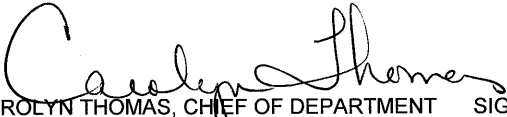
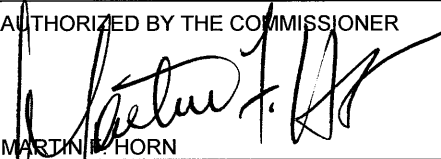




THE CITY OF NEW YORK  
DEPARTMENT OF CORRECTION



## DIRECTIVE



<input checked="" type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input type="checkbox"/> REVISED			SUBJECT		
EFFECTIVE DATE <b>12/31/08</b>		*TERMINATION DATE / /		<b>PREVENTING INMATE SEXUAL ABUSE</b>	
CLASSIFICATION # <b>5010R-A</b>	SUPERSEDES <b>5010</b>	DATED <b>05/01/07</b>	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DISTRIBUTION <b>A</b>	PAGE 1 OF 11 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER  CAROLYN THOMAS, CHIEF OF DEPARTMENT      SIGNATURE			AUTHORIZED BY THE COMMISSIONER  MARTIN HORN      SIGNATURE		

### I. PURPOSE

- A. To prevent inmate-on-inmate and staff-on-inmate sexual abuse and sexual threats;
- B. To detect and respond to allegations of sexual abuse and sexual threats, including prompt and effective intervention to address the safety and treatment needs of an inmate victim;
- C. To discipline and prosecute those who commit such acts of sexual abuse and sexual threats; and
- D. To set forth the duty of all staff to report any allegations, actual knowledge or reasonable belief concerning any incident of sexual abuse or sexual threats, or the existence of an inappropriate relationship between staff and an inmate.

### II. POLICY

- A. The New York City Department of Correction (DOC) has a zero tolerance policy with regard to sexual abuse and sexual threats. All sexual conduct, including sexual contact, is prohibited. All allegations of sexual abuse and sexual threats shall be promptly and thoroughly investigated.
- B. 1. Sexual conduct by staff with a person committed to the custody of the Department is a crime. Under the New York State Penal Law, an employee who engages in sexual conduct, including sexual contact, with an inmate is guilty of a sex offense. 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. Sexual conduct with an inmate is a crime whether it occurs inside a correctional facility, during transportation outside a correctional facility, or at any other time during an inmate's custody.



	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT  <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>2</b> OF <b>11</b> PAGES	

## II. POLICY (cont.)

- B. 2. DOC Rule and Regulation 3.25.040 further prohibits members of the Department from indulging in any undue familiarity with inmates or permitting undue familiarity on the part of the inmate toward themselves.
- C. Any sexual abuse of an inmate by a staff member will result in disciplinary action and will be prosecuted to the fullest extent of the law. Staff also face registration as a sex offender and may be held financially liable and not indemnified by the City if sued as a result of their actions.
- D. Additionally, it is the policy of DOC that coercive inmate on inmate sexual conduct is sex abuse and is not to be tolerated. Inmates who engage in sexual abuse as defined below will be arrested and referred for prosecution as well as disciplinary action.
- E. Further, inmate rules prohibit an inmate from engaging in or soliciting a sexual act with another inmate, whether voluntary or coerced. Inmates who are observed engaging in voluntary activity shall be ordered to cease their activity and infractions shall be processed for both parties.
- F. All staff are responsible for being alert to signs of potential situations in which sexual abuse might occur and signs of victimization.
- G. Any staff member who has either knowledge or reasonable belief or receives an allegation that an incident or threat of sexual abuse has occurred and fails to report such information will be subject to disciplinary action.

