

Executive Directive



Stephen T. Meyer
Secretary

Title: Assessment for Risk of Sexual Victimization and Abusiveness	Executive Directive Number: COS.200.0005 Revised
Related MD Statute/Regulations: Correctional Services Article, § 2-103, Annotated Code of Maryland;	Supersedes: N/A
Related ACA Standards: 4-4285, 4-4281-2, 4, & 5; 4-ALDF-2A-21; 2-CO-4A-01	Responsible Authority: PREA Coordinator
Related MCCS Standards: N/A	Effective Date: February 20, 2015 Number of Pages: 6

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.01 Purpose.

This directive establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the Department of Public Safety and Correctional Services (Department) to assess the risk of the individual being sexually abused or being sexually abusive towards other inmates.

.02 Scope.

This directive applies to Department units responsible for the care and custody of individual housed in a Department correctional facility.

.03 Policy.

- A. The Department shall ensure that existing efforts and new strategies to prevent, detect, and respond to acts of sexual abuse and sexual harassment involving an inmate comply with applicable PREA federal standards (28 CFR Part 115 – August 20, 2012) established under the authority of the Prison Rape Elimination Act (PREA) of 2003 (P.L. 108-79).
- B. The Department shall use a screening instrument as part of the intake and facility transfer process and at other times deemed appropriate to assess each inmate’s risk for being sexually abused or being sexually abusive towards other inmates.
- C. The Department shall appropriately apply information obtained from assessing an inmate’s risk related to sexual victimization and abusiveness to decisions concerning areas, such as inmate housing, programming, treatment, and work assignments in order to minimize circumstances that contribute to incidents of victimization or abusiveness.

.04 Definitions.

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

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B. Terms Defined.

- (1) “Inmate” means an individual who is actively or constructively detained or confined in a Department detention, correctional, or community confinement facility or otherwise under the care or supervision of the Department.
- (2) “Gender nonconforming” means a person whose appearance or manner does not conform to traditional societal gender expectations.
- (3) “Intersex” means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- (4) “PREA Coordinator” means the individual assigned by the Secretary with authority over Departmental matters relating to the Prison Rape elimination Act (PREA).
- (5) “PREA Compliance Manager” means the individual designated by a managing official with authority over matters relating to PREA within the assigned correctional facility.
- (6) “Screening instrument” means an objective survey or questionnaire that is used to assess an inmate’s risk of sexual victimization or potential for abusiveness.
- (7) Sexual Abuse.
 - (a) “Sexual abuse” of an inmate by an employee includes the following acts performed with or without consent by the inmate:
 - (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(7)(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 inmate; and

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- (viii) Voyeurism by an employee.
- (b) “Sexual abuse” of an inmate by another inmate includes the following acts, if the victim inmate does or does not consent, is coerced into the act by overt or implied threats of violence, or is unable to consent or refuse:
 - (i) Acts listed under §§.04B(7)(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 inmate, excluding contact incidental to a physical altercation.
- (8) “Transgender” means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

.05 Responsibility.

- A. The PREA Coordinator shall ensure that a screening instrument is used to objectively assess an inmate’s risk of:
 - (1) Sexual victimization that, at a minimum, considers:
 - (a) The presence of a mental, physical, or developmental disability;
 - (b) The age of the inmate;
 - (c) The physical build of the inmate;
 - (d) Previous incarceration;
 - (e) If the inmate’s criminal history was exclusively nonviolent;
 - (f) The presence of prior convictions for sex offenses against an adult or child;
 - (g) If the inmate is or is the inmate perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (h) Previously a sexual victim;
 - (i) The inmate’s own perception of vulnerability; and
 - (j) If the inmate is detained solely for civil immigration purposes; and
 - (2) Being sexually abusive that, at a minimum, considers:
 - (a) Previous acts of sexual abuse;

