

Module One Introduction - Staff Sexual Misconduct - An Overview

What's In This Module:

- ✎ Exercise: Test Your Knowledge!
 - Defining Staff Sexual Misconduct
 - Faces of Community Corrections
 - Types of Supervision
 - Organizational Structure
 - Identifying Who Is Under Supervision
 - Working in the Community
 - Ambiguous Role of Employees
 - Managing Information
- ✎ Exercise: Burning Issues
 - Impact of Sexual Misconduct on the Profession
 - Myths and Realities
 - Risks to Agency and Employees
 - Role of Leadership
- ✎ Exercise: Leadership Challenge
 - Characteristics of Offenders
- ✎ Exercise: Blueprint: Module One
 - The Dirty Dozen
 - Attachment A - Characteristics of Employees and Offenders

Learning Objectives:



- Define staff sexual misconduct and associated behaviors;
- Identify the issues associated with staff sexual misconduct in a community corrections setting;
- Overview the risks to the agency, employees, and public safety associated with staff sexual misconduct;
- Discuss the myths and realities of the issue; and
- Clarify the role of agency leadership in addressing staff sexual misconduct.

Exercise: Test Your Knowledge!

An understanding of what constitutes staff sexual misconduct is essential to prevention. More than just sex between employees and offenders/clients, sexual misconduct encompasses a broad range of conduct including acts, attempted acts, words, gestures, innuendo and demeanor. What exactly is sexual misconduct? Here are some statements to consider. Which are true and which are false?



- _____ 1. Sexual misconduct is an issue only affecting women offenders.

- _____ 2. Telling a “dirty joke” in front of an offender or client may constitute sexual misconduct.

- _____ 3. A female employee who falls in “love” with a male offender who is on the caseload of a colleague, and agrees to marry him, is guilty of misconduct.

- _____ 4. A male officer seen wearing shorts and a golf shirt as he makes home visits is guilty of misconduct.

- _____ 5. An employee going through a bitter divorce who talks about his legal troubles with an offender may be guilty of misconduct.

- _____ 6. Offenders willingly go along with the employee and consent to a sexual relationship. In those circumstances, the employee is not guilty of sexual misconduct.

- _____ 7. An officer who has a relationship with an offender of the same sex is exempt from prosecution under state law.

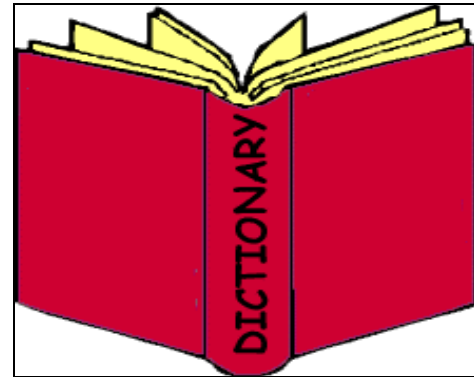
Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

- _____ 8. An officer has an occasional dating relationship with the sister of an offender who has just been assigned to the office for supervision. The officer doesn't have to disclose his relationship because it isn't serious and the offender hasn't been assigned to his caseload.
- _____ 9. An offender who routinely comes to the office wearing sexually suggestive clothing is not a concern because no one has filed a complaint.
- _____ 10. An agency may impose higher standards on its employees than those contained in the state's criminal statutes.
- _____ 11. Allegations of sexual misconduct are a criminal, not a civil, issue.
- _____ 12. After attending choir practice, a probation office volunteer goes for coffee with someone under the agency's supervision; but isn't guilty of misconduct because she and the offender are long time members of the choir.
- _____ 13. An employee from one local office who dates a misdemeanor probationer who is on the caseload of the neighboring jurisdiction is not guilty of sexual misconduct.
- _____ 14. Good policies, procedures and training on staff sexual misconduct ensure no incidents in your agency.

NOTES:

Defining Staff Sexual Misconduct

Defining staff sexual misconduct is one of the first steps in preventing and addressing it. Defining prohibited behavior in specific terms assures clarity for all those involved – employees, contractors, vendors, offenders and the families of offenders. Agencies who tell employees to avoid “being over-familiar” with offenders, or not engage in “conduct unbecoming” are not providing essential guidance.



Each agency must develop its own definitions of staff sexual misconduct, guided by state statutes. An agency may have regulations that are more restrictive than state statute. If the organization is in a state without laws covering community corrections, the agency can develop definitions based on best practices, and the experiences of colleagues across the country.

It is also important that administrators understand and acknowledge that staff sexual misconduct with offenders is not limited to male employees and female offenders. The experiences of agencies across the country demonstrate that sexual misconduct occurs in all four quadrants – male employees/female offenders, female employees/male offenders, male employees/male offenders, and female employees/female offenders. Taking this fact into consideration when the agency develops its policies and procedures will assure that employees and offenders are protected.

What needs to be covered in definitions? Here are some examples of definitions:¹

Sexual Misconduct:

Any behavior or act of a sexual nature by an employee, contractor, service provider, volunteer, or any person or entity acting on behalf of the agency directed to:

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

- A person under the care, custody, or supervision of the department/agency (*hereinafter referred to as “offender”*);
- Any collateral contact of an offender, including but not limited to family members, employers, friends, and other associates of the offender who have contact with the department/agency on behalf of the offender;
- Victim(s), and families of victims; and
- Any other persons having official contact with the department/agency on behalf of offenders.

