



# Virginia Department of Corrections

## Supervision and Management in the Community

### Operating Procedure 930.1

#### *Community Corrections Investigations*

**Authority:**

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### REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The content owner reviewed this operating procedure in March 2024 and determined that no changes are needed.*

### COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Criminal History Record Information** - Records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal charges, and any disposition arising there from; the term will not include juvenile record information that is controlled by COV §16.1-226 et seq., *Juvenile and Domestic Relations District Court Law*, criminal justice intelligence information, criminal justice investigative information, or correctional status information; reference COV §9.1-101, *Definitions*.

**Criminal Street Gang** - Any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction; reference COV §18.2-46.1, *Definitions*.

**Gang Member or Associate** - A person whose self-proclamation, activity, behavior, or status as a recognized gang leader, member, or associate, or whose activity or behavior indicates gang involvement.

**Investigation** - A request for information submitted to a Virginia Community Corrections Unit from an outside unit such as Court, Virginia Parole Board, Interstate Compact Unit, Community Release Unit, DOC Institution, another P&P Office, etc. Investigations include:

- Case Handling Instructions - A request from the supervising P&P Office to the originating P&P Office for guidance on how various aspects of a case should be handled due to significant or continued non-compliance.
- Community Corrections Alternative Program (CCAP) Investigation - A two-step process for an inmate/probationer/parolee to be considered for a CCAP requiring an investigation type of CCAP Evaluation and an investigation type of Community CCAP Referral.
- Drug Court/Day Reporting Center Evaluation - A request or order to determine if an inmate/probationer/parolee is eligible for a Drug Court/Day Reporting Center program.
- Early Termination - A request from a supervising P&P Office to a different sentencing P&P Office to request that the sentencing Court release a probationer/parolee from supervision; see Operating Procedure 920.5, *Termination of Supervision*.
- Electronic Monitoring Investigation - A request from the Virginia Parole Board or other entity for a P&P District to determine a probationer's/parolee's eligibility for being placed on electronic monitoring; see Operating Procedure 435.5, *Electronic Technology Supervision Programs*.
- Home Plan Investigation - A request from the Community Release Unit or other entity to evaluate an inmate's/probationer's/parolee's proposed Home Plan; see Operating Procedure 820.2, *Inmate Re-entry Planning*.
- Interstate ICOTS Entry - A request from Interstate Compact Community Supervision to P&P Offices alerting them to inmates who have proposed an out-of-state release plan. The P&P Office is to determine 1) if the inmate owes them a probation or post release obligation 2) if the plan is suitable for submission and then if so, prepare an ICOTS Transfer Request when the inmate is four months or less to release.
- Interstate Transfer Investigation - A request from another state to evaluate an inmate/probationer/parolee for supervision in the P&P District. See Operating Procedure 920.4, *Interstate Transfer of Supervision*. The P&P District must complete a home visit/investigation within 45 calendar days of receipt of the Transfer Request by VA Interstate Compact Unit to determine suitability of the proposed transfer plan.
- Major Violation - Notification from a supervising P&P Office to a different sentencing P&P Office that a probationer/parolee has violated Conditions of Supervision and a Major Violation Report is needed; see Operating Procedure 920.6, *Violation of Supervision Conditions*.
- Other Investigation - A request from an outside unit for information or report not covered by the other

investigation types.

- Out-of-State-Record Check -A request originating from another state for Virginia Criminal History Record Information on an inmate/probationer/parolee.
- Pardon Investigation - A request, generally from the Virginia Parole Board or Secretary of the Commonwealth, to evaluate an inmate for pardon or other action by the Governor's office.
- Presentence Report - A criminal and social history of an individual prepared prior to the sentencing event.
- Record Check - A request from another P&P Office or other entity for local Criminal History information on an inmate/probationer/parolee.
- Sentencing Guidelines - Standardized instruments designed to provide clear and explicit guidance to the Court in determining appropriate punishments.
- Sexually Violent Predator Investigation - A request to evaluate a sexually violent offender for conditional release.
- Sexually Violent Predator Six Month Report - A Probation and Parole Officer's report to the Court on the probationer's/parolee's progress and adjustment in the community while on the Court's conditional release on a *Sexually Violent Predator Progress and Adjustment Report 735\_F12* per COV §37.2-912, *Conditional release*; criteria; conditions; reports; see Operating Procedure 735.3, *Supervision of Sex Offenders in Community Corrections*.
- Transfer Request from VA P&P - A request from an assigned P&P Office to another P&P Office to evaluate a probationer/parolee for transfer of supervision; see Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*.
- Victim Impact Statement - A request to prepare information on the effects of an offense on the victim.
- Youthful Offender Investigation - A request or order that an inmate be evaluated for sentencing as a Youthful Offender.

