



Virginia Department of Corrections

Human Resources

Operating Procedure 135.2

Rules of Conduct Governing Employee Relationships with Inmates and Probationers/Parolees

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REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

Table of Contents

DEFINITIONS	3
PURPOSE	4
PROCEDURE	4
I. Applicability	4
II. Professional Conduct.....	4
III. Sexual Misconduct	6
IV. Improprieties - Non-Professional Association	6
V. Employee and Supervisory Reporting Responsibilities	8
REFERENCES.....	9
ATTACHMENTS	9
FORM CITATIONS	9



DEFINITIONS

Abuse - The improper act or treatment of an individual that directly or indirectly causes physical, financial, mental, or emotional injury to the individual. Mental or emotional injury may be inferred by the nature and/or circumstances of the act

Carnal Knowledge - The acts of sexual intercourse, cunnilingus, fellatio, anallingus, anal intercourse, and animate and inanimate object sexual penetration; see COV §18.2-64.2, Carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, or pretrial defendant or posttrial offender; penalty.

Employee - A person who is paid by the Department of Corrections on an hourly, salaried, or contractual basis, or who is paid by another state agency or outside vendor for working in a position within DOC or in a position that supervises inmates or probationers/parolees.

Fraternization - Employee association with inmates/probationers/parolees, their family members, or close friends of inmates/probationers/parolees, outside of employee job functions, that extends to unacceptable, unprofessional and prohibited behavior; examples include non-work related visits between inmates/probationers/parolees and employee, non-work related relationships with family members or close friends of inmates/probationers/parolees, connections on social media, discussing employee personal matters (marriage, children, work, etc.) with inmates/probationers/parolees, and engaging in romantic or sexual relationships with inmates/probationers/parolees.

Hazing - Oppression, punishment or harassment by forcing or requiring performance of unnecessary work or disciplining by means of horseplay, practical jokes and tricks, often in the nature of humiliating or painful ordeals.
(2-CI-5A-2)

Healing Environment - A work environment purposefully created by the way we work together and treat each other, encouraging all to use their initiative to make positive, progressive changes to improve lives. It is safe, respectful, and ethical where people are both supported and challenged to be accountable for their actions.

Inmate and Probationer/Parolee - A person who is serving a state responsible sentence or under community supervision with the Virginia Department of Corrections or other release authority.

Sexual Misconduct - Any behavior or act of a sexual nature directed toward an inmate/probationer/parolee or an employee by an employee, volunteer, contractor, visitor, or agency representative; this includes but is not limited to acts or attempts to commit such acts of sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, obscenity, and unreasonable invasion of privacy.

Work Release Employee - A person employed by the Department of Corrections as either a wage employee or through a staffing agency while incarcerated, including home electronic monitoring, in a Virginia Department of Corrections or local jail facility.

PURPOSE

This operating procedure establishes rules of conduct that employees will observe when interacting with inmates and probationers/parolees under the direct supervision of the Virginia Department of Corrections (DOC). The procedure also provides guidance to prevent the abuse of inmates and probationers/parolees.

PROCEDURE

- I. Applicability
 - A. All employees and volunteers are expected to provide a positive role model for inmates and probationers/parolees, and a safe, secure, healing environment for employees, inmates and probationers/parolees by acting in accordance with this operating procedure.
 - B. The Organizational Unit Head will ensure compliance and enforcement of this operating procedure at the unit level.
 - C. Attachment 1 of this operating procedure, *Fraternization Awareness and Prevention*, will be provided to all new employees, volunteers, and others who may have recurring contact with inmates and probationers/parolees.
- II. Professional Conduct
 - A. DOC employees will act professionally when dealing with inmates or probationers/parolees to ensure the security and integrity of the correctional process and to promote a healing environment within the DOC. Employees are expected to model the healing environment to promote positive growth for employees, inmates, and probationers/parolees and create a culture that supports re-entry and public safety.
 - B. Abuse of Employment Status - Employees will not use their official status as employees of the DOC to establish social interactions or business relationships not directly related to DOC business. (4-APPFS-3C-02)
 - C. Vigilance
 1. Employees are expected to be alert to detect and prevent escapes from custody or supervision, or violations of DOC operating procedures.
 2. Observed incidents or suspicions of planned incidents must be reported to the employees Supervisor or the appropriate officer in accordance with established procedures.
 - D. Professional Appearance
 1. All employees should always maintain a professional appearance and demeanor and avoid actions or behaviors that could suggest fraternization or indicate an inappropriate relationship.
 2. See Attachment 1, *Fraternization Awareness and Prevention*, for examples of “red flags” or behaviors that could signal inappropriate boundaries or relationships between employees, inmates, and probationers/parolees.
 - E. Confidential Information
 1. Information pertaining to the record, offense, personal history, medical, or mental health and wellness information, or private affairs of inmates and probationers/parolees is for official use only.
 2. Employees will seek to obtain such information only as needed for the performance of official DOC duties, will not access or discuss such information except as required in the performance of official duties, and will take necessary precautions to protect the security and confidentiality of inmate and probationer/parolee records and information; see Operating Procedures 050.1, *Inmate and Probationer/Parolee Records Management*, and 310.2, *Information Technology Security*.
 - F. Interactions

