

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE		EFFECTIVE DATE 04/15/2019	NUMBER 03.01.135
SUBJECT DISCHARGE/TERMINATION OF SENTENCE		SUPERSEDES 03.01.135 (01/23/2014)	
		AUTHORITY MCL 28.271 et. seq., 791.203, 791.234, 791.237, 791.242, 800.33; LICKFELDT V. MDOC ET AL., 247 MICH APP 299; 636 NW2D 272 (2001)	
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POLICY STATEMENT:

Prisoners and parolees shall be discharged from Department custody and supervision, and have their sentences terminated, as set forth in this policy.

RELATED POLICY:

03.01.120 Detainers and Pending Felony Charges

POLICY:

GENERAL INFORMATION

- A. For purposes of this policy, the offender’s discharge date is either his/her controlling maximum sentence less applicable credits or his/her parole discharge date as determined by the Parole Board.
- B. This policy does not apply to discharge from probation.

DISCHARGE OF PRISONERS

- C. Each Warden shall ensure prisoners under their supervision, including those temporarily housed in the Center for Forensic Psychiatry or another non-Department facility (e.g., jail, hospital), are not incarcerated by the Department beyond their discharge dates except as authorized pursuant to Paragraph H. The Correctional Facilities Administration (CFA) Deputy Director or designee shall be responsible for prisoners who are transferred to another jurisdiction to serve their Michigan sentence.
- D. A Sentence Discharge Report shall be generated by the appropriate Record Office Supervisor on a monthly basis identifying those prisoners who are approximately 180 calendar days from their maximum date. For each prisoner identified in the report, the appropriate Record Office Supervisor shall ensure that the appropriate reconciliation entry is reflected in the Department’s computerized database for the discharge. Questions regarding discharge dates or time calculations shall be referred to the Time Computation Unit (TCU) Manager or designee within the Operations Division, CFA.
- E. The TCU shall generate a monthly report to identify all prisoners who are approximately 120 calendar days from their maximum date. For each prisoner identified, the TCU shall verify that the prisoner’s discharge date has been correctly calculated and all required good time or disciplinary credit reviews have been completed pursuant to PD 03.01.100 “Good Time Credits” and PD 03.01.101 “Disciplinary Credits.” A new Time Review & Disposition form (CSX-482) or a new Basic Information Sheet (CSX-117) shall be completed by the TCU and forwarded to the appropriate Record Office Supervisor if there is a change in the prisoner’s maximum date/sentencing information. All changes shall be entered into the Department’s computerized database by the TCU.
- F. Before a prisoner’s discharge on their maximum discharge date, a Certificate of Discharge/Sentence Termination/Sentence Discharge by Court Order (CSJ-130) shall be issued by the appropriate Warden or designee. For prisoners temporarily housed in the Center for Forensic Psychiatry or another non-Department facility, the Warden of the sending facility or designee shall provide notification to that

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facility of the prisoner's discharge date at least 30 calendar days before that date. The Warden shall ensure the signed certificate is forwarded to the facility before the discharge date with notification that the prisoner must be released on that date, unless they are being held for another reason or as authorized pursuant to Paragraph H. For prisoners serving their sentences in another jurisdiction, the certificate shall be completed by the TCU Manager or designee and signed by the appropriate CFA Assistant Deputy Director (ADD).