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- (b) Prior convictions for prior offenses; and
 - (c) History of prior institutional violence or sexual abuse.
- B. The PREA Coordinator shall ensure that procedures for using the approved screening instrument, at a minimum, require:
- (1) That each managing official designates intake, custody, or case management staff to assess each inmate for risk of sexual victimization or potential for abusiveness within 72 hours of arrival at a facility;
 - (2) Case Management staff re-assess each inmate within 30 days of the inmate's arrival at the facility for risk of victimization or potential for abusiveness based upon additional, relevant information received by the facility since the initial screening;
 - (3) That a completed screening instrument may not be filed in an inmate's confidential health record;
 - (4) An inmate's risk level to be re-assessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or potential for abusiveness;
 - (5) That an inmate is not disciplined for refusing to answer or not disclosing complete information in response to screening questions relating to:
 - (a) The presence of a mental, physical, or developmental disability;
 - (b) The inmate being or perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (c) Previous sexual victimization; or
 - (d) The inmate's own perception of vulnerability; and
 - (6) Appropriate controls to be in place for facility dissemination of information collected during screening to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.
- C. The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive:
- (1) Screening information shall be considered:
 - (a) When making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive.
 - (b) When making individualized determinations as how to ensure the safety of each inmate.

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- (c) When deciding to assign a transgender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment:
 - (i) Ensures the inmate's health and safety; and
 - (ii) Presents management or security problems.
 - (2) Placement and programming assignments for each transgender or intersex inmate shall be re-assessed at least twice each year to review threats to safety experienced by the inmate.
 - (3) A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered.
 - (4) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
 - (5) Lesbian, gay, bisexual, transgender, or intersex inmates may not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting inmates.
 - (6) Placement of an inmate in special confinement housing shall be in accord with provisions for special confinement housing established in the Case Management Manual.
- D. The PREA Coordinator shall establish a sub-committee staffed by members of the PREA Committee and PREA Compliance Managers that is responsible for:
- (1) Researching, developing, or revising a screening instrument that meets requirements established under this directive and recommendations for approval by the PREA Committee;
 - (2) Researching, developing, documenting and recommending procedures for use of the screening tool and information received as a result of use for approval by the PREA Committee that, at a minimum, address:
 - (a) Training necessary for staff to properly conduct the screening and assess the information received;
 - (b) Identifying staff to perform the screening and subsequent assessment;
 - (c) Communicating information resulting from the screening and subsequent assessment;
 - (d) Documenting application of information in decisions and actions required under this directive;
 - (3) Monitoring use of the screening tool and information obtained from application to:
 - (a) Ensure compliance with approved procedures;
 - (b) Identify issues related to application; and

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- (c) If appropriate, recommend updates or changes concerning application;
- (4) Reviewing incidents of sexual abuse to:
 - (a) Determine the effectiveness of the screening instrument; and
 - (b) Identifying issues with the screening process in need of change.
- E. Each PREA Compliance Manager is responsible for oversight of implementation and use of the approved screening instrument within the assigned facilities by:
 - (1) Developing written procedures for the use of the screening instrument that meet the requirements established under this directive that:
 - (a) Ensures facility staff, designated under §.05B(1) of this directive, conduct the required screening at intake or transfer into the facility;
 - (b) Ensures facility Case Management staff re-assessment an inmate's risk of victimization or potential for abusiveness within 30 days of intake or transfer into the facility;
 - (c) Ensures that if screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with medical or mental health practitioner within 14 days of the intake screening;
 - (d) Determines how and where documentation relating to the PREA required screening is maintained at the facility;
 - (d) Ensures confidentiality of screening information is maintained; and
 - (e) Ensures facility staff responsible for making decisions related to §.05C of this directive properly consider information discovered as part of screening;
 - (2) Ensuring that facility staff comply with procedures related to the use of the screening instrument;
 - (3) Ensuring that screening documentation supporting compliance with PREA standards is maintained for at least 3 years after the PREA audit to which the applies; and
 - (4) Requiring that a copy of the written procedures developed under §.05E(1) of this directive is forwarded to the PREA Coordinator.

