DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

MARYLAND COMMISSION ON CORRECTIONAL STANDARDS

AUDIT PROCESS

STANDARDS MANUAL

AUDIT PROCESS

GENERAL

The Maryland Commission on Correctional Standards (MCCS) will conduct regular formal audits of every state, local and private adult place of correctional confinement to determine compliance with the applicable regulations promulgated by the Secretary of the Department of Public Safety and Correctional Services (DPSCS). The Commission staff, assisted by Duly Authorized Inspectors, shall identify deficiencies, suggest corrective action plans and provide technical assistance as needed. The schedule of audits will be communicated to the respective managing official prior to the initiation of any audit cycle. All audits will be announced unless directed otherwise by the Secretary and/or Commission.

PRE-AUDIT ACTIVITIES

The managing official will be contacted at least 60 days prior to the scheduled audit to agree upon the specific dates and times for the audit. Pre-audit materials are to be made available or forwarded at least 30 days prior to the on-site visit for consideration by Commission staff. A review of primary documentation (policies and procedures and inmate orientation materials) will be completed before the on-site visit.

The Executive Director will assign an Audit Team Leader (ATL) from the Commission staff and designate the audit team composition from the established listing of trained/certified Duly Authorized Inspectors (DAI's). Members of the audit team will then be assigned specific sections of the regulations to audit on-site. All DAI's will receive relevant materials (i.e., facility descriptive outline and other necessary information) at least two weeks prior to the scheduled visit. During the week preceding the scheduled on-site visit, Commission staff will meet to finalize the audit preparation. The ATL will contact the managing official to confirm the audit arrangements, generally share the results of the preliminary review, including any requests for clarification, and indicate team composition. The ATL will also communicate with the designated DAI's to ensure their awareness of the logistics of the audit (i.e., directions to the facility, arrival times, standards assigned, etc.).

ON-SITE AUDIT ACTIVITIES

The ATL, Commission staff, and DAI's will meet with the managing official and other key facility personnel upon arrival to hold an Entrance Interview. The purpose of the interview is to Introduce the team members, discuss the scope of the audit exercise, and provide a tentative schedule of activities, explain the inspection process, and answer any questions. The entrance interview allows for an exchange of information and clarification of any outstanding issues prior to the actual audit.

The ATL will then meet with the DAI's to reiterate the individual standards assignments, answer any questions, further organize the required tasks, distribute the designated forms to be

completed, and share the results of the primary documentation review performed at the Commission offices. If a DAI fails to arrive at the facility, the ATL will temporarily reassign the standards in question and notify the Executive Director, who will take appropriate action.

The audit team will make a complete tour of all parts of the facility and grounds to determine the general conditions of confinement and assess the overall quality of life. The ATL will arrange the tour itinerary in conjunction with the managing official to maximize the use of available resources as well as to minimize the amount of disruption to the facility's normal routine. Audit team members will take detailed notes of their observations. During the course of the tour, audit team members will hold brief informal discussions with facility personnel in the performance of their duties and inmates to obtain an overview of the facility and to gather general information. The ATL will ensure that the tour observations and the significant staff and inmate remarks of the respective DAI's are shared with the team members at a debriefing held at the conclusion of the tour. In addition, if the ATL detects or is notified of a life-threatening or health-endangering practice or condition, the Executive Director will be contacted immediately, at which time, he/she may give verbal notice to the managing official to immediately cease the practice or condition. Should the managing official fail to cease the life or health-threatening situation, the Executive Director may initiate closure proceedings. Written notice will be forwarded within 24 hours by the person giving the notice or order to the managing official with copies to the executive authority of the jurisdiction, the Secretary of the DPSCS and the Commission Chair. Within 96 hours of the verbal notice or order, the Commission will convene a hearing, according to established procedures, to review and confirm or countermand the order.

