PRISON RAPE ELIMINATION ACT (PREA) DEFINITIONS

Sexual Misconduct includes aggravated sexual assault, offender-on-offender sexual assault, sexual abuse, and sexual harassment. It also includes staff-on-offender sexual harassment and staff sexual misconduct.

Staff include Department employees, contract staff, volunteers, and any other person providing services in Department facilities or offices.

Consensual, non-coerced sexual activity between offenders is prohibited by Department rule, but is not defined as a violation of PREA policies.

The following definitions are applicable to Department policies relating to sexual misconduct:

A. **Aggravated Sexual Assault** includes sexual acts perpetrated by either staff or an offender that occurred within the previous 120 hours and involve penetration or exchange of body fluids.

B. **Offender-on-Offender Sexual Assault** is an incident in which one or more of the following acts occurs between 2 or more offenders without an offender's consent or when an offender is unable to consent or refuse:

   1. Contact between genitalia (i.e., penis, vagina) or between genitalia and the anus involving penetration, however slight. This does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.
   2. Contact between the mouth and the penis, vagina, or anus.
   3. Penetration of the anal or genital opening of another person by a hand, finger, or other object.
   4. Coerced sexual activity in response to pressuring, offer of protection, payment of debt, etc.

C. **Offender-on-Offender Sexual Abuse** includes sexual contact between 2 or more offenders without an offender's consent or when an offender is unable to consent or refuse, including intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttock of the victim. This does not include kicking, grabbing, or punching when the intent is to harm or debilitate rather than sexually exploit.

D. **Staff Sexual Misconduct** includes the following acts when performed by staff:

   1. Engaging in sexual intercourse with an offender.
      a. Sexual intercourse includes vaginal, anal, and oral intercourse, as well as the penetration of an offender’s vagina or anus with an object, when such penetration is not performed for the purpose of providing medical care or is without a legitimate penological purpose.
   2. Allowing an offender to engage in sexual intercourse as defined above with another staff.
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3. Intentionally touching, either directly or through clothing, the genitalia, anus, groin, thigh, or buttock of an offender or the breast of a female offender without a legitimate penological purpose.

4. Compelling or allowing an offender to touch the genitalia, anus, groin, thigh, breast, or buttock of any staff or another offender, either directly or through clothing, without a legitimate penological purpose.

5. Kissing an offender, or allowing oneself to be kissed by an offender.

6. Knowingly exposing one’s genitalia, anus, groin, thigh, breast, or buttock to an offender.

7. Voyeurism - Observing an offender’s partially or fully naked body or an offender engaging in a sexual act with him/herself or another offender without legitimate penological purpose. This does not include inadvertent or unavoidable observation or when such observation is the result of offender initiated actions (e.g., flashing).

8. Engaging in any of the following acts for the purpose of gratifying the sexual desire(s) of any person or getting an offender to engage in staff sexual misconduct, or when the act has sexual undertones (i.e., can reasonably be inferred to be sexual in nature, judged according to a reasonable person’s reaction to a similar act under similar circumstances):
   a. Writing letters, showing pictures, or offering gifts or special privileges to an offender.
   b. Engaging in a personal relationship with an individual known to be under Department jurisdiction, without legitimate penological purpose unless expressly authorized by the Secretary/designee.
   c. Pat or strip searches conducted in violation of DOC 420.310 Searches of Offenders, DOC 420.325 Searches and Contraband for Work Release, DOC 420.390 Arrest and Search, and/or operational memorandums.

9. Threatening, bribing, or coercing an offender to engage in staff sexual misconduct.

10. Attempting to engage in staff sexual misconduct.

11. Purposefully helping another person engage in staff sexual misconduct.

12. Discouraging or preventing offenders and/or staff from making good faith reports of staff sexual misconduct.

E. Sexual Harassment includes:

1. Deliberate and repeated, unsolicited statements or comments of a sexual nature directed to any individual, including demeaning references to gender or derogatory comments about body or clothing, to include:
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a. Comments made by staff about an offender’s body intended to abuse, humiliate, harass, degrade, or arouse any person.

b. Demeaning or sexually oriented statements/gestures made by staff in the presence of an offender.

c. Staff threatening, intimidating, coercing, or using abusive language toward an offender.

2. Repeated profane or obscene language/gestures of a sexual nature.

3. Threats of sexual misconduct made by one offender to another offender.