**Prescription Medication Investigation (PMI) Officer** - Designated DOC P&P Officers authorized by the Prescription Monitoring Program Director to access the database.

**Prescription Monitoring Program (PMP)** - An electronic system maintained by the Virginia Department of Health Professions to monitor the dispensing of all Schedule II, III, and IV controlled substances that collects prescription data available to limited authorized users to assist in deterring the illegitimate use of prescription drugs and prevent prescribed medication from being illegally diverted into the community.

**Prescription Monitoring Program Director** - The Virginia Department of Health Professions administrator designated to establish, maintain, and administer an electronic system to monitor the dispensing of all Schedule II, III, and IV controlled substances as defined in the Drug Control Act; reference COV §54.1-2520, *Program establishment*; Director's regulatory authority, and COV §54.1-3400 et seq., *Drug Control Act*.

## PURPOSE

This operating procedure provides direction and guidance to Department of Corrections (DOC) Community Corrections staff for completing presentence and other criminal and social history investigations and reports in an accurate, relevant, and timely manner so that decisions affecting public safety can be made promptly based on the best available information. The operating procedure includes requirements for submittal, dissemination, and confidentiality of investigations.

## PROCEDURE

### I. Investigation Reporting Requirements

- A. Presentence investigations and other criminal and social history reports must be prepared in the DOC approved format and submitted to the sentencing Court and/or other appropriate agencies for review as directed by the Court and in accordance with the Code of Virginia.
- B. All reports must be completed and submitted within time limits and contain objective, relevant, and accurate data.
- C. Aliens - Notification to Central Criminal Records Exchange
  1. An inquiry will be made as to the citizenship of any felon referred for a *Presentence Report* or placed on probation supervision without the benefit of a *Presentence Report*.
  2. In any felony case in which the individual is not a United States citizen or when United States citizenship is in question, the Department of State Police *Suspected Alien Reporting Form* (SP-229) will be prepared.
  3. This form will be completed following sentencing and submitted to:  
Department of State Police  
Central Criminal Records Exchange  
Box 27472  
Richmond, Virginia 23261-7472  
Attn.: INS Reporting Section  
FAX: (804) 674-8530
- D. COV §52-8.6, *Criminal street gang reporting*, requires reporting of all gang members to the Virginia State Police (VSP).
  1. Probation and Parole (P&P) Officers must submit to the P&P Office's Gang Specialist a *Gang/STG Observation Report 435\_F1* and *Gang/STG Observation Report - Tattoo Locator 435\_F2*, to report any suspicion of gang activity and membership among probationers/parolees; see Operating Procedure, 435.2, *Gang and Security Threat Group Identification and Tracking*.
  2. The Gang Specialist will be responsible to investigate and report the probationer's/parolee's gang membership as required.

### II. Presentence Report (4-APPFS-1B-01)

- A. When ordered by the Court, a *Presentence Report* will be completed and distributed in accordance with COV §19.2-299, *Investigations and reports by probation officers in certain cases*; see Attachment 2, *Presentence Investigation Report (Sample)*.
  1. See VACORIS Help Pages such as *Manage PSI Report* for instructions entering information for the *Presentence Report*.
  2. See Attachment 1, *Presentence Investigation Manual* for guidance in completion of certain sections of the *Presentence Report*.
  3. A supervisor or designee may review *Presentence Reports* at any time and at any frequency to ensure accuracy, appropriateness, and timeliness. All *Presentence Reports* and recommendations are subject

- to review and approval by a supervisor prior to submission to the Court. (4-APPFS-1B-07)
4. The presentence investigation process is reviewed by the agency periodically in consultation with the Court. (4-APPFS-1B-08) The Chief P&P Officer should consult with the Court about once per year to review elements of the presentence investigation process such as the number of *Presentence Reports* requested and the quality of the *Presentence Reports* provided to the Court.
- B. The primary purpose of the *Presentence Report* is to provide the Court with defendant information so it may determine the most appropriate disposition.
1. Institutions use the report in classifying and developing re-entry plans for inmates, the Virginia Parole Board (VPB) uses the report in considering parolees for parole, and Community Corrections staff use the report in the performance of their duties.
  2. A *Presentence Report* is not to be prepared unless ordered by the Court.
  3. Where the Court allows recommendations, the P&P Officer may identify possible special conditions during the presentence investigation. (4-APPFS-1B-05)
    - a. Based on a professional analysis of the verified information, *Presentence Reports* should include recommendