

An Issue of Power

Minnesota Department of Corrections' (DOC) policy specifically forbids any activity associated with or that promotes acts of sexual conduct, including sexual harassment between offenders and DOC staff. In this definition, "staff" includes: contractors, representatives, or volunteers of the DOC as well as staff from other federal, state, or local jurisdictions. An "offender" means someone incarcerated in a correctional facility or under supervision in the community.

Sexual misconduct can be defined as behavior of a sexual nature. 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. Forms of sexual misconduct include, but are not limited to:

- ◆ Attempts to engage in a sexual act with any offender's genitalia, anus, groin, breast, inner thigh, and/or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of another person.
- ◆ Any solicitation of sexual activity through promises of favors and/or threatening an offender for refusing sexual advances.
- ◆ Invasion of privacy beyond what is reasonably necessary for safety and security, including disrespectful, unduly familiar, or threatening comments made to offenders.

Sexual misconduct, including sexual harassment, is a serious offense—and is against the law (M.S. 609.344 and 609.345, subd. 1 [m].)

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:

- ◆ Sexual comments about one's body.
- ◆ Repeated staring, comments, and/or propositions of a sexual nature.
- ◆ Conversations that include sexually-suggestive innuendos or double meanings.
- ◆ Display or transmittal of sexually-suggestive posters, objects, or messages.
- ◆ Demands for acts of a sexual nature.
- ◆ Physical sexual assault.
- ◆ Request for sex in exchange for favors.

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

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 DOC employee, contractor, representative, or volunteer, your designated assignments place you in a position of authority over the offenders with whom you interact in a professional capacity. 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.

Some 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 (either in custody or in the community).
- ◆ 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.

Engaging in any form of overly familiar activity with an offender is unprofessional conduct and in violation of department policy.

A 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.

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. Here are some 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 advances of a staff member.

In some instances, particularly for female offenders, their survival in the community has been directly related to using their sexuality to obtain the means to support themselves. 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, affect a transfer, gain privileges, etc.). However, as the 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**.

A staff member's personal and professional reputation may be jeopardized because of unprofessional conduct. Their effectiveness as agents of the DOC, 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.

Employee Assistance Program

To speak with a consultant, call 651/259-3840 or 800/657-3719, or visit www.mylifematters.com.

M.S. 609.344 & 609.345, subd. 1 (m)

The actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense.

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Sexual Misconduct with Offenders

***A guide for staff,
contractors and
volunteers of
the Minnesota
Department of
Corrections***