

Human Resources and Administrative Investigations Notification of Curriculum Use April 2014*

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*All materials and information provided in this publication (e.g., state laws, civil case law examples, BJA statistics) are accurately represented as of October 2013.

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Training Curriculum: Human Resources and Administrative Investigations

MODULE 5: AGENCY CULTURE

The Project on Addressing Prison Rape January 2014

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The Project on Addressing Prison Rape American University Washington College of Law 4801 Massachusetts Ave, NW Washington, DC 20016 202-274-4385 endsilence@wcl.american.edu

Objectives

- 1. Define agency culture
- 2. List and describe the components of culture
- 3. Identify influences on agency culture
- 4. Describe the impact of culture on all correctional agencies
- 5. Identify strategies for changing culture





Webster's Definition of Culture

- The integrated pattern of human knowledge, belief, and behavior that depends upon the capacity for learning and transmitting knowledge to succeeding generations;
- The customary beliefs, social forms, and material traits of a racial, religious, or social group;
- The set of shared attitudes, values, goals, and practices that characterizes an institution or organization; and
- The set of values, conventions, or social practices associated with a particular field, activity, or societal characteristic.





Foundation of Culture

Culture is communication, communication is culture







Components of Agency Culture

- Beliefs: Shared explanations of experience
- Values: What is considered right and good
- Norms: Shared rules, "the way things are done"
 - -Norms are often MORE powerful than formal guidelines.





Components of Agency Culture

Phantom Rules:

Rules that people create that they **THINK** are the real rules based on their own misunderstanding or past history - these rules have **NOTHING** to do with the actual rule.





Influences on Culture

- History
- Hiring process
- Promotional process
- Leadership and agency ethics
- Public opinion





Influences on Culture

- Staff-staff interactions
- Staff-inmate/ resident dynamics
- Inmate-inmate and resident-resident dynamics
- Agency policy and procedures
- Language
- Disciplinary process





The Employee "Code of Silence"

What is the "Code of Silence"?

- A code of silence is when a person opts to withhold what is believed to be vital or important information voluntarily or involuntarily.
- A shroud of secrecy, agreement to keep quiet.
- The code of silence is usually either kept because of threat of force, danger to oneself, or fear of being branded as a traitor or an outcast within the unit or organization.







The Employee "Code of Silence"

- How prevalent is the "Code of Silence" in corrections and law enforcement?
- National Institute of Ethics conducted survey of 3,714 police officers regarding "code of silence".
 - 42% admitted to having witnessed misconduct by another employee but took no action.





The Employee 'Code of Silence'

- Protection of self and co-workers and even management or supervisors
- Non-cooperation with management and investigators
- Staff will risk discipline and even termination rather than violate this powerful norm
- Culture imposes penalties on staff who break the code of silence





Baron v. Hickey, 242 F. Supp. 2d. 66 (D. Mass. 2003)

The Facts

- Baron, a corrections officer in Suffolk County House of Correction, witnessed a supervisor playing cards with inmates, a violation of facility policy
- Baron filed a report, and the supervisor was suspended
- Baron claimed that he was ostracized and harassed after making the report
 - Defaming posters claiming Baron watched child pornography; threatening phone calls; smeared feces on his car; slashed tires.

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- Hickey, another corrections officer, was the ring leader of the harassment
 - Called him a "rat-fink" and threw cheese at him





Baron v. Hickey, 242 F. Supp. 2d. 66 (D. Mass. 2003)

The Facts

- Baron verbally complained on 30 separate occasions and submitted 20 reports in writing
 - Hickey was ordered to cease harassment, but not disciplined
 - A supervisor told Baron to "be a man"
- Baron was charged, and acquitted of indecent assault and battery
- Baron then suspended for five days for giving food to a female inmate
- Baron claimed that charges and suspension were retaliatory

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- Baron was to be suspended for 20 days for submitting an inmate communication directly to the Boston Police rather than his supervisor, but resigned before the suspension
- Baron claimed constructive firing because of retaliation



Baron v. Hickey, 242 F. Supp. 2d. 66 (D. Mass. 2003)

Legal Claims and Holding

- Legal Claims:
 - 42 U.S.C. § 1983
 - First Amendment
 - Due Process
 - State law claims
- Holding
 - The supervisors' tolerance of harassment was a "matter of public concern," sufficient to satisfy a First Amendment claim
 - Jury awards Baron \$500,000 for severe harassment
 - » Affirmed 402 F.3d 225 (1st Cir.(Mass.))

 http://law.justia.com/cases/federal/appellate

 -courts/F3/402/225/510084

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Impact of Staff Culture on Administrative Investigations

- Culture can either support or obstruct investigations
- Need to understand culture in which investigations take place
- Important for participants from other agencies to understand the features of culture in your agency
- Outcomes of investigations can in turn influence culture
- Understand the challenge of conducting independent investigations in close / small communities





Red Flags

What is a "red flag" and why is it important?

- A warning signal.
- Something that demands attention or provokes an irritated reaction.
- Red flags are actions, words, situations or settings that should warn a person that something may be wrong.





