

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 180.00: RESEARCH AND EVALUATION

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180.01: Purpose

The purpose of 103 CMR 180.00 is to establish Department of Correction policy governing research and evaluation within the Department.

180.02: Statutory Authorization

103 CMR 180.00 is issued pursuant to M.G.L. c. 124, §1(c), (k), (q), and is consistent with M.G.L. c. 6, §§ 167 through 178.

180.03: Cancellation

103 CMR 180.00 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules or regulations regarding research and evaluation to the extent they are inconsistent with 103 CMR 180.00.

180.04: Applicability

103 CMR 180.00 applies to all Department managers, employees and correctional institutions.

180.05: Access

103 CMR 180.00 shall be maintained within the central policy file of the Department and will be accessible to all Department employees. A copy of 103 CMR 180.00 shall also be maintained in each superintendent's central policy file, and at each inmate library.

180.06: Definitions

Criminal History Systems Board - The Criminal History Systems Board (CHSB) is the board responsible for regulating the collection, storage, dissemination, and usage of CORI.

Criminal Offender Record Information (CORI) - CORI means records and data in any communicable form compiled by a criminal justice agency which concerns an identifiable individual and relates to the nature or disposition of a criminal charge, an arrest, a pretrial proceeding, other judicial proceedings, sentencing, incarceration, rehabilitation or release.

Department - The Department refers to the Department of Correction.

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Department Research - Department research refers to studies conducted by employees of the Department usually by, or in conjunction with, the Research and Planning Division of the Department.

Medical Research - Medical research shall include, but not be limited to, medical experiments, cosmetic and pharmaceutical studies using inmate subjects.

Outside Research - Outside research refers to studies conducted by individuals from universities, research firms, or other agencies who are not employees of the Department.

Principal Researcher - The principal researcher or investigator is the person who provides on-site supervision of a research study, and is responsible for the detailed conduct of the research.

Research Manager - The research manager refers to the research manager of the Department.

Social Science Research - Social science research shall include, but not be limited to, studies involving the use of interviews, questionnaires, participant observation and reviews of case records. It shall not include any study that will expose research subjects to the possibility of physical, physiological, or other harm as a consequence of their participation in the study.

Superintendent - Superintendent refers to the chief administrative officer of a correctional facility.

180.07: Medical Research

Inmates within the custody of the Department of Correction shall not be permitted to participate in medical, pharmaceutical, or cosmetic experiments. 103 CMR 180.00 does not preclude inmates from participating in clinical trials conducted under applicable federal and state law when the medical provider(s) for the Department of Correction determines that such participation is medically appropriate for a specific inmate, and provided that:

- (1) All proposals for clinical trials under 103 CMR 180.00 shall be submitted to the Director of Health Services for review and approval. A copy of all proposals shall be kept on file in the central office research division of the Department of Correction;
- (2) All proposals for clinical trials under 103 CMR 180.00 must conform to the requirements of the Code of Federal Regulations (45 CFR 46), establishing special provisions which protect prisoners involved as human subjects in research activities, and applicable state law;
- (3) All clinical trials under 103 CMR 180.00 shall be conducted under conditions approved by the Director of Health Services. The Health Services Division of the Department of Correction shall establish policies consistent with 103 CMR 180.00. (*See* 103 DOC 662 Inmate Enrollment in Clinical Trials).
- (4) Nothing in 103 CMR 180.00 shall be construed as affording any inmate a protected right to participate in clinical trials or as creating any private right of action to enforce the provisions of 103 CMR 180.07 not otherwise available by law.
- (5) Research that is comprised of both a medical and a social science component shall be submitted to the Research and Planning Division for review. The Director of Research and Planning shall determine if any areas of the research require review by the Director of Health Services. The Director of each division shall review the areas of research pertaining to their expertise and make a joint recommendation to the Superintendents and the Commissioner.