- G. The appropriate Record Office Supervisor shall ensure that the prisoner's Record Office file, the Department's computerized database, and Law Enforcement Information Network (LEIN) are checked to determine whether there are any documented detainers pending felony charges or warrants, or personal protection orders (PPOs), including a judicial finding of child abuse or neglect, outstanding regarding the prisoner. This shall occur approximately 180 calendar days before the discharge date but no later than 30 calendar days before the discharge date and, except as set forth in Paragraph O, no more than 24 hours, before the prisoner's discharge date. The Record Office file and the Department's computerized database also shall be checked no more than 24 hours before the discharge date to ensure there have been no changes.
- H. If an immigration detainer issued by Immigration and Customs Enforcement (ICE) is entered into the Department's database, the appropriate Record Office Supervisor or designee shall immediately notify ICE of the prisoner's discharge date. The prisoner may be held for up to an additional 48 hours after the discharge date if requested by ICE. Weekends and federal holidays are not counted. The Record Office Supervisor or designee shall ensure that the request and release date is documented in the prisoner's case notes in the Department's computerized database.
- I. If any detainer is found, the appropriate Record Office Supervisor or designee shall immediately notify the appropriate Law Enforcement agency that the Department must release the prisoner on the discharge date regardless of the existence of a warrant or the inability of the agency to timely execute a detainer. If timely arrangements are made by the agency that has a detainer, the prisoner shall be released on the discharge date as arranged by that agency.
- J. If a PPO, including a judicial finding of child abuse or neglect, is found, and the address and/or telephone number of the person who obtained the PPO was included with the information on the PPO, the Record Office Supervisor or designee shall immediately provide that information to the Crime Victim Services Section in the Office of the Parole Board. That Section shall attempt to notify that person of the prisoner's discharge date in writing and by telephone, if the address and telephone number are identified, unless notification will be provided pursuant to PD 01.06.120 "Victim Notification." The Record Office Supervisor or designee also shall immediately notify the appropriate Law Enforcement agency via LEIN of the prisoner's discharge date and the existence of the PPO unless notification will be provided pursuant to PD 01.06.120. All attempts to contact the person who obtained the PPO and contacts with Law Enforcement shall be documented in case notes in the Department's computerized database.
- K. Pursuant to MCL 791.233d, a prisoner shall not be discharged until they have provided a DNA sample. The prisoner's consent to take the sample is not required. The Warden shall ensure that the prisoner is referred to appropriate health care staff to collect the sample unless a valid sample was previously provided as indicated in LEIN. The sample shall be collected by health care staff or other trained staff designated by the CFA Deputy Director. A DNA Sample - Collection Record (CHJ-269) shall be completed indicating the prisoner's compliance with or refusal to provide the sample. If a prisoner refuses to allow health care staff to collect the sample, the Warden shall ensure custody staff are available to assist in collecting the sample. Only reasonable force consistent with the requirements set forth in PD 04.05.110 "Use of Force" is to be used to collect the sample. The Warden shall ensure that their ADD is notified whenever there is a need to use force to collect a sample. The Records Administrator shall notify the Michigan State Police when force is used to collect a sample.
- L. The Warden also shall ensure that each prisoner has been tested for HIV and Hepatitis C (HCV) before discharge. In addition, each prisoner shall be educated in a method determined by the Bureau of Health

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Care Services (BHCS) as required under PD 03.04.120 "Control of Communicable Bloodborne Diseases." If the prisoner refuses to be tested, the appropriate health care staff shall notify the BHCS Administrator or designee through the appropriate chain of command. The BHCS Administrator or designee shall consult with the CFA Deputy Director and the Office of Legal Affairs (OLA) Administrator for direction on how to proceed.

- M. If a mentally ill prisoner requires continuing institutional care or other mental health services upon discharge, the case shall be referred to the Mental Health Reentry Team. Referrals shall be initiated sufficiently before the prisoner's discharge date to ensure that follow-up care can be completed by the discharge date.
- N. If a prisoner with a mental or other disability is unable to care for themselves, the Warden or designee shall contact appropriate officials in the Department of Health and Human Services or local welfare authorities in the area to which the prisoner is to be released. Referrals shall be initiated sufficiently before the prisoner's discharge date to ensure that follow-up care can be completed by the discharge date.
- O. A prisoner whose discharge date is on a Saturday, Sunday, or State holiday shall be released on that day except as set forth in Paragraph H. The prisoner shall not be held until the next business day and shall not be released early. The Warden shall ensure that a weekend or holiday discharge is handled in accordance with this policy. Any necessary paperwork, file checks, and issuance of funds and clothing may be completed on the business day immediately preceding the discharge date. However, required LEIN checks shall be conducted no more than 24 hours before the discharge date.
- P. Before release, each prisoner shall read or have read to them the Prisoner Pre-Release Notice (CSJ-290), that shall be signed by the prisoner and witnessed by staff. A copy of the completed notice shall be provided to the prisoner.
- Q. Except if discharging to the custody of another Law Enforcement agency, a prisoner shall be given the following upon release:
 - 1. Clothing as required by PD 04.07.110 "State-Issued Items and Cell/Room Furnishings."
 - 2. A total of \$75 if the prisoner has no other visible means of support (e.g., a job) and has conserved personal funds in a reasonable manner, as determined by the Warden or designee. However, a prisoner shall be given only the balance in his/her trust account and the difference between that amount and \$75 consistent with requirements set forth in PD 04.02.105 "Prisoner Funds."
 - 3. If the prisoner is unable to arrange transportation, the Warden or designee shall arrange transportation at Department expense to a location as close as possible to the place in this state where the prisoner will reside or work. If the prisoner has not identified a location to reside or work, s/he will be transported to where they were sentenced. If it is verified, however, that the prisoner will reside outside the State of Michigan, the Warden or designee may arrange transportation at Department expense to a location as close as possible to that residence with approval of the appropriate Deputy Director. Transportation shall be via the most economical public transportation available to the location. The Warden shall ensure that the appropriate ticket(s) are purchased for the prisoner, that staff escorts the prisoner to the point of embarkation, and that the prisoner's departure from that site is confirmed.
 - 4. An identification card that shall include the following based upon all available information:
 - a. A current photograph of the prisoner.
 - b. The prisoner's legal name as identified on the prisoner's birth certificate or on any one of the other citizenship identification documents specified by the Secretary of State as

