

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ASHLEY DIAMOND,

Plaintiff,

v.

ARNEIKA SMITH,

Defendant.

No. 5:21-cv-00378-MTT

**PLAINTIFF'S OPPOSITION TO DEFENDANT ARNEIKA SMITH'S MOTION FOR
SUMMARY JUDGMENT**

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INTRODUCTION

This lawsuit concerns Plaintiff Ashley Diamond’s serious allegations of sexual abuse against Defendant Arneika Smith, a former corrections officer with the Georgia Department of Corrections (GDC) who abused her position of power by locking Ms. Diamond in an officer closet and subjecting her to sexual abuse, harassment, and coercion for several hours on two consecutive days. Def.’s Statement of Material Facts, ECF No. 126-2, ¶¶ 1-15, 17. The incidents of sexual misconduct that Ms. Diamond experienced at the hands of Defendant are simply not “harmless, childish actions,” as Defendant asserts. Def.’s Summ. J. Br., ECF No. 126-1, at 12. Rather, they are serious violations of Ms. Diamond’s clearly established constitutional rights. In addition, the sexual abuse Ms. Diamond experienced caused her physical injury as well as mental anguish—ultimately precipitating an attempt at suicide and self-harm. Accordingly, Ms. Diamond’s Complaint and the evidence amassed in this matter support her allegations that Defendant violated Ms. Diamond’s right to be free of sexual abuse, coercion, and voyeurism at the hands of corrections officials under the Eighth and Fourteenth Amendments and entitle her to compensatory, punitive, and nominal damages.

In response, Defendant argues only two points: that she is entitled to qualified immunity and that Ms. Diamond has not met the requirements of the Prison Litigation Reform Act (PLRA). But qualified immunity does not apply here because Defendant was acting outside the scope of her discretionary authority. Even if she was performing a discretionary function, she violated Ms. Diamond’s clearly established constitutional rights under the Eighth and Fourteenth Amendments. Further, Ms. Diamond’s suit complies with the PLRA because she has suffered a physical injury as a result of Defendant’s actions and because Defendant violated Ms. Diamond’s right to privacy, for which there is no physical injury requirement. The law also clearly allows the award of both punitive and nominal damages. Because a reasonable jury could find for

Ms. Diamond, Defendant Arneika Smith's Motion for Summary Judgment should be denied.

LEGAL STANDARD

Summary judgment may be granted only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In determining whether a genuine dispute of material fact exists to defeat a motion for summary judgment, the evidence is viewed in the light most favorable to the party opposing summary judgment, drawing all justifiable inferences in the opposing party's favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 255 (1986). A fact is material if it is relevant or necessary to the outcome of the suit. *Id.* at 248. A factual dispute is genuine if the evidence would allow a reasonable jury to return a verdict for the nonmoving party. *Id.*

ARGUMENT

I. Defendant is Not Entitled to Qualified Immunity Because She Was Not Acting Within the Scope of Her Discretionary Authority and She Violated Clearly Established Constitutional Rights

Defendant claims the shield of qualified immunity. Yet qualified immunity only applies when individual public officials, in performing discretionary functions, do not "violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Sherrod v. Johnson*, 667 F.3d 1359, 1363 (11th Cir. 2012) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). The defendant bears the initial burden of showing that she was acting within the scope of her discretionary authority. *Estate of Cummings v. Davenport*, 906 F.3d 934, 940 (11th Cir. 2018). Once discretionary authority is established, the burden shifts to the plaintiff to show that qualified immunity should not apply. *Id.* To meet this burden, the plaintiff must establish (1) that the officer's conduct amounted to a constitutional violation, and (2) that the right violated was clearly established at the time of the violation. *Diamond v. Owens (Diamond I)*, 131 F. Supp. 3d 1346, 1370 (M.D. Ga. 2015) (citing *Lewis v. City of W. Palm Beach*, 561 F.3d 1288, 1291 (11th

Cir. 2009)).

Here, as set out below, Defendant is not entitled to qualified immunity because she has failed to show that she was acting within the scope of her discretionary authority and because the constitutional rights at issue were clearly established.

A. Defendant Has Failed to Meet Her Burden to Show that She Was Acting Within the Scope of Her Discretionary Authority

Defendant fails to meet her burden to show that she was acting within the scope of her discretionary authority. To assert a qualified immunity defense, “a government official must first establish that [s]he was acting within [her] discretionary authority at the time of the challenged conduct.” *Khoury v. Miami-Dade Cnty. Sch. Bd.*, 4 F.4th 1118, 1125 (11th Cir. 2021) (citation omitted); *see also Courson v. McMillian*, 939 F.2d 1479, 1487 (11th Cir. 1991) (citation omitted). A defendant must show that her actions were “(1) undertaken pursuant to the performance of [her] duties, and (2) within the scope of [her] authority.” *Estate of Cummings*, 906 F.3d at 940 (quoting *Harbert Int’l, Inc. v. James*, 157 F.3d 1271, 1282 (11th Cir. 1998)). The court must ask whether the government employee was “performing a legitimate job-related function” or “pursuing a job-related goal [] through means that were within [her] power to utilize.” *Id.* (quoting *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1265 (11th Cir. 2004)). Courts look to state law in determining the scope of an officer’s discretionary authority. *Id.*

Defendant cites no state law or evidence—let alone undisputed facts—to show that she was acting within the scope of her discretionary authority. Rather, Defendant claims that there is “no genuine dispute that Defendant was acting within her discretionary capacity in this case.” ECF No. 126-1 at 7. Such a “bald assertion by the defendant that the complained-of actions were . . . within the scope of [her] discretionary authority” is insufficient to meet Defendant’s burden. *See Estate of Cummings*, 906 F.3d at 940 (quoting *Barker v. Norman*, 651 F.2d 1107, 1124-25 (5th Cir. Unit

A July 1981)).

In fact, contrary to Defendant's claim, Ms. Diamond disputes that Defendant was acting within her discretionary capacity as a correctional officer when she engaged in prohibited sexual abuse of an incarcerated person over the course of two days, abandoned her post, and violated prison rules in a manner that led to her termination. *See* Ex. 1 (Smith Dep. Tr.) at 24:22-24, 25:22-24, 39:6-8; Ex. 9, DEF_038609-16 (A. Smith Personnel File: Termination Notification Information). Such conduct was not in furtherance of a legitimate job-related function of a correctional officer. In fact, GDC's Prison Rape Elimination Act (PREA) Policy imposes "a zero-tolerance policy toward all forms of sexual abuse [and] [s]exual [h]arassment." Ex. 3 (GDC PREA Policy) at DEF_1362. GDC policy requires that a correctional officer who commits sexual misconduct "be subject to disciplinary action, up to and including termination and banishment from all Georgia correctional institutions" and criminal prosecution. *Id.* at DEF_1367. *See also* Ex. 6, DEF_674 (A. Smith Personnel File: PREA Education Acknowledgment Form) and Ex. 13, DEF_665 (A. Smith Employee Standards of Conduct Acknowledgment). Moreover, Georgia law prohibits sexual abuse and harassment, as well as personal or intimate relationships between a correctional officer and an incarcerated person. *See* Ga. Code Ann. § 16-6-5.1 (West 2022) (defining the criminal offense of "improper sexual contact" as "any contact involving the intimate parts of either person for the purpose of sexual gratification of either person" by a correctional officer with a person "[i]n the custody of a correctional facility . . . of which he or she is an employee or agent"); Ga. Code Ann. § 16-6-22.1 (West 2021) (defining the criminal offense of "sexual battery" as when a person "intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person."). *See also* Ga. Comp. R. & Regs.

125-2-1-.07(d) (2022), Performance of Duty¹ (“Employees shall not, without the express written approval of the appropriate Division Director, maintain personal association with . . . known inmates”); Ex. 4 [REDACTED] at [REDACTED] [REDACTED].

Here, the undisputed facts establish that Defendant locked Ms. Diamond in a room twice in two days, used her position of authority to coerce Ms. Diamond into a discussion about her genitalia, stroked Ms. Diamond’s inner thighs and buttocks, exposed herself to Ms. Diamond, and ordered that Ms. Diamond exhibit her own breasts and genitalia. *See* ECF No. 126-2. Such conduct was not within Defendant’s responsibilities as a correctional officer. *See supra and* Ex. 5 (Ridley Dep. Tr.) at 34:14-16 (GDC correctional officer testifying that Defendant’s duties were the same as his own: “Supervise inmates. Control count. Record any activity that goes on. Things of that such.”). Officer Ridley testified in his deposition that it was against prison rules for a correctional officer to bring an incarcerated person into the officer closet, where the events at issue took place. *See* Ex. 5 (Ridley Dep. Tr.) at 50:15-17 (“I mean, it’s just strange to me, and against policy, to have an inmate in a[n] officer closet. That’s just one thing you don’t do.”); Ex. 5 (Ridley Dep. Tr.) at 102:22-24 (“[T]hat’s something you don’t do as a[n] officer, any officer working any unit at GDCP. It go[es] against policy – policy big time.”). In fact, as explained above, Defendant’s actions were not only outside the scope of her authority, but a violation of policy and law.

Defendant was aware of GDC’s policy and Georgia law’s prohibition on sexual abuse. *See* Ex. 1 (Smith Dep. Tr.) 93:25-94:2 (Q: “It was against the rules to touch offenders, right? A: Yes, ma’am.”); Ex. 13, DEF_665 (A. Smith Employee Standards of Conduct Acknowledgment); Ex. 6,

¹ Ga. Comp. R. & Regs. 125-2-1-.07 (2022), *available at* <http://rules.sos.state.ga.us/gac/125-2-1>.

DEF_674 (A. Smith Personnel File: PREA Education Acknowledgment Form) (statement signed by Defendant acknowledging GDC's "zero-tolerance for sexual abuse of offenders," prohibition on "engag[ing] in any behavior of a sexual nature with an offender," authorization for her entry into prisons being contingent on her agreement to comply with GDC's policy on sexual abuse and harassment, and the possibility of disciplinary action as well as criminal prosecution for sexual misconduct). The sexual misconduct at issue was serious enough to warrant an investigation by the Office of Professional Standards (OPS). Ex. 7, DEF_571 (OPS Investigative Case Summary).

Qualified immunity does not protect "the plainly incompetent or those who knowingly violate the law." *Estate of Cummings*, 906 F.3d at 940 (quotation omitted). Since Defendant's actions cannot reasonably be described as within the scope of a correctional officer's discretionary authority, qualified immunity does not apply.

B. A Reasonable Jury Could Find that Defendant Violated a Clearly Established Eighth Amendment Constitutional Right

Clearly established law means that a defendant had "fair warning" that her conduct deprived the plaintiff of a constitutional right. *Hope v. Pelzer*, 536 U.S. 730, 740–41 (2002). There need not be, however, a case with the precise factual scenario as the allegations to which a defendant seeks qualified immunity to show that the constitutional violation was clearly established. *Id.* at 741; *see also Coffin v. Brandau*, 642 F.3d 999, 1013 (11th Cir. 2011) ("Exact factual identity with a previously decided case is not required."). A plaintiff "can demonstrate that the contours of the right were clearly established in several ways." *Diamond I*, 131 F. Supp. 3d at 1370–71 (quoting *Terrell v. Smith*, 668 F.3d 1244, 1255 (11th Cir. 2012)). Ms. Diamond can show that "a materially similar case has already been decided," that a "broader, clearly established principle [] should control the novel facts [of the] situation," or that "the conduct involved in the case may 'so obviously violate[] th[e] constitution that prior case law is unnecessary.'" *Id.* at 1371.

Even if Defendant were found to have been acting within her authority—which she was not—she would still not be protected by qualified immunity because established law has provided a clear directive that prison officials may not engage in sexual assault against incarcerated people without violating the Constitution. The Eleventh Circuit has “recognized that sexual assault can never serve any valid penological purpose and is malicious and sadistic such that a sexual assault satisfies the subjective component of an Eighth Amendment claim.” *DeJesus v. Lewis*, 14 F.4th 1182, 1198 (11th Cir. 2021) (citing *Sconiers v. Lockhart*, 946 F.3d 1256, 1259, 1266 (11th Cir. 2020)). As shown below, the sexual abuse at issue falls within the ambit of constitutional prohibition and, therefore, would allow a reasonable jury to return a verdict in favor of Ms. Diamond.

1. Defendant’s Conduct Violated the Eighth Amendment

Sexual assault of an incarcerated person by a prison official violates the Eighth Amendment and is defined as occurring whenever “the prison official, acting under color of law and without legitimate penological justification, engages in a sexual act with the prisoner, and that act was for the official’s own sexual gratification, or for the purpose of humiliating, degrading, or demeaning the prisoner.” *DeJesus*, 14 F.4th at 1196.

Defendant mischaracterizes Eleventh Circuit law as requiring “severe repetitive abuse” to state a constitutional violation. ECF No. 126-1 at 8. *See Sconiers*, 946 F.3d at 1267. Rather, a range of conduct constitutes sexual assault under the Eighth Amendment. At a minimum, sexual assault includes “intentional sexualized touching underneath clothing, such as fondling or penetration; coerced sexual activity; combinations of ongoing harassment and abuse; and exchanges of sexual activity for special treatment or to avoid discipline.” *DeJesus*, 14 F.4th at 1196-97 (citing *Sconiers*, 946 F.3d at 1266)). Here, Defendant perpetrated a combination of ongoing harassment and abuse when she locked Ms. Diamond in a room, interrogated Ms. Diamond about her genitalia, stroked

her inner thighs and buttocks, exposed herself, and coerced Ms. Diamond to exhibit her genitalia, all of which was for Defendant's sexual gratification and had no penological justification. ECF No. 126-2; Ex. 1 (A. Smith Dep. Tr.) at 33:11-15; 90:10-20; 91:14-15, 19-22; 102:6-103:23; Ex. 5 (Ridley Dep. Tr.) at 102:22-24; Ex. 6, DEF_674 (A. Smith Personnel File: PREA Education Acknowledgment Form); Ex. 8 [REDACTED] at [REDACTED] [REDACTED]; Ex. 4 [REDACTED] at [REDACTED]; Ex. 7, DEF_571 (GDC OPS Investigative Case Summary) (confirming A. Smith violated rule); Ex. 9 (A. Smith Personnel File: Termination Notification Information) at DEF_038609-14 (showing Defendant was terminated for violating C Cellhouse orders following a Legal Services Investigation, with a "No Rehire Code" on her record).

Defendant's reliance on *DeJesus* as a defense because the sexualized touching and fondling occurred while clothed avoids the Eleventh Circuit's recognition that sexual assault may also include "clothed sexualized touching" as determined "on a case-by-case basis." *DeJesus*, 14 F.4th at 1196 n.12. Whether Defendant's stroking Ms. Diamond's buttocks and inner thighs is sexual assault under the Eighth Amendment is for a jury to decide. *See id.* at 1197 ("Such determinations are for the finders of fact to decide in the first instance." (citation omitted)). In making this determination, the jury may consider "whether the alleged conduct is of a sexual nature; whether the alleged sexual assault did in fact occur; and whether the prison official intended to sexually gratify [herself] or acted for the purpose of humiliating, degrading or demeaning the prisoner." *Id.* Here, there is sufficient evidence for a jury to reasonably conclude that Defendant engaged in sexual assault because the events in question were sexual in nature, as demonstrated by Defendant questioning Ms. Diamond on her sexual preferences and genitalia, as well as the fact that the sexual

assault occurred through a combination of repeated sexual harassment and unwanted touching on Ms. Diamond's inner thighs and buttocks. Further, a jury could reasonably conclude that Defendant, knowing Ms. Diamond to be a transgender woman yet ordering her to expose her genitalia without any legitimate penological reason, acted either for her own gratification or for the purpose of humiliating, degrading, or demeaning Ms. Diamond.

2. The Constitutional Right Was Clearly Established at the Time of Defendant's Misconduct

Defendant had fair warning that her conduct violated the Eighth Amendment based on the Eleventh Circuit directive that sexual assault can never serve a valid penological purpose and is malicious and sadistic such that it is sufficient for an Eighth Amendment claim. *See Sconiers*, 946 F.3d at 1266; *see also Wilkins v. Gaddy*, 559 U.S. 34, 39 (2010); *DeJesus*, 14 F.4th at 1198 (“*Sconiers* and *Wilkins* make sexual assault an Eighth Amendment violation in the Eleventh Circuit.”). In arguing otherwise, Defendants mistakenly rely on a “long line of legal precedent,” ECF No. 126-1 at 10, that was abrogated by the Eleventh Circuit in *Sconiers v. Lockhart*, decided five months before Defendant's misconduct. 946 F.3d at 1267 (“[W]e must now retire the abrogated portion of *Boxer X*. The lack of serious physical injury, considered in a vacuum, cannot snuff out Eighth Amendment sexual-assault claims.”).

In *Sconiers*, the Eleventh Circuit set out four principles “that apply in any case involving the sexual assault of a prisoner by a prison official” and provided fair warning that sexual conduct of any kind, including Defendant's conduct, is a violation of the Eighth Amendment. *DeJesus*, 14 F.4th at 1195. The *Sconiers* principles are: (1) that “sexual assault can never serve any valid penological purpose,” (2) that “sexual assault is a malicious and sadistic action that satisfies the subjective component of an Eighth Amendment claim,” (3) that “sexual assault is never acceptable under contemporary standards of decency, which matters for purposes of satisfying the objective

component,” and (4) that the court should “look at the ‘nature’ of the force used,” and that “harm from a sexual assault is inherently not de minimis.” *DeJesus*, 14 F.4th at 1195-96 (citing *Sconiers*, 946 F.3d at 1259, 1266–67). These broad, clearly established principles are sufficient to provide Defendant notice that her conduct—repeatedly harassing Ms. Diamond about her genitalia, stroking Ms. Diamond’s inner thighs and buttocks, exposing herself to Ms. Diamond, and ordering Ms. Diamond to show her her genitalia—constituted sexual assault and therefore was unconstitutional. *See Hope*, 536 U.S. at 741 (explaining that a “general constitutional rule already identified in the decisional law may apply with obvious clarity to the specific conduct in question” (quotation omitted)).

C. A Reasonable Jury Could Find that Defendant Violated a Clearly Established Fourteenth Amendment Constitutional Right

The constitutional right to bodily privacy for incarcerated people has been clearly established in the Eleventh Circuit. *See Fortner v. Thomas*, 983 F.2d 1024, 1030 (11th Cir. 1993); *Boxer X v. Harris*, 437 F.3d 1107, 1111 (11th Cir. 2006), *abrogated on other grounds*, *Wilkins*, 559 U.S. at 39 (“We have reaffirmed the privacy rights of prisoners emphasizing the harm of compelled nudity.”). *Fortner* explained that most people, including those who are incarcerated, maintain a “special sense of privacy in their genitals, and involuntary exposure of them . . . may be especially demeaning and humiliating.” 983 F.2d at 1030 (quotation omitted).

Here, Ms. Diamond’s claim is clearly within the scope of the right established in *Fortner*. Plaintiff is a transgender woman who struggles to even think about her genitalia, let alone expose herself for Defendant’s viewing. *See* ECF No. 105 at 177:9–177:12 (Diamond) (“I want to say that that’s a part of my body that I don’t acknowledge. That I do not get along with at all. It’s not something that I would even want to see or have anyone else look at or touch. I don’t want it there.”). Yet, Defendant ordered Ms. Diamond to expose her breasts and genitalia without any

legitimate reason. *See* Ex. 3 at DEF_1371 (GDC PREA Policy) (stating that “[t]he facility shall not search or physically examine a Transgender . . . offender for the sole purpose of determining the offender’s genital status.”). Ms. Diamond testified in her deposition that she felt she did not have a choice but to comply with the order of a correctional officer. *See* Ex. 2 (Diamond Dep. Tr.) at 163:25–164:3 (Q: “[W]hat led up to going into the room? A: She’s my superior, and she told me to go into the room.”); 239:8–9 (“I did exactly as she told me to do in every instance.”). Such conduct is sufficient to show the harm to Ms. Diamond through compelled nudity.

Defendant relies on factual assertions that are irrelevant to whether Defendant violated Plaintiff’s constitutional right to bodily privacy. The Eleventh Circuit articulates no requirement that the compelled nudity be “physically forced,” involve “sexual activity such as masturbation,” or a “prolonged public display.”² ECF No. 126-1 at 11. *See Fortner*, 983 F.2d at 1027 (finding violation of constitutional right to bodily privacy based on conduct that included soliciting incarcerated people to “exhibit their genitals for the female officers’ viewing”); *Boxer X*, 437 F.3d at 1111 (finding claim that officer solicited an incarcerated man to masturbate in his jail cell to be “clearly within the scope of the right established in *Fortner*”). To minimize such conduct as “harmless” or “childish,” ECF No. 126-1 at 12, is to ignore the extreme power differential between an incarcerated individual and a guard within a correctional setting. Defendant’s actions were an

² Indeed, Defendant’s reading of the law would encourage correctional officers to be creative in order to constitutionally engage in a range of degrading, humiliating, and sexually abusive practices by using their positions of authority to, as examples, touch inmates in and around their genitals with hands or tongues, avoiding only “penetration” and “forced masturbation”; require inmates to undress and assume whatever sexual position the officer requested; and sexually abuse inmates on an occasional, daily or weekly basis without any legitimate or penological basis—limited only by the need to avoid “physical” force (allowing coercion, threats of disciplinary reports, withholding access to food, toiletries, bathrooms, showers, yard time, etc.) or “prolonged public displays” (allowing such abuses to be acceptable if they take place, as here, in a locked windowless room, bathroom stall, unoccupied cell, etc.).

abuse of that power, sexual misconduct, and an invasion of Ms. Diamond’s constitutional right to bodily privacy.

II. Ms. Diamond’s Request for Compensatory Damages Comports with the PLRA

A. The Physical Injury Requirement is Not an Affirmative Defense

Defendant argues that Ms. Diamond’s claim for compensatory damages should be dismissed because the injuries Ms. Diamond suffered as a result of her suicide attempts and compulsion to self-harm are not sufficient to fulfill the requirement of a physical injury for purposes of the PLRA.

