates (i.e., persons who are in "official custody"). DOC shall continue to pursue strict administrative discipline and vigorous referral for criminal prosecution when staff engages in sexual assault/acts and sexual contact with inmates. Staff includes DOC employees, volunteers, contract personnel and any other persons who provide services in DOC facilities.

 - d. DOC maintains a policy of zero tolerance and prohibits retaliation against any individual because of his/her involvement in the reporting or investigation of a complaint. It is DOC policy to treat retaliation as a separate actionable offense that is subject to separate administrative sanctions and possible referral for criminal prosecution.

 - e. DOC strictly prohibits inmate-upon-inmate sexual assault, sexual abuse and inmate-to-inmate sexual acts and sexual contact to include that of a consensual nature. Inmate initiated sexual assault, sexual abuse shall be

referred for criminal prosecution and DOC shall impose disciplinary sanctions when inmates engage in consensual sexual acts and/or sexual contact.

- f. It is DOC policy to require that all activities encompassed in reporting and investigating complaints are held in confidence and on an official need to know basis. Likewise, case records are confidential and may include but not be limited to verbal reports, written incident reports, investigations, dispositions, medical information, counseling and evaluation findings, recommendations for post-release treatment, and/or counseling and witness statements. It is DOC policy to treat any breach of confidentiality as a separately actionable offense that is subject to administrative sanctions.
3. **APPLICABILITY.** This policy applies to all DOC employees, employees of contractors, volunteers, any individual who provides services at a DOC facility, and inmates committed to DOC and its contract facilities.
 4. **PROGRAM OBJECTIVES.** The expected results of this program are:
 - a. Upon arrival at each facility, inmates shall receive information about sexual assault, sexual abuse and sexual misconduct. Information shall address the prevention, intervention, self-protection, reporting, adjudication procedures, and the accessibility of medical and mental health counseling for complainants.
 - b. Staff will have a clear understanding that a sexual act or sexual contact between an inmate and an employee is sexual abuse even if the inmate consents and that sexual abuse is a felony offense.
 - c. The occurrence of inmate-upon-inmate sexual assault, sexual abuse and sexual contact may be reduced by identifying and providing separate housing for predators and vulnerable inmates who may be potential complainants.
 - d. Prompt reporting of any alleged sexual abuse, sexual misconduct, or sexual assault shall be made, a thorough investigation shall be completed, and appropriate discipline shall be taken against employees and inmates who sexually abuse/assault inmates or otherwise violate mandates set forth in this directive.
5. **DIRECTIVES AFFECTED**
 - a. **Directives Rescinded**

- 1) PS 3350.2E Elimination of Sexual Abuse, Assault and Misconduct (2/21/07)

b. **Directives Referenced**

- 1) PS 4030.1 Inmate Grievance Procedures (IGP)
- 2) PS 4020.1 Inmate Orientation
- 3) PM 5300.1 Inmate Disciplinary and Administrative Housing Hearing Procedures
- 4) PS 6000.1 Medical Management

6. **AUTHORITY**

- a. 42 U.S.C. § 15601, et seq., Prison Rape Elimination
- b. D.C. Code § 22-3001, et seq., Sexual Abuse
- c. D.C. Code § 24-211.02, Powers; Promulgation of Rules

7. **STANDARDS REFERENCED**

- a. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-2A-29, 4-ALDF-2A-30, 4-ALDF-2A-32, 4-ALDF-2A-34, 4-ALDF-4D-22, 4-ALDF-4D-22-1, 4-ALDF-4D-22-2, 4-ALDF-4D-22-3, 4-ALDF-4D-22-4, 4-ALDF-4D-22-5, 4-ALDF-4D-22-6, 4-ALDF-4D-22-7, 4-ALDF-4D-22-8, 4-ALDF-7B-8 and 4-ALDF-7B-10.
- b. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Community Residential Services: 4-ACRS-6A-05.

