

DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Inmate Sexual Assault and Misconduct	PAGE <u> 1 </u> OF <u> 8 </u> NUMBER: 79-ISA-01
RULE/CODE REFERENCE: Public Law 108-79/Prison Rape Elimination Act	SUPERCEDES: 79-ISA-01 dated 02/01/04
RELATED ACA STANDARDS:4-4371; 4-4406;4-4084 4-4281-1 through 4-4281-8	EFFECTIVE DATE: July 1, 2005
RELATED AUDIT STANDARDS:	APPROVED: <i>Reginald A. Wilkinson</i>

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

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

III. APPLICABILITY

This policy applies to all inmates, persons employed by the Department of Rehabilitation and Correction, volunteers, and independent contractors, assigned to an institution.

IV. DEFINITIONS

Aggressor - An inmate who threatens, attempts or commits a sexual assault against another or otherwise engages in non-consensual sexual contact.

Recent Sexual Assault – Oral sexual assault that has occurred within 24 hours, vaginal or anal assault that has occurred within 72 hours.

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.

Sexual Contact – Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or if the person is a female, a breast, for the purpose of sexual gratification.

Sexual Misconduct – Any threatened, attempted or completed sexual assault or non-consensual sexual contact between inmates or as it relates to employees- any inappropriate actions of a sexual nature, as defined by DRC Policy 31-SEM-07-Inappropriate Relationships.

Victim Support Person - A designated employee that has been specially trained to support a victim of sexual misconduct. This may be a specifically trained victim coordinator or any other individual that has completed the required training.

V. POLICY

It is the policy of the Department of Rehabilitation and Correction to provide a safe, humane and appropriately secure environment, free from the threat of sexual misconduct for all inmates, by maintaining a program of prevention, detection, response, investigation and tracking. The Department shall maintain a zero tolerance for sexual misconduct in its institutions. Sexual misconduct among inmates and by staff towards inmates is strictly prohibited.

VI. PROCEDURES

A. EMPLOYEE TRAINING

1. All new employees shall receive instruction related to the prevention, detection, response and investigation of inmate on inmate sexual assault during pre-service training at the Corrections Training Academy.
2. Each institution shall provide training on inmate sexual assault issues annually during staff in-service.
3. Specialized training shall be offered periodically through central office to employees designated as victim support persons, including but not limited to victim services coordinators and chaplains. Each institution should have no less than two trained victim support persons. Only employees that voluntarily agree to act as a victim support person shall be utilized in that capacity.
4. The Bureau of Mental Health Services shall provide or coordinate training to assure that each institution employs or has access to the services of an independently licensed mental health professional who has a scope of practice, training and/or experience in trauma counseling.
5. Additional and specialized training may be offered to appropriate employees at individual institutions, or through the Corrections Training Academy or Central Office.
6. The Superintendent of the Corrections Training Academy shall approve all lesson plans or materials utilized for pre-service or in-service training on inmate sexual assault.

B. INMATE EDUCATION

1. Oral and written information shall be given to all inmates upon their arrival at a reception center, which explains:

- a. prevention
 - b. self-protection
 - c. reporting
 - d. treatment and counseling
2. Oral information on sexual misconduct shall be given to all inmates upon arrival at their parent institutions. Written information shall be provided in the inmate handbook or as a supplement to the inmate handbook. This information shall include the topics cited in paragraph (B)(1).
 3. Staff shall make appropriate provisions for inmates not fluent in English, those with low literacy levels, and those with disabilities that hinder their ability to understand the information in the manner provided pursuant to paragraph (B)(2).
 4. All materials provided to inmates on the subject of sexual misconduct, and any lesson plans used during inmate orientation on this topic shall be approved by the Office of the Chief Inspector, in consultation with the Bureau of Mental Health Services.