1. While performing their job duties, employees must model a professional, healing, and supportive relationship when interacting with persons under DOC supervision, which involves respecting the rights of inmates and probationers/parolees as individuals, acting in a trustworthy and responsible manner, helping and supporting inmates, probationers/parolees, and other employees to the extent possible, and ensuring that the employees conduct does not harm others.
2. Employees must work towards the goal of improved public safety and the successful transformation and reintegration of those entrusted to the DOCs care, while maintaining a suitably professional detachment to ensure that personal and professional identities are not blurred.
3. Employees are encouraged to interact with inmates and probationers/parolees on an individual and professional level while maintaining and reinforcing appropriate professional boundaries to promote and accomplish DOC goals.

G. Interactions with co-workers who are former inmates or probationers/parolees

1. If the co-worker has been released from DOC custody or terminated from supervision, whichever occurs last, for more than 180 days, there are no restrictions on relationships with the individual that would not apply to all employees.
2. If the co-worker is known to be under DOC supervision or within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last, interactions will be limited to appropriate professional boundaries and support as outlined below.
3. The same limitations apply to work release employees under the supervision of the General Services Unit at DOC Headquarters.
4. Professional relationships within appropriate boundaries may include:
 - a. Requests for assistance (such as needing an employment reference).
 - b. The inmate or probationer/parolee reporting re-entry progress to the employee.
 - c. Casual, unplanned meetings with the inmate or probationer/parolee, close friends of the inmate or probationer/parolee, or members of the inmate's or probationer's/parolee's family that occur in public and where appropriate boundaries are maintained.
 - d. Engaging in peer support activities such as going to an event or meeting.
 - e. In all such situations, employees must report such contact to their Supervisor or Organizational Unit Head on the same or next business day.
5. An employee will not be found in violation of the fraternization policy of this procedure if they did not know, and reasonably should not have known, that the individual was under DOC supervision or within 180 days of release from DOC custody or termination of supervision, whichever occurs last, provided the nature of the relationship would otherwise be appropriate for all employees.

H. Courtesy and Respect

1. At all times, employees should be respectful, polite, and courteous in their communication and interaction with inmates and probationers/parolees, as well as with citizens and other employees.
2. Such practices are primary factors in providing a healing environment for effectively engaging others, resolving issues, maintaining order, control, good discipline, and redirecting behavior to a more positive result.

I. Humane Treatment (5-ACI-3D-08; 2-CI-5A-2)

1. Inmates and probationers/parolees must be treated humanely.
2. Abuse or any form of corporal punishment or hazing is prohibited.
3. No profane, demeaning, indecent, insulting, threatening, harassing, or discriminatory conduct (verbal, written or physical) will be tolerated, including but not limited to abuses of authority, and derogatory language or actions that is based on race, sex, color, national origin, religion, sexual orientation, gender

identity, age, political affiliation, veteran status, or disability.

4. Outside of a clinical mental health or medical setting, gender neutral language is preferred when addressing or referring to inmates.

III. Sexual Misconduct

A. The DOC has zero tolerance for all forms of sexual abuse and sexual harassment. See Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*, for additional information on preventing, detecting, and responding to such conduct. (§115.11[a], §115.211[a])

B. Any behavior of a sexual nature between employees, contractors, or volunteers and inmates or probationers/parolees, inmate's or probationer's/parolee's immediate family, or a close friend of the inmate or probationer/parolee is prohibited. (5-ACI-1C-09, 5-ACI-3D-14; 4-ACRS-6A-05; 4-APPFS-3C-02, 4-APPFS-3E-05; 2-CO-1C-11) Behavior of a sexual nature includes sexual abuse, sexual assault, sexual harassment, physical conduct of a sexual nature, sexual obscenity, and conversations or correspondence of an emotional, romantic, or intimate nature.