8. **NOTICE OF NON-DISCRIMINATION**

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

9. **SEXUAL ABUSE - GENERAL DEFINITIONS.** For the purposes of this directive, the following definitions shall apply:

- a. Complainant – A person who is alleged to have been subject to any act of sexual abuse, sexual assault, or sexual misconduct.
- b. Consent – Words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the complainant, resulting from use of force, threats, or coercion by the respondent shall not constitute consent.
- c. Force – The use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by the complainant.
- d. Official Custody – Detention following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion. Also, custody for purposes incident to any detention described in this paragraph, including during transport, medical diagnosis or treatment, court appearance, work and recreation, probation or parole.
- e. Sexual Assault – A forcible sexual act, a sexual act performed against the inmate's will, or a sexual act that is achieved through the exploitation of fear or the threat of physical violence or bodily injury.
- f. Sexual Abuse – A sexual act that is not forced or against the person's will, but where the inmate is incapable of giving consent because of his/her young age, temporary or permanent mental or physical incapacity, or by reason of being in the official custody of DOC.
- g. Sexual Act -
 - 1) The penetration, however slight, of the anus or vulva or another by a penis;
 - 2) Contact between the mouth and penis, the mouth and the vulva, or the mouth and the anus, or
 - 3) The penetration, however slight, of the anus or vulva by a hand or finger or by any object or instrument, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
 - 4) The emission of semen is not required for a sexual act to have occurred.
 - 5) The definition of "sexual act" does not include situations when:

- a) Health care personnel are gathering physical evidence, or are engaged in other legitimate medical treatment, or in the course of investigating sexual assault or sexual abuse;
 - b) The use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to sexual assault, sexual abuse, or
 - c) The use of a health care provider's hands or fingers or the use of instruments to perform body cavity searches in order to maintain security and safety within the facility provided that the search is conducted in a manner consistent with constitutional requirements.
- h. Sexual Contact - The touching (or fondling), with any clothed or unclothed body part or object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- i. Sexual Misconduct -
- 1) Sexual Harassment
 - a) Verbal or physical sexual conduct that creates a hostile, offensive or intimidating environment, including, but not limited to, obscene or sexually offensive advances, gestures, and comments; or influencing or making promises involving an inmate's safety, custody, privacy, housing, privileges, work detail or program status in exchange for sexual favors.
 - b) Influencing or offering to favorably influence an inmate's safety, custody, privacy, housing, privileges, work detail, or program status if the inmate submits to sexual advances or sexual contact.
 - c) 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.
 - 2) Invasion of Privacy
 - a) Observing, attempting to observe, or interfering in an inmate's activities, which are of a personal nature, without a sound penological reason.
 - b) Failure of an employee of the opposite sex to announce his/her presence, without a sound penological reason, when entering an inmate's housing unit.
- j. Respondent - The person accused of any act of sexual abuse, sexual assault, or sexual misconduct.

k. Retaliation -

- 1) Restraint, interference, coercion, acts of covert or overt vengeance, or threats of action to discourage, prevent or punish an inmate for refusal to submit to sexual advances.
- 2) An adverse action taken against any individual because of his/her involvement in the reporting or investigation of a sexual abuse, sexual assault or sexual misconduct complaint.

10. **GENERAL REQUIRMENTS**

a. **Staff Notification and Training**

- 1) The Human Resources Management Division (HRMD) shall issue a copy of this directive to all new employees, volunteers and contract employees when they receive their photo identification card. HRMD shall require each individual to sign an acknowledgement of receipt of this directive. HRMD shall retain the signed receipt.
- 2) The DOC Training Academy and contractor trainers shall update trainer lesson plans and review requirements of this directive with new employees, volunteers and contract employees during orientation training.
- 3) Mandatory Pre-Service and annual In-Service Training on the Rape Elimination Act, DC Code Title 22 Chapter 30, and this directive shall be conducted for all DOC employees, volunteers, interns, and contract employees.
- 4) This directive shall be made readily available to all DOC employees, contract employees, and volunteers at all times.
- 5) Certified trainers for prevention of sexual assault, sexual abuse, and sexual misconduct shall conduct the training.
- 6) Contractors shall ensure that their employees are similarly trained.
- 7) DOC staff or contract facility staff shall notify other individuals such as occasional service providers who have direct contact with inmates or provide services of the prohibitions and requirements of this directive.

b. **Inmate Notification and Training**

- 1) The CDF Warden and contractors shall ensure that within one (1) day of arrival at the respective facility each inmate receives a copy of the Inmate Handbook. The Inmate Handbook shall contain written notice of the prohibition of sexual assault, sexual abuse and sexual misconduct.