C. SCREENINGS AND IDENTIFICATION, MONITORING AND COUNSELING OF INMATES WITH HISTORIES OF SEXUAL VICTIMIZATION OR SEXUALLY AGGRESSIVE BEHAVIOR

1. In compliance with DRC Policy 52-RCP-07-Reception Center Housing Assignments upon arrival at a reception center all inmates shall be screened for violence indicators, which include sexually predatory acts DRC Form 2673-Reception Center Housing Assignment. Inmates deemed potentially violent shall be celled separately from those inmates without such violence indicators. This screening and any decisions made regarding the housing of that inmate at reception shall be forwarded to the parent institution in the inmate's unit file. This information shall be utilized by the parent institution as they make housing and bed assignments and other administrative decisions relevant to that inmate.
2. Pursuant to DRC Policy 67-MNH-06-Mental Health Screening and 67-MNH-11-Mental Health Classification, all inmates shall receive a mental health screening within the first 24 hours of their arrival at an institution. This screening shall include a review of any history of sexual abuse victimization or sexually predatory behavior. At reception an inmate will also be assigned a mental health classification.
3. Pursuant to the above screenings or at any time thereafter, if mental health services determines that the inmate may be at significant risk of sexual victimization they may refer an inmate to the Sexual Assault Committee, consistent with DRC Policy 79-ISA-02.
4. Pursuant to Mental Health Standard Operating Procedure 13, any employee may make a mental health referral based on their observation of the inmate's behavior or at the inmate's request, which include referrals based on concerns that the inmate has been or is at high risk of being subject to sexual misconduct. This referral shall be documented

on DRC Form 5265- Referral to Mental Health Services. Following their assessment Mental Health services may recommend further mental health services or referral to other institutional services. Mental Health Services' response and recommendations shall be communicated to the appropriate institution manager and to the referral source.

5. Any staff member that observes incidents or behaviors that cause a reasonable concern that an inmate may be at significant risk of sexual victimization shall document this incident or observation on an incident report form, consistent with DRC Policy 01-COM-08-Incident Reporting and Notification. The warden shall assess the seriousness of the matter and take such action as deemed appropriate to the situation, which may include referral to the sexual assault committee, consistent with DRC Policy 79-ISA-02.
6. In addition to provisions in this policy, identified victims, potential victims and sexual aggressors known to staff through various reports, investigations, DOTS identification or Rules Infraction Board convictions for sexual assault shall be monitored and counseled by unit staff during regularly scheduled contacts as provided in 74-UMA-01-Accessibility of Unit Staff, and or 02-REN-01-Offender Reentry Assessments and Planning.

D. REPORTING AND INVESTIGATION OF SEXUAL MISCONDUCT

1. Reports And Notifications:

- a. An inmate may report sexual misconduct to any employee. Any employee that receives a verbal or written report of sexual misconduct shall immediately notify the shift commander and complete an incident report. Professionals are further obligated to report any communications indicating a danger to any other person or the person making the communication, regardless of any established professional privilege. Allegations of sexual misconduct shall be reported as a special incident pursuant to DRC Policy 01-COM-08-Incident Reporting and Notification.
- b. If the reporting inmate is housed in a residential treatment unit or the Oakwood Correctional Facility, excluding cadre, mental health shall be immediately notified to assess the extent the report may be a symptom of their mental illness. The reporting inmate's clothing and other evidence shall be collected and secured consistent with this policy and as appropriate, as determined by the investigator or the Ohio State Highway Patrol (OSHP). An addendum to the mental health evaluation, including the mental status, will be completed by an independently licensed mental health professional. Every effort will be made to collect specific details associated with the allegation. The details of the allegation will be submitted to the investigator verbally and in an incident report format as soon as possible.
- c. Reports of sexual misconduct shall be immediately reported to OSHP and the institution investigator. If a designated victim support person is on site or otherwise available they shall also be immediately notified. Otherwise, they shall be notified no later than their next workday.

- d. In cases where a completed sexual assault has allegedly occurred within the previous 72 hours the victim shall be advised by the employee receiving the report or the shift supervisor to not shower or otherwise clean themselves, or if the assault was oral, to not drink or brush their teeth, or otherwise take any action that could damage or destroy evidence. Arrangements shall be promptly made to have the victim examined by medical services.

