

Sexual Misconduct with Offenders

A guide for staff, contractors, and
volunteers of the ND DOCR

ND Century Code 12.1-20-06

“Sexual Abuse of Wards”

- A person who engages in a sexual act with another person, or any person who causes another to engage in a sexual act is guilty of a Class C Felony if the other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over the other person

An Issue of Power

- The ND DOCR policy specifically forbids any activity associated with or that promotes acts of sexual conduct, including sexual harassment between offenders and ND DOCR staff.
- In this definition, “staff” includes:
 - contractors, representatives, or volunteers of the ND DOCR as well as staff from federal, state, or local jurisdictions.
- In this definition, “offender” includes:
 - someone incarcerated in a correctional facility or under supervision in the community.

Staff Sexual Misconduct

- Staff sexual misconduct can be defined as any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, official visitor, or agency representative.
- The result is a breach of the professional relationship that exists between staff and an offender.
- Sexual misconduct distinctly alters the boundary between professional roles and personal relationships – personal elements are then introduced into what should be a sex-neutral situation.

Form of Sexual Misconduct

- Include, but are not limited to consensual or nonconsensual acts including:
 - Intentional touching of the genitalia, anus , groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire.
 - Completed, attempted, threatened or requested sexual acts
 - Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

It's Against the Law

- Staff sexual misconduct, including staff sexual harassment is a serious offense and **IS AGAINST THE LAW!**
- Depending on the investigation findings of an alleged incident, disciplinary action may result in dismissal and the advanced possibility of criminal charges.
- In addition, persons accused of sexual harassment in civil or criminal proceedings may be held personally liable for damages to the person harassed.

Sexual Harassment

- Can take many forms, including but not limited to:
 - Repeated verbal statements or comments of a sexual nature to an inmate by an employee, volunteer, official visitor, or agency representative
 - Demeaning references to gender or derogatory comments about body or clothing
 - Profane or obscene language or gestures

Sexual Harassment

- Is any sexual behavior that adversely affects an offender's environment as it pertains to his/her responsibilities of incarceration or supervision.
- It can occur without conscious intent and is not limited to explicit demands for sex.

Abuse of Power

- Sexual misconduct and sexual harassment are an abuse of power.
- No one can predict when romantic or sexual feelings will occur between two people, but acting on those feelings by becoming involved with an offender is unprofessional and unacceptable conduct.
- As a ND DOCR employee, contractor, representative, or volunteer, your designated assignment places you in a position of authority over the offenders with whom you interact in a professional capacity.

Abuse of Power

- It is not possible to have a relationship as equals because you have a responsibility to maintain custody, evaluate work performance, and/or provide input to issues that affect release dates, return to prison, or other sanctions.
- Engaging in any form of over familiar activity with an offender is unprofessional conduct and in violation of department policy.

Other Things to Consider

- Amorous or sexual relationships with an offender are seldom a secret.
- Such behavior will undermine your professional career by subjecting you to disrespect and manipulation from other offenders that may be aware of your situation.
- Once in a relationship, professional judgment becomes clouded and the normal defenses that exist to protect you will be compromised.
- When acting on emotions, you may take actions that would otherwise be considered inappropriate in a correctional environment.

Other Things to Consider

- Others will be judging your decisions for professionalism and trustworthiness.
- Your conduct and the decisions you make reflect not only on your own reputation, but also on that of your peers and the agency you represent.
- Romantic or sexual relationships often end with bitter feelings.
- If this occurs, you may be vulnerable to a host of problems such as loss of respect from your peers, a damaged reputation, and loss of employment.

Special Note to Persons in Positions of Power

- Amorous or sexual relationships are inappropriate and illegal when they occur between an offender and any staff member, contractor, representative, or volunteer.
- Offenders depend upon staff to provide for their board and care, ensure their safety, address their health care needs, supervise their work and conduct, and act as role models for socially acceptable conduct.

Special Note to Persons in Positions of Power

- Because of the difference in power between offenders and staff, contractors, representatives, and volunteers, there can never be a consensual relationship between the two entities.

Factors to Consider

- Some offenders have a history of victimization, particularly in their formative years, which may make them especially vulnerable to the sexual overtures of persons in positions of authority.
- Their perception of affection/love may be skewed by this background of abuse, making it impossible for them to refuse the advance of staff members.
- In some instances, particularly for female offenders, their survival in the community has directly related to using their sexuality to obtain the means to support themselves.

Factors to Consider

- Coupled with low self-esteem, this carries over into their conduct in prison and while under community supervision
- Occasionally an offender tries to use sex to improve his/her standing or circumstances (e.g., better job, avoid disciplinary action, effect a transfer, gain privileges, etc.).
- However, as a person in authority, it is the staff member's responsibility to discourage and refuse any overtures as well as maintain professional boundaries at all times.

Factors to Consider

- A staff member's personal and professional reputation may be jeopardized because of unprofessional conduct.
- Their effectiveness as agents of the ND DOCR, their careers, and even their families can be negatively impacted or destroyed.
- Boundaries in relationships can be difficult.
- If you question your professional boundaries with an offender or feel uncomfortable with his/her actions or advances toward you, talk to another person you respect or bring this matter to the attention of your supervisor before it gets out of control.