## III. DEFINITIONS

- A. "Staff" or "employee" means any person who is permitted entry to a correctional facility pursuant to their duties as an employee of any government agency, volunteer, or under a contractual arrangement with any government agency.
- B. "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.
- C. "Sexual Contact" means any touching of the sexual or other intimate parts of an inmate for the purpose of gratifying sexual desire of either party, and shall have the same meaning as set forth in Penal Law § 130.00.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>3</b> OF <b>11</b> PAGES	

### III. DEFINITIONS (cont.)

NOTE: "Sexual Contact" does not include touching of the intimate parts of an inmate during the performance of a pat frisk or strip search in accordance with Department procedures, or during a medical examination by health care staff for a proper medical purpose.



- D. "Staff-on-Inmate Sexual" Abuse is when staff engages in sexual conduct, including sexual contact, with an inmate.
- E. "Inmate-on-Inmate Sexual Abuse" is when one or more inmates engage in sexual conduct, including sexual contact, with another inmate against his/her will or by use of threats, intimidation or other coercive action.
- 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.

### IV. STAFF DUTY TO REPORT

- A. Under both Department policy (NYCDOC Rules and Regulations 3.20.170) and this Directive, and Mayor's Executive Order #16, all staff, regardless of title, have a duty to report any sexual abuse or sexual threat, or information regarding inappropriate relationship between an employee and inmate. Such duty to report shall include any allegations, knowledge or reasonable belief regarding such conduct.
- B. All allegations are to be reported regardless of whether supported by medical evidence.
- C. Any staff who fails to report such information is subject to disciplinary action.

### V. PROCEDURES

- A. Reporting (in General)
  - 1. Inmates shall be informed of the telephone number of the New York City Department of Investigation (DOI) through posters, orientation materials and other methods, as well as provided with the opportunity to report allegations to the Warden's office. The Warden shall notify DOI immediately if the inmate allegation involves abuse by staff.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>4</b> OF <b>11</b> PAGES	



## V. PROCEDURES (cont.)

2. A staff member who receives an allegation or information that an inmate is the victim of an incident of sexual abuse or sexual threats must be aware of the sensitive nature of the situation. The inmate must be treated with due consideration for the effects of sexual abuse.
3. No reprisals of any kind shall be taken against an inmate or staff for good faith reporting of such an incident.

### B. Staff-on-Inmate Sexual Abuse or Sexual Threats

1. Whenever an employee receives any allegation or information regarding staff-on-inmate sexual abuse or sexual threats, he/she must immediately notify either the Department of Investigation (DOI) directly or the Tour Commander and no one else, and wait for further instructions. Where the subject of the allegation is the Tour Commander, notification shall be made directly to a Deputy Warden (if on-duty) or directly to the DOI. The Tour Commander or Deputy Warden shall immediately notify DOI. During off-hours, the Tour Commander will call the Central Operations Desk (COD) and ask to have the DOI person on-call paged, but shall not provide information to COD regarding the incident. Staff shall await instructions from DOI regarding further action such as notification of COD, completion of incident reports, establishment of a crime scene, referral to chaplain services and housing of the complainant. When the incident is reported to COD, only the date of the report, and the name of the Facility Chaplain who was contacted to conduct counseling sessions (pursuant to section V.F.) should be entered in the Unusual Log with the subject matter recorded as "confidential."
2. COD shall not publish any reports regarding allegations against staff without DOI authorization and instruction as to content.
3. No statements shall be taken from inmates or employees, unless otherwise directed by DOI.
4. The Tour Commander shall ensure that the victim is separated from the alleged perpetrator and brought to the clinic for both physical and mental evaluation. Any rape kits completed by medical staff shall be handled by DOI.
5. The Tour Commander shall call DOI within 24 hours of the initial call to obtain the DOI intake number.



