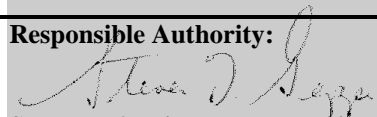
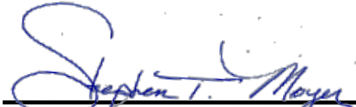


Secretary's Directive



Title: Assaults on Correctional Staff	Secretary's Directive Number: DPSCS.050.0048
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland	Supersedes: N/A
Related ACA Standards: 4-4226, 4231; 4-ALDF-6C-02	Responsible Authority:  Secretary's Director – Investigation, Intelligence and Fugitive Apprehension
Related MCCS Standards: N/A	Effective Date: September 11, 2015 Number of Pages: 10


Stephen T. Moyer
Secretary

.01 Purpose.

- A. This directive establishes policy for the Department of Public Safety and Correctional Services (Department) intending to minimize assaults on correctional officers by inmates.
- B. This directive establishes minimum requirements for reporting, investigating, and resolving incidents of assault on a Department correctional officer by an inmate.

.02 Scope.

This directive applies to all Department units involved in reporting, investigating, and resolving an incident of assault on a correctional officer by an inmate.

.03 Policy.

- A. The Department is committed to providing employees a work environment free of actions that endanger or harm an employee.
- B. The Department does not tolerate assault on an employee or retaliation against an employee because the employee filed a complaint of assault or retaliation, or participated in an assault or retaliation investigation or proceeding.
- C. The Department shall ensure that each complaint of alleged assault on a correctional officer by an inmate is thoroughly investigated and promptly resolved.
- D. The Department shall take appropriate action when resolving a complaint of assault on a correctional officer by an inmate.

.04 Definitions.

- A. In this directive, the following terms have the meanings indicated.

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B. Terms Defined.

- (1) "Assault" means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings (Criminal Law Article, §3-201(b), Annotated Code of Maryland).
- (2) "Assault in the first degree" (Criminal Law Article, §3-202, Annotated Code of Maryland):
 - (a) Means a person may not intentionally cause or attempt to cause serious physical injury to another.
 - (b) Means a person may not commit an assault with:
 - (i) A firearm, including a handgun, antique firearm, rifle, shotgun, short-barreled shotgun, or short-barreled rifle, as those terms are defined in Criminal Law Article, § 4-201, Annotated Code of Maryland;
 - (ii) An assault pistol, as defined in Criminal Law Article, §4-301, Annotated Code of Maryland;
 - (iii) A machine gun, as defined in Criminal Law Article, §4-401, Annotated Code of Maryland; and
 - (iv) A regulated firearm, as defined in Public Safety Article, §5-101, Annotated Code of Maryland.
 - (c) Is a felony and on conviction is subject to imprisonment not exceeding 25 years.
- (3) "Assault in the second degree" (Criminal Law Article, §3-203, Annotated Code of Maryland):
 - (a) Means that an individual may not commit an assault as defined under §.04B(1) of this directive.
 - (b) Except under §.04B(3)(c) of this directive, is a misdemeanor and upon conviction is subject to imprisonment not exceeding 10 years or \$2,500 fine or both.
 - (c) Law Enforcement Officer.
 - (i) In §.04B(3)(c)(ii) of this directive, "physical injury" means any impairment of physical condition, excluding minor injuries.
 - (ii) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties; or a parole or probation agent engaged in the performance of the agent's official duties.
 - (iii) A violation of §.04B(3)(c)(ii) of this directive is a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

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- (4) Contact with Bodily Fluid (Criminal Law Article, §3-205, Annotated Code of Maryland).
 - (a) "Contact with bodily fluid" means an inmate may not maliciously cause or attempt to cause an employee of a State correctional facility, a local correctional facility, or a sheriff's office, regardless of employment capacity, to come into contact with:
 - (i) Seminal fluid, urine, or feces; or
 - (ii) Blood, if the contact with the blood is not the result of physical injury resulting from physical body contact between the inmate and the employee.
 - (b) "Contact with bodily fluid":
 - (i) Is a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.
 - (ii) Requires that a sentence imposed as a result of a conviction is served consecutively to any sentence that the inmate was serving at the time of the crime or that had been imposed, but was not yet being served at the time of sentencing for a violation contact with bodily fluid.
 - (iii) Prohibits suspension of a sentence imposed for a conviction of contact with bodily fluid.
- (5) Correctional officer.
 - (a) "Correctional officer" has the meaning stated in Correctional Services Article, §8-201, Annotated Code of Maryland.
 - (b) "Correctional officer" includes:
 - (i) A Division of Parole and Probation agent;
 - (ii) Department law enforcement officer; and
 - (iii) All classifications or ranks of correctional officer.
- (6) Employee.
 - (a) "Employee" means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position.
 - (b) "Employee" includes:
 - (i) A volunteer; and
 - (ii) An intern.
- (7) Inmate.
 - (a) "Inmate" has the meaning as stated under Correctional Services Article, §1-101, Annotated Code of Maryland.