- 2) Within five (5) days of arrival, the CDF Warden and contract facility Administrators shall ensure that each inmate receives facility orientation and training in accordance with PS 4020.1 *Inmate Orientation*.
 - a) Orientation and training shall address prevention, intervention, self-protection, reporting sexual assault, sexual abuse, and sexual misconduct, adjudication procedures, and accessibility of medical and mental health counseling for complainants.
 - b) Each inmate shall by signature, acknowledge training in accordance with this directive and PS 4020.1.
- 3) The Hotline Number Poster (Attachment A) shall be posted in areas accessible to inmates and employees.
- 4) This directive shall be posted on staff and inmate bulletin boards, in each housing unit, the law library, the medical unit, and other areas where inmates often frequent.

11. IDENTIFICATION OF VULNERABLE INMATES AND PREDATORS

a. Medical and Mental Health

- 1) Upon admission to the Central Detention Facility, medical and mental health staff shall, during medical and mental health screening, ask the inmate questions that may determine whether the individual has been a complainant of or has committed sexual violence in the past.
- 2) Medical and mental health staff shall be observant for other possible indications or any other information that is contained in the medical record or that is obtained from the inmate that might identify potential sexual vulnerabilities or aggressions.
- 3) Medical staff shall document these concerns in the electronic medical chart and promptly notify security and classification staff for appropriate inmate housing and other security safeguards.

b. Classification

- 1) DOC case managers shall, during the intake classification process, review the inmate's institutional file and all available electronic records to identify past history and any currently observed behavior that may indicate potential sexual vulnerabilities or aggressions.
- 2) Case managers shall document the information and observations and make appropriate classification and housing recommendations.
- 3) Prior to housing an inmate identified either as a vulnerable inmate or a predator with another inmate, the proposed housing assignment shall

be reviewed and approved by the Warden, Community Correctional Center (CCC) Director or designee.

- c. Other. All information about an inmate's past history as a complainant or information that an inmate might potentially be the complainant of a recent sexual aggression shall be reported confidentially to the Warden or a Deputy Warden.

12. **HOUSING INMATES IDENTIFIED AS VULNERABLE INMATES OR PREDATORS.** An inmate identified as a vulnerable inmate shall not be housed with an inmate identified as a predator. For the purposes of this directive predators are defined as inmates who have a history of sexually assaultive behavior and who are assessed as presenting a reasonable risk to vulnerable inmates.

13. **REPORTING PROCEDURES FOR INMATES**

- a. **Confidential Hot Line.** Any inmate may make a confidential report of sexual assault, sexual abuse or sexual misconduct through the twenty-four (24) hour telephone Hotline at (202) 715-7541 or via email at doc.oia@dc.gov.
- b. **Verbal Complaint.** An inmate may verbally inform any employee when the inmate has been subject to acts or attempted acts of sexual assault, sexual abuse or sexual misconduct. The verbal report is formal notification and the employee shall proceed as directed in Sections 14 and 15 of this directive and shall not require the inmate to submit a written report.
- c. **Written Complaint**
 - 1) An inmate may file a written complaint of sexual assault, sexual abuse or sexual misconduct directly to the Warden, CCC Director or Office Chief.
 - 2) An inmate may file a written complaint of sexual misconduct (usually about sexual harassment or invasion of privacy) through the inmate grievance system, as described in PS 4030.1, *Inmate Grievance Procedures (IGP)*.
- d. **Emergency Grievance.** The inmate may file the complaint directly with the Director as an "Emergency Grievance" in accordance with the emergency provisions outlined in PS 4030.1.

