

Executive Directive



Title: Internal Investigative Division	Executive Directive Number: OSIIFA.010.0017
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland and Governor's Executive Order 01.01.2003.13	Supersedes: DPSCS.010.0017, dated November 26, 2013
Related ACA Standards: 4-4011; 4-4231; 4-4281-3; 4-4281-6; and 4-4281-8	Responsible Authority: <i>Mark J. Carter</i> Director, Internal Investigative Division
Related MCCS Standards: N/A	Effective Date: July 10, 2015 Number of Pages: 9

Stephen T. Moyer
Stephen T. Moyer
 Secretary

Steven F. Geppi
Steven F. Geppi
 Secretary's Director
 Investigation, Intelligence
 and Fugitive Apprehension

.01 Purpose.

- A. The Internal Investigative Division (IID) has been established as a unit within the Department of Public Safety and Correctional Services (Department). This directive updates existing IID policy and procedures.
- B. This directive establishes responsibilities for reporting violations of criminal and ethics law by an employee to the Assistant Attorney General and the Office of the Governor.

.02 Scope.

This directive applies to all units of the Department.

.03 Policy.

- A. A Department employee shall conform to the highest standards of professionalism and integrity when performing assigned duties and at other times when the employee's conduct may reflect on the Department.
- B. The Department shall strive to provide a workplace free of violations of laws, rules, regulations, policies, and procedures.
- C. The Department shall promptly investigate an alleged infraction of applicable laws, rules, regulations, policies, and procedures.

Executive Directive Number: OSIIFA.010.0017

.04 Definitions.

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

B. Terms Defined.

- (1) “Contraband” means any item that an inmate is prohibited from possessing according to law, regulation, or Department or correctional facility policy.
- (2) “Controlled Dangerous Substance (CDS)” has the meaning stated in the Criminal Law Article, §5-101, Annotated Code of Maryland.
- (3) “Director” means the Director of the Department’s Internal Investigative Division.
- (4) 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 special appointee;
 - (ii) A volunteer; or
 - (iii) An intern.
- (5) “Escape” means any conduct by an inmate that may be charged as an escape under Maryland law.
- (6) “Facility” means a structure or space used, owned, or leased by the Department to conduct Department administrative or operational activities.
- (7) Inmate.
 - (a) “Inmate” means an individual in the custody or under the supervision of the Department.
 - (b) “Inmate” includes an individual:
 - (i) In pre-trial, sentenced, or pre-sentenced (post guilty finding but before sentencing) status actually or constructively confined by the Department;
 - (ii) In a Department home detention program; or
 - (iii) Under the supervision of the Division of Parole and Probation.
- (8) “Investigator” means a Department employee permanently assigned to or on special assignment to assist the IID with the responsibilities specified under Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland.

Executive Directive Number: OSIIFA.010.0017

- (9) Non-unit Employee.
 - (a) “Non-unit employee” means an individual who, by contract or other lawful arrangement, provides services to an inmate or the Department.
 - (b) “Non-unit employee” includes an employee of the Department of Education.
- (10) “Unit” means an organization, an institution, agency, or a division established by statute or created by the Secretary of Public Safety and Correctional Services (Secretary).
- (11) “Unit head” means the highest authority of a unit.

.05 Responsibility.

A. Scope of IID Investigative Authority.

- (1) The IID shall investigate an alleged:
 - (a) Violation of criminal law committed by an employee while on duty;
 - (b) Violation of criminal law committed by an employee while off duty if that violation impacts, or has the potential to impact, negatively on the Department;
 - (c) Violation of criminal law committed by an inmate, a visitor, a non-unit employee, or another individual that may affect the safety or security of a Department facility;
 - (d) Violation of Maryland Public Ethics law by an employee or non-unit employee; and
 - (e) Other alleged misconduct that has a negative impact on the Department.
- (2) The IID shall perform other duties and investigative responsibilities assigned by the Secretary or the Secretary’s Director of Investigation, Intelligence and Fugitive Apprehension.