180.08: Application to Conduct Outside Social Science Research

Every application to conduct outside research shall include the requirements in 103 CMR 180.08(1) through (7):

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- (1) cover page including title, names, and affiliations of principal investigators of proposed research;
- (2) a one page abstract, written in layman terms, briefly describing the proposed research and the research goals of the project;
- (3) *curricula vitae* or resumes of the principal researcher and all research staff: knowledge and experience shall be judged in terms of recent, relevant, and successful experience of the staff to undertake the research activities;
- (4) an endorsement by a recognized research organization, such as an accredited university or college, private foundation, consulting firm, or public agency that has a mandate to perform research, certifying that the research proposal is for valid scientific, educational, or other public purposes;
- (5) research hypothesis, goals of study, and justification for the research: the Director of Research and Planning or designee shall evaluate the soundness of the statements about empirical reality involving the relationship of the variables proposed for study as they relate to the goals of the project;
- (6) a detailed research design including:
 - (a) Department resources or personnel that may be needed for the study: specify the amount and extent of need as well as a description of the proposed duties of Department personnel;
 - (b) subjects for study: identify the sampling methodology and procedures for selecting inmate subjects or inmate records for the research. Describe the criteria used for sample selection as well as the proposed sample size and its relationship to the results;
 - (c) security procedures that shall be followed to protect subject privacy and confidentiality;
 - (d) measurement of key variables: proposed definition and measurement of key variables in the research. Explain how these definitions and measurement methods duplicate or differ from those of previous research on this topic;
 - (e) choice of research and data collection methodologies: Proposed procedures for data collection as well as justification for chosen method. If triangulation of collection methods is used, provide separate justifications for each method. Measurement devices (questionnaires, survey instruments, or survey schedules) shall be included;
 - (f) data analysis: indicate the kind of analysis proposed. Specify the purpose and logic of the proposed analysis. The Director of the Research and Planning Division or designee shall evaluate the analysis methodology in terms of its fit with the proposed hypothesis, variables, and data;
 - (g) informed consent: a copy of the informed consent documentation as described in 103 CMR 180.10;
 - (h) details of compensation, if any, to be paid to the inmate subjects;
 - (i) results of the Institutional Review Board or Human Subjects Committee of the principal researcher's home organization, when required;
 - (j) schedule for the various stages of research: a detailed timeline of the steps of the research process as well as an indication of specific duties to be performed by each member of the research team, scheduled start and completion dates, evidence that research can be completed within the timeframe specified;
 - (k) A detailed list of the expected outcomes of the research project.
- (7) application for new longitudinal studies shall, in addition to the aforementioned requirements, include:
 - (a) a copy of the survey instrument to be used;
 - (b) the frequency in which the interviews shall be conducted;
 - (c) a time schedule of when the interviews shall take place;
 - (d) the amount of time required to conduct each interview;
 - (e) a statement of the procedure used to conduct the interviews (in person, phone, mail, *etc.*).

180.09: Procedure for Obtaining Approval to Conduct Outside Social Science Research

- (1) For research involving inmate contact at a correctional facility, the following procedures listed in 103 CMR 180.09(1)(a) through (d) are required:
 - (a) two copies of the application prepared in accordance with 103 CMR 180.08 shall be submitted to the Director or Deputy Director of the Department Research and Planning Division. If the application is deemed complete and acceptable, one copy of the application shall be circulated to the appropriate Superintendent(s) of the facilities where the research will be conducted;
 - (b) the Superintendent shall forward one copy of the application with a recommendation to the Research and Planning Division;
 - (c) the Research and Planning Division shall forward the research application with the results of its review and a recommendation to the Commissioner for a final decision. The recommendations of the Superintendent(s) shall be forwarded to the Commissioner for consideration.
 - (d) The Commissioner shall provide written notification of the decision to approve or disapprove a research proposal to the Research and Planning Division, and the Superintendent(s). The Research and Planning Division shall notify the applicant.

- (2) For research to be performed at the Department that does not involve inmate contact, the following procedures listed in 103 CMR 180.09(2)(a), (b) and (c) are required:
 - (a) two copies of the application prepared in accordance with 103 CMR 180.08 shall be submitted to the Research and Planning Division. If the application is deemed complete and acceptable, one copy of the application shall be forwarded to the Commissioner for final decision, along with the recommendation of the Department's Research and Planning Division;
 - (b) research that is to be conducted involving Superintendents, Management, Staff, Officers, Vendors, *etc.*, shall also be approved by the Commissioner and if necessary, the applicable employee union;
 - (c) the Commissioner shall provide written notification of a decision to approve or disapprove a research proposal to the Research and Planning Division and the Superintendent. The Research and Planning Division shall notify the applicant.