Sexual misconduct includes, but is not limited to, acts or attempts to commit such acts of:

- Sexual assault;
- Sexual abuse;
- Sexual harassment;
- Sexual contact with the person, including touching of the genitals, breast, or other intimate parts of the body;
- Actions for the sexual gratification of any party;
- Conduct of a sexual nature or implication;
- Obscenity and unreasonable invasion of privacy, and inappropriate viewing; and/or
- Conversations or correspondence which suggests a romantic or sexual relationship between parties of the groups referenced above.

Sexual Assault – Any sexual touching or contact which is non-consensual, forced or coerced in any manner, including but not limited to rape, sodomy, or unlawful touching as defined by the ...[state]...statutes.

Sexual Contact – Includes, but is not limited to, all forms of sexual contact, intentional sexual touching or physical contact of a sexual manner, either directly or through clothing, of the genitalia, anus, groin, breasts, inner thighs, buttocks, with or without the consent of the

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

person, etc.; or any unwanted touching with intent to arouse, humiliate, harass, degrade, or gratify the sexual desire of any person. [Note: agencies should consider developing specific policy to guide: touching, hugging, kissing, fondling, etc. between employees and offenders.]

Sexual Abuse – Includes, but is not limited to, subjecting another person to any sexual act or contact by force, persuasion, inducement, or enticement; any sexual act or contact in which an employee, volunteer or agency representative participates or forces any offender to engage; subjecting another person who is incapable of giving consent by reason of their custodial status, physical state or mental state; or rape, sexual molestation, prostitution or other form of sexual exploitation.

Sexual Harassment – Includes, but is not limited to, all: sexually offensive language, comments or gestures; influencing, promising or threatening an offender's safety, supervision status, work status, or program involvement, in exchange for personal gain or favor of a sexual nature; creating or encouraging an atmosphere of intimidation, hostility or offensiveness as perceived by any individual who observes the sexually offensive behavior or language.

Sexualized Work Environment - A work environment in which behaviors, dress, speech of employees and/or offenders create a sexually charged workplace (in community corrections this should also include any place where employees have contact with offenders, such as offenders' homes, workplaces). Sexually explicit talk, inappropriate e-mails, postings on walls or bulletin boards, jokes, cartoons, unprofessional dress, all characterize a sexualized work environment. In a sexualized work environment, off-duty behavior, dating, and other activities intrude into the work environment.

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

Hostile Work Environment - Harassment, speech or conduct that is based on the judgment of a reasonable person, to be severe or pervasive enough to create a hostile or abusive work environment, based on race, religion, gender, national origin, age, disability, veteran status, political affiliation, citizenship status, marital status, or personal appearance, or in some jurisdictions, sexual orientation

Violation of Privacy Rights of Offenders – Includes, but is not limited to, the act or the attempted act of observing or interfering with an offender's personal affairs beyond the reasonable need to properly supervise and conduct effective intervention, or beyond what is necessary for the safety and security of the offender, the agency, and its employees.

Unauthorized Behavior – Includes, but is not limited to, any activity or contact with an offender or offender's family, that is unrelated or unnecessary to the employee's assigned duties and/or official business.

Personal Gain – Any advantage which benefits a person, including but not limited to monetary value, property, commercial interest, social, professional or political standing or advantage.

Employee - Any person compensated by the agency for working part-time or full-time, or paid internship, regardless of whether or not the employee is able to influence the outcome of an offender's supervision.

Offender/Client - Any person committed to the care, custody, or supervision of the agency by any court or through judicial sanction. This definition includes offenders assigned to programs such as pre-trial release, alternatives to incarceration, work or educational release, half-way houses, electronic monitoring, probation, parole, post-release supervision, or in any capacity

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

where employees are supervising the individual in an official capacity.

Volunteers - any person, who by mutual agreement with the agency, provides services on behalf of the agency without compensation, or who voluntarily assists offenders under the care or supervision of the agency.

Contractors - Any person, corporation or agency, other than an employee or volunteer, who provides any service to the agency and/or to offenders/clients (i.e. food service, medical and mental health providers, and other programs) for an agreed upon form of compensation. Contractors may also include other government agencies.

Collateral Contact - Any person with whom an employee of the agency may come in contact (other than offenders) for official reasons regarding an offender under the care, custody or supervision of the agency. Collateral contacts may include, but are not limited to: offenders' families, friends and associates; offenders' employers; treatment providers, medical providers; offenders' teachers, and supervisors; volunteer coordinators; attorneys; and judicial personnel.

Zero Tolerance - An agency's policy that commits it to making it unacceptable for any employee, volunteer, intern, contractor or vendor to engage in any action that the organization defines as sexual misconduct.

The Faces of Community Corrections



Types of Supervision

There are many different types of supervision within community corrections. For the purposes of this training, community corrections is defined as including all types of field supervision where offenders, pre-or-post trial, have some amount of freedom within the community, overseen by some level of supervision. Included in this definition are federal, state or local community corrections employees, vendors and/or contractors.

Types of community corrections supervision include, but are not limited to:

- Probation,
- Parole,
- Electronic monitoring,
- Education, work or other furlough,
- Conditional release,
- Mandatory supervised release,
- Pre-trial programs,
- Drunk driving offender monitor programs,
- Post-release supervision,
- Restitution centers,
- Half-way houses (offenders have certain freedom of movement outside of an institutional setting), and/or
- Residential treatment facilities.

These programs and services are considered part of this definition whether they are directly operated by a public agency, or are contracted for by the public entity.