Audit team members are encouraged to return to various areas of the facility for a close examination of specific standards-required materials and activities to assist in compliance decision making. The audit team member who is assigned the standards relating to Inmate Rights will normally be responsible for conducting the formal inmate interviews according to established guidelines. If a facility has an official inmate representative body, they will be interviewed in a group setting without direct staff presence for approximately one and one half-hour to determine their perspective regarding standards-related matters. If not, the managing official will be asked to request inmates to volunteer to participate, ensuring a representative cross-section of the inmate population. Under no circumstances shall the managing official pre-select those persons to be interviewed. The interview will be conducted using proper interviewing techniques and will require the completion of the appropriate form.

The DAI's will then initiate a review of the secondary documentation to substantiate compliance with the standards to which they have been assigned. The review should take place in an area within the facility that provides adequate space, privacy and accessibility to personnel, inmates, records and the physical plant. To the extent possible, the facility should centralize the documentation of routine activities and functions in a structured fashion to facilitate the timely completion of the review process. It is the Commission's policy that the burden of proof for supporting compliance is the facility's responsibility, not the audit team. Facility personnel should remain readily available during the course of the audit to answer questions, present additional documentation and provide escort to certain parts of the facility as needed. However, it should also

be noted that the audit team will work independently. Therefore, no staff person should be in the area designated for the team's use during the audit unless requested.

The DAI's will complete the Standards Worksheets indicating their preliminary decisions of compliance, noncompliance and nonapplicability as well as make recommendations to improve operations and programs. DAI's should be guided by the concept that compliance is demonstrated by meeting all of the individual elements of the standard at all times, which means routine and consistent implementation of the required activity since the last audit or date of last compliance. Proof of compliance will be measured at the time of the audit; however, documentation presented subsequently may be considered. This principle of strict interpretation should be based on the "substantive" rather than the "absolute" definition of compliance, while taking into consideration "good faith efforts" and "preponderance of evidence" where appropriate. DAI's will apply the established guidelines regarding the number of personnel and inmate files to be reviewed and remain cognizant of the methods of documenting compliance (i.e., written materials in the form of policies and procedures, records, logs, etc; discussions with staff, inmates and other persons; and observation). Verbal verification alone is never sufficient to support compliance. During the course of the audit, the ATL will remain available to provide standards interpretation, clarify requirements for compliance determinations and otherwise provide assistance to the DAI's and facility personnel as needed. The ATL will meet with the managing official or designee on a daily basis to keep him/her informed of decisions being made. As the DAI's complete their review of assigned standards, they will meet individually with the ATL to review and discuss their preliminary findings for the purpose of finalizing decisions. The ATL will record the audit findings on the appropriate form in preparation for the Exit Conference. If the ATL does not concur with the DAI's finding, he/she will attempt to resolve the difference. If unable to do so, the ATL will contact the Executive Director for clarification. Should this not be possible during the audit, the decision will be placed on hold until a conference with the ATL and Executive Director occurs. If unable to reach a consensus with regard to compliance findings, the DAI may submit a minority report to the Executive Director which will be disseminated to the Commission prior to the meeting at which the final report and compliance plan will be considered. All notes, worksheets, audit results forms and other supportive documentation will be collected from each auditor and shall become a permanent part of the audit file.

At the conclusion of the on-site visit, the team members will meet with the managing official or designee and other facility staff at an Exit Conference to discuss the results of the audit. The ATL will summarize the audit conclusions, present general observations and remarks, offer specific recommendations and comment on overall audit preparation. DAI's will present the particular findings for those standards where they were the primary auditor. In addition, compliance plans will be suggested to address identified deficiencies. Those present will also be afforded the opportunity to ask questions, request clarification and inquire about reporting procedures. Copies of the Audit Results Form will be given to the managing official or designee for appropriate action. Any appeals or requests for variance may also be registered with the ATL, who shall indicate that they are to be submitted in writing to the Executive Director within 30 days.

POST-AUDIT ACTIVITIES

The ATL will meet with the Executive Director within five (5) working days following the on-site visit to discuss the audit results prior to formalization of the findings. This is to include but not be limited to: resolving determinations regarding particular standards' compliance issues; considering appeals by the facility managing official; evaluating variance requests for presentation to the Commission; validating non applicable determinations; and, generally receiving a briefing on the audit outcome. An Audit Evaluation form will be forwarded to each DAI and managing official to provide feedback on the audit process. The evaluation is to be returned to the Executive Director within 30 days after the audit. The ATL will submit the draft audit report, inmate interview remarks and specific recommendations to the Executive Director for review and upon approval, to the managing official of the facility for review and comment within 30 days of the site visit. The contents of the Report will remain confidential pending review and approval by the Commission. The Executive Director's approved draft of the Final Report and Compliance Plan, with the inmate interview remarks and specific recommendations, will be submitted to the Commission members for consideration and approval at the next scheduled meeting, no later than 60 days from the completion of the audit.

The Commission will formally consider the Final Report and Compliance Plan at regularly scheduled, open meetings. Representatives of the facility will be invited to attend, ask questions, provide additional information and explain appeals and variance requests which were or may have been previously submitted. The ATL will present the report, answer inquiries from the Commission members and otherwise be available to respond to questions, concerns, etc. The Commission Chair will then ask the membership to consider the Final Report and Compliance Plan, including the deadlines for addressing noncompliance items, and any appeals/variance requests. Once approved, the Executive Director will disseminate the Final Report and Compliance Plan to the specified distribution within 15 days of the Commission's action. It should be noted that the report is a public document and will be made available to interested persons upon request according to guidelines established in COMAR 12.11.02. The Secretary of the DPSCS will also receive copies of the report as well as the previously mentioned memoranda regarding inmate remarks and specific suggestions for the improvement of facility operations. The Secretary may issue correspondence to the jurisdiction regarding the audit outcome.

AUDIT FOLLOW-UP ACTIVITIES

All Compliance Plans will have a completion due date which is six months from the first day of the month following the Commission's approval of the final report. A memorandum will be sent to the managing official at least 30 days prior to the approved completion date to notify the jurisdiction that documentation will be due to substantiate compliance with the identified deficiencies. If documentation is submitted, the ATL will initiate a documentation review and inform the Executive Director and managing official of the results by memorandum within 30 days. If a site visit is requested, the Executive Director or ATL will contact the managing official to arrange for a mutually agreed upon date and time. All monitoring visits will be performed by

Commission staff. If the managing official indicates that the initial plans for corrective action cannot be met or the documentation review determines that to be the case, the managing official will submit a written request to the Executive Director to extend the compliance deadline. The request, with supporting rationale, will be presented to the Commission for their consideration at the next regularly scheduled meeting. If approved, the Commission will issue a one-time only revised plan for corrective action of six months from the original due date. If disapproved, the Commission may conduct a formal hearing according to established procedures to determine whether certain facility functions, operations or practices should be limited or discontinued, the facility closed or other appropriate action taken.

The staff will recommend to the Commission, at regular scheduled meetings, the presentation of the Recognition of Achievement (ROA) award to any facility which has attained total compliance with all applicable regulations within one year of the approval of the compliance plan. If approved, the Commission Chair will notify the jurisdiction in writing and request that they make the formal arrangements for the presentation. If a facility does not achieve 100% compliance within one year, the Commission staff shall continue to monitor the correction of the remaining deficiencies until the next scheduled audit. Should a facility attain total compliance after one year, but prior to the next scheduled audit, a letter of congratulations will be sent by the Chair to the managing official.

A primary goal of the agency is to facilitate total compliance with the standards, thereby fostering public safety, staff welfare and inmate well-being. Every effort will be made to assist those agencies subject to inspection. When requested, Commission staff will provide technical assistance personally, directly or by referral to other resources.