



HARASSMENT AND SEXUAL ASSAULT/MISCONDUCT

POLICY.

It is the policy of the Deschutes County Sheriff's Office – Adult Jail (AJ) to maintain zero tolerance for any form of harassment or sexual contact between inmates, members, volunteers, professional and official visitors, contract employees or other agency representatives.

It is a violation of the Deschutes County Sheriff's Office Rules of Conduct for supervisors to disregard allegations of harassment or sexual assault/misconduct with inmates, regardless of who is making the report. All reports of harassment or sexual assault/misconduct will be investigated in a timely manner and appropriate corrective action taken. No member or inmate will be harassed, intimidated, discharged or otherwise interfered with because they have reported an incident of harassment or sexual assault/misconduct. Every reasonable effort will be made to maintain confidentiality of the person(s) involved, unless or until criminal charges are filed. Retaliation of any type will be grounds for corrective action.

Any harassment, sexual act or sexual contact between any member, professional or official visitor and an inmate, is not consensual by law, even if the inmate consents, initiates or pursues. Harassment is prohibited and can result in a criminal charge. Inmates are incapable of giving consent to engage in sexual conduct with members. An inmate's consent to and/or initiation or pursuit of sexual conduct with a member shall not excuse, negate or mitigate a member's duties, responsibilities and/or penalties under this policy.

PURPOSE.

The purpose of this policy is to inform members that harassment or sexual conduct in any form, between inmates, members, volunteers, professional and official visitors, contract employees, and other agency representative is prohibited and to establish guidelines for prevention, reporting, investigating and resolving complaints of harassment and member sexual misconduct with inmate.

Members must abide by this and related policies, laws, and standards that help prevent, detect, reduce, and deter inmate harassment and sexual assault and hold accountable those who violate. Members must provide prompt and effective intervention and investigation should an assault occur.

DISCUSSION.

Harassment, sexual harassment, sexual assault and sexual misconduct are unacceptable and prohibited. The AJ will maintain an environment that is free of any form of harassment, sexual harassment, sexual assault or sexual misconduct. Harassment and sexual misconduct with

inmates is a separate and distinct problem from workplace sexual harassment and a hostile work environment. All reports of harassment, sexual harassment, sexual assault and sexual misconduct will be investigated.

OREGON JAIL STANDARD:

- A-501 Sexual Harassment
- A-502 Harassment Prohibited
- A-503 Sexual Misconduct
- A-504 Sexual Assault
- A-505 Informing Inmates
- G-203 Emergency Response

REFERENCES:

- *Prison Rape Elimination Act of 2003 (P.L. 108-19)*
- ORS 162.405, 162.415, Official Misconduct
- ORS 163.305–163.467, Sexual Offenses
- Deschutes County Sheriff’s Office [Policy 3.60, Harassment /Discrimination in the Workplace](#)
- AJ [Policy CD-6-3, Rules and Discipline](#)
- AJ [Policy CD-2-16, Harassment and Sexual Harassment](#)

DEFINITIONS.

Harassment: Language, behavior or other communication of a derogatory, demeaning or offensive nature directed to any other person.

Inmate: A person held in the AJ for arraignment, trial, or pursuant to a judicial order, parole, probation, or post prison supervision sanction, or a person being transported while in the custody of the Deschutes County Sheriff’s Office.

Interference with Official Process: Any attempt to cover up or failure to report an incident of sexual misconduct. Making an allegation or statement that the party or witness knew could not have been true or failure to cooperate with an investigation.

Invasion of Privacy: This includes, but is not limited to, the act or the attempted act of observing or interfering with an inmate’s personal affairs without a reasonable safety or security need to do so. Violations may include unreasonable intrusive viewing of an inmate’s use of the shower, toilet, areas where inmates dress or anything outside legitimate security needs.

Official Misconduct: See ORS 162.405, Official Misconduct in the second degree and 162.415, Official Misconduct in the first degree.