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- (b) "Inmate" includes an individual referred to as:
 - (i) Detainee;
 - (ii) Resident; and
 - (iii) Offender.

- (8) Investigator.
 - (a) "Investigator" means a Department employee permanently assigned to or on special assignment to assist the Internal Investigation Division (IID) with the responsibilities specified under Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland.

 - (b) "Investigator" includes:
 - (i) An IID detective; and
 - (ii) A facility's field investigator.

- (9) Law enforcement officer.
 - (a) "Law enforcement officer" has the meaning stated in Public Safety Article, §3-101(e)(1) Annotated Code of Maryland without application of §3-101(e)(2) of the same article.

 - (b) "Law enforcement officer" includes:
 - (i) A correctional officer at a correctional facility; and
 - (ii) An officer employed by the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified in § 10-204 of the Transportation Article.

- (10) "Minor Injury" means that an incident resulted in injury or illness to an employee that does not require action by a licensed medical or mental health practitioner in order for the employee to resume assigned duties following the incident.

- (11) "Parole and probation agent" has the meaning stated under Code of Maryland Regulations (COMAR) 12.10.01.01 for mandated employee.

- (12) "Probable cause" means a reasonable amount of suspicion, supported by circumstances sufficiently strong to justify a prudent and cautious person's belief that certain facts are probably true.

- (13) "Serious physical injury"(Criminal Law Article, §3-201(d), Annotated Code of Maryland) means physical injury that:
 - (a) Creates a substantial risk of death; or

 - (b) Causes permanent or protracted serious:
 - (i) Disfigurement;

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- (ii) Loss of the function of any bodily member or organ; or
- (iii) Impairment of the function of any bodily member or organ.

.05 Responsibility/Procedures.

A. Reporting an Incident of Assault and Contact with Bodily Fluid on a Correctional Officer by an Inmate. An employee, the victim or an employee with knowledge of an assault or contact with bodily fluid on a correctional officer by an inmate, shall:

- (1) Report each incident of assault or contact with bodily fluid on a correctional officer by an inmate to the Department's Internal Investigative Division (IID) according to existing procedures for reporting incidents to the IID.
- (2) A report of assault or contact with bodily fluid under this directive may be reported anonymously.

B. Investigation. The Director, IID, or a designee, shall ensure that:

- (1) Each report of an assault or contact with bodily fluid on a correctional officer by an inmate received by IID is:
 - (a) Assigned an IID case number;
 - (b) Investigated and properly documented;
 - (c) Assigned to an IID detective or field investigator for a thorough investigation;
 - (d) Reported to the victim employee's managing official, or a designee;
 - (e) Documented (including a record of all notifications and other action taken) in a written investigative report that includes a determination that the incident is considered closed and:
 - (i) Criminal charges filed;
 - (ii) The victim declined to prosecute; or
 - (iii) The case lacks prosecutorial merit; and
 - (f) Is reviewed and approved by the Director, IID, or a designee within 24 hours after the final report of investigation required under §.05B(1)(e) of this directive is accepted by the Director, IID, or a designee.
- (2) After completing the review required under §.05B(1)(f) of this directive, the Director, IID, or a designee, shall notify the victim employee's managing official of the result of the investigation determined according to §.05B(1)(e) of this directive.

C. Assault in the First Degree (Criminal Law Article, §3-201(b), Annotated Code of Maryland) or Assault in the Second Degree (Criminal Law Article, §3-203(c), Annotated Code of Maryland). For each incident of assault on a correctional officer by an inmate where probable cause exists to believe that an

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assault under Criminal Law Article, §3-201(b) or §3-203(c), Annotated Code of Maryland, constituting a felony, the Director, IID, or a designee, when determined appropriate, shall:

- (1) File paperwork for criminal assault charges against the inmate alleged to have committed the assault with the court having jurisdiction where the incident occurred; and
- (2) Advise the victim correctional officer that criminal charges for assault under Criminal Law Article, §3-201(b) or §3-203(c), Annotated Code of Maryland are being filed by the Department and the correctional officer may be summoned to court as a witness to the incident.