Organizational Structure

Community corrections agencies throughout the country vary widely in organizational structure. “Traditionally organized” corrections departments are organized and

Preventing and Addressing Staff Sexual Misconduct in Community Corrections

supervised in a para-military or hierarchical fashion, and may report to a state director, county sheriff, or county government. Community corrections agencies organizationally are found within the courts, county government, municipal government, state government, or within state departments of corrections.

The different organizational structures of community corrections agencies create challenges in terms of a systemic approach to addressing sexual misconduct.

Identifying Who is Under Supervision

In prison or jail employees know who is “under the care, custody, or supervision” of an agency. For community corrections, knowing who is “under supervision” is not so easy. Offenders under the supervision of most community corrections agencies live in the same communities as employees, their children go to the same schools, they worship at the same churches, and they shop at the same stores. Policy is needed to guide employees about how to manage these contacts.

Working within the community

By the nature of their job, community corrections professionals have regular contact with a wide variety of people in the community. These contacts include employers of offenders, collateral contacts, families of offenders -- those who have some particular relationship to the offender. It is important that agency policy establish the expected standard of conduct, for both on-and off-duty behavior, of employees who are interacting with those in the community.



Ambiguous role of employees

Community corrections professionals are challenged to balance potentially competing roles. In many agencies, employees are expected to be “enforcers” who assure the offender adheres to conditions of supervision. If offenders do not comply, employees have the responsibility of reporting violations to the courts, the parole board, and other release authorities, and are expected to enforce the issuance of warrants for violations.

With the advent of assessment tools and effective intervention models employees have become more involved in and aware of the personal lives of those they supervise. Community corrections professionals may be expected to be a “helper” or advocate for the offender, providing referral services, assisting with personal problems that may affect supervision, working with family members, friends and co-workers of the offender, and even providing counseling.

Agency policy defining the roles of community corrections professionals in their evolving roles, and defining expected behaviors assist employees in avoiding inappropriate behaviors.

Managing the information

Community corrections employees have access to a considerable amount of personal information about offenders/clients. The agency must provide employees with the guidelines to manage this information. Many competent and well-intentioned employees find themselves in sensitive situations because of their access to highly personal information, and have little or no guidance about how to manage themselves and the offender. These challenges are discussed more thoroughly in **Module Two - Culture, Professional Boundaries, and Ethics.**



Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

Exercise: Burning Issues

This is your opportunity to list those topics that you want to address during this training. What are the issues you want to learn about or explore? List them here!

BURNING ISSUES



1.

2.

3.

4.

5.

6.

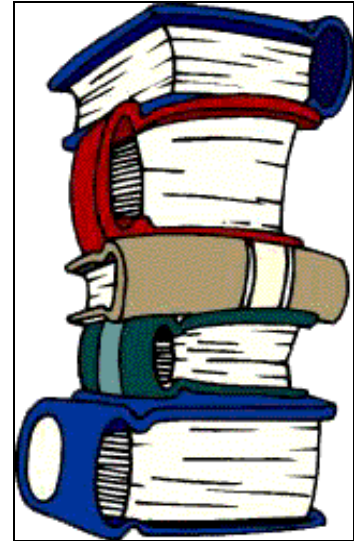
7.

Impact of Sexual Misconduct on the Profession

In the past decade, several national reports have addressed, explored, and investigated the issue of staff sexual misconduct.

These publications are summarized here to provide an overview of why staff sexual misconduct has evolved into a national and international issue, and what community corrections administrators can learn. These and other relevant reports and articles are included in the [Resources](#) section of this curriculum.

- In December 1996, Human Rights Watch Organization published “All Too Familiar: Sexual Abuse of Women in U.S. State Prisons.” This report revealed a number of incidents involving sexual harassment, sexual abuse, sexual contact, and violations of privacy issues for women in state correctional facilities in California, the District of Columbia, Georgia, Illinois, Michigan and New York.²
- In 1997, the U.S. Department of Justice filed a civil rights lawsuit against the Departments of Corrections in the states of Michigan and Arizona. The actions were based on findings that the departments failed to sufficiently protect female offenders from staff sexual misconduct.
- “Nowhere to Hide: Retaliation against Women in Michigan State Prisons,” Human Rights Watch, details what happened to women offenders who filed a civil suit (Nunn v. Michigan Department of Corrections). The offenders claimed that they were being retaliated against by employees for the filing of this suit.³
- The widespread abuse of female offenders was examined by Amnesty International USA, in their 1999 document “Not Part of My Sentence: Violations of Human Rights of Women in Custody.”



Preventing and Addressing Staff Sexual Misconduct in Community Corrections

- A 1999 United Nations report, compiled by an independent fact-finder, found that sexual misconduct by prison officers is pervasive in U.S. prisons; especially when compared to prison systems in other industrialized countries. This report offered recommendations, including the criminalization of sexual misconduct between employees and offenders.⁴
- In June 1999, the United States GAO published two reports. “Women in Prison: Sexual Misconduct by Correctional Staff” studied four jurisdictions; California Department of Corrections, District of Columbia Department of Corrections, Texas Department of Criminal Justice, and the Federal Bureau of Prisons who account for more than 1/3 of the total national prison population. The report found that the 1990’s created a new awareness of the problem of staff sexual misconduct, and that the response to the problem has been mixed.⁵ The second report, “Women in Prison: Issues and Challenges Confronting U. S. Correctional Systems,” reviewed the trends in the incarceration of women and the effectiveness of the current management philosophies.⁶

The Numbers⁶

There is no national repository of data about the prevalence of staff sexual misconduct with offenders. What is known is:

- As of 2004, 25 states have enacted legislation prohibiting staff sexual misconduct with offenders in a community corrections setting. These 25 states generally make it a felony to participate in sexual misconduct with offenders, and carry penalties anywhere from one year to 20 years in prison, depending on the severity of the misconduct. Several of these states also assess fines for convictions of



Preventing and Addressing Staff Sexual Misconduct in Community Corrections

these offenses. These fines are of significant amounts, in the range of \$1,000 to as much as \$150,000.⁷

- As of January 2004, all but three states have enacted specific legislation making staff sexual misconduct with inmates in an institutional setting (jails, prisons) a criminal act.