As a preliminary matter, the PLRA physical injury requirement is not a defense to liability in this action; at best, it serves to limit the types of monetary damages that plaintiffs are able to recover. *See Hoever v. Marks*, 993 F.3d 1353, 1358 (11th Cir. 2021) (en banc). Indeed, as the Eleventh Circuit held sitting en banc in *Hoever*, “the text of § 1997e(e) bars only requests for compensatory damages stemming from purely mental or emotional harms. Understood properly, then, § 1997e(e) does not bar punitive damages in the absence of physical injury.” 993 F.3d at 1358. The court affirmed that the same rule applies to nominal damages claims. *Id.* at 1361 (“[T]he rule in this circuit is that § 1997e(e) does not bar prisoners from seeking nominal damages because a ‘nominal damages claim is not brought for mental or emotional injury.’” (quoting *Brooks v. Warden*, 800 F.3d 1295, 1308 (11th Cir. 2015))).³

³ The Court also explained the rationale for that distinction between compensatory damages, on one hand, and nominal and punitive damages on the other: “Punitive damages do not compensate plaintiffs for injuries suffered. Rather, their purpose ‘is to punish the defendant for his willful or malicious conduct and to deter others from similar behavior.’” *Hoever*, 993 F.3d at 1358-59 (internal citations and quotations omitted). Similarly, the Court recognized that nominal damages are “designed to vindicate the deprivation of a plaintiff’s constitutional rights,” based on Circuit as well as Supreme Court precedents. *Id.* at 1361 (citing *Brooks*, 800 F.3d at 1308 and *Uzuegbunam v. Preczewski*, — U.S. —, 141 S. Ct. 792, 800, 802 (2021)). As such, even if Ms. Diamond is unable to demonstrate a physical injury, it would not preclude her suit as she

Defendant herself concedes that any bar to Ms. Diamond’s suit on the basis of failure to show a physical injury would apply only to Ms. Diamond’s claim for compensatory relief. ECF No. 126-1 at 12 (“Absent allegations that a defendant’s actions are related to a physical injury or a sexual act, a plaintiff cannot obtain compensatory relief.”). Implicit in this concession is that Ms. Diamond’s claims for nominal and punitive damages can proceed regardless of whether there is any physical injury. As such, summary judgment is not warranted because, in addition to having a viable claim for compensatory damages as set forth below, Ms. Diamond’s claim for nominal and punitive damages remains viable whether or not she can make a showing of physical injury, and thus must survive Defendant’s Motion.

B. Plaintiff Has Suffered Physical Injury Under the PLRA

Ms. Diamond’s compensatory, punitive, and nominal damages claims against Defendant all remain viable because Ms. Diamond suffered a physical injury following Defendant’s sexual abuse—specifically, she attempted suicide and felt compelled to engage in self-harm. *See* Ex. 2 (Diamond Dep. Tr.) at 228:8-229:19; Ex. 10 (Health Services Request Form) at DEF004785; Ex. 11 (Email re: Weekly Report) at DEF004811.

As Defendant concedes, “the Eleventh Circuit has not yet addressed whether injuries of a self-inflicted nature . . . are sufficient to establish more than *de minimis* injuries for PLRA purposes”—specifically, the physical injury requirement. (ECF No. 126-1 at 15.) However, numerous courts have found self-harm to satisfy the physical injury requirement of the PLRA. *See, e.g., Arauz v. Bell*, 307 F. App’x. 923, 929 (6th Cir. 2009) (concluding that statement that plaintiff attempted suicide satisfied PLRA requirement because “[b]y definition, attempting suicide

would still be able to recover nominal damages and punitive damages from Defendant Smith. *Id.* at 1361 (“As with nominal damages, ‘punitive damages may be recovered for constitutional violations without a showing of compensable injury.’” (internal citations and quotations omitted)).

involves hurting oneself, and we can presume the existence of some physical injury from [plaintiff]’s statement that he attempted to commit suicide”); *Reed v. Mohr*, No. 2:19-cv-738, 2019 WL 3430803, at *3 (S.D. Ohio July 30, 2019), *report & recommendation adopted*, 2019 WL 5157005 (Oct. 15, 2019) (“[a]ttempting suicide . . . meets the PLRA’s physical injury requirement”); *Steas v. Guard, Me. State Prison*, No. 1:14-cv-00133-GZS, 2015 WL 786919, at *2 (D. Me. Jan. 26, 2015), *report & recommendation adopted*, 2015 WL 790034 (Feb. 25, 2015) (“Plaintiff’s alleged attempted suicide thus satisfies the physical injury requirement of section 1997e(e)”); *Habeebullah v. Crawford*, No. 08-4063-CV-C-NKL, 2011 WL 2458060, at *5 (W.D. Mo. June 17, 2011) (“Plaintiff has attempted suicide on multiple occasions after Defendants committed the alleged misconduct. The Court notes that suicide attempts can satisfy the physical injury requirement.” (citations omitted)).

Moreover, the bar for what constitutes *de minimis* injury is not high. In *Thompson v. Secretary, Florida Department of Corrections*, a prisoner alleged that the prison diet “caused him to suffer from headaches, weakness, cold sweats, dizziness, weight loss, numbness in his left arm, and high blood sugar that caused fainting.” 551 F. App’x 555, 556 (11th Cir. 2014) (*per curiam*). The Eleventh Circuit found that the district court had “erred in determining that Thompson had alleged only *de minimis* physical harm.” *Id.* at 557. The court stated that Thompson had alleged “continuing severe physical pain and other symptoms that persisted for an extended period of time and required medical treatment,” and noted that, while that harm might “perhaps not [be] significant, the physical injury that Thompson alleged rose above the *de minimis* threshold.” *Id.*

Here, Ms. Diamond has alleged that, as a result of Defendant’s sexual abuse, Ms. Diamond became suicidal, attempted to kill herself, and was compelled to self-harm. Ex. 2 (Diamond Dep.

Tr.) at 228:8-229:19; Ex. 10 (Health Services Request Form) at DEF004785; Ex. 11 (Email re: Weekly Report) at DEF004811. Such self-inflicted injuries satisfy the physical injury requirement of the PLRA, as discussed above, and are more than *de minimis*. And while Defendant claims that “other than Plaintiff’s self-serving allegations, there is no evidence that Plaintiff ever injured herself,” ECF No. 126-1 at 17, that argument is unavailing. First, Ms. Diamond testified, and documents corroborate, that she attempted suicide as a result of Defendant’s sexual abuse and was placed on suicide precautions. Ex. 2 (Diamond Dep. Tr.) at 228:8-229:19; *see also* Ex. 11 (Email re: Weekly Report) at DEF004811, Ex. 12 (June 11, 2020 Suicide Risk Assessment Instrument) at DEF_472 (listing “[r]ecent physical/sexual abuse in prison” as a recent stressor). Second, while Defendant may contest whether in fact Ms. Diamond injured herself, that merely makes that fact disputed. As such, it is for the trier of fact to decide, taking into account the credibility of the witnesses, and therefore may not be considered at the summary judgment stage. *See Anderson*, 477 U.S. at 255 (“Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge, whether he is ruling on a motion for summary judgment or for a directed verdict.”).

C. The PLRA Does Not Require Physical Injury for the Constitutional Violation of Invasion of Bodily Privacy

As discussed above, Ms. Diamond has clearly alleged physical injury. But even if Ms. Diamond had not alleged physical injury, she would still be legally entitled to compensatory damages for invasion of privacy. Invasion of privacy is a constitutional violation that is neither mental nor emotional in nature, therefore no showing of physical injury is required under the PLRA. *See Hoever*, 993 F.3d at 1358 (“the text of § 1997e(e) bars only requests for compensatory damages stemming from purely mental or emotional harms”); *Aref v. Lynch*, 833 F.3d 242, 262-67 (D.C. Cir. 2016) (describing differing views on this issue and explaining why reading of the

PLRA that allows compensatory damages for non-physical injuries that are neither mental nor emotional is correct).

CONCLUSION

For the foregoing reasons, Defendant's Motion for Summary Judgment should be DENIED.

Respectfully submitted,

May 31, 2022

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Counsel for Plaintiff Ashley Diamond

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document and all attachments were served on all counsel of record through the Court's CM/ECF system.

Dated: May 31, 2022

/s/ A. Chinyere Ezie

A. Chinyere Ezie, Esq.

Counsel for Plaintiff Ashley Diamond

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ASHLEY DIAMOND, <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> ARNEIKA SMITH <p style="text-align: right;">Defendant.</p>	No. 5:21-cv-00378-MTT
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**DECLARATION OF A. CHINYERE EZIE IN SUPPORT OF PLAINTIFF’S
OPPOSITION TO DEFENDANT ARNEIKA SMITH’S MOTION FOR SUMMARY
JUDGMENT**

I, A. Chinyere Ezie, declare under penalty of perjury that the following is true and correct:

1. I am a Senior Staff Attorney at the Center for Constitutional Rights and one of Plaintiff Ashley Diamond’s attorneys.

2. Attached hereto are true and correct copies of the following documents:

Exhibit Number	Document
1	Excerpts from the March 18, 2022 Deposition of Arneika Smith – filed under seal pursuant to protective order
2	Excerpts from the February 22, 2022 Deposition of Ashley Diamond
3	DEF_1362-1412 (Ga. Dep’t of Corrs. PREA Policy)
4	██████████ – filed under seal pursuant to protective order
5	Excerpts from the March 21, 2022 Deposition of Deddric Ridley
6	DEF_674 (A. Smith Personnel File: PREA Education Acknowledgment Form)
7	DEF_571 (Ga. Dep’t of Corrs. Office of Professional Standards Investigative Case Summary)
8	██████████ – filed under seal pursuant to protective order
9	DEF_038609-616 (A. Smith Personnel File: Termination Notification Information)
10	DEF_4785 (Health Services Request Form)
11	DEF_4811 (Email re: Weekly Report)
12	DEF_472 (June 11, 2020 Suicide Risk Assessment)
13	DEF_665 (A. Smith Employee Standards of Conduct Acknowledgment)

Dated: May 31, 2022

Signed,

/s/ A. Chinyere Ezie*

A. Chinyere Ezie, Esq.

CENTER FOR CONSTITUTIONAL RIGHTS

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New York, NY 10012

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Admitted Pro Hac Vice

EXHIBIT 1

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

----- x
ASHLEY DIAMOND, :
 :
 Plaintiff, : Case
 :
 v. : No. 5:20-cv-378-MTT
 :
 ARNEIKA SMITH, :
 :
 Defendant. :
----- x

Virtual Videotaped Deposition of
ARNEIKA SMITH
Friday, March 18, 2022
1:07 p.m. CST

Job No.: 437053
Pages: 1 - 252
Reported by: THERESA A. VORKAPIC,
CSR, RMR, CRR, RPR

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Virtual Videotaped deposition of Arneika Smith taken pursuant to notice before Theresa A. Vorkapic, a Certified Shorthand Reporter, Registered Merit Reporter, Certified Realtime Reporter, Registered Professional Reporter and a Notary Public in and for the State of Illinois.

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A P P E A R A N C E S

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1 A P P E A R A N C E S (Continued)

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8

9 ALSO PRESENT:

10 Yomidalys Guichardo, Intern, Center for

11 Constitutional Rights

12 Matt Weedon, Audiovisual Technician,

13 Planet Depos

14 RJ Buckler, CLVS, Videographer,

15 Planet Depos

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C O N T E N T S

EXAMINATION OF ARNEIKA SMITH	PAGE
Examination By Ms. Littrell	7

E X H I B I T S

(Attached to transcript.)

SMITH DEPOSITION EXHIBITS	PAGE
Exhibit 1 DEF 605	107
Exhibit 2 DEF 038598 to 601	113
Exhibit 3 Letter From McGovern Day 21-12006	167
Exhibit 4 Verification	170
Exhibit 5 DEF 578	177
Exhibit 6 DEF 609	190
Exhibit 7 DEF 690	211
Exhibit 8 DEF 691	216
Exhibit 9 DEF 4713	234
Exhibit 10 DEF 597 to 602	235

CONFIDENTIAL - ATTORNEY'S EYES ONLY

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

24

1	A	No, ma'am. Other than Ashley Diamond, no,	08:59:28
2		no. No, ma'am.	08:59:33
3	Q	Who was [REDACTED]?	08:59:37
4	A	He was an orderly. He was an orderly. He	08:59:45
5		was in a wheelchair.	08:59:47
6	Q	Any other orderlies that you can recall at	08:59:49
7		this moment now that maybe you start thinking	08:59:54
8		about it?	08:59:56
9	A	I mean if you throw their names up, maybe	09:00:00
10		I can remember. But just off top, I can't	09:00:03
11		remember their names. I can, like, vividly	09:00:06
12		remember some would stay on mentally, like the way	09:00:15
13		they look, but I can't think of their names.	09:00:21
14		Sorry.	09:00:23
15	Q	What about [REDACTED]? Do you know who	09:00:26
16		that is?	09:00:30
17	A	Who?	09:00:31
18	Q	[REDACTED], was he an orderly?	09:00:31
19	A	No, ma'am. No, ma'am.	09:00:33
20	Q	Not that you can recall?	09:00:42
21	A	At all.	09:00:42
22	Q	When was your last day at GDCP?	09:00:42
23	A	I don't exactly remember because I went	09:00:50
24		out on leave without pay. I want to say it was	09:00:54
25		sometime in December, but I'm not sure. I know I	09:01:00

1 went out on leave without pay, and the next day, I 09:01:06

2 was called and I was put on suspension with pay. 09:01:10

3 Q Did you show up for work again after that, 09:01:12

4 after December? 09:01:16

5 A No, ma'am. He put me on suspension with 09:01:19

6 pay. It was a lot of stipulations like I signed a 09:01:22

7 paper saying that I couldn't go to any other 09:01:25

8 facilities, that I had to be available from I 09:01:28

9 think it was 8:30 until 4:30, like I had to call 09:01:34

10 in Monday through Friday, and that's it. 09:01:38

11 Q That was the last day that you went to 09:01:46

12 GDCP. 09:01:49

13 Do you remember your last day of 09:01:52

14 employment at Georgia Department of Corrections? 09:01:54

15 A No. That wasn't my last day because I had 09:01:55

16 to go and report twice. I had two lie detector 09:01:58

17 tests. I had to report for those, and then I 09:02:04

18 also -- the last day that I reported was May the 09:02:07

19 27th, and that's when I was terminated. 09:02:10

20 Q What year was that? 09:02:12

21 A 2021. 09:02:18

22 Q Before you were terminated, did you ever 09:02:18

23 receive a letter of concern? 09:02:24

24 A Many. 09:02:25

25 Q Tell me about them. What do you remember? 09:02:30

1 A A bunch of lies. It was horrible. I 09:02:32
2 asked to be on another key -- well, before I asked 09:02:35
3 to just be transferred to a different facility, 09:02:41
4 and I was ignored. 09:02:45
5 Q Okay. 09:02:51
6 A You want me to tell you what the letter 09:02:55
7 said. 09:02:57
8 Q Yes. What was the concerns of letter? 09:02:58
9 A I'm sorry. So sorry. Lieutenant McCall 09:03:00
10 wrote a letter of concern. It says something 09:03:06
11 about me having inappropriate conversation with an 09:03:08
12 inmate. Oh, God -- I can't remember and I don't 09:03:11
13 want to lie to you, but it was a bunch of lies, 09:03:26
14 and it really made me feel some kind of way 09:03:30
15 because you really wouldn't think that people 09:03:33
16 would do that to you, you know, so I started going 09:03:35
17 above to try to get myself some help. 09:03:38
18 Q So you said you had many letters of 09:03:44
19 concern. How many would you say you received? 09:03:48
20 A I think she gave me like three. 09:03:49
21 Q One that you recall was about being you 09:03:52
22 said -- how did you phrase that? 09:03:54
23 A Inappropriate conversation, inappropriate 09:03:58
24 something with an inmate, like I can't remember 09:04:02
25 how she said it verbatim. But it was a lie, and 09:04:04

1 it was like -- the letters were, like, back to 09:04:08
2 back to back, like. 09:04:11

3 Q Inappropriate conversation such that you 09:04:15
4 recall was one letter of concern. What was 09:04:18
5 another concern? 09:04:20

6 A They all basically said the same thing. 09:04:23
7 One was about, like, the way we record time in 09:04:28
8 Mal-U, so you have military time and, I guess, 09:04:31
9 just standard time, and I've never been to the 09:04:35
10 military, so I would just do my recordings in just 09:04:38
11 regular time. 09:04:42

12 And one Sergeant Uvari told me I could 09:04:43
13 either do it this way or that way, meaning either 09:04:55
14 way was acceptable, and Lieutenant McCall told me 09:04:58
15 that it wasn't, and the conversation that Sergeant 09:05:02
16 Uvari and I had, she said that she had that 09:05:08
17 conversation with me, and she didn't. He had it 09:05:10
18 with me, and it was about recording the time in 09:05:15
19 Mal-U, my 15- and 30-minute rounds. 09:05:19

20 Q Any other letters of concern that you 09:05:26
21 recall? 09:05:34

22 A No, ma'am. No, ma'am. 09:05:34

23 Q When you said you had many, you've only 09:05:34
24 described two. 09:05:36

25 A Well, because they all basically said the 09:05:38

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

33

1 because once we're sent to our post, anything that 09:13:40
2 we need, we would have to, like, call OIC or we 09:13:44
3 could tell the unit manager, and she would be 09:13:49
4 someone that I would call sometimes as well if I 09:13:52
5 needed help. 09:13:55

6 Q You're not sure if she was the PREA 09:13:59
7 coordinator. Do you know what a PREA coordinator 09:14:02
8 does? 09:14:05

9 A I really -- it's crazy really, like, for 09:14:06
10 me how into this I was. I really can't remember a 09:14:20
11 lot, and it's not on purpose, actually. But I 09:14:23
12 think a PREA coordinator -- when things happen to 09:14:31
13 inmates that's not supposed to, like sexual things 09:14:33
14 or verbal things that you can't say and the PREA 09:14:38
15 is to protect them, protection of the inmates 09:14:46
16 right in a nutshell. 09:14:49

17 Q Do you know what it stands for, Ms. Smith, 09:15:02
18 PREA? 09:15:05

19 A I can't remember. 09:15:06

20 Q You're not sure who the coordinator was, 09:15:09
21 the PREA coordinator was for C-House; is that 09:15:12
22 right? 09:15:17

23 A I can't remember. I don't know if it was, 09:15:17
24 like, a certain one for a certain house. I 09:15:18
25 thought we actually had a PREA coordinator. I 09:15:20

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

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1	Q Let me ask it a different way.	09:22:45
2	Did you see her ever violate any rules	09:22:47
3	that you knew of?	09:22:53
4	A You know, we're not supposed to curse them	09:22:56
5	or say or be a certain way and honestly, she was	09:22:59
6	and I wasn't terminated for this accusation. I	09:23:09
7	was terminated for inappropriate conversation with	09:23:14
8	an inmate, but you hear that all day. You hear	09:23:16
9	captains and other COs and people saying the worst	09:23:23
10	things to inmates.	09:23:27
11	Q Such as?	09:23:31
12	A You name it. Like, I've been hearing	09:23:32
13	they'll be called pussy. They will be called --	09:23:38
14	they just get cursed out. I've heard certain	09:23:41
15	officers tell inmate to die. You don't know what	09:23:45
16	these people mental states is and you're wishing	09:23:48
17	that on them and you're telling them something	09:23:53
18	like that and God watches, you know.	09:23:57
19	Q What about LaChesha Smith, did you ever	09:23:59
20	see her say or did you observe her or hear her say	09:24:03
21	inappropriate things to --	09:24:09
22	A She was feisty. She was feisty. She had	09:24:10
23	to be.	09:24:13
24	Q Tell me what you mean by that.	09:24:13
25	A Well, you know how women are. You could	09:24:15

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

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1	mentally remember in the very front.	09:36:43
2	Q And where are the cameras in relation to	09:36:48
3	your post?	09:36:50
4	A Right, like, where I sit. Like, where the	09:36:52
5	control panel is, there's, like, two on each side	09:36:56
6	there's, like, facing -- you could see everything	09:37:02
7	from where how the cameras are facing.	09:37:04
8	Q What are the ranges? When somebody says I	09:37:07
9	went up on the ranges, what does that mean?	09:37:09
10	A That's a new one.	09:37:20
11	Q The range, up on the range?	09:37:21
12	A Yeah. I don't ever remember that term.	09:37:23
13	Q So if you were sitting at your desk, which	09:37:26
14	is your post, were you doing count?	09:37:29
15	A You have to actually physically get up and	09:37:34
16	do count. You can't sit down and do count, and	09:37:36
17	someone has to count with you.	09:37:39
18	Q What other reason would you have to leave	09:37:46
19	your post?	09:37:48
20	A Something's got to be going on. Someone	09:38:03
21	in B-House could need some help, so you can leave	09:38:06
22	your post to go help. You're supposed to go help	09:38:12
23	count, so you can leave your post for that. If	09:38:15
24	OIC calls you, you can leave your post for that.	09:38:18
25	There is quite a few things you can leave	09:38:24

1 your post for. You just got to lock the gate 09:38:26
2 behind you. 09:38:31

3 Q So if OIC calls or if you're needed in 09:38:32
4 another dorm or if you're needed to help count, 09:38:37
5 those are reasons you can leave your post? 09:38:40

6 A Right. A lot, they would have someone to 09:38:41
7 relieve you. They're not left alone. 09:38:43

8 Q You can't just walk away from your post 09:38:45
9 without telling anyone? 09:38:48

10 A No, unless, like, B-House you can walk 09:38:49
11 right up the corridor because you're still right 09:38:53
12 at your post. You could go help. 09:38:55

13 Q And the camera would still -- would it 09:38:59
14 capture you if you walked down the corridor? 09:39:03

15 A Oh, yeah. Camera sees everything. 09:39:05

16 Q We're not going to talk about May 9th or 09:39:12
17 10th yet, but just to get an understanding. 09:39:15

18 When you talk about the officer's room, 09:39:18
19 the officer's closet, do you know what I'm 09:39:20
20 speaking of, where you went to look for the jacket 09:39:24
21 you talked about? 09:39:26

22 A Yes, ma'am. 09:39:27

23 Q Where is that in relation to your post? 09:39:27

24 A The closet? 09:39:35

25 Q Uh-huh. 09:39:40

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

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1	A No, ma'am. Before the employee closet,	10:24:23
2	there is a computer for the inmates to get on, so	10:24:25
3	there is a computer area, the employee closet, the	10:24:27
4	supplies closet. After that, that's when you	10:24:30
5	start the cells.	10:24:37
6	Q The employee closet and the officer's	10:24:38
7	closet is the same thing; is that right?	10:24:40
8	A Yes, ma'am. The employee closet and	10:24:43
9	the -- let's say supplies, because that's what we	10:24:47
10	were, yes, ma'am.	10:24:50
11	Q Supply closet, officer's closet, no other	10:24:54
12	storage room in C-House that you know of?	10:24:58
13	A No, ma'am.	10:25:00
14	Q You said the supply closet door -- did you	10:25:08
15	say that it did not lock or was not locked	10:25:10
16	usually?	10:25:13
17	A It wasn't locked. They never locked it	10:25:13
18	because the inmates needed to go in there all the	10:25:15
19	time. They were forever cleaning, the orderlies,	10:25:17
20	the orderlies. I can you tell you what he looks	10:25:22
21	like. I can tell you everything.	10:25:31
22	Q If it wasn't locked, would other inmates	10:25:32
23	be able to have access to it?	10:25:37
24	A They did.	10:25:40
25	Q So any inmate could go into this supply	10:25:43

