

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 07/01/2018	NUMBER 01.05.120
	SUBJECT CRITICAL INCIDENT REPORTING - CORRECTIONAL FACILITIES ADMINISTRATION (CFA)	
SUPERSEDES 01.05.120 (02/06/2017)		AUTHORITY MCL 791.203 - 791.206, MCL 791.208
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POLICY STATEMENT:

Critical incidents shall be promptly reported to ensure the Department's chain of command is informed and prepared to respond to the inquiries of the Executive Office, legislators, family members and the media. Critical incidents are reviewed to ensure that staff responded as outlined in policy and procedure.

POLICY:

DEFINITIONS

- A. ASSAULT - Physical contact as the result of an attack on, or intentional, non-consensual touching of, another person in anger or with intent to abuse.
 - 1. CATEGORY I ASSAULT - Assault resulting in death or serious physical injury.
 - 2. CATEGORY II ASSAULT - Sexual assault with penetration.
 - 3. CATEGORY III ASSAULT - Sexual assault without penetration but involving more than intentional non-consensual touching (e.g., use of force, attempted sexual penetration).
 - 4. CATEGORY IV ASSAULT - Sexual assault not covered in Category II or III.
 - 5. CATEGORY V ASSAULT - Assault with a non-serious physical injury.
- B. NON - SERIOUS PHYSICAL INJURY - Injury to any part of the body that requires medical treatment, e.g., triage, evaluations, scans, and x-rays, but does not meet the definition of serious physical injury.
- C. SECURE PERIMETER - The outermost perimeter wall or fence and gate excluding the buffer fence (e.g., gate 1, sallyport) that encompasses the interior of a prison.
- D. SERIOUS PHYSICAL INJURY - Injury to any part of the body that requires hospital admission, surgery, or emergency room treatment, e.g., lifesaving stabilization, serious fractures, stab wounds, blunt force trauma leading to internal or head injury.
- E. SEXUAL ASSAULT - Sexual penetration of, or sexual contact with, another person or intentional non-consensual touching of another person's genital area, buttocks or breasts.
- F. SMART DEVICE - Any electronic device that has the capability to:
 - 1. Directly access the Internet.
 - 2. Record, transmit or receive audio files, photographs, videos, visual images or other media.
 - 3. Directly Transmit or receive Short Message Service (SMS) messages.
 - 4. Obtain service to transmit and receive cellular calls or broadcast a location.

GENERAL INFORMATION

- G. For purposes of this policy, "employee" refers to Department employees and contractual employees working in a facility or a secure unit, unless otherwise specified. All other individuals in a facility, except offenders,

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shall be considered "visitors" or "volunteers."

- H. Staff at the Detroit Reentry Center (DRC) and the Detroit Detention Center (DDC) shall follow the criteria set forth in this policy when reporting a critical incident. However, DRC and DDC staff shall submit the Critical Incident Report (CAJ-570) and the Critical Incident Participation Report (CAJ-571) through the Field Operations Administration (FOA) chain of command.
- I. Critical incidents which are required to be reported if occurring in a facility also shall be reported if occurring outside of a facility or off facility grounds.
- J. Critical incidents shall be reported in writing on a critical incident report (CAJ-570) as set forth below. If the critical incident involved a death that was not due to a terminal illness or natural causes, or a Category I, II or III assault, all physical evidence showing the prisoner alive and responsive preceding the incident (e.g., medical documents, still photographs, video footage, etc.) shall be included with the Critical Incident Report (CAJ-570),
- K. A Prison Rape Elimination Act (PREA) investigation packet shall be completed for all reported and/or alleged sexual assaults in accordance with PD 03.03.140 "Prison Rape Elimination Act (PREA) and Prohibited Sexual Conduct Involving Prisoners."