Myths and Realities

There are many assumptions and beliefs about staff sexual misconduct, many of which, although widespread are inaccurate.



Myth # 1: *My agency has had no reports of staff sexual misconduct, so I can't see why this is a problem for us.*

Reality: Virtually no public or private institution has escaped misconduct - the church, schools, Congress, mental health facilities, and even our families. If an agency has no reported allegations, that's all it means – that no allegations are reported. An agency with no reports of allegations would be wise to review their policies and procedures and assess are any barriers to reporting either by employees or offenders.

Myth # 2: *Offenders consent to inappropriate sexual relationships with employees.*

Reality: Several federal courts have been clear that there is no such thing as “consensual sex” in a jail or prison environment. By extension, this would apply to community corrections organizations. The imbalance of power makes consent impossible. If agency employees still believe that consent is a defense there is essential work that needs to be quickly accomplished.

Myth # 3: Employees know their professional boundaries. It is just common sense.

Reality: Focus groups conducted with community corrections professionals identified a clear gap between what employees understand about their professional boundaries, and what management expects. Many employees are unclear about boundaries and if they should respond to certain situations involving offenders.

Training, both pre-service and in-service, is often insufficient in providing employees with the interpersonal skills they need to handle their challenging caseloads.

Myth # 4: Sexual misconduct is caused by cross gender supervision.

Reality: Sexual misconduct is not limited to male employees/female offenders or female employees/male offenders. Limiting supervision to the same sex is an ineffective and short-sighted way to prevent misconduct. Such policies, in some cases, have placed the agency in jeopardy of violating provisions of Title VII of the 1964 Civil Rights Act. Effective policies regarding the supervision of offenders, along with prompt and effective investigation of allegations do more to prevent misconduct than any ban on cross gender supervision.

Myth # 5: Employees will tell us if they believe one of their peers is inappropriately involved with an offender.

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

Reality: While administrators hope that their employees will report misconduct, employees may not recognize inappropriate behaviors or know what the agency wants reported. Employees may think that since they see a problem, so does their supervisor. Some employees may feel it is none of their business, or the agency's business, if there is a personal relationship between an employee and offender. Additionally, a code of silence exists in many criminal justice agencies which, prevents information from surfacing.

Myth # 6: *Raising this issue with employees and offenders will only serve to exacerbate the matter, creating problems where none exist.*

Reality: The *problem* is not created by raising the issue of sexual misconduct with employees and offenders. The problem is exacerbated and permitted to thrive when the issue is NOT raised. Without raising staff sexual misconduct to the same status as accepting gratuities, failing to follow the court's direction, or sexual harassment, it will not be sufficiently addressed. The issue will not disappear without the intervention of the agency's leadership.

Myth # 7: *Orienting offenders to the agency's zero tolerance policy and telling them the reporting mechanisms will only produce false allegations by offenders who want to "get even" with an employee.*

Reality: Agencies who institute a zero tolerance policy with mandatory reporting by employees, coupled with offender/client orientation, may find a temporary increase in the number allegations at the time the policy is implemented. However, few agencies have found that these allegations are maliciously false. The real danger is failing to

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

tell offenders the rules, and failing to protect them from illegal employee actions.

Myth # 8: Mostly new employees get involved with misconduct.

Reality: While some new employees may be involved with misconduct, a disturbing observation is that many of those involved in sexual misconduct have many years on the job and hold supervisory positions. These veteran employees have access to files and personal information about offenders, can make changes to the status of supervision, and their conduct is often unchallenged by their peers or supervisors.

Myth # 9: Offenders con and manipulate employees into compromising situations, making the employees the real victims.

Reality: Offenders certainly may try to exploit employees to attempt to improve their situation. The agency must provide employees with the information and skills they need for working with this population. The fact is, it is not the action of the offender in the situation that carries the consequences - it is the response of the employee that matters. Employees, contractors and vendors are held to a higher standard than offenders because of their position of authority. A corrections administrator recently told his employees, "If you follow policies and procedures, and maintain professional boundaries, you can't be manipulated - regardless of what the *offender* does."

Myth # 10: Investigating these allegations is a drain of valuable resources and a waste of time. There is hardly ever any physical evidence, and witnesses are usually uncooperative.

Reality: Misconduct may be reported weeks or months after the alleged event. Physical evidence, if it existed, may be unusable or tainted. Nonetheless, agencies have an obligation to investigate allegations whether they come through formal or informal paths.

Myth #11: Even if we investigate and determine a crime has been committed, the prosecutor won't take the case. These cases are just not a priority.

Reality: Many administrators voice their frustration that prosecutors decline to prosecute even after an internal investigation has been concluded. Educating prosecutors about these cases, and working with them to improve investigations is a successful approach taken by some agencies. Even after working with the prosecutor, cases may not be accepted for criminal prosecution; this does not relieve the agency of the responsibility to conduct a credible investigation and forward it to the prosecutor.

Risks to Agency, Employees, and Public Safety

Most corrections and community corrections agencies have been affected in some way by sexual misconduct. Being involved in, or ignoring sexual misconduct can have dire consequences, not only for the agency, but also for employees and the victims.