Retaliation: Any act, covert or overt, or threat of action taken against an inmate or employee in response to the person's complaint of harassment, sexual misconduct or cooperation in the reporting or investigation of harassment or sexual misconduct, regardless of the merits or disposition of the complaint. Examples of such acts are intimidation, unnecessary action involving discipline, changes in housing or work assignments, and unjustified transfers or denials of privileges and/or services.

Sexual Assault: Any unwanted sexual contact, by physical force or threat, for the purpose of arousing or gratifying the sexual desire of either party. It includes sexual intercourse, oral or anal sodomy, sexual touching with an object, and fondling.

Sexual Contact: Per ORS 163.305, sexual contact is any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

Sexual Harassment: Behavior that is unwelcome, personally offensive and/or fails to respect the dignity of members and inmates. This behavior includes, but is not limited to, sexual advances, requests for sexual favors or other verbal or physical conduct which is of a sexual nature, or based upon gender, where:

- a. Submission of such conduct is made, or implied, to be a term or conditions of employment.
- b. Submission to, or rejection of, such conduct is used as a basis for employment decisions.
- c. Such conduct has the effect of interfering with a member's work performance, or creates a work or living environment which is intimidating, uncomfortable or offensive to an inmate or member.

Sexual Misconduct: Any behavior or act of a sexual nature directed toward an inmate by a member, volunteer, professional or official visitor, contract employee or other agency representative. Misconduct includes acts or any attempts to commit such acts including, but not limited to, sexual contact, inappropriate behavior of a sexual nature, unreasonable invasion of privacy, conversations or correspondence that suggest a romantic relationship between an inmate and any party referenced above.

Sexualized Work Environment: A work environment in which the behaviors, dress and speech of either members or inmates creates a sexually charged workplace. Sexually explicit talk, actions, e-mails, posted cartoons, jokes or unprofessional dress characterize a sexually charged work environment. A sexually charged work environment severely erodes the professional boundaries between members and potentially between members and inmates.

Members: Employees, volunteers, practicum students, interns, members of other agencies, and contract employees of the Deschutes County Sheriff's Office.

Visitor: Any person granted access to the AJ for personal, professional or official reasons that is not a member.

PROCEDURES.

SECTION A: PROHIBITED CONDUCT

A-1. Prohibited Conduct. Conduct specifically prohibited that may cause a violation of this policy, including, but not limited to:

- a. Any sexual advance by a member or visitor towards an inmate.
- b. Requests for sexual favors by a member or visitor to an inmate.
- c. Invasion of an inmate's privacy beyond what is reasonable or necessary for safety and security of the inmate, member or others within the institution.
- d. Inappropriate touching and acts of fondling, hugging or kissing of an inmate by a member or visitor.
- e. Any sexual act or contact between inmates, inmates and members or inmates and visitors.
- f. Indecent exposure by a member or visitor in front of an inmate.
- g. Other verbal and physical conduct of a sexual nature.
- h. Any comments, gestures, drawings, pictures, writings or physical conduct that is sexually suggestive, derogatory or offensive.
- i. Influencing, promising, or threatening an inmate's safety, custody level, privacy, housing privileges, work detail, programs status or court proceedings in exchange for sexual favors.
- j. Failing to report any suspicious activity of a sexual nature either observed or suspected based on reasonable evidence.
- k. Permitting harassment, sexually offensive behavior, sexual harassment or sexual misconduct to continue once its occurrence is known.
- l. Interfering with the official process of reporting or investigating incidents or allegations of harassment or sexual misconduct.
- m. Masturbating while on Sheriff's Office property or in a Sheriff's Office vehicle.
- n. Any offensive comment based upon race, gender, ethnicity or religion. Other verbal comments, slurs, hazing, remarks or physical conduct including verbal or possession of written jokes or graphic material.

A-2. Reporting Harassment or Sexual Harassment or Misconduct. All AJ members are required to report all allegations, complaints or observations of harassment or sexual misconduct to their immediate supervisor. The ability to resolve these issues is dependent on member cooperation in reporting incidents that violate this policy.