14. **REPORTING PROCEDURES FOR STAFF.** Any employee who receives any information, from any source, concerning sexual assault, sexual abuse or sexual misconduct, or who observes an incident of sexual assault, sexual abuse or sexual misconduct shall adhere to the following:

- a. **Verbal Notification.** Immediately report the information or incident directly through their chain of command to include the Office of Internal Affairs (OIA) Office Chief. Any allegation of sexual activity as defined in this directive shall be reported as a possible sexual assault, sexual abuse or sexual misconduct. The employee shall not conduct any inquiry or investigation into the circumstances related to the allegation.
 - b. **Written Notification.** Submit a written report providing any information received or observed that concerns sexual assault, sexual abuse or sexual misconduct to the Warden, CCC Director, Office Chief or the highest ranking official on duty before the end of his/her workday.
 - c. **Confidentiality.** Employees shall not discuss any aspect of the complaint with other employees or inmates except in accordance with this directive. Strict confidentiality shall be maintained, to the extent possible, at all times.
15. **MANAGERS AND SUPERVISORS.** Upon receipt of notification of a sexual assault, sexual abuse or sexual misconduct complaint or upon observing an incident of sexual assault, sexual abuse or sexual misconduct, the Warden, CCC Director, Office Chief or the highest ranking official on duty shall:
- a. **Verbal Notification.** Make immediate verbal notification to the Office of Internal Affairs (OIA). Any allegation of sexual activity as defined in this directive shall be reported as a possible sexual assault, sexual abuse or sexual misconduct. The manager/supervisor shall not conduct any inquiry or investigation into the circumstances related to the allegation unless the manager/supervisor is a member of the OIA staff. The Metropolitan Police Department (MPD) should be notified when there are allegations of sexual assault and sexual abuse, but not in instances of alleged sexual misconduct.

The OIA shall immediately notify the Director when deemed appropriate.
 - b. **Written Notification.** Forward the original written sexual assault, sexual abuse or sexual misconduct report to OIA by the end of his/her workday.
 - c. **Cease and Desist Orders.** Immediately issue cease and desist orders that prohibit contact between the alleged complainant and the respondent (if the respondent is an employee) while the matter is being investigated. If the respondent is not on duty at the time of the allegation, the manager/supervisor shall ensure the order is issued to the respondent immediately upon return to duty.
 - d. **Separation Orders.** Immediately issue separation orders between the alleged complainant and alleged respondent of an incident of inmate-on-inmate sexual assault, sexual abuse or sexual misconduct.

e. **Housing**

- 1) Efforts shall be made to minimize any disturbance to the alleged complainant's housing location or program activities during the investigation of the complaint.
- 2) The alleged complainant shall only be placed in protective custody or administrative segregation in accordance with PM 5300.1, *Inmate Disciplinary and Administrative Housing Hearing Procedures*.
- 3) The alleged respondent shall be placed in administrative segregation status, unless to do so may jeopardize the investigation. A housing hearing shall be conducted in accordance with PM 5300.1.

f. **Additional Responsibilities.** In addition to the aforementioned responsibilities, the Warden, CCC Director, Office Chief or the highest ranking staff member on duty at the time of a reported or observed incident of sexual abuse or sexual assault shall:

- 1) Immediately notify the appropriate law enforcement authority and OIA.
- 2) Immediately secure the crime scene and ensure it is protected.
- 3) Ensure the alleged complainant is afforded emergency medical treatment.

16. **MEDICAL TREATMENT.** Medical staff shall ensure the alleged complainant is immediately given the necessary emergency medical treatment, without compromising the integrity of available physical evidence.

a. Medical staff shall:

- 1) Obtain and record a description of the sexual assault or sexual abuse in the alleged complainant's own words. The complainant will not receive a physical examination.
- 2) Instruct the alleged complainant not to bathe, shower or have a bowel movement until seen at the referring hospital.
- 3) Notify the highest ranking staff member immediately, if the correctional staff is not aware of the incident.
- 4) Record the general appearance (presence or absence of cuts, scratches, bruises, etc.) and demeanor of the complainant, as well as the condition of clothes, i.e., torn or stained.
- 5) Refer the complainant to an outside emergency room (ER) certified to treat sexual assault and sexual abuse complainants for evaluation and immediate treatment.