NOTE: All other allegations involving employee corruption, conflict of interest or criminality shall be reported directly to DOI by the employee, through DOI's regular telephone number.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>5</b> OF <b>11</b> PAGES	

## V. PROCEDURES (cont.)

### C. Inmate-on-Inmate Sexual Abuse or Sexual Threat

1. Whenever an employee knows or suspects, or receives an allegation from any source regarding inmate-on-inmate sexual abuse or sexual threat, he/she shall notify the area supervisor immediately. The Tour Commander will make notifications to COD in accordance with Directive #5000R-A, Reporting Unusual Incidents and also notify the Investigation Division. COD shall make notifications in accordance with Directive #5000R-A including notifying the Investigation Division within 15 minutes.
2. COD shall ensure that all pertinent report information is obtained, noting who, what, where, when and how, name and shield #, NYSID and book and case # (if applicable). However when transcribing the information on the 24 Hour Report, and sending out information over the paging system, COD shall report only: facility, date and time and the statement that a sexual allegation was reported , and the name of the Facility Chaplain who was contacted to conduct counseling sessions (pursuant to section V.F.) COD shall not include the name of the alleged victim or perpetrator and the sexual assault allegedly committed.
3. The Investigation Division shall notify the Police Department as soon as practical.
4. The supervisor shall ensure that the reporting correction officer logs the notification in the area logbook, and prepares the following documents:
  - a. Injury to Inmate Report (form #167R-A); and
  - b. Referral of Inmates to Mental Health Services (form #4018R).
5. The area supervisor will ensure that the inmate is immediately escorted to the facility medical clinic for an evaluation.
6. The area officer and supervisor will complete form #4018R, "Referral of Inmates to Mental Health Services."
7. No further statements shall be taken from inmates or employees unless otherwise directed by the Investigation Division, provided that where necessary to make an initial assessment pertaining to proper and immediate inmate separations, the Tour Commander shall authorize collection of basic information to identify alleged perpetrators.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT  <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>6</b> OF <b>11</b> PAGES	

## V. PROCEDURES (cont.)

- a. In such an event the Tour Commander authorizing the statements must notify ID and all copies of statements taken by either the facility or IU must be forwarded by the Commanding Officer of the Facility and/or IU, to the Commanding Officer of ID by close of business the following day.

### 8. Crime Scene

- a. In instances where it has been determined that a crime scene is required, a crime scene will be established in accordance with Operations Order #05/07, "Crime Scene Incident Management".

### b. Evidence Collection



In all instances of crime scenes related to sex crimes:

- i. Unless otherwise directed, ID shall collect all evidence if possible.
- ii. Staff should only handle evidence when instructed to do so by Investigation Division staff.
- iii. When possible, the use of latex gloves (to prevent fingerprints) and/or instruments shall be used in the minimal handling of all evidence.
- iv. Staff shall make every attempt to minimize the handling of all evidence to avoid cross contamination (putting evidence from themselves onto the items in question) and/or removal of trace evidence.
- v. Each item of evidence shall be secured / stored in a separate paper bag.
- vi. Staff shall maintain chain of custody of the evidence until it is turned over to the Investigation Division.

### D. Medical – Applicable to Both Staff-on-Inmate and Inmate-on-Inmate Sexual Abuse Incidents

Note: The critical component of a sexual abuse case is the collection of physical evidence. To avoid the loss of crucial evidence, the inmate should be discouraged from showering, washing, bathing, douching, drinking, eating, changing clothing or using the bathroom until examined by a physician.

### 1. Rape Kits



	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT  <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>7</b> OF <b>11</b> PAGES	

## V. PROCEDURES (cont.)

- a. The medical provider will prepare a consultation and refer the inmate to Urgi-Care or a municipal hospital for assessment of the patient and determination whether a forensic evaluation and rape kit is required. Urgi-Care physicians shall ensure that whenever necessary a rape kit is processed and any physical evidence is gathered.
- b. The completed rape kit must be sealed, the attached chain of custody tape completed and the kit must be refrigerated when any body fluids are sampled and enclosed in the kit.
- c. Urgi-Care shall immediately notify the Investigation Division when a rape kit is done or other physical evidence gathered by medical personnel.
- d. Rape kits performed in DOC facilities shall be released only to an investigator from the Investigation Division or DOI, except in cases involving allegations against staff, in which case the rape kits are handled by DOI, unless DOI has referred the case to the Investigation Division. Under no circumstances will evidence be released to the facility escort officer.
- e. If the rape kit is performed at a municipal hospital, and is released to the local police precinct, the Investigation Division or DOI shall follow-up with the Police Department and the Medical Examiner's office to receive documents and test results.
- f. An evidence logbook will be maintained by the Urgi-Care medical staff to record the chain of custody from medical staff to the Investigation Division. The investigator assigned to take possession of the evidence will sign the evidence logbook as confirmation of receipt and proceed to the Police Department with the evidence and file a complaint report.