1. Sexual misconduct will be treated as a Group III offense subject to disciplinary sanctions up to and including termination under Operating Procedure 135.1, *Standards of Conduct*. (§115.76[a], §115.276[a])
2. Termination will be the presumptive disciplinary sanction for employees who have engaged in sexual abuse. (§115.76[b], §115.276[b])
3. Disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history, and the sanctions imposed for comparable offenses by other employees with similar histories. (§115.76[c], §115.276[c])
4. All terminations for violations of DOC sexual abuse or sexual harassment policies, or resignations by employees that would have been terminated if not for their resignation, must be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal. (§115.76[d], §115.276[d])
5. Any contractor or volunteer who engages in sexual abuse of inmates or probationers/parolees must be prohibited from contact with inmates or probationers/parolees and must be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal. (§115.77[a], §115.277[a]) In the case of any other violation of DOC sexual abuse or sexual harassment policies by a contractor or volunteer, the DOC will take appropriate remedial measures and will consider whether to prohibit further contact with inmates and probationers/parolees. (§115.77[b], §115.277[b])
6. A preponderance of the evidence will be adequate in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§115.72, §115.272)

C. Carnal knowledge without the use of force, threat, or intimidation of an inmate or probationer/parolee by employees, including a wage employee, contractor, or volunteer in any relationship with an inmate or probationer/parolee is a Class 6 felony per COV §18.2-64.2, *Carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, pretrial defendant or posttrial offender, or confidential informant; penalty*. (5-ACI-3D-14)

D. Sexual battery of an inmate or probationer/parolee by employee, or volunteer in any relationship with an inmate or probationer/parolee is a Class 1 misdemeanor per COV §18.2-67.4, *Sexual battery*. (5-ACI-3D-14)

IV. Improprieties - Non-Professional Association

A. Fraternalization



1. Except for preexisting relationships, see below, fraternization or non-professional relationships between employees and inmates and probationers/parolees are prohibited, including when the inmate or probationer/parolee is within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last.
 2. This action should normally be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*, unless surrounding circumstances and mitigating factors are present that warrant a reduction in the disciplinary action.
 - a. Professional relationships with appropriate boundaries may exist within this timeframe such as:
 - i. Calls for assistance, such as needing a reference.
 - ii. The inmate or probationer/parolee reporting re-entry progress to the employee.
 - iii. Incidental encounters between employees and inmates or probationers/parolees or members of the inmate's or probationer's/parolee's families that occur in a public setting where professional boundaries are maintained.
 - iv. Engaging in activities such as going to an event or meeting, directly related to the successful reentry of the inmate or probationer/parolee.
 - b. In all such situations, the employee must report such contact to their Supervisor or Organizational Unit Head on the same or next business day.
- B. Exception - Any family relationship or pre-existing non-professional relationship (established friendship, prior working relationship, neighbor, etc.) between employees and inmates or probationers/parolees, including when the inmate or probationer/parolee is within 180 days following their discharge from DOC custody or termination from supervision, whichever occurs last, must be reported to the Organizational Unit Head.
1. In consultation with the appropriate Deputy Director, a decision will be made regarding future contact between the employee and the inmate or probationer/parolee, the inmate's or probationer's/parolee's family, and/or close friends of the inmate or probationer/parolee.
 2. The appropriate Deputy Director, dependent upon the employees' work location, has final authority in these matters.
 3. The relationship and guidance on future contacts must be documented in VACORIS *Case Notes*.
- C. Improprieties - Associations between employees and inmates or probationers/parolees that may compromise security or undermine the employee's ability to carry out their responsibilities may be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*.
- D. Special Privileges - Employees will not extend or promise an inmate or probationer/parolee special privileges or favors not available to all people, similarly supervised, except as provided for through official DOC channels.
- E. Visitation
1. Non-job-related visitations between employees and inmates or probationers/parolees, or families of inmates or probationers/parolees, are only permitted upon showing a good cause with the explicit written permission of the Regional Administrator of the region(s) involved, e.g., approved research as part of an educational program. The *Employee - Inmate or CCAP Probationer/Parolee - Visit Request* form 135_F10 will be used by employees to request such a visit.
 2. The appropriate Deputy Director must also provide approval for employees in their units to participate in such visits.
 3. Communication and Contact - If the inmate or probationer/parolee is under custody, care, or supervision of the DOC, any unexpected, incidental, non-work-related contact with inmates and probationers/parolees or their families should be reported to the Organizational Unit Head promptly and documented in VACORIS *Case Notes*, as necessary.