D. Assault in the Second Degree and Contact with Bodily Fluid. For each incident of assault on correctional staff by an inmate determined to be an assault in the second degree without application of Criminal Law Article, §3-203(c), Annotated Code of Maryland provided for under §.05C of this directive or contact with bodily fluid under Criminal Law Article, §3-205, Annotated Code of Maryland, constituting a misdemeanor, the Director, IID, or a designee, shall:

- (1) Contact the victim correctional officer to:
 - (a) Explain the criminal process and the importance of victim's role for filing criminal charges on the inmate; and
 - (b) Obtain a written or verbal statement from the victim correctional officer that indicates the victim's intention to pursue or not pursue criminal prosecution.
- (2) After contact with the victim correctional officer under §.05D(1) of this directive, advise the appropriate managing official of the result of the meeting.
- (3) If the victim correctional officer agrees to move forward with criminal prosecution, the investigator assigned to the case shall:
 - (a) Advise the victim correctional officer how to file for criminal charges;
 - (b) Meet with the victim to assist the victim correctional officer in completing or, if necessary, complete for the correctional officer's signature, the application for a statement of charges.
- (4) Upon receipt of a charging document from the court, the IID detective shall:
 - (a) Execute the court's charging document on the suspect inmate; and
 - (b) Return the executed document to the court.

E. A managing official, or a designee, notified under §.05B(1)(d) of this directive of an incident of alleged assault or contact with bodily fluid on a correctional officer by an inmate, within 24 hours of the notification, shall:

- (1) Contact the victim correctional officer to determine if injury resulted from the incident; and
- (2) If injury is involved:
 - (a) Ensure that appropriate medical treatment is provided to the victim for the injury; and

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- (b) Immediately report the injury to the Executive Director, Human Resources Services Division, or a designee.
- F. All time obligated by an employee to reporting, investigating, processing, prosecuting (criminal and administrative), and resolving an incident of alleged assault or contact with bodily fluid on a correctional officer by an inmate is work time and the employee's work and leave time shall be recorded according to appropriate provisions of the State Personnel and Pensions Article, Annotated Code of Maryland and Department of Budget and Management State Personnel System regulations.
- G. The provisions established under this directive for reporting an incident of assault or contact with bodily fluid on a correctional officer by an inmate are in addition to requirements established for reporting a work related injury such as the employee's responsibility for filing a First Report of Injury used in connection with a worker's compensation claim established under separate procedures.
- H. HRSD Responsibilities.
- (1) Upon being notified of a report of an assault or contact with bodily fluid on a correctional officer by an inmate required under §.05E(2)(b) of this directive, the Executive Director, HRSD, or a designee, shall ensure that:
 - (a) A HRSD Risk Management representative, contacts the victim correctional officer, to the degree possible, within 24 hours of notification under §.05E(2)(b) of this directive to determine the if a First Report of Injury is appropriate, and if appropriate to assist the victim with properly completing the document.
 - (b) A HRSD Employee Health Services Unit representative contacts the victim to ensure the victim's health and safety needs are properly addressed:
 - (i) If the assault or contact with bodily fluid resulted in injury or illness to the victim, within 24 hours of notification under §.05E(2)(b) of this directive; or
 - (ii) If the assault or contact with bodily fluid did not result in injury or illness to the victim, as soon as possible, but no later than 5 business days after notification under §.05E(2)(b) of this directive.
 - (2) The Director, HRSD, or a designee shall follow up with each managing official advised of an investigation that resulted in probable cause to believe that an incident of assault or contact with bodily fluid on a correctional officer by an inmate occurred to determine:
 - (a) If inmate disciplinary action was taken; and
 - (b) The final disposition of the disciplinary action.
- I. Each incident of assault or contact with bodily fluid on a correctional officer shall be entered in the Department's Offender Case Management System (OCMS) by the Operations Security Operations Unit in accordance with procedures for reporting a serious incident.
- J. The Executive Director, HRSD, or a designee and the Director of Security Operations shall coordinate analyzing data concerning assaults or contact with bodily fluid on a correctional officer by inmates to:

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- (1) Determine the effect of actions taken to minimize incidents of assault or contact with bodily fluid on a correctional officer by inmates; and
- (2) Produce reports that may be required by the Secretary or the Secretary's Director, Intelligence, Investigation and Fugitive Apprehension.

K. Inmate Disciplinary Process — Sanctions for Assault or Contact with Bodily Fluid on a Correctional Officer by an Inmate.

