



Beth Arthur  
Sheriff

**ARLINGTON COUNTY, VIRGINIA**

OFFICE OF THE SHERIFF

**COURTHOUSE**

1425 N. COURTHOUSE ROAD, ROOM 9100  
ARLINGTON, VIRGINIA 22201  
(703) 228-4460



**DETENTION FACILITY**

1435 N. COURTHOUSE ROAD  
ARLINGTON, VIRGINIA 22201  
(703) 228-7286

May 1, 2010

Dear Staff:

Establishing and maintaining credibility with the community and inmate population is directly rooted in the performance of all employees and is crucial to performing our duties professionally and also to managing a safe and secure facility. The ethics and conduct of **all** employees are critical to maintaining the confidence, respect, and support of the citizens of Arlington County.

This booklet has been prepared for the convenience of all Arlington County Sheriff's Office employees to emphasize the importance I place on our conduct as public law enforcement officials. Its contents are taken directly from the Code of Virginia and the Arlington County Sheriff's Office Policy manual.

Sincerely,

Beth Arthur  
Sheriff

Effective 09-15-98  
Revised 09-29-00  
Revised 05-01-10

This booklet has been prepared for the convenience of Arlington County Sheriff's Office employees. Its contents are taken verbatim from ACSO policy 2-300 and 5-200, copies of which are available in all office policy manuals and on line.

# TABLE OF CONTENTS

	<u>Page</u>
Letter from Sheriff Arthur.....	i
Mission, Vision and Values .....	1
Code of Ethics .....	2
Harassment/Sexual Harassment/Misconduct .....	9
Smoking .....	11
Use of Alcohol .....	12
Use of Drugs/Steroids.....	13
Interaction with Inmates.....	14
Sexual Misconduct Against Inmates .....	16
Inmate Sexual Misconduct/Sexual Assault .....	22
Definitions .....	27
Code of Virginia Relating to Conduct.....	28

# Mission, Vision and Values

## MISSION

Partnering to make the justice system work.

## VISION

To be a model Sheriff's Office, known for the high quality of our work, dedicated service to our community, and the excellence of our people.

## VALUES

We value above all our commitment to the **COMMUNITY** and the **SAFETY** and **SECURITY** of persons in our care and custody.

**INTEGRITY** is our standard. **HONESTY** and **TRUSTWORTHINESS** are essential.

We **RESPECT** all individuals and there will be no tolerance for discrimination of any kind.

We believe in supporting our employees by providing **OPPORTUNITIES FOR ADVANCEMENT** based on merit.

**INNOVATION** and continuous improvement, while **UPHOLDING PROFESSIONAL STANDARDS**, is paramount to our continued success.

We work together as a **TEAM** to provide excellent service for the betterment of the community and our agency.

# **POLICY: GENERAL**

Mission effectiveness depends upon the community's respect, public confidence and acceptance; credibility with the community and inmate population in our ability to manage a safe, secure and Constitutional jail; and high staff morale, ethical conduct and professional pride. These conditions and the protection of employee rights are achieved only where high standards of professional conduct exist. To ensure this co-existence of mission accomplishment and rights, employees are expected to comply with the standards of conduct established by the Sheriff.

## **2-301 CODE OF ETHICS/CONDUCT**

1. Sheriff's Office employees, both sworn and civilian, shall conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Virginia Constitution, and all applicable laws, ordinances and rules enacted or established pursuant to legal authority. Employees shall refrain from any conduct that detracts from the public's faith in the integrity of the Office and/or the Criminal Justice System.
2. Employees are required to perform all duties assigned to them in a courteous, competent, and efficient manner. Lines of authority, communication and scope of responsibility established by the Sheriff are followed by all personnel. No employee may use their official position to gain privileges for themselves or others, engage in activities which constitute conflicts of interest or engage in activities which would adversely affect the security, safety, integrity or reputation of the Sheriff's Office, Arlington County or its employees.
3. Employees shall not, whether on or off duty, exhibit any conduct that discredits them or the Sheriff's Office or otherwise impairs their ability or that of other employees or the Sheriff's Office to provide services to the community. An employee's ability to perform his/her duties is dependent upon the respect and confidence communities/citizens have for the profession. Employees must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

4. Employees shall not use their official position, identification cards or badges: (1) for personal or financial gain, for themselves or another person; (2) for obtaining privileges not otherwise available to them except in the performance of duty; and (3) for avoiding consequences of unlawful or prohibited actions including traffic violations. Employees shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced.
5. Because the public health, safety and welfare may be adversely affected, no employee has the right to engage or encourage any form of sit-down, slow-down or work stoppage or strike for any reason against the County. It is unlawful by state statute for public employees to engage in any type of work stoppage, strike or collective bargaining.
6. Employees are required to provide immediate notification if they become subject to an arrest, summons, criminal investigation or indictment by any law enforcement authority.
7. Personal business transactions, e.g. personal calls, personal visits, must not interfere with the conduct of business and duties assigned to employees of the Sheriff's Office.
8. Each employee regulates his/her personal affairs, on or off duty, so that no act or conduct on his or her part could result in unfavorable criticism of any such employee. Because of the nature of this office, personal conduct of any employee may result in criticism of the entire office. Employees shall be aware, therefore, that individual actions may bring unfavorable criticism on other employees.
9. Abusive behavior toward a supervisor or superior, including but not limited to displaying a disrespectful, insulting attitude by use of language, expressions or gestures constitutes insubordination.

