

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<p><b>Title:</b> <b>Investigations</b></p>		<p style="text-align: center;"><b>Page 1 of 3</b></p>									
<p><b>Chapter:</b> <b>Security and Supervision</b></p>	<p style="text-align: center;"><b># 434</b></p>	<p style="text-align: center;"><b>NEW</b></p>										
<p><b>Attachments, Forms &amp; Companion Documents:</b> All attachments, forms, and companion documents are available on the DOC's website.</p>												
<p><b>Local Procedure(s) Required:</b> Yes. <b>Applicability:</b> All staff (including contractors and volunteers) <b>Security Level:</b> "A" only Department staff may have access to this document.</p>												
<p><b>Approved:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; vertical-align: top;"><b>SIGNED</b></td> <td style="width: 33%; text-align: center; vertical-align: top;"><b>02/23/2017</b></td> <td style="width: 33%; text-align: center; vertical-align: top;"><b>03/16/2017</b></td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;"><b>Lisa Menard, Commissioner</b></td> <td style="text-align: center;"><b>Date Signed</b></td> <td style="text-align: center;"><b>Date Effective</b></td> </tr> </table>				<b>SIGNED</b>	<b>02/23/2017</b>	<b>03/16/2017</b>	_____	_____	_____	<b>Lisa Menard, Commissioner</b>	<b>Date Signed</b>	<b>Date Effective</b>
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**PURPOSE:**

The purpose of this administrative directive is to identify the Vermont Department of Correction's philosophy, policy, and general principles when conducting investigations into staff misconduct and/or offender sexualized misconduct.

**PHILOSOPHY:**

It is the policy of the Vermont Department of Corrections (DOC) to actively investigate allegations of staff misconduct and offender misconduct. These investigations include, but are not limited to, allegations of sexual abuse and/or harassment<sup>1</sup>, violations of: (1) state or federal law; (2) work rules; or (3) violations of state, Agency of Human Services (AHS), and DOC policy. Some incidents of misconduct may require the investigations by outside agencies; this includes, but is not limited to, personnel matters and incidents of misconduct involving suspected criminal activity. The DOC takes all incidents of misconduct seriously. Investigations must be made in order to determine the facts surrounding the incident of misconduct. When outside agencies decline/or are not suited for

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<sup>1</sup> Allegations of sexual abuse and/or sexual harassment are governed by the Prison Rape Elimination Act (PREA) and its governing standards.

investigation, then the DOC conducts an internal investigation to determine whether the allegation of misconduct can be substantiated.

#### **AUTHORITY:**

28 V.S.A. §§ 101(5), 102(2); (9), and 103(a).

#### **POLICY**

Investigations are conducted in order to objectively and thoroughly obtain the facts, to help establish what happened and to identify the involved person(s), and to assess systemic, operational, or procedural errors. The facts of an investigation are used in determining actions that will be taken to address or correct errors, misconduct, criminal activity, or assist in guiding changes to policy and procedures.

The following types of incidents and/or allegations can prompt an investigation:

1. Offender Misconduct investigations occur when there is suspicion or an allegation that an offender is violating DOC procedure, rules, and/or policies.
2. Offender Sexual Abuse and/or Harassment investigations occur when there is suspicion or an allegation of behavior that is of a sexual nature by an inmate or staff member directed towards an inmate that is prohibited by federal law, state statute, Agency of Human Services (AHS) policy, DOC work rules, or DOC policies. This includes, but is not limited to, proposition, undue attention, inappropriate touching, indecent exposure, voyeurism, and sex.
3. Staff Misconduct investigations occur when there is an allegation of misconduct. Misconduct occurs when there has been a violation of: (1) state or federal law; (2) work rules; or (3) of state, Agency of Human Services (AHS). This includes allegations of criminal behavior.

Any conduct by offenders or staff which is criminal in nature will be referred to a law enforcement agency pursuant to the DOC's policy on [Criminal Allegations Reporting](#). Any internal investigation will not commence until the investigating law enforcement agency has concluded their criminal investigation.

While each type of investigation has its own nuances, the three main phases of the investigation process are:

1. Reporting – this is the primary mechanism which starts an investigation. It can occur when a staff member, offender, volunteer, contractor, or any other person reports which alleges some type of misconduct.
2. Formal Investigation – this is when either a non-biased DOC staff person, or non-biased AHS Investigations Unit (AHS-IU) staff review the reports, interview witnesses, collect evidence,

review footage, and perform other investigatory tasks to review the alleged incident and report on the facts found.

3. Resolution - this phase completes the investigative process. It is where evidence is reported in a written report; a conclusion is made as to whether the alleged incident of misconduct is either substantiated, unsubstantiated, or unfounded. If substantiated, a resolution with regards to the incident of misconduct is made. Types of resolutions depend on the status of the individuals involved in the incident and can include employment action, up to and including dismissal; and for inmates, changes in classification and housing determinations as well as disciplinary sanctions pursuant to the DOC's policy on [Facility Rules and Inmate Discipline](#).