.06 Attachment(s)/Links

- A. PREA Intake Screening Instrument — Revised February 5, 2015
- B. Instructions for PREA Intake Screening Instrument — Revised February 5, 2015

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.07 History.

- A. This directive replaces COS.200.0005 dated May 12, 2014 by updating the Secretary's name and attachments.
- B. This directive supersedes provisions of any other prior existing Department or unit communication with which it may be in conflict.

.08 Operations Distribution.

- A
- C
- S — Case Management, Intake, Custody, Medical and Mental Health

PREA Intake Screening

Inmate Name: _____ **DOC#:** _____

Date: _____ **Facility:** _____ **SID#:** _____

Risk of Victimization:	Yes	No
1. How old are you? _____ (check yes if the inmate is under 22 or over 64 years old)		
2. What is your height and weight? Height: _____ Weight: _____ check yes if either of these apply: (men less than 5/6" and 120 lbs.) (women less than 5'0" and 118 lbs.)		
3. Do you have any physical, mental, or developmental disabilities that may affect your ability to function in a prison facility.		
4. Is this your first major incarceration?		
5. Is your criminal history exclusively non-violent, including pending charges, and your current charge?		
6. Do you have any reason to fear placement in general population?		
7. Were you ever sexually assaulted or abused as a child or adult? (if yes, offer mental health referral)		
8. Have you ever been approached for sex/threatened with sexual assault while incarcerated?		
9. Do you consider yourself <input type="checkbox"/> homosexual, <input type="checkbox"/> bisexual, <input type="checkbox"/> transgender, <input type="checkbox"/> intersex, or <input type="checkbox"/> gender nonconforming?*		
10. Have you had consensual sex while incarcerated?		
11. Do you have a criminal history of sex offenses with adult/child victims, including pending charges and your current charge?		
12. Have you ever been sexually assaulted while incarcerated? (yes response = 4 points and offer mental health referral)		

Score of 4 or more on items 1-12 = "at risk for victimization." Each "yes" answer is 1 point.

*If yes, check all that apply.

Risk of Victimization Score:

Risk of Abusiveness:	Yes	No
13. Do you have a history of violent crimes including pending charges and your current charge?		
14. Do you have a history of domestic violence as a perpetrator including pending charges and your current charge?		
15. Do you have a history of administrative violations or institutional infractions for violent offenses?		
16. Do you have a history of administrative violations or institutional infractions for sexual misconduct?		
17. Do you have a criminal history of sex offenses with adults? (if yes, offer mental health referral)		
18. Have you ever sexually assaulted another inmate while incarcerated? (yes response = 3 points and offer mental health referral)		

Please confirm these responses via file review/observation of inmate. Score of 3 or more on items 13-18 = "at risk for abusiveness."

Risk of Abusiveness Score:

Results:

Referral:

- | | |
|---|--|
| <input type="checkbox"/> Low risk (no further action necessary)
<input type="checkbox"/> At risk of victimization, 4 or more pts. (follow facility policy)
<input type="checkbox"/> At risk of abusiveness, 3 or more pts. (follow facility policy) | <input type="checkbox"/> Prior victim, offer follow-up meeting
<input type="checkbox"/> Prior abuser, offer follow-up meeting
<input type="checkbox"/> Follow-up meeting requested
<input type="checkbox"/> Follow-up meeting refused |
|---|--|

Screener's Signature and Title

Date

Thirty-Day Reassessment (if required)

Review complete, no changes

Review complete, updated form submitted

Assessor's Signature and Title

Date

Instructions for PREA Intake Screening Instrument

Read this Statement to the Inmate: In 2003 the Prison Rape Elimination Act, better known as PREA, was passed by the Federal government in an effort to protect prison inmates from sexual assault. I will be asking you a series of questions to help determine if you are at risk of becoming involved in a sexual assault while at this facility. These questions are being asked to help protect you and other inmates from sexual assault and abuse. If you refuse to answer a question or fail to answer a question truthfully, I or another staff member may enter an answer based on your criminal history, other written documentation, or personal observation. The information that I collect on this form is considered to be confidential and will only be made available to those staff members that have a need to know.