10. No employee may use the Sheriff's Office or Deputy Sheriff insignia/symbol without prior written approval of the Sheriff.
11. Making false or misleading statements, taking property belonging to or in trust to the Sheriff's Office and committing any criminal offenses are a breach of an employee's duties and are grounds for dismissal.
12. Employees may not accept, agree to accept, or solicit a bribe or any reward for the performance of duties. A bribe, for the purpose of this provision is defined as a gift, money, or thing of value, testimonial, appointment or personal advantage, or the promise or solicitation of either, bestowed or promised for the purpose of obtaining special privileges or personal gain by the donor or other person.
13. Employees may not engage in any act of extortion or other unlawful means of obtaining money or property through their position as an employee of the Office.
14. Employees, while on duty or in uniform, may not engage in religious debates/discussions to the detriment of good discipline, display religious materials, nor speak disparagingly of the nationality, race or beliefs of any person. Nothing in this section is construed to prevent any employee from participating in private religious organizations.
15. Employees may not be affiliated with any organization, association, movement, or group which advocates violence or acts of force to deny others their constitutional rights. Employees shall not be affiliated in any other way with any group which calls for the violent overthrow of our Government.

16. Employees while on duty or in uniform may not work polling places or conduct other activities for political reasons. Employees while on duty or in uniform may appear at their polling places in order to exercise their right to vote. Employees are not covered under the Arlington County Hatch Act regulations. No person, while employed by the Sheriff's Office, shall run as a candidate for any local Arlington County elected office or statewide office. (Local offices not in Arlington County are permissible).
17. Employees may not willfully violate any Federal, State, or local law or any ordinance, administrative regulation, or safety rule.
18. Employees shall not commit any acts that, as defined under Federal or Virginia law, constitute (1) domestic battery/violence and/or stalking, or (2) the violation of a court order restraining the employee from committing an act of domestic violence, having contact with the petitioner, or excluding the employee from the petitioner's home or workplace.
19. Employees must obey any lawful, general, special or verbal order of a superior officer (to include those orders relayed from a superior by an employee of the same or lesser rank).
20. Employees must be respectful, courteous, and civil with the public and each other and will refrain from using coarse, loud, indecent, profane, or unnecessarily harsh language or in other ways conduct themselves in a disorderly manner, on or off duty.
21. Employees must not ridicule, mock, deride, taunt, or belittle any person; nor willfully embarrass, humiliate or shame any person.
22. Employees must not give out false statements or publicly criticize other employees, office operations, programs or policies. Employees will show proper respect and courtesy to other employees at all times.

23. Personal relationships and correspondence with inmates are prohibited unless related to official duty. Under special circumstances, as determined by the Sheriff, this requirement may be waived. The waiver must be requested from the Sheriff, in writing, by the employee.
24. Employees may not tamper with any official records of the Office. Information contained in any computer system is for official Sheriff's Office and/or law enforcement purposes ONLY and such information, unless specifically authorized by policy, will not be disseminated by employees. Dissemination of any criminal history information or vehicle/driving record information for any non-law enforcement purpose, or not for an official authorized Sheriff's Office function is prohibited. (See also 1-211.4 and 4-302).
25. Employees may not misuse the Sheriff's Office communication equipment nor abuse any County property or equipment. When making or receiving any telephone communication, the use of any telephone speaker must be made known to all parties involved. If an objection to being received via telephone speaker is noted by any of the parties involved in the immediate telephone communication, it may either be terminated or agreed upon (in the form of compliance) by both parties to continue current conversation without the use of the telephone speaker.
26. Employees may not engage in ticket fixing or other violations of the law.
27. Employees may not be negligent or derelict in their duty. Each employee must be present at his/her designated reporting time, properly groomed and attired, alert, and physically and mentally prepared to perform his/her duties throughout the work shift. Acts or omissions which constitute dereliction of duty include, but are not limited to:
  - a. Failure to obey lawful orders.
  - b. Willful or repeated violation of any rules, regulations, or policies of the office.

