

DECLARATION OF TERRY PELZ

My name is Terry Pelz. I am over the age of 18, and am duly qualified and capable to make this Declaration. I have personal knowledge of the following:

I am a former assistant warden with the Texas Department of Criminal Justice-Correctional Institutions Division, formerly known as the Institutional Division or TDCJ-ID. I was employed with TDCJ for over twenty years from 1976-1996. During that time, I promoted through the ranks from correctional officer to assistant warden. The last ten years of my employment was as an assistant warden.

Executive Directive PD-22 (Rev. 9): GENERAL RULES OF CONDUCT AND DISCIPLINARY ACTION GUIDELINES FOR EMPLOYEES dated, October 1, 2002, provides TDCJ employees specific rules and regulations for their on-and-off duty conduct. Employees are expected to seek clarification of any rule, regulation, court orders, or statutory authority they do not understand. They are expected to be knowledgeable of these rules and regulations and not being aware of the existence of any such rule or regulation is not a defense for violations. TDCJ has a progressive disciplinary system for its employees. TDCJ provides its employees with an Employees Handbook which includes the aforementioned and is available online through TDCJ's web site as well.

I am familiar with Rule 42, which describes relationships between employees and offenders and offenders families. Family members are defined as a spouse, child, daughter-in-law/son-in-law, grandchild, great grandchild, sister/brother, sister-in-law/brother-in-law, mother/father, mother-in-law/father-in-law or grandmother/grandfather.

Providing that an employee is found guilty of violating Rule 42a, a Level One offense, the reprimanding authority is required to terminate the employee. If they are found guilty of violating Rule 42b or 42c, Level Two offenses, the reprimanding authority can impose a range of punishment including, termination. In this instance, termination requires sufficient reason and documentation from the reprimanding authority to justify the decision.

My expectations of my employees were that they report relationships as required by Rule 42. Those that did report prior and existing relationships were examined individually to determine if continuing such a relationship jeopardized the security of the Agency or compromised the effectiveness of the employee. It was my experience, as a unit administrator, that no two people could agree on what constituted a potential to jeopardize the security of the Agency or compromised the effectiveness of the employee. The operative word was “if.” As an example, one of my correctional officers, after properly reporting a prior relationship with an offender, was granted permission to continue this relationship with the offender, who was assigned to another unit. The rationale used in granting this request was that they were boyhood friends and I saw no security issues that made me think that this relationship posed a potential to jeopardize the security of the Agency or compromise his effectiveness as an employee. This employee was allowed to visit this inmate. Another example was that of a correctional officer allowed to continue his relationship with an inmate who reportedly was his cousin, the leader of the Texas Syndicate, a notorious and extremely violent prison gang. The inmate was on my unit and the correctional officer worked at another. The decision to allow this relationship to continue was made by an administrator on another unit. It was apparent that interpretation and enforcement of this policy or rule was left up to the individual administrator. I could envision where this could lead to confusion and disparate treatment of the employee. As an administrator,

Rule 42 gave great latitude to the decision-maker. In other words, I always found the rule to be nebulous.

The decision to discipline an employee who established, continued, or failed to report a relationship as defined by the Rule depended on the nature of the situation. Some could be verbally reprimanded and others could face formal discipline. Each situation dictated its own response. Any employee who was suspected of having a personal relationship with an offender or an offender's family members might be monitored through the offender correspondence or cell searches to determine if a relationship was ongoing. More complicated matters might require an investigation by the office of inspector general. Other suspicions might be confirmed through direct questioning of the employee. Any investigation into these matters was done by unit administration or OIG. In situations where it was confirmed that the relationship existed, the inmate was most always transferred.

One of my duties as an administrator, was the development and implementation of a unit gang office. While it was my experience that the Rule was vague, I actively encouraged my gang intelligence officers to establish professional relationships with offender gang members to get vital gang intelligence. Family members were then, and remain today, valuable sources of critical gang information and I encouraged them to establish those relationships. My intelligence officers were required to keep me abreast of these relationships. Absent any guidance in the interpretation of the Rule by Agency leadership, I exercised sound penological judgement in allowing these relationships.

Once an employee provides written notification under Rule 42, there is no requirement that it be reported again.

Of particular interest, is my observation that TDCJ's employment application (the supplement) does not require an applicant to disclose if they have a personal relationship with an offender, who is not a relative. In the "Conditions of Employment" section at the end of the supplement, it only requires that the applicant sever that relationship if they do. This sounds like a, "Don't ask, don't tell" policy that contradicts Rule 42, which in part says, "Employees are required to report to agency officials any previous or current relationships between: (1) the employee with an offender; (2) the employee with a family member of an offender; (3) a family member of the employee with an offender; or (4) a family member of the employee with a family member of an offender."

Maryanne Denner worked for me in the Darrington unit gang intelligence office. She had developed excellent communication skills with offenders, peers and supervisors. Due to her being bilingual, in English and Spanish, she was invaluable to this department. She was a quick study in the prison gang subculture and because of this well developed knowledge, she was able to impart this knowledge, with my guidance, at approved gang seminars for corrections, law enforcement, probation, and parole agencies. She became a source for gang information for many governmental agencies. Many complimented her efforts to assist them. Ms. Denner consistently received outstanding written evaluations.

Ms. Denner always maintained the highest ethics and honesty, and played by the rules. She required little supervision because of that excellent track record. In 2002, I received a telephone call from her at work. She was in assistant warden George Stephenson's office and he wanted to say hello to me. He went on and on how thankful he was to have Ms. Denner as the gang intelligence sergeant and he knew that I had taught her well.

George Stephenson worked for me as a security shift lieutenant at the Jester 3 unit when I was assistant warden. While I was not his immediate supervisor, I did on occasion receive informal complaints from employees regarding his management style. His supervisors as well, received the same type of complaints. These complaints were centered on how roughly he talked to his subordinates. On more than one occasion, his supervisors and myself informally counseled him regarding his lack communication skills. He was directed to observe others and improve those skills.

I declare under penalty of perjury that the foregoing statement is true and correct.

Dated: February 2, 2006

Terry Pelz