



Department Directive

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| <p>Title: Prison Rape Elimination Act – Federal Standards Compliance</p> | <p>Directive Number: Revised - DPSCS.020.0026</p> |
| <p>Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland; Prison Rape Elimination Act of 2003 (P.L. 108-79) COMAR 12.14.03.06B</p> | <p>Supersedes: DPSCS.020.00026 – Prison Rape Elimination Act – Federal Standards Compliance dated August 19, 2016</p> |
| <p>Related ACA and MCCA:</p> <p>ACA: 5-ACI-3D-08 (Ref. 4-4281), 5-ACI-3D-11 (Ref. 4-4281-3), and 5-ACI-3D-15,16 (Ref. 4-4281-7,8) 1-CORE-4D-15,16 (Ref. 4-ALDF-4D-22-2,-5,6)</p> <p>MCCA: 05B</p> | <p>Authorized By:</p> <p style="text-align: center;"><i>Funsho Oparinde</i></p> <hr style="width: 50%; margin: auto;"/> <p>Funsho Oparinde Director, PREA Audit Office</p> |
| <p>Related Directives:</p> <p>Prison Rape Elimination Act (PREA) Audit Manual</p> <p>DPSCS.50.0002 - Standards of Conduct & Internal Administrative Disciplinary Process</p> <p>OPS.020.0027 – PREA Investigations – Tracking and Review</p> <p>OPS.200.0005 – Sexual Conduct Between Incarcerated Individuals– Prohibited</p> <p>OPS.200.0006 – Assessment for Risk of Sexual Victimization and Abusiveness</p> | <p>Issued Date: January 30, 2026</p> <p>Effective Date: February 02, 2026</p> |
| <p>Variance: Each Correctional Unit of the Department <u>shall</u> issue a policy to implement specific procedures related to this policy.</p> | <p>Number of Pages: 10</p> |

.01 Purpose.

- A. This directive mandates policy and procedures for ensuring compliance with the Prison Rape Elimination Act in correctional facilities operated by the Department of Public Safety and Correctional Services (Department).
- B. This directive continues provisions for a Prison Rape Elimination Act (PREA) Coordinator and a PREA Committee for the Department. It assigns responsibilities to the PREA Coordinator and PREA Committee related to Department compliance with Federal PREA standards established to prevent, detect, and respond to acts of sexual abuse and sexual harassment of an incarcerated individual.

.02 Scope.

This directive applies to all correctional facilities within the Department.

.03 Policy.

- A. The Department does not tolerate the sexual abuse or sexual harassment of an incarcerated individual.
- B. All Department employees, regardless of whether they are assigned to a correctional facility, have a duty to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment of an incarcerated individual or by an incarcerated individual. An employee shall also immediately report any retaliation against an incarcerated individual or employee who reported such an incident. An employee shall make a report of sexual abuse, sexual harassment or retaliation according to Department procedures for reporting employee misconduct or incarcerated individual rule violations.
- C. The Department shall:
 - (1) Investigate the background of all prospective employees, promotional candidates, and contractual service providers who have direct contact with incarcerated individuals to determine suitability for hire or promotion under the standards established by PREA.
 - (2) Ensure that existing efforts and new strategies to prevent, detect, and respond to acts of incarcerated individual sexual abuse or sexual harassment comply with applicable federal standards established under the authority of PREA.
 - (3) Continue to mandate zero tolerance toward all forms of sexual abuse and sexual harassment and take steps necessary to prevent, detect, and respond to such conduct within correctional institutions operated by the Department.

.04 Definitions.

- A. In this directive, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) “Commissioner” means the Commissioner of Correction and the Commissioner of Pretrial Detention Services.
 - (2) Correctional Facility.
 - (a) “Correctional facility” has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland: ‘Correctional facility’ means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.
 - (b) “Correctional facility” includes a:

- (i) Detention facility; and
 - (ii) Pre-release facility.
- (3) "Department PREA Coordinator" means the individual assigned by the Secretary with authority over Departmental matters relating to PREA.
- (4) "Director" means the Director of Patuxent Institution.
- (5) Employee.
 - (a) "Employee" means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification.
 - (b) "Employee" includes:
 - (i) A contractor;
 - (ii) An intern;
 - (iii) A volunteer; and
 - (iv) An employee of the Maryland Department of Education, Maryland Department of Labor, or Baltimore City Public Schools.
- (6) Incarcerated Individual.
 - (a) "Incarcerated individual" has the meaning stated in CSA, §1-101, Annotated Code of Maryland which states, "'Incarcerated individual' means an individual in actual or constructive custody of the Department."
 - (b) "Incarcerated individual" includes the term "inmate" as stated prior to October 1, 2023 CSA, §1-101, ACM.
 - (c) "Incarcerated individual" includes the term incarcerated person.
- (7) "PREA committee" means the Department's PREA Committee established by the Department's PREA Coordinator.
- (8) "PCM" means the PREA Compliance Manager.
- (9) Sexual Abuse.
 - (a) "Sexual abuse" of an incarcerated individual by an employee includes the following acts performed with or without consent by the incarcerated individual:

- (i) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (ii) Contact between the mouth and the penis, vulva, or anus;
 - (iii) Contact between the mouth and any body part where the employee has the intent to abuse, arouse, or gratify sexual desire;
 - (iv) 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 employee has the intent to abuse, arouse, or gratify sexual desire;
 - (v) 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 employee has the intent to abuse, arouse, or gratify sexual desire;
 - (vi) Any attempt, threat, or request by an employee to engage in the activities described in §§.04B(9)(a)(i)-(v) of this directive;
 - (vii) Any display by an employee of the employee's uncovered genitalia, buttocks, or breast in the presence of an incarcerated individual; and
 - (viii) Voyeurism by an employee.
- (b) "Sexual abuse" of an incarcerated individual by another incarcerated individual includes the following acts:
- (i) Acts listed under §§.04B(9)(a)(i) and (ii) of this directive;
 - (ii) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (iii) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another incarcerated individual, excluding contact incidental to a physical altercation.
- (10) "Sexual harassment" includes:
- (a) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an incarcerated individual directed toward another incarcerated individual; and

- (b) Repeated verbal comments or gestures of a sexual nature to an incarcerated individual by an employee, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(11) Voyeurism.

- (a) “Voyeurism” means the invasion of the privacy of an incarcerated individual by an employee for reasons unrelated to official duties.
- (b) “Voyeurism” include reasons unrelated to official duties, but is not limited to:
 - (i) Peering at an incarcerated individual who is using the toilet in the incarcerated individual ’s cell to perform bodily functions;
 - (ii) Requiring an incarcerated individual to expose the incarcerated individual ’s buttocks, genitals, or breasts; or
 - (iii) Recording images of an incarcerated individual ’s naked body or of an incarcerated individual performing bodily functions.

.05 Responsibility.

- A. The Secretary shall designate a Department PREA Coordinator (Coordinator).
- B. The Coordinator shall receive adequate training that is coordinated through the Department of Justice (DOJ) and other certifying agencies.
- C. The Coordinator shall have sufficient time and appropriate authority to develop, implement, and oversee Department activities taken to comply with PREA standards in Department correctional facilities and at a minimum, is responsible for:
 - (1) Oversight of Department prevention, detection, and response activities designed to support the Department’s zero tolerance policy for sexual abuse and sexual harassment of an incarcerated individual;
 - (2) Ensuring that Department PREA-related activities comply with federal PREA standards in the following areas:
 - (a) Prevention planning;
 - (b) Planning for responding to incidents or complaints;
 - (c) Training and education;
 - (d) Screening for risk of sexual victimization and abusiveness;

- (e) Reporting;
- (f) Investigation;
- (g) Discipline;
- (h) Medical and mental health care;
- (i) Retaliation monitoring;
- (j) Data collection and review;
- (k) Audits and corrective action; and
- (l) Evaluating statistics on housing requests.

D. The Coordinator may approve or deny a recommendation from:

- (1) A managing official to designate a facility employee as the facility's PREA Compliance Manager; and
- (2) The Commissioner and Director for committee PREA Compliance Manager in accordance with §.05H(2)-(5).

E. The PREA Coordinator as the Chair of the PREA Committee, shall:

- (1) Maintain a current list of correctional facility PREA compliance managers and related contact information;
- (2) Designate members to perform PREA related assignments and activities;
- (3) Authorize procedures for the Department related to prevention, detection, and response to acts of sexual abuse and sexual harassment involving an incarcerated individual; and
- (4) Ensure preparation and submission of PREA-related reports including, but not limited to:
 - (a) An annual report to the Secretary, or a designee, on the status of Department PREA-related activities;
 - (b) Responses to PREA audit findings; and
 - (c) Other reports required under PREA.

F. The managing official shall:

- (1) Choose to be the PCM or recommend a PCM to the Coordinator; and

(2) If recommending an employee:

- (a) Ensure that the employee recommended has approval and the authority to act independently on behalf of the managing official on facility PREA compliance activities; and
- (b) Notify the Coordinator of the contact information for the facility PCM and subsequent changes to that information.

(3) Should events require a new designee for the facility PCM, serve as facility PCM until the Coordinator approves a recommended designee.

