

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 (Department) policy governing research and evaluation within the Department.

180.02: 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.

180.03: Applicability

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

180.04: Access to Regulation

103 CMR 180.00 shall be maintained within the Department's central policy file and shall 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.

180.05: Definitions

Criminal Offender Record Information (CORI). 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 proceeding, sentencing, incarceration, rehabilitation or release.

Department. The Department of Correction.

Department of Criminal Justice Information Services (DCJIS) (formerly the Criminal History Systems Board). The Massachusetts authority responsible for the quality control of all data entered into the NCIC systems, and management of policy compliance for the collection, storage, dissemination, and usage of CORI through the DCJIS and/or other mediums.

Department Research. Studies conducted by Department employees usually by, or in conjunction with, the Department's Research and Planning Division.

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Division Head. The administrator responsible for the operations of a particular division.

Executive Director of Strategic Planning and Research. The administrator responsible for the oversight of the Performance Measures Division, Research and Planning, and Grants.

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

Outside Research. Studies conducted by individuals from universities, research firms, or other agencies. These individuals are not Department employees conducting research under the auspices of the Department.

Principal Researcher. The person who provides on-site supervision of an outside research study, and is responsible for the detailed conduct of the research.

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

Superintendent. The chief administrative officer of a state correctional institution.

180.06: Medical Research

Inmates within the custody of the Department shall be permitted to participate in medical and pharmaceutical research. 103 CMR 180.00 policy permits inmate participation in medical or pharmaceutical research. Institutions electing to participate in such biomedical research shall be in compliance with all state and federal guidelines.

(1) All proposals for clinical trials under 103 CMR 180.00 shall be submitted to the Deputy Commissioner of Clinical Services and Reentry for review and approval. Such trials must also be reviewed and approved by the Lemuel Shattuck Hospital Institutional Review Board (IRB). A copy of all proposals shall be kept on file in the Department's Research and Planning Division;

(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, *et. seq.*, *Protection of Human Subjects*), 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 within conditions approved by the Deputy Commissioner of Clinical Services and Reentry. The Health Services Division shall establish policies and procedures consistent with 103 CMR 180.00. (*See* 103 DOC 662: *Clinical Trials and Medical Research Involving Inmate Participation*, available at <http://www.mass.gov/doc/policy>).

(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 180.05 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 Executive Director of Strategic Planning and Research shall determine if any areas of the research require review by the Deputy Commissioner of Clinical Services and Reentry. If the determination is yes, both shall review the areas of research pertaining to his or her area of expertise and then make a joint recommendation to the Superintendents and the Commissioner.

180.07: Application to Conduct Outside Social Science Research

Applications to conduct outside research shall include the following:

- (1) a 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) a *curricula vitae* or resume 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) a research hypothesis, a list of the goals of study, and a justification for the research: the Research Director 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) the 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. Data collection protocol (questionnaires, survey instruments, and/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 Executive Director of Strategic Planning and Research 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 180.08;
 - (h) details of compensation of any type, if any, proposed to be paid or made to the inmate subjects;
 - (i) results of the Institutional Review Board or Human Subjects Committee of the principal researcher's affiliated 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;
 - (l) any item or equipment (*e.g.* recording devices) proposed to be used to conduct the research study.
- (7) an application for new longitudinal studies shall, in addition to the requirements in 103 CMR 180.07(6)(a) through (l), include:
 - (a) a copy of the survey instrument to be used;
 - (b) the frequency in which the interviews/surveys shall be conducted;
 - (c) a time schedule of when the interviews/surveys shall take place;

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- (d) the amount of time required to conduct each interview/survey;
- (e) a statement of the procedure used to conduct the interviews (*e.g.*, in person, phone, mail).

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

(1) For research involving inmate contact at a correctional facility, the following procedures are required:

- (a) Three hard copies and one electronic version of the application prepared in accordance with 103 CMR 180.06 shall be submitted to the Executive Director of Strategic Planning and Research or designee. If the application is deemed complete and acceptable, one copy of the application shall be circulated by the Research and Planning Division to the appropriate Superintendent(s) of the institutions and/or Division Heads where the research will be conducted;
- (b) the Superintendent and/or Division Head shall return a 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, including recommendations from Superintendents and/or Division Heads, to the Commissioner for final decision;
- (d) the Commissioner shall provide written notification of the decision to approve or disapprove a research proposal to the Research and Planning Division. The Research and Planning Division shall notify the applicant and all relevant parties, such as the Superintendents and Division Heads.

(2) For research to be performed at the Department that does not involve inmate contact, the following procedures are required:

- (a) three hard copies and one electronic version of the application prepared in accordance with 103 CMR 180.06 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. The Research and Planning Division shall notify the applicant and all Department Superintendents and Division Heads as relevant.