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

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1	closet, correct?	10:25:46
2	A Yes. They pretty much -- they did. They	10:25:49
3	didn't do it. The only people that really went in	10:25:52
4	there were the orderlies, the people who clean.	10:25:54
5	And if they needed help, they would actually ask	10:25:56
6	if another inmate who wasn't an orderly could	10:25:58
7	help.	10:26:01
8	Q Like, someone could go in there. It	10:26:03
9	sounds like you're saying it wasn't locked, so	10:26:05
10	somebody could go into that supply closet that	10:26:09
11	wasn't an orderly?	10:26:12
12	A Yes, ma'am. Yes, ma'am.	10:26:13
13	Q The officer's closet, talk to me about	10:26:16
14	that door. Was it locked?	10:26:18
15	A Yes, ma'am. You have to lock that and	10:26:22
16	unlock that at all times.	10:26:24
17	Q How did you lock and unlock it?	10:26:27
18	A With my key.	10:26:33
19	Q So that's a key that you put in and then	10:26:35
20	turned?	10:26:38
21	A Yes, ma'am, a key that you manually put in	10:26:39
22	and turn, yes, ma'am.	10:26:43
23	Q And then once you're inside, do you lock	10:26:43
24	it the same way with a key?	10:26:46
25	A Yes. You don't have to. Like, if you're	10:26:48

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

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1 going in to use the bathroom, yeah, you close it 10:26:52
2 and you lock it. But if you're just going in to 10:26:54
3 warm your food or to get a paper, you don't have 10:26:57
4 to close it and lock it, yeah. 10:26:59

5 Q Are incarcerated people allowed into that 10:27:08
6 room, the officer's closet? Can they use that? 10:27:11

7 A No, ma'am. They had their own rest room. 10:27:20

8 Q Did orderlies or any other incarcerated 10:27:22
9 person that you know of have a key to the 10:27:25
10 officer's closet? 10:27:27

11 A No, no, ma'am. 10:27:29

12 Q Did you ever see an incarcerated person in 10:27:35
13 the officer's closet? 10:27:40

14 A No, ma'am. 10:27:40

15 Q Other than Ashley Diamond, right? 10:27:49

16 A Yes, ma'am, other than when we get to that 10:27:52
17 point. But before that, no, ma'am. 10:27:58

18 Q So let's talk about Ashley for a minute. 10:27:59
19 Do you know who Ashley Diamond is? 10:28:03

20 A Well, I thought. 10:28:05

21 Q When did you meet Ashley? 10:28:09

22 A When I first started being in C-House, 10:28:13
23 when they put me in C-House. I hired in October, 10:28:22
24 but I wasn't on my full key until I fully 10:28:30
25 graduated from BCOT. I failed a class and I had 10:28:35

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

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1 Q Were you trained to tell inmates what to 10:56:28
2 do if they came to you to report sexual activity? 10:56:34

3 A No, not that I can remember. No one has 10:56:40
4 ever told me this is what you do, but if an event 10:56:48
5 that would have happened to me if an inmate was 10:56:54
6 raped or felt threatened, I would call OIC and let 10:56:57
7 OIC know and they would come and talk to that 10:57:01
8 inmate. They would pull them to the side and 10:57:04
9 handle it from there. 10:57:07

10 Q Were you trained that you could not 10:57:08
11 sexually touch an inmate? 10:57:11

12 A Well, of course, ma'am. Those are things 10:57:18
13 that they stress about, like, we have a wall of 10:57:23
14 shame. So that alone let's you know, and it's 10:57:27
15 just common sense to not put your hands on an 10:57:33
16 inmate. 10:57:36

17 Q Are you saying that you remember the 10:57:40
18 training or that it's just commonsense? 10:57:41

19 A It's just common sense or I would say 10:57:44
20 both. 10:57:52

21 Q Do you recall getting that training? 10:57:53

22 A I mean, I know that they spoke to us about 10:57:57
23 PREA and us having personal dealings is what they 10:58:01
24 call it. So, yes, we were told about personal 10:58:09
25 dealings. We were spoken to about personal 10:58:11

1 dealings and, yes, it is common sense to not put 10:58:13

2 your hands on an inmate. 10:58:15

3 Q Your understanding of personal dealings, 10:58:21

4 is that only sexual contact? 10:58:25

5 A No, no. Personal is personal meaning that 10:58:29

6 they don't -- they're not supposed to be in my 10:58:33

7 life, and I'm not supposed to be in theirs. 10:58:36

8 Q Meaning -- help me understand what you 10:58:43

9 mean by that. 10:58:45

10 A They're not supposed to know anything 10:58:46

11 about my life, and I'm not supposed to know 10:58:51

12 anything about theirs. I'm not supposed to take 10:58:53

13 anything from them. They're not supposed to take 10:58:55

14 anything from me. There is no touching. There is 10:58:57

15 no inappropriate conversation. There is no -- any 10:58:59

16 of that, anything that questions my morals or my 10:59:01

17 values. 10:59:05

18 Q What about others? You've talked about 10:59:11

19 what you know that you were not to do. What about 10:59:13

20 other COs, are they allowed to sexually touch an 10:59:16

21 inmate? 10:59:22

22 A No. I think what applies to me applies to 10:59:24

23 everybody. 10:59:30

24 May I go run upstairs and get my charger 10:59:32

25 because my laptop is on red and I don't want it to 10:59:35

1 hang up on you? And it will only take me a 10:59:38
2 second. 10:59:40

3 MS. LONG: Absolutely. Let's take a 10:59:40
4 five-minute break, okay? 10:59:42

5 THE WITNESS: Yes, ma'am. 10:59:44

6 THE VIDEOGRAPHER: We're going off the 10:59:47
7 record. The time is 10:59. It's the end of 10:59:49
8 Recording 2. 10:59:52

9 (A recess was had.) 10:59:53

10 THE VIDEOGRAPHER: The time is 11:08. 11:08:03
11 We're on the record at the start of Recording 3. 11:08:11

12 BY MS. LITTRELL: 11:08:14

13 Q Ms. Smith, we took a break. You had to 11:08:18
14 get your charger. Did you talk to anybody other 11:08:21
15 than your lawyer while we were on the break? 11:08:24

16 A I talked to my son's father for a second. 11:08:28

17 Q Did you talk about this case? 11:08:31

18 A No. It's none of his business. 11:08:34

19 Q You were testifying that you knew that you 11:08:39
20 were not allowed to have personal dealings with 11:08:45
21 inmates, correct? 11:08:47

22 A Correct. 11:08:48

23 Q Because that was one of the prison rules, 11:08:49
24 right, one of the GDC policies, right? 11:08:52

25 A Correct. 11:08:55

1 Q So it would apply not only to you but to 11:08:57
2 all correction officers, right? 11:09:00
3 A Yes, ma'am. Yes, ma'am. 11:09:02
4 Q You said personal dealings including 11:09:08
5 knowing anything about their life, right? 11:09:11
6 A Yes, ma'am. 11:09:13
7 Q And them knowing anything about your life, 11:09:17
8 right? 11:09:19
9 A Yes, ma'am. 11:09:20
10 Q And it included -- 11:09:24
11 A -- giving them things. 11:09:26
12 Q What about financial transactions, were 11:09:27
13 you allowed to have financial transactions? 11:09:29
14 A That's the same thing, that's the same 11:09:31
15 thing, giving and taking. 11:09:33
16 Q So receiving anything of value from an 11:09:34
17 inmate was against the rules, right? 11:09:36
18 A Of course, yes, ma'am. 11:09:41
19 Q And giving them anything of value would be 11:09:42
20 against the rules, right? 11:09:48
21 A Not even of value, anything, you're not 11:09:48
22 supposed to give them anything. 11:09:51
23 Q And what about -- let's see. You've 11:09:53
24 testified but let's just clarify it for the 11:10:01
25 record. It was against the rules to touch 11:10:03

1 offenders, right? 11:10:05

2 A Yes, ma'am. Yes, ma'am. 11:10:11

3 Q In any way, is that right, unless it was 11:10:12

4 for medical or disciplinary reasons? 11:10:15

5 A Correct, yes, ma'am, and only the medical 11:10:17

6 people could touch them. 11:10:21

7 Q And it was against the rules to have a 11:10:23

8 romantic relationship with an inmate, right? 11:10:26

9 A Correct, yes, ma'am. 11:10:30

10 Q Did you ever have a romantic relationship 11:10:32

11 with any inmates? 11:10:34

12 A No, ma'am. 11:10:36

13 Q And it was against the rules for all COs 11:10:39

14 to have a romantic relationship or a sexual 11:10:42

15 relationship, right? 11:10:45

16 A Correct, right. 11:10:46

17 Q What was the policy, if you recall, about 11:10:50

18 what you were supposed to do as a CO if you saw 11:10:55

19 another CO violating these policies? 11:10:59

20 A I don't recall, like, reading or being 11:11:08

21 told, but the common sense thing to do is to 11:11:10

22 report it to a supervisor or your lawyer. 11:11:15

23 Q And you testified earlier that you knew 11:11:25

24 Ms. Diamond was having a romantic and a sexual 11:11:27

25 relationship with an officer? 11:11:30

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

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1	was having a romantic and sexual relationship --	11:15:40
2	MS. LONG: Objection to the form.	11:15:44
3	Objection to the form.	11:15:45
4	BY MS. LITTRELL:	11:15:52
5	Q You've testified that inmates and officers	11:15:54
6	can't have sexual relationships under the GDC	11:15:56
7	rules, right?	11:15:59
8	A Right.	11:16:06
9	Q Are you aware there is no such thing as a	11:16:07
10	consensual relationship between a GDC correctional	11:16:09
11	officer and an inmate?	11:16:13
12	A Of course, yes, ma'am.	11:16:14
13	Q And you told Captain Kelly -- I'm trying	11:16:15
14	to see if we can figure out when it was. So it	11:16:20
15	wasn't after the events. Was it the month before?	11:16:22
16	Was it two months before?	11:16:28
17	A I honestly can't tell you. I'm not sure.	11:16:29
18	I don't want to give you any wrong information.	11:16:35
19	But I know for a fact when she told me this, I	11:16:38
20	told Captain Kelly because she's on his key.	11:16:40
21	Q Did you write it down anywhere?	11:16:48
22	A No. I just told Captain Kelly because	11:16:49
23	it's still hearsay.	11:16:53
24	Q A conversation?	11:16:55
25	A Yes, ma'am.	11:16:55

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

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1	you're in love, you say little lovey-dovey stuff,	11:20:56
2	but she didn't say anything. After I was moved	11:21:03
3	out of C-House, any personal information about	11:21:06
4	her, I didn't know. I just knew what she told me	11:21:09
5	while I was there.	11:21:12
6	Q Going back to what you know about GDC	11:21:20
7	policies, is it permissible for a GDC officer to	11:21:22
8	walk away from their post without permission?	11:21:25
9	A What do you mean?	11:21:27
10	Q Walk away without permission?	11:21:29
11	MS. LONG: Object to form.	11:21:31
12	Go ahead. You can answer if you can.	11:21:32
13	BY THE WITNESS:	11:21:36
14	A I've already answered it before.	11:21:37
15	MS. LONG: You have.	11:21:40
16	BY THE WITNESS:	11:21:42
17	A Post is -- Ms. Littrell, I can't see her.	11:21:43
18	I want to see her, if you don't mind.	11:21:48
19	MS. LONG: There she is.	11:21:50
20	THE WITNESS: What I'm asking, if you can	11:22:00
21	make her big so I can look her in her face.	11:22:02
22	MS. LONG: Ms. Littrell? Did she go away?	11:22:05
23	THE WITNESS: No. She's at the top.	
24	You're bigger. She was bigger.	
25	MS. LONG: She switched my picture for her	11:22:10

1 picture? 11:22:11

2 MS. LITTRELL: When someone is talking, 11:22:19

3 it's going to come up. 11:22:20

4 BY THE WITNESS: 11:22:22

5 A How post is, say the officer in B-House is 11:22:23

6 having an issue and he needs another officer. 11:22:27

7 It's right by it, so I could go to B-House, but I 11:22:30

8 can't, like, abandon post in terms of, like, leave 11:22:35

9 the entire post. I can walk off, but I can't, 11:22:38

10 like, abandon the post, like, leave and never come 11:22:41

11 back. If I need someone to OIC and pick up 11:22:50

12 something, I can do that, but I can't abandon my 11:22:52

13 post. 11:22:55

14 Q Do you have to tell somebody before you go 11:22:56

15 to OIC? 11:22:58

16 A Yes, ma'am. You will call -- you will 11:22:59

17 have a radio and there is actually a phone that 11:23:01

18 works inside the -- in C-House as well. 11:23:03

19 Q If you have to go somewhere, you are 11:23:07

20 required to tell someone, right? 11:23:08

21 A Yes, ma'am. 11:23:15

22 Q And you can that by radio? 11:23:17

23 A Yes, ma'am, or phone. 11:23:18

24 Q What were the rules around having your 11:23:19

25 radio on? 11:23:21

Transcript of Arneika Smith, Volume 1

Conducted on March 18, 2022

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1	she described several occurrences where Officer	11:29:14
2	Smith had reported late for duty.	11:29:18
3	Do you see that?	11:29:22
4	A Yes.	11:29:23
5	Q Is that against the policy, against the	11:29:24
6	rules to arrive late for duty?	11:29:26
7	A Well, they knew my car situation, and	11:29:30
8	after awhile, they changed the time that I was	11:29:39
9	supposed to arrive to work. Anything about me	11:29:44
10	being late, they knew. This wasn't an, oh, you're	11:29:48
11	late, you're late, you're late every day. I was	11:29:50
12	having transportation issues, and actually	11:29:54
13	Lieutenant Johnson was my transportation to and	11:29:57
14	from work.	11:30:00
15	Q The rules were that you were to be there	11:30:01
16	on time, right?	11:30:03
17	A Yes, ma'am.	11:30:04
18	Q And this document says that you reported	11:30:05
19	late for duty, right?	11:30:08
20	MS. LONG: Objection to the form.	11:30:08
21	BY MS. LITTRELL:	11:30:12
22	Q That's what this document says, right?	11:30:13
23	A Yes, ma'am.	11:30:14
24	Q Can you read the next sentence -- or do	11:30:17
25	you see that next sentence?	11:30:21

1 A "She further described instances where 11:30:31
2 Officer Smith had received letters of concern for 11:30:32
3 improper post exchange and incorrect segregation 11:30:34
4 check procedures," I don't know what that's about. 11:30:38
5 She further described an incident involving the 11:30:40
6 warden observing Officer Smith being too close to 11:30:43
7 the offenders and advising the OIC to counsel her 11:30:47
8 on her demeanor." 11:30:51
9 Q Can I ask the question, please. 11:30:54
10 A Yes, ma'am. I'm sorry. 11:30:56
11 Q Thank you. That's okay. 11:30:56
12 A Yes. 11:30:58
13 Q In these two sentences which are 11:30:58
14 describing a recorded conversation that Lieutenant 11:31:04
15 McCall had with Special Agent Johnson, in these 11:31:09
16 two sentences, it says that you were given letters 11:31:13
17 of concern for improper post exchange, right? 11:31:18
18 That's what it says? 11:31:22
19 MS. LONG: Objection to the form. 11:31:23
20 Objection to the form. 11:31:24
21 BY MS. LITTRELL: 11:31:26
22 Q That's what it says, right? 11:31:27
23 MS. LONG: Objection to form. 11:31:28
24 BY THE WITNESS: 11:31:29
25 A That's what appears. 11:31:30

Transcript of Arneika Smith, Volume 1
Conducted on March 18, 2022

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1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

2
3 I, Theresa A. Vorkapic, Certified
4 Shorthand Reporter No. 084-2589, CSR, RMR, CRR,
5 RPR, and a Notary Public in and for the County of
6 Kane, State of Illinois, the officer before whom
7 the foregoing deposition was taken, do hereby
8 certify that the foregoing transcript is a true
9 and correct record of the testimony given; that
10 said testimony was taken by me and thereafter
11 reduced to typewriting under my direction; that
12 reading and signing was not requested; and that I
13 am neither counsel for, related to, nor employed
14 by any of the parties to this case and have no
15 interest, financial or otherwise, in its outcome.

16 IN WITNESS WHEREOF, I have hereunto set my
17 hand and affixed my notarial seal this 22nd day of
18 March, 2022.

19 My commission expires November 6, 2023.

20 

21 _____
22 THERESA A. VORKAPIC

23 NOTARY PUBLIC IN AND FOR ILLINOIS
24
25

EXHIBIT 2

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

Ashley DIAMOND,)
Plaintiff,)
)
V.) CIVIL ACTION FILE NO.
) 5:21-cv-378-MTT
Arneika SMITH,)
Defendant.)
-----)

The Deposition of
ASHLEY DIAMOND

February 22, 2022
9:29 a.m.

VIA ZOOM DEPOSITION

Tammy L. Gardner, CCR
Certified Court Reporter #2804

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1 the time, but that's not going to work,
2 either.

3 BY MS. LONG:

4 Q. To clarify your answer, you were in the
5 room --

6 MS. EZIE: I don't understand the
7 question. Was that the total number of hours
8 total or the number of hours before there was
9 a interruption on May 10th?

10 MS. LONG: The total number of hours you
11 were in the room on May 10th.

12 MS. EZIE: On day two?

13 MS. LONG: Yes. We're talking about the
14 second day, now.

15 THE WITNESS: Okay. Now, what was the
16 question again? Repeat it.

17 BY MS. LONG:

18 Q. Just to clarify, what -- how long were
19 y'all in the room, total, on May 10th?

20 A. I can't give you a total time.
21 Approximately, about two hours, just as the day
22 before, approximately.

23 Q. Okay. In the morning?

24 A. Approximate, yes.

25 Q. On this date, what led up to going into

1 the room?

2 A. She's my superior, and she told me to go
3 into the room.

4 Q. She directed you to go into the room?

5 A. On the 10th or the 9th? On the 10th I
6 was --

7 Q. On the 10th.

8 A. -- to make up a bed for her.

9 Q. The 10th?

10 A. M'mm-h'mm.

11 Q. Okay. Tell me what led up to going into
12 the room.

13 A. She had had a late night, another late
14 night, and she needed to get some sleep, and she
15 told me she needed me to make a bed, so I got
16 blankets and pillow.

17 Q. Where did you get the blankets and
18 pillows from?

19 A. From the closet. Now, there is an actual
20 closet in the dormitory that is a linen closet.

21 Q. Is that room locked?

22 A. No. That's for the orderlies.

23 Q. Okay. So you got how many blankets and
24 pillows?

25 A. Oh, girl, I can't tell you that. I don't

1 be through the clothes, on top of the clothing, or
2 it can even be considered an unwanted gesture.

3 Q. Were Arneika Smith's gestures and
4 touching you unwanted?

5 A. Absolutely unwanted.

6 Q. Did you consider them to be sexual abuse?

7 A. I did.

8 Q. How did Arneika Smith sexually abusing
9 you impact you emotionally?

10 A. The fact that she used me and groomed me
11 for her own superfluous needs has left me -- I'm
12 numb. I'm numb to their shit. I'm numb to
13 enforcement. I'm numb to Corrections. I question
14 the validity of all of it.

15 Q. You described feeling numb now.

16 How did you feel in the immediate
17 aftermath of the incident?

18 A. I wanted to die. I felt horrible.

19 Q. Why? Can you just describe? What was
20 going through your head at that time?

21 A. At the time, all I could think about was
22 how this person I trusted manipulated, coerced, and
23 tricked me. It hurts. My fabric of trust is
24 forever torn with me and officials. I am
25 constantly contemplating suicide. I don't feel

Diamond, Ashley Vs. Smith, Arneika

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1 like I am a worthwhile human being or that I
2 deserve life, because of this series of events that
3 have happened to me.

4 Q. Now, earlier you were asked a series of
5 questions about the suicide attempts that you've
6 had.

7 Do you recall that?

8 A. I do. I do.

9 Q. And you described an incident that
10 occurred after May 9th, where you attempted to
11 overdose on pills and medications?

12 A. Yes.

13 Q. Do you recall that?

14 A. Yes.

15 Q. What was the motivation for that suicide
16 attempt?

17 A. The motivation was because I was hurt by
18 the officer. It was Arneika Smith's actions that
19 directly affected me.

20 Q. How did -- and I'm sorry if this is
21 asking you to repeat yourself, but how did Arneika
22 Smith's actions motivate you to attempt suicide
23 that day?

24 A. They were disgusting. They were
25 implorable. I need a minute.

1 A. Yes. Ten days after.

2 Q. And, to your knowledge, what was the
3 basis of the information contained in this PREA
4 report?

5 A. What was the information inside of it?

6 Q. What was the source? Had you spoken to
7 your attorneys before this letter was drafted?

8 A. No. I called my attorneys and told them,
9 word for word, what had happened to me.

10 Q. Okay. So this PREA report, the best of
11 your knowledge, contains the accurate summation of
12 the sexual abuse you experienced?

13 A. Absolutely. Absolutely.

14 Q. And it was made close in time to the
15 incident?

16 A. Yes.

17 Q. Correct? Okay.

18 Now, do you see that this paragraph is
19 describing the May 9th incident?

20 A. I do.

21 Q. Do you see that it describes you being
22 ordered to enter a small, windowless office used by
23 GDC officers?

24 A. I do see that.

25 Q. Is that an accurate statement of how the

1 May 9th incident began?

2 A. It is an accurate statement.

3 Q. When you entered the office, the
4 officer's closet, as it may be on May 9th, were you
5 asked whether you wanted to enter?

6 A. I was told to enter.

7 Q. Who told you to enter?

8 A. Arneika Smith. I did exactly as she told
9 me to do in every instance.

10 Q. Do you see here that it says for about
11 two hours you were locked in the office and that
12 Officer Smith engaged in sexually inappropriate
13 conduct?

14 A. I do see it.

15 Q. Is that an accurate statement, Ms.
16 Diamond?

17 A. It is.

18 Q. How do you know that the office door was
19 locked?

20 A. Because Arneika Smith locked it.

21 Q. She locked it using keys?

22 A. She did.

23 Q. Okay. And were you told, at the end of
24 the incident, to keep quiet about it?

25 A. I was.

Diamond, Ashley Vs. Smith, Arneika

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1 COURT REPORTER: That was a mattress that
2 was set what?

3 THE WITNESS: Oh, I'm sorry. Adjacent.

4 MS. EZIE: Adjacent.

5 THE WITNESS: Across from the other one.

6 MS. EZIE: Okay.

7 COURT REPORTER: Thank you.

8 BY MS. EZIE:

9 Q. So there was one mattress in the room
10 that was not in use because of COVID?

11 A. Right. Because --

12 Q. Okay.

13 A. -- they had deemed it a COVID mat. It
14 had the bugs on it or whatever.

15 Q. And so, then, Officer Smith instructed
16 you to bring a second mattress into the --

17 A. M'mm-h'mm.

18 Q. -- room?

19 A. M'mm-h'mm.

20 Q. And that's the mattress that you set up
21 with blankets and pillows?

22 A. Yes, ma'am.

23 Q. Why did you set up the mattress in
24 that -- in the office that day?

25 A. Because I was instructed to do so by Ms.

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1 Smith.