### 2. Mental Health Evaluation

- a. Upon the completion of the inmate's physical examination by the Urgi-care physician, a Mental Health evaluation shall be performed to determine the potential for suicidal ideation and/or the need for more in depth psychiatric intervention or treatment. At this time, the mental health clinician shall determine whether the inmate may require crisis intervention counseling, and shall ensure that it is provided, if it is deemed necessary.
- b. In male facilities, the Intake Supervisor shall ensure that an inmate returning from the Urgi-Care Center, following a sexual assault or allegation of sexual assault, is given an Emergency Referral to Mental Health services.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>8</b> OF <b>11</b> PAGES	

## V. PROCEDURES (cont.)

- c. In female facilities, the supervisor responsible for the clinic shall ensure that, following the medical examination as a result of a sexual assault or allegation of sexual assault, an Emergency Referral to Mental Health services is made.

NOTE: In no event shall an inmate be housed until a mental health evaluation is performed.

### E. Housing Assessment

Before an inmate is returned to the housing area, the Tour Commander shall ensure that the inmate's housing status is evaluated to determine the need for transfer within the facility or to another facility. The Tour Commander shall also ensure that the inmate is separated from the alleged perpetrator pending investigation and that the perpetrator is housed appropriately, including consideration for Pre-Hearing Detention and Close Custody when suitable. In all cases, Separation Orders shall be issued immediately, until such time as an investigation determines that they are not necessary.



### F. Chaplain Referral

Inmates who make an allegation that they have been sexually assaulted or threatened by another inmate shall also be promptly referred to a chaplain who shall conduct a counseling session within 24 hours of notification pursuant to Operations Order #03/06, "Inmate Sexual Assault/Referral to Ministerial Services". All inmates who make a sexual allegation shall be seen and offered counseling every 30 days until discharge from DOC custody, regardless of whether they recant their allegation.

### G. Investigation Division (ID)

- Investigations shall be conducted in accordance with best practice for the investigation of sexual assault. Interviews will be conducted in a thorough, professional non-abusive and non-threatening manner consistent with acceptable practices for potentially traumatized victims of sex crimes.
- All investigative reports will indicate whether the evidence substantiates the allegation against a particular individual, the allegation is unfounded, or the evidence is inconclusive. Regardless of whether the allegation is substantiated or not, reports shall include any conclusions as to whether any sexual contact in fact occurred.





	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>9</b> OF <b>11</b> PAGES	

## V. PROCEDURES (cont.)

3. The Investigation Division will notify either the District Attorney's Office in the county of occurrence or the local precinct of jurisdiction of any substantiated sexual assault. The District Attorney will review the evidence and determine the appropriate course of action. The Investigation Division and/or Intelligence Unit (IU) will process the inmate perpetrator(s) for arrest.
4. The Deputy Commissioner of Investigation shall prepare a quarterly report to the Commissioner on the status of sexual allegations and pending allegations for the fiscal year.

### H. Training/Orientation

1. All civilian and uniformed staff employed directly by the Department shall receive, during initial training and as in-service training at least every year, instruction that relates to the prevention, detection, response and investigation of staff-on-inmate and inmate-on-inmate sexual abuse.
  - a. Training shall include instruction on being alert to signs of potential situations in which sexual abuse might occur, including the fact that sexual abuse can happen anywhere, inside or outside facilities, including housing areas, holding pens, and administrative, food service or program areas.
  - b. Training shall emphasize that practices such as leaving gates or cell doors open, failing to make frequent tours of an assigned post or being off post can be prime contributing factors to a sexual assault incident, and the importance of staying on post, staying alert and making frequent tours.
  - c. Training shall also include instruction on recognizing signs of sexual victimization.
  - d. Training shall emphasize the security consequences of any inappropriate relationships with inmates, including sexual conduct.
2. All contractors and contract employees, volunteers, interns and employees of other agencies shall receive information and where appropriate, periodic in-service training consistent with their level of inmate contact relating to the prevention, detection and response to inmate sexual abuse.
3. All inmates shall receive during orientation information which addresses sexual abuse. This information will address prevention, self-protection, reporting sexual abuse and the availability of treatment and counseling.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>10</b> OF <b>11</b> PAGES	