A-3. Reporting Procedure. The following procedure shall be used when harassment, sexual assault or a sexual misconduct incident /allegation is reported to or observed by a member:

- a. The member will notify a supervisor immediately. If the offending party is the member's supervisor, the member will report the incident directly to the next higher level of supervision.
- b. The member who receives the complaint or observed the incident shall write a detailed memo or incident report as directed by their supervisor.
- c. The supervisor will immediately notify the Captain through the chain of command.
- d. The supervisor will take any immediate action necessary to separate the parties involved in the alleged harassment or sexual conduct. Action may include relieving a member from duty.
- e. The supervisor will inform all parties to the complaint that retaliation against the complainant, witnesses or other involved in the complaint or investigation is strictly prohibited, and may result in separate corrective action.

SECTION B: PREVENTION AND SELF-PROTECTION

- B-1. Risk Management.** Members will use direct and indirect supervision, electronic surveillance, and facility design to both monitor inmate behavior and reduce the risk of harassment or sexual assault in all AJ areas.
- B-2. Classification.** Members will initially classify all inmates before placing them in a holding cell with another inmate or housing an inmate with one or more inmates. Screening for vulnerability to harassment, sexual assault or sexually aggressive behavior will be a part of the classification process for all inmates. At the screening, classification members should also ask privately whether the inmate has been a previous victim of sexual assault. Members will immediately contact a supervisor if an inmate reports they are a victim of sexual assault.
- B-3. Initial Health Screenings.** As a part of the intake screening process, Health Trained Deputies (HTD) should ask if an inmate has been a previous victim of sexual assault at a correctional facility or other custody location. These questions should be asked in private. Deputies will notify their supervisor and refer any inmate victim to a Behavioral Health Specialist (BHS) for a needs assessment. When applicable, a supervisor will initiate an investigation.
- B-4. Member Training for Sexual Assault.** The Captain will ensure members receive training on detecting, preventing, reporting, and responding to sexual assaults at least every two years. The Training Unit will maintain training records and update the records as refresher training is provided. Training should be concurrent with other mandated sexual harassment and sexual misconduct training and should include:
- a. Review of this policy.
 - b. Professional conduct between members and inmates.
 - c. Sexual misconduct prevention and response methods.
 - d. Recognizing the signs of sexual assault.

- e. Measures to decrease risk situations for inmates.
- f. Identification and referral process should an allegation of sexual misconduct be made.
- g. Crime scene and evidence protection.
- h. Identification and monitoring of high-risk areas in jail facilities.
- i. Emotional and psychological effects of rape on an inmate victim and how to deal with the physical and mental aftercare of the victim.
- j. Types of assailants that threaten or commit rape in a jail environment and the reasons for their actions.
- k. Tailored efforts to address the needs of vulnerable populations, such as juveniles, women, transgender and developmentally disabled inmates.
- l. Volunteer personal appearance, according to basic standards of safety and hygiene, and following the same personal appearance rules as paid members.
- m. Inmate appearance according to inmate rules.
- n. Measures to combat retaliation
- o. The penalties for engaging in sexual misconduct.

B-5. Inmate Instruction. As a part of orientation and included the Inmate Manual, deputies will inform inmates of the following:

- a. How to protect themselves, which includes:
 - 1) Avoiding isolated areas out of members' sight.
 - 2) Not accepting an item of value from another inmate.
 - 3) Not displaying body language that can be perceived as weak.
 - 4) Be suspicious of any inmate offering protection.
 - 5) Not giving out information about family, friends, or financial support.
 - 6) Not purchasing large amounts of commissary.
 - 7) Not giving an impression of having money available or of being in need of money.
- b. How to report sexual assault while in jail:
 - 1. Immediately report the incident to a member.
 - 2. Call the abuse reporting line.
 - 3. Telling a member in writing.
 - 4. Inmate Request or Healthcare Request Form
 - 5. Grievance
 - 6. Note to a deputy
 - 7. Tell a nurse or BHS
 - 8. Tell a friend or family member
 - 9. An inmate witness may report harassment or misconduct anonymously
 - 10. Letter to any jail supervisor

11. A friend or family member can submit a report online through the Deschutes County Sheriff's Office website.
12. Contact the jail PREA coordinator at the Crook County Sheriff's Office.
- c. Disciplinary and legal consequences for engaging in inappropriate or illegal behavior.
- d. Support services and programs available for victims.
- e. Transmission of sexually transmitted diseases due to sexual conduct or assault.