CRITICAL INCIDENTS

- L. The following critical incidents shall be reported immediately by telephone through the Warden/designee to the Assistant Deputy Director and reported in writing on the Critical Incident Report (CAJ-570) as set forth in this policy. All video footage shall be included with the CAJ-570 (e.g., institutional camera, taser camera, bus camera, etc.):
 1. Death of an employee or any other non-incarcerated individual(s) while on facility grounds or while on duty.
 2. Unexpected death of an offender, e.g., suspicious in nature, suspected overdose, suicide, or as a result of an assault. All unexpected deaths require immediate e-mail notification to the Administrator of the Office of Executive Affairs and the Manager of Internal Affairs. These incidents shall be reported in accordance with PD 04.06.110 "Deaths: Natural, Accidental, Suicide, Homicide" as outlined in the "Reporting" section. Deaths that are expected or due to terminal illness shall be reported in accordance with Paragraph N, number 6 of this policy.
 3. Serious physical injury of an employee/contractor, offender, volunteer or visitor at a facility resulting from an assault. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred (e.g., writ, contracted transporting agencies).
 4. Category I, II or III assaults of an employee/contractor, offender, volunteer or a visitor at a facility. Category II and III assaults of an offender require a critical incident report only after a PREA investigation has confirmed a sexual assault has occurred or if personally observed by a staff member. Pending the outcome of the PREA investigation, an Incident Report (CHJ-708) shall be completed.
 5. Discharge of a firearm by an on duty employee, except as required during training, qualification or practice.
 6. Use of force to control an offender that may be in violation of PD 04.05.110 "Use of Force."
 7. Loss or theft of a Department-issued weapon, ammunition, magazine, weapons permit, electronic control device (ECD), specialty impact device or chemical agent, or loss or theft of a personal firearm if lost or stolen while on facility property.
 8. Act or threat of an act of collective insubordination, hostage-taking, demonstration, strike or riot.
 9. Escape or attempted escape from a facility, hospital, court, detail, or while being transported.

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10. Major physical plant failure in a facility which results in building damage or loss of electrical power, heat, water, sewer or perimeter security. This applies only when the condition significantly affects facility security or the welfare of employees/contractors, visitors, volunteers or offenders (e.g., loss of emergency power for security system).
 11. Fire not able to be extinguished by a handheld fire extinguisher that results in either suppression system discharge (except intentional activation of a sprinkler head) or a fire department arriving on grounds.
 12. Explosion, natural disaster, or major chemical or toxic spill in a facility or on facility grounds that results in significant physical damage to facility property.
 13. Discovery of a firearm, ammunition, explosive, or verified drone activity on facility grounds where contraband was found.
 14. Arrest of a Department employee for any felony, or a misdemeanor for which the employee is subject to immediate suspension or, if found guilty, may be subject to dismissal in accordance with PD 02.03.100 "Employee Discipline." This also applies to contractual employees working in a facility who are known to have been arrested for similar conduct.
 15. Any sexual contact between a Department employee/contractor and an offender.
 16. Any event not identified in this section that may attract adverse attention to the Department as determined by the Warden.
- M. The following critical incidents shall be reported in writing on the Critical Incident Report (CAJ-570) as set forth in this policy; items with an asterisk (*) require immediate e-mail notification through the Warden/designee to the Assistant Deputy Director. All video footage surrounding a chemical agent or ECD discharge shall be included with the CAJ-570 (e.g., institutional camera, taser camera, bus camera, etc.):
1. Category IV or V assaults of an employee/contractor, offender, volunteer or a visitor at a facility. Category IV assaults of an offender require a critical incident report only after a PREA investigation has confirmed a sexual assault has occurred or if personally observed by a staff member. Pending the outcome of the PREA investigation, an Incident Report (CHJ-708) shall be completed.
 2. Use of force to control a disruptive or resisting offender, including the application of physical restraints. This does not include routine force used to separate fighting offenders, or routine application of restraints.
 3. Discharge of a personal chemical agent or ECD, i.e., drive stun or probe discharge or stun cuff discharge.
 - *4. A suspected or confirmed drug overdose in a facility.
 - *5. Any other arrest of an employee/contractor for a misdemeanor not covered under Paragraph L.
 - *6. Fire that is extinguishable by use of a handheld fire extinguisher excluding the intentional activation of a sprinkler head.
 - *7. Issuance of a stop order for employees/contractors in violation of policies, procedures, or Departmental work rules. Stop orders will continue with the investigative process outlined in PD 01.01.140 "Internal Affairs."
 - *8. Any event not identified in this section that may attract adverse attention to the Department as determined by the Warden.

