



## DoD DIRECTIVE 1325.04E

### ADMINISTRATION OF MILITARY CORRECTIONAL PROGRAMS AND FACILITIES

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<b>Originating Component:</b>	Office of the Under Secretary of Defense for Personnel and Readiness
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<b>Reissues and Cancels:</b>	DoD Directive 1325.04, "Confinement of Military Prisoners and Administration of Military Correctional Programs and Facilities," August 17, 2001, as amended
<b>Approved by:</b>	Kathleen H. Hicks, Deputy Secretary of Defense

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**Purpose:** This issuance:

- Establishes policy and assigns responsibilities for the administration and operation of military correctional programs and facilities.
- In accordance with DoD Directive (DoDD) 5101.01, designates the Secretary of the Army as the DoD Executive Agent for DoD Level III Corrections Facilities.

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## SECTION 1: GENERAL ISSUANCE INFORMATION

### 1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

### 1.2. POLICY.

a. Corrections programs promote uniformity in and among the Military Services in:

- (1) The treatment of prisoners.
- (2) The operation and administration of military correctional facilities (MCF) and programs.
- (3) The consideration of prisoners for return to duty, clemency, parole, or mandatory supervised release.

b. Pretrial confinement may be appropriate where there is probable cause to believe that the Service member confined committed an offense triable by court-martial and that confinement is necessary because it is foreseeable that the confinee will not appear at trial, pretrial hearing, or preliminary hearing, or the confinee will engage in serious misconduct and less severe forms of restraint are inadequate.

c. Post-trial correctional administration of military prisoners will serve the purposes of the incapacitation, rehabilitation, deterrence, and punishment of prisoners.

d. In accordance with Chapter 47, Section 812 of Title 10, United States Code (U.S.C.) (Article 12 of the Uniform Code of Military Justice (UCMJ)), a Service member, or person serving with or accompanying a U.S. Armed Force, will not be placed in confinement:

- (1) In immediate association with enemy prisoners; or
- (2) With individuals who are detained under the law of war and are foreign nationals and not members of the U.S. Armed Forces.

e. For economy and efficient administration, confinement facilities and MCFs of any Military Service will be used for the confinement of prisoners of other Military Services.

(1) Pretrial confinement of military prisoners normally will be on a non-reimbursable basis at a confinement facility or MCF nearest to the location of the court-martial proceedings. The Military Services may enter into agreements or memorandums of understanding to address costs and terms for post-trial corrections.

(2) Prisoners confined in an MCF are subject to the rules and regulations of the confining facility regardless of the Service affiliation of the prisoner.

f. On execution of the discharge of a prisoner, primary jurisdiction for offenses committed in violation of Chapter 47, Sections 877 through 934 of Title 10, U.S.C. (UCMJ Articles 77 through 134), by a military prisoner in confinement is vested in the Service commander exercising general court-martial authority over the MCF in which the prisoner is confined.

g. To the greatest extent possible, national accreditation standards issued by the American Correctional Association will be followed in determining correctional policies and administering MCFs and their functions and tasks.

## **SECTION 2: RESPONSIBILITIES**

### **2.1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)).**

The USD(P&R):

- a. Promotes uniformity among the Military Services in the administration of correctional programs and operation of correctional facilities in accordance with Chapter 47 (the UCMJ), and Chapter 48 of Title 10, U.S.C.; DoDD 2310.01E; and the Manual for Courts-Martial.
- b. Serves as the Principal Staff Assistant overseeing the activities of the DoD Executive Agent for Level III Corrections Facilities, in accordance with DoDD 5101.01.
- c. Serves as the OSD focal point for confinement matters, correctional programs, and clemency and parole policies and procedures.
- d. Designates a senior staff member to chair the DoD Corrections Council in accordance with its charter in DoD Instruction 1325.07.

### **2.2. SECRETARIES OF THE MILITARY DEPARTMENTS.**

The Secretaries of the Military Departments:

- a. Issue regulations on the confinement of military prisoners and administration of MCFs and programs consistent with this issuance.
- b. Designate a senior officer for their respective Military Service(s) to administer their MCFs.
- c. Provide MCFs, or enter into such agreements as are necessary, to provide for the incarceration of Service members of their respective Military Service(s) who have:
  - (1) Been ordered into pretrial confinement; or
  - (2) Received sentences to confinement as a result of courts-martial.
- d. Designate voting members to serve on the DoD Corrections Council. The voting members are limited to one individual from the Military Service Corrections Headquarters (with primary responsibility for military corrections policies), and one individual from the military Department's Clemency and Parole Board (with primary responsibility for parole and clemency matters).
- e. Provide programs that are consistent with Chapter 48 of Title 10, U.S.C., for:
  - (1) Work.

- (2) Education and training.
- (3) Rehabilitation.
- (4) Prisoner welfare.
- (5) Return to duty.
- (6) Clemency and parole.

f. Retain clemency and parole authority over a Service member of their respective Military Department and Service(s), including when the member is located in a correctional facility operated by another Military Department, or within custody of the Federal Bureau of Prisons (FBOP) in the absence of the United States Parole Commission.

g. Establish policies and procedures for conducting executions of their respective Service members, having approved sentences to death. Provide oversight responsibility, management, and resources for executions.

h. Establish policies and procedures to ensure that MCFs comply with Section 20911 of Title 34, U.S.C., on DoD responsibilities in the crimes against children and sexually violent offender registration programs.

i. Establish policies and procedures to ensure that MCFs report information on prisoners as required under DoD Instruction 7730.47 and DoD 7730.47-M.

j. Ensure that, in coordination with the Office of Legal Policy, Office of the USD(P&R), their respective Military Service(s) notify the other Military Departments and Services about the proposed reduction, closure, or redesignation of any MCFs regularly used to confine prisoners from more than one Military Service. At a minimum, the proposal to reduce, close, or redesignate the facility will be submitted for comment to the Office of Legal Policy, Office of the USD(P&R), and the Military Departments at least 120 days before final approval.

### **2.3. SECRETARY OF THE ARMY.**

In addition to the responsibilities in Paragraph 2.2. of this issuance, and as the DoD Executive Agent for DoD Level III Corrections Facilities, the Secretary of the Army:

a. Operates, funds, and staffs facilities for the incarceration of Service members who are classified as Level III prisoners based on length of sentence to confinement, except those transferred to the FBOP.

b. Acts as the single point of contact with the FBOP for the transfer of all military prisoners in military correctional facilities' custody to the FBOP.

c. Obtains the concurrence of the Secretary of the Military Department concerned before the transfer of military prisoners in Army custody to Federal facilities.

d. Coordinates with other Secretaries of the Military Departments, as appropriate, on significant agreements involving military prisoners with the FBOP.

e. Provides a facility to carry out executions of military prisoners with approved death sentences.

## GLOSSARY

### G.1. ACRONYMS.

ACRONYM	MEANING
DoDD	DoD directive
FBOP	Federal Bureau of Prisons
MCF	military correctional facility
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

### G.2. DEFINITIONS.

TERM	DEFINITION
<b>confinement</b>	The physical restraint of a person imposed by order of competent authority, either pending disposition of charges (pretrial), or as a result of a sentence adjudged by court-martial or by operation of Section 955(b) of Title 10, U.S.C.
<b>confinement facility</b>	A facility for pretrial, short-term confinement, ensuring the pretrial detainee is present to attend court proceedings. A confinement facility is not corrections and rehabilitative focused; therefore, it has limited prisoner services and capabilities. Confinees usually should be held in this facility for less than 1 year.
<b>custody</b>	The degree of supervision each prisoner requires.
<b>Level III corrections</b>	The operation and administration of MCF and programs specifically designated and applicable for prisoners with sentences to confinement exceeding 10 years.
<b>Level III prisoner</b>	A prisoner with a sentence to confinement exceeding 10 years.
<b>MCF</b>	A correctional facility focused on providing treatment, programming, education, vocational training, and rehabilitative and re-entry services for post-trial prisoners. The capabilities and services available at an MCF will determine resources, characteristics, and features.



<b>TERM</b>	<b>DEFINITION</b>
<b>parole</b>	Conditional release from confinement under the guidance and supervision of a U.S. probation officer.
<b>prisoner</b>	A person sentenced by a court-martial to confinement or death and ordered into confinement by competent authority, whether or not the sentence has been approved by the convening authority.

## **REFERENCES**

DoD 7730.47-M, "Defense Incident-Based Reporting System (DIBRS)," dates vary by volume  
DoD Directive 2310.01E, "DoD Detainee Program," March 15, 2022  
DoD Directive 5101.01, "DoD Executive Agent," February 7, 2022  
DoD Instruction 1325.07, "Administration of Military Correctional Facilities and Clemency and Parole Authority," March 11, 2013, as amended  
DoD Instruction 7730.47, "Defense Incident-Based Reporting System (DIBRS)," January 23, 2014, as amended  
Manual for Courts-Martial, United States, 2019  
United States Code, Title 10  
United States Code, Title 34