SECTION C: CORRECTIONS MEMBER RESPONSE

- C-1. Response to a Sexual Assault Report.** Members shall investigate and complete all documentation, per AJ policy, from an inmate or other individual reporting that an inmate has been sexually assaulted. Reports of threats of sexual assault or past sexual assault shall also be investigated and completed per AJ policy. Member response will be timely and in a sensitive, supportive, and nonjudgmental manner. Members must safeguard reports, investigations, and confidentiality of victims and informants.
- C-2. Verifying a Suspected Sexual Assault.** Occasionally, members will hear of an inmate being threatened with sexual misconduct or rumored to have been assaulted. Some victims of sexual assault may appear to have unexplained injuries, changes in physical behavior such as difficulty walking or abrupt personality changes, such as withdrawn and suicidal behavior. Members will do the following to respond to an incident of a suspected sexual misconduct:
- a. Observe the suspected victim without jeopardizing the inmate's safety, identity, and confidence.
 - b. Remove the suspected victim from the area for interviewing.
 - c. Ask the suspected victim open-ended, neutral questions, such as:
 - 1) How are you doing?
 - 2) Are you being hassled, targeted, pushed, called names or touched?
 - 3) Would you like to move to another area?
 - d. If there are no indications of any problem, remind the inmate to contact a deputy, nurse or BHS if they need help.
 - e. If the inmate has had problems, consider the following:
 - 1) Explain to the inmate how members can help.
 - 2) If the inmate is afraid of being labeled a "snitch" (informer), advise the inmate that they do not have to identify the assailant to get help.
 - 3) If the inmate was sexually assaulted at any time in the past, mention the importance of getting help to deal with the assault. Explain there are trained members available.
 - 4) Make referrals for the appropriate services, such as medical, sexual assault kit evidence collection, formal criminal investigation, and sexual assault counseling.
 - 5) Whether there is a confirmed incident or not, complete a Jail Incident Report.

C-3. Response to a Sexual Harassment, Misconduct or Assault Incident. Any member that witnesses, finds evidence of, or receives a report of a recent inmate sexual assault will contact a supervisor immediately. The supervisor will assign a deputy, or contact a patrol supervisor to coordinate completion of a criminal investigation.

Results of the investigation will be forwarded to the PREA Coordinator. If the sexual assault occurred, the supervisor will contact the Captain. (See PREA Checklist Forms 460, 461 and 462).

The supervisor will ensure the following:

- a. Move the victim to a protected area immediately.
- b. Contact a nurse for non-emergency medical care.
- c. Get a brief account of what happened.
- d. If the assault is less than 120 hours old, inform the victim not to shower, wash, drink, eat or defecate until they have received a Sexual Assault Exam at Saint Charles Medical Center or the investigating agency approves.
- e. Move any alleged inmate assailant to segregation.
- f. Limit access to the area of the alleged assault to avoid evidence contamination.
- g. Identify and secure any evidence related to the assault, such as clothing, undergarments, and bedding. Follow agency specific policy/instruction on evidence collection, processing and storage.
- h. Support the criminal investigators and their needs related to evidence collection from the inmate victim, the alleged inmate assailant and the assault scene.
- i. Arrange to keep witnesses separate from the alleged suspect. It will be necessary for investigators to interview and obtain statements from all potential witnesses as soon as possible. Investigators will also interview the alleged assailant.
- j. Deputies with knowledge of the incident will write an incident report and any applicable disciplinary report.
- k. When appropriate, contact a chaplain so support and pastoral care is available to the victim.
- l. Lodge the inmate in protective custody or another safe and secure housing area when the inmate returns from medical treatment or investigation interview. Consider housing in another facility when appropriate.