B. Director.

- (1) The Director reports to the Secretary’s Director of Investigation, Intelligence and Fugitive Apprehension.
- (2) The Director is responsible for:
 - (a) Oversight of IID activities;
 - (b) Assigning IID employees to perform administrative and investigative duties and responsibilities;
 - (c) Supervising employees permanently assigned to the IID;

Executive Directive Number: OSIIFA.010.0017

- (d) Ensuring the confidentiality of all reports, records, and documents related to investigations conducted or assigned by the Director, or a designee;
- (e) Coordinating, with the Secretary's Director of Investigation, Intelligence and Fugitive Apprehension, the release of information regarding investigations conducted or assigned by the Director, or a designee;
- (f) Serving as the principal contact regarding IID operational activities with officials of federal, state, and local agencies, other Department investigative entities, and appropriate government organizations;
- (g) If an investigation affects another law enforcement agency, consulting with the appropriate representative of that agency;
- (h) Developing and maintaining procedures to manage the IID administrative and operational activities;
- (i) If appropriate, consulting with a unit head concerning an investigation or the potential for public or media interest related to an investigation;
- (j) Annually, reporting on trends, status, and results of investigations and related IID activities in a manner determined by the Secretary's Director of Investigation, Intelligence and Fugitive Apprehension;
- (k) Ensuring that an employee on special assignment to the IID properly reports all investigative activities;
- (l) Requiring that an investigator permanently assigned to the IID is certified as a police officer according to requirements under COMAR 12.04.01;
- (m) Maintaining a record of all complaints received by the IID; and
- (n) Maintaining a tracking system to monitor activity and disposition of each investigation conducted or assigned by the Director, or a designee.

C. Incidents Required to be Reported to the IID.

- (1) Except for provisions under §.05C(2) of this directive, an employee shall immediately notify the Director ,or a designee, if the employee is involved in or has knowledge of:
 - (a) An alleged violation by an employee of:
 - (i) The criminal law of the United States, a state, or a political subdivision of a state;
 - (ii) The Transportation Article of the Annotated Code of Maryland, or another state's equivalent thereto, involving the operation of a motor vehicle while under the influence of alcohol or a CDS; or

Executive Directive Number: OSIIFA.010.0017

- (iii) Maryland Public Ethics law;
- (b) An alleged violation of the criminal law of the United States, a state, or a political subdivision of a state committed by an inmate, a visitor, a non-IID employee, or other individual that affects the safety or security of a Department facility;
- (c) An allegation of excessive force by an employee or non-IID employee;
- (d) The possession or trafficking of contraband by an inmate, employee, or non-IID employee at a Department facility;
- (e) An allegation that an on-duty employee or non-IID employee is under the influence of alcohol or a CDS, including the illegal use of a prescription drug;
- (f) The death of an employee or non-IID employee while on duty;
- (g) The death of an off-duty employee or non-IID employee if the manner of death is:
 - (i) Connected to the individual's employment with, or services provided to, the Department;
or
 - (ii) Could have a negative effect on the Department;
- (h) The death of an inmate;
- (i) An attempted suicide by an inmate;
- (j) An escape or attempted escape by an inmate;
- (k) An incident where an employee displays or handles a firearm in a careless or unsafe manner;
- (l) An incident where an employee discharges a firearm, other than on a firing range;
- (m) The arrest of, or service of a criminal summons on, an employee or non-IID employee;
- (n) The execution of a search warrant on property owned by, or under the control of, an employee or non-IID employee;
- (o) An allegation of prohibited social, personal, or intimate relationship between an inmate and an employee or non-IID employee;
- (p) An allegation of prohibited communication, transaction, association, or relationship, between an employee or non-IID employee and the following acting on behalf of an inmate:
 - (i) Visitor;
 - (ii) Friend;

Executive Directive Number: OSIIFA.010.0017

- (iii) Relative; or
 - (iv) Other individual;
 - (q) An allegation involving an employee or non-IID employee which, if publicized, would negatively reflect on the Department or State;
 - (r) An allegation involving a unit head or the unit head's staff, which, if handled by the unit head or the unit head's superior, could pose a conflict of interest;
 - (s) An allegation of inmate on inmate sexual conduct; and
 - (t) An allegation of sexual misconduct between an employee and an inmate.
- (2) If an allegation required to be reported under §.05C(1) of this directive is discovered during a proceeding properly before the Inmate Grievance Office, as part of the Administrative Remedy Procedure (ARP), or other similar administrative process, the employee responsible for the process:
- (a) May notify the IID if, in the employee's judgment, the allegation warrants notifying the IID.
 - (b) Shall notify the IID if, while processing an allegation another allegation required to be reported under §.05C(1) of this directive is discovered that warrants notifying the IID according to §.05C(2)(a) of this directive.

D. Police Authority.

When performing duties associated with the IID, an investigator who is certified as a police officer according to requirements under COMAR 12.04.01 is authorized to exercise the authority of a police officer under Correctional Services Article, §§10-701(b) and (c), Annotated Code of Maryland.