INCIDENTS

- N. The following incidents shall be reported in writing on an Incident Report (CHJ-708) to the Warden. Items with

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an asterisk (*) require immediate e-mail notification through the Warden/designee to the Assistant Deputy Director by forwarding the CHJ-708:

1. Suicidal or self-injurious behavior as defined in PD 04.06.115 "Suicidal and Self-Injurious Behavior," that requires medical treatment as outlined in Paragraph B but does not result in serious physical injury as defined in Paragraph D of this policy, e.g., superficial cuts, bruising, area redness.
2. Verified drone activity on facility grounds where no contraband was found.
3. Any prisoner made weapon found on Michigan Department of Corrections (MDOC) property, e.g., shank, pick, or unauthorized possession of any hard material that could be used as a weapon or in the creation of a weapon.
4. Serious physical injury of an employee/contractor, offender, volunteer or visitor that does not result from an assault.
5. Any prisoner in possession of escape materials, e.g., detailed road map of Michigan, adjacent states or Ontario, Canada, or other items determined to be escape paraphernalia.
- *6. Death of any prisoner that is expected or due to terminal illness.
- *7. Any suspected drug or unidentified powder-like substance found on MDOC property.
- *8. Discovery of a cellphone that is not approved in PD 04.04.100 "Custody, Security and Safety Systems (Exempt)" or a smart device inside the secure perimeter.
- *9. Any incident determined by the Warden to be significant enough to be documented but not noted in Paragraphs L and M.

CRITICAL INCIDENT REPORTING REQUIREMENTS

- O. Each employee/contractor who is a participant in or witness to a critical incident shall immediately verbally report the incident through the chain of command to the Warden where the incident occurred. If the reporting employee/contractor is a Department employee who is not an employee of the facility at which the incident occurred, s/he also shall report the incident to his/her immediate supervisor.
- P. Each employee/contractor who is a participant in or witness to a critical incident shall complete a Critical Incident Participant Report (CAJ-571). The completed report shall be submitted to the Warden or designee as soon as possible but not later than the conclusion of the same shift during which the incident occurred or before the end of the employee's/contractor's regular work hours unless additional investigatory time is necessary to establish that a critical incident has occurred, as authorized by the Warden or designee.
- Q. For critical incidents which require immediate reporting pursuant to Paragraph L, telephone notification shall be provided through the chain of command to the Assistant Deputy Director and CFA Deputy Director or FOA Deputy Director, as applicable. For incidents described in Paragraph L, the Deputy Director shall immediately notify the Director. The Deputy Director also shall inform the Office of Public Information of critical incidents that may attract media attention and notify legislative liaison staff in the Director's Office of critical incidents that may attract adverse attention to the Department.
- R. The Warden/designee shall ensure the Critical Incident Report along with other related reports and forms required by this or another policy (e.g., Misconduct Report, Notice of Escape or Attempt to Escape) are submitted through the chain of command to the CFA or FOA Deputy Director, as applicable, no later than seven business days after the incident occurred. The Warden shall ensure a unique identification number is assigned to each Critical Incident Report.
- S. The Warden/designee shall ensure all events in Paragraphs L - N are recorded in appropriate custody assignment logbooks in accordance with PD 04.04.100 "Custody, Security and Safety Systems."

RELEASE OF CRITICAL INCIDENT INFORMATION

- T. Critical incident information may be made available to news media representatives by a designated spokesperson in accordance with PD 01.06.130 "Media Relations."
- U. Requests for critical incident information under the Freedom of Information Act shall be handled in accordance with PD 01.06.110 "Freedom of Information Act - Access to Department Public Records."