- c. Tardiness or absence from duty without authorized leave.
- d. Sleeping on duty.
- e. Inattentiveness, including but not limited to reading or writing while on a security post or work assignment unless the activity is job-related and authorized by a superior or procedure; excessive use of the telephone for personal calls; or creating a distraction for other employees which jeopardizes the security or order of office operations. During lockdown hours, if all Post responsibilities have been completed, the Deputy is permitted to read appropriate non-job related material as long as it does not affect their attentiveness to Post responsibilities or the safety and security of the Facility.
- f. Drinking alcoholic beverages on the job or while in uniform, or possession or use of any illegal drugs.
- g. Failure to support fellow employees in the performance of their duties.
- h. Failure to successfully complete any mandated training.
- i. Refusal to be examined by a County Authorized physician when so directed as provided in County Administrative Regulation 2.7, Chapter 16.
- j. Failure of a management employee (including Supervisors) to immediately take action when a subordinate employee's violation of rules, regulations, policies, procedures, or law comes to their attention.
- k. Failure of an employee to report a known violation by another employee, either informed of or observed, concerning violations of law; or rules, regulations or policies affecting safety or security.
- l. Failure to make a written report when required to do so by policy or by order.
- m. Falsification of official documents.
- n. Discovery of a false statement in an application or any official document which had not been detected previously.

- o. Failure of an employee to give his or her name and identification number to any citizen upon request. Under exceptional circumstances, such as authorized undercover work, this regulation may be suspended by the Sheriff.
  - p. Carelessness, negligence, or poor performance overall.
- 28. On public occasions, employees of the office will observe proper conduct with respect to displaying of the National Colors and the playing of the National Anthem.
- 29. Employees may not be negligent or derelict in their financial obligations:
  - a. All just and legal debts and obligations incurred will be discharged promptly.
  - b. No employee will place himself or herself under financial obligation neither to a subordinate nor to a person in their charge (inmates, prisoners, clients).
  - c. No employee shall enter into contracts, debts, or financial obligations against the Sheriff's Office or County unless authorized by the Sheriff in writing to do so.
- 30. An employee will comply with any lawful order issued by a supervisor, whether such order is delivered in person, in writing, or relayed through another person. An employee will not comply with any order from a supervisor which is illegal or violates the law, or requires the employee to commit an illegal act. An employee refusing to obey an order shall be required to justify their actions.
- 31. An employee will inform the person issuing the order if it conflicts with an existing order. The responsibility for countermanding the original order then rests with the person issuing the superseding order. An order will be countermanded only when it is in the best interest of the Sheriff's Office.
- 32. Violation of this Code of Ethics/Conduct may be cause for disciplinary action up to and including dismissal.

**HARASSMENT/SEXUAL  
HARASSMENT/MISCONDUCT**

1. The Arlington County Sheriff's Office does not condone nor tolerate any type of harassment based upon race, color, national origin, religion, age, gender, sexual orientation, or disability, to include sexual harassment of Sheriff's Office employees, contractual employees, volunteers, citizens or inmates.
2. Whether or not an employee has full understanding, or it is suggested, that submission to harassment/sexual harassment be a term or condition of employment, such implication or suggestions are not permitted or tolerated. Any harassment/sexual harassment having the purpose of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment is not permitted or tolerated.
3. Any submission to or rejection of harassment/sexual harassment used as a basis for any employment decision is not permitted.
4. Harassment/sexual harassment of or by those providing services on the premises by their supervisors, their co-workers, or third parties is not tolerated or condoned.
5. An employee who encounters harassment/sexual harassment of any type in violation of this policy has the responsibility to report it immediately using the *Harassment Complaint* form, to his/her supervisor. The supervisor conducts an initial inquiry into the allegations and forwards written findings along with the form to the appropriate Division Director, who then forwards the form and written findings to the Sheriff or Chief Deputy. The Sheriff and/or Chief Deputy determine how and by whom harassment/sexual harassment complaints will be investigated and if any further action will be taken. Claims of harassment/sexual harassment are investigated, ensuring the confidentiality of all parties involved, and appropriate, effective, and immediate corrective action is taken.

6. In the event that the complaint is made against an employee's immediate supervisor, the employee will notify the next supervisor in the chain of command.
7. Complaints against the Sheriff or Chief Deputy are made on the *Harassment Complaint* form but are submitted to the Commonwealth's Attorney for investigation.
8. Employees who have filed a harassment/sexual harassment complaint or who have assisted or participated in any manner in a harassment/sexual harassment investigation or hearing will not be retaliated against. Retaliation would include open hostility or expressions of hate; excluding a person from the group; more closely monitoring or watching an employee's work performance; and/or assigning employees to do demeaning work which they are not normally assigned to do.
9. The *Harassment Complaint* form may be obtained from the payroll clerk, appropriate supervisor or Division Director as well as from the form section of the manual.
10. Any violation of this policy will subject the violator to immediate disciplinary action up to and including suspension or dismissal. Likewise, making false or bad faith claims will subject the claimant to disciplinary action. Fear of adverse action or of losing their job should not be reason for not reporting an incident of harassment/sexual harassment.
11. Employees, while on duty, shall not engage in any type of conduct which could be construed as sexual misconduct, sexual contact, sexual abuse or sexual harassment.
12. Refer to policy 2-606 for grievances concerning another employee, work conditions, or other complaints not involving harassment/sexual harassment.