F. Inmate and Probationer/Parolee Abuse Prevention

1. An employee who physically or verbally abuses an inmate or probationer/parolee, or a Supervisor who observes the behavior and fails to hold an employee responsible, may be subject to disciplinary action up to a Group III under Operating Procedure 135.1, *Standards of Conduct*. Unprofessional conduct, regardless of intent, that results in assault and/or battery of an inmate or probationer/parolee must be reported immediately to the Organizational Unit Head or Administrative Duty Officer.
2. Causing or permitting an inmate or probationer/parolee to perform personal services for employees or any individual is prohibited. Inmates and probationers/parolees may be required to clean and provide normal sanitary functions within the facility as a function of their assigned job. Neither inmates nor probationers/parolees will maintain or repair any employee's personal property, unless as a part of a program or activity that is otherwise approved by the DOC.
3. Physical contact with inmates or probationers/parolees must be conducted in a professional manner using the minimum amount of force necessary to provide appropriate apprehension, intervention, and control as needed to protect the inmate or probationer/parolee, employees, the general public, and to maintain a safe and secure environment.

V. Employee and Supervisory Reporting Responsibilities

- A. Failure to comply with the reporting requirements of this operating procedure will be considered a violation of Operating Procedure 135.1, *Employee Standards of Conduct*, and may be subject to disciplinary action up to and including termination.
- B. Employee Responsibilities - In addition to complying with the above procedures, employees have a continuing affirmative duty to disclose to their Supervisors or other management officials any employee or inmate/probationer/parolee boundary violations, conduct that violates this procedure, or behavior that is inappropriate or compromises safety of employees, inmates, probationers/parolees, or the community. (4-APPFS-3E-05)
- C. Supervisory Responsibilities - Supervisors must notify the unit PREA Compliance Manager and ensure that all reports of violation of this operating procedure are forwarded to the Organizational Unit Head for investigation.
- D. The Organizational Unit Head will ensure that all allegations of employee sexual misconduct are reported to the Office of Law Enforcement Services who will review all allegations of employee sexual misconduct and investigate as appropriate. This will include coordination with the PREA Unit for documentation of the allegation.
- E. All inmates or probationers/parolees and employees who report sexual abuse or sexual harassment, or cooperate with sexual abuse or sexual harassment investigations, will be protected from retaliation by other inmates, probationers/parolees, or employees. (§115.67[a, c], §115.267[a, c])
 1. The Organizational Unit Head will designate appropriate employees to monitor the conduct and treatment of inmates, probationers/parolees, or employees who reported or cooperated with an investigation into sexual abuse or sexual harassment.
 - a. Designated employees will monitor for retaliation at least 90 days following the report to determine if there are changes that may suggest possible retaliation by inmates and probationers/parolees or employees.
 - b. If the initial monitoring indicates a continuing need, designated employees will continue monitoring beyond 90 days and notify the unit PREA Compliance Manager.
 2. Any employee or Supervisor who witnesses or becomes aware of retaliation must immediately report the incident to their Supervisor, the Officer in Charge, or the Organizational Unit Head, such incidents must be investigated and reported to the unit PREA Compliance Manager.

REFERENCES

COV §18.2-64.2, *Carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, pretrial defendant or posttrial offender, or confidential informant; penalty.*

COV §18.2-67.4, *Sexual battery.*

Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*

Operating Procedure 050.1, *Inmate and Probationer/Parolee Records Management*

Operating Procedure 135.1, *Standards of Conduct*

Operating Procedure 310.2, *Information Technology Security*

ATTACHMENTS

Attachment 1, *Fraternization Awareness and Prevention*

FORM CITATIONS

Employee- Inmate or CCAP Probationer/Parolee - Visit Request 135_F10