POST INCIDENT CRITIQUES

- V. A post incident critique of any critical incident and surrounding circumstances may be conducted by facility staff at the discretion of the Warden to identify, assess and correct any noted problem areas. The Warden shall attend the post incident critique along with any staff s/he feels is appropriate to have in attendance. The Health Unit Manager shall attend the post incident critique whenever the critical incident involved health care staff participation. The Unit Chief shall attend the post incident critique if the offender involved in the incident is receiving mental health services.
- W. A post incident critique is required to be conducted by facility staff for the following critical incidents:
1. Death of an employee or any other non-incarcerated individual(s) while on facility grounds or while on duty. Unexpected death of an offender, e.g. suspicious in nature, suspected overdose, suicide and as a result of an assault.
 2. Category I, II or III assault of an employee/contractor, an offender, volunteer or a visitor in a facility, outside of a facility or off facility grounds.
 3. Use of force to control an offender which results in serious physical injury to an employee/contractor and/or prisoner.
 4. Act of collective insubordination, hostage-taking, strike or riot.
 5. Escape or attempted escape from a facility, hospital, court, detail, or while being transported.
 6. Fire not able to be extinguished by a handheld fire extinguisher that results in either suppression system discharge (except intentional activation of a sprinkler head) or a fire department arriving on grounds.
 7. Explosion, natural disaster, or major chemical or toxic spill in a facility or on facility grounds that results in significant physical damage to facility property.
 8. Any critical incident not listed above, as determined by the Director or Deputy Director.
- X. A Post Incident Report (CHJ-709) shall be completed at the conclusion of the post incident critique. The report shall be submitted through the chain of command to the Deputy Director within 30 calendar days of the critical incident unless additional time is approved by the Assistant Deputy Director (ADD). The Post Incident Report (CHJ-709) shall include the following information:
1. A detailed description of the sequence of events. The description shall include the date, time and location of all events and be accompanied by photographs and/or diagrams, as approved. This section shall provide the names and titles of all participants and witnesses including employees/contractors, visitors, and offenders.
 2. A detailed facility critique of the incident and how employees/contractors responded to the incident. All relevant documents, including a copy of pertinent video recordings, photographs, witness statements, and reports from outside agencies, shall be included. Any changes in practice or procedure which were implemented or are planned to be implemented to correct a problem shall be reported.
 3. All administrative rules, policy directives, and operating procedures applicable to the event shall be listed and accompanied by an explanation of compliance or non-compliance. This review also shall

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include an evaluation of training needs and any recommendations for change in policy directive or operating procedure requirements.

4. A plan of action, identifying deficiencies and providing a method of resolution. The plan will identify the staff responsible for the correction and the time frames for the completion of the recommended actions.

POST INCIDENT REVIEWS

- Y. Upon receipt of the Post Incident Report (CHJ-709), the Director, Deputy Director, or ADD may require a post incident review for further analysis, inquiry, audit or investigation.
- Z. If the Deputy Director determines that a Post Incident Review Committee should meet to review the critical incident, the Post Incident Report (CHJ-709) shall be submitted to the Director with the Deputy Director's recommendation.
- AA. The Director shall determine the need to convene a Post Incident Review Committee. The Deputy Director will act as the chairperson and shall designate the members of the Post Incident Review Committee.
- BB. The Post Incident Review Committee may request additional information or investigation regarding the critical incident. The Committee shall prepare a report analyzing the critical incident and recommend action to be taken. The report shall be forwarded to the Director for review. The Deputy Director or designee shall develop an action plan to implement those recommendations approved by the Director.

DOCUMENTATION

- CC. All documents, forms, photographs and video recordings related to critical incidents shall be retained as required by the Department's Record Retention and Disposal Schedule or, if not addressed in the schedule, for a minimum of six years from creation or until any litigation is completed, whichever is longer.

OPERATING PROCEDURES

- DD. Wardens shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive within 60 calendar days after the effective date.

AUDIT ELEMENTS

- EE. 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 07/01/2018