

The New York State Department of Correctional Services has a zero tolerance policy for sexual abuse.

It is the policy of the Department that staff-on-inmate, inmate-on-inmate and inmate-on-staff sexual abuse will not be tolerated -- **all sexual conduct, including sexual contact, is against the Department's rules.** All allegations of sexual abuse, sexual threats, or staff voyeurism will be thoroughly investigated. Furthermore, any sexual predator will be disciplined and/or prosecuted.

Inmate Rule 101.10, Standards of Inmate Behavior, prohibits inmates from engaging in, or soliciting others to engage in sexual acts. Other sexual contact and conduct of a sexual nature are also prohibited by rules found in Rule Series 101.

Section 130.05 of the Penal Law removes any legal ability on the part of the inmate to consent to sexual conduct, including sexual contact, with an employee, unless they are married, and makes it a crime for any employee to engage in a "voluntary" sexual act with an inmate.

What is sexual abuse?

- A. Sexual Conduct means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact, and shall have the same meaning as set forth in Penal Law § 130.00.
- B. Sexual Contact means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party, and shall have the same meaning as set forth in Penal Law § 130.00.

NOTE: "Sexual Contact" does not include touching of the intimate parts of another person during a personal search in accordance with Department procedures as outlined in Directive #4910, or during a medical examination by health care staff for a proper medical purpose.

- C. Inmate-on-Inmate Sexual Abuse is when one or more inmates engage in sexual conduct, including sexual contact, with another inmate against his or her will or by use of threats, intimidation or other coercive actions.
- D. Staff-on-Inmate Sexual Abuse is when an employee, volunteer, intern or outside contractor engages in sexual conduct, including sexual contact, with an inmate.

- E. Sexual Abuse means Inmate-on-Inmate Sexual Abuse or Staff-on-Inmate Sexual Abuse. Sexual Abuse has the same meaning as “Prison Rape” under the Prison Rape Elimination Act of 2003, 42 U.S.C. § 15609.
- F. Attempt to Commit Sexual Abuse is when a person engages in conduct which tends to effect the commission of sexual conduct, including sexual contact.
- G. Sexual Threat means any spoken, written or other threat to engage in sexual conduct forcibly or against a person’s will.
- H. Staff Voyeurism means the intentional or surreptitious viewing, broadcast or recording of an inmate dressing or undressing or of the sexual or other intimate parts of such inmate for the purpose of sexual arousal or sexual gratification, amusement, entertainment, or profit, or for the purpose of degrading or abusing a person.

NOTE: “Staff Voyeurism” does not include the viewing of the sexual or other intimate parts of another person during a personal search in accordance with Department procedures as outlined in Directive #4910, or inadvertently or accidentally during rounds or the performance of other official duties, or during a medical examination by health care staff for a proper medical purpose.

You have the right to be safe from sexual abuse. While you are incarcerated, no one has the right to pressure you to engage in sexual acts. You do not have to tolerate sexual abuse or pressure to engage in unwanted sexual behaviors regardless of your age, size, race, ethnicity, or sexual orientation. You have the right to be safe from unwanted sexual advances and acts.

ABOUT YOUR SAFETY: If you feel that someone is pressuring you or sexually harassing you, staff are available to help you deal with this problem. If you are being pressured, threatened or extorted for sex, you should report this to staff. During each quarterly review, your Correction Counselor will ask you if you have any concerns regarding sexual abuse issues. Also, if you have a concern about your safety upon your transfer to any correctional facility, you should immediately report your concerns to staff upon your arrival. You should feel free to discuss your concerns about sexual abuse, or implied or threatened sexual abuse with any staff member. OMH staff are specially trained to help you deal with problems in this area. If you are in an emergency situation, approach any staff member.

AVOIDING SEXUAL ABUSE

Here are some things you can do to protect yourself against sexual abuse.

- 1) Carry yourself in a confident manner at all times. Do not permit your emotions (fear/anxiety) to be obvious to others.