2 Q. Now, you were asked earlier whether there
3 came a time where you showed your breasts or
4 genitalia to Officer Smith.

5 Do you recall that?

6 A. I do.

7 Q. And your testimony was that you did in
8 fact show your breasts and genitalia to Officer
9 Smith?

10 A. Yes.

11 Q. Why did you do that?

12 A. I was scared. I did it under duress.
13 She -- she had me afraid.

14 Q. Did she ask to see your breasts and
15 genitalia?

16 A. She did.

17 Q. And so, when you showed her your breasts
18 and genitalia, you were complying with her request?

19 A. Absolutely. Yes.

20 Q. Now, do you see that according to the
21 PREA notice you prepared right in the aftermath of
22 this incident through your attorneys, that it
23 states at about the two-hour mark, that's when
24 Officer Ridley --

25 A. M'mm-h'mm.

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1 Q. -- approached the room?

2 A. Yes.

3 Q. Is that -- is that accurate, to the best
4 of your recollection?

5 A. Yes.

6 Q. Okay. And after Ridley departed, did
7 you -- did you remain in the office? The locked
8 office?

9 A. I did.

10 Q. For approximately how long did you remain
11 in the office after Ridley's departure?

12 A. Two more hours.

13 Q. What, to the best of your recollection,
14 occurred during those two hours? And was anyone
15 there with you?

16 A. Ms. Smith was there, and for those two
17 hours, she sexually abused me.

18 Q. Did she continue the same conduct that
19 you described earlier or was it something new?

20 A. Well, she began to touch my inner thigh.
21 She stroked my inner thigh. She stroked my leg.
22 She stroked my back and my buttocks. So,
23 basically, the same thing this entire -- yes.

24 Q. Did Officer Smith also speak to you about
25 Ridley observing you?

EXHIBIT 3

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I. Introduction and Summary:

A. The Georgia Department of Corrections (GDC) has a zero-tolerance policy toward all forms of sexual abuse, Sexual Harassment and sexual activity among offenders. The purpose of this policy is to strengthen the Department's efforts to prevent occurrences of this nature by implementing key provisions from the U.S. Department of Justice's standards on the prevention, detection, and response to sexual abuse in confinement facilities, in accordance with the Prison Rape Elimination Act of 2003 (PREA). This policy and provides guidelines to address the following prohibited sexually abusive and/or harassing behavior(s):

1. Offender Perpetrator Against Offender Victim; and
2. Staff perpetrator against offender victim.

B. These guidelines are provided to assist staff in:

1. **Detecting** incidents and identifying perpetrators and victims of sexual abuse and/or harassment;
2. **Preventing** sexually abusive and/or harassing behavior;
3. **Protecting** vulnerable offenders from abuse and harassment from sexually aggressive offenders;
4. Educating staff on how to **intervene** properly and in a timely manner;
5. **Documenting, reporting, and investigating** reported incidents; and
6. **Disciplining** and/or **prosecuting** perpetrators.

II. Authority:

A. O.C.G.A.: § 16-6-5.1;

B. Prison Rape Elimination Act National Standards: **28 CFR Part 115, et seq.;**

C. GDC Standard Operating Procedures (SOPs): 203.03 Incident Report, 209.01

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Offender Discipline, 227.02 Statewide Grievance Procedure, 209.06 Administrative Segregation, 103.10 Evidence Handling and Crime Scene Preservation, 103.06 Investigation of allegations of sexual contact, Sexual Abuse, and Sexual Harassment of Offenders, 508.22 Mental Health Management of Suspected Sexual Abuse, Contact or Harassment, 508.18) MH/MR Discipline Procedures 508.19 Receiving Screening, 507.04.19 Health Assessment and Medical Diagnostics, 507.04.21 Health Screening Offender Transfers, 507.04.69 Women's Health Services, 507.02.02 Confidentiality of Health Record and Release of Information, 507.04.84 Medical Management of Suspected Sexual Abuse, 507.04.85 Informed Consent, 507.04.91 Medical Management of Suspected Sexual Assault, Abuse, Harassment, 101.04 Records Management, and 104.09 Filling A Vacancy; and

D. ACA Standards: 2-CO-3C-01, 2-CO-4B-06, 4-4177, 4-4281-1, 4-4281-2, 4-4281-3, 4-4281-4, 4-4281-5, 4-4281-6, 4-4281-7, 4-4281-8, 4-4282, 4-4291-3, 4-4307, 4-4311, 4-4312-1, 4-4403, and 4-4406.

III. Definitions:

- A. Community Confinement Facility** - A state operated facility, other than a State Prison, in which individuals reside as part of a term of imprisonment while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours. (e.g. Transitional Centers.)
- B. Direct Staff Supervision** - Security staff in the same room with, and within reasonable hearing distance of, the residents or offenders and disallows youthful offenders and adult offender communication of any kind.
- C. Exigent Circumstance** - Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- D. Gender Nonconforming** - A person whose appearance or manner does not conform to traditional societal gender expectations.
- E. Intersex** - A person who's sexual or reproductive anatomy or chromosomal

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- pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- F. **Juvenile** - Any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
- G. **PREA Compliance Manager (PCM)** - An upper-level manager, designated by the Warden, and is responsible for compliance in all facility PREA-related operations.
- H. **Retaliation Monitor** - A staff member, designated by the Warden, who is responsible for the prevention, detection, and reporting of any retaliatory actions taken against staff or offenders that report PREA allegations.
- I. **Sexual Abuse Incident Review Team (SAIRT)** – A team that consists of upper-level management representatives. SAIRT members may be part of the SAIRT, however the SAIRT shall not be solely comprised of SAIRT members. Line supervisors and other staff members may be designated as SAIRT members at the discretion of the Warden/Superintendent of the facility.
- J. **Sexual Abuse/Harassment Response Team (SART)** – A team that consists of a locally composed multi-disciplinary team, with both security and non-security staff, who work together to fulfill the guidelines defined in section I of this policy. This team includes but is not limited to:
1. SART Investigator;
 2. SART Medical;
 3. SART Mental Health;
 4. Facility/ Internal Victim Advocate; and
 5. Retaliation Monitor.
- K. **Sexual Abuse by Offender** - Sexual abuse of an offender, detainee, or resident by another offender, detainee, or resident includes any of the following acts if the

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victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

L. Sexual Abuse by A Staff Member, Contractor, Or Volunteer - Sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender, detainee, or resident:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer

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has the intent to abuse, arouse, or gratify sexual desire;

6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) through (5) of this definition;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident;
8. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties.

M. Sexual Harassment includes:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to an offender, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

N. Special Agent in Charge (SAC) - An investigator who works for the Office of Professional Standards (OPS) who is responsible for any criminal investigation into a PREA allegation, should such investigation be deemed appropriate.

O. Substantiated Allegation - An allegation that was investigated and determined to have occurred.

P. Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Q. Unfounded Allegation - An allegation that was investigated and determined not to have occurred.

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- R. **Unsubstantiated Allegation** - An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- S. **Youthful Offender** - Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

IV. Statement of Policy and Applicable Procedures:

The Department hereby adopts, implements, and follows the standards outlined in the Prison Rape Elimination Act (PREA) Standards found at 28 CFR Part 115. Through the adoption of the PREA Standards, the Department seeks to eliminate sexual abuse and Sexual Harassment of offenders in custody. The Department tolerates no form of sexual abuse or Sexual Harassment of any offender.

Offenders who sexually abuse another offender will be disciplined and referred for criminal prosecution. Offenders who engage in Sexual Harassment, consensual sexual contact with another offender, attempt to engage in or solicit such contact, or help another engage in sexual contact with an offender will be disciplined.

Staff members who engage in sexual abuse or Sexual Harassment of an offender will be subject to disciplinary action, up to and including termination and banishment from all Georgia correctional institutions, whichever action is applicable. Additionally, staff members who engage in sexual abuse of an offender will be subject to criminal prosecution. Pursuant to O.C.G.A. § 16-6-5.1, it is a felony for correctional staff to have sexual contact with an offender.

A. Prevention Planning:

1. The Department shall employ or designate an upper-level, Department PREA Coordinator with sufficient time and authority to develop, implement, and oversee Department efforts to comply with the PREA standards in all facilities.

The Warden/Superintendent at each institution must ensure that all aspects of this policy are implemented. Each facility shall have an assigned PREA Compliance Manager, who has sufficient time and authority to coordinate the

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facility's efforts to comply with PREA standards.

The Warden/Superintendent shall maintain a current written PREA Local Procedure Directive and Coordinated Response Plan (see Attachment 7 for template) to provide instruction for responses to sexual allegations. This Local Procedure Directive shall reflect that institution's unique characteristics and specify how that institution will respond to sexual allegations and the notification procedures to be followed for reports of sexual allegations. At a minimum it will include:

- a. Specification of staff member(s) responsibilities from the first report of an allegation through the conclusion of an investigation.
 - b. Responding to the victim and ensuring evidence retention.
 - c. Monitoring the offender perpetrator to ensure safety of others and evidence retention.
 - d. Ensuring safe housing, medical and mental health care, forensic exam, victim services for the victim, and commencing an investigation.
2. The Department shall ensure that contracts for the confinement of its offenders with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards and that any new contract or contract renewal shall provide for Department contract monitoring to ensure that the contractor is complying with the PREA standards.
 3. The Warden/Superintendent at each facility shall develop a written Staffing Plan in accordance with this SOP using Attachment 11, Staffing Plan Template. To enhance the supervision and monitoring of offenders, each facility shall document and make its best efforts to comply on a regular basis with the established staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders against sexual abuse. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations on the daily Post Roster. Facility management staff will review these deviations on a regular basis, no

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less than annually, to identify the most common reasons for deviations. This information shall be used to make adjustments, as necessary, to the facility staffing plan. Completed plans will be forwarded to the PREA Coordinator for review and approval.

4. No less than annually, each facility shall assess, determine, and document whether adjustments are needed to the established staffing plan. Revised plans shall be forwarded to the PREA Coordinator for review and approval.
5. All new or existing facility designs, modifications, and technology upgrades will include consideration of how they could enhance the Department's ability to protect offenders against sexual abuse.
6. Unannounced rounds by supervisory staff, with the intent of identifying and deterring sexual abuse and Sexual Harassment, are required to be conducted every week, including all shifts and all areas. These rounds will be documented in the area log books. In addition, the institutional Duty Officer is required to conduct and document unannounced rounds at least once per week in *all* areas. These rounds will be documented in the local Duty Officer Log book.
7. Youthful Offenders:
 - a. A Youthful Offender shall not be placed in a housing unit in which the Youthful Offender will have sight, sound, or physical contact with any adult offender through use of a shared dayroom or other common space, shower area, or sleeping quarters.
 - b. In areas outside of housing units, staff must either:
 - i. Maintain sight and sound separation between Youthful Offenders and adult offenders, or
 - ii. Provide direct staff member supervision when Youthful Offenders and adult offenders have sight, sound, or physical contact.
 - c. Efforts shall be made by the assigned institution to avoid placing

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Youthful Offenders in isolation to comply with this provision. Absent Exigent Circumstances, Youthful Offenders shall not be denied daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful Offenders shall also have access to other programs and work opportunities to the extent possible.

8. Limits to Cross-Gender Viewing and Searches:

- a. The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in Exigent Circumstances or when performed by medical practitioners.
- b. The facility shall not conduct cross-gender pat searches of female offenders, absent Exigent Circumstances. This requirement shall not restrict female offender's access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- c. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female offenders via an incident report.
- d. The facility shall implement procedures that enable offenders to shower, perform bodily functions, and change clothing without nonmedical staff members of the opposite gender viewing their breasts, buttocks, or genitalia, except in Exigent Circumstances or when such viewing is incidental to routine cell checks. Offenders should only shower, perform bodily functions, and change clothing in designated areas (e.g. cells, shower rooms, and bathrooms).
- e. Staff members of the opposite gender shall announce their presence when entering an offender housing unit; this includes the officer assigned to the housing unit. It is understood that staff members might not make announcements when responding to circumstances that require immediate action in order to combat a threat to security.

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Offenders will be notified of the presence of opposite-gender staff members in several ways:

- i. Offenders are advised of the requirement to remain clothed, and the presence of cross-gender staff members generally, during the intake screening process and the admission and orientation process;
- ii. The following notice will be posted **“NOTICE TO OFFENDERS: Male and female staff members routinely work in and visit housing areas.”**
- iii. For staff members with offices in the housing units, the most recent schedule is posted in the unit so offenders are aware of when opposite-gender staff may be present;
- iv. An announcement shall be made each time an opposite-gender staff member comes into a housing unit area and;
- v. Nothing in this section should preclude opposite-gender staff members from viewing live or recorded video, or participating in an offender suicide watch.
- f. The facility shall not search or physically examine a Transgender or Intersex offender for the sole purpose of determining the offender’s genital status. If the offender’s genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. The provision does not limit searches of offenders to ensure the safe and orderly running of the institution.
- g. The Department shall train security staff members on how to conduct cross-gender pat searches and searches of Transgender and Intersex offenders in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs and consistent with the population gender of their assigned institution.

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9. Offenders with Disabilities, Who Are Limited English Proficient (LEP), or Have Limited Reading Skills:

- a. The local PREA Compliance Manager shall ensure the appropriate resources are available to offenders with disabilities and those who are LEP so they may understand the facility policies around reporting, preventing, detecting, and responding to sexual abuse and Sexual Harassment.
- b. The facility shall not rely on offender interpreters, offender readers, or other types of offender assistants except in Exigent Circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first response duties under 28 CFR § 115.64, or the investigation of the offender's allegations.

10. Hiring and Promotion Decisions:

- a. Employees:
 - i. The Department shall not hire or promote anyone who may have contact with offenders, who:
 - 1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, Juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - 2) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a.i.1., of this section.
 - ii. The Department shall consider any incidents of Sexual Harassment in determining whether to hire or promote anyone who may have contact with offenders.

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- iii. Before hiring new employees who may have contact with offenders, the Department shall:
 - 1) Ask all applicants and employees who may have contact with offenders directly about previous misconduct described in SOP 104.09, Filling a Vacancy, in written applications or interviews for hiring and promotions and any written interview or written self-evaluations conducted as part of reviews of current employees. Every employee has a continuing affirmative duty to disclose any such misconduct.
 - 2) Perform a Criminal History Record checks on all employees and volunteers prior to start date and again within at least every five years. A tracking system shall be implemented at each local facility to ensure the criminal history checks are conducted within the appropriate time frames, according to policy, for each person with access to that facility.
 - iv. Unless prohibited by law, the Department shall provide information on Substantiated Allegations of sexual abuse or Sexual Harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The Department complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.
 - v. Material omissions regarding misconduct or the provision of materially false information shall be grounds for termination.
- b. Contractors:
- i. The Department shall not enlist the services of any contractor, who may have contact with offenders, who:
 - 1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, Juvenile facility, or other institution (as defined in 42 U.S.C. 1997); Has been convicted of engaging or

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attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

- 2) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph b.i.1., of this section.
- ii. The Department shall consider any incidents of Sexual Harassment in determining whether to enlist the services of any contractor, who may have contact with offenders.
 - iii. Before hiring new employees who may have contact with offenders, the Department shall:
 - 1) Perform a Criminal History Record check before enlisting the services of any contractor who may have contact with offenders and at least every five years thereafter.
 - iv. Unless prohibited by law, the Department shall provide information on Substantiated Allegations of sexual abuse or Sexual Harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The Department complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.
 - v. Material omissions regarding misconduct or the provision of materially false information shall be grounds for termination.

B. Responsive Planning:

1. Evidence protocol and forensic medical examinations.
 - a. Each facility shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Reference SOP 103.10, Evidence

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Handling and Crime Scene Processing and SOP 103.06, Investigations of Allegations of Sexual Contact, Sexual Abuse, Sexual Harassment of Offenders.

- b. The Department's response to sexual assault follows the guidelines in the U.S. Department of Justice's Office on Violence Against Women publication, "*A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*," dated April 2013, or the most current version.
- c. When there is a report of an incident of sexual abuse that was alleged to have occurred within the previous 72 hours, or there is a strong suspicion that an assault may have been sexual in nature, a physical examination of the alleged victim shall be conducted to determine if immediate medical attention is necessary and if the SANE protocol should be initiated, (Attachment 5, Procedure for SANE Evaluation/Forensic Collection). The SANE examination shall be provided at no cost to the offender. Physical evidence from the suspected perpetrator(s) will be collected and may also include an examination. Offender consent must be obtained prior to initiating the SANE protocol, in accordance with 507.04.85 Informed Consent.
- d. The Department stands *in loco parentis* for Youthful Offenders in its custody and can authorize a physical examination of such Youthful Offender without consulting his or her parent(s) so long as the Youthful Offender consents to the examination. For those offenders that are unable to consent or are incapacitated, the Department may authorize the collection of forensic evidence based on the Department's standing in loco parentis or as a guardian of the offender, whichever may be applicable. Physical evidence collection may also include an examination of and collection of physical evidence from the suspected perpetrator(s). Offender consent must be obtained prior to initiating the SANE protocol, in accordance with 507.04.85 Informed Consent.

NOTE: All PREA information is confidential in nature and shall only be released on a need-to-know basis. Staff members who fail to comply with the reporting provisions of this policy may be banned from correctional

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facilities, or will be subject to disciplinary action, up to and including termination, whichever is applicable.

- e. The Institution PREA Compliance Manager, under the direction of the Warden/Superintendent, shall attempt to enter into agreement, or Memorandum of Understanding (MOU), with a rape crisis center to make available a victim advocate to offenders alleging sexual abuse/Sexual Harassment upon request. If the facility cannot do so, efforts must be documented and local staff shall be identified and specially trained to provide this service. Documentation of training must be maintained by the employee's manager and made available to the local PREA Compliance Manager upon request.

Note: Any agreement must be approved through the Legal Office prior to implementation.

- f. Victim advocates from the community used by the facility shall be pre-approved through the appropriate screening process and subject to the same requirements as contractors and volunteers who have contact with offenders. The victim advocate serves as emotional and general support, navigating the offender through the treatment, evidence collection, and investigation process. The victim advocate has access to the offender similar to that of medical staff at the facility. Victim Advocates are not authorized to make decisions regarding offender care, or interfere with escort, security, or investigation procedures that are deemed necessary by the facility/investigator.
- g. If an external agency is responsible for investigating the allegations of sexual abuse the Department shall request that the investigating agency follow the requirements of (a) through (e) of this section.
- h. An administrative and/or criminal investigation shall be completed for all allegations of sexual abuse and Sexual Harassment. Allegations that involve potentially criminal behavior will be referred for investigation to OPS. This referral does not alleviate the facility from its responsibility of reaching a disposition on the administrative SART investigation.

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- i. In the event the investigation is referred to an outside entity that entity shall have in place a policy governing the conduct of such investigations.

C. Training and Education: Participation in training must be documented through employee signature or electronic verification. Participation documentation will note that employees understood the training they have received by signing Attachment 1, Sexual Abuse/Sexual Harassment Prison Rape Elimination Act (PREA) Education Acknowledgement Statement. This form shall be retained in the employee's local personnel file. At the conclusion of the training, employees are asked to seek additional supervisory direction, if necessary, to ensure understanding of the training.

1. Employee Training:

- a. All Departmental employees shall be required to attend training annually on:
 - i. The Department's zero-tolerance policy for Sexual Abuse and Sexual Harassment;
 - ii. How to fulfill their responsibilities under the Department's Sexual Abuse and Sexual Harassment prevention, detection, reporting, and response policies and procedures;
 - iii. Offenders' right to be free from Sexual Abuse and Sexual Harassment;
 - iv. The right of offenders and employees to be free from retaliation for reporting Sexual Abuse and Sexual Harassment;
 - v. The dynamics of Sexual Abuse and Sexual Harassment in confinement;
 - vi. The common reactions of Sexual Abuse and Sexual Harassment victims;

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- vii. How to detect and respond to signs of threatened and actual Sexual Abuse;
 - viii. How to avoid inappropriate relationships with offenders;
 - ix. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, Transgender, Intersex, or Gender Nonconforming offenders; and
 - x. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- b. In-service training shall include gender specific reference and training to staff as it relates to the specific population supervised. Staff members transferring into a facility of different gender from prior institution shall receive gender-appropriate training.
 - c. New employees shall receive PREA training during Pre-Service Orientation.
 - d. Specialized training shall be required for members of the Sexual Abuse Response Team (SART) and any other staff members who are likely to be involved in the management and treatment of sexually abused victims and the perpetrators.
2. Volunteer and Contractor Training:
- a. The Department shall ensure that all volunteers and contractors who have contact with offenders are provided with a copy of this policy and have been trained on their responsibilities under the Department's PREA policies and procedures.
 - b. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with offenders, but all volunteers and contractors who have contact with offenders shall be notified of the Department's zero-tolerance policy

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regarding sexual abuse and Sexual Harassment and informed on how to report such incidents.

- c. Participation must be documented through volunteer and contractor signature or electronic verification, and will indicate that the volunteer and contractor understood the training they have received by signing Attachment 1, Sexual Abuse/Sexual Harassment Prison Rape Elimination Act (PREA) Education Acknowledgement Statement. At the conclusion of the training, volunteers and contractors are asked to seek additional direction from Department staff members, if necessary, to ensure understanding of the training.
3. Offender Education: Notification of the GDC's zero-tolerance policy for sexual abuse and harassment and information on how to report an allegation at the receiving facility shall be provided to every offender upon arrival to the facility. In addition to verbal notification, offenders will be provided a GDC PREA pamphlet. Within 15 days of arrival, formal PREA education will be conducted by assigned staff members to all offenders which will include a gender appropriate video on sexual abuse. Both the initial notification and the formal education will be documented in writing by signature of offender and placed in the offender's institutional file.

In the case of Exigent Circumstances, such training may be delayed, but no more than 30 days. If the Exigent Circumstance extends beyond 30 days, justification and documentation must be placed in the offender's institutional file. Once the Exigent Circumstance no longer applies, such training must be provided immediately. This education is documented in the same manner as for offenders who participated during the regularly scheduled orientation.