Here are a few examples::

- In Florida, a sixteen-year veteran probation officer pled no contest in March 2004 to misconduct charges and



Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

was sentenced to four months in jail, two years of house arrest and three years of probation. In addition to having sex with a probationer, he altered official documents to avoid violating her probation.

- A six-year veteran probation officer in Kentucky was fired after an internal investigation into allegations that he had sex with a client in the office bathroom. In December 2001, the officer was sentenced to 18 months (suspended sentence) on felony misconduct charges. The probationer, a 27-year-old female, failed a drug screening and believed that having sex with the officer would prevent her from returning to jail.
- In Wisconsin, a male probation officer was charged with 14 criminal counts ranging from sexual battery to misuse of office. He forced female probationers to have sex with him, telling them he would violate them and return them to jail if they refused. He was also physically abusive. His supervisors reassigned him when they learned of his relationship with some of the probationers, ordered him to cease contact, and took no further actions. He was sentenced to 2.5 years in prison, 2.5 years of house arrest and 6 years of probation.
- In September 2002, a probation officer in Wisconsin pled guilty to charges of sexual misconduct and faced a potential of 10 years in prison and a \$20,000 fine. The officer was fired in April 2001.
- In 2002, although a grand jury dismissed charges against a South Carolina probation officer, the officer was fired from his job after being found guilty in an internal investigation for sexual misconduct.
- In the State of Florida, between 1997 and 1999, the Florida Department of Law Enforcement reported 233 cases filed for decertification, based on sex offenses, sex on duty or unprofessional relationship with offenders. Of these cases, 75% were in state prisons, 10% in private prisons and 15% in probation/parole. Of

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

the 233 cases, 30% (71) resulted in decertification, denial of appeal on decertification, voluntary relinquishment of certification, letter of acknowledgment (agency discipline sufficient), or letter of guidance (admonishment added to discipline).⁸

- On 2004, in Montana, a 13-year veteran probation officer resigned after an internal investigation was initiated into allegations that he had been having a sexual relationship with one of his probationers. If convicted, the officer faces six months in jail and a \$500 fine.
- In 2002, a probation officer in Clark County, Nevada was terminated from his job, after having a sexual relationship with a probationer. In 2003, he was convicted of a felony and sentenced to probation. The County has settled a civil claim filed the probationer for \$75,000.
- In May 2003, a 16-year veteran probation officer in Florida was charged with numerous felonies which included having sex with a probationer he supervised. The officer also falsified documents to conceal an arrest of the probationer, and asked other officers to do the same. The officer resigned his position and faces up to 10 years in prison if convicted.

Role of Leadership

Leadership is critical to addressing and preventing sexual misconduct. Leaders are visible to employees, and establish and maintain the culture of the agency. They set policy and have a responsibility to enforce it. Agency administrators are responsible not only for their own actions, but those of their employees. The agency leadership has the primary responsibility to *proactively manage the agency*. Responsibilities of the agency's leadership include:



- Developing and implementing clear and consistent policies and procedures for the prevention, identification and appropriate response to allegations of misconduct.
- Assuring that the agency policy of zero tolerance is fully explained to employees and offenders and consistently enforced.
- Identifying, reporting and enforcing violations of the law, and assuring appropriate follow-up.
- Providing training and orientation regarding the agency's policies and procedures for employees, offenders, volunteers, vendors, contractors and all others who have contact with employees and offenders

Impact of Staff Sexual Misconduct

- Jeopardizes the integrity and credibility of the agency and its employees;
- Increases stress and trauma for all involved;
- Undermines the public's support;
- Exposes the agency and employees to liability;
- Creates a hostile work environment;
- Compromises professionals;
- Victimizes the already vulnerable;
- Violates the law,
- Diminishes legislative support for funding and reforms; and
- Creates mistrust among employees.

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

in the course of their professional duties

- Initiating and monitoring investigations, and assuring that the investigative process is fair, thorough, and complete, and that investigators are competent and trained in their duties.
- Ensuring that discipline is imposed in an appropriate, consistent, timely and fair manner.
- Assuring that investigative partnerships are established and nurtured.
- Leading by example to encourage integrity and excellence among employees.