- (3) For research that requires access to Criminal Offender Record Information (CORI), the following procedures listed in 103 CMR 180.09(3)(a) through (g) are required:
 - (a) application shall be made to the Criminal History Systems Board as required by CHSB regulations;
 - (b) a copy of the application shall be submitted to the Department's Research and Planning Division. If this application contains the information required by 103 CMR 180.08, a separate application to the Research and Planning Division is not necessary. If the application does not contain the information required by 103 CMR 180.08, a separate application meeting the requirements of 103 CMR 180.08 shall be submitted to the Research and Planning Division;
 - (c) individuals, contractors of the Department or other agencies with CORI clearance for purposes other than research (*e.g.* therapeutic treatment) shall file an "Access to Criminal Offender Record Information for the Purpose of Research" application with the Criminal History Systems Board. The Department's Research and Planning Division shall require compliance with 103 CMR 180.08 in the form of a separate application;
 - (d) the applicant shall provide the Research and Planning Division with a copy of the decision letter of the Criminal History Systems Board. No research involving access to CORI shall be permitted to commence until written approval from the Criminal History Systems Board and the Commissioner has been verified;
 - (e) the Commissioner shall provide written notification of the decision to approve or disapprove a research proposal to the Research and Planning Division and the Superintendent. The Research and Planning Division shall notify the applicant.
 - (f) an application in accordance with 103 CMR 180.08 shall be submitted for each research project. If the new research project is a continuation of a previously approved research project, a new, complete application shall be submitted. Before the public release of any of the research data or findings from the initial project, the Research and Planning Division, appropriate Superintendent(s), Division Head(s), and the Commissioner shall review all research reports, research notes, presentations, and draft of articles or publications involving the results of research conducted at the Department. All initial research projects results shall be reviewed before approval will be granted for continuation projects;

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(g) if the research project is to be included in any funded grant application, (federal, state, non-profit, private, foundation or for-profit), final approval from the Commissioner shall be secured **BEFORE** submitting the application for funding.

180.10: Conduct of Outside Social Science Research

(1) For research not involving direct contact with inmates, the following procedures listed in 103 CMR 180.10(1)(a), (b) and (c) are required:

- (a) research involving criminal offender record information (CORI) shall be conducted as required by CHSB regulations (803 CMR);
- (b) the principal researcher shall maintain records adequate to enable the Department's Research and Planning Division or the facility Superintendent to ascertain the status of the study at any time;
- (c) no employee of the Department (staff, officers, management, and vendors) shall receive compensation, remuneration, or payment of any kind from the researcher. An employee receiving such compensation, remuneration, or payment shall be subject to administrative sanctions deemed appropriate by the Commissioner;

(2) For research involving direct contact with inmates, the following procedures listed in 103 CMR 180.10(2)(a) through (e) are required:

- (a) the principal researcher shall maintain records adequate to enable the Department's Research and Planning Division or the facility Superintendent to ascertain the status of the study at any time;
- (b) informed consent: consent shall be given by persons who are competent to consent, have consented voluntarily, and are informed about the research. The study and its justification must be explained to all potential subjects. A written summary in layman's language shall be prepared to facilitate this explanation and a copy shall be provided to each potential subject. It shall be made clear to all inmates that their participation in the research shall be purely voluntary and their participation shall in no way affect the terms or length of their confinement;
- (c) any data collected during the course of the research shall be used only in the manner described to the subject prior to participation in the study or in a manner specifically permitted by the subject subsequently;
- (d) no inmate who is a research subject shall receive compensation, remuneration, or payment of any kind in connection with a research study without the express permission of the Superintendent of the institution. Such payments, if approved, shall be consistent with legal guidelines relating to work release and other inmate work programs conducted by the Department;
- (e) no employee of the Department shall receive compensation, remuneration, or payment of any kind from the researcher. An employee receiving such compensation, remuneration, or payment shall be subject to administrative sanctions deemed appropriate by the Commissioner.

180.11: Follow-up Reports on Outside Social Science Research

(1) Every six months, the principal researcher shall forward to the Research and Planning Division a progress report. This report shall detail the current stage of the project, the primary components completed and the primary components yet to be completed. The progress of the project relative to its proposed timeline should also be reported.