- a. The PREA education will be provided by designated staff members and the presentation must include:
 - i. The Department's zero tolerance of sexual abuse and Sexual Harassment;
 - ii. Definitions of sexually abusive behavior and Sexual Harassment;

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- iii. Prevention strategies the offender can take to minimize his/her risk of sexual victimization while in Department custody;
 - iv. Methods of reporting an incident of sexual abuse/Sexual Harassment against oneself, and for reporting allegations of sexual abuse involving other offenders;
 - v. Treatment options and programs available to offender victims of sexual abuse and Sexual Harassment;
 - vi. How an investigation begins and the general steps to an investigation;
 - vii. Monitoring, discipline, and prosecution of sexual perpetrators;
 - viii. The prohibition against retaliation for reporting, and;
 - ix. Notice that male and female staff routinely work and visit housing areas;
- b. The facility shall maintain documentation of offender participation in these education sessions in the offender's institutional file.
 - c. A poster reflecting the Department's zero tolerance for sexual abuse and Sexual Harassment, contact information and methods of offender reporting shall be posted in each housing unit and common area throughout the facility.

4. **Specialized Training (Investigations):**

- a. All staff investigating sexual abuse/Sexual Harassment allegations must be specially trained in conducting sexual abuse/Sexual Harassment investigations in confinement settings.
- b. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence

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required to substantiate a case for administrative action or prosecution referral.

- c. The Department shall maintain documentation that agents and investigators, whether internal or external, have completed the required specialized training in conducting sexual abuse investigations.

5. **Specialized Training (Medical and Mental Health Care):** GDC medical and mental health staff members and Georgia Correctional HealthCare (GCHC) staff members who have contact with offenders will be trained using the National Institute of Corrections (NIC) Specialized Training PREA Medical and MH Standards curriculum. Certificate of completion will be printed and maintained in the employee training file. In addition to the specialized training, these same employees are required to attend GDC's annual PREA in-service training.

D. Screening for Risk of Sexual Victimization and Sexual Abusiveness:

1. All offenders shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other offenders or sexually abusive toward other offenders.
2. Counseling staff members will conduct a screening for risk of victimization and abusiveness, in SCRIBE, through use of Attachment 2, PREA Sexual Victim/Sexual Aggressor Classification Screening Instrument. This screening will be conducted within 24 hours of arrival at the facility. Information from this assessment will be used to determine classification decisions with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. NOTE: The risk assessment should not hinder classification opportunities.
3. Offenders should be encouraged to disclose as much information as possible for the Department to provide the most protection possible under this policy. If an offender chooses not to respond to questions relating to his or her level of risk, he or she may not be disciplined.

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4. Offenders whose risk screening indicates a risk for victimization or abusiveness shall be reassessed whenever warranted due to an incident, disclosure or allegation of sexual abuse or harassment and also for all offenders, within 30 days of arrival at the institution. A case note shall be entered in SCRIBE to indicate this review has been conducted. This case note is for the sole purpose of documenting the screening occurred and shall not include any confidential or clinical information.

NOTE: Any information related to sexual victimization or abusiveness, including the information entered into the comment section of the Intake Screening Form, is limited to a need-to-know basis for staff, only for the purpose of treatment, security, management, and classification decisions.

5. The Warden/Superintendent shall designate a safe dorm(s) or safe beds for those offenders identified as highly vulnerable to sexual abuse. Location(s) shall be identified in Attachment 7, PREA Local Procedure Directive and Coordinated Response Plan and in the Staffing Plan.
6. In deciding whether to assign a Transgender or Intersex offender to a male or female facility and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems.
7. Placement and programming assignments for each Transgender or Intersex offender shall be reassessed no less than every six months to review any threats to sexual safety of the offender.
8. Offenders whose screenings indicate they have experienced prior sexual victimization or have a history of sexually assaultive behavior must be offered a follow-up meeting with medical and mental health counseling within 14 days of the screening.
9. Offenders at high risk for sexual victimization or aggression shall not be placed in involuntary segregation based solely on that determination unless a determination has been made that there is no available alternative means of separation from likely abusers. This placement, including the concern for the

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offender's safety must be noted in SCRIBE case notes with documentation of why no alternative means of separation can be arranged.

- a. Offenders placed in segregation will receive services in accordance with SOP 209.06, Administrative Segregation.
- b. The facility shall assign such offenders to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
- c. If offenders placed in segregated housing for this purpose have restricted access to programs, privileges, education, or work opportunities, then the facility shall document: 1) the opportunities that have been limited; 2) the duration of the limitation; and 3) the reasons for such limitations.
- d. Every 30 days, the facility shall afford each such offender a review to determine whether there is a continuing need for separation from the general population.

E. Reporting:

1. Offender Reporting:

- a. Offenders may make a report of sexual abuse, Sexual Harassment, or retaliation by any of the following methods: in writing, or verbally, through internal or external methods available. Offenders shall be encouraged to report allegations immediately and directly to a staff member. All reports will be promptly documented and investigated. Offenders may choose to report these allegations anonymously.
- b. The Department may choose to maintain a sexual abuse hotline, currently known as the "PREA" hotline. Hotline calls will not require the use of the offender's PIN number. Should a sexual abuse hotline be maintained, monitoring of this line will be the responsibility of the OPS, with immediate oversight by the Department's PREA Coordinator, or designee.

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2. Third Party Reporting:

a. Third party reports may be made to:

- i. The Ombudsman's Office at P.O. Box 1329 Forsyth, Ga 21029 478-992-5358
- ii. By email to the PREA Coordinator at: PREA.report@gdc.ga.gov; and
- iii. State Board of Pardons and Paroles, Office of Victim Services, 2 Martin Luther King, Jr. Drive, S.E., Balcony Level, East Tower, Atlanta, Georgia 30334.

b. Staff members shall accept reports made verbally, in writing, and from third parties and shall promptly document any verbal reports.

c. Staff members shall forward all reports or suspicions of sexual abuse or Sexual Harassment to their immediate supervisor or the designated SART member promptly.

3. **Offender Grievances:** Allegations of Sexual abuse and Sexual Harassment are not grievable issues. They should be reported in accordance with methods outlined in this policy.

F. Official Response Following an Offender Report:

1. Staff, First Responder, and Department reporting duties:

- a. Response protocols shall follow the guidelines outlined in Attachment 7, Local Procedure Directive and Coordinated Response Plan.
- b. The PREA Unit will be notified, via PREA.report@gdc.ga.gov, of all allegations via Attachment 10, PREA Initial Notification Form.

2. Reporting to Other Confinement Facilities:

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- a. In cases where there is an allegation that sexual abuse occurred at another Department facility, the Warden/Superintendent (or his/her designee) of the victim's current facility will provide notification to the Warden/Superintendent of the institution where the allegation allegedly occurred and the Department's PREA Coordinator. In cases alleging sexual abuse by staff at another institution, the Warden/Superintendent of the offender's current facility refers the matter directly to the Regional SAC and the Department's PREA Coordinator. For non-Department facilities, the Warden/Superintendent will notify the appropriate office of the facility where the abuse allegedly occurred and the Department's PREA Coordinator.
 - b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
 - c. The facility shall document that it has provided such notification.
 - d. The facility head or Department office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.
3. **Coordinated Response:** Each facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. This plan will be kept current and include names and telephone numbers of coordinating parties and be a part of Attachment 7, PREA Local Procedure Directive and Coordinated Response Plan.
 4. **Protection Against Retaliation:**
 - a. Anyone who retaliates against a staff member or an offender who has reported an allegation of sexual abuse or Sexual Harassment or who has participated in a subsequent investigation shall be subject to disciplinary action.
 - b. The Department shall protect offenders and staff members who report sexual abuse, or Sexual Harassment from retaliation. **The**

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Warden/Superintendent shall designate a staff member to serve as the facility Retaliation Monitor and identify them as such in the PREA Local Procedure Directive and Coordinated Response Plan (Attachment 7). Multiple protection measures include offender housing changes or transfers, removal of alleged staff members or offender abusers from contact with victims, and emotional support services for offenders or staff members who fear retaliation for reporting or for cooperating with investigations.

- c. The designated Retaliation Monitor shall, for at least 90 days following a report of abuse, monitor the conduct and treatment of offenders or staff members who reported the sexual abuse or who participated in an investigation, to see if there are any changes that may suggest possible retaliation, and will act promptly to remedy any such retaliation.
 - i. This monitoring will include review of any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff members. Periodic in-person status checks shall be made by the monitor as well. Attachment 8, Retaliation Monitoring Checklist, shall be completed for each offender monitored. The original shall be kept in a master file by the monitor and a copy placed with the SART incident report upon completion.
 - ii. This monitoring will include negative performance reviews or reassignments of staff members. Attachment 8, Retaliation Monitoring Checklist, shall be completed for each employee monitored. The original shall be kept in a master file by the monitor.
 - iii. Such monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need. The obligation for monitoring will terminate if the allegation is unfounded.

G. Investigations:

1. All reports of sexual abuse or Sexual Harassment will be considered

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allegations and will be investigated.

2. The local SART is responsible for the administrative investigation of all allegations of sexual abuse or Sexual Harassment. Attachment 4, Sexual Allegation Response Checklist will be completed for all PREA allegations. In cases where allegations are made against staff members and the SART inquiry deems the allegation is unfounded or unsubstantiated by evidence, the case can be closed at the facility level. If the allegation is criminal in nature, an interview shall not be conducted, nor will a statement be collected from the accused perpetrator without first consulting the Regional SAC.
3. Appointing authorities or their designees shall report all allegations of sexual assault with penetration and those with immediate and clear evidence of physical contact, to their Regional Director, Regional SAC and the Department's PREA Coordinator immediately upon receipt of the allegation.
 - a. Where sexual abuse is alleged and cannot be cleared at the local level (as indicated in G.2. of this section), the Regional SAC shall determine the appropriate response upon notification. If this appropriate response is to open a criminal investigation, the Regional SAC shall assign an agent or investigator who has received special training in sexual abuse investigations.
 - b. Agents and investigators shall gather and preserve direct and circumstantial evidence including any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
 - c. The credibility of the victim, suspect, or witness shall be assessed on an individual basis and will not be determined by the person's status as offender or staff member. An offender who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
 - d. Upon conclusion of the criminal investigation, OPS must notify the Warden/Superintendent of the disposition of the case. The Warden must

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ensure that Attachment 3, PREA Disposition Offender Notification Form is completed and a copy is both given to the offender and placed in the case file. On completion of this procedure, the PREA Coordinator's Office will be notified via PREA.report@gdc.ga.gov of the disposition and the date in which the offender was notified.

4. At the conclusion of each SART investigation, Attachment 6, PREA Investigative Summary shall be submitted to the PREA Unit for administrative review.
5. For investigations of allegations of sexual abuse, the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution in accordance with SOP 103.06, Investigations of Allegations of Sexual Contact, Sexual Abuse, and Sexual Harassment of Offenders.
6. All sexual abuse and Sexual Harassment investigations shall be prompt, thorough, and objective.
7. Administrative and criminal investigations shall include an effort to determine whether staff member actions or failures to act contributed to the abuse. This shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind the credibility assessments, and investigative facts and findings.
8. Substantiated Allegations of conduct that is deemed criminal shall be referred for prosecution.
9. OPS shall maintain all such written reports for as long as the alleged abuser is incarcerated or employed by the Department, plus five years.
10. The departure of the alleged abuser or victim from the employment or control of the Department shall not provide a basis for terminating the investigation.
11. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

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12. When outside agencies investigate sexual abuse, the Department shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the investigations.
13. There shall be no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or Sexual Harassment are substantiated.
14. Following the close of an investigation into an offender's allegation that he or she suffered sexual abuse in a Department facility, the facility shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, unfounded, unsubstantiated-forwarded to OPS or substantiated-forwarded to OPS. This will be completed by a member of the local SART unless appointing authority delegates to another designee. In the event an allegation is forwarded to OPS for investigation, the facility shall notify the offender of the outcome of the OPS investigation upon completion. Such notifications or attempted notifications shall be documented on Attachment 3, PREA Disposition Offender Notification Form. The Department's obligation to report under this standard shall terminate if the offender is released from the Department's custody.

H. Discipline:

1. Disciplinary Sanctions for Staff Members:
 - a. Staff members who engage in sexual abuse with an offender shall be banned from correctional institutions and subject to disciplinary action, with termination being the presumptive discipline, and may also be referred for criminal prosecution when appropriate.
 - b. Disciplinary sanctions for violations of Department policy related to Sexual Harassment will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff members with similar histories.
 - c. All terminations for violations of the Department sexual abuse or Sexual

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Harassment policies, or resignations by staff members that would have been terminated if not for their resignation shall be reported to law enforcement agencies, unless the activity was clearly not criminal. These shall also be reported, as required, to the Georgia Peace Officers Standards and Training Council (POST).

- d. OPS shall refer all substantiated cases of Offender to Offender Sexual Abuse and Staff on Offender Sexual Abuse for criminal prosecution.
2. Contractors and Volunteers: Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of Department sexual abuse or Sexual Harassment policies by a contractor or volunteer.
 3. Disciplinary Sanctions for Offenders:
 - a. The Department prohibits all consensual sexual activity between offenders, and offenders may be subject to disciplinary action for such activity. Consensual (non-coerced) sexual activity between offenders does not constitute sexual abuse, but is considered a disciplinary issue. Note: All instances of sexual contact between offenders will be treated as non-consensual unless proven otherwise during the course of an investigation.
 - b. Offenders shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or a criminal finding of guilt for offender-on-offender sexual abuse. These sanctions shall be imposed in accordance with SOP 209.01, Offender Discipline.
 - c. Offenders shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender Sexual Harassment. These sanctions shall be imposed in accordance with SOP 209.01, Offender Discipline.

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- d. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories.
- e. The disciplinary process shall consider whether the offender's mental disabilities or mental illness contributed to behavior when determining what type of sanction, if any, will be imposed. See SOP 508.18 MH/MR Discipline Procedures.
- f. If the facility offers therapy, counseling or other interventions to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer or require the perpetrator to participate in such interactions as a condition of access to programming or other benefits.
- g. An offender may be disciplined for sexual contact with a staff member only upon a finding that the staff member did not consent to such contact.

NOTE: Offender to Staff Sexual Abuse is not covered under PREA.

- h. For the purposes of a disciplinary action, a report of sexual abuse made in good faith upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish sufficient evidence to substantiate the allegation.
- i. Following an administrative finding of malicious intent on behalf of the offender making a false report, regardless of method used, the offender shall be subject to disciplinary sanctions pursuant to a formal disciplinary process in accordance with SOP 209.01 Offender Discipline.
 - i. Any person who willfully and knowingly gives or causes a false report of a crime to be given to any law enforcement officer or agency of this state is prosecutable under O.C.G.A. § 16-10-26 False report of a crime. Any individual proven to make a false allegation (defined in 3.i. of this section) will receive a disciplinary

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report and may be subject to prosecution under this statute.

- ii. Any person who willfully and knowingly gives or causes a false report of Sexual Harassment will be subject to disciplinary action in accordance with SOP 209.01 Offender Discipline.

I. Medical and Mental Health Care: The Department shall provide prompt and appropriate medical and mental health services in compliance with 28 CFR § 115 and in accordance with the Department SOPs regarding medical and mental health care.

J. Data Collection and Review:

1. Monthly Sexual Abuse Program Review. The facility SAIRT shall conduct a sexual abuse incident review at the conclusion of every substantiated and unsubstantiated sexual abuse investigation to review and assess the facility's PREA prevention, detection, and response efforts as stipulated in Attachment 9, Sexual Abuse Incident Review Checklist. Reviews are not necessary for incidents with a disposition of unfounded.
2. The review team shall:
 - a. Each facility shall submit a report to the Department's PREA Analyst each month using the electronic spreadsheet provided from the PREA Coordinator's office. This form shall be submitted by e-mail no later than the fifth calendar day of the month following the reporting month. All allegations investigated within the month shall be included on this report along with the appropriate disposition. The monthly report shall be completed in accordance with the Facility PREA Log User Guide.
 - b. The Department shall review data collected and aggregated of all sexual abuse allegations in order to improve staff performance, identify problem areas, and improve facility operations and offender sexual safety. The Department shall publish the data in an annual report, comparing each years' data, and provide an assessment of progress in addressing offender sexual abuse. It shall make this publicly available on its website.

I. Audits: The Department shall conduct audits pursuant to 28 C.F.R. §115.401-405.

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Each facility operated by the Department shall be audited every three (3) years on a schedule determined by the Department's PREA Coordinator. Federal Auditors determine compliance with federal standards and shall not dictate facility management, or procedural decisions. All auditor suggestions and findings shall be referred to the agency PREA Coordinator for review.

County facilities and Private facilities operated on behalf of the Department (housing state offenders) must meet the same audit requirements. These entities are responsible for scheduling and funding their audits. All auditors shall be certified by the Department of Justice. Each facility shall bear the burden of demonstrating compliance with the federal standards. A copy of the final report shall be submitted to the Department's PREA Coordinator upon completion of the audit and must be conducted every three years.

V. **Attachments:**

- Attachment 1: 208.06 Att.1, Sexual Abuse/Sexual Harassment Prison Rape Elimination Act (PREA) Education Acknowledgement Statement;
- Attachment 2: 208.06 Att. 2, PREA Sexual Victim/Sexual Aggressor Classification Screening Instrument;
- Attachment 3: 208.06 Att. 3, PREA Disposition Offender Notification Form;
- Attachment 4: 208.06 Att. 4, Sexual Allegation Response Checklist;
- Attachment 5: 208.06 Att. 5, Procedure for SANE Evaluation/Forensic Collection;
- Attachment 6: 208.06 Att. 6, PREA Investigative Summary;
- Attachment 7: 208.06 Att. 7, PREA Local Procedure Directive and Coordinated Response Plan;
- Attachment 8: 208.06 Att. 8, Retaliation Monitoring Checklist;
- Attachment 9: 208.06 Att. 9, Sexual Abuse Incident Review Checklist;
- Attachment 10: 208.06 Att. 10, PREA Initial Notification Form; and
- Attachment 11: 208.06 Att. 11 Staffing Plan Template.

VI. **Record Retention of Forms Relevant to this Policy:**

Retention of PREA related documents and investigations shall be securely retained and made in accordance with the following schedule:

- A. Sexual abuse data, files, and related documentation - at least 10 years from the date of the initial report.

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- B. Criminal investigation data, files, and related documentation - for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years; or 10 years from the date of the initial report, whichever is greater.
- C. Administrative investigation data, files, and related documentation - for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years; or 10 years from the date of the initial report, whichever is greater.

GEORGIA DEPARTMENT OF CORRECTIONS
SEXUAL ABUSE/SEXUAL HARASSMENT
PRISON RAPE ELIMINATION ACT (PREA) EDUCATION
ACKNOWLEDGEMENT STATEMENT

Employee Type (Check one):

Employee

Contractor/Volunteer

I have received the appropriate training for my employee status in accordance with SOP 208.06, *Sexually Abusive Behavior Prevention and Intervention Program*. I understand the Department's zero-tolerance for sexual abuse of offenders. I understand that I am not to engage in any behavior of a sexual nature with an offender and to report to a nearby supervisor if I witness such conduct or if someone reports such conduct to me. I further understand that my authorization to enter, visit, or work at a correctional institution where there are offenders is based on my agreement to comply with the Department's policy on sexual abuse, and sexual harassment. I also understand that any violation of the policy will result in disciplinary action, including termination, or that I will be banned from entering any correctional institution. Finally, I understand that that engaging in sexual contact with an offender is a felony offense punishable by imprisonment of not less than one, nor more than 25 years, and a fine of \$100,000, or both (O.C.G.A. §16-6-5.1.) I further understand that under O.C.G.A. §16-6-5.1, an offender cannot consent to sexual activity with staff, contractors, or volunteers.

This is to acknowledge I understand the Department's policy on Zero Tolerance of Sexual Abuse and Sexual Harassment of offenders. As a condition of employment I will abide by the terms and conditions of this policy.

Agency/ Company Name

Signature

Date

Typed or printed name

GEORGIA DEPARTMENT OF CORRECTIONS

PREA SEXUAL VICTIM/SEXUAL AGGRESSOR CLASSIFICATION SCREENING INSTRUMENT

Institution

Offender Name

GD

C #

Sexual Victim Factors

- | | <u>Yes</u> | <u>No</u> |
|---|--------------------------|--------------------------|
| 1. Is the offender a former victim of institutional (prison or jail) rape or sexual assault? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is the offender 25 years old or younger or 60 years or older? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Is the offender small in physical stature?
(BMI<18.5) NOTE: ensure inmate height and weight are correct so SCRIBE can calculate the BMI accurately. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does the offender have a developmental disability/mental illness/physical disability? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is this the offender's first incarceration ever (prison or jail)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Is or is perceived to be gay/lesbian/bi-sexual/transgender/intersex or gender non-conforming? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does the offender have a history of prior sexual victimization (sexual abuse)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Is the offender's own perception that of being vulnerable? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Does the offender have a criminal history (convictions) that is exclusively non-violent? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Does the offender have a conviction(s) for sex offenses against an adult or child? | <input type="checkbox"/> | <input type="checkbox"/> |

Total Number of Checks: Items 2 – 10 _____

Sexual Aggressor Factors

- | | | |
|--|--------------------------|--------------------------|
| 1. Does the offender have a past history of institutional (prison or jail) sexually aggressive behavior? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Does the offender have a history of sexual abuse/sexual assault towards others (adult and/or child)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Is the offender's current offense sexual abuse/sexual assault toward others (adult and/or child)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does the offender have a prior conviction(s) for violent offenses? | <input type="checkbox"/> | <input type="checkbox"/> |

Total Number of Checks: Items 2-4 _____

Additional Comments/Observations:

Retention Schedule: This form shall be maintained for 10 years from the date of the initial report.

Victim/Aggressor Classification Ratings

Sexual Victim Factor Rating:

Male Inmates: If three (3) or more of questions # 2 – 10 are checked, the offender will be classified as a **POTENTIAL VICTIM**. This will generate the PREA POTENTIAL VICTIM icon on the SCRIBE Offender page.

Female Inmates: If five (5) or more of questions # 2 – 10 are checked, the offender will be classified as a **POTENTIAL VICTIM**. This will generate the PREA POTENTIAL VICTIM icon on the SCRIBE Offender page.

Sexual Aggressor Factor Rating:

If question # 1 is answered yes, the offender will be classified as a **KNOWN AGGRESSOR** regardless of the other questions. This will generate the PREA AGGRESSOR icon on the SCRIBE Offender page.

If two (2) or more of questions # 2 – 4 are checked, the offender will be classified as a **POTENTIAL AGGRESSOR**. This will generate the PREA POTENTIAL AGGRESSOR icon on the SCRIBE Offender page.

In situations where the instrument classifies the offender as **Victim and Aggressor**, you must thoroughly review the offender's history to determine which rating will drive the offender's housing, programming, etc. This must be documented in the offender SCRIBE case notes, with an alert note indicating which the controlling rating is.

Retention Schedule: This form shall be maintained for 10 years from the date of the initial report.

