

Maryland

WOMEN IN PRISON: 1,248 (12/03)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§3-314. *Sexual conduct between correctional or Department of Juvenile Services employee and inmate or confined child¹*

Maryland’s statute is in the sexual crimes section of the criminal code. It prohibits defines prohibited behaviors, which can be summarized as sexual penetration or a sexual act.

Does this law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law specifically does not cover sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law is not concerned whether an officer claims inmate consent.
Does the statute cover all custodians and staff in contact with inmates?	No	The law specifies who is covered; it does not cover jailors, service providers or others who are not correctional employees.
Does the statute cover all places where an inmate might be abused?	Yes	The law protects all individuals who are actually or constructively detained.
Is the penalty a felony?	No	No, violation is an unspecified misdemeanor.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	In 2002 the Maryland Department of Public Safety and Correctional Services and the Maryland Division of Correction reported that they were not currently compiling statistics on prosecutions or convictions under the state’s CSM statute. ³ Amnesty International did not receive a response to its 2005 follow up inquiry with the Maryland Attorney General’s Office.
Incidents reported in select media since January 2000	- Baltimore: Three officers were indicted on six counts including first-and second-degree rape, conspiracy to commit rape, assault and misconduct in office. The FBI also opened a federal civil rights investigation, under a statute prohibiting abuse by police or others acting under the ‘color of law.’” The assault allegedly occurred when two women were arrested with marijuana in their possession in December 2005. Allegedly, one of the officers asked one woman what she was willing to do to stay out of jail and she agreed to have sex. The second woman was taken outside. All three officers deny the charges against them. (<i>CNN.com, 01/07/06</i>)

¹ Chapter 26, Acts of 2002, enacted §3-314, which was derived without substantial, change from former Art. 27 §464G. The text of Maryland’s current statute is included at the end of this section.



- Baltimore City Detention Center: Corrections officer, Ellano Draughon, was indicted for allegedly forcing a female inmate to perform oral sex on him. Draughon was charged with a second-degree sexual offense and sexual offense/corrections employee counts. He pleaded not guilty. (*WBALChannel.com, 9/4/03*)
- Calvert County: A correctional officer was charged with having sex with a work-release inmate. (*Washington Post, 6/4/02*)
- Washington County Jail: A former guard was indicted on charges of raping a female inmate. A second woman reportedly said that he also sexually assaulted her while she was in jail. (*AP, 05/04/01*)

Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

AI did not receive a response from the Maryland Department of Public Safety and Correctional Services to its 2000, 2002 or 2005 surveys. Additional information from other sources is included where available.

Is the current Department of Corrections policy on custodial sexual misconduct language-explicit?	No	The policy does not contain specific language about the nature of the sexual behaviors prohibited. ⁴
Allow cross-gender pat-down searches?		
What is the percentage of female officers in relation to male officers?		
Restrictions on the duties of male guards?		
Staff training on sexual misconduct?		
Inform inmates of agency policies and reporting procedures on sexual misconduct?		

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

AI did not receive a response from the Maryland Department of Public Safety and Correctional Services to its 2000, 2002 or 2005 surveys.

Is medical help available for the victim of alleged sexual abuse?		
Are immediate mental health services available for the victim of alleged sexual abuse?		
Is counseling available for the victim of alleged sexual abuse?		
Is a rape kit taken?		
Are there special procedures for investigating allegations of sexual misconduct?		
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?		
Is there a system for reporting allegations of custodial sexual misconduct directly to a body		

external to the DOC?		
Is the investigation external?		
If there is an external investigation, how is it triggered?		
Are special measures taken to shield alleged victims from retaliation?		
If so, do the measures include solitary confinement or lock-down of the inmate?		
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?		
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?		

Custodial Sexual Misconduct – Pending Legislative Proposals

<i>None</i>

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Maryland has no legislation limiting the use of shackling on pregnant inmates.
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Pregnancy - Policies, Procedures and Practices

AI did not receive a response from the Maryland Department of Public Safety and Correctional Services to its 2000, 2002 or 2005 surveys.

Use of restraints in third trimester		
Restraints during transport		
Restraints during labor		
Officer in delivery room		

Contact information

MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

<p>Secretary Mary Ann Saar 300 E. Joppa Rd. Suite 1000 Towson, MD 21286 Phone: 410-339-5000 877-379-8636</p>	<p>Homepage: www.dpscs.state.md.us</p> <p>Public Information Officer David B. Towers Phone: (410) 585-3300</p>
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MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FACILITIES FOR WOMEN

<p>Maryland Correctional Institution - Women Warden: Brenda Shell 7943 Brockbridge Road Jessup, Maryland 20794 Phone: (410) 799-5550 Security Levels: All</p>	<p>Baltimore Pre-release Unit for Women Warden: Gary Hornbaker (Acting) 7931 Brockbridge Road Jessup, Maryland 20794 Phone: (410) 799-1363 Maryland Correctional Pre-Release System (Mcprs)</p>
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MARYLAND EXECUTIVE

