

<p style="text-align: center;">MICHIGAN DEPARTMENT OF CORRECTIONS</p> <h1 style="text-align: center;">POLICY DIRECTIVE</h1>	<p>EFFECTIVE DATE 01/01/2002</p>	<p>NUMBER 03.03.115</p>
<p>SUBJECT SUBSTANCE ABUSE PROGRAMMING AND TESTING</p>	<p>SUPERSEDES PD 03.03.115 (10/01/93); DOM 2001-13; DOM 2001-18</p>	
<p>AUTHORITY MCL 791.203; 791.204; 791.223; 791.238 Administrative Rule 791.5501</p>		
<p>ACA STANDARDS 3-ACRS-4F-09; 3-ACRS-4F-10; 3-ACRS-4F-11; 3-ACRS-4F-12; 3-4388; 3-4388-3; 3-4399</p>		
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POLICY STATEMENT:

The Department shall endeavor to deter and detect unauthorized use of controlled substances and other prohibited substances by offenders. This shall include a system for determining the appropriateness for and level of institutional and community-based treatment, based on diagnostic testing and prior behavior.

POLICY:

SUBSTANCE ABUSE OVERSIGHT AND MONITORING

- A. The Manager of the Substance Abuse Programs Section of the Bureau of Health Care Services, Administration and Programs (A&P), is responsible for general oversight of substance abuse testing and treatment programming for offenders. This includes contracting for substance abuse testing and treatment services. Only the substance abuse testing and treatment services contracted for, and tests approved by, the Substance Abuse Programs Section shall be used within the Department whenever the Department is paying for the testing or services. The Manager of the Substance Abuse Programs Section also shall develop a system to document substance abuse assessment and testing results of offenders, referrals to substance abuse programming and participation in such programming.
- B. Each Warden, Field Operations Administration (FOA) Regional Administrator and the Special Alternative Incarceration Program facility (SAI) Administrator shall designate at least one staff person as the Substance Abuse Test Coordinator. Substance Abuse Test Coordinators shall be responsible for coordinating the substance abuse testing program in their respective areas.
- C. Each Warden also shall designate at least one staff person as the Substance Abuse Treatment Coordinator. The Substance Abuse Treatment Coordinator shall serve as the liaison to the Manager of the Substance Abuse Programs Section and substance abuse treatment contractors responsible for implementation of the substance abuse treatment program in their respective areas. The Manager of the Substance Abuse Programs Section shall serve as the Substance Abuse Treatment Coordinator for FOA.
- D. Measures in addition to substance abuse testing (e.g., canine searches; ion scanners) shall be used to detect the presence of prohibited substances within a facility, as determined by the Warden, FOA Regional Administrator or SAI Administrator, as appropriate. All searches of offenders, employees and visitors to detect prohibited substances, including by the canine unit, shall be conducted in accordance with PD 04.04.110 "Search and Arrest of Prisoners, Employees and Visitors".

SUBSTANCE ABUSE PROGRAMMING

- E. Each newly committed prisoner received at a reception facility shall be assessed for substance abuse, including being administered the Substance Abuse Subtle Screening Inventory Test or other assessment test(s) authorized by the Manager of the Substance Abuse Programs Section. Prisoners returning to incarceration shall be assessed in accordance with criteria established by the Manager of the Substance Abuse Programs Section. Reception facility staff shall take into consideration the assessment results in making their recommendation on required substance abuse programming.

