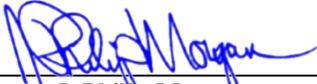
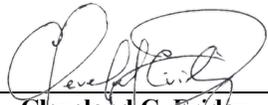
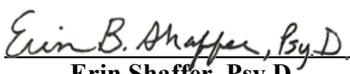




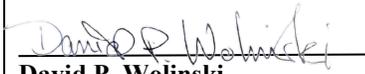
DEPARTMENT DIRECTIVE


J. Philip Morgan
 Commissioner of Correction


Cleveland C. Friday
 Commissioner of Pretrial
 Detention and Services


Erin Shaffer, Psy.D.
 Director of Patuxent


Carolyn J. Scruggs
 Secretary

Title: Assessment for Risk of Sexual Victimization and Abusiveness	Directive Number: OPS.200.0006
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland.	Supersedes: OPS.200.0006 dated April 4, 2018
Related ACA and MCCS Standards: 4-4281-2,5, &5; ALDF-2A-21; 2-CO-4A-01 C.F.R.115.41, 115.42,115.81	Authorized By  David P. Wolinski PREA Coordinator
Related Directives: Prison Rape Elimination Act (PREA) Manual DOC.100.0002 – Case Management Manual DPSCS.020.0026 - PREA-Federal Standards Compliance	Issued Date: October 19, 2023 Effective Date: October 19, 2023
Variance: Each facility shall issue a facility directive necessary to implement and comply with this directive.	Number of Pages: 8

.01 Purpose.

This directive establishes policy and assigns responsibilities for screening an incarcerated individual 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 incarcerated individuals.

.02 Scope.

This directive applies to Department units responsible for the care and custody of incarcerated individuals 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 incarcerated individual 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 incarcerated individual's risk for being sexually abused or being sexually abusive towards other incarcerated individuals.

- C. The Department shall appropriately apply information obtained from assessing an incarcerated individual's risk related to sexual victimization and abusiveness to decisions concerning areas such as 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.

B. Terms Defined.

(1) 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" for the purposes of this directive, includes:
- (i) A contractor;
 - (ii) An intern;
 - (iii) A volunteer; and
- (c) "Employee" includes correctional education staff from the:
- (i) Maryland Department of Education;
 - (ii) Maryland Department of Labor; and
 - (iii) Baltimore City School System.

(2) Incarcerated Individual.

- (a) "Incarcerated individual" has the meaning stated in CSA, §1-101, Annotated Code of Maryland which states, "Incarcerated individual' means an individual who is actually or constructively detained or confined in a correctional facility."
- (b) "Incarcerated individual" includes the term "inmate" as stated prior to October 1, 2023 CSA, §1-101, AMC.
- (c) "Incarcerated individual" includes the term "incarcerated person" (IP).
- (3) "Gender nonconforming" means a person whose appearance or manner does not conform to traditional societal gender expectations.

- (4) “Intersex” means a person whose sexual or reproductive anatomy or chromosomal pattern does not fit typical definitions of male or female.
- (5) “PREA Coordinator” means the individual assigned by the Secretary with authority over Departmental matters relating to the Prison Rape Elimination Act (PREA).
- (6) “PREA Compliance Manager” means the individual designated by a managing official with authority over matters relating to PREA within the assigned correctional facility.
- (7) “Screening instrument” means an objective survey or questionnaire that is used to assess an individual's risk of sexual victimization or potential for sexual abusiveness.
- (8) Sexual Abuse.
 - (a) “Sexual abuse” of an IP by an employee includes the following acts performed with or without consent by the IP:
 - (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(8) of this directive;
 - (vii) Any display by an employee of the employee's uncovered genitalia, buttocks, or breast in the presence of an IP; and Voyeurism by an employee.
 - (b) “Sexual abuse” of an IP by another IP includes the following acts, whether the victim IP 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(8)(a) 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 IP, excluding contact incidental to a physical altercation.
- (9) “Transgender” means a person whose gender identity does not align in a traditional sense with the gender they were assigned at birth. It may also be used to refer to a person whose gender identity is non-binary.

.05 Procedure.

A. The PREA Coordinator shall ensure that an approved screening instrument (Appendix A) is used to objectively assess an IP'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 IP;
 - (c) The physical build of the IP;
 - (d) Previous incarceration;
 - (e) If the IP's criminal history was exclusively nonviolent;
 - (f) Prior convictions for sex offenses against an adult or child;
 - (g) If the IP self-identifies as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (h) If the IP exhibits characteristics or mannerisms that may create the perception among other individuals that the IP vulnerable to sexual abuse or exploitation;
 - (i) History of sexual victimization; and
 - (j) The IP's own perception of vulnerability; and
- (2) Being sexually abusive that, at a minimum, considers:
 - (a) Previous acts of sexual abuse;
 - (b) Prior convictions for violence or sexual abuse; and

(c) History of institutional violence or sexual abuse.

B. The PREA Coordinator shall ensure that procedures for using the approved screening instrument protocol at a minimum, require:

- (1) That each managing official designate sufficient intake, custody, or case management staff to assess each IP for risk of sexual victimization or potential for sexual abusiveness within 72 hours of arrival at a facility;
- (2) Case Management staff re-assess each IP within 30 days but not earlier than 7 days of the IP'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 no completed screening instrument shall be filed in an IP's confidential health record;
- (4) An IP'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 IP's risk of sexual victimization or potential for abusiveness;
- (5) That an IP 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 IP being or perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (c) Previous sexual victimization; or
 - (d) The IP'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 IP's detriment by staff or other IPs.

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 IPs who are determined to be at high risk of being sexually victimized from IPs who are determined to be at high risk of being sexually abusive.