1. Smoking in the Detention Facility, Courthouse, or any off-site training areas is prohibited except in designated smoking areas.
2. Smoking or use of tobacco products where it may be detrimental to good conduct, uniform appearance, or where it is contrary to Sheriff's Office Policy and Procedures is prohibited.
3. Smoking or using tobacco products while conducting interviews or making personal contact with citizens in the course of their duties in homes, offices, places of business, or on the street is prohibited.
4. Smoking in Sheriff's Office (or other County) vehicles is discouraged and is prohibited in vehicles designated "non-smoking". Employees and passengers may not smoke or use tobacco products in any County vehicle without the approval of all riders. However, no smoking is permitted during inmate transports. (See also 1-403.19.)
5. Any employee in a designated smoking area must lay aside any cigar, pipe, or cigarette, whether lit or unlit, or any other tobacco product prior to answering a call or making contact with a citizen.
6. Employees are prohibited from smoking while directing traffic, making traffic investigations, or any on-the-scene investigations.
7. Sworn Sheriff's Office employees hired after January 1, 1991 agree not to smoke or use tobacco products and sign an agreement to this effect upon hire. Upon reasonable suspicion, sworn Sheriff's Office employees hired after this date may be required to submit to medical tests to determine if smoking has contributed to performance factors such as excessive use of sick leave, absenteeism or illness associated with tobacco usage.

8. Failure to comply with Sheriff's Office policies regarding smoking and the use of tobacco products may be cause of disciplinary action. Restrictions within policy have been established to meet the requirements set forth by County Ordinance and Sheriff's Office policy.

## **2-304**

### **USE OF ALCOHOL**

1. Employees with alcohol abuse problems are encouraged to seek professional help in finding a solution which benefits both the employee and the Sheriff's Office. The Arlington County Employee Assistance Program (EAP) can be contacted for assistance and referrals.
2. Drinking or purchasing intoxicants while in uniform is prohibited.
3. Drinking intoxicants while on duty unless authorized by the Sheriff in the performance of duty (undercover) is prohibited.
4. No employee may report for or be on duty (including Stand By Duty) while under the influence of alcohol. The odor of alcohol on the breath is considered presumptive evidence of a violation of this policy.
5. No employee may consume nor keep intoxicating liquor in any County office, automobile, or upon any property allotted for the use of the Sheriff's Office.
6. The Sheriff or designee may direct any Sheriff's Office employee to submit to a breathalyzer test or alco-sensor test if there is reasonable suspicion that the employee's job performance is impaired by alcohol. Reasonable suspicion means a belief based on:
  - a. Objective facts and the rational inferences which may be drawn from such facts, or based on;
  - b. Direct or reported observations that the particular employee is using alcohol while on the job or recently before the start of work or is working while impaired by alcohol.

7. Employees may be selected randomly to take an alcohol test as a part of Arlington County's Random Testing policy.
8. Refusal to be tested for alcohol impairment when ordered to do so may be cause for dismissal.

## **2-305 USE OF DRUGS/STEROIDS**

1. Employees may not use or possess illegal drug or narcotic unless it is prescribed by a licensed physician or dentist for use by the employee.
2. If an employee has been prescribed medication that could interfere with proper performance of their duties, a written report must be submitted to the immediate supervisor.. Employees taking medication that would hinder proper performance are not ordered to work.
3. Pre-employment and employment drug testing is conducted in accordance with Arlington County regulations.
4. The Sheriff or designee may direct any Sheriff's Office employee to be tested for illegal drug use, based on reasonable suspicion, to wit:
  - a. A belief based on objective facts and the rational inferences which may be drawn from such facts, or based on direct or reported observations.
  - b. That the employee has been involved with illegal drug use while employed by the Sheriff's Office, whether on the job or not.
5. Sheriff's Office employees may be required to be tested if on the job conduct leads to reasonable suspicion that the employee is involved in the illegal use of drugs, (e.g. if charged or convicted of possession, or use, of an illegal drug).
6. Employees may be selected randomly to take a drug test as a part of Arlington County's Random Testing policy.

7. Refusal to be tested for illegal drug use may be cause for dismissal.

## **2-306**

### **INTERACTION WITH INMATES**

1. Employee contacts with inmates and/or ex-offenders are conducted in a professional manner.
2. Employees will not violate the rights of persons held in custody.. (See also 12-100).
3. Employees will not verbally abuse or use unnecessary force against any person. (See also 5-600).
4. Employees will not direct malicious persecution, willful mistreatment, or inhumane treatment to any person held in custody.
5. Employees shall not knowingly give to or receive from inmates/former inmates, the immediate family or representatives or associates of inmates, compensation, gifts or favors. Staff shall provide a written report documenting any attempt to offer such compensation, gifts or favors. Staff **is** forbidden from directing inmates to perform duties or provide services which are not designated by the office as official work assignments.
6. An employee who has lost, damaged, or destroyed property belonging to a person in custody or that has come into possession of said employee by reason of this office, may be required to make restitution if the loss or damage is the result of willful negligence on the part of the employee.
7. Staff shall not discuss office operations with the inmate population or within hearing range of the inmate population. Staff shall not permit access to office reports, policies, orders, or memoranda unless such information is necessary in order for the inmates to understand what is expected of him/her or is deemed appropriate by the Director of Corrections for distribution to the inmate population.