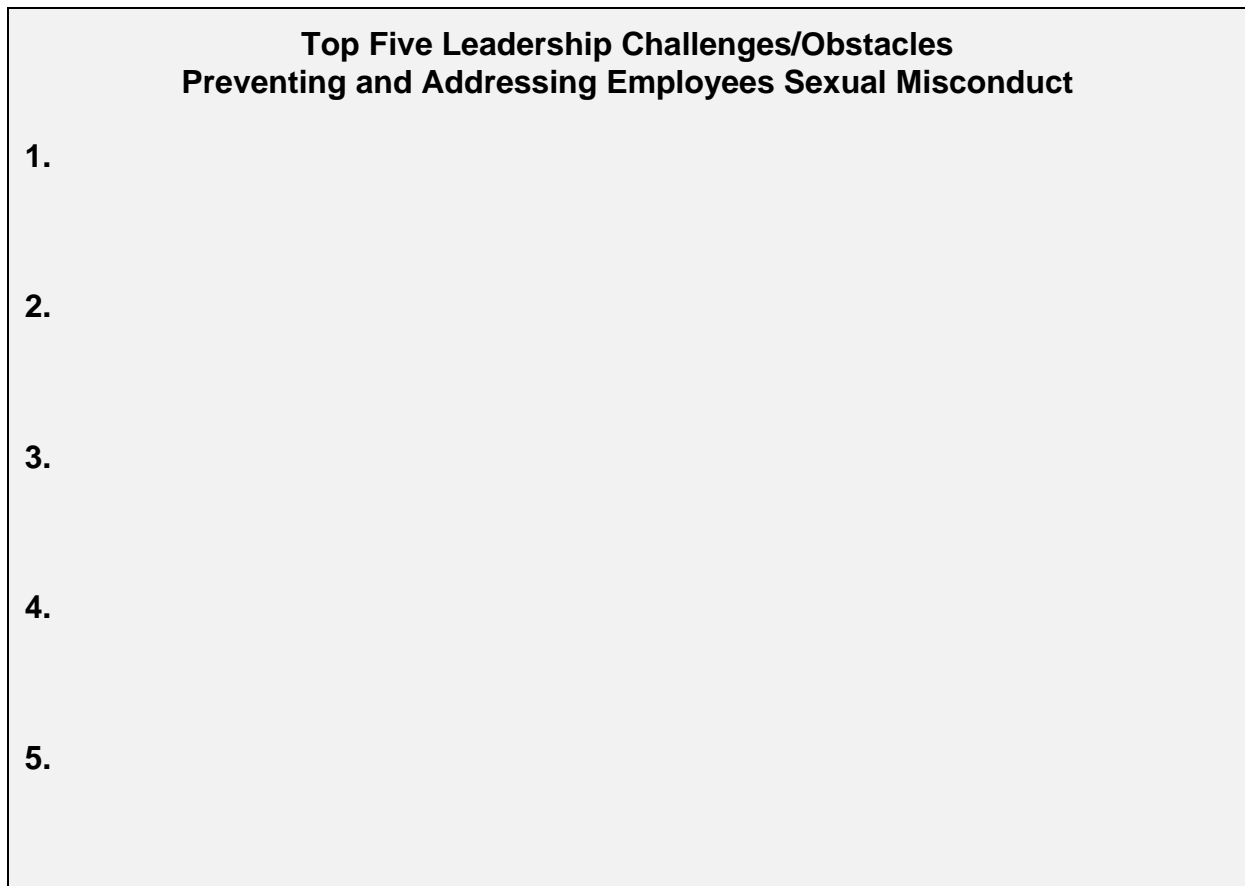
Exercise: Leadership Challenge

What are your leadership challenges as you consider what you will do in your agency to prevent and address staff sexual misconduct?

Working in a group with your colleagues, identify your top five leadership challenges.

Characteristics of Offenders

There are many factors that influence a person's response to being arrested, convicted of a crime, and being placed under a sanction by the court, including actual or perceived threats, paranoia, anger and resentment, and intimidation. Added to this, are the characteristics that offenders bring with them when



they enter the criminal justice system.

As of 2000, **4.6 million** adults were under correctional supervision in the US. This compares to 2 million persons who are incarcerated in jails and prisons.⁹

Characteristics of adults under supervision are:¹⁰

Preventing and Addressing Staff Sexual Misconduct in Community Corrections

- Average age is 25-34;
- 40% are high school graduates;
- 35% have NOT completed high school;
- More than 50% are under supervision for property or drug offenses;
- 17% are violent offenders; and
- 77% of offenders have at least ONE face-to-face meeting with employees per month (63% in office, 14% in the field).

Special Conditions of Supervision	% of Those Under Supervision
Substance Abuse Treatment	41%
Other treatment (sex offender, psychiatric, psychological, other counseling)	17.9%
Employment/Educational training	40.3%
Alcohol/drug restrictions and mandatory drug testing	38.2%
Fees, fines, court costs, restitution	80.4%

What conclusions can be drawn from this data?

- **High risk for community corrections** - The number of persons under supervision far exceeds those in jails and prisons. Community corrections employees are potentially more vulnerable to sexual misconduct just because of their large caseloads.¹¹
- **Education of employees** - Many employees may not know of the profiles of those who are under their supervision. Making it a priority for employees to know this information, and not just assuming that employees have assimilated this data from college or prior work experience, helps protect both employees and offenders.
- **Similarities lead to blurred boundaries** - Employees and offenders share similar backgrounds, interests, similar life experiences, and probably are within the same age groups.

- **Conflicting roles for employees** - With the proportion of offenders required to participate in some kind of treatment program as a condition of supervision, employees must often serve potentially conflicting roles of enforcer of the rules, and “social worker” (such as facilitating group sessions, working with families, etc.). This can lead to the blurring of professional boundaries, which can then lead to misconduct and inappropriate relationships.

Prior physical & sexual abuse histories among offenders

Offenders’ history of sexual and physical abuse influences how they relate to the authority figures in their world, including the community corrections professionals who supervise them. In a Bureau of Justice Statistics report on prior abuse between offenders and probationers, of **those who have reported prior abuse**:¹²

- 40.4% of female probationers report prior sexual abuse, compared to 9.3% of males; (*compared to 17% of females and 8% of males in the general population*)
- More than half of women offenders reporting prior abuse were abused by spouses or boyfriends, and nearly a third by parents or guardians. Females state that the abuse continued through the childhood years into adulthood.
- 89% of all offenders reporting abuse had used illegal drugs, compared to 82% who had not been abused.
- Adult offenders often experience abuse as juveniles in foster care, group homes, detention centers, etc.
- Abuse history can lead to post-traumatic stress disorder (PTSD), and symptoms may surface at the time of a new trauma.¹²
- Offenders with a history of physical abuse tend to abuse substances as a means to mask the pain of the abuse.¹³
- Substance abuse is a means to deal with lack of control of their environment.
- Offenders may use unhealthy and inappropriate relationships with those in authority to gain control over

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

their situation.