(2) When the entire research project is completed, a copy of any and all reports, research notes, presentations, or research papers that may be prepared or published shall be provided by the principal researcher to the Research and Planning Division and to the facility Superintendent(s) for review and comment. This material shall be submitted in a timely manner before the public release of any of the research data or findings.

(3) If the project is not completed within the approved time frame and an extension has not been granted by the Director or designee of the Research and Planning Division the project may be terminated at the discretion of the Research and Planning Division Director.

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- (4) In any reports, papers or research notes the researchers shall not use the correct names of subjects or describe any inmate or research subject, in such detail that the subjects might be identified.
- (5) The written policy and procedures governing the conduct of research within the Department shall comply with State and Federal regulations and guidelines. The use and dissemination of the research findings are expected to be within the framework of accepted professional and scientific ethics.
- (6) Failure to provide timely and adequate progress reports shall result in the termination of the research project.

180.12: Consideration of Other Research Related Requests

The Director of Research and Planning or designee reserves the right to determine whether some research related requests are such that the request may be granted with the submittal of a less extensive application than required by 103 CMR 180.08. Such research requests posed to the Department may include, but are not restricted to:

- (a) existing longitudinal studies whereby the researchers need to establish that participants of their original study currently reside at the Department. Researchers shall request permission to conduct research involving an inmate, whether it is to interview the inmate(s), have the inmate(s) complete a questionnaire or some other means of participation in a research study. However, in such cases, researchers are required to submit at a minimum the information required by 103 CMR 180.08. The Director of Research and Planning or designee may request additional information related to the study and grant permission for inmates to participate along with approval from the Superintendent at the institution where each identified inmate resides;
- (b) surveys sent to Department staff, a copy of which should be provided to the Research and Planning Division;
- (c) requests for information that involve research staff or other Department staff to ascertain data not already in the public domain.
- (d) requests to interview or otherwise study five or fewer inmates. Approval from the Superintendent(s) at the institution where the identified inmate resides is required.
- (e) requests to interview or otherwise study five or fewer employees of the Department. Approval from the Superintendent(s) or Division Head(s) where the employees work is required.

180.13: Violations of Outside Social Science Research

- (1) Violations of 103 CMR 180.00 on outside research or other department regulations in the course of the research may lead to removal of permission to conduct the current study and any further research.
- (2) Violations of 803 CMR 6.00: *Appendix (I)* with regard to criminal offender record information may subject the violator to civil or criminal liability under M.G.L. c. 6, §§ 177 and 178.

180.14: Department Social Science Research

- (1) Research Design - A research design for Department research shall be prepared in accordance with 103 CMR 180.08(4), (5), and (6).
- (2) Superintendent Review - If the study is to be performed at a correctional institution, the superintendent shall have the opportunity to review the research design and make any recommendations prior to the start of research.
- (3) Commissioner Review - The Commissioner shall have the opportunity to review the research design and make the decision regarding approval or disapproval of the research.

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(4) Voluntary Participation of Inmates - If the research design calls for the direct participation of inmates, such as by responding to interviews or completing questionnaires, it shall be made clear to all inmates that their participation in the research shall be voluntary.

(5) Dissemination of Research Results - Research results shall be available to the Commissioner and, where the study has been conducted at a correctional institution, the superintendent. Research findings shall ordinarily be published and distributed, unless it had previously been determined by the Commissioner that the study be conducted for internal purposes only.

180.15: Responsible Staff

(1) The Director of Research and Planning shall be responsible for the implementation of 103 CMR 180.00 throughout the Department.

(2) Each superintendent shall be responsible for implementation of this policy, and for the development of any and all necessary and appropriate institutional policies and procedures.

180.16: Annual Review

103 CMR 180.000 shall be reviewed annually by the Commissioner or a designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the central policy file indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

180.17: Severability

If any article, section, subsection, sentence, clause, or phrase of 103 CMR 180.00 if for any reasons held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 180.00.

REGULATORY AUTHORITY

103 CMR 180.00: M.G.L. c. 124, §§ 1(c), (k) and (q).

NON-TEXT PAGE