<p>Governor Robert L. Ehrlich [R] 100 State Circle Annapolis, MD 21401 Phone: (410) 974-3901 or (800) 811-8336 Fax: (410) 974-3275 Email: governor@gov.state.md.us</p>	<p>Homepage: http://www.gov.state.md.us/</p> <p>Contact page: http://www.gov.state.md.us/mail/</p> <p>Elected: 2002</p>
<p>Attorney General J. Joseph Curran Jr. [D] 200 Saint Paul Place Baltimore, MD 21202 Phone: (410) 576-6300 or (888) 743-0023 Fax: (410) 576-7000 Email: OAG@oag.state.md.us</p>	<p>Homepage: www.oag.state.md.us/</p> <p>Elected: 1986, re-elected in 1990, 1994, 1998, 2002</p>

MARYLAND LEGISLATIVE INFORMATION

<p>House: 141 members, 4-year term Senate: 47 members, 4-year term</p> <p>Legislative Session: The General Assembly meets the second Wednesday of January. The session may be continued for a period not longer than ninety days. The General Assembly may extend its session beyond ninety days, but not more than an additional thirty days, by resolution concurred in by a three-fifths vote of the membership in each House. The Governor may also reconvene the General Assembly. A majority in both houses can petition the Governor to reconvene the General Assembly.</p>	<p>Legislature Homepage: http://www.mdarchives.state.md.us/msa/mdmanual/07leg/html/ga.html and http://mlis.state.md.us/</p> <p>Bill Search: http://www.mdarchives.state.md.us/msa/mdmanual/07leg/html/proc.html and http://mlis.state.md.us/#bill</p> <p>Bill information phone number: (410) 841-3810</p>
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Senate State House, H-107, 110 College Avenue Annapolis, MD 21401-1991	Home page: http://www.mdarchives.state.md.us/msa/mdmanual/05sen/html/sen.html
House Of Delegates Lowe House Office Building 84 College Avenue, Annapolis, MD 21401-1991	Home page: http://www.mdarchives.state.md.us/msa/mdmanual/06hse/html/hse.html

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

Maryland-CURE PO Box 1583 Annapolis, MD 21404-1583 Website: www.curenational.org/~mdcure/
NAACP Criminal Justice Prison Program 4805 Mount Hope Drive Baltimore MD 21215 Phone: (410) 358-8900; Fax: (410) 358-3818 Website: www.naacp.org
ACLU of Maryland 3600 Clipper Mill Rd, Suite 350 Baltimore, MD 21211 Phone: (410) 889-8555 E-mail: aclu@aclu-md.org Website: www.aclu-md.org
Equal Justice / Quixote P.O. Box 5206 Hyattsville, MD 20782 Phone: (301) 699-0042; Fax: (301) 864-2182 Website: www.quixote.org/ej/ Services: Mobilizes and educates ordinary citizens around issues of crime and punishment in the U.S.
Prisoner Rights Information System of Maryland Website: www.prisminc.org Services: Offers assistance to prisoners in the custody of the Maryland Division of Correction and the Patuxent Institution with claims arising from alleged violations of Federal civil rights on the part of staff and contractors.

<p>Maryland's Custodial Sexual Misconduct Statute</p> <p>§ 3-314. <i>Sexual conduct between correctional or Department of Juvenile Services employee and inmate or confined child</i></p> <p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) (i) "Correctional employee" means a:</p> <ol style="list-style-type: none"> 1. correctional officer, as defined in § 8-201 of the Correctional Services Article; or 2. managing official or deputy managing official of a correctional facility. <p>(ii) "Correctional employee" includes a sheriff, warden, or other official who is appointed or employed to supervise a correctional facility.</p> <p>(3) (i) "Inmate" has the meaning stated in § 1-101 of this article.</p> <p>(ii) "Inmate" includes an individual confined in a community adult rehabilitation center.</p> <p>(b) Prohibited – Correctional employee with inmate. – A correctional employee may not engage in vaginal intercourse or a sexual act with an inmate.</p> <p>(c) Same -- Department of Juvenile Services employee with confined child. -- An employee or licensee of the Department of Juvenile Services may not engage in vaginal intercourse or a sexual act with an individual confined in a child care institution licensed by the Department, a detention center for juveniles, or a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the Code.</p> <p>(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 3,000 or both.</p> <p>(e) Sentencing. – A sentence imposed for violation of this section may be separate from and consecutive to or concurrent with a sentence for another crime under §§ 3-303 through 3-312 of this subtitle.</p>

¹ Bureau of Justice Statistics, *Prisoners in 2003*, NCJ205335, November 2004, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p03.pdf>.

² The information does not reflect prosecutions or convictions under rape statutes.

³ Letter from Michael O. Doyle, Assistant Attorney General, Office of the Attorney General, 1004/02.

⁴ US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000.