Conclusions - Module One

This module has explored:

- Definitions of staff sexual misconduct;
- The need for community corrections agencies to articulate prohibited behaviors;
- The range of issues in community corrections regarding organization, challenges of working in the community, and the ambiguous role of employees;
- The national and international scope of the issue;
- The risks to the agency and employees of misconduct;
- The profiles of offenders and employees as they relate to misconduct; and
- The responsibilities of leaders.

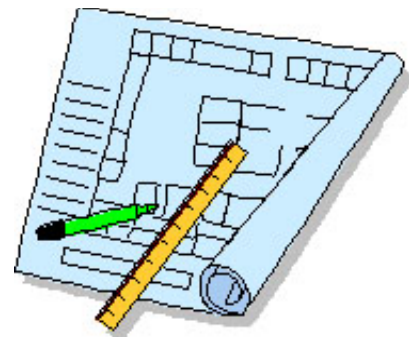
Module One provide the basic information for administrators that will be built-on the subsequent modules of this training.

Exercise: Blueprint - Module One

Please refer to your personal blueprint. **Module One** has been completed.

- Make notes about what issues are of concern to you.
- What is working well in your organizations?
- What is on your “to do” list based on what you have heard?

Take a few minutes to make notes.



Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

The Dirty Dozen

1. Do you find yourself looking forward to seeing a particular offender/client?
2. When it comes to a particular offender, are you reluctant to close a case, or transfer supervision to another officer?
3. If you run into an offender at a local restaurant or bar, do you think it is acceptable to sit down and share a meal or drink?
4. Have you ever spoken to a peer and tried to convince that person to give a certain offender on their caseload "a break" because you know the offender personally?
5. Have you ever failed to report, or even considered not reporting, a violation of supervision because of your relationship with a client?
6. Have you done anything with someone you supervise that you would not want your family or supervisor to know about?
7. Have you discussed your personal life, or sought personal advice from someone you supervise?
8. Do you have thoughts or fantasies of being with a particular offender or client?
9. Have you ever done a 'favor' for an offender, such as loaning them money or intervening with the offender's employer; or have you asked them to do a favor for you?
10. Have you told an offender/client sexual jokes, or allowed them to tell you sexual jokes?
11. Have you become particularly friendly with a member of an offender's family? Do you plan field visits for times when they will be home, or without any official need to see them?
12. Do you find that if you knew an offender before they were placed on supervision, such as attending the same school or same church, you are more friendly with them?

Prepared by: Elizabeth Layman,

*Retired Regional Director,
Florida Parole Commission*

Preventing and Addressing Staff Sexual Misconduct in Community Corrections

Attachment A - Data - Offenders and Employees

What other factors do employees and offenders share? Here is some information to help administrators and employees appreciate that there are shared life experiences that connect offenders and employees.

Mental Health

Statistically, offenders are more likely to be diagnosed with mental illnesses than the general population.¹⁴ Ironically, the effects of substance abuse and the accompanying inability to deal with the emotional trauma of physical and sexual abuse, aggravate the psychological damage.

Those offenders with a diagnosis of mental illnesses may:

- Typically be less equipped to handle the stresses and challenges of the restrictions and demands of supervision;
- Be more at risk for exploitation by employees;
- Have higher rates of homelessness and unemployment;
- Report higher rates of physical and substance abuse than other offenders; and
- Be unaware or unable to distinguish between healthy and exploitive relationships.

Community corrections professionals work with an offender population that requires a tremendous range of treatment and professional attention to address prior abuse histories, and co-occurring substance abuse and mental health diagnoses.

Unique characteristics of female offender

There are factors that place female offenders at greater risk, than males.^{15 16}

- Women are at greater risk of victimization and criminalization when they become part of a “downward spiral” that begins with leaving home at an early age, early pregnancies, lack of education, and the resulting diminished work skills and increased child-rearing responsibilities.¹⁷
- The average female offender has more familial responsibilities than the average male offender entering prison. More than 2/3 of all women offenders are single mothers, with at least one child under the age of 18.¹⁸

Work Place - There are more than **708,000 persons** working in corrections.¹⁹ Just as offenders bring with them the effects of the experiences and traumas, so also do a large number of corrections employees.

Employees life experiences influence employees/offender interactions. These include age, race, sex, religion, education, culture, health, marital status, parents, death of family members, children, finances, job experience, and family history. Offenders who seek to establish a relationship with employees find common ground. How employees respond to the offender’s initiating dialogue, how employees dress and interact around offenders, and when employees begin to share personal information with offenders, can all cross or blur those professional boundaries.

Drug and alcohol abuse

Substance abuse is not just a problem within the offender population. SAMSHA, the Substance Abuse and Mental Health Services Administration, of the U.S. Department of Health and Human Services, has compiled

Preventing and Addressing Staff Sexual Misconduct in Community Corrections

statistical information relating to the prevalence of illicit drug, and alcohol abuse among workers between 1994 and 1997.

The respondents to this survey represented full-time workers in the general workplace in the U.S. between the ages of 18 and 49. Some of the figures include the following:²⁰

- About 7.7% of workers reported current illicit drug use;
- 8% of workers reported current heavy alcohol use;
- Workers between 18-24 years old were more likely to report illicit drug use than those 25-49 years old; and
- In 1997, statistics indicated that the higher the educational level of the worker, the less likely they were to report current illicit drug use.

Mental Health

The 1999 Surgeon General's Report on Mental Health in the United States²¹, indicated that 19% of the general adult population have some sort of mental disorder, ranging from very mild to severe. Interestingly, this rate is very similar to offenders populations, indicating that those in the workforce share similar challenges due to mental health issues.

Recognizing the significance of this data is critical in developing both offender programming and employee assistance programs. It also indicates that both offenders and employees may have a higher risk of involvement with misconduct as a result of any mental and emotional challenges in their everyday lives.

Multi-Generational Issues

Diversity in the workforce means more than persons of differing genders, national origin race, creed, sexual orientation, ethnicity, and physical disabilities. Inter-generational issues pose new challenges for managers and administrators. It is important to understand the characteristics of each generation, as their attitudes, beliefs and expectations will affect what makes them vulnerable to misconduct.

Nearly every workplace has a mixture of 4 generations:

- Veterans: (74 million) born before 1943
- Baby Boomers: (80 million) born 1943-1964
- Generation Xers: (46 million) born 1965-1981
- Millennials: (76 million) born 1982-2000

Each generation has unique traits, such as attitudes, values, work ethics, and perceptions. As the different generations work together, there are certain "Clash Points," a term coined by experts on multi-generational issues.²² These clash points arise out of a difference in perception and expectations in the workplace.

Endnotes:

1. Source: Some definitions used in these examples are taken from those provided by the States of Georgia & California, and Arlington County, Virginia. See also, Staff Sexual Misconduct with Inmates: A Policy Development Guide for Sheriffs and Jail Administrators. Susan W. McCampbell and Larry S. Fischer, 2002. See also Layman, McCampbell Staff Sexual Misconduct with Offenders: A Policy Development Guide for Community Corrections Administrators, March 2004, National Institute of Corrections [draft].
2. *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*; Human Rights Watch, Women's Rights Project, 1996.
3. *Nowhere to Hide: Retaliation Against Women in Michigan State Prisons*: Human Rights Watch, September 1998.
4. *Integration of the Human Rights of Women and Gender Perspective: Violence Against Women; Report of the Special Rapporteur on violence against women, its causes and consequences*, by Ms. Radhika Coomaraswamy, in accordance with the Commission on Human Rights Resolution 1997/44: Addendum – Report of the mission to the USA on the issue of violence against women in state and federal prisons; E/CN.4/1999/68/Add.2 GE.99-10012 (E), United Nations Economic and Social Council, Commission on Human Rights 55th Session, January 4, 1999.
5. *Women in Prison: Sexual Misconduct by Correctional Staff*; Report to the Honorable Eleanor Holmes Norton, House of Representatives; United States Government Accounting Office, GAO/GGD-99-104, June 1999.
6. *Women in Prison: Issues and Challenges Confronting U. S. Correctional Systems*, Report to the Honorable Eleanor Holmes Norton, House of Representatives; United States Government Accounting Office, GAO/GGD-00-22, December 1999.
6. "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, May 2000.
7. Fifty-State Survey and "Sexual Misconduct in Prisons: Law, Agency Response and Prevention," National Institute of Corrections.
8. Florida Department of Law Enforcement, Criminal Justice Professionalism Program, August 2000.
9. U. S. Dept. of Justice, Bureau of Justice Statistics, Probation and Parole in the United States, 2001. August 2002 NCJ 195669.
10. Ibid.
11. U. S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Statistics. Selected Findings, *Prior Abuse Reported by Offenders and Probationers*, April 1999, NCJ 172879.
12. Special Report on Female Offenders in Florida Prisons, Supplement to the State of Florida Correctional Medical Authority's Annual Report 1998-1999. *Post-Traumatic Stress Disorder, the "Battered Woman Syndrome"* pp. 12 -20. Citing Farley, Melissa, Isin Baral, Mirab Kiremiri, Ufile Sezgin, "Prostitution in Five Counties: Violence and Post-Traumatic Stress Disorder" From *Feminism and Psychology* 8 (4). 1998.
13. Special Report on Female Offenders in Florida Prisons, Supplement to the State of Florida Correctional Medical Authority's Annual Report 1998-1999.

Preventing and Addressing Staff Sexual
Misconduct in Community Corrections

14. U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report, *Women Offenders* by Lawrence A. Greenfield and Tracy L. Snell, December 1999, NCJ 175688.
15. Owen, Barbara. *In the Mix: Struggle and Survival in a Women's Prison*, State University of New York Press, Albany 1998.
16. See also, Bloom, Owen, Covington, *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders*, National Institute of Corrections, 2003.
17. Ibid.
18. U.S. Government Accounting Office, *Women in Prison: Issues and Challenges Confronting U.S. Correctional Systems*. Report to the Honorable Eleanor Holmes Norton, December 1999 GAO/GGD-00-22.
19. Bureau of Justice Statistics, *The Sourcebook of Criminal Justice Statistics*, 2000.
20. Zhang, Zhiwei, Ph.D., Lynn X. Huang, Ph.D., and Angela M. Brittingham, M.A., *Worker Drug Use and Workplace Policies and Programs: Results from the 1994 and 1997 National Household Survey on Drug Abuse*, Office of Applied Studies, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, September 25, 1999.
21. U.S. Department of Health and Human Services. *Mental Health: A Report of the Surgeon General*. Rockville, Maryland. Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institute of Health, National Institute of Mental Health, 1999.
22. See, Lancaster, Lynne C. and David Stillman, *When Generations Collide*, Harper Collins 2002.