8. Employees will not recommend or suggest to inmates or persons in custody, the employment or name of any person, firm, or corporation, as attorney, counsel, or bondsman.
9. An employee who by birth or marriage is related to, a personal friend of, or has a personal association with an individual incarcerated in the Arlington County Detention Facility will submit a written report to the Sheriff and appropriate Division Director stating their relationship with the inmate.
10. Physical, verbal, or written contact between employees of the Arlington County Sheriff's Office and persons with outstanding warrants or in the custody of the Arlington Sheriff's Office, or visitors of such persons while on duty, is prohibited except in a routine, official working situation.
11. Verbal, written or physical contact with individuals incarcerated in other correctional facilities is prohibited except in a routine, official working situation, unless prior approval is granted by the Sheriff or designee.
12. Telephone contact with inmates, on or off duty, is prohibited. If an employee receives collect or other calls from an inmate, the calls are reported immediately in writing to the Director of Corrections.
13. Developing or participating in relationships with inmates other than those necessary in the normal conduct of business is prohibited. Employees will not use their position to become emotionally or romantically involved with those in custody of the Arlington County Sheriff's Office. Virginia Code makes it a crime if an employee sexually abuses an inmate. (Also see 2-307)
14. Conveying or allowing to be conveyed any unauthorized items, substances or materials to or from inmates is prohibited.
15. Conveying or allowing to be conveyed any authorized items, substances or materials to or from inmates in a manner other than that permitted by Office policy, directive or post orders is prohibited.

16. Correspondence that could be construed as an attempt by an inmate to become emotionally or romantically involved with an employee must be reported immediately to the Sheriff for review. Under special circumstances, as determined by the Sheriff, correspondence of this nature may be continued.
17. Employees will report, in writing to the Sheriff, any personal, business or other outside relationship with an individual on probation/parole by the State of Virginia or any other State or jurisdiction.
18. Unauthorized personal contact, correspondence or other associations with any individual incarcerated in another correctional institution and/or jurisdiction is prohibited.
19. An employee with knowledge of an employee in violation of this policy must report this knowledge in writing to the Sheriff.
20. Employees shall not make or write any recommendations or letters of reference for any inmate to any court, agency, or employer.
21. Failure to comply with this policy is a violation of security and may be cause for dismissal.

## **2-307**

### **SEXUAL MISCONDUCT AGAINST INMATES**

#### **INITIAL NOTIFICATION BY INMATE**

1. The Arlington County Sheriff's Office does not condone nor tolerate any type of sexual misconduct, sexual contact, sexual abuse and sexual harassment toward any inmate(s). This Office will aggressively pursue any complaints, suspicions of sexual misconduct, up to and including prosecution under Virginia Code) (see 5-229).
2. Inmates may confidentially disclose incidents of sexual misconduct, sexual contact, sexual abuse and sexual harassment to any Sheriff's Office employee, either verbally or in writing. Inmates may file a sexual misconduct complaint through the emergency grievance

system (see 12-405). This process allows for confidential reporting by inmates 24 hours per day, 7 days per week. Such grievances will be handled immediately by the Director of Corrections or Shift Commander during non-business hours. An inmate who reports an incident of sexual misconduct, sexual contact, sexual abuse or sexual harassment may request and be treated as an anonymous informant.

3. Upon housing assignment, inmates are provided an Inmate Handbook and Sexual Misconduct brochure, which will include a written summary of jail policy and procedure and information pertaining to sexual misconduct and confidential reporting. (See 7-205)

During Phase Two of the Female Inmate Orientation, female inmates are instructed regarding, at a minimum, the following concepts:

- a. what conduct constitutes sexual misconduct;
  - b. a statement that the Sheriff's Office condemns sexual misconduct;
  - c. a description of how to report sexual misconduct complaints and witnesses;
  - d. a statement regarding assurances of confidentiality and non-retaliation of sexual misconduct complaints and witnesses;
  - e. a description of possible sanctions for knowingly and intentionally making false allegations of sexual misconduct;
4. As soon as an incident of sexual contact, sexual abuse or sexual harassment comes to the attention of a staff member or any individual in a position of authority over an inmate (this includes rumors and observation), the staff member or contract employee who receives the information shall immediately inform the Director of Corrections or Shift Commander. Failure to do so may result in disciplinary action, up to and including dismissal.
  5. Allegations of sexual misconduct, sexual contact, sexual abuse and sexual harassment, are reported to the Sheriff or Chief Deputy within twenty-four hours.