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- F. The Manager of the Substance Abuse Programs Section shall develop criteria to be followed when it appears that an original assessment may be no longer valid. This may include requiring prisoners who are found guilty of a major misconduct for substance abuse to be reviewed to determine if the prisoner needs to be referred to substance abuse programming.
- G. Whenever a prisoner recommended for substance abuse programming is transferred to a Correctional Facilities Administration (CFA) institution for placement in security Level I through V, the prisoner shall be referred to recommended substance abuse programming as part of the initial program classification process at the receiving facility. Priority shall be given to those prisoners who are most in need of programming and who can best benefit from programming, based on the substance abuse assessment results and the prisoner's earliest release date. The Manager of the Substance Abuse Programs Section shall develop criteria to be followed when demand for substance abuse programming exceeds availability at a facility. The Manager of the Substance Abuse Programs Section also shall develop criteria to be followed when recommended programming is not available at a facility; however, this shall not include transfer to a specific facility to receive recommended programming if the prisoner would otherwise be ineligible for transfer pursuant to PD 05.01.140 "Prisoner Placement and Transfer".
- H. For each prisoner recommended to receive substance abuse treatment, the Manager of the Substance Abuse Programs Section or designee shall enter on the Department's computerized database (e.g., CMIS; OMNI) whether the prisoner received the recommended treatment. The Manager of the Substance Abuse Programs Section shall ensure the Substance Abuse Client Discharge form (CSJ-111) is completed when the prisoner is discharged from the treatment program and relevant information from the form is entered on the Department's computerized database.
- I. For each prisoner recommended to receive substance abuse education programming, the Classification Director or other staff designated by the Warden shall enter on the Department's computerized database whether the prisoner received the recommended programming. This information also shall be documented on the prisoner's Program Classification Report (CSJ-175) during the program classification annual review process. The Classification Director or other staff designated by the Warden shall ensure the Substance Abuse Client Discharge form (CSJ-111) is completed when the prisoner is discharged from the program and relevant information from the form is entered on the Department's computerized database.
- J. Prisoners in substance abuse programming are required to actively participate in the programming. A prisoner's refusal to actively participate in required programming may be considered in determining whether to grant special good time or special disciplinary credits as set forth in PD 03.01.100 "Good Time Credits" or PD 03.01.101 "Disciplinary Credits/Drug Law Credits", as appropriate.
- K. Prisoners who have a history of substance abuse or have received substance abuse programming while in a CFA institution shall be referred for a substance abuse assessment and any recommended treatment as soon as possible after placement in Community Residential Programs (CRP). All other prisoners placed in CRP shall be reviewed to determine if such a referral is necessary as soon as possible after placement in CRP. A prisoner in CRP who refuses to actively participate in required substance abuse programming may be placed in the Technical Rule Violation Program as set forth in PD 06.03.104 "Technical Rule Violation Program" or reclassified as set forth in PD 06.03.100 "Community Residential Programs: Guidelines for Security Reclassification of Prisoners". CRP prisoners found guilty of a major misconduct for substance abuse shall be referred for a substance abuse assessment and recommended treatment within 30 calendar days after the finding of guilt, unless the prisoner is placed in the Technical Rule Violation Program pursuant to PD 06.03.104 or reclassified pursuant to PD 06.03.100.
- L. Whenever a Parole Eligibility/Lifer Review Report (CSJ-123) is prepared for a prisoner referred for substance abuse programming, the prisoner's current status toward completion of that programming shall be included in the report as set forth in PD 06.05.103 "Parole Eligibility/Lifer Review Reports". If parole is ordered, the Parole Board shall consider this information, as well as other information

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contained in the report regarding the prisoner's history of substance abuse, in determining whether a special condition of parole should be issued requiring the prisoner to be referred for a substance abuse assessment and to fully participate in recommended treatment programs.

- M. Agents shall recommend to the sentencing court that a special condition of probation be issued requiring substance abuse testing of a probationer whose background, including criminal history, and/or current behavior identifies the probationer as at risk for substance abuse. The probationer's history of substance abuse also shall be considered in determining whether to recommend a special condition of probation be issued requiring the probationer to be referred for a substance abuse assessment and to fully participate in recommended treatment programs.
- N. Parolees and probationers with a special condition of parole or probation requiring substance abuse testing shall be tested in accordance with the parole or probation order. If the parolee or probationer tests positive for substance abuse, and revocation of parole or probation is not being recommended, a recommendation shall be submitted to the Parole Board or court, as appropriate, to add a special condition that the offender be referred for a substance abuse assessment and be required to fully participate in recommended treatment programs.
- O. Whenever a parolee or probationer has a condition of parole or probation requiring an assessment for substance abuse programming and participation in recommended treatment, the agent shall refer the parolee or probationer for the assessment and any recommended treatment within 30 calendar days after placement on parole or probation or after the condition is added, as appropriate. If the parolee or probationer is required to serve jail time upon placement on parole or probation, the assessment and referral shall be made within 30 calendar days after placement in the community. Whenever a parolee or probationer has a condition of parole or probation leaving it to the agent's discretion whether to order an assessment and participation in recommended treatment, the agent shall refer the parolee or probationer for the assessment and any recommended treatment within 30 calendar days after an assessment is ordered.

SUBSTANCE ABUSE TESTING REQUIREMENTS

- P. All substance abuse testing of offenders shall be unannounced. Random testing of prisoners shall be conducted at irregular intervals.
- Q. Offenders shall not be permitted to have any involvement in the collection of other offenders' test samples, in the labeling, boxing, packing or transporting of samples to the laboratory, or in the documentation and results of tests.
- R. The identity of offenders providing samples shall be verified at the time the sample is provided or when the test is administered, as appropriate.
- S. All samples and their results shall be processed in a manner to ensure that the proper chain of evidence is maintained. Samples to be sent to a testing laboratory for analyses shall be promptly mailed or sent by courier to the laboratory. All hard copy test results are to be recorded and maintained in a secured area.
- T. Test results shall be reported as directed by the Manager of the Substance Abuse Programs Section. The Office of Planning, Research and Management Information Services (OPRMIS), A&P, in conjunction with the Manager of the Substance Abuse Programs Section, shall ensure that a computerized system is developed for maintaining such information.