G. The managing official shall develop a facility directive establishing the facility PCM and their responsibilities.

H. Facility PREA Compliance Manager (PCM).

- (1) The PCM shall receive initial and bi-annual training conducted by the Coordinator necessary to coordinate the facility's PREA implementation efforts.
- (2) The Commissioner and Director in coordination with the PREA Coordinator shall approve a PCM to represent each correctional facility as a PREA Committee member.
- (3) The Commissioner and Director may recommend a PCM to represent the Commissioner or Director in their absence at the PREA Committee meeting.
- (4) The Commissioner or Director shall ensure that the Coordinator is notified of the PCM who will be representing them in their absence at the PREA Committee meeting.
- (5) A PCM assigned to represent the Commissioner or Director on the PREA Committee shall have the authority to act, direct activities, and make recommendations on PREA-related activities, as approved by the Commissioner or Director.

I. PREA Committee (Committee).

- (1) Because PREA requirements impact more than just Department Operations activities, the Committee, at a minimum, shall consist of the:
 - (a) PREA Coordinator (Chair);
 - (b) Facility PREA compliance managers; and
 - (c) The following individuals:
 - (i) Inspector General;

- (ii) Executive Director or designee — Intelligence and Investigative Division;
 - (iii) Director - Case Management;
 - (iv) Director or designee – Mental Health
 - (v) Chief Medical Officer;
 - (vi) Executive Director — Correctional Training Commission;
 - (vii) Director — Security Operations;
 - (viii) Director — Capital Construction and Facility Maintenance;
 - (ix) Chief Human Resource Officer or designee — Human Resources and Services Division;
 - (x) Chief Hearing Officer;
 - (xi) Coordinator – Incarcerated Individual Affairs;
 - (xii) Assistant Secretary or designee — Data Development, Policy, and Grants;
 - (xiii) Commissioner of Correction or designee;
 - (xiv) Commissioner of Pretrial and Detention Services or designee; and
 - (xv) Director of Patuxent Institution or designee.
- (2) The Chair may request additional Department employees to attend meetings and perform PREA-related assignments.
- (3) The Chair shall schedule Committee meetings to take place at least annually, but may schedule meetings as necessary to ensure prompt attention to PREA-related issues affecting the Department.

J. The Committee is responsible for:

- (1) Coordinating Department and facility compliance with applicable federal PREA standards by:
- (a) Monitoring Department sexual abuse and sexual harassment data and activities related to compliance with applicable federal PREA standards;
 - (b) Facilitating development of policy and procedures and operational and administrative actions to specifically address compliance with applicable federal PREA standards;

- (c) Facilitating PREA audit and post audit activities; and
- (2) Facilitating preparation of and reviewing reports required by PREA.

K. Human Resources Services Division (HRSD).

- (1) The HRSD shall adopt hiring policies consistent with PREA standards prohibiting the hiring or promotion of anyone who may have contact with incarcerated individuals, and prohibiting the enlisting of the services of any contractor, who may have contact with incarcerated individuals, who:
 - (a) Engaged in sexual abuse in a prison, jail, lockup, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 - (b) Was convicted of engaging or attempting to engage in sexual activity in the community 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
 - (c) Was civilly or administratively adjudicated to have engaged in the activity described in §.04K(1)(b) of this directive.
- (2) The HRSD shall consider incidents of sexual harassment when determining whether to hire or promote an employee or contract with a service provider if the individual may have contact with an incarcerated individual.
- (3) Before hiring or promoting an employee to perform duties involving contact with an incarcerated individual, the HRSD shall:
 - (a) Conduct a criminal background records check;
 - (b) Consistent with federal, state, and local law, make a best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or a resignation during a pending investigation of an allegation of sexual abuse; and
- (4) Before enlisting a contractor to perform services that involve contact with an incarcerated individual, conduct a criminal background records check of the contractor's employees who may have contact with an incarcerated individual.
- (5) The HRSD shall inquire of each applicant and current employees who may have contact with an incarcerated individual directly about previous misconduct described in §.05K(1) of this directive in:
 - (a) A written application or interview for employment or promotions; and

- (b) An interview or written self-evaluation conducted as a part of a review of a current employee.
- (6) A material omission regarding conduct described in this directive or providing materially false information shall be grounds for denial or termination of employment.
- L. For each subordinate employee and contractor service provider who may have contact with an incarcerated individual, an appointing authority, or a designee, shall conduct a criminal records background check, at minimum, every five years, or have in place a system for otherwise capturing such information for current employees.

.06 Appendix.

There are no attachments or links to this directive.

.07 History.

- A. This directive replaces DPSCS.020.0026 dated August 19, 2016 and supersedes provisions of any other prior existing Department communication with which it may be in conflict.
- B. This Secretary's Directive supersedes DPSCS.020.0026 dated April 15, 2016 making adjustments based on changes to Department organization. Changes from the previous directive are underlined.

.08 Distribution.

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