## V. PROCEDURES (cont.)

### I. Monthly Security Reports

In accordance with Operations Order #03/08, entitled MASTER FACILITY MANAGEMENT REPORT FOR SECURITY, dated 03/19/08, all allegations of staff-on-inmate sexual abuse, sexual threats, or sexual voyeurism and Inmate-on-Inmate sexual abuse or sexual threats shall be recorded in the appropriate reports on a daily basis.

## VI. REFERENCES

- A. NYC DOC Rules & Regulation #'s 3.25.040 & 3.20.170.
- B. NYS Penal Law # 130.00 & 130.05.
- C. NYC Mayor's Executive Order #16.
- D. New York City Board of Correction Healthcare Minimum Standards.
- E. New York City Board of Correction Mental Health Minimum Standards.
- F. Directive #4018R, entitled REFERRAL OF INMATES TO MENTAL HEALTH SERVICES, dated 04/08/99.
- G. Directive #4516R-A, entitled INJURY TO INMATE REPORTS, dated 01/31/08.
- H. Directive #5000R-A, entitled REPORTING UNUSUAL INCIDENTS, dated 11/19/04 (as amended).
- I. Operations Order #05/07, entitled CRIME SCENE INCIDENT MANAGEMENT, dated 05/08/07
- J. Operations Order #03/08, entitled MASTER FACILITY MANAGEMENT REPORT FOR SECURITY, dated 03/19/08.
- K. Operations Order #03/06, entitled INMATE SEXUAL ASSAULT/REFERRAL TO MINISTERIAL SERVICES, dated 02/02/06.

	EFFECTIVE DATE <b>12/31/08</b>	SUBJECT  <b>PREVENTING INMATE SEXUAL ABUSE</b>		
	CLASSIFICATION # <b>5010R-A</b>			
	DISTRIBUTION <b>A</b>	APPROVED FOR WEB POSTING <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE <b>11</b> OF <b>11</b> PAGES	

## VII. ATTACHMENTS

- A. Form 4018R, Referral of Inmates to Mental Health Services.
- B. Memorandum #01/08, entitled UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES, dated 02/07/08.

## VIII. SUPERSEDES

Directive #5010, PREVENTING INMATE SEXUAL ABUSE, dated 05/01/07 (as amended).



**CORRECTION DEPARTMENT  
CITY OF NEW YORK**

ATTACHMENT - A



**REFERRAL OF INMATES TO  
MENTAL HEALTH SERVICES**

Side  
1 of 2

FORM NO. 4018R  
EFF. 04/08/89  
REF. DIR. 4018R

Inmate's Name:

Book and Case Number:

Location:

Date:

Name/Shield Number of Reporting Officer:

Name/Shield Number of Supervisor Notified:

**BEHAVIORAL CHECKLIST**

Listed below are some of the behavioral traits that may indicate a need for Mental Health referral. (Circle the appropriate item[s]).

