

ZERO TOLERANCE

Incarcerated and supervised individuals have the right to be free from sexual abuse and sexual harassment while incarcerated. The Department of Corrections has zero tolerance for all forms of sexual misconduct and will impose disciplinary sanctions for such misconduct, up to and including dismissal for staff and serious infractions for offenders who victimize other offenders.

Incidents of sexual misconduct will be referred to law enforcement when applicable. DOC policies regarding sexual misconduct apply to all inmates, both incarcerated and on community supervision. They also apply to employees, contract staff, volunteers and any other person providing services in department facilities or offices. Inmates and staff also have the right to be free from retaliation for reporting sexual abuse and sexual harassment.

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Custodial Sexual Misconduct



Information for
Community Corrections
Contractors

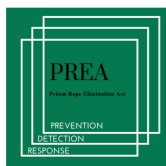
ABUSE OF POWER AND VICTIMIZATION

Due to the imbalance of power between incarcerated and supervised individuals and employees in a correctional setting, sexual interaction between an employee (power) and an inmate (who lacks power) is unprofessional, unethical and illegal. Some inmates may become sexually involved with staff in an effort to equalize the imbalance of power.

Occasionally, an inmate may try to use sex to improve his/her standing or circumstances (e.g., better job, avoid disciplinary action, gain privileges, etc.). There can never be a consensual relationship between inmates and persons working or volunteering for the Department. The law states “consent” is not a defense to prosecution.

Some people don't think of inmates as 'victims' of staff sexual misconduct particularly when the offender appears to be a willing participant or even the initiator of the sexual or romantic interaction with a staff member.

The incarcerated or supervised individual is ***always*** the victim because of the imbalance of power.



CUSTODIAL SEXUAL MISCONDUCT

RCW 9A.44.160

Custodial sexual misconduct in the first degree.

(1) A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the first degree is a class C felony.

CUSTODIAL SEXUAL MISCONDUCT (SECOND DEGREE)

The Washington code § 9A.44.170 defines one degree of the crime custodial sexual misconduct-second degree, each with associated punishments. The degree of the crime depends on the specifics of the crime committed, with higher degrees of the charge generally receiving harsher punishments.

Charge Description

- Applies when the victim is being detained, under arrest, or in the custody of a law enforcement officer and the offender is a law enforcement officer.
- Applies when sexual contact occurs between victim, who is a resident of a state, county, or city adult or juvenile correctional facility, and offender, who is an employee of a correctional agency who has the ability to influence the terms, condition, or length of incarceration.

Punishment:

A maximum of 1 year in prison and/or a maximum fine of \$5,000