Urine Testing

- U. Urine samples shall be collected from offenders in a location conducive to the security and integrity of the samples. Except as set forth in Paragraph W , samples shall be provided under direct observation of the person taking the sample to ensure that the sample is from the identified offender and has not

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been altered or substituted. The person taking the sample shall be of the same sex as the offender providing the sample, unless an emergency condition requires otherwise. In such cases, written notification shall be provided to the Warden, FOA Regional Administrator or SAI Administrator, as appropriate, no later than 24 hours after the sample is taken. If urine testing will be conducted on third shift, it shall be done early enough to avoid disrupting the sleep of offenders whenever possible.

- V. An offender who claims s/he cannot provide a sample at the time of the request shall be given continuous access to water for one hour and instructed to drink a sufficient amount to enable him/her to produce the sample. According to medical authorities, an individual given access to fluids will be able to produce the required sample within one hour unless s/he has a physical condition which interferes with urination.
- W. If a prisoner claims at the time of the request that s/he is unable to urinate while being observed, the shift supervisor shall direct the prisoner to provide a sample in a room or cell which does not have access to water, other liquids or possible adulterants. It shall be reported to the CFA or FOA Deputy Director or designee, as appropriate, through the chain of command whenever such a room or cell is not provided. If the prisoner also claims at the time of the request that s/he cannot provide a sample because s/he just urinated, s/he shall first be given access to water as set forth in Paragraph V. Prior to placement in the room or cell, the prisoner shall submit to necessary searches, including a body cavity search if appropriate, to ensure that a proper sample is provided. Searches shall be conducted as set forth in PD 04.04.110 "Search and Arrest of Prisoners, Employees and Visitors", except that reasonable suspicion is not required for a body cavity search. Except in security Level VI and in any form of segregation other than protective segregation, a major misconduct for substance abuse for failing to provide the sample shall not be issued unless a room or cell which does not have access to water, other liquids or possible adulterants is provided.

Random Testing of CFA Prisoners

- X. The Management Information Services Section (MIS), OPRMIS, shall generate at least monthly a Representative Sample of Prisoners Report (CB-831). The report shall identify at least three percent of the prisoner population, chosen on a random basis, at each CFA institution.
- Y. MIS also shall generate at least monthly a Relist/Retest Report (DS-021) identifying prisoners who need to be tested because of prior positive test results or prior refusals to be tested, or because they were not available for testing when previously identified for testing (e.g., on escape status, out on writ).
- Z. MIS shall provide the reports identified in Paragraphs X and Y to Wardens or their designees, who shall ensure that testing is conducted within twelve hours after receipt of the report, unless the prisoner refuses to be tested or has been administratively waived as set forth in Paragraph AA. The reports shall be disclosed only to staff designated by the Warden.
- AA. Wardens may administratively waive testing for a prisoner identified on the Representative Sample of Prisoners Report or Relist/Retest Report under the following circumstances:
 - 1. The prisoner is not available for testing (e.g., on escape status, out on writ).
 - 2. A prisoner identified on the Relist/Retest Report had a valid prescription for the controlled substance which caused the prior positive result but the prescription was not identified as "approved" prior to the generation of the Relist/Retest Report.
 - 3. Other circumstances as approved by the Substance Abuse Programs Section Manager or designee.
- BB. Waivers must be noted on the Representative Sample of Prisoners Report or Relist/Retest Report, as appropriate, and entered on the Department's computerized database. Waivers also must be individually reported to the Substance Abuse Programs Section in a manner determined by the

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Manager of that Section.

Additional Testing Requirements

- CC. Prisoners whose background and/or current behavior identifies them as being at risk for substance abuse shall be tested until the results are negative.
- DD. Prisoners suspected of using an unauthorized controlled substance or alcohol also shall be tested. Prisoners who test positive or refuse to be tested shall continue to be tested until their results are negative.
- EE. Prisoners shall be tested for substance abuse prior to placement on a Michigan State Industries (MSI) assignment. Prisoners also shall be tested while on MSI assignments as determined by the CFA Deputy Director. Prisoners who are found guilty of a major misconduct for substance abuse for refusing to be tested or for testing positive are not eligible for placement on an MSI assignment until they test negative; prisoners already on MSI assignments shall be reclassified as set forth in PD 05.01.100 "Prisoner Program Classification".
- FF. Prisoners shall be tested for substance abuse prior to placement on a gate pass or public works assignment, and while on such assignments, as determined by the CFA Deputy Director. Prisoners who are found guilty of a major misconduct for substance abuse for refusing to be tested or for testing positive are not eligible for placement on a gate pass or public works assignment until they test negative; prisoners already on such assignments shall be reclassified in accordance with PD 05.01.100 "Prisoner Program Classification".
- GG. Prisoners approved for CRP placement shall be tested for substance abuse in accordance with PD 06.03.101 "Community Residential Programs - Prisoner Placement and Transfer" prior to transfer to CRP.