6. Credible allegations of forcible sexual assault are reported to the Sex Offenses Unit of the Arlington County Police Department as soon as possible in order to preserve physical evidence.
7. An accused employee may be placed on suspension or be subject to other alternatives as indicated by the investigation, such as temporary transfer to another assignment, pending the outcome of the investigation.
8. The investigator conducts interviews with the complainant, witnesses, the accused, the alleged victim(s) and any other individuals who may have information about the alleged incident (s).
9. A polygraph examination may be used as an investigative tool. An employee who refuses to submit to a polygraph examination may be subject to dismissal.
10. The investigation, including interviews, videos, polygraph documents, witness statements, supporting documents, and other evidence will be treated as confidential. Secrecy orders are executed when appropriate. The name of the complainant and/or alleged victim and the identity of witnesses shall be confidential. It is imperative that confidentiality regarding the identity of any individual involved in the investigation be maintained to the greatest extent possible within the ACDF or within any facility to which the inmate may be transferred.
11. Except for those individuals responsible for conducting the investigation, all other individuals alerted to the allegation, including ACSO staff, are prohibited from conducting independent investigations or inquiries into the circumstances related to the alleged incident(s). Breach of confidentiality may result in disciplinary action, up to and including dismissal. However, the pending investigation shall in no way limit an inmate's right to access legal counsel.
12. The confidentiality provisions above shall in no way limit the investigator or ACSO staff from cooperating with or appearing or testifying before a grand jury, court, or local, state or federal investigatory agency.

13. Interviews are conducted thoroughly in a professional, non-abusive and non-threatening manner. Staff will make no predetermined judgment regarding whether the reported incident occurred or not, but will proceed with notifying the appropriate individuals based on the nature of the report. If appropriate, a sexual misconduct complainant may be offered the opportunity to speak to a same gender deputy regarding facts of complaint.
14. Staff members will cooperate fully with the investigation into all allegations, and will protect and preserve all evidence.
15. ACSO employees and an individual in a position of authority over an inmate, shall not retaliate against the alleged victim and/or complainant and/or inmate witness for making allegations of sexual misconduct, sexual contact, sexual abuse or sexual harassment. Such retaliation may include, but is not limited to, threats regarding parole, bail or probation, denial of privileges, subjection to disciplinary or adverse administrative action, negative comments or recommendations to any parties or organizations, unjustified transfers or unjustified changes in work assignment. No ACSO employee shall lead the complainant, victim, or witness to believe that such retaliatory actions can or will be taken to induce statements or other cooperation. This in no way shall limit the ACSO's ability to take appropriate disciplinary or prosecutorial action where inmates make untruthful allegations.
16. Investigations of sexual misconduct, sexual contact, sexual abuse, and sexual harassment shall be conducted by an investigator who has experience and training in investigations and appropriate and effective interview techniques.

17. If the victim or complainant refuses to cooperate with the investigator, the investigator must follow-up with any persons identified as having knowledge of the incident(s) before the investigation is closed. If no such persons are identified, and if the victim or complainant had previously been cooperative, the investigator must determine whether the victim or complainant has been threatened or coerced, and whether the investigation should proceed without his or her cooperation.
18. An initial and final investigation report shall be completed within a reasonable time. Factual findings may be based on a range of evidence, including physical and documentary evidence, witness accounts, and circumstantial evidence. Prisoner witnesses and complainants credibility shall be evaluated in an unbiased manner in accordance with established investigation methods. The final investigation shall include at a minimum, a narrative of the allegations, a comprehensive listing of factual findings, details of the interviews with all parties and witnesses, and conclusions and recommendations. A final disciplinary determination shall be made by the Sheriff or designee.
19. The investigation will be completed even if the accused employee terminates employment during the investigation.
20. The investigator shall continue the investigation to conclusion, regardless of whether another local, state, or federal agency conducts its own investigation, subject to limitations or restrictions imposed by that agency or the courts.
21. Allegations which are found to violate Virginia Code, shall be reported to the Commonwealth Attorney's office and will be subject to criminal prosecution.
22. All allegations, reports of all investigations and the results shall be preserved and maintained by the office of the investigator per Virginia State Library Record Retention requirements.

23. The ACSO Internal Investigator and Grievance Coordinator shall establish a log-based system to number and track allegations of sexual contact, sexual abuse and sexual harassment. The investigator system shall include but not be limited to, tracking alleged perpetrators of sexual misconduct, sexual contact, sexual abuse, sexual harassment, and retaliation, alleged victims, individual making reports, and individuals failing to make reports. The Grievance Coordinator shall include in a monthly written report the above information.
24. If the investigation of an allegation of sexual misconduct, sexual contact, sexual abuse and/or sexual harassment reveals that the allegations have merit, the matter shall be referred for disciplinary action, up to and including dismissal, pursuant to disciplinary proceedings (see 2-700).

### **APPEALS**

25. The victim of the sexual misconduct, sexual contact, sexual abuse or sexual harassment will be informed in writing of the outcome of the investigation and the resolution by the assigned investigator of the outcome.
26. An inmate who is dissatisfied with the investigation or resolution of an allegation of sexual misconduct, sexual contact, sexual abuse or sexual harassment, may appeal by letter to the Sheriff within seven days of receiving the written outcome of the investigation. The Sheriff shall give a written response to the inmate within a reasonable period of time.