GEORGIA DEPARTMENT OF CORRECTIONS
PREA Disposition Offender Notification Form

Offender Name: _____ GDC #: _____ Allegation Date: _____

Allegation Type:
 (Select only one)

S/I Abuse	<input type="checkbox"/>
S/I Harassment	<input type="checkbox"/>
I/I Abuse	<input type="checkbox"/>
I/I Harassment	<input type="checkbox"/>

Disposition:
 (Select all that apply)

Your PREA allegation was investigated by the Sexual Assault Response Team (SART) and was determined to be:

Unfounded	<input type="checkbox"/>	If the disposition is determined to be both substantiated and Forwarded to OPS, check both boxes
Unsubstantiated	<input type="checkbox"/>	
Referred to OPS	<input type="checkbox"/>	If the disposition is determined to be both unsubstantiated and Forwarded to OPS, check both boxes.
Substantiated*	<input type="checkbox"/>	

*If Substantiated, see action taken section.

Action Taken:
 (Select all that apply)

<input type="checkbox"/>	The staff member is no longer posted within the offender's unit.
<input type="checkbox"/>	The staff member is no longer employed at the facility.
<input type="checkbox"/>	The staff member has been indicted on a charge related to sexual abuse with the facility.
<input type="checkbox"/>	The staff member has been convicted on a charge related to sexual abuse within the facility.
<input type="checkbox"/>	The staff member has been convicted on a charge related to sexual abuse within the facility.
<input type="checkbox"/>	The alleged abuser (offender) has been indicted on a charge related to sexual abuse within the facility.
<input type="checkbox"/>	Other: (MUST INCLUDE EXPLANATION IF OTHER IS CHECKED)

Definitions:

Unfounded: Based on factual evidence SART proved the allegation did not occur.
 Unsubstantiated: SART could neither prove nor disprove the allegation occurred.
 Referred to OPS: SART determined additional review is warranted. Case forwarded to Internal Investigations.
 Substantiated: SART determined that the allegation did occur.

Offender Signature	Date
Witness	Date
SART Member/ Warden's Designee Signature	Date

Retention Schedule: Upon completion, this form shall be placed in the PREA investigative case file and maintained for the length of the offender's incarceration plus five (5) years, or 10 years from the initial report, whichever is greater.

**GEORGIA DEPARTMENT OF CORRECTIONS
 SEXUAL ALLEGATION RESPONSE CHECKLIST**

Incident Date _____ Incident Time _____ Incident Report # _____
 Victim Name* _____ GDC ID#* _____
 Location of Incident: _____ Date/Time Received: _____

*If more than one victim, separate with a semi-colon

(Some actions may be performed out of sequence or simultaneously)

Activity/Actions	Yes	No	Date	Time	Comments
Medical examination of the alleged victim conducted per 208.06 Attachment 5?					
If within 72 Hrs. was SANE contacted? (Or sent to hospital for forensic exam if SANE cannot arrive prior to 72 Hr. expiration.)					
Separated alleged victim(s) from alleged aggressor(s) in accordance with SOP 208.06?					
When was the local Sexual Abuse Response Team (SART) notified?					
Recover, download, and document any video monitoring recording. The disk will be identified using the corresponding incident report number, and stored securely.					
Was evidence collected that needed to be forwarded to OPS? (To whom in comment)					
Date Chain of custody form started?					
Date incident demographic information form completed?					
Send PREA Initial notification					
Mental Health evaluation of the alleged victim completed within 24 Hrs. of receipt of the allegation in accordance with 508.22					
Have all related documents been scanned/entered into SCRIBE?					
Enter investigative summary with all necessary supporting documentation. (Enter date completed)					
Disciplinary actions taken					
Case file reviewed by PREA Compliance Manager					

 SART Investigator Name Scribe ID PREA Compliance Manager Name SCRIBE ID

Allegation is: ___ Unfounded ___ Substantiated ___ Unsubstantiated ___ Forwarded to OPS ___ Not PREA

Retention Schedule: Upon completion, this form shall be maintained as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years; or 10 years from the date of the initial report, whichever is greater.

Procedure for SANE Evaluation/Forensic Collection

- A. Initial Report of Sexual Abuse or Assault
- a. Initial notification or reporting of sexual abuse or assault will be handled in accordance with GDC SOPs 507.04.84, 208.06 and 508.22.
 - i. Medical staff shall conduct an initial assessment of the offender to determine if there is evidence of any physical trauma requiring immediate medical intervention in accordance with good clinical judgment.
 - ii. Medical staff shall immediately initiate all necessary urgent/emergent treatment for bleeding, wounds and other traumas.
 - b. Nursing staff shall complete the Nursing Protocol Assessment form for alleged Sexual Assault. This shall be filed in the nurse's notes section of the medical record.
 - c. Facility clinicians (MD/NP/PA) shall document the physical examination in the progress notes.
 - d. When medically indicated, medical staff shall initiate arrangements to transfer the offender accompanied by a qualified staff member to the designated emergency facility for continued treatment and collection of forensic evidence. The Urgent/Emergent and Medical PREA Log will be completed.
 - e. Upon return from hospital SOP 507.04.84 and 508.22 shall be followed.
- B. Collection of evidence by SANE Nurse on-site:
- a. The following facilities have SANE Nurses assigned:
 - i. Small facilities shall use their assigned medical catchment State Prison for SANE Nurse services.
 - b. Notification of SANE Nurse
 - i. Offenders must consent to a SANE examination, prior to contacting SANE (Attachment #10 Consent for Operation or Invasive Procedure).
 - ii. If the alleged assault occurred within 72 hours of the reported incident, and the offender does not require transport to the ER, the designated facility SANE Nurse shall be immediately notified and an appointment scheduled for the collection of forensic evidence. This will occur only if there has been penetration reported by the patient. For females and males this also includes oral penetration. Otherwise, no rape kit will be collected.

NOTE: The 72 hours begins at the time the alleged assault occurred.

- iii. If the sexual assault occurred more than 72 hours previously, the decision on whether the evaluation is done by a local hospital, by the SANE Nurse, or facility staff will be made on a case-by-case basis. The decision shall be made by the Health Authority in consultation with the Facility Investigator/in accordance with GDC PREA Policy.
 - iv. For sites without a designated or available SANE Nurse, a designated catchment facility, or the SANE is not available within a reasonable time frame, the Appointing Authority, in consultation with the Regional SAC, shall coordinate with the Office of Health Services (OHS) to arrange for the offender to be transported to a hospital for collection of the forensic evidence.
 - c. A list of the SANE Nurse call schedule shall be posted in the medical unit along with the physician on-call schedule and for sites without 24-hour nursing, designated security locations. The SANE Nurse Call Roster shall include the SANE Nurses approved to enter the facility.
 - d. Once the SANE Nurse is notified, the Warden or designee shall be notified of the date and time for the scheduled forensic assessment and collection. Date and time of SANE Nurse notification shall be placed on the log.
 - e. The offender will remain in a designated area until the forensic exam is completed. The Consent for Treatment Form will be completed consenting to the exam by the SANE Nurse prior to scheduling the visit. *See Refusal of Treatment. During this time the process should be explained to the offender with confirmation they understand what to expect.
- C. SANE Assessment/Forensic Collection:
- a. Patient Preparation:
 - i. An exam room must be ready at the time the SANE exam is scheduled and the SANE Nurse arrives.
 - ii. The patient is allowed to eat and drink if no oral penetration has occurred.
 - iii. If oral penetration occurred, the patient should be nil per os NPO, if possible, until the exam is completed. If the exam does not occur within 8 hours, the patient can eat or drink as necessary. However, if the patient cannot tolerate the NPO status, limited food and drink can be consumed after 4 hours. This will not preclude the exam from being done. Patients with medical conditions will be assessed for nutritional and fluid needs on a case-by-case basis, i.e. diabetics.
 - iv. The patient should not change clothes, underwear and should not shower or brush teeth until the exam is done. The patient should be counseled as to the reason due to the importance of not destroying evidence.

- v. If at all possible clothes should not be removed until the SANE Nurse is present. If clothes are removed they should be removed with victim standing on exam paper and all clothes must be placed in **PAPER** bags. Each article of clothing must be placed in separate **PAPER** bags. The bags must be sealed. The bag must also be labeled with the inmate's name, date and time.
 - vi. If no signs or symptoms of bleeding or severe trauma are present or witnessed by medical staff, which would have required immediate first aid intervention, no medical exam should occur until the SANE Nurse completes the forensic exam.
 - vii. Medical staff should wear exam gloves at all times when interfacing/assisting/assessing the patient until the SANE exam has been completed.
- b. Equipment:
- i. The SANE Nurse shall arrive with an approved SANE Kit which will include the following:
 - a) Camera;
 - b) Forensic Ruler;
 - c) Toluidine Swabs;
 - d) 10% Acetic Acid or KY Jelly;
 - e) Red Top Tube (Lab);
 - f) Pipette;
 - g) Sterile Water Syringes (2);
 - h) SANE Forms; and
 - i) Goggles.

NOTE: This is subject to change
 - ii. The exam room must have the following available and ready at the scheduled time of the SANE exam:
 - a) All routine exam supplies, i.e. gloves, gauze pads, etc.;
 - b) Woods Lamp/Ultraviolet light;
 - c) Sterile Water;
 - d) Rape Kit (make sure it is not expired);
 - e) Index Cards;
 - f) Blood Tube, or similar product will be available and a rack to hold blood tubes and for drying the swabs After the evidence is collected;
 - g) Table Exam Paper;
 - h) Paper Bags (small and large [grocery size]); and
 - i) Supplies for collection of required labs.
- c. Procedures:
- i. Lab - The following labs will be drawn:

- a) Perpetrator:
 - i. Confirm HIV status
 - ii. Hepatitis profile
 - iii. Rapid Plasma Reagin (RPR)
- b) Victim:
 - i. HIV
 - ii. Hepatitis profile
 - iii. RPR

NOTE: All changes in HIV status will be entered into SCRIBE.

- ii. Treatment: When a SANE exam is completed on site, the facility provider or designee (i.e. On-Call provider) shall be responsible for ordering prophylactic treatment for STIs, as well as pregnancy prophylactics if applicable. This includes follow-up of all labs collected.
 - a) All necessary clinical treatment must be initiated by a clinical practitioner; Recommendations include:
 - i. Female Patients
 - NOTE: Patients should have a pregnancy test with results before administering medication.
 - ii. Coverage for GC, BV, Chlamydia and Trichomonas
 - Recommended Regimens*
 - Ceftriaxone 250 mg IM in a single dose
 - PLUS
 - Metronidazole 2 g orally in a single dose
 - PLUS
 - Azithromycin 1 g orally in a single dose
 - OR
 - Doxycycline 100 mg orally twice a day for 7 days
 - iii. Patients Penicillin Allergic
 - Azithromycin 2 g PO
 - PLUS
 - Metronidazole 2 gms orally in a single dose
 - iv. MALE PATIENTS
 - Recommended Regimens*
 - Ceftriaxone 250 mg IM in a single dose
 - PLUS
 - Metronidazole 2 g orally in a single dose
 - PLUS
 - Azithromycin 1 g orally in a single dose
 - iii. There shall be a follow-up visit by a clinician 3 working days following exam.

d. Documentation Forms:

- i. SANE Nurses shall bring a copy of their assessment forms which they will complete on site.
 - ii. Once completed, the SANE Nurse shall leave a copy of their nurses notes which shall be filed in the medical record with the Nursing Protocol Form for Sexual Assault.
 - iii. The SANE Nurse shall also leave a copy of their Forensic Exam documentation which shall be filed in a designated locked filing cabinet in medical administration, along with copies of the complete GDC Facility Chain of Custody Form.
 - iv. These shall be retained in accordance with the medical retention schedule.
- e. Chain of Custody
- i. Once the rape kit is collected, required legal chain of custody shall be followed until it is sent to the GBI lab. Until it leaves the facility it must remain locked up.
 - ii. The Chain of Custody shall be from SANE Nurse to Security Shift Supervisor or at a level above.
 - iii. The Security individual collecting the kit shall sign the Medical PREA Log. All other Chain of Custody policies shall be followed including completion of the GDC Facility Chain of Custody form. A copy of this form shall be given to medical and attached to the completed SANE Exam documentation left by the SANE Nurse.
- f. Refusal of Treatment:
- i. Individuals refusing to be evaluated following a report of sexual abuse shall be counseled regarding the medical and legal implication of foregoing the evaluation. This shall be thoroughly documented in the medical record and on a refusal of treatment form.
- D. Referrals for MH Evaluation and Counseling:
- a. Referrals for MH evaluation and counseling will be done in accordance with SOP 507.04.84 and 508.22.
- E. Medical PREA Log and SANE Invoice:
- a. The reported incident shall be entered on the PREA Medical Log. The log shall be completed in its entirety to include the home of the victim for which forensic evidence is being collected.

- b. The Health Services Administrator (HSA) or Director of Nursing (DON) shall forward the log electronically in a confidential manner to the Administrative Assistant to the Director of Patient Care Services, by the 5th calendar day of the month for the previous month. The log shall be reviewed for completeness before sending.
- c. The HSA shall review all invoices for the forensic exam upon receipt. Once verified, invoices will be forwarded to Georgia Correctional HealthCare (GCHC) for processing in accordance with current budgetary practices.

(Facility Name) PREA Local Procedure Directive and Coordinated Response Plan

The purpose of this directive is to provide a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership.

STAFF CONTACT INFORMATION

FACILITY NAME

Facility Name			
Position	Name	Phone Number	Email Address
Warden			
PREA Compliance Manager			
SART Retaliation Monitor			
PREA Compliance Manager			
SART Security			
SART Mental Health			
SART Medical			
Staff Training			
Inmate Education			

REPORTING DUTIES

Upon immediate notification of a sexual abuse, these actions should be taken in the order noted below.

FIRST STEPS

- Notify your Shift OIC and ensure the victim is separated from the aggressor.
- Instruct the alleged victim to refrain from changing clothes, drinking, eating, brushing teeth, or any other activity that could destroy any physical evidence.
- If known, instruct the alleged perpetrator to refrain from changing clothes, drinking, eating, brushing teeth, or any other activity that could destroy any physical evidence.
- Secure the crime scene if applicable to restrict access to the area and to prevent handling of evidence until an internal investigator arrives.
- Ensure the victim receives immediate medical attention (in accordance with SOP 507.04.84, Medical Management of Suspected Sexual Abuse and SOP 507.04.91, Medical Management of Suspected Sexual Assault, Abuse or Harassment), followed by a mental health evaluation within 24 hours, (in accordance with SOP 508.22, Mental Health Management of Suspected Sexual Abuse, Contact or Harassment).
- If applicable, ensure SANE protocol is enacted in accordance with 208.06 Attachment 5 and the Department's PREA Coordinator is notified.
- Implement Local PREA Notification Procedures to ensure all required personnel are notified that an incident has occurred.
- Ensure the incident report and supporting documentation has been completed before leaving the institution for the day.
- Ensure the victim receives a SART evaluation promptly within 24 hours.
- Ensure the alleged victim is housed separately from the alleged perpetrator; inmate shall be placed in involuntary protective custody only after other alternatives have been exhausted to ensure the safety of the victim.
- If applicable, ensure the alleged perpetrator has been placed in administrative segregation.
- If the alleged perpetrator is a staff member, separate the staff member from the alleged victim pending further instructions from Warden/Superintendent.

- If applicable, consult with the SART the Regional Director, and SAC within 72 hours of the reported incident to determine how long the alleged victim or perpetrator should remain segregated from the general population, and document the final decision in the inmate's file with specific reasons for returning the offenders to the general population or keeping the offenders segregated.
- If the alleged victim is under the age of 18, the Regional Director in conjunction with the Director of Investigations, or designee, shall report the allegation to the Department of Family and Children Services, Child Protective Services Section, reference O.C.G.A §19-7-5.
- If the alleged victim is considered a vulnerable adult under O.C.G.A. §30-5-4, then the Director of Investigations, or designee, will make notification to the appropriate outside law enforcement agency.

Safe Housing

Identify the location of this facility's safe dorm(s) and or safe beds in this section.

Identifying "at risk" Inmates at this facility

Describe the process in place at this facility to identify inmates that have a serious sexual predation history or who are "at risk" of engaging in sexually abusive behavior and or inmates who are "at risk" of sexual victimization while in GDC custody. Also explain the process used to identify these inmates to the appropriate staff. Keep it brief and to the point.

Upon immediate notification of a sexual harassment or report of retaliation these actions should be taken in the order noted below.

- **Notify your immediate supervisor who should immediately and directly forward this information to: (insert the appropriate information for your facility: the SART Leader, Compliance Manager, Retaliation Monitor.**

**GEORGIA DEPARTMENT OF CORRECTIONS
RETALIATION MONITORING CHECKLIST**

Select one: Employee Offender

Incident Report #: _____

Name: _____

GDC/EMP ID #: _____

Location of Incident: _____

Date of Incident: _____

OFFENDER	30 Day	60 Day	90 Day
Offender Disciplinary Report (s) History Review			
Offender Housing Unit Placement Reviewed			
Offender Transfer (s) Placement Review			
Offender Program (s) History Review			
Offender Work Performance Review			
Offender Schedule History Review			
Offender Case Note(s) Review			
EMPLOYEE	30 Day	60 Day	90 Day
Review Employee Post Rotation (Security Only)			
Review of Employee Job Duties			
Review of Employee Work Schedule History			
Review of Employee Work Location			
Review of Employee Personnel File (letters of concern, reprimands, and/or adverse actions.)			
Review of Employee Performance Management Documents			

Check One: 90 Day Review Completed No Follow Up
 90 Day Review Completed , extended 90 More Days

Findings (Required)

30 Day Review: _____
Signature/Title

30 Day Review: _____

60 Day Review: _____
Signature/Title

60 Day Review: _____

90 Day Review: _____
Signature/Title

90 Day Review: _____

Random Review: _____
Signature/Title

Random Review: _____

Warden/Superintendent Signature (Only after 90 day review)

Date

Comments: _____

Retention Schedule: Upon Completion, this form shall be maintained for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years; or 10 years from the date of the initial report, whichever is greater.

** This form shall be scanned and emailed to the PREA Coordinator.

<p>Facility Name: _____</p> <p>Sexual Abuse Incident Review Checklist</p> <p>Incident Report #: _____</p>
--

The facility shall conduct a sexual abuse incident review at the conclusion of every substantiated and unsubstantiated sexual abuse investigation. The review shall be conducted during the monthly designated PREA meeting but no more than within 30 days of the conclusion of the investigation.

I. Offender Name: _____ **Date:** _____

II. Checklist:

1. Was the incident report entered into SCRIBE in accordance with SOP 203.03 Incident Report? Yes ___ No ___
2. Did the allegation or investigation indicate a need to change policy or practice to prevent, detect, or respond to sexual abuse? Yes ___ No ___
3. Did the allegation or investigation indicate a motivation by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility? Yes ___ No ___
4. Was an examination of the area in the facility where the incident allegedly occurred conducted to determine whether physical barriers of the area may enable abuse?
List findings (if any) Yes ___ No ___
5. In the area where the incident allegedly occurred were there adequate staffing levels in that area during different shifts? Yes ___ No ___
6. In the area where the incident allegedly occurred should monitoring technology be deployed or augmented to supplement supervision by staff? Yes ___ No ___

If yes is checked on any of the above, state the reason why: _____

Name and title of all staff involved in the review:

Name	Title	Name	Title

III. Improvements:

The facility shall implement recommendations for improvement, or shall document the reason for not doing so. Were recommendations put in place? Yes ___ No ___
If no, List why: _____

IV. Warden/Superintendent review:

1. Date Received: _____
2. Comments: _____
3. Signature of Warden/Superintendent or Designee: _____

V. PREA Compliance Manager notification:

Date sent to PREA Compliance Manager: _____

PREA Initial Notification Form

Facility: _____ Date of Incident: _____
 Location: _____ Time of Incident: _____
 Incident Report #: _____

Type of Allegation (Select one):	Alleged Victim(s)		Alleged Aggressor(s)	
_____ S/I Abuse	Name	ID#	Name	ID#
_____ S/I Harassment				
_____ I/I Abuse				
_____ I/I Harassment				

Summary of Incident:

How were you notified of this incident? (Grievance, Hotline, Staff, Ombudsman, 3 rd party, etc.)	
---	--

	Y/ N	
SART notified?	Name	_____
	By whom	_____
	Date/Time	_____
	Y/ N	
SANE notified?	If yes, name	_____
	By whom	_____
	Date/Time	_____
	Y/ N	
Criminal Investigations notified?	If yes, name	_____
	By whom	_____
	Date/Time	_____
	Y/ N	
Internal Affairs notified?	If yes, name	_____
	By whom	_____
	Date/Time	_____
	Y/ N	
PREA Coordinator notified?	If yes, name	_____
	By whom	_____
	Date/Time	_____

Name/ Title of person submitting report	Signature/ Title
---	------------------

Retention Schedule: Upon completion, this form shall be placed in the PREA investigative case file and maintained for the length of the offender's incarceration plus five (5) years, or 10 years from the initial report, whichever is greater.

Retention Schedule: Upon completion, this form shall be placed in the PREA investigative case file and maintained for the length of the offender's incarceration plus five (5) years, or 10 years from the initial report, whichever is greater.

DEF_1412

EXHIBIT 4

FILED
UNDER SEAL

EXHIBIT 5

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3 MACON DIVISION
4

5 ASHLEY DIAMOND,

6 Plaintiff,

7 vs.

Case No. 5:20-cv-378-MTT

8 ARNEIKA SMITH,

9 Defendant.
10
11

12 VIDEOTAPED DEPOSITION OF DEDDRIC RIDLEY

13 via videoconference

14 Monday, March 21, 2022

15 9:56 a.m. EST
16

17 Job No.: 437063

18 Pages: 1 - 147

19 Stenographically Reported By:

20 Alison C. Webster, CSR-6266, RPR, RMR, CRR, RDR
21
22
23
24
25

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF

MAYA G. RAJARATNAM, ESQUIRE

AARON FLEISHER, ESQUIRE

CHRISTOPHER HARPER, ESQUIRE

Southern Poverty Law Center

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Southern Poverty Law Center

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A P P E A R A N C E S C O N T I N U E D

ON BEHALF OF THE DEFENDANT

TERRY LONG, ESQUIRE

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Suite 100

Alpharetta, Georgia 30009

770.847.8044

tlong@satcher-mcgovernlaw.com

ALSO PRESENT:

Andrew Whitner, Planet Depos tech

RJ Buckler, video technician

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T A B L E O F C O N T E N T S

Witness	Page
DEDDRIC RIDLEY	
EXAMINATION	
BY MS. RAJARATNAM:	7
EXAMINATION	
BY MS. LONG:	90
RE-EXAMINATION	
BY MS. RAJARATNAM	125
RE-EXAMINATION	
BY MS. LONG:	128

E X H I B I T I N D E X

Exhibit	Page
(Exhibits attached to transcript.)	
EXHIBIT 1	46
Audio file, DEF_1444	
EXHIBIT 2	82
Audio file, DEF_1443	

Transcript of Deddric Ridley
Conducted on March 21, 2022

34

1	A.	Yes.	10:40:17
2	Q.	Is one shift?	10:40:17
3	A.	Yes.	10:40:18
4	Q.	And 6 p.m. -- and 6 p.m. to 6 a.m. for the other	10:40:19
5		shift.	10:40:23
6	A.	Yes.	10:40:23
7	Q.	Who is Arneika Smith?	10:40:23
8	A.	Arneika Smith was an -- could be still, a officer	10:40:32
9		that work at GDCP.	10:40:37
10	Q.	What was her position?	10:40:41
11	A.	I think her position was a CO-1, Correction	10:40:42
12		Officer 1.	10:40:47
13	Q.	What is a Correctional Officer 1?	10:40:49
14	A.	Same duties as CO-2. Supervise inmates. Control	10:40:53
15		count. Record any activity that goes on. Things of	10:40:59
16		that such. Like I was sayin' for a CO-2, basically	10:41:04
17		babysitting adults or watching over adults.	10:41:10
18	Q.	What's the difference between a CO-1 and CO-2?	10:41:16
19	A.	The level of experience. The years of experience.	10:41:21
20		So when you come into GDCP you will rank as a CO-1	10:41:26
21		because you're a beginner. After, I think it's,	10:41:31
22		three years, you move up to a CO-2.	10:41:34
23	Q.	But you have the same responsibilities when on the	10:41:43
24		job?	10:41:49
25	A.	Yes. Yes.	10:41:49

Transcript of Deddric Ridley
Conducted on March 21, 2022

49

1	it back up.	11:20:19
2	Thank you.	11:20:20
3	THE WITNESS: I'm sorry.	11:20:20
4	BY MS. RAJARATNAM:	11:20:22
5	Q. So after handing Arneika Smith the keys, you went back	11:20:22
6	to J Building.	11:20:25
7	A. Yes.	11:20:26
8	Q. What did you do at J Building?	11:20:27
9	A. There was an incident had went on.	11:20:29
10	Q. What happened after you finished addressing the	11:20:35
11	incident?	11:20:40
12	A. After addressing the incident in J Building, I	11:20:41
13	returned back to C House. And upon returning to	11:20:44
14	C House, the gate was locked. I was lookin' around	11:20:49
15	to see if I see Officer Smith. I couldn't see her.	11:20:54
16	I asked the inmates, where is she?	11:20:59
17	And I remember now. They sayin' that she	11:21:01
18	was in the bathroom or whatnot. And that's when I	11:21:03
19	called main control or whatnot -- went to main	11:21:08
20	control and asked her, does she see Ms. Smith on --	11:21:14
21	on the cameras, and she said, no.	11:21:17
22	And with that being said, I went back and	11:21:21
23	asked the inmates again, you know, where -- where was	11:21:22
24	she, and they said, in the bathroom or whatnot.	11:21:25
25	And I called on the radio to get Officer	11:21:27

1 Nimes, who was in main control, to open the gate. So 11:21:34
2 when I went in, I looked on all the ranges. I didn't 11:21:37
3 see her. To make sure she wasn't layin' on the -- on 11:21:40
4 the floor or she was in a cell or whatnot. And I 11:21:42
5 went back downstairs and I asked the inmates again. 11:21:45
6 They said she was in the bathroom. 11:21:49
7 And so at that time, a lot of time had 11:21:50
8 passed or whatnot, and I called her name out, just 11:21:52
9 called her name out -- or maybe I walked on the door, 11:21:55
10 one of the two -- and she opened the door and came 11:21:58
11 out, and Ashley Diamond was inside the officer closet 11:22:00
12 with her. 11:22:09
13 What went on, I don't know. Just observing 11:22:10
14 both of them, I can't say what actually went on in 11:22:15
15 there or what. I mean, it's just strange to me, and 11:22:22
16 against policy, to have an inmate in a officer closet. 11:22:27
17 That's just one thing you don't do. And I just -- I 11:22:29
18 hadn't -- wish I hadn't seen that. Ashley Diamond 11:22:32
19 didn't look like she was in any type of trouble or 11:22:36
20 distress or anything of that nature. 11:22:40
21 Officer Smith told me she was talkin' to 11:22:47
22 her, that why she had her in the -- the closet with 11:22:50
23 her, but that's all that she told me. And I left it 11:22:52
24 at that because I didn't want to get -- I didn't want 11:22:57
25 to be involved in anything like that whatsoever. 11:22:59

Transcript of Deddric Ridley
Conducted on March 21, 2022

101

1	there be a need to lockdown the inmates?	13:39:31
2	A. Not.	13:39:34
3	Q. Why didn't you hand Officer Smith the radio?	13:39:37
4	A. Forgot to give it to her.	13:39:48
5	Q. You forgot?	13:39:50
6	A. Yes. A 10-78, a officer need assistance, you got to	13:39:54
7	go. So that can slip my mind easily.	13:39:56
8	Q. I understand.	13:39:59
9	When you -- well, let's -- after you came	13:40:06
10	back to C House from J Building, did you go into	13:40:10
11	C House?	13:40:18
12	A. Once main control opened the door.	13:40:23
13	Q. And what did you do then?	13:40:27
14	A. I walked around each tier to see if she was layin' on	13:40:29
15	the floor or in a cell.	13:40:35
16	Q. Did you ask an inmate where she was?	13:40:38
17	A. Yes, I asked the inmate where she was. They stated	13:40:40
18	the restroom. Several time.	13:40:44
19	Q. Why didn't you check the restroom if the inmates said	13:40:46
20	she was in the restroom?	13:40:52
21	A. Because I don't believe what inmates tell you. I	13:40:53
22	don't listen to it. Me personally, I don't listen to	13:40:56
23	inmates. Inmates lie all the time. Throughout my	13:40:59
24	history working corrections, inmates lie all the	13:41:03
25	time. I don't take what a inmate, what they say,	13:41:07

Transcript of Deddric Ridley
Conducted on March 21, 2022

102

1 seriously at all. I have to see for myself. 13:41:09

2 Q. I understand inmates lie all the time. 13:41:11

3 So you made absolutely no effort to check 13:41:18

4 the restroom when you were back in C House? 13:41:20

5 A. I checked it later on, after I made sure she was not 13:41:25

6 layin' on the floor or in a cell with another inmate. 13:41:29

7 Q. Okay. So instead of checking the officers' room, you 13:41:35

8 checked every other cell in the dorm. 13:41:37

9 A. Yes. And once I got done checking all of the rest of 13:41:41

10 the cells in each tier, I asked the inmate again, 13:41:46

11 where is she? 13:41:46

12 They stated, in the restroom. 13:41:50

13 That's when I went and knocked on the 13:41:52

14 door. 13:41:54

15 Q. Well, tell me what happened then, after you knocked on 13:41:55

16 the door. 13:42:05

17 A. After I knocked on the door, I asked her if she was 13:42:06

18 okay. She opened the door and came out, and you 13:42:10

19 could see Ms. Smith and Ms. Diamond inside of C House 13:42:15

20 officer closet. If anything go on, I don't know. I 13:42:22

21 just -- like I stated earlier, I wish I had not seen 13:42:32

22 that because that's something you don't do as a 13:42:36

23 officer, any officer working any unit at GDCP. It go 13:42:38

24 against policy -- policy big time. 13:42:45

25 And just to put herself in that 13:42:47

Transcript of Deddric Ridley
Conducted on March 21, 2022

105

1	A.	That's correct.	13:45:53
2	Q.	Did you, at any time, tell inmate Diamond that she	13:45:55
3		needed to leave the officers' office?	13:46:00
4	A.	No, I did not.	13:46:07
5	Q.	Did you tell --	13:46:08
6	A.	I did not -- excuse me. Go ahead.	13:46:08
7	Q.	Did you say anything to inmate Diamond?	13:46:13
8	A.	I did not. Honestly, I did not. It just when you	13:46:16
9		see something like that, that go against policy or	13:46:20
10		whatnot, me personally, my mind was blown at that	13:46:23
11		time. It's just something that you don't see. You	13:46:26
12		don't see that.	13:46:29
13		And like I said before, Ms. Smith put	13:46:30
14		herself in a predicament that she shouldn't have put	13:46:34
15		herself in, or whatnot, and I try to stay out the	13:46:36
16		incident or whatnot, and it come -- led to this.	13:46:39
17		Because -- and the reason I say this is because you	13:46:42
18		have people who want to just sue you. You have	13:46:44
19		people who just want to put you in trouble. Inmates	13:46:46
20		do that.	13:46:50
21		And just by Ms. Smith putting herself in	13:46:50
22		that predicament, she kind up put that on herself.	13:46:54
23		And I hate to put it like that, but it's just	13:46:59
24		something that you don't do. You take an oath, as a	13:47:03
25		officer, to uphold certain things and follow all the	13:47:05

Transcript of Deddric Ridley
Conducted on March 21, 2022

106

1 rules and regulations, and she didn't do that. 13:47:07

2 Q. I agree. 13:47:09

3 But you entered the officers' office while 13:47:09

4 inmate Diamond was still in there. 13:47:12

5 A. Yeah, she was in there. I got -- I obtained my 13:47:14

6 things and I left. 13:47:19

7 Q. When did you find out that your food was missing? 13:47:21

8 A. After I went to my other post and decided to eat. 13:47:25

9 Q. So do you have any evidence that Officer Smith ate 13:47:31

10 your Debbie cake? 13:47:35

11 A. No. I didn't say who ate my cake. I just said 13:47:37

12 somebody ate my cake. It had to be one of those two 13:47:44

13 that was in there, unless she passed it off to 13:47:47

14 somebody else. But yet again, no -- no inmate 13:47:50

15 supposed to be in officer closet, period. So if it 13:47:50

16 was just her, then she ate it. 13:47:56

17 Q. But other officers had access to the officers' closet. 13:47:56

18 Correct? 13:47:59

19 A. What you mean by "other officers"? 13:48:00

20 Q. Any officer could go into the officers' office? 13:48:04

21 A. No. The officer closet supposed to be locked at all 13:48:07

22 times, and if the officer have the key, the only 13:48:11

23 person that can get into the officer closet, if they 13:48:14

24 hand that key over to another officer. That's it. 13:48:18

25 Q. Did you ever confront Officer Smith about the missing 13:48:22

EXHIBIT 6

GEORGIA DEPARTMENT OF CORRECTIONS

SEXUAL ABUSE/SEXUAL HARASSMENT

PRISON RAPE ELIMINATION ACT (PREA) EDUCATION

ACKNOWLEDGEMENT STATEMENT

Employee Type (Check one):

Employee

Contractor/Volunteer

I have received the appropriate training for my employee status in accordance with SOP 208.06, *Sexually Abusive Behavior Prevention and Intervention Program*. I understand the Department's zero-tolerance for sexual abuse of offenders. I understand that I am not to engage in any behavior of a sexual nature with an offender and to report to a nearby supervisor if I witness such conduct or if someone reports such conduct to me. I further understand that my authorization to enter, visit, or work at a correctional institution where there are offenders is based on my agreement to comply with the Department's policy on sexual abuse, and sexual harassment. I also understand that any violation of the policy will result in disciplinary action, including termination, or that I will be banned from entering any correctional institution. Finally, I understand that that engaging in sexual contact with an offender is a felony offense punishable by imprisonment of not less than one, nor more than 25 years, and a fine of \$100,000, or both (O.C.G.A. §16-6-5.1.) I further understand that under O.C.G.A. §16-6-5.1, an offender cannot consent to sexual activity with staff, contractors, or volunteers.

This is to acknowledge I understand the Department's policy on Zero Tolerance of Sexual Abuse and Sexual Harassment of offenders. As a condition of employment I will abide by the terms and conditions of this policy.

GOCP

Agency/ Company Name

Arneika Smith

10/7/2019

Signature

Date

Arneika Smith

Typed or printed name

Record Retention: Upon completion, this form shall be retained permanently in a local or local business file, whichever is applicable.

EXHIBIT 7

**GEORGIA DEPARTMENT OF CORRECTIONS
OFFICE OF PROFESSIONAL STANDARDS
INVESTIGATIVE CASE SUMMARY**

II-2020-1674

Case # II-2020-1674 was opened on May 28, 2020, upon notification that legal correspondence was received by GDCP containing PREA Complaints concerning Inmate Ashley Diamond GDC 1000290565. According to the documents, Inmate Diamond alleged that she was sexually abused by Officer Arneika Smith on March 9 and March 10, 2020 when Officer Smith locked them together inside the closet for several hours on both occasions while in C House.

No camera footage regarding the incidents was available for review due to no operational cameras in the area where the alleged incidents occurred.

Interviews were conducted with Lieutenant Shanita McCall, Officer Deddrick Ridley, Officer Stephanie McCumber, Officer Jennifer Nimes, Officer Arneika Smith, and Inmate Ashley Diamond. During the interviews, Officer Ridley reported the presence of a makeshift bed inside of the Officer's Room which Inmate Diamond was sitting on when she and Officer Smith were observed in the room together, as also stated by Inmate Diamond in the Legal Documents. Officer Smith denied the allegations of sexual abuse and further denied the presence of a makeshift bed, though she admitted that she and Inmate Diamond were inside of the locked room looking for her jacket and conversing about other officers who were romantically involved. Inmate Diamond refused to answer questions concerning the incidents without her attorney present, but she admitted to writing a statement at Officer Smith's request. Officer Smith was placed on Administrative Leave pending the outcome of the investigation.

Due to conflicting statements between those of Inmate Diamond and Officer Ridley, and those of Officer Smith, a polygraph examination was requested and conducted with Officer Smith. The Examination resulted in a finding of No Deception Indicated regarding the allegations of sexual abuse and misconduct. Butts County DA Adams and ADA Daniel were consulted regarding this case and advised there was insufficient evidence to prove that any sexual abuse occurred and there would be no prosecution in this case.

Due to a lack of evidence, the allegations of sexual abuse and sexual misconduct are determined to be unsubstantiated; however, Officer Smith violated the C House Post Orders by engaging in conversation with an inmate that is unprofessional, which is clearly prohibited on Page 4 of the C Cellhouse Post Orders.

Due to the nature of the allegations, this case will be forwarded to Legal Services for further review, recommendations, and other action deemed appropriate.

SPECIAL AGENT ASHLEY JOHNSON *AS* 03/02/2021

PROPERTY OF GDC

Further Dissemination is Prohibited

Without the Written Consent of an OPS Supervisor

EXHIBIT 8

FILED
UNDER SEAL

EXHIBIT 9

(Page 1 of 8)

RECEIVED

MAY 21 2021

CENTRAL PERSONNEL

DATE 5/20/2021

PHONE 770-504-2056

shantila.morgan@gdc.ga.gov

LOCATION Georgia Diagnostic & Classification Prison

INITIATOR Shantila Morgan

POSITION/PERSONNEL ACTION REQUEST

EFFECTIVE DATE OF ACTION
5/7/2021

EMPLOYEE INFORMATION		SUBMITTER INFORMATION		COMMENTS	
Name	Smith, Arneika S.	<input type="checkbox"/> Correspondence (Resignation or Adverse Actions)		Legal Services Investigation case file review and recommendation termination. EE has been on Suspension with pay since 12/3/2020.	
Empl ID	[REDACTED]	<input type="checkbox"/> Suspension Notice			
Gender	Female	<input type="checkbox"/> PIF/PMF			
Race	Black	<input type="checkbox"/> Min. Qual. Review Decision			
DOB	[REDACTED]	<input type="checkbox"/> DOL 800 Separation Notice			
Maildrop ID	#N/A	<input type="checkbox"/> Other (Specify):			
ACTION REASON DESCRIPTION		Is rehire recommended?			
1	TER DIS Dismissal	-			
2	DTA NRC Rehire Not Recommended	*If No, then attach supporting documentation			
3	-	Terminal Leave Hours To Be Paid: 0			
		*Please attach verification			
		Last Day in Pay Status: 6/6/2021			
		Does action impact a high security supplement?			
FLSA Code		DTI Code			

Position Number	Classified Indicator	Position Number	Classified Indicator
		00199708	
Job Code	Job Title	Job Code	Job Title
-	-	PSP191	CSM Correctional Officer 2
Department ID	Facility Name	Department ID	Facility Name
-	#N/A	4672030901	GD&CP-Security Opts
County Code/Name	Zip Code	County Code/Name	Zip Code
#N/A	#N/A	018/Butts	30233
Pay Grade	Semi-Monthly Salary % Change	Pay Grade	Semi-Monthly Salary
	0.00%	LH	\$1,584.94

WORK SCHEDULE (DAYS & SHIFT)														BUDGET APPROVAL			
off	off	3	4	5	6	7	off	off	10	11	12	13	14	off	8.00 hr Shift	Name	Date
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
COMPLETER														APPOINTING AUTHORITY			
Name: Shantila Morgan														Name: Benjamin Ford			
Date:														Date:			

48/80 x 150 = 938.96

7110 - 1100 111 1111.16

COMPLETER														APPOINTING AUTHORITY	
Name: Shantila Morgan														Name: Benjamin Ford	
Date:														Date:	

7110 - 1100 111 1111.16

1584.94

1111.16

1111.16

1111.16

(Page 2 of 8)



GEORGIA DEPARTMENT OF CORRECTIONS
Georgia Diagnostic & Classification Prison
Warden Office
P.O. Box 3877
Jackson, Georgia 30233
770-504-2056 Phone
770-504-2008 Fax

Brian P. Kemp
Governor

Timothy C Ward
Commissioner

Arnelka Smith
EID: [REDACTED]

Ms. Smith,

This letter is to inform you that you were **Terminated/ Dismissal** from employment with Georgia Diagnostic & Classification Prison effective on 5/7/2021.

To withdraw your Retirement Contributions a request for a refund from Employee's Retirement System GA (ERSGA) has to be completed online through your ERS online account - (<https://www.ers.ga.gov>) by clicking on the Request Refund box located within each of your accounts as desired.

Uniforms (if applicable) should be returned to Business Office on Wednesday's between the hours of 8:00am-4:30pm. Badge, chits (if applicable), Employee Identification Card, and Locator Card should be returned to the Personnel Office Monday-Friday between the hours of 8:00am-4:30pm.

All state issued items must be returned no later than 10 days from your last day employed. If all or some items are not received, a warrant will be issued for your arrest.

Sincerely,

Benjamin Ford, Warden

Equal Opportunity Employer

(Page 3 of 8)

Berkey, Noel

From: Edwards, Komola
Sent: Friday, May 21, 2021 2:03 PM
To: Actions, Adverse
Subject: RE: GDCP- Arneika Smith [REDACTED]

We will leave this one alone.

Komola M. Edwards MPSA, SHRM-SCP

Commissioner's Designee for Adverse Actions
Agency Complaint Resolution Coordinator

300 Patrol Road
Gibson Hall/ 2nd Floor
Forsyth, GA 31029
Office: 478-992-5204
FAX: 478-992-5207

"REGAINING MOMENTUM"

The Georgia Department of Corrections protects the public by operating safe and secure facilities through the development of professional staff and effective offender management.

From: Actions, Adverse <adverse.actions@gdc.ga.gov>
Sent: Friday, May 21, 2021 2:01 PM
To: Edwards, Komola <Komola.Edwards@gdc.ga.gov>
Subject: FW: GDCP- Arneika Smith [REDACTED]

Should we send this certified since there is no signature or let it go?

From: Morgan, Shantila <Shantila.Morgan@gdc.ga.gov>
Sent: Friday, May 21, 2021 12:15 PM
To: Actions, Adverse <adverse.actions@gdc.ga.gov>
Cc: Childs, Angela <angela.childs@gdc.ga.gov>
Subject: GDCP- Arneika Smith 00875505

Good Morning,

Arneika Smith documents. Leave audit will follow.

(Page 4 of 8)



Shantila Morgan
Human Resource Tech Supervisor
Georgia Diagnostic and Classification Prison
Special Management Unit
PO Box 3877
2978 Hwy 36 West Prison Blvd.
Jackson, Georgia 30233
770-504-2088 - Office Phone
770-504-2008 - Fax
Shantila.Morgan@gdc.ga.gov

"The Department of Corrections protects the public by operating safe and secure facilities through the development of professional staff and effective offender management"

"Regaining Momentum"

"We set the exceptional standard for protecting the public through our people, processes and infrastructure."

(Page 5 of 8)



GEORGIA DEPARTMENT OF CORRECTIONS
Georgia Diagnostic & Classification Prison
Warden Office
P.O. Box 3877
Jackson, Georgia 30233
770-504-2011 Phone
770-504-2008 Fax

Brian P. Kemp
Governor

Timothy C Ward
Commissioner

*Set to BT
for approval*

MEMORANDUM

TO: Betsy Thomas, Human Resources Director

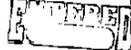
FROM: Benjamin B. Ford, Warden 

DATE: May 20, 2021

RE: No Rehire Code Request – Arneika Smith 

Georgia Diagnostic & Classification Prison is requesting that a "No Rehire Code" be placed on ex-employee Arneika Smith  record, due to the Legal services investigation case file review and recommendation on her.

Thank You in advance for your consideration in this matter.