E. Authority and Responsibility of an Investigator. An IID investigator:

- (1) Shall have unrestricted access to all areas of a Department facility;
- (2) In addition to the authority under §.05D of this directive, may:
 - (a) Access Department records;
 - (b) Request assistance from a unit employee;
 - (c) Request assistance from another law enforcement agency;
 - (d) Inspect facilities, vehicles, or equipment; and
 - (e) Require an employee to provide testimonial or physical evidence; and
- (3) Shall be responsible for:

Executive Directive Number: OSIIFA.010.0017

- (a) Conducting an investigation in an impartial and reasonable manner according to the oath of office and laws of the United States and the State;
- (b) Being courteous, attentive, and receptive to an individual reporting or providing evidence related to the complaint under investigation;
- (c) Ensuring the safety and chain of custody for items and evidence received;
- (d) Maintaining the confidentiality of matters related to investigations; and
- (e) Preparing an investigative report that, at a minimum, contains:
 - (i) Complete and detailed information regarding the complaint or incident;
 - (ii) A clear account of investigative actions; and
 - (iii) All relative information supporting the finding.

F. Unit Head. A unit head, or a designee, shall:

- (1) Notify the Director, or a designee, and, if required, local law enforcement of an allegation required to be reported under §.05C(1) of this directive;
- (2) Relinquish authority for an investigation undertaken by the IID, including an investigation initially assigned to a unit head, or a designee, that is subsequently assumed by the IID;
- (3) Provide to the IID investigator unrestricted access to all areas of the unit head's facility;
- (4) Ensure that unit employees cooperate with the IID investigator;
- (5) If requested by the IID investigator, assign a unit employee to assist the IID investigator and serve as an IID liaison;
- (6) Coordinate unit employee, non-IID employee, and inmate interviews requested by an IID investigator;
- (7) Provide reports, documents, and information requested by an IID investigator;
- (8) Ensure confidentiality of all reports, records, investigative activities, and documents relating to an IID investigation;
- (9) Provide work space within the facility for use by IID personnel during an investigation;
- (10) Secure and preserve the scene of an incident until released to an IID investigator or appropriate law enforcement agency personnel; and
- (11) Be accountable for investigations conducted at the unit level ensuring that:

Executive Directive Number: OSIIFA.010.0017

- (a) Where appropriate, investigative activities are conducted according to requirements established for an IID investigator;
- (b) Required reports are completed; and
- (c) Investigative reports are forwarded to the Director, or a designee, for review, filing, and retention.

G. IID Notification Procedure.

- (1) An employee involved in, or with knowledge of, a violation under §.05C(1) of this directive, regardless of whether the employee believes the allegation to be factual shall immediately file a complaint with the Director, or a designee.
- (2) The Director, or a designee, receiving notification under §.05G(1) of this directive shall, if possible, identify the employee or individual making the complaint or, if the complaint is anonymous, record the complaint as anonymous.
- (3) The Director, or a designee, shall receive and handle an anonymous complaint in the same manner as a complaint where the employee or other individual filing the complaint or the victim is identified.
- (4) An employee, a non-IID employee, an inmate, a visitor, or anyone on behalf of these individuals may file a complaint directly to the Director, or a designee, or a law enforcement agency.

H. IID Post-Notification Responsibilities.

- (1) Once a complaint is filed with the IID, the Director, or a designee, shall evaluate the information provided and:
 - (a) Decide whether an IID investigator shall investigate the complaint; or
 - (b) Refer the complaint for investigation to the appropriate unit head.
- (2) The Director shall establish a system to record each complaint received and track the disposition of each complaint recorded.

I. Report of Investigation.

- (1) The Director, with the approval of the Secretary's Director of Investigation, Intelligence and Fugitive Apprehension, shall determine the format and content of a report of investigation.
- (2) The IID is the repository for reports of investigations conducted by an IID investigator or assigned through the IID to a unit head for investigation.
- (3) The Director shall coordinate release of an investigative report with the Secretary consistent with all laws, rules, regulations, policy and procedures.

Executive Directive Number: OSIIFA.010.0017

(4) Reports of investigations shall be maintained according to an established retention schedule.

J. Executive Order 01.01.2003.13 Public Corruption and Misconduct.

(1) If an investigation of an incident under this directive determines that an employee has committed a violation of a criminal or ethics law, the Director, or a designee, shall notify the:

(a) Chief Counsel to the Governor; and

(b) Assistant Attorney General for the Department (Principal Counsel).

(2) A unit head completing an investigation that determines an employee violated a criminal or ethics law shall immediately report the findings to the Director, or a designee, who shall make the notifications as specified under §.05J(1) of this directive.

.06 Attachments/Links.

There are no attachments or links to this directive.

.07 History.

A. This directive replaces Secretary's Department Directive Number DPSCS.010.0017 dated November 26, 2013 to align responsibilities based on Department re-alignment.

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

.08 Correctional Facility Distribution Code.

A

S Security Chief, Facility Investigators