- (1) An employee may not dissuade or attempt to dissuade another employee from reporting an assault or contact with bodily fluid on a correctional officer by an inmate.
- (2) If an investigation of an assault or contact with bodily fluid on a correctional officer by an inmate determines that probable cause exists to believe the allegation occurred, the inmate's managing official shall ensure that an inmate is charged with the appropriate inmate rule violation according to procedures for the Inmate Disciplinary Process, which shall be in addition to a criminal charge for the same assault.
- (3) An inmate rule violation charge of assault or battery on staff resulting from assault or contact with bodily fluid on a correctional officer is not eligible for an informal disposition under the Inmate Disciplinary Process.
- (4) A Department hearing officer:
 - (a) May not accept a plea bargain agreement from an inmate, or the defendant inmate's representative, for an inmate rule violation charge of assault or battery on staff resulting from an assault or contact with bodily fluid on a correctional officer.
 - (b) Finding an inmate guilty of an inmate rule violation charge of assault or battery on staff resulting from an assault or contact with bodily fluid on a correctional officer that is a misdemeanor and the first time that the inmate is found guilty of a charge of assault or battery on staff, shall:
 - (i) Revoke one half the maximum number of good conduct or special projects credits allowable under the provisions of the Inmate Disciplinary Process, Adjustment History Sentencing Matrix for a Category I inmate rule violation and "Poor" adjustment history rating;
 - (ii) Assign the inmate to one half the maximum number of days in disciplinary segregation housing allowable under the provisions of the Inmate Disciplinary Process, Adjustment History Sentencing Matrix for a Category I inmate rule violation and "Poor" adjustment history rating;
 - (iii) Impose one year period of suspension of visiting privileges under the Inmate Disciplinary Process for mandatory suspension of visiting privileges; and
 - (iv) Under provisions of the Inmate Disciplinary Process, Alternative Disciplinary Sanctions, suspend all privileges eligible for suspension for one half the allowable period in addition to Adjustment History Matrix sanctions imposed.

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- (c) Finding an inmate guilty of an inmate rule violation charge of assault or battery on staff resulting from an assault or contact with bodily fluid on a correctional officer that is a misdemeanor and is not the first time that the inmate is found guilty of a charge of assault or battery on staff, shall impose sanctions according to provisions under §.05K(4)(d) of this directive.
- (d) Finding an inmate guilty of an inmate rule violation charge of assault or battery on staff resulting from an assault or contact with bodily fluid on a correctional officer that is a felony, shall maximize the penalty imposed by:
 - (i) Revoking the maximum number of good conduct or special projects credits allowable under the provisions of the Inmate Disciplinary Process, Adjustment History Sentencing Matrix for a Category I inmate rule violation and "Poor" adjustment history rating;
 - (ii) Assigning the inmate to the maximum number of days in disciplinary segregation housing allowable under the provisions of the Inmate Disciplinary Process, Adjustment History Sentencing Matrix for a Category I inmate rule violation and "Poor" adjustment history rating;
 - (iii) Imposing the maximum allowable period of suspension of visiting privileges under the Inmate Disciplinary Process for mandatory suspension of visiting privileges; and
 - (iv) Under provisions of the Inmate Disciplinary Process, Alternative Disciplinary Sanctions, suspending all privileges eligible for suspension in addition to Adjustment History Matrix sanctions imposed.
- (e) In a case where the inmate is found guilty of an inmate rule violation charge in addition to a charge of assault or battery on staff resulting from an assault or contact with bodily fluid on a correctional officer that resulted from the same incident, ensuring that the sanctions for the guilty finding of the assault or battery on staff are served consecutively to sanctions for the non-assault guilty finding.

L. Eligibility for Parole. The Parole Commission shall suspend any approved pending or delayed release on parole of an inmate convicted in criminal court of first or second degree assault or contact with bodily fluid on a correctional officer.

M. The Secretary's Director, Intelligence, Investigation and Fugitive Apprehension.

- (1) The Secretary's Director, Intelligence, Investigation and Fugitive Apprehension, or a designee, shall re-enforce Department efforts to minimize assaults and contact with bodily fluid on a correctional officer by an inmate through strict application of statute and inmate discipline by:
 - (a) Consulting with prosecutors and the courts to strengthen support for aggressive prosecution and maximum sentencing for inmates convicted of criminal assault or contact with bodily fluid on a correctional officer;
 - (b) Working with the Secretary's Director, Professional Standards, Police/Correctional Officer & Labor Liaison to encourage employees to take an active role in preventing assaults by inmates and when an incident occurs, ensuring the victim takes a responsible role in administrative and criminal prosecution; and

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- (c) Coordinating Department efforts to strengthen laws and regulations to address incidents of assault or contact with bodily fluid on a correctional officer.
- (2) The Department's Office of the Inspector General, under the authority of the Secretary's Director, Intelligence, Investigation and Fugitive Apprehension shall:
 - (a) Conduct random audits of correctional facilities, HRSD, IID, and Hearing Office to ensure that provisions of this directive are being applied and consistent in application;
 - (b) Report audit results to the Secretary's Director, Intelligence, Investigation and Fugitive Apprehension including the necessity for corrective action; and
 - (c) If appropriate, conduct audit follow up activities to ensure that noted deficiencies are corrected.
- (3) The Secretary's Director, Intelligence, Investigation and Fugitive Apprehension, or a designee, shall ensure that appropriate administrative action is taken against an employee who violates provisions established under this directive.

.06 Attachment(s)/Link(s).

There are no attachments to this directive.

.07 History.

This directive supersedes provisions of any other prior existing Department communication with which it may be in conflict.

.08 Correctional Facility Distribution Code.

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S — Correctional Staff, All Ranks