### **REFERRAL COUNSELING/MEDICAL TREATMENT**

27. Upon receipt of a complaint of forcible sexual assault for which there may be physical evidence, the complainant may be transported to a hospital for a physical examination and/or rape kit in cooperation with the Arlington County Police Department or as necessary to preserve physical evidence.

28. Inmates making allegations of sexual misconduct, sexual contact, sexual abuse or sexual harassment may be provided appropriate counseling or medical treatment if warranted. Counseling will be arranged by the Director of Corrections or designee. Incidents which may result in the injury, pregnancy, transmission of a disease, or other health consequences shall result in a medical evaluation with the consent of the patient.

5-229

## **INMATE SEXUAL MISCONDUCT/SEXUAL ASSAULT**

**Definition:** Rape or Sexual Assault - (a) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will; (b) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or (c) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

1. The Sheriff's Office has zero tolerance for an incidence of rape, sexual assault or sexual misconduct, and makes every effort to comply with applicable components of the Prison Rape Elimination Act of 2003. (see 2-307)
2. The prevention of rape, sexual assault, or sexual misconduct is a top priority to protect the safety of the public, by releasing inmates into the community who have not been sexually assaulted while in custody, to protect public health from sexually transmitted diseases that inmates may contract while in custody, for the protection of inmate rights, conditions of confinement, and to ensure safe, secure and orderly operations of the ACDF.

3. The Sheriff's Office does not condone nor tolerate any type of inmate rape, sexual assault, sexual misconduct, consensual sexual contact, sexual abuse and sexual harassment toward any inmate(s). The ACSO aggressively pursues any criminal acts, complaints, suspicions of sexual misconduct, up to and including prosecution under Virginia Code.
4. Sheriff's Office staff are provided annual training specific to the prevention, identification, reporting, and handling of inmate sexual misconduct/sexual assault, including common indicators of misconduct.
5. Objective Jail Classification procedures are utilized to identify potentially aggressive or vulnerable inmates to sexual assault/misconduct.
6. Effective control and supervision of inmate procedures are practiced by staff for the protection of inmates and to ensure safe, secure and orderly operations of the ACDF.
7. The ACSO provides for confidential disclosure of incidents of rape, sexual assault, sexual misconduct, sexual contact, sexual abuse and sexual harassment to a Sheriff's Office employee, either verbally or in writing. Inmates may file a sexual misconduct complaint through the emergency grievance system (see 12-405). An inmate who reports an incident of rape, sexual assault, sexual misconduct, sexual contact, sexual abuse or sexual harassment may request and be treated as an anonymous informant.
8. Allegations of rape or sexual assault are reported to the Sheriff or Chief Deputy by the Director of Corrections or designee within twenty-four hours. Upon discovery of a credible allegation, staff immediately adhere to the following:
  - a. Contact and inform the Director of Corrections or designee of the incident.
  - b. Determine if the alleged victim requires placement under Protective Custody Status while maintaining constant supervision of the inmate.

- c. Notify medical staff to respond and address any emergency, urgent, or necessary health concerns, while keeping the preservation of evidence intact, if possible.
  - d. Secure the area where the assault is alleged to have occurred as a possible crime scene.
  - e. Place the alleged perpetrator(s) in Administrative Segregation pending investigation of the complaint.
  - f. The Sheriff, Chief Deputy or Division Director ensures the Internal Affairs Investigator and the ACPD Sex Offenses Unit have been notified.
  - g. Mental Health staff is made available to provide crisis counseling to the victim and other inmates requesting services.
9. The police determine what evidence is to be collected. A deputy sheriff will escort an inmate that needs hospital care or off-site medical examination for the purpose of evidence collection.
10. The investigation, including interviews, videos, polygraph documents, witness statements, supporting documents, and other evidence is treated as confidential. Secrecy orders are executed when appropriate. The name of the complainant and/or alleged victim and the identity of witnesses are confidential. It is imperative that confidentiality regarding the identity of an individual involved in the investigation be maintained to the greatest extent possible regardless of the location of the inmate.
11. Except for individuals responsible for conducting the investigation, other individuals alerted to the allegation, including ACSO staff, are prohibited from conducting independent inquiries into the circumstances related to the alleged incident(s). Breach of confidentiality may result in disciplinary action, up to and including dismissal.
12. A pending investigation shall in no way limit an inmate's right to access legal counsel.
13. The confidentiality provisions above in no way limit the investigator or ACSO staff from cooperating with or appearing or testifying before a grand jury, court, or local, state or federal investigatory agency.

