



Massachusetts
Department of Correction
POLICY

Effective Date	1/21/2025	Responsible Division Deputy Commissioner, Clinical Services and Reentry
Annual Review Date	1/21/2025	

Policy Name

103 DOC 459
MASSACHUSETTS TREATMENT CENTER
COMMUNITY ACCESS BOARD POLICY

M.G.L. Reference:
M.G.L. c. 123A, §§ 1, 2, 6A and 9

DOC Policy Reference:
103 DOC 459A; 103 CMR 460

ACA/PREA Standards:
5-ACI-5B-02; 5-ACI-5B-08

Attachments
Yes No

Library
Yes No

Applicability: Staff, Incarcerated Individuals,
Residents

Public Access
Yes No

Location:
DOC Central Policy File
Institutional Policy File

PURPOSE:
The purpose of this policy is to establish a Community Access Board (CAB) for the Massachusetts Treatment Center (MTC) in accordance with M.G.L. c. 123A to consider a Resident’s placement within a Community Access Program (CAP) and conduct an annual review of a person’s sexual dangerousness.

RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:
Deputy Commissioner, Clinical Services and Reentry
Assistant Deputy Commissioner, Southern Sector
Superintendents

CANCELLATION:
This policy cancels all previous Department or institutional policies, policy statements, bulletins, and rules and procedures regarding the CAB that are inconsistent with this policy.

SEVERABILITY CLAUSE:
If any part of this policy is, for any reason held to be in excess of the authority of the Commissioner, such decision will not affect any other part of this policy.

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459.01

INTRODUCTION

The Massachusetts Department of Correction (Department or DOC) is required by M.G.L. c. 123A, § 6A to establish a CAB. The CAB shall evaluate those persons adjudicated as sexually dangerous persons (SDP) and committed to the MTC for SDPs for appropriateness for participation in a community access program (CAP) and establish conditions to ensure the safety of the general community. The CAB shall also give to the Superintendent of the MTC or designee a written report of its findings, including dissenting views, regarding an SDP's participation in a CAP.

The CAB shall also conduct an annual review of all SDPs committed to the MTC to determine progress of treatment, make recommendations regarding treatment, and review current sexual dangerousness. Residents shall be given a forty-eight (48) hour written notice of such meeting. This notice may be waived by the resident in writing. The CAB shall provide, to the Superintendent of the MTC or designee, a written annual report of its findings, including dissenting views. Each annual report shall also include a statement regarding the CAB's opinion of the Resident's current sexual dangerousness and the basis(es) of that opinion. The CAB shall update a Resident's annual report for the purpose of a hearing in the Massachusetts Superior Court under M.G.L. c. 123A, § 9 (Section 9 trial), if the CAB's last annual report predates the scheduled date of the Resident's § 9 trial by six (6) months or longer. This time frame may be shortened or lengthened by the Department or by court order.

459.02

DEFINITIONS

Annual Review: The title of the written annual report of the CAB's findings, including dissenting views, of a Residents to determine the Resident's progress of treatment, make recommendations regarding the Resident's treatment, and review the Resident's current sexual dangerousness.

Annual Review and § 9 Trial Update: The title of the CAB's written annual report if prepared in anticipation of a § 9 trial in the Massachusetts Superior Court under M.G.L. c. 123A, § 9.

Commissioner: The Commissioner of the Massachusetts Department of Correction.

Community Access Board (CAB): The board established pursuant to the provisions of M.G.L. c. 123A, § 6A consisting of five (5) members who are appointed by the Commissioner and whose function is to consider a Resident's placement within a Community Access Program and to conduct annual reviews of a Resident's sexual dangerousness.

Community Access Program (CAP): A program of gradual, supervised, access into the community for eligible civilly committed Residents through participation in activities geared toward establishing and strengthening a network of supports and services to aid in stabilizing the Resident's adjustment back into the community when released from civil commitment as an SDP pursuant to the provisions of M.G.L. c. 123A, § 9.

Community Access Program Report() The written findings of the CAB, including dissenting views, the CAB is required to issue pursuant to M.G.L. c. 123A, § 6A, when evaluating a Resident's eligibility to participate in the CAP and the conditions and parameters of a Resident's participation in the CAP.

Consulting Community Access Board Members: The CAB members who are licensed to practice psychology or psychiatry in the Commonwealth of Massachusetts and who have been awarded either a Ph.D., Ed.D., or similar doctorate level degree in psychology or an M.D. in psychiatry and who are not Department employees.

Correctional Institution: A state or county correctional facility located within Massachusetts.

Department: The Department of Correction.

Deputy Superintendent of Reentry: (For the purpose of this policy) A Department manager whose responsibility is to manage matters relating to programs and treatment at the MTC.

