

11.19 SEXUAL MISCONDUCT BETWEEN DETENTION FACILITY EMPLOYEES AND INMATES

§ 951.221(1), Fla. Stat.

To prove the crime of Sexual Misconduct Between Detention Facility Employees and Inmates, the State must prove the following three elements beyond a reasonable doubt:

- 1. (Defendant) was an employee of a [county or municipal detention facility] [private detention facility under contract with a county commission].**
- 2. While an employee, (defendant) engaged in sexual misconduct with (inmate).**
- 3. At the time, (inmate) was an [inmate] [offender supervised by the facility].**

§ 951.221(1), Fla. Stat. Consent is not a defense.

The consent of an [inmate] [offender] to any act of sexual misconduct is not a defense to the crime of Sexual Misconduct.

Definitions.

§ 951.221(1), Fla. Stat. and § 944.35(3)(b)1, Fla. Stat.

“Sexual Misconduct” means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee’s duty.

Give as applicable.

“Union” means contact.

§ 951.23(1)(a), Fla. Stat.

“County Detention Facility” means a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either felony or misdemeanor.

§ 951.23(1)(b), Fla. Stat.

“County Residential Probation Center” means a county-operated facility housing offenders serving misdemeanor sentences or first-time felony sentences.

§ 951.23(1)(d), Fla. Stat.

“Municipal Detention Facility” means a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of a violation of municipal laws or ordinances.

Lesser Included Offenses

**SEXUAL MISCONDUCT BETWEEN DETENTION FACILITY EMPLOYEES AND INMATES
— 951.221(1)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Battery	784.03	8.3
	Attempt	777.04(1)	5.1
	Assault	784.011	8.1

Comment

This instruction was adopted in 2014.