14. Interviews are conducted thoroughly and in a professional, non-abusive and non-threatening manner. Staff will not make predetermined judgments regarding whether the reported incident occurred or not, but proceed with notifying the appropriate individuals based on the nature of the report. If appropriate, the victim may be offered the opportunity to speak to a same gender deputy regarding facts of complaint.
15. Investigations of sexual assault, rape and/or sexual misconduct are conducted by an investigator who has experience and training in investigations and appropriate and effective interview techniques.
16. If the victim or complainant refuses to cooperate with the investigator, the investigator follows-up with persons identified as having knowledge of the incident(s) before the investigation is closed. If no such persons are identified and if the victim or complainant had previously been cooperative, the investigator must determine whether the victim or complainant has been threatened or coerced and whether the investigation should precede without his/her cooperation.
17. A preliminary and final investigative report is completed within a reasonable time. Factual findings may be based on a range of evidence, including physical and documentary evidence, witness accounts, and circumstantial evidence. Inmate witnesses and complainant's credibility is evaluated in an unbiased manner in accordance with established investigation methods. The final investigation includes, at a minimum, a narrative of the allegations, a comprehensive listing of factual findings, details of the interviews with all parties and witnesses, conclusions and recommendations. If warranted, a final disciplinary determination is made by the Sheriff or designee.

18. A multi-disciplinary meeting between the Sheriff's Office, Police Department, if applicable, Medical and Mental Health staff and the Internal Affairs Investigator held within thirty days of an incident and on an annual basis to determine if revisions to ACSO policies, procedures or practices are warranted. The recommended revisions are forwarded to the Chief Deputy for consideration.
19. The Internal Affairs Investigator collects data for the purposes of documenting the incidents and investigation findings of rape, sexual assault, or sexual misconduct to comply with reporting mandates of the Prison Rape Elimination Act.

## **DEFINITIONS**

**Allegations:** Events which are said to have happened, but which have not been verified.

**Sexual Misconduct:** Shall include, but not be limited to, all sexual behavior directed toward an inmate in the custody of the Arlington County Sheriff's Office. Sexual misconduct includes acts or attempts to commit acts of sexual contact, sexual abuse, and sexual harassment. Furthermore, sexual misconduct includes conversations, speech, or correspondence which demonstrates or suggests a romantic or intimate relationship between an inmate and Sheriff's Office employee or contractual employee, volunteer or any other individual in a position of authority over an inmate. All sexual contact between these persons is sexual misconduct regardless of consent.

**Sexual Contact:** Shall include, but not be limited to, all forms of sexual contact as well as the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, lips, or buttock of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

**Sexual Abuse:** Shall include, but shall not be limited to, subjecting another person to sexual contact by persuasion, inducement, enticement, or forcible compulsion; subjecting to sexual contact another person who is incapable of giving consent by reason of their custodial status; subjecting another person to sexual contact who is incapable of consenting by reason of being physically helpless or restrained, or mentally incapacitated; and raping, molesting, prostituting, or otherwise sexually exploiting another person.

**Sexual Harassment:** Shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors, disrobing or requesting that another person disrobe without a legitimate lawful or penological objective, making sexually offensive comments or gestures, or other verbal or physical conduct of a sexual nature.

## **Code of Virginia relating to Conduct**

### **§ 18.2-64.2. Carnal knowledge of an inmate, parolee, probationer, detainee or pretrial or posttrial offender; penalty.**

An accused shall be guilty of carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial defendant or posttrial offender if he or she is an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § [16.1-228](#), a state or local court services unit, as defined in § [16.1-235](#), a local community-based probation services agency or a pretrial services agency; is in a position of authority over the inmate, probationer, parolee, detainee, or a pretrial defendant or posttrial offender; knows that the inmate, probationer, parolee, detainee, or pretrial defendant or posttrial offender is under the jurisdiction of the state or local correctional facility, a regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § [16.1-228](#), a state or local court services unit, as defined in § [16.1-235](#), a local community-based probation services agency, or a pretrial services agency; and carnally knows, without the use of force, threat or intimidation (i) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail or (ii) a probationer, parolee, detainee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, as defined in § [16.1-228](#), a state or local court services unit, as defined in § [16.1-235](#), a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services program or agency. Such offense is a Class 6 felony.

For the purposes of this section, "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anallingus, anal intercourse and animate or inanimate object sexual penetration.

(1999, c. [294](#); 2000, c. [1040](#); 2001, c. [385](#); 2007,

## **§18.2-67.4 Sexual battery**

A. An accused is guilty of sexual battery if he sexually abuses, as defined in § [18.2-67.10](#), (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse, (ii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iii) a probationer, parolee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services or agency and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail.

B. Sexual battery is a Class 1 misdemeanor.

(1981, c. 397; 1997, c. [643](#); 1999, c. [294](#); 2000, cc. [832](#), [1040](#); 2006, c. [284](#); 2007, c. [133](#).)

### **§ 18.2-431.1. Illegal conveyance or possession of cellular telephone by prisoner; penalty.**

A. It shall be unlawful for any person without authorization to provide or cause to be provided a cellular telephone to an incarcerated prisoner.

B. It shall be unlawful for an incarcerated prisoner without authorization to possess a cellular telephone during the period of his incarceration.

C. Any violation of this section shall be a Class 6 felony.

(2005, c. 171.)