C-4. Retaliation. Members shall not retaliate against or allow others to retaliate against any person who reports harassment, sexual assault or takes part in its investigation. Members will encourage inmates to report any retaliation to a deputy promptly.

C-5. Family and Friends of the Inmate. Members should be sensitive to the inmate's wishes and family concerns. An inmate victim may or may not choose to tell relatives or friends of the assault.

- C-6. Media Release.** The Sheriff or designee, will determine the appropriateness and timing of any media release regarding an allegation of member sexual misconduct with an inmate.

SECTION D: MEDICAL UNIT RESPONSE

- D-1. Medical Unit Treatment.** When a sexual assault has occurred, the nurse shall:
- a. Render first aid as needed.
 - b. Document all exams and treatment of injuries, and any refusal for treatment. Notify a supervisor on any refusal.
 - c. Request transfer of the inmate to a hospital for immediate care:
 - 1) If serious physical injury is involved.
 - 2) For appropriate evidence collection at the direction of a supervisor or criminal investigator.
 - 3) For sexually transmitted disease testing.
 - 4) For medical measures for reducing the incidence of sexual transmitted diseases, and for a woman, pregnancy.
 - 5) For other sexual assault treatment intervention.
 - d. Schedule the inmate for counseling with a BHS or other counselor who has special training in counseling sexual assault victims. Refer the inmate for additional counseling.
- D-2. Post-Release Treatment and Counseling.** An AJ nurse and/or BHS will provide the inmate with a list of behavioral health providers or sexual assault counselors. Members will document in the inmate's medical file when the information is provided. This will assist the inmate with appropriate information for follow-up treatment after the inmate is released from custody.

SECTION E: CRIMINAL AND ADMINISTRATIVE ACTIONS

- E-1. Prosecution.** An investigator determines when there is probable cause to believe sexual misconduct occurred. The deputy or criminal investigator will forward all criminal and/or incident reports to the District Attorney's Office for evaluation of the investigation and determination to file criminal charges.
- E-2. Disciplinary Actions for Inmates.** Deputies will initiate disciplinary action against any inmate suspected of harassment, sexual misconduct and/or assault. Deputies will also initiate disciplinary action against any inmate who fabricates sexual misconduct charges. Members will coordinate discipline investigation actions with the criminal investigators to avoid having the disciplinary investigation interfere with the criminal investigation. As part of routine inquiry during the investigation, deputies will assess the victim's role and degree of culpability in the assault. The hearing officer and reviewing supervisor may

consider evidence of self-defense against sexual misconduct as a mitigating factor in disciplinary proceedings for fighting.

- E-3. Disciplinary Action for Members.** If the alleged assailant is a member, supervisors will report it and refer to procedures in DCSO [Policy 3.60, Harassment / Discrimination in the Workplace](#), and AJ Policy [CD-2-16, Harassment and Sexual Harassment](#), for responding to and handling the allegation.

SECTION F: FOLLOW-UP

- F-1. Follow-Up.** Supervisors will conduct a follow-up interview with the victim and document this in a supplemental incident report. The follow-up contact with the victim of harassment, sexual assault or retaliation is to ensure the victim is free from continued assault or retribution for reporting or participating in an investigation.
- F-2. Data Collection, Reporting, and Access.** The Administrative Lieutenant will collect all data on sexual misconduct and sexual assault of inmates and report them as state and federal authorities request. The Administrative Lieutenant will also report the resolution of sexual complaints by jail, law enforcement, and prosecution authorities. Data on individual inmates is available only to members with a need to know.

FORMS USED:

- Health Care Request Form No. 545
- Inmate Request Form No. 103
- Jail Incident Report (JMS)
- PREA Checklist Form No. 460
- PREA Checklist Form A (Within 120 Hours) Form No. 461
- PREA Checklist Form B (More Than 120 Hours) Form No. 462
- Sexual Abuse/Assault Prevention and Intervention Form No. 463