- 6) Notify the ER physician that a sexual assault or sexual abuse complainant is on his/her way to the ER.
- b. Upon return from the ER or upon hospital discharge, the medical staff shall:
 - 1) Thoroughly review the discharge instructions and carry out orders as appropriate;
 - 2) Validate if measures have been taken to prevent sexually transmitted diseases, HIV and Hepatitis. If preventive measures have not been taken, preventive measures shall be offered, and
 - 3) Refer the inmate to the mental health staff for rape counseling immediately.
17. **MENTAL HEALTH REFERRAL.** Upon return from the ER or hospital discharge, the medical staff shall ensure the alleged complainant and alleged respondent are referred to the mental health staff to assess the need for counseling and supportive services.
18. **OFFICE OF INTERNAL AFFAIRS (OIA)**
 - a. **Screening Complaints**
 - 1) OIA shall monitor the confidential Hotline for complaints of sexual assault, sexual abuse and sexual misconduct.
 - 2) If OIA receives an allegation of sexual assault, sexual abuse or sexual misconduct via the telephone Hotline or via direct correspondence, the complaint shall be verbally reported immediately to the Warden, CCC Director or Office Chief. OIA shall provide follow-up written notification to the Warden, CCC Director or Office Chief by the close of the business day.
 - 3) OIA shall notify local law enforcement in cases of sexual assault and sexual abuse if the complaint is received directly by OIA.
 - 4) OIA shall communicate with the appropriate law enforcement agency concerning the status of any investigation. OIA must document the status of a police investigation every thirty (30) days.
 - 5) The occurrence of a police investigation does not relieve DOC of the duty to investigate complaints of sexual assault and sexual abuse.
 - 6) OIA shall review each report of sexual assault, sexual abuse and sexual misconduct to determine whether the alleged conduct constitutes sexual assault, sexual abuse or sexual misconduct. OIA may interview the complainant and/or third party informant to clarify facts concerning the complaint.

- 7) OIA shall notify the Warden, CCC Director or Office Chief, verbally and in writing, of each complaint regarding sexual assault, sexual abuse and sexual misconduct and whether the complaint is referred for investigation.
- 8) If the complaint is referred for investigation, OIA shall provide written notification to the complainant and the alleged respondent advising of the complaint, investigation procedures, confidentiality requirements, and the prohibition of communication, intimidation or retaliation against the inmate. If the complaint is a third party informant, the notice will be sent to the complainant.
- 9) The OIA Supervisor shall then forward the complaint to an Investigator. In cases where an interview was conducted with the complainant and/or third party informant to clarify facts, intake information shall also be forwarded to the Investigator.
- 10) If OIA determines that the complaint does not involve sexual assault, sexual abuse or sexual misconduct, OIA shall deny the claim and shall send a notice of the rejection of the complaint to the complainant, the Warden, CCC Director or Office Chief.
- 11) However, if the complaint does state a violation of another departmental policy, OIA may conduct an investigation or refer the complaint to the appropriate Warden, Administrator or Office for disposition.

b. **Interim Procedures During Investigation of Staff on Inmate Sexual Abuse, Assault or Misconduct**

- 1) Under appropriate circumstances and with the Director's or his/her designee's approval, the respondent may be placed on administrative leave pending the outcome of an investigation.
- 2) To the extent possible, the respondent shall not be assigned to work in any area where he/she is likely to come into contact with the alleged complainant pending the outcome of the investigation.
- 3) During the investigation, the respondent shall be prohibited from making contact with the alleged complainant, other than as allowable in the performance of official duties and assignment.
- 4) The Warden, CCC Director or designee 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 transfer the complainant or third party informant to a comparable housing unit, to another facility or make other appropriate housing accommodations.

c. Investigations

- 1) The Corrections Corporation of America shall ensure that their investigators conduct thorough and objective investigations for incidents that are alleged at the Correctional Treatment Facility.
- 2) DOC OIA investigators shall conduct a thorough and objective investigation of each complaint.
- 3) The investigation shall include interviewing the complainant, informant, third party informant (if the information is received from another source), the alleged respondent and witnesses, and reviewing all documents and physical evidence.
- 4) The Investigator shall contact the CDF Major, CCC Director or Office Chief directly for interview scheduling and coordination. All inmates shall receive advance notice of scheduled interviews and be advised of the right to legal representation. The Warden or CCC Director shall ensure that the inmate is allowed a legal call upon request to secure presence of counsel.
- 5) Employees have the right to legal or union representation at the time of an interview.
- 6) If the inmate or employee being interviewed has legal or union representation, the Investigator shall explain that only the person being interviewed shall answer the questions, but he/she may consult with the representative prior to answering the question.
- 7) The Investigator shall advise each individual interviewed in the course of an investigation that any intimidation or retaliation towards the complainant or third party informant or disclosure of the incident that breaches confidentiality as defined in this directive, is a separate offense that is subject to disciplinary action.
- 8) The Investigator shall draft a statement detailing the testimony of the complainant, the alleged respondent and any witness(es).
- 9) The Investigator shall permit the employee or inmate to read and make necessary corrections/changes to the statement prior to signing it. The name of any confidential informant shall be deleted from the copies of the report distributed by the OIA.
- 10) The Investigator shall submit the final written report to the OIA Supervisor within ninety (90) business days (i.e., excluding Saturdays, Sundays, and legal holidays) of the incident being reported. The report shall include the Investigator's factual findings and a conclusion as to whether there is evidence to support a finding that sexual assault, sexual abuse or sexual misconduct has occurred.