Red Flags: Staff Sexual Misconduct

- Over-identifying with any inmate/ resident or their issues (i.e., blind to inmate's actions)
- Inmates/ residents know personal information about staff
- Inmate/ resident has letters or photos of staff
- Staff granting special requests or showing favoritism
- Inmates/ residents in unauthorized area or repeatedly out of their assigned space





Red Flags: Staff Sexual Misconduct

- Staff spending an unexplainable amount of time with inmates/ residents
- Staff taking inmates/ residents out of cell/ housing space at unusual times
- Staff in personal crisis (divorce, ill health, bankruptcy, death in family)
- Overheard conversations between staff and inmates/ residents which is sexualized in nature, or refers to the physical attributes of staff or inmates/ residents





Red Flags: Staff Sexual Misconduct

- Hygiene changes for staff
- Contraband
- Creating opportunities to be alone
- Familiarity with inmates/ residents
- Extra interest in unpopular inmates/ residents
- Being only person who understands the inmates/ residents





Challenges for Leadership

- Discover the root of the problem
- Problem can be a symptom of the culture
- Addressing the problem in a systematic way is about cultural change
- Cultural change is the challenge for leadership
 - Must shift deeply ignored norms and attitudes
 - Ideology and attitude lies in key positions





Inmate/ Resident Culture: A Toxic Recipe

- Development is often delayed or interrupted clearly affecting rational decision-making for adults and residents
- Impulsiveness, risk taking, short-sightedness
- Histories of victimization -- abuse & neglect, mental illness, developmental delays, academic failure/ special education
- Questionable staff ethics such as sexual joking and innuendos, tolerance, complacency





Inmate/ Resident Culture

- Peer Pressure
- Dangers in refusal, reporting [snitching]
- Language
- Code of Silence
- Criminal Thinking
- Survival
- Protection





Inmate/ Resident Culture

- Group Affiliations
- Companionship/Friend
- Reputation
- Fear
- Deprivation
- Curiosity/Exploration





Differences for Short-term Facilities

- May have fewer "consensual" sexual relationships
- More sexual acting out directly off the street
- More drug/alcohol withdrawal influenced sexual behaviors
- More crowding & less opportunity for staff to observe
- Inmates/ residents less affected by concern with long-term safety & reputation within facility

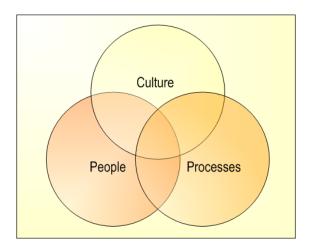




Changing Culture

3 Steps to Culture Change

- Understand the current culture (the way things are now)
- Decide what the organizational culture should look like to support success
- The individuals in the organization must decide to change their behavior to create the desired culture







- Involve all key entities:
 - Line Staff, mid-management, management
 - Governing boards/CJPO/CEO
 - External stakeholders (law enforcement, prosecutors)
- A top-down approach is essential to success of culture change
- Ensure that behavior matches policies, good policies that are not actually practiced does not work
- Create a culture and community of accountability
- Model the behavior





PREA Commission Report states:

- Sexual abuse is **not** an inevitable feature of incarceration.
- Leadership matters. Corrections administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse.





Envision the big picture

Define your agency/organization mission, vision and values

Change the organizational culture

- Executive Support
- Training
 - Include community partners and experts





- Create value and belief statements
- Evaluate whether staff at all levels buy into the value and belief statements
- Target areas where there are disconnects
 - Practice effective communication
 - Review organizational structure
 - Redesign your approach to rewards and recognition





- Meet with local officials regarding culture change within the agency
- Inform local officials about your culture change initiatives and invest them in the success of them
- Involve other key stakeholders [inmates/ residents, families, religious community, advocates]





- Conduct appropriate screening during hiring process
- Define boundaries for employees through policies that are clear, concise and definitive about what is acceptable and unacceptable
- Provide employees appropriate tools for self assessment, to help them learn when they might be crossing boundaries
- Provide employees with access to advice and assistance when they have concerns and questions about boundaries





Strategies for Changing the Staff "Code of Silence"

- Create a culture where staff place loyalty to agency's mission above loyalty to other staff/peers/supervisors
- Place honor above loyalty to other staff members/friends/peers
- Behavior must be modeled by all levels of management on down to line staff
- Regular training on ethics is absolutely necessary





Strategies for Changing the Staff "Code of Silence"

Create opportunities for discussion about:

- Professionalism
- Mission and purpose of work
- Sexual dynamics
- Appropriate inmate/residents sexual behavior in detention

Create environment for staff to support each other:

- Recognize red flags
- Safe outreach to each other:
 - Are you ok?
 - I am concerned about you...





Make it clear that you take the issue of sexual abuse of inmates/residents seriously

- Develop a firm zero tolerance policy
- Zero tolerance must mean zero tolerance
- Consequence: Something has to happen to someone

Model the behavior daily

- Insist that all managers and supervisors do the same
- The culture will not tolerate hypocrisy
- Consequences must be fair and consistent

Train, train on expectations





Educate staff

- Requirements of the law
- Liability of management and staff
- Human resources consequences
- Criminal consequences
- Professionalism and ethics
- Development
- Sexual Dynamics





- Train and support first line supervisors in their efforts to supervise employees, and recognize red flags
- Ensure that there are open dialogues specific to the issue
 - Regular employee meetings
 - Regular discussions and sharing of information and concerns





What Are the Strategies for Changing Inmate/Resident Culture?

Change the environment

 Create an environment in the facility where inmates/residents feel safe reporting sexual abuse and are confident their allegations will be investigated.

Orient and educate inmates/residents

Teach inmates/residents about boundaries,
 being safe and how to report abuse, their rights and responsibilities

Empower inmates/residents

 Allow inmates/residents to have responsibilities; peer mentors





Summary

- (1) Understanding Agency Culture
- (2) Impact of Culture
- (3) Strategies for Changing Culture