1. Showing radical changes in behavior;
2. Expressing a desire to commit suicide and/or attempting suicide;
3. Planning to inflict bodily harm, attempting or actually carrying out the act. (This may be expressed verbally or through written communication);
4. Unable to sleep, particularly at night, awakening at odd hours of the early morning and brooding;
5. Arranging personal belongings in order, after habitual disorder;
6. Any signs indicating a trip is being planned e.g., packing personal belongings, discussing travel arrangements etc., when such a trip is not feasible;
7. Giving away valued possessions, e.g., wearing apparel, books, pictures, cigarettes, commissary, etc.;
8. Continually refusing to lock-out during lock-out periods;
9. Hiding or attempting to hide, from view of the correction officer/observation aide;
10. Appearing to be talking to someone when, in fact, no one is present;
11. Frequent displays of shouting, crying and/or screaming;
12. Attempting to inflict self injury by banging parts of the body against the walls or fixtures;
13. Complaining of ailments(s), illness(es) and/or disease(s) that are nonexistent;
14. Expressing a belief that there are plots or plans against personal safety; believing that someone or everyone is watching, talking, spying or acting suspiciously;
15. Having hallucinations/delusions (seeing objects or hearing voices that do not exist);
16. Unusual loss of memory;
17. Showing poor personal hygiene or appearance, doesn't shave, wash or change clothes, etc.;
18. Exhibiting strong feelings of guilt;
19. Being depressed;
20. Constantly fighting and arguing with other inmates;
21. Being alarmed (frightened) or in a state of panic;
22. Any unusual action or behavior that should be brought to the attention of the Mental Health Staff.

Other: (explain) \_\_\_\_\_

**SUPERVISING OFFICER'S ASSESSMENT AND RECOMMENDATION**

Supervisor's Name:

Shield Number:

Date:

Referral from Mental Health Services on Reverse Side



**CORRECTION DEPARTMENT  
CITY OF NEW YORK**



**REFERRAL OF INMATES TO  
MENTAL HEALTH SERVICES**

Side  
2 of 2

FORM NO. 4018R  
EFF. 04/08/99  
REF. DIR. 4018R

Inmate's Name:

Number:

**SUMMARY OF MENTAL HEALTH EVALUATION/RECOMMENDATION**

1. REASON FOR REFERRAL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. RELEVANT FINDINGS: (include potential for suicidal and/or violent behavior) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. RECOMMENDATIONS: (include special housing needs and precautions as needed) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Summary Prepared By:

Title:

Date:

**DISTRIBUTION:**

- 1 copy retained by Mental Health
- 1 copy to Medical Services
- 1 copy to Facility Administration



THE CITY OF NEW YORK  
DEPARTMENT OF CORRECTION



# MEMORANDUM

<input type="checkbox"/> NEW		<input checked="" type="checkbox"/> REVISED		SUBJECT  <b>UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES</b>
EFFECTIVE DATE <b>02/07/08</b>	NUMBER <b>01/08</b>	PAGE 1 OF 3 PAGES		

TO : ALL STAFF

FROM : MARTIN F. HORN, COMMISSIONER



This message is addressed to all of you who work in our jails, whether you are an employee of the Department of Correction, an employee of another agency, a volunteer, contractor or vendor. Our collective mission is to keep our jails, the inmates, and staff, safe.

We take pride in providing a safe environment for all individuals who are committed to our custody. It is the professionalism of all of us that has established the Department as a leader in the field of corrections. We maintain high standards of behavior and demand the highest level of integrity.



- The way we behave around inmates is key to our success. We must perform our job with integrity. When boundaries are crossed, we become ineffective and the safety of each of us is threatened.
- Once you accept a gift or favor, introduce a single piece of contraband or single an inmate out for special treatment---with the first letter you carry in or out, the first cigarette you provide, the infraction you quash---the door is opened for the inmate to control you and influence your further actions.

And that becomes a serious threat to the safety of fellow staff and other inmates.

- 'Undue familiarity' is a direct violation of our Rules and Regulations. It is the Department's policy to seek termination of those who violate this rule. This behavior includes any social activity with an inmate that is not directly related to one's duties. Such behavior may involve, for example, the granting of a special favor or privilege, a phone call, accepting of a gift, bringing in contraband, a romantic relationship or at its worst, sexual conduct. Undue familiarity is not only a violation of our rules and regulations, but may also be a criminal offense.
- One of the worst offenses staff can commit is to engage in any sexual conduct with an inmate, or make sexual threats.

