

 <p>City of Atlanta Department of Corrections</p> <p>Standard Operating Procedures</p>	Number: 400-13	Pages: 9
	Effective Date: October 7, 2009	
	Chapter: Care	
	Subject: Responding to Detainee & Staff Sexual Misconduct: <u>Introduction, Definitions & Responsibilities</u>	
Related ACA Standards: 4-ALDF- 4D-22, 4D-22-1, 22-2, 22-3, 22-4, 22-5, 22-6, 22-7, 22-8		
Related PREA Standards: §115.11-12, §115.86-89, §115.93		

1. REFERENCES

- 1.1 Prison Rape Elimination Act
- 1.2 Official Code of Georgia Annotated 16-6-5.1
- 1.3 Detainee Classification System
- 1.4 Employee Standards of Conduct
- 1.5 Detainee Property Management
- 1.6 Housing Unit Management
- 1.7 Facility Intake of Arrestees
- 1.8 Inmate Searches
- 1.9 [Reporting & Investigating Responsibility Checklist](#)
- 1.10 [400-13.06](#)—(Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Persons in Custodial Settings)
- 1.11 Post Orders ([#2 Special Housing Roving Officer](#) [#3 General Housing Officer](#))

2. PURPOSE

To provide employees with the proper guidelines for detecting, reporting, managing and preventing detainee/inmate sexual assault, sexual activity and staff sexual misconduct. The City of Atlanta Department of Corrections has established a standard of **zero tolerance** for sexual abuse, sexual activity and staff sexual misconduct. **Zero tolerance means that sexual abuse, sexual harassment and sexual misconduct in any form will not be tolerated by our agency.** In addition, **mandatory reporting** is required upon discovery or notification of any of these incidents.

3. POLICY

It is the policy of the City of Atlanta Department of Corrections to provide a safe, humane and appropriately secure facility environment, free from the threat of sexual assault, sexual activity and sexual misconduct for all detainees while in custody; these acts seriously reduce the department's ability to fulfill its mission to protect the public. It is the policy of the City of Atlanta Department of Corrections to comply with the Prison Rape Elimination Act (PREA) Standards.

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4. CANCELLATION

- 4.1 Written Directive 400-13 (Responding to Detainee Sexual Assault or Sexual Activity & Staff Sexual Misconduct)
- 4.2 Any other policy, procedure or order in conflict with this directive.

5. SCOPE

This policy applies to all City of Atlanta Department of Corrections employees, volunteers, contracted employees, vendors and all detainees under the care, custody and control of the City of Atlanta Department of Corrections.

6. DEFINITIONS

- 6.1 Official Code of Georgia Annotated 16-6-5.1

Sexual assault by persons with supervisory or disciplinary authority; sexual assault by practitioner of psychotherapy against patient; consent not a defense; penalty upon conviction for sexual assault. ([Penalty](#))

- 6.2 Prison Rape Elimination Act (PREA)

Federal standards for prisons and jails to prevent, detect, and respond to detainee sexual abuse to include but not limited to sexual assault, sexual activity and staff sexual misconduct within confinement settings.

- 6.3 **PREA Coordinator**

A staff member appointed by the Chief, with sufficient time and authority to develop, implement and oversee the department's effort to comply with the PREA standards. The PREA Coordinator will report all PREA cases directly to the Chief.

- 6.4 Voyeurism

Obtaining sexual gratification by looking. This applies to staff members, contractors (contracted employees) or volunteers.

- 6.5 Sexual Assault

Sexual physical contact **without** the other person's expressed (i.e. implied or legal) **consent** or when the other person is unconscious or otherwise physically incapable of resisting or when verbal or written sexual proposals threatens or harasses another person.

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Sexual abuse of an inmate/detainee by another inmate/detainee includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus.
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument: and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate/detainee, by a staff member, contractor, or volunteer includes any other following acts, with or without consent of the inmate or detainee.

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus.
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

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- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate or detainee and;
- (8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate or detainee by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breast; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

6.6 Sexual Activity

Physical contact between two (2) or more persons of the same or opposite sex for the purpose of sexual arousal or gratification. Such contact includes active or passive contact, or fondling of the genitals, hands, mouth, buttocks, anus or breasts of another person **who expresses or implies consent to the accused detainee/inmates**. Sexual activity between detainees/inmates is prohibited and subject to administrative disciplinary sanctions.

6.7 Sexual Assault Response Team (SART)

A multidisciplinary team comprised to lead the facility's effort to eliminate sexual violence and provides institutional leadership on sexual assault prevention, detection and response.

6.8 Sexual Harassment

- (1) Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate/detainee directed toward another.
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate/detainee by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

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6.9 Sexual Misconduct

- (1) Sexual comments, putting someone down for being gay, lesbian, bisexual, or transgender, offering to trade protection from others for sex or sexual acts like touching, kissing and oral sex.
- (2) Giving gifts, food or special items in exchange for sexual acts, requests for sex or sexual acts and threats to harm someone unless the person takes part in sexual activity.
- (3) Exposing someone's body, touching private areas of a body when not part of an official search or medical examination, rape and sexual assault.