Director of Forensic Psychological Services/Chairperson of the Community Access Board (CAB Chairperson): The senior psychologist or psychiatrist employed by the Department and appointed by the Commissioner responsible for the CAB.

Professional Community Access Board Members: Members of the CAB who are licensed to practice psychology or psychiatry in the Commonwealth of Massachusetts and who have been awarded either a Ph.D., Ed.D., or similar doctorate level degree in psychology or an M.D. in psychiatry.

Resident: A person civilly committed to the MTC as an SDP pursuant to the provisions of M.G.L. c. 123A, regardless of the correctional institution in which the person actually resides.

Sexually Dangerous Person (SDP): As defined in M.G.L. c. 123A, § 1: "Any person who has been (i) convicted of or adjudicated as a delinquent juvenile or youthful offender by reason of a sexual offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in sexual offenses if not confined to a secure facility; (ii) charged with a sexual offense and was determined to be incompetent to stand trial and who suffers from a mental abnormality or personality disorder which makes such person likely to engage in sexual offenses if not confined to a secure facility; or (iii) previously adjudicated as such by a court of the commonwealth and whose misconduct in sexual matters indicates a general lack of power to control his sexual impulses, as evidenced by repetitive or compulsive sexual misconduct by either violence against any victim, or aggression against any victim under the age of sixteen years, and who, as a result, is likely to attack or otherwise inflict injury on such victims because of his uncontrolled or uncontrollable desires."

Superintendent: (For the purpose of this policy) The chief administrative officer of the MTC, who is appointed by the Commissioner pursuant to M.G.L. c. 125, § 2.

Massachusetts Treatment Center (MTC): The correctional institution established pursuant to M.G.L. c. 123A, § 2, for the care, custody, treatment, and rehabilitation of persons adjudicated as being sexually dangerous pursuant to the provisions of M.G.L. c. 123A.

459.03

BOARD MEMBERSHIP AND COMPOSITION

- A. A meeting of the CAB shall consist of five (5) board members. To ensure representation for all meetings of the CAB, the Commissioner may appoint a pool of persons with the qualifications described in this section to sit as CAB members.
1. If the CAB Chairperson is not available to preside over a CAB meeting, the CAB Chairperson may designate a Department Professional CAB Member to preside over the CAB meeting.
 2. The CAB Chairperson shall continue to be responsible for the overall quality of the review process and compliance with M.G.L. c. 123A, § 6A.
 3. In the event of a vacancy in the position of the CAB Chairperson, the MTC Superintendent may designate another Department Professional CAB Member to fulfill the duties of the CAB Chairperson.
- B. Membership at a CAB meeting shall include three (3) Department employees and two (2) Consulting CAB Members. The Commissioner may designate Department employees who meet criteria as Professional CAB Members or who hold a position as an administrator or upper level supervisor and who possess knowledge of and experience in security, institution operations and/or treatment of sex offenders.

459.04

BOARD MEETING, DELIBERATION AND OPINIONS

- A. Five (5) members of the CAB shall be present in order for the CAB to review a Resident's eligibility for participation in, or condition of, the CAP; conduct an annual review of a Resident's current sexual dangerousness; or conduct a § 9 update of a Resident's sexual dangerousness. If a member of the CAB anticipates a conflict of interest or other reason for being unable to render an objective opinion, the member shall notify the CAB Chairperson sufficiently in advance of the CAB meeting so that arrangements may be made for an alternate member to sit on the CAB.
1. The CAB members shall have access to all records of the Resident being evaluated. Prior to the CAB's evaluation, the CAB members shall review all records of the Resident. These records include but

are not limited to six-part folders, sex offender treatment records, medical records, mental health records, and criminal records.

- B. The CAB Chairperson shall issue a written notice of the date and time of the CAB meeting to the Resident being evaluated. This notice shall be issued at least forty-eight (48) hours prior to the meeting and shall inform the Resident that the Resident may attend the meeting. The Resident may waive this forty-eight (48) hour notice in writing. The CAB Chairperson or designee may, in the Chairperson's discretion and for good cause shown, reschedule the CAB meeting one (1) time at the request of the Resident.
1. If the Resident attends the CAB meeting, a member of the CAB shall inform the Resident of the limits of confidentiality in a manner consistent with Commonwealth v. Lamb, 365 Mass. 265 (1974). If the Resident decides to participate in the meeting, the Resident may provide the CAB with any information the CAB deems relevant to its decision-making function. All CAB members must agree that the Resident understands the limits of confidentiality. All CAB reports shall contain a statement about the Resident's understanding of the limits of confidentiality.
 2. The CAB may also ask the Resident questions. The Resident may decline to answer any question and may terminate the interview with the CAB at any time.
 3. The CAB Chairperson or designee, shall permit a Resident to request that the portion of the CAB meeting that includes the Resident's interview with the CAB, be audio recorded. The Resident must submit a written request to the CAB Chairperson prior to the day of the CAB evaluation. The CAB Chairperson or designee shall be responsible for providing the equipment necessary to audio record the CAB's interview of the Resident.
- C. The CAB Chairperson or designee presiding over the CAB meeting has the discretion to permit persons in addition to the CAB members and the Resident to be present during so much of the CAB meeting as includes the interview of the Resident and sex offender treatment provider(s). Such persons may provide the CAB with any information relevant to the CAB's decision-making function. Only the CAB members shall be present during the deliberation and rendering of opinions. All determinations shall be by simple majority.
- D. CAB Members may not abstain from rendering an opinion. Once the opinions are rendered, CAB members may not, at any time or for any reason, change their opinions about the Resident's sexual dangerousness as of the date of the CAB evaluation. Prior to rendering opinions, at the request of a CAB member, the CAB Chairperson or designee has discretion to recess the CAB meeting to provide the CAB members additional time to

consider their opinions or to obtain additional information to assist the CAB members in rendering their opinions.

1. If prior to the next annual review, the Superintendent becomes aware of additional information about the Resident, the Superintendent shall consult with the CAB Chairperson to determine if the information is of such a nature as to warrant reconvening the CAB. After such consultation, the Superintendent may instruct the CAB Chairperson to convene the CAB to review the additional information, at which time the CAB members may reconsider their opinions.

459.05

REPORTING

- A. The CAB Chairperson or designee presiding over a CAB meeting shall assign responsibility for writing annual reports, § 9 trial updates, and CAP reports. The first page of each CAB report shall include the following:
 1. The numerical breakdown of the opinion of the CAB members (*e.g.*, remains sexually dangerous or is no longer sexually dangerous);
 2. The name and professional credentials, if applicable; or Department title, if applicable (*e.g.*, John Smith, Ph.D., Mary Jones, M.D., Jane Doe, Deputy Superintendent of Reentry, etc.), of CAB member present at the meeting;
 3. The Resident's name, date of birth, commitment number, date of SDP commitment, and status of criminal sentence (*e.g.*, date sentence expired or maximum sentence expiration date);
 4. The date of the CAB evaluation;
 5. The date of the last CAB evaluation; and
 6. The name and professional credentials, if applicable, of observers present at the evaluation.
- B. In the event of a unanimous decision, the CAB Chairperson or designee presiding over a CAB meeting shall assign to a Professional CAB Member the responsibility of writing the report. Each report shall be signed only by the author. Each report shall include all significant facts considered by the CAB members during their deliberations and in their ultimate decision.
- C. In the event of a non-unanimous decision, the CAB shall issue majority and minority reports. The CAB Chairperson or designee shall assign a Professional CAB Member to write the majority report and a Professional CAB Member who opined in accordance with the minority to write that report. If the minority does not include a Professional CAB Member, the CAB Chairperson or designee shall assign the minority report to another

CAB member who was present at the meeting. Minority and majority reports shall be signed by the respective authors and shall include reasons for the opinions contained therein.

- D. All reports must be submitted to the CAB Chairperson within thirty (30) calendar days after the CAB meeting unless a shorter or longer time is requested by the CAB Chairperson is established by court order. Only the Superintendent or designee, or a court, can approve an extension of time for submission of a report. Prior to submitting CAB reports to the CAB Chairperson, all reports authored by Consulting Board Members shall be reviewed by responsible vendor staff as set forth in the contract under which such services are rendered to assure compliance with relevant statutes, regulations, policies, and/or guidelines. For all reports authored by Department CAB members, the CAB Chairperson or designee shall review each report to ensure that it reflects the major findings and conclusions of the CAB members and may request modification of any report in order to meet the required guidelines and standards. Such modification shall be made within seven (7) calendar days of the request.

459.06 **RECORD KEEPING**

Only the reports of the CAB as outlined in 103 DOC 459.05 shall be included in the Resident's Department six-part file and treatment files.

459.07 **COMMUNITY ACCESS PROGRAM**

The CAB shall review all applications to the CAP pursuant to the 103 DOC 459A, *Community Access Program Eligibility and Application Procedure*.

459.08 **TRANSFER REFERRALS PURSUANT TO M.G.L. C. 123A, § 2A**

Recommendations made by the CAB regarding the potential transfer of a Resident who continues to serve a criminal sentence from the MTC to another correctional institution shall be done in accordance with 103 CMR 460, *Transfer Procedures for the Massachusetts Treatment Center*. The CAB Chairperson or designee shall make the referral.

459.09 **TIME LIMITS**

All procedural time limits set forth in this policy are directory and may be modified by the Superintendent, the Commissioner, or their designee(s).

459.10 **PRIVATE RIGHT OF ACTION**

Nothing contained in this policy shall provide or be construed as providing any private right of action for enforcement or for damages.