being necessary to obtain an operator's license or state personal identification card, if those documents are available.

- c. The prisoner's date of birth.
 - d. A statement indicating the prisoner was placed on parole or discharged upon completion of his or her sentence.
5. The following documents:
- a. Work Force Development packet, if available.
 - b. The prisoner's institutional history including the misconduct summary report from the Department's computerized database, certificates for successfully completed programming provided by the Department or a person or entity under contract with the Department, General Education Development (GED) certificate or other educational degree, and institutional work record.
 - c. Certificate of employability, if applicable.
 - d. Other information considered relevant by the Department.
 - e. Documents stored by the Department that are determined to be essential to the offender.
- R. Prisoners registered pursuant to the Sex Offenders Registration Act (MCL 28.271, *et seq.*) shall be notified of their responsibilities under that Act before release from a correctional facility as set forth in PD 01.06.115 "Sex Offenders Registration Act." The prisoner's proposed place of residence or domicile upon release shall be reported in accordance with PD 01.06.115.
- S. The appropriate Record Office Supervisor shall ensure that the Discharge Processing Checklist (CSJ-170) is completed for each prisoner before the discharge date.

Discharge by Court Order

- T. If a prisoner's conviction is overturned and their release is specifically ordered by the court, the prisoner shall be discharged upon receipt of the court order provided the prisoner is not serving on another sentence. Generally, a prisoner shall not be discharged based only on an appellate court opinion. Any exception to this general rule must be approved by the OLA Administrator or designee. The court order must be received directly from the sentencing court and be verified with the court by the TCU Manager or designee before releasing the prisoner. The prisoner's discharge shall be processed consistent with the requirements set forth in this policy and the Unanticipated Release Checklist (CSJ-170a). If the prisoner is serving their sentence in another jurisdiction, the Certificate of Discharge/Sentence Termination/Sentence Discharge by Court Order (CSJ-130) shall be issued by the TCU Manager or designee. Staff shall refer to their facility's Emergency Control Manual and the Record Office Manual for direction pertaining to an unanticipated release of a prisoner.
- U. Orders of expungement from states other than Michigan shall be sent to the Automated Data Systems Section (ADSS) for removal from the Offender Tracking Information System (OTIS). Questions regarding verification of any expungement shall be forwarded from ADSS to the TCU Manager or designee for review/verification before removal from OTIS.
- V. Michigan pardons, discharges from a Michigan sentence and State of Michigan expungements shall be forwarded to the TCU Manager or designee for review/verification. If the TCU Manager has any questions regarding a pardon, discharge, or expungement, the question shall be forwarded to the OLA Administrator for resolution.

- W. Pursuant to MCL 791.283, reentry services shall be provided to prisoners who have a sentence or conviction reversed, vacated, or overturned.