2. Medical Services Responsibilities:

In cases of alleged completed sexual assaults, Medical Services will follow Medical Protocol B-11–Guidelines for Alleged Sexual Assaults, which includes instructions for assuring appropriate examination, documentation, transport to the local Emergency Department, testing for sexually transmitted diseases, counseling, prophylactic treatment, follow-up, and referral for mental health evaluation. Specific responsibilities of the institution’s medical services and services provided by the local emergency department, when utilized, are detailed in the protocol.

3. Mental Health Responsibilities

Offenders referred to Mental Health by Medical Services following an allegation of sexual assault will be seen by an independently licensed mental health professional who will complete either a Detailed Screening (DRC Form 5163) or a Mental Health Evaluation (DRC Form 5161) consistent with DRC Policy 67-MNH-06 – Mental Health Screening and SOP # 13 – Mental Health Referral.

4. Separations:

- a. The shift supervisor shall assure that the victim and aggressor are physically separated. The victim shall be housed in an environment that will, to the extent possible, permit the victim the same level of privileges the victim was permitted immediately prior to the sexual assault. Pursuant to DRC Policy 79-ISA-02 the victim shall be referred to the Sexual Assault Committee.
- b. The victim shall be referred to the Sexual Assault Committee If the alleged perpetrator is an employee, immediate efforts shall be made to eliminate contact between the inmate and the staff member. The warden shall determine if the employee should be placed on administrative leave consistent with ORC 124.388-Administrative Leave With Pay during the course of the investigation.

5. Investigations/General Provisions:

- a. All reports of sexual misconduct shall be investigated and the findings documented in writing. Attempted and completed sexual assaults shall be administratively investigated by the institutional investigator. Non-consensual sexual contact and threats of sexual assault shall be investigated by a qualified

staff member assigned by the warden or the institutional investigator. Criminal investigations shall be referred to OSHP for investigations. OSHP and the investigator will typically conduct separate interviews of the victim and alleged aggressor.

- b. The designated victim support person will consult with the investigator on the case and offer assistance as is appropriate based on their training. With the victim's consent, the victim support person may sit in on administrative interviews of the inmate. The victim support person may not however, in any manner, obstruct or interfere in the course of the investigation

6. Procedures And Investigation Of Attempted or Completed Recent Sexual Assaults:

- a. If the alleged attempted or completed sexual assault is recent, as defined by this policy, in addition to the applicable provisions in section VI(D)(1) and unless directed otherwise by the OSHP, the following steps shall be taken by the investigator, if present, or the shift commander if the investigator is not present.
- b. Before transporting the inmate to the hospital's emergency room the inmate shall be instructed to remove one item of clothing at a time, over a paper sheet designated for this purpose, in order to collect any potential forensic evidence that may be on their clothes or that falls from their person. Each individual item of clothing and the paper sheet, placed in a paper bag, attaching an appropriate chain of evidence form.
- c. The alleged aggressor's clothing shall be removed and preserved as described above. 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 should be placed in a dry cell as defined by DRC Policy 310-SEC-06–Dry Cell Separation, to preserve forensic evidence. If an inmate is placed in a dry 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. No inmate placed in a dry cell per this policy shall remain in such status longer than sixteen hours. Additional evidence collection may occur consistent with the circumstances and the direction of OSHP.
- d. The crime scene shall be secured. Access to the crime scene should be limited to the OSHP investigator, the institutional investigator, and or medical staff, as needed. A log shall be maintained of anyone entering the crime scene and at what time they entered. The area shall remain secured as a crime scene until OSHP releases it.
- e. The alleged aggressor shall be held in segregation under investigation until the investigation is complete, unless other circumstances require the transfer

or other placement of the alleged aggressor. During the course of the investigation the victim and the alleged aggressor shall remain separated.

7. Procedures And Investigation Of Attempted or Completed Sexual Assaults That are Not Recent:

If the alleged attempted or completed sexual assault is not reported or discovered within a time frame to consider it recent, as defined by this policy, in addition to the applicable provisions in section VI(D)(1) and unless directed otherwise by the Ohio State Highway Patrol, the investigator, if present, or the shift commander if the investigator is not present, shall secure the alleged crime scene if feasible. The alleged aggressor, if known, shall be placed in segregation under investigation. Consistent with Medical Protocol B-11–Guidelines for Alleged Sexual Assaults, Medical Services will conduct an examination for the presence or absence of physical trauma and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate. Medical Services shall also refer the inmate to Mental Health Services for evaluation and counseling and offer the inmate appropriate prophylactic treatment for sexually transmitted diseases.

E. ADMINISTRATIVE AND CRIMINAL SANCTIONS

1. Any inmate found guilty by the Rules Infraction Board (RIB) of attempted or completed sexual assault shall be considered for disciplinary control and any or all of the following administrative actions:
 - a. Recommendation to the local control committee
 - b. Special security review which considers the sexual assault behavior. At a minimum, the inmate should be considered for an increase of one security level
 - c. If serious injuries resulted from the assault, the inmate should be considered for security level 4B or 5
 - d. Institutional separations shall be placed on the aggressor and the victim, consistent with DRC Policy 53-CLS-05-Inmate Separations
 - e. The RIB may order the aggressor to pay reasonable restitution to the department for the costs incurred by the department as a result of the sexual assault.
2. All inmates found guilty by the rules infraction board (RIB) of attempted or completed sexual assault shall be required to complete a sex offender basic education program as indicated below:
 - a. Inmates shall complete any imposed disciplinary and local control time prior to any transfer required to complete the sex offender basic education program. Upon completion of the sex offender basic education program, inmates shall be placed in appropriate institutions consistent with their security levels.
 - b. Male inmates that are approved for increase to level 4(B) or 5 shall complete such programming at an appropriate level 4 or 5 institution.
 - c. All other male inmates shall complete the Sex Offender Risk Reduction

Center's (SORCC) Basic Education Program at the Madison Correctional Institution.

- d. Female inmates shall be referred to the Mental Health Clinical Director at ORW to schedule and complete sex offender basic education programming.
3. Any employee determined to have engaged in sexual misconduct with an inmate shall be subject to discipline consistent with the employee standards of conduct, which may include termination of employment. The employee may also be subject to criminal prosecution. An inmate engaging in sexual misconduct with an employee may be subject to discipline contingent upon the particular facts and consistent with the inmate rules of conduct.
4. The investigator and OSHP shall work together with the local county prosecutor's office to assure appropriate criminal prosecution of sexual assault cases.
5. Disciplinary action may be taken when it is determined that an inmate made a false report of sexual misconduct. If the RIB finds an inmate guilty of making a false report, restitution may be ordered for the costs incurred by the department in response to the false report. However, no inmate reporting sexual misconduct shall be issued a conduct report for lying based solely on the fact their allegations could not be substantiated or that the inmate later recanted his allegation. Each case shall be carefully evaluated on its merits, considering all evidence and circumstances and whether there is any possibility that the alleged incident could have occurred.

F. DATA COLLECTION AND MONITORING

1. The institutional investigators shall report allegations of sexual misconduct that they investigated on their monthly reports, along with the dispositions of same. This information shall also be provided to the Bureau of Research for compilation and analysis. All case records associated with such reports 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 DRC Records Retention Schedule.
2. When any inmate is found guilty by the RIB of Rules 11 or 12-Sexual Misconduct, information related to the case shall be entered into DOTS' Inmate Assault Report. This will generate an alert on certain highly used DOTS screens, identifying the sexual aggressor and the victim. With the approval of the Chief Inspector and an Office of Prisons' regional director, other inmates may be entered and identified if a criminal offense or other information reflects the individual is or likely to be a sexual aggressor or victim. The Bureau of Classification, institutional staff and other officials shall consider this information when making relevant administrative decisions regarding that inmate.