7. RESPONSIBILITIES

- 7.1 The Chief of Corrections is responsible for the implementation of this policy.
- 7.2 The Facility/Housing Commander and/or Office of Professional Standard (OPS) is responsible for ensuring a thorough and objective investigation of the incident is completed; recommending corrective action to the Chief of Corrections to improve performance in eliminating the occurrence of sexual abuse and sexual activity in the Atlanta Department of Corrections facilities.
- 7.3 Watch Commanders or designee are responsible for ensuring a thorough and objective investigation of the PREA incidents occurring within the facility is forwarded to the Office of Professional Standards (OPS) for investigations within 24 hours..
- 7.4 The Office of Professional Standards will conduct an investigation into allegations of detainee/inmate sexual abuse and sexual harassment promptly, thoroughly and objectively for all allegations, including third-party and anonymous reports. OPS will recommend corrective actions every 30 days to the Chief and/or Facility/Housing Commander to improve performance in eliminating the occurrence of sexual abuse and sexual activity within the facility.
- 7.5 The staff member designated by the Chief is responsible for monitoring the number of sexual assault and sexual activity incidents each month and submitting a report regarding the incidence of sexual abuse and sexual activity quarterly to the Chief and the Facility Commander.

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- 7.6 Supervisors and officers assigned to the Intake and Federal Intake areas are responsible for ensuring that during the admission process an educational orientation to prevent the occurrence of rape and sexual contact activity will be provided.
- 7.7 It is the responsibility of all employees to promptly report sexual assault, sexual activity or staff sexual misconduct. **Failure to do so may result in disciplinary action up to, and including, dismissal.**
- 7.8 It is the responsibility of all volunteers, contractors, or agents to promptly report sexual abuse, sexual activity or staff sexual misconduct. **Failure to do so may result in corrective action up to, and including, termination of services or cancellation of contract.**

8. ACTIONS

8.1 Consequences of sexual assault and sexual activity

1. Victimized vulnerable individuals such as mentally ill and youthful offenders;
2. Spreads disease such as human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), hepatitis and tuberculosis within the facility and in the community; increases the risk that the victims of prison rape will commit crimes when they are released;
3. Causes victims severe psychological and physical effects;
4. Increases the risk of homicide and other violence against detainees/inmates and staff;
5. Reduces the detainees/inmates ability to successfully transition to the community and a law abiding life style when released.

8.2 Department Data Collection

- (a) The department will collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- (b) The department will aggregate the incident-based sexual abuse data at least annually.
- (c) The incident-based data collected will include, at a minimum, the data

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necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

- (d) The department will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- (e) Upon request, the department will provide all such data from the previous calendar year to the Department of Justice no later than June 30.

8.3 Incident Reviews

1. Sexual abuse incident reviews.

- (a) OPS will conduct a sexual abuse incident review within 30 days after the conclusion of every sexual abuse investigation, whether substantiated or unsubstantiated. Reviews are not necessary for unfounded allegations.
- (b) The review team will include the SART and will include input from command staff as well as input from line supervisors and other staff, where practical. The SART will be inclusive of, but not limited to, the following members: The department's PREA Coordinator, designated Mental Health staff, staff first responders, designated Medical staff, an OPS investigator and a member of the command staff.

2. The review team will:

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
- (b) Consider whether the allegation or incident was motivated or otherwise caused by the perpetrator's or victim's race, ethnicity, gender identity, gay, lesbian, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation, or was motivated by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area enabled the abuse.
- (d) Assess the adequacy of staffing levels in the area during different shifts.

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- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- (f) Prepare a report of its findings including, but not limited to, determinations regarding all of the above, and any recommendations for improvement, and submit such report to the Chief and PREA Coordinator.

To improve the effectiveness of the department's policies, practice, and training pertaining to sexual abuse prevention, detection, and response, the department's SART will review annually the data collected regarding sexual misconduct that has occurred within the department.

8.4 Data Review for Corrective Action/Storage/Publication and Destruction

The department will ensure that data that is collected will be reviewed and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- Identifying problem areas
- Taking corrective action on an ongoing basis
- Preparing an annual report of its findings and corrective actions for the department.

The annual report will include a comparison of the current year's data and corrective actions with those from prior years, and provide an assessment of the department's progress in addressing sexual abuse. The department's annual report will be approved by the Chief of Corrections and will be made readily available to the public through the department's page on the City of Atlanta's website. The department may redact specific material from the report when publication may present a clear and specific threat to the safety and security of the department. The department will indicate the nature of the material that has been redacted.

The department's aggregated sexual abuse data will be made readily available to the public at least annually through the department's page on the City of Atlanta's website. Before making such data public, all personal identifying information will be removed. The collected sexual abuse data will be securely stored and retained for at least ten (10) years after the date of their initial collection.

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8.5 **Audits**

To demonstrate compliance with PREA standards, the department will be audited every three years on a schedule determined by the department's PREA Coordinator. All auditors shall be certified by the Department of Justice. A copy of the final report shall be submitted to the Department's PREA Coordinator upon completion of the audit and must be conducted every three years.

Note: Georgia is a mandatory reporting and no consent state and violators of this policy can be prosecuted. This policy will be published on the Department's website.

Note: The City of Atlanta Department of Corrections does not contract confinement of inmates with other entities.