

SECTION A: Administration

IMPLEMENTED: 4/16/07

CHAPTER: A-300 Personnel

NUMBER: A-307 Sexual Misconduct and Undue Familiarity

2/1/11 Update

RELATED STANDARDS: A-306, Judicial Employees Code of Conduct, JMSR 10.2, ASCA PP 802, PCJCC PP2-119, PCJCC Administrative Procedure 7.3.2.1, 2004 PREA

POLICY: ZERO Tolerance Sexual Assault, Sexual Abuse, Sexual Harassment

The Detention Division will not tolerate sexual misconduct or undue familiarity committed by any person acting under the authority of the Division against any youth, youth's family or other involved person. All allegations will be thoroughly investigated, and those found in violation of this policy and/or statutes shall be subject to corrective action. Criminal allegations against employees will be forwarded to the law enforcement agency having jurisdiction.

PROCEDURE:

Relevant standards of conduct and established guidelines for behavior, and for the investigation of allegations of sexual misconduct and undue familiarity with youths, youth families and collateral contacts will be available to employees, contractors, volunteers, interns and all persons providing services to Detention. These guidelines will be reviewed within six months of hire, annually thereafter with all persons providing services to Detention.

I. Definitions:

A. Undue Familiarity: Any conversation, contact, personal or business dealing between a youth under the supervision of the court, and an employee, volunteer, intern, or person providing services to Detention, the youth, or youth's family which is not a part of the duties, and related to a personal relationship or purpose rather than a court purpose.

Undue familiarity includes, but is not limited to:

1. Horseplay between youth and adults bound by this procedure.
 - a. Horseplay includes but is not limited to: wrestling, playfully pushing or shoving.
2. Betting, trading, dealing, or socializing that is unrelated to the adult's duties;
3. Family contact that is unrelated to the adult's duties;
4. Sharing or giving food or personal items; or
5. Inappropriate personal conversation or exchanging correspondence.

B. Sexual Misconduct: Any conduct of a sexual nature directed toward a youth or a member of a youth's immediate family by an employee, volunteer, visitor, contractor, or agency representative. This includes acts or attempts to commit such acts including but not limited to sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, obscenity and unreasonable invasion of privacy. Sexual misconduct also includes but is not limited to conversations or correspondences, which suggest a romantic or sexual relationship between a youth and persons identified above. No youth under the authority, supervision or custody of the Court has the ability to give consent to sexual relationships. Inappropriate or offensive sex or gender based conduct is specifically prohibited.

Such prohibited conduct includes:

1. Sexual advances, propositions, or flirtations;
2. Requests or pressure of any kind for sexual favors, activities, or contact;
3. Sexually explicit, graphic, abusive, degrading, intimidating, or offensive language or jokes;

4. Physical contact or touching of a sexual nature, including physical or sexual assault; and
5. Display, circulation, or communication of any sexually suggestive, explicit, graphic, or offensive objects, pictures, or materials of any kind.

C. Sexual Abuse: An abuse of position and is prohibited by department policy and applicable state statutes.

Sexual abuse includes but is not limited to:

1. Subjecting a youth to sexual contact by persuasion, inducement, enticement or forcible compulsion;
2. Subjecting a youth to sexual contact who is incapable of giving consent by reason of his/her custodial status;
3. Subjecting a youth to sexual contact who is incapable of consenting by reason of being physically helpless, physically restrained, or mentally incapacitated and;
4. Raping, molesting, prostituting, or otherwise sexually exploiting a youth.

D. Sexual Contact: The intentional contact of an inappropriate nature either directly or through such as touching of genitals, anus, groin, breasts, inner thighs, or buttocks of another person.

E. Intimacy: Inappropriate social or physical contact of a personal, romantic, sexual, or unduly familiar nature, and may include kissing, touching parts of the body not defined under sexual contact, sending personal letters/cards or making /receiving personal phone calls from the youth, accepting or giving gifts from/to the youth or family member or similar contact. Meals may be considered gifts.

1. Youth initiated personal phone calls or mail to Detention personnel need to be immediately staffed with the employee's Supervisor in order to develop a positive professional relationship.
2. Detention Staff should continue to work to be a positive support for youth who are in Detention or released from Detention but contacts need to be authorized, planned, and implemented with Supervisor in order to assure compliance to this policy and FSLA requirements.

F. Violation of Privacy: The intentional observing, attempting to observe, or interfering in a youth's activities, which are of a personal nature, and are not pursuant to assigned duties. Any act by an employee, contractor, volunteer, or intern conducting official court duties and responsibilities shall not be regarded as a violation of privacy.

II. Mandatory Reporting

- A. Employees are required to report any and all suspected or alleged incidents of sexual misconduct within 24 hours to their Division Director. The Division Director will make a brief report of the allegations to the Juvenile Court Administrator. Failure to report may result in disciplinary action, up to and including termination. PCJCC Administrative Procedure 7.3.2.1 applies.
- B. Youths are encouraged to report or relate concerns regarding any incident or allegation of sexual misconduct immediately to any Pima County Juvenile Court Center employee.
- C. All complaints and concerns reported under this policy shall be expeditiously investigated.

- D. Retaliation against any employee or youth for filing a complaint, reporting an incident or allegation, or participating in an investigation is strictly prohibited. Violations will result in disciplinary action, up to and including termination of employment.

III. Investigation Process

- A. Any employee, upon receiving a written or oral complaint, allegation, or any notice whatsoever of conduct prohibited by this policy/procedure, or of retaliation for reporting such conduct, shall provide notice of the complaint, allegation, incident, or notice directly to the Division Director within 24 hours.
- B. The Supervisor receiving the above information shall report the allegation(s) to their Division Director as soon as possible or not later than 24 hours. The Division Director will make a brief report of the allegations to the Juvenile Court Director as soon as possible, or not later than 24 hours after receiving the allegation(s).
- C. The Juvenile Court Director, in his or her discretion, may direct that an investigation be conducted and may determine who shall conduct the investigation. To the fullest extent possible, the investigator shall conduct the investigation confidentially.
1. The subject of the allegation shall be informed that an allegation of misconduct has been made against him/her where practicable. An employee may be placed on administrative leave pending the outcome of the investigation if deemed necessary.
 2. The Juvenile Court Director will determine who will conduct the investigation.
 3. An interview with the youth will be conducted by the investigator.
 4. The youth will be given the option to provide a written statement.
 5. An interview with the accused staff member will be conducted by the investigator. The staff member may be given the option of providing a written statement.
 6. Interviews will be conducted with any witness if determined relevant to the investigation.
 7. All employees, regardless of position within the organization, shall fully cooperate with the administrative investigation and answer all inquires truthfully. Failure to cooperate with an investigation or answer questions truthfully during the investigation shall result in disciplinary action, up to and including termination of employment.
- D. Upon completion of the investigation, the investigator will compile a final report, to include a summary of the allegations, statements from the youth, staff, and all witnesses, the investigator findings and recommendations, and submit the report to the Juvenile Court Director.
- E. The investigative report and determination are confidential and are not subject to public disclosure. They shall not be distributed to any unauthorized court personnel and shall not be placed in any employee's official personnel file.

IV. Investigation Outcome

- A. If the allegations are founded the Juvenile Court Director will determine the outcome of the investigation in accordance with PCJCC Administrative Procedure 7.3.2.1.
- B. If the allegations are unfounded or inconclusive, the staff member and youth will be notified of the outcome in writing.

- C. This procedure prohibits retaliation against employees or other persons who bring allegations in good faith or otherwise assist in the investigation of those allegations. Any employee who engages in retaliatory action will be subject to discipline, up to and including termination.