- (b) When making individualized determinations concerning how to ensure the safety of each IP.
 - (c) When deciding, on a case-by-case basis, to assign a transgender or intersex IP to a facility for male or female IPs and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment:
 - (i) Ensures the IP's health and safety; and
 - (ii) Presents management or security problems.
 - (2) Placement and programming assignments for each transgender or intersex IP shall be reassessed at least twice each year to review threats to safety experienced by the IP.
 - (3) A transgender or intersex IP's own views with respect to personal safety shall be seriously considered. All screening and reassessment for PREA purposes shall be conducted in the presence of the IP being screened or reviewed.
 - (4) Transgender and intersex IPs shall be given the opportunity to shower separately from other IPs.
 - (5) A lesbian, gay, bisexual, transgender, or intersex IP may not be placed in a dedicated facility, unit, or wing created solely on the basis of such identification or status, unless placement in a dedicated facility, unit, or wing is established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting IPs.
 - (6) Placement of an IP in special confinement housing shall only be determined 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 who are 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 instrument and any information obtained to:
- (a) Ensure compliance with approved procedures;
 - (b) Identify issues related to application of information obtained; and
 - (c) If appropriate, recommend updates or changes concerning application of information obtained;
- (4) Reviewing incidents of sexual abuse to:
- (a) Determine the effectiveness of the screening instrument; and
 - (b) Identify issues with the screening process in need of change.

E. Each PREA Compliance Manager is responsible to:

- (1) Oversee implementation and use of the approved screening instrument within the assigned facilities; and
- (2) Develop written procedures for the use of the screening instrument that meet the requirements established under this directive and ensure:
 - (a) Facility staff, designated under [§.05B\(1\)](#) of this directive, conduct the required screening at intake or transfer into the facility;
 - (b) Facility Case Management staff re-assess an IP's risk of victimization or potential for abusiveness within 30 days of intake or transfer into the facility;
 - (c) Whenever screening indicates that an IP has experienced prior sexual victimization, whether it occurred in a facility or in the community, the IP is offered a follow-up with medical or mental health practitioner within 14 days of the initial PREA screening;
 - (d) If the IP accepts the mental health referral offer, the medical or mental health practitioner shall evaluate the IP within 14 days of arrival;
 - (e) Documentation relating to the PREA-required screening is maintained at the facility per a retention schedule approved by the Department of General Services;
 - (f) Confidentiality of screening information is maintained;

- (g) Facility staff responsible for making decisions related to [§.05C](#) of this directive properly consider information discovered as part of screening;
- (h) Facility staff comply with procedures related to the use of the screening instrument;
- (i) Screening documentation from each audit cycle which addresses PREA standards, is maintained for at least 3 years after the PREA audit; and
- (j) A copy of the written procedures developed under §.05E(2) of this directive is forwarded to the PREA Coordinator.

.06 Appendix/Links

- A. PREA Intake Screening Instrument – OPS Form # 200-06aR (Rev. 08/23)
- B. Instructions for PREA Intake Screening Instrument – (Rev. 08/23)

.07 History.

- A. An annual review of this directive was conducted in August 2023. This directive supersedes and replaces OPS.200.0006 dated April 4, 2018 and contains changes related to legal definition of “inmate”.
- B. This directive rescinds OSPS.200.0005 dated May 25, 2016 and reissues the policy as OPS.200.0006 in order to conform to Department structure and authorities.
- C. This directive replaces COS.200.0005 dated February 20, 2015.
- D. This directive supersedes provisions of any other prior existing Department or unit communication with which it may be in conflict.

.08 Distribution.

A

C

S – Case Management, Intake, Custody, Medical and Mental Health

PREA Intake Screening

IP Name: _____ DOC#: _____

Date: _____ Facility: _____ SID#: _____

Risk of Victimization:	Yes	No
1. How old are you? (check yes if the incarcerated individual (IP) 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 o homosexual, <input type="checkbox"/> bisexual, <input type="checkbox"/> transgender, o 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 IP while incarcerated? (yes response= 3 points and offer mental health referral)		

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

Results:

Referral:

Risk of Abusiveness Score:

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 IP: In 2003 the Prison Rape Elimination Act, better known as PREA, was passed by the Federal government in an effort to protect prison IPs 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 IPs 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 IPs 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 IPs official date of birth to verify.
2	Height is measured in feet and inches. Weight is measured in pounds.
3	Allow the IP to assess his or her ability to function in a prison environment. A "yes" answer may be entered by the screener if the IP has physical disabilities that would make it difficult for the IP to defend his/her self or appears to have mental or developmental disabilities that would impair the IP 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 IPs answer.
7	Enter the IPs answer. IP must be offered a medical or mental health referral, if "yes".
8	Enter the IPs answer.
9	<ul style="list-style-type: none"> • When considering whether an IP 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 IP 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 non-binary individuals. Transgender people may have any sexual orientation. A "yes" response may only be indicated when IP 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 IP identifies him or herself as intersex or through information from past incarcerations.
10	Enter the IPs answer.
11	Enter the IPs answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary.
12	Enter the IPs answer.
13 -16	Enter the IPs answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary. History includes documented incidents where the IP 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 IPs answer. Verify, if possible. Screener may override a "no" answer if supported by documentation to the contrary. IP must be offered a mental health referral, if "yes".
18	Enter the IPs 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 IP reveals in questions 7, 12, 17, or 18 that he or she has been a victim or perpetrator of a sexual assault, the IP must be offered a follow-up visit with mental health staff. Check the appropriate **Referral** boxes and provide the IP with a **PREA FOLLOW UP** form. Assist the IP with the form, if necessary, and send the letter to the psychology department through the institutional mail.

Disposition

- ▶ IP 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 IPs 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.**