*The screening instrument is not intended to diagnose any mental health or psychological conditions. Staff members that use this instrument to screen inmates for risk of victimization or abusiveness are to use their own judgment appropriate for their training, education, and job classification.

Question Number	Detailed Instructions*
1	Use the inmate's official date of birth to verify.
2	Height is measured in feet and inches. Weight is measured in pounds.
3	Allow the inmate to assess his or her ability to function in a prison environment. A "yes" answer may be entered by the screener if the inmate has physical disabilities that would make it difficult for the inmate to defend his/her self or appears to have mental or developmental disabilities that would impair the inmate's decision making processes.
4	A major incarceration for the purposes of this screening instrument means thirty or more consecutive days of detention in a local, state, or federal facility.
5	Verify, if possible. Violent criminal history includes all forms of assaultive behavior, robbery, and sexual offenses involving personal contact. Screener may override a "no" answer if supported by documentation to the contrary.
6	Enter the inmate's answer.
7	Enter the inmate's answer. Inmate must be offered a medical or mental health referral, if "yes".
8	Enter the inmate's answer.
9	<ul style="list-style-type: none"> • When considering whether an inmate is homosexual or bisexual a "yes" response may only be indicated when self-reported or through information from past incarcerations. • Gender non-conforming is defined as displaying gender traits that are not normally associated with the person's biological sex. The screening official may determine that an inmate is gender non-conforming based on his or her observations. • Transgender people are defined as those whose gender identity differs from the social expectations for their birth sex. This may include transsexuals (someone who is in the process of physically/medically changing their gender) and cross-dressers (transvestites). Transgender people may have any sexual orientation. A "yes" response may only be indicated when inmate identifies him or herself as transgender or through information from past incarcerations. • Intersexuality is defined as a set of medical conditions that is a congenital anomaly of the sexual and reproductive system. Intersex people are born with external genitalia or internal reproductive systems that are not considered "standard" for either sex. An intersex individual may have any sexual orientation. A "yes" response may only be indicated when inmate identifies him or herself as intersex or through information from past incarcerations.
10	Enter the inmate's answer.
11	Enter the inmate's answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary.
12	Enter the inmate's answer.
13 - 16	Enter the inmate's answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary. History includes documented incidents where the inmate has been identified as a suspect or perpetrator. Formal findings of guilt or responsibility are not required. Violent offenses include all assaultive behavior (except actions taken in self-defense), robbery, and kidnapping. For the purpose of these questions sexual misconduct includes sexual acts, indecent exposure and public masturbation.
17	Enter the inmate's answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary. Inmate must be offered a mental health referral, if "yes".
18	Enter the inmate's answer.

Results: Enter the total points in the appropriate boxes for "Risk of Victimization" and "Risk of Abusiveness." Check the box or boxes in the **Results** section and follow your facility policy.

Referral: If the inmate reveals in questions 7, 12, 17, or 18 that he or she has been a victim or perpetrator of a sexual assault, the inmate must be *offered* a follow-up visit with mental health staff. Check the appropriate **Referral** boxes and provide the inmate with a **PREA FOLLOW UP** form. Assist the inmate with the form, if necessary, and send the letter to the psychology department through the institutional mail.

Disposition

- Inmate screening for risk of sexual victimization and abusiveness is required by the Prison Rape Elimination Act of 2003 (PREA), §115.41. The information collected is to be used to help make decisions regarding housing, bed, work, education and program assignments. **Follow your facility policy regarding inmates that are found to be at risk.**
- Responses to the questions asked on the screening instrument are to be kept confidential and disseminated only to those individuals with a need to know. **Follow your facility policy regarding dissemination.**