Additional FOA Testing Requirements

- HH. The FOA Deputy Director shall establish the minimum frequency of substance abuse testing of parolees and probationers who have a condition of parole or probation requiring testing and/or participation in substance abuse treatment. The FOA Deputy Director also shall establish the minimum frequency of substance abuse testing of prisoners in FOA. Actual testing shall exceed the minimum required up to the point that all testing resources are fully utilized. The FOA Deputy Director shall conduct an annual review of available resources and adjust the minimum frequency as necessary.

ADDITIONAL SANCTIONS FOR SUBSTANCE ABUSE

- II. Prisoners who refuse to submit to substance abuse testing shall be charged with a major misconduct for substance abuse pursuant to PD 03.03.105 "Prisoner Discipline".
- JJ. Prisoners who test positive for an unauthorized controlled substance or for alcohol shall be charged with a major misconduct for substance abuse only if confirmed positive using a scientifically accepted test methodology. However, a prisoner may be charged with major misconduct for an unconfirmed test for alcohol (e.g., PBT) if there is other evidence indicating alcohol use (e.g., slurred speech; bloodshot eyes).
- KK. CFA prisoners who are found guilty of a major misconduct for substance abuse may be reclassified from their work or school assignment as set forth in PD 05.01.100 "Prisoner Program Classification" and shall be limited to non-contact visits as set forth in PD 05.03.140 "Prisoner Visiting". CFA prisoners found guilty of a major misconduct for substance abuse while on a public works or gate pass assignment shall be reclassified from the assignment. If found guilty of two or more major misconducts for substance abuse, a prisoner may have his/her visiting privileges permanently restricted by the Director as provided for in PD 05.03.140. A prisoner whose visiting privileges are permanently

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restricted shall be housed in non-secure Level I only as set forth PD 05.01.140 "Prisoner Placement and Transfer".

- LL. CRP prisoners found guilty of a major misconduct for substance abuse may be placed in the Technical Rule Violation Program as set forth in PD 06.03.104 "Technical Rule Violation Program" or reclassified as set forth in PD 06.03.100 "Community Residential Programs: Guidelines for Security Reclassification of Prisoners".
- MM. Prisoners and parolees found guilty of misconduct for substance abuse, and SAI prisoners disciplined for substance abuse in accordance with PD 06.04.106 "Special Alternative Incarceration Program - Prisoner" for refusing to be tested or testing positive, are prohibited from participating in public works and gate pass assignments until they test negative, in accordance with Paragraph FF of this policy and PD 03.02.121 "Public Works/Gate Pass Assignments".
- NN. Prisoners in the Technical Rule Violation Program who are found guilty of a major misconduct for substance abuse shall be returned to a CFA institution in accordance with PD 06.03.104 "Technical Rule Violation Program".
- OO. SAI prisoners found guilty of a major misconduct for substance abuse may be removed from SAI in accordance with PD 06.04.106 "Special Alternative Incarceration Program - Prisoner".
- PP. Parolees and probationers with a condition of parole or probation requiring substance abuse testing and/or treatment may be charged with parole or probation violation, as appropriate, for a positive test result, refusing to submit to required testing, or for refusing to actively participate in, or for being unsuccessfully discharged from, required substance abuse treatment programs. Parole violation charges shall be processed in accordance with PD 06.06.100 "Parole Violation Process". Probation violation charges shall be processed in accordance with PD 06.06.120 "Probation Violations".

OPERATING PROCEDURES

- QQ. The A&P and FOA Deputy Directors and Wardens shall ensure that procedures necessary to implement this policy directive are developed consistent with the requirements in the policy directive within 60 calendar days after its effective date. CFA and FOA procedures shall be submitted to the Manager of the Substance Abuse Programs Section for approval.

AUDIT ELEMENTS

- RR. A Primary Audit Elements List has been developed and will be provided to Wardens, FOA Regional Administrators and the Administrator of the Bureau of Health Care Services to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

BM:OPH:12/17/01