	EFFECTIVE DATE <b>02/07/08</b>	SUBJECT <b>UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES</b>	
	MEMORANDUM		
	NUMBER <b>01/08</b>	PAGE 2 OF 3 PAGES	

- The Department of Correction has zero tolerance for sexual abuse of inmates. **No one** is allowed to have sexual contact with any person who is incarcerated. Other inmates and employees are prohibited from asking, demanding, forcing, or participating in a sexual act with an inmate. This applies to EVERYONE including uniformed and civilian employees of the Department, as well as contractors, vendors, volunteers, and employees of other agencies who work in the jails.
- In addition to the Department policy, New York State Law clearly states that inmates are not able to give consent to sexual conduct with an employee. (Penal Law §130.05, subdivision 3). Individuals considered employees under this law include not only uniformed and civilian employees of the Department, but contractors, vendors, volunteers, employees of other agencies and all other persons who provide a direct service to inmates. In the same way that an underage minor can not consent to sex with an adult, so too an inmate can not consent to sex with employees. **There is no such thing as consensual sex between employees and inmates.** Any such sexual misconduct is a sex crime---whether it occurs inside a correctional facility, during transportation, or at any other time during an inmate's custody.
- The personal consequences for an employee who has any sexual contact with an inmate or sexually threatens an inmate are severe. Not only will that individual be terminated but they will also be arrested and criminally prosecuted. **If convicted they face imprisonment and registration as a sex offender.** The employee may also be required to pay monetary damages to the inmate out of his or her own pocket.
- This illegal behavior also poses a grave risk to all staff. The offending employee has totally compromised himself or herself, no different than if he or she were to smuggle weapons to an inmate.
- All allegations of sexual abuse and sexual threats will be investigated promptly and thoroughly.
- You all play a critical role in identifying and preventing a potential incident of sexual abuse, and responding if such an incident occurs.
- Equally important to us is the protection of inmates from sexual assaults by other inmates. The Department prohibits sexual acts between inmates, whether voluntary or coerced. Inmates who are observed engaging in a sexual act or soliciting a sexual act with another inmate must be ordered to cease their actions. Where the sex is voluntary, infractions will be processed for all the involved parties. Inmates who commit sexual abuse or assaults will be re-arrested and prosecuted to the full extent of the law. **Employees who fail to stop such assaults as they are occurring and/or fail to report them are subject to disciplinary action, including termination.** Inmates who are victims or in danger must be protected.

	EFFECTIVE DATE <b>02/07/08</b>	SUBJECT <b>UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES</b>	
	MEMORANDUM		
	NUMBER <b>01/08</b>	PAGE <b>3</b> OF <b>3</b> PAGES	

- Each of us is responsible for being alert to signs of potential situations in which sexual abuse might occur as well as signs of victimization. And all of us also have the duty to report any knowledge or information we may have about an employee who sexually abuses or engages in undue familiarity with an inmate. You may either contact the Department of Investigation confidentially (numbers are posted in the facilities) or, DOC employees may report to the Tour Commander. You must report, or you will face disciplinary action yourself. All allegations must be reported.
- Any employee who receives a report of inmate-on-inmate sexual abuse, must immediately notify their supervisor. An employee who intentionally fails to report such information will be subject to disciplinary charges.
- There is another role for staff to play in the prevention of sexual abuse of inmates, and that is to encourage inmates to report sexual abuse as well as any other concerns about their safety. If an inmate makes an allegation against staff or other inmates they will be offered immediate protection, medical examination and mental health services and counseling by our chaplains. And the complaint will be reported to the appropriate law enforcement officials and thoroughly investigated. We need your help in getting that message out to the inmates so that they will not be afraid to come forward if they are being victimized.

**The Department is very proud of its work force and all of you who come to work day in and day out and perform your jobs professionally, with integrity. Our tradition of excellence requires that we all join together and do everything possible to make sure our zero tolerance policy is part of our culture and value system, because it is the right thing to do!**

  
 MARTIN F. HORN  
 COMMISSIONER

Attachment:

Directive #5010, Preventing Inmate Sexual Abuse, dated 05/01/07 (as amended).

Supersedes:

Memorandum #02/07, UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES, dated 05/01/07.