(3) For research that requires access to CORI, the following procedures are required:

- (a) an application shall be made to DCJIS as required by 803 CMR 8.00: *Obtaining Criminal Offender Record Information (CORI) for Research Purposes*. An application may be requested by contacting the DCJIS Legal Department directly;
- (b) the date on which the DCJIS Research application was submitted shall be provided to the Department's 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 "Application for Access to CORI for Research Purposes" with DCJIS. The Department's Research and Planning Division shall require compliance with 103 CMR 180.06 in the form of a separate application;
- (d) the applicant shall provide the Research and Planning Division with a copy of the decision letter from DCJIS. No research involving access to CORI shall be permitted to commence until written approval from DCJIS 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. The Research and Planning Division shall notify the applicant and all Department Superintendents and Division Heads as relevant.

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(4) All proposed research projects require an application to be submitted in accordance with 103 CMR 180.06. If the 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 drafts of articles or publications involving the results of research conducted at the Department. All initial research project results shall be reviewed before approval will be granted for continuation projects;

(5) For research projects intended 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. The Department cannot guarantee approval of projects funded in advance of seeking approval to conduct research from the Department.

(6) Documentation supporting Institutional Review Board (IRB) or Human Subject Review committee approval shall be furnished in advance of submission for Department review.

180.09: Conduct of Outside Social Science Research

(1) For research not involving direct contact with inmates, the following procedures are required:

- (a) research involving CORI shall be conducted as required by 803 CMR 2.00 through 9.00;
- (b) the principal researcher shall maintain records adequate to enable the Department's Research and Planning Division or the institution Superintendent and/or Division Head(s) 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 are required:

- (a) the principal researcher shall maintain records adequate to enable the Department's Research and Planning Division or the institution Superintendent and/or Division Head(s) 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 shall be explained to all potential participants. A written summary in layman's language shall be prepared to facilitate this explanation and a copy shall be provided to each potential participant. It shall be made clear to all inmates that participation in the research shall be purely voluntary and participation shall in no way affect the terms or length of 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.

180.10: 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. The progress of the project relative to its proposed timeline should also be reported. This report shall be on official letterhead and detail the current stage of the project, the primary components completed and the primary components to be completed.

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Note: Failure to provide timely and adequate progress reports may result in the termination of the research project.

- (2) Any changes to the study from that approved by the Department cannot be made without explicit approval by the Executive Director of Strategic Planning and Research or designee.
- (3) Notification of any incidents or problems resulting from the research must be made to the Executive Director of Strategic Planning and Research or designee within 24 business hours of occurrence.
- (4) When the entire research project is completed, notification of completion, 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 for review and comment. The Executive Director of Strategic Planning and Research or designee shall share such documents with appropriate Superintendents, Division Heads and other Department staff. This material shall be submitted at least one month prior to the public release of any of the research data or findings.
- (5) All subsequent publications and presentations derived from the findings of this research project, including results, should be submitted to the Research and Planning Division for review and comment one month prior to the public release of the publication or the presentation.

Note: Failure to notify the Research and Planning Division of project completion and the submission of all related documents, including publications and presentations, for review and comment may result in the denial of future access to the Department for research purposes.
- (6) If the project is not completed within the approved time frame an extension must be requested from the Executive Director of Strategic Planning and Research or designee. If an extension has not been granted by the Executive Director of Strategic Planning and Research or designee, the project may be terminated.
- (7) 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 unless the participant explicitly agrees in writing.
- (8) 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 finding(s) are expected to be within the framework of accepted professional and scientific ethics.

180.11: Consideration of Other Research Related Requests

The Executive Director of Strategic Planning and Research 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 180.06. 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 180.06. The Executive Director of Strategic Planning and Research 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 each identified inmate is housed is required.

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- (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.

180.12: 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 8.00: *Obtaining Criminal Offender Record Information (CORI) for Research Purposes* with regard to CORI may subject the violator to civil or criminal liability under M.G.L. c. 6, §§ 177 and 178. M.G.L. c. 6, §§ 177 and 178 provide that it is a criminal offense to knowingly disclose to any unauthorized person or agency any criminal offender record information concerning an individual or to knowingly falsify any criminal offender record information. Unauthorized access to or dissemination of criminal offender record information is punishable by a fine of not more than \$5,000.00, or imprisonment in a jail or house of correction for not more than one year, or both for each knowing violation. Any such dissemination is also subject to a suit for civil damages and/or a civil fine of not less than \$100.00 and not more than \$1,000.00 for each such knowing violation.

180.13: Department Social Science Research

- (1) Research Design. A research design for Department research shall be prepared in accordance with 103 CMR 180.06(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) Division Head Review. If the study is to be conducted in conjunction with a Department division, the Division Head shall have the opportunity to review the research design and make any recommendations prior to the start of the research.
- (4) Commissioner Review. The Commissioner shall have the opportunity to review the research design and make the decision regarding approval or disapproval of the research.
- (5) 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.
- (6) Dissemination of Research Results. Research results shall be available to the Commissioner and, in instances 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.

180.14: Responsible Staff

- (1) The Executive Director of Strategic Planning and Research 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.

180.15: Annual Review

103 CMR 180.00 shall be reviewed at least 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 revisions, additions or deletions which shall be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

103 CMR: DEPARTMENT OF CORRECTION

180.16: 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).