d. **Post-Investigation Procedures**

- 1) OIA shall notify the Warden, CCC Director or Office Chief of the findings and forward all documentation for appropriate action. If the findings conclude that sexual assault, sexual abuse or sexual misconduct has occurred, OIA shall forward a copy of the report to the Director for action.
- 2) In cases involving an employee respondent, the Director shall ensure that appropriate action consistent with the District Personnel Manual and the D.C. Code is taken.
- 3) In cases involving an inmate respondent, the Director shall ensure that appropriate disciplinary or criminal action is initiated.
- 4) OIA shall provide a written notice to the complainant and alleged respondent as to whether there was evidence that supported a conclusion that sexual assault, sexual abuse or sexual misconduct occurred. The notice shall also inform the inmate of appeal procedures. The inmate shall sign an acknowledgement of receipt of this notice. The original signed receipt shall be returned to the OIA.
- 5) In cases where the complaint was made by an individual other than the alleged complainant, the third party informant/witness shall not be notified of the findings. The alleged complainant shall, however, receive notification of the findings.

19. **INMATE APPEALS**

- a. If an inmate at the CDF, CCA/CTF or at a CCC is dissatisfied with the investigation or resolution of a complaint of sexual assault, sexual abuse or sexual misconduct, the inmate or his/her attorney may file an appeal to the Director within fifteen (15) calendar days of receiving written notice of the outcome of the investigation.
- b. An inmate or his/her attorney may submit a FOIA request to the DOC FOIA Officer to review the investigation report.
- c. The FOIA Officer shall review and redact the report to remove confidential information, including, but not limited to, the identity of confidential informants, medical information, personnel record information or information which will compromise security. A redacted and non-redacted version of the report shall be maintained in the OIA's files.
- d. The Director shall notify the inmate and the Warden, CCC Director or Office Chief in writing of the results of the appeal with ten (10) calendar days.
- e. The Director's Office shall forward a copy of all documents relevant to the appeal to the OIA.

- f. If new evidence is received in the appeal, or the Director presents other compelling evidence that supports disciplinary action against the employee, the Director's appeal decision shall be immediately forwarded to the Warden, Administrator or Office Chief for appropriate action.
- g. The Warden, Administrator or Office Chief shall ensure that the inmate complainant and the alleged respondent receive the Director's findings on the appeal.
- h. An appeal shall not delay the implementation of any determined disciplinary action against an employee.
- i. The Warden, CCC Director or Office Chief shall ensure that the Proposing Official receives a copy of the Director's findings of the appeal if disciplinary action is proposed.

20. **CONFIDENTIALITY**

- a. Sexual assault, sexual abuse and sexual misconduct complaints, including the identity of the informant, the alleged respondent, the alleged complainant, and all information and documents pertinent to the complaint, shall be handled in a confidential manner and shall only be released consistent with the provisions of the Freedom of Information Act (FOIA).
- b. Any inmate who observes and reports an act of sexual assault, sexual abuse or sexual misconduct may request and be treated as a confidential informant.
- c. To further maintain confidentiality, written notification of the investigation shall be prepared by OIA and issued to employees by the appropriate manager or supervisor. Inmate notification shall be handled as legal mail.
- d. Each individual interviewed shall be advised that he/she is required to maintain confidentiality and not disclose to anyone information regarding the complaint, the investigation and the outcome. Staff shall also be advised that the failure to maintain confidentiality shall constitute a separate offense subject to disciplinary action.