- 2) Do not accept gifts or favors from others. Most gifts or favors come with strings attached to them.
 - 3) Do not accept an offer from another inmate to be your protector.
 - 4) Find a staff member with whom you feel comfortable discussing your fears and concerns.
 - 5) Be alert! Do not use contraband substances such as drugs or alcohol: these can weaken your ability to stay alert and make good judgments.
 - 6) Be direct and firm if others ask you to do something you don't want to do. Do not give mixed messages to other inmates regarding your wishes for sexual activity.
 - 7) Stay in assigned areas of the institution.
 - 8) Choose your associates wisely. Look for people who are involved in positive activities like education programs, counseling programs or religious activities. Stay involved in positive activities.
 - 9) Trust your instincts. If you sense that a situation may be dangerous, it probably is. If you fear for your safety, report your concerns to staff.
 - 10) Follow the Inmate Rules.
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What to do if you are assaulted. If you become a victim of sexual abuse, you should report it immediately to staff, who will offer you immediate protection from the assailant and will refer you for a medical examination and clinical assessment. Assistance will be provided regardless of whether or not you name the responsible inmates or staff members, however, specific information may make it easier for staff to help you. Even though you may want to clean up after the assault, it is important to see medical staff BEFORE you shower, wash, drink, eat, change clothing or use the bathroom. Medical staff will examine you for injuries which may or may not be readily apparent to you. They can also check you for sexually transmitted diseases and gather physical evidence of assault. The individual or individuals responsible for sexually abusing or assaulting inmates can only be disciplined and/or prosecuted if the abuse is reported.

How do you report an Incident of Sexual Abuse? It is important that you tell a staff member if you have been sexually abused. **You can tell any correction counselor, chaplain, security staff member, medical practitioner, Office of Mental Health (OMH) staff member, or any other employee.** Department staff members are instructed to keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis.

You also have the option of reporting the abuse or threats in writing. You may write to a member of the executive team, a senior counselor, your assigned correction counselor, a chaplain, a security supervisor, an OMH staff member, a member of Central Office, or the Department's Office of the Inspector General. However, any delay in reporting an incident will make investigating the incident far more difficult.

What happens when you report an incident of Sexual Abuse? Allegations of sexual abuse are reported to appropriate law enforcement officials by the Department's Office of the Inspector General in accordance with Department policy and will be thoroughly investigated. A report made in good faith based upon a reasonable belief that the alleged conduct did occur does not constitute lying for the purpose of disciplinary action even if investigation does not establish evidence sufficient to substantiate the allegation. No reprisals of any kind shall be taken against an inmate for good faith reporting of sexual abuse or sexual threats.

However, if investigation discloses that a person who knew that the information was false made the allegation intentionally or with malice, he or she may be charged by the law enforcement agency with falsely reporting an incident and/or may be subject to disciplinary action. A person is guilty of falsely reporting an incident if it is proven beyond a reasonable doubt that, knowing the information reported, conveyed or circulated to be false or baseless, he or she reports to a law enforcement officer or agency the alleged occurrence of an offense or incident which did not in fact occur (Penal Law § 240.50).

Seek Medical Attention: If you have been sexually assaulted, you should seek medical attention immediately. Although it may be difficult, it is important that you do not shower after the assault. Showering may wash off the hair and body fluids which are critical evidence, especially with the potential use of DNA technology. Also, do not wash, destroy or discard the clothes and underwear that you had on at the time of the assault, as these items may be used to collect critical evidence. You will be checked for the presence of physical evidence. A medical professional will perform a medical examination as deemed appropriate based upon his or her professional judgment, and document the existence of physical evidence which remains after the assault. This physical evidence is crucial in corroborating that the sexual assault occurred and in identifying the assailant. The examination will be conducted privately and professionally.

You should seek medical help if you have been sexually assaulted or had sexual relations with others, to determine if you have been exposed to the HIV virus or other sexually transmitted diseases. Female inmates will be tested for pregnancy when appropriate.

Confidentiality: Information concerning the identity of an inmate victim reporting a sexual assault or abuse, and the facts of the report itself, shall be limited to those who have a need to know in order to make decisions concerning the inmate-victim's welfare. All case records associated with allegations of sexual assault or abuse are confidential in accordance with New York Civil Rights Law § 50-b.

Counseling Programs for Victims of Sexual Abuse: If you have been the victim of sexual abuse by staff or inmates, you will be referred for counseling and/or advice from an OMH clinician, a correction counselor, and/or a chaplain. Crisis counseling, coping skills, suicide prevention and mental health counseling are all available to you.

Often, people may need help to recover from the emotional effects of sexual abuse. If you are a victim of a sexual abuse while in prison, or if you were victimized in the past, professional staff from the OMH are available to provide treatment.

In summary, the Department has a zero tolerance policy for sexual abuse. Accordingly, all allegations of sexual abuse, sexual threats, or staff voyeurism will be thoroughly investigated. Any victim of sexual abuse will be treated in a sensitive manner with due consideration to the effects of sexual abuse. Furthermore, any perpetrator of a sexual abuse incident will be dealt with severely through discipline and/or prosecution to the fullest extent permitted by law.