(Page 6 of 8)

LEGAL SERVICES
INVESTIGATION CASE FILE REVIEW AND RECOMMENDATION

Case Number/Facility: **II-2020-1674 GDCP**
Date Presented to Legal Services: **4/12/2021**
Date Reviewed by Legal Services: **4/12/2021**
Date of Recommendation to Appointing Authority: **5/7/2021**
Date Returned to OPS to Close Case: _____

Subjects: **Arneika Smith, CO**

A. Statements Reviewed

- | | |
|---|--|
| <input type="checkbox"/> Complainant(s) Statement(s) | <input type="checkbox"/> Victim(s) Statement(s) |
| <input checked="" type="checkbox"/> Witness Statement(s) | <input checked="" type="checkbox"/> Other Statements |
| <input checked="" type="checkbox"/> Subject(s) Statements | |

B. Reports/Documentation/Evidence

- | | |
|--|--|
| <input checked="" type="checkbox"/> Report of Investigation | <input type="checkbox"/> Warrants |
| <input type="checkbox"/> Incident Reports/Use of Force Reports | <input type="checkbox"/> Affidavits for Warrants (if applicable) |
| <input checked="" type="checkbox"/> Reports from Other Agency(s) | <input type="checkbox"/> GBI Forensic Lab Reports |
| <input checked="" type="checkbox"/> Advisement Forms (Miranda Warnings, Polygraph Directive and Polygraph Forms) | <input type="checkbox"/> Death Certificate |
| <input type="checkbox"/> Disciplinary Reports | <input type="checkbox"/> Medical Documents |
| <input checked="" type="checkbox"/> Personnel/Management Records | <input type="checkbox"/> Social Media Documents |
| <input type="checkbox"/> Financial Documents | <input type="checkbox"/> Photographs |
| <input checked="" type="checkbox"/> Audio Recordings | <input checked="" type="checkbox"/> Video Recordings |
| <input type="checkbox"/> Coroner Report | <input checked="" type="checkbox"/> Other |

C. Recommendation of Legal Services

Subject #1: **Arneika Smith, CO**

Violation of Policy(s): **Allegation of Staff on Inmate Abuse/PREA is Unsubstantiated. Violation of Post Orders for C Cellhouse is Substantiated.**

- | | | | |
|---|--|---|------------------------------------|
| <input type="checkbox"/> Without Merit | <input type="checkbox"/> Exonerated | <input type="checkbox"/> Not Sustained | <input type="checkbox"/> Sustained |
| <input checked="" type="checkbox"/> Substantiated | <input checked="" type="checkbox"/> Unsubstantiated (Close File) | <input type="checkbox"/> Partially Substantiated: | |
| <input type="checkbox"/> No Action | <input type="checkbox"/> Additional Training | <input type="checkbox"/> Verbal Reprimand | |
| <input type="checkbox"/> Letter of Concern | <input type="checkbox"/> Letter of Instruction | <input type="checkbox"/> Written Reprimand | |
| <input checked="" type="checkbox"/> Adverse Action: Termination. | | | |
| <input type="checkbox"/> Administratively Close File: | | | |

REVIEWING ATTORNEY/DATE: **Vicki Judd 5/7/2021**

(Page 7 of 8)



State of Georgia
Department of Labor
SEPARATION NOTICE

1. Employee's Name Arnelka Smith 2. S.S. # [REDACTED]

a. State any other name(s) under which employee worked. _____

3. Period of Last Employment: From 10/01/2019 TO 05/07/2021

4. REASON FOR SEPERATION:

a. LACK OF WORK

b. If for any other than lack of work, state fully and clearly the circumstances of the separation:
Termination Dismissal

5. Employee received payment for: (Severance Pay, Separation Pay, Wages-in-Lieu of Notice, bonus, profit sharing, etc.)
(DO NOT include vacation pay or earned wages)

_____ in the amount of \$ _____ for the period from _____ to _____

Date of above payment(s) was/will issued to employee _____
IF EMPLOYEE RETIRED, furnish amount of retirement pay and what percentage of contributions were paid by the employer. _____ Per Month _____ - % of contributions paid by employer.

6. Did this employee earn at least \$3500.00 in your employ? Yes No If NO, how much? \$ _____
Average Weekly Wage: _____

Employers Name Corporate Cost Control
(Georgia Department of Corrections)

Address P.O. Box 1180
(Street or RFD)

City Londenberry State NH. ZIP 03053

Employer's Telephone No. 1-800-207-8926
(Area Code) (Number)

Ga. D.O.L. Account Number 110094-00
(Number shown on Employer's Quarterly Tax and Wage Report, Form DOL 4.)

I CERTIFY that the above worker has been separated from work and the information furnished heron is true and correct. This report has been handled to or mailed to the worker.

Shatila M. [Signature]
(Signature of Official, Employee of the Employer or authorized agent for the employer.)

HR Tech Supervisor
Title of Person Signing

Date Completed and Released to Employee _____

NOTICE TO EMPLOYER
At the time of separation, you are required by the Employment Security Law, CCGA Section 34-8-190(c), to provide the employee with this document, properly executed, giving the reason for separation. If you subsequently receive a request for the same information on a DOL-1199FF, you may attach a copy of this form (DOL 800) as part of your response.

NOTICE TO EMPLOYEE
OCGA SECTION 34-8-190(c) OF THE EMPLOYMENT SECURITY LAW REQUIRES THAT YOU TAKE THIS NOTICE TO THE GEORGIA DEPARTMENT OF LABOR FIELD SERVICES OFFICE IF YOU FILE A CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS.

(Page 8 of 8)



Georgia Department of Corrections



**Human Resources
Leave Verification Form**

Date of Verification:		04/07/2021					
Name:		EMPL ID:			Hire Date:		
Arneika Smith		[REDACTED]			10/01/2019		
Effective Date of Current Action:		Type of Action (Termination, Retirement, Transfer, etc.):					
04/07/2021		Termination					
Final Leave Balances							
Sick	Annual	Personal	State Comp	FLSA Comp	Holiday	Forfeited	Education Support Leave
82.47	100.00	0.00	0.00	0.00	0.00	0.00	8.00
Please use the space below to provide any relevant information pertaining to the final balances (adjustments, payout information, etc.):							
EE was over paid 6 days (48 hours) on the May 15, 2021 pay check.							
I verify the above leave balances are correct and all leave usage has been entered through the date of this verification.							
Signature of HR Representative:						Date:	
/s/ Shantia Morgan / HR Tech Supervisor <i>Shantia Morgan</i>						05/07/2021	

/s/ Shantia Morgan / HR Tech Supervisor <i>Shantia Morgan</i>						05/07/2021	
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EXHIBIT 10

GEORGIA DEPARTMENT OF CORRECTIONS

Health Services Request Form

Name Ashley Diamond
State ID or SSN 1000290565
DOB 4 9 78 Race B Sex Trans
Housing Unit or Dorm Location N-106

DO NOT FILE THIS FORM IN THE HEALTH RECORD

REQUEST Inmate may check all statements that apply and submit to medical this entire form. Do not tear off yellow copy.

I wish to be seen at Medical Dental Other sick call for the following reason(s):
Psychiatric for suicidal ideations, emotional dysregulation & propensity to self harm

I do not wish to be seen at sick call, however, I need:
 Medication refilled (specify) _____
 Over-the-counter medication (explain) _____
 Lab test results information (specify) _____
 Appointment information regarding (specify) _____
 Other (specify) _____

I wish to cancel a previous sick call request dated _____

Signature: Ashley Diamond

Date signed: 6, 9, 2020

DISPOSITION Inmate: Do not write in this section. Medical personnel only.

Disposition: _____

Date received: _____

Medical Staff Signature: _____

Date signed: _____

HEALTH SERVICES REPLY Inmate: Do not write in this section. Medical will forward the inmate yellow copy with reply.

Name: Diamond Ashley State ID or SSN 1000290565 Housing Unit / Dorm NA

Response: Seen by medical & mental health.

Staff Signature: [Signature]

Date signed: 6, 9, 2020

VERIFICATION OF SERVICES PROVIDED Medical personnel will tear this completed section and send to the Business Office.

Inmate Diamond Ashley State ID # 1000290565 was seen by Medical Dental Other on 6, 9, 2020

\$5.00 copay due \$5.00 copay is waived
 \$5.00 copay is waived due to mental health condition. Inmate signature: _____ Staff signature: [Signature]

FOR BUSINESS OFFICE USE ONLY

Deducted \$5.00 copay No copay deducted Deducted copay of \$ _____ Account frozen for \$ _____

WHITE COPY: Medical, Business Office

YELLOW COPY: Returned to inmate with response

GEORGIA DEPARTMENT OF CORRECTIONS

Health Services Request Form

Name Ashley Diamond
State ID or SSN 1000290565
DOB 4-9-78 Race B Sex Trans
Housing Unit or Dorm Location N-106

DO NOT FILE THIS FORM IN THE HEALTH RECORD

REQUEST Inmate may check all statements that apply and submit to medical this entire form. Do not tear off yellow copy.

- I wish to be seen at Medical Dental Other sick call for the following reason(s):

I would like to speak w/ someone experienced in treating Gender Dysphoria

- I do not wish to be seen at sick call, however, I need:

- Medication refilled (specify)
Over-the-counter medication (explain)
Lab test results information (specify)
Appointment information regarding (specify)
Other (specify)

- I wish to cancel a previous sick call request dated

Signature:

Date signed:

DISPOSITION Inmate: Do not write in this section. Medical personnel only.

Date received:

Disposition:

Medical Staff Signature:

Date signed:

HEALTH SERVICES REPLY Inmate: Do not write in this section. Medical will forward the inmate yellow copy with reply.

Name: Diamond Ashley State ID or SSN 1000290565 Housing Unit / Dorm N-1

Response: Seen by medical + mental health.

Staff Signature: M. Gattward

Date signed: 6/9/2020

VERIFICATION OF SERVICES PROVIDED Medical personnel will tear this completed section and send to the Business Office.

Inmate Diamond Ashley State ID # 1000290565 was seen by Medical Dental Other on 6/9/2020

- \$5.00 copay due \$5.00 copay is waived
\$5.00 copay is waived due to mental health condition. Inmate signature: Staff signature: M. Gattward

FOR BUSINESS OFFICE USE ONLY

- Deducted \$5.00 copay No copay deducted Deducted copay of \$ Account frozen for \$

WHITE COPY: Medical, Business Office

YELLOW COPY: Returned to inmate with response

EXHIBIT 11

From: Benton, Brooks
Sent: Friday, June 12, 2020 3:45 PM
To: Shepard, Stan
Subject: Weekly Report on Diamond, Ashley GDC: 1000290565

Below please find the actions concerning Offender Diamond for the week of June 8-June12:

Offender Contact from Mental Health for the week of June 8th- June 12, 2020:

Tuesday, June 9th- Offender Diamond was escorted to MH to speak with MHUM concerning a Medical Request form that was turned in. (MH note completed)

Thursday, June 11th- Offender Diamond was seen by MH Counselor Cantera per request from Warden to clarify MH concerns

Friday, June 12th- Offender Diamond seen by MH Counselor Cantera due to issues Offender Diamond presented, which resulted in a PREA being alleged against staff at GDCP, not Coastal.

Ms. Cantera will be making weekend rounds to the facility and will see SP offenders which Offender Diamond is on SP/increased contacts.

Next week, June 15-19th, Offender Diamond will be seen by assigned MH Counselor Pepin and Clinical Director Fass on Monday, 6/15/2020.

Will see Psychiatry on Tuesday or Wednesday- depending on current schedule openings, and will continue to see both Ms. Cantera and Ms. Pepin.

No concerns from Security

No concerns from Counseling

Inmate is currently in Medical Isolation dorm NA, in Quarantine. His 14th day is this coming Thursday.

Brooks L. Benton, Warden
Coastal State Prison
200 Gulfstream Rd
P.O. Box 7150
Garden City, Georgia 31418
(912) 965-6252
(912) 965-6241

Brooks.Benton@gdc.ga.gov

The Georgia Department of Corrections protects the public by operating safe and secure facilities through the development of professional staff and effective offender management.

We set the exception standard for protecting the public through our people processes and infrastructure

CORE VALUES

- Courage.
- Determination.
- Teamwork.

EXHIBIT 12

Offender's Name: Diamond, Ashley GDC ID# 1000290565

SUICIDE RISK ASSESSMENT INSTRUMENT

(complete twice, 1) at initial assessment and 2) at discharge from Suicide Precautions)

Reason for Referral:

- 1) Assess need for Suicide Precautions/baseline assessment
- 2) Assessment for discharge from Suicide Precautions status (required)

History of Suicidal Behavior

- Previous suicide attempt(s) in free world
Note when and method: 1st times since adolescence cutting
- Previous suicide attempt(s) in confinement
Note when and method: age 38 cutting
- Serious suicide attempt(s) or SIB within past year
Note when and method: _____

RISK FACTORS (Check all that apply)

- Resolved Plans and Preparation
 - Fearlessness of physical pain/injury/death
 - Availability of means and opportunity
 - Specificity of plan
 - Preparations for attempt
 - Significant intensity and duration of suicidal ideation

Suicidal Desire and Ideation

- Can identify no reason for living
- Wish to die
- Talk of death and/or suicide
- Perceives self as burden to others
- Passive attempt, e.g. stops eating/taking fluids

Current and Recent (within past 6 months) Stressors

- Anniversary of important loss: (specify) _____
- Recent/anticipated rejection/loss/bad news: (specify) _____
- Isolation/segregation placement
- Stressful dorm environment with concerns for safety
- Recent physical/sexual abuse in prison
- Recent negative court hearing outcome
- Anticipated long-term lock-down
- First incarceration
- Known future court proceeding with potential for lengthened sentence
- Chronic, serious or terminal illness
- Limited/lack of support system
- Other: _____

Offender's Name: Diamond Ashley

GDC ID# 100290565

General Symptomatic Presentation

- Initial, recurrent, or exacerbation of clinical disorder
- Feels lonely and alienated
- Feels hopeless/helpless
- No plans for the future
- Depressed mood
- Insomnia
- Nightmares
- Anxious/agitated
- Poor problem-solving/poor judgment
- Fearful for safety
- Unbearable distress
- Diagnosed personality disorder
- Command hallucinations/delusions associated with SIB
- Poor compliance with treatment or medication
- Other: _____

Other Predispositions to Suicidal Behavior

- Chaotic family history
- Family history of suicide
- History of physical and/or sexual abuse
- Other: _____

Impulsivity

- Significant current impulsive/violent behavior (physical/verbal aggression)

Additional Factors/Considerations: _____

PROTECTIVE FACTORS

- Support from family and/or significant others (ongoing, frequent contact)
- Role in caring for children
- Strong religious support and beliefs
- Sense of belonging
- Decreased state of anxiety or distress
- Future life plans
- Has a legal trade
- Healthy stress management (e.g. exercise, reading, drawing, meditation)
- Improved cell/dorm placement
- Other: _____

Janaval Conley Prince Date: 4/11/20
Signature of MH provider completing pages 1 & 2 if other than Psychologist/Psychiatrist/APRN

Offender's Name: Diamond, Ashley GDC ID# 1000290515

The following sections including recommendation should be completed only by
Psychologist/Psychiatrist/APRN

RISK LEVEL AND INTERVENTION GUIDELINES

Always use in conjunction with clinical judgment.

Mild:

___ Non-multiple attempter with ideation of limited intensity/duration, no or mild symptoms of resolved plans and preparation factor, and no/few risk factors.

Recommended Interventions: Coach offender on coping strategies, seeking social support, and best way to access MH staff if symptoms worsen. Establish appropriate interval for follow-up.

Suicide Precautions:

- Multiple attempter with any significant finding and/or general symptomatology.
- ___ Non-multiple attempter with any notable findings or moderate-to-severe symptoms of the Resolved Plans and Preparations factor (see pg 1).
- ___ Non-multiple attempter requiring significant medical intervention
- ___ Other Justification: _____

Recommended Interventions: Placement on Suicide Precautions is mandatory. Increase frequency and/or duration of counseling contacts to address identified stressors and facilitate symptom resolution. Consider referral to Suicide Prevention group. Enhance protective factors. Frequently re-evaluate suicidal risk factors. Consider consultation. Consider medication if not already on it. Carefully document clinical decisions and activities and inform appropriate on-call staff as needed. Determine precautionary measures/restrictions. Provide frequent assessment by a mental health counselor and/or an upper-level provider to determine need for ACU/CSU placement. **IF PLACED IN ACU/CSU, COMPLETE THE SUICIDE PRECAUTIONS ROUNDS FORM (Attachment 3 - M69-01-03)**

Indicate additional interventions below:

- Medication referral/evaluation
- Increase therapeutic contacts to recommended frequency of 2 time(s) per Week
- Initiate/Continue Suicide Precautions placement (recommend to security)
 - 15-minute checks Constant watch One-on-one Other
 - Jump-suit Paper gown Suicide proof gown Booties
 - Normal meals with utensils Finger foods
 - No personal property Allowed property: _____

Per Dr. Fass 6/11/20

Psychologist/Psychiatrist/APRN signature: _____

Printed name: _____ Date: _____

Offender's Name: _____ GDC ID# _____

FOR DISCHARGE FROM SUICIDE PRECAUTIONS - complete the Suicide Risk Assessment Instrument a second time in its entirety (Completed only by Psychologist/Psychiatrist/APRN):

Offender was placed on Suicide Precautions on _____ (date) for the following reasons:

Improvement noted in the following clinical areas:

- | | |
|---|--|
| <input type="checkbox"/> Reduced/eliminated suicidal ideation | <input type="checkbox"/> Decreased fearfulness |
| <input type="checkbox"/> No current suicidal intent/plans | <input type="checkbox"/> Absence of acute psychotic symptoms |
| <input type="checkbox"/> No current SIB | <input type="checkbox"/> Improved sleep |
| <input type="checkbox"/> Decreased depression | <input type="checkbox"/> Future orientation |
| <input type="checkbox"/> Decreased anxiety | <input type="checkbox"/> Cooperation with treatment |
| <input type="checkbox"/> Decreased agitation | <input type="checkbox"/> Resolution of situational stressors |
| <input type="checkbox"/> Other: _____ | |

Additions/improvements in other protective factors: _____

Remaining issues to be addressed: _____

RECOMMENDATIONS

[for current Suicidal Precautions status, change, or discharge from Suicide Precautions]

- No special interventions or placement needed at this time.
- Medication referral/evaluation
- Increase therapeutic contacts to recommended frequency of ___ time(s) per _____
- Other: _____

Discharge from Suicide Precaution Status
Follow-up recommendations: _____

Psychologist/Psychiatrist/APRN signature: _____
Printed name: _____ Date: _____

This instrument adapted from the work of Joiner Jr. T., Walker, R., Rudd, M., Jobes, D. (1999). Scientizing and routinizing the assessment of suicidality in outpatient practice. *Professional Psychology: Research and Practice*, 30, 447-452.

EXHIBIT 13

SOP 104.47
Attachment 1
00/00/20

GEORGIA DEPARTMENT OF CORRECTIONS

ACKNOWLEDGMENT STATEMENT

Employee Standards of Conduct

This is to acknowledge that I have read the Department's Policy governing employee standards of conduct. As a condition of employment, I will abide by the terms and conditions of this policy. I understand that any violation of this policy, including any of the standards contained therein, may be the basis for disciplinary action, including dismissal. I also understand that disciplinary action can be taken for matters not covered by this procedure and that it does not create any new rights for me or for any other employee of the Department of Corrections.

**Governor's Code of Ethics for Executive Branch
Officers and Employees**

This is to acknowledge that I have read the Governor's Executive Order establishing a Code of Ethics for Executive Branch Officers and Employees. As a condition of employment, I will abide by the terms and conditions of this order. I understand that any violation of the standards contained therein, may be the basis for disciplinary action, including dismissal. I also understand that disciplinary action can be taken for matters not covered by this order and that it does not create any new rights for me or for any other employee of the Department of Corrections.

Arneika Smith

Employee Signature

9.1.2020

Date

Arneika Smith

Type/Print Employee Name

Employee ID: [REDACTED]

Record Retention: Upon completion, this form shall be retained permanently in the employee's local and official personnel file.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ASHLEY DIAMOND,

Plaintiff,

v.

ARNEIKA SMITH,

Defendant.

No. 5:21-cv-00378-MTT

**PLAINTIFF’S STATEMENT OF MATERIAL FACTS AND RESPONSE TO
DEFENDANT ARNEIKA SMITH’S STATEMENT OF MATERIAL FACTS**

Plaintiff Ashley Diamond submits the following Statement of Material Facts:

1. Prison policy prohibits incarcerated persons from being in the officer’s room/closet in which Defendant Smith locked herself and Ms. Diamond. [Smith Dep. Tr. 72:5-7; Ridley Dep. Tr. 50:15-17, 102:17-24, 105:7-12.]
2. Defendant Smith’s actions in locking herself in the officer’s room/closet with Ms. Diamond constituted abandonment of her post which is prohibited under GDC policy. [Smith Dep. Tr. 49:18-50:12, 102:6-103:23; Ridley Dep. Tr. 102:17-24.]
3. Prison rules establish that there can be no consensual relationships between correctional staff and incarcerated persons. [Smith Dep. Tr. 98:5-12.]
4. Prison rules and Georgia law prohibit correctional staff from touching an incarcerated person in a sexual manner, and Defendant Smith was aware of those prohibitions. [Smith Dep. Tr. 93:25-94:6; Ga. Code Ann. § 16–6–5.1 (West 2022); Ga. Code Ann. § 16–6–22.1 (West 2021).]

5. Defendant Smith also knew that touching incarcerated people and having personal conversations and/or dealings with them was prohibited at the time she committed the acts alleged. [Smith Dep. Tr. 90:10-91:17; DEF_674 (A. Smith Personnel File: PREA Education Acknowledgement Form); [REDACTED]
[REDACTED]
[REDACTED]; [REDACTED]
[REDACTED].]
6. Defendant Smith's actions, undisputed for purposes of this motion, were contrary to prison rules and had no penological or legitimate justification. [Smith Dep. Tr. 90:10-20; 91:14-15, 19-22; 93:25-94:6; 102:6-103:23; Ridley Dep. Tr. 102:22-102:24; DEF_674 (A. Smith Personnel File: PREA Education Acknowledgement Form); [REDACTED]
[REDACTED]; [REDACTED]
[REDACTED]
[REDACTED].]
7. Ms. Diamond attempted suicide and engaged in self harm as a result of the abuse by Defendant Smith. [Diamond Dep. Tr. 228:8-229:19; DEF004785; DEF004811.]
8. Defendant Smith's violation of prison rules and her decision to abandon her post led to official discipline and the termination of Smith's employment at the Georgia Department of Corrections (GDC). [Smith Dep. Tr. 24:22-25:24, 26:8-27:2, 39:6-8, 108:24-109:25; DEF_571 (GDC OPS Investigative Case Summary); DEF_038609-16 (A. Smith Personnel File: Termination Notification Information).]

Plaintiff Ashley Diamond responds to Defendant Arneika Smith's Statement of Material

Facts as follows:

1. No dispute.
2. No dispute.
3. No dispute.
4. No dispute.
5. No dispute.
6. While Plaintiff does not dispute that there was no use of physical force, Plaintiff adds that she entered the closet and otherwise followed the directives of Defendant because Defendant was a correctional officer with the ability and authority to discipline and otherwise punish Plaintiff and was the officer in charge of directing Plaintiff's duties as an orderly on the days in question. [Diamond Dep. Tr. 163:25-164:3, 239:3-9.]
7. No dispute.
8. No dispute.
9. No dispute.
10. No dispute.
11. No dispute.
12. No dispute.
13. While Plaintiff does not dispute this fact, Plaintiff adds that she had no choice but to acquiesce to Defendant's request, as Defendant had coercive authority over Plaintiff. [Diamond Dep. Tr. 246:2-19.]
14. No dispute.
15. Plaintiff does not dispute this fact but adds that Defendant touched Plaintiff's *inner*

thigh. [Diamond Dep. Tr. 247:13-23.]

16. No dispute.

17. No dispute.

18. No dispute.

Respectfully submitted,

May 31, 2022

/s/ A. Chinyere Ezie

A. Chinyere Ezie*
Center for Constitutional Rights
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New York, NY 10012
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Tallahassee, FL 32302
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Email: scott.mccoy@splcenter.org

* *Admitted Pro Hac Vice*

Counsel for Plaintiff Ashley Diamond

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document and all attachments were served on all counsel of record through the Court's CM/ECF system.

Dated: May 31, 2022

/s/ A. Chinyere Ezie

A. Chinyere Ezie, Esq.

Counsel for Plaintiff Ashley Diamond