21. **EMPLOYEE DISCIPLINE**

- a. In cases where there is a finding of probable cause for sexual assault, sexual abuse, sexual misconduct, breach of confidentiality or retaliation against staff and/or an inmate, the appropriate manager or supervisor shall ensure that disciplinary action is proposed in accordance with the regulations outlined in Chapter 16 of the District Personnel Manual. Guidelines for imposition of penalties based upon violations of this directive and DPM Chapter 16 are outlined in the Table of Penalties (Attachment B).

- b. The manager or supervisor shall inform OIA in writing of disciplinary action taken against the employee. He/she shall also advise the OIA in writing of actions taken as a result of other recommendations resulting from the OIA investigation.
- c. Managers and supervisors who fail to report or take appropriate action when sexual assault, sexual abuse or sexual misconduct against inmates is alleged or has been brought to their attention, or who fail to initiate disciplinary action, shall also be subject to disciplinary action.
- d. Refusal by any employee to answer questions during an official investigation may also be grounds to charge the employee for cause under Chapter 16 of the DPM.
- e. DOC shall impose discipline based on a determination of probable cause that sexual assault, sexual abuse or sexual misconduct has occurred. The DOC may take separate and distinct disciplinary action against an employee who has later, under separate proceedings, been found to have acted in violation of the laws of the District of Columbia or Chapter 16 of the DPM by the Office of Employee of Appeals, the Office of Human Rights, the Commission of Human Rights, or a court of competent jurisdiction in the District of Columbia.
- f. DOC shall notify the supervisor of any individual who is not employed by the DOC of probable cause findings so that appropriate disciplinary action may be initiated against those individuals.

22. INMATE DISCIPLINE

- a. Inmates who engage in the sexual assault or sexual abuse of another individual shall be referred for criminal prosecution. In addition, DOC shall take appropriate interim administrative actions to ensure that the respondent is placed in segregated housing for the safety of others.
- b. An inmate who engages in sexual contact with another inmate shall be disciplined in accordance with PM 5300.1C, *Inmate Disciplinary and Administrative Housing Hearing Procedures*.
- c. An inmate reporting a complaint of sexual assault, sexual abuse or sexual misconduct may be referred for disciplinary action in accordance with PM 5300.1C if the investigation concludes that the inmate knowingly and deliberately made a false report.

23. MONTHLY REPORTS

- a. The OIA Supervisor shall maintain statistics and prepare a monthly report that shall include the following basic information regarding sexual assault, sexual abuse and sexual misconduct complaints:

- 1) The number of alleged sexual assault and sexual abuse complaints filed against staff;
- 2) The number of alleged sexual assault and sexual abuse complaints filed against inmates;
- 3) The number of confirmed sexual assaults and sexual abuses committed by staff;
- 4) The number of confirmed sexual assaults and sexual abuses committed by inmates;
- 5) The number of alleged incidents of sexual misconduct;
- 6) The number of confirmed incidents of sexual misconduct;
- 7) Discipline and/or other administrative actions taken against employees;
- 8) Discipline and/or other administrative actions taken against inmates;
- 9) The number of referrals for criminal indictments for sexual assault, sexual abuse and sexual misconduct, and
- 10) The number of Indictments for sexual assault, sexual abuse, and sexual misconduct.

24. **RECORDKEEPING**

- a. The OIA Supervisor shall maintain a central filing and reporting system for incidents of sexual assault, sexual abuse and sexual misconduct.
- b. A copy of all complaints and related documentation including, but not limited to, investigative reports, correspondence, appeals and appeal findings, correspondence from attorneys, and inmate or employee disciplinary actions that were sent to or received from the Director, Deputy Director, CCC Director or Office Chiefs shall be forwarded to the OIA.
- c. The OIA Supervisor shall log pertinent data from these documents for tracking and management purposes.



Thomas Faust
Acting Director

Attachments:

- | | |
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| Attachment A | Inmate Hotline Notice re: Sexual Assault and Sexual abuse |
| Attachment B | Employee Discipline – Guidelines for a Table of Penalties |
| Attachment C | Acknowledgment Form |