Discharge Due to Death

- X. If a prisoner dies while serving their sentence, a Certificate of Discharge/Sentence/Termination/Sentence Discharge by Court Order (CSJ-130) shall be issued by the appropriate Warden. However, if the prisoner dies while serving their Michigan sentence in another jurisdiction, the certificate shall be issued by the TCU Manager or designee.

Release Notification

- Y. Whenever a prisoner is discharged, the appropriate Record Office Supervisor shall ensure that notice of the discharge is transmitted via LEIN administrative message to the Sheriff's Department and Michigan State Police post with jurisdiction over the location to which the prisoner is to be released or, if unknown, the county or counties from which the prisoner was sentenced. The message shall include information regarding whether the prisoner has a history of assault or is a registered sex offender. If a registered sex offender is being discharged, staff shall report the offender's new address to the Michigan State Police under the circumstances required in PD 01.06.115 "Sex Offenders Registration Act."
- Z. Notice of the discharge shall be provided to victims and other persons who have requested to receive such notice as set forth in PD 01.06.120 "Victim Notification."

DISCHARGE OF MICHIGAN PAROLEES

- AA. A Parole Board Order for Discharge from Sentence (CAX-115) shall be issued when a parolee has complied with all conditions of his/her parole and has successfully completed the parole period ordered by the Parole Board.
- BB. Whenever a parolee is scheduled to discharge from a Michigan parole before completion of his/her controlling maximum date, the Manager of the Parole Discharge and Supervision Unit, Parole Services Section, FOA, shall ensure that the Department's computerized database and LEIN are checked approximately 30 calendar days before the scheduled discharge date to determine whether there are any of the following pending against the parolee:
1. Detainer.
 2. Pending felony charge or warrant.
 3. Pending charge or warrant for an assaultive misdemeanor, a violation of MCL 257.625, or a misdemeanor that requires registration under the Sex Offenders Registration Act.
 4. A PPO, including a judicial finding of child abuse or neglect.
- CC. The Manager of the Parole Discharge and Supervision Unit also shall ensure that the computerized database and LEIN checks identified in Paragraph BB are completed no more than 24 hours before the parolee's scheduled discharge date.
- DD. The Parole Agent shall be notified immediately whenever a parolee who is scheduled to discharge from parole before completion of his/her controlling maximum date is known to have any of the elements listed in Paragraph BB pending against them during the time of discharge review.
- EE. Whenever a case is referred to the Parole Agent pursuant to Paragraph DD, the Parole Agent shall conduct an investigation to determine whether the parolee will be discharged as scheduled or whether

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the parole period will be extended. However, a parolee may not be held under Department supervision beyond their controlling maximum date under any circumstances. If the parolee is to be discharged as scheduled, the Parole Agent shall deliver the Parole Board Order for Discharge from Sentence (CAX-115) to the parolee. If the parole period is to be extended, the Parole Board Order for Discharge from Sentence shall be canceled and the parolee notified of the parole extension.

- FF. Whenever a parolee who has been ordered to pay restitution as a condition of parole is scheduled to discharge from parole, the supervising field agent shall determine not less than 60 calendar days before the scheduled discharge date whether the parolee has willfully failed to pay restitution. If it is determined that the parolee has willfully failed to pay restitution, the agent shall recommend a parole term extension, as permitted by law. If it is determined that failure to pay restitution was not willful, the agent shall notify the Parole Board in writing of the amount not paid and any reason for the non-payment that is known by the agent. The Parole Board shall provide this information to the sentencing court, the prosecuting attorney, and the victim unless the parole period is extended.

Discharge Before Expiration of Original Michigan Parole Period

- GG. Parole supervision is a means by which to determine a parolee's readiness to adopt a productive, non-criminal lifestyle. Therefore, a parolee who shows evidence of this successful transition shall be considered for discharge before expiration of the original parole period ordered by the Parole Board if all of the following criteria are met:

1. The parolee has served one half of a parole period of 12 or more months and has completed any minimum term of parole required pursuant to PD 06.05.104 "Parole Process."
2. The parolee does not have an active PPO, including a judicial finding of child abuse or neglect, that was filed against him/her during the parole period.
3. The parolee is not known to have been involved in and is not currently suspected of felonious behavior, assaultive misdemeanor behavior, a violation of MCL 257.625, or an offense that requires registration under the Sex Offenders Registration Act while on parole.
4. The parolee is not serving for an offense for which they are required to be registered under the Sex Offenders Registration Act.
5. The parolee is not on any other federal probation supervision or any state felony probation supervision for a criminal offense that was committed during the current parole period.
6. Any other criteria established in writing by the FOA Deputy Director or designee.

- HH. Whenever the supervising agent recommends that a parolee who meets all of the criteria identified in Paragraph GG should be discharged before the expiration of the original parole period, the agent shall submit a Parole Action Request (CFJ-424) setting forth the basis for his/her recommendation to the Parole Board for a final determination.

Discharge by Court Order

- II. If a parolee's conviction is overturned and his/her release is specifically ordered by the court, the parolee shall be discharged upon receipt of the court order provided the parolee is not serving on any other sentence. Generally, a parolee shall not be discharged based only on an appellate court opinion. Any exceptions to this general rule must be approved by the OLA Administrator or designee. The court order must be received directly from the sentencing court and be verified with the court by the TCU Manager or designee before discharging the parolee.
- JJ. Orders of expungement from states other than Michigan shall be sent to ADSS for removal from OTIS. Questions regarding verification of any expungement shall be forwarded from ADSS to the OLA

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Administrator for review/verification before removal from OTIS.

- KK. A Michigan pardon, discharges from a Michigan sentence, and State of Michigan expungements shall be forwarded to the TCU Manager or designee for review/verification. If the TCU Manager has any questions regarding a pardon, discharge, or expungement, the question shall be forwarded to the OLA Administrator for resolution.

Discharge of Parolee on Parole from another state who is under supervision in Michigan

- LL. The sending state sets the supervision and discharge date of their parolee who is supervised in Michigan. To discharge from a sentence, the supervising agent shall send an Interstate Compact Offender Tracking System (ICOTS) case closure notice to the sending state notifying the sending state of the discharge date. The sending state will send an ICOTS message to the supervising agent validating the case closure notice. The notices shall be saved in ICOTS in perpetuity, and the supervising agent shall enter the information into the Department's computerized database. Parolees may be discharged early under the same process but with the initial notice coming from the sending state. Questions regarding a discharge are to be forwarded to the Interstate Compact Unit.

Discharge Due to Death

- MM. If a parolee dies while on parole, a Parole Board Order for Discharge from Sentence (CAX-115) shall be issued by the Parole Board Chair when documentation has been presented that sufficiently identifies the parolee as being deceased.

Termination of Non-Controlling Sentences

- NN. The facility Record Office Supervisor shall be responsible for the termination of non-controlling sentences. Whenever a sentence is terminated, a Certificate of Discharge/Sentence Termination/Sentence Discharge by Court Order (CSJ-130) shall be issued by the Warden.
- OO. If an offender is serving concurrent sentences, each non-controlling sentence shall be terminated upon completion of the maximum sentence plus any applicable dead time.
- PP. Except as set forth in Paragraph QQ, if an offender is serving consecutive sentences, none of the sentences that are part of the consecutive string shall be terminated until all sentences in that string have been served. If an offender is serving two or more consecutive strings, consecutive sentences in the non-controlling strings shall be terminated upon completion of the appropriate maximum sentence plus any applicable dead time. However, if a sentence is consecutive to more than one consecutive string, that sentence shall remain active until the controlling string has been served, even though the other sentences in the non-controlling strings are terminated.
- QQ. If an offender is serving a sentence or combination of consecutive sentences that precede a consecutive escape sentence for a violation of MCL 750.193 ("Prison Escape"), the consecutively preceding sentence(s) is to be terminated when the offender has completed serving the maximum sentence(s) imposed on the sentence(s) consecutively preceding the escape sentence, plus any applicable dead time. The terminated sentence(s) shall be considered inactive and treated the same as any other terminated sentence, except that credits earned on the sentence(s) can and will continue to be subject to forfeiture and/or restoration.

PROCEDURES

- RR. If necessary, to implement requirements set forth in this policy directive, Wardens and the FOA Deputy Director shall ensure that procedures are developed or updated.

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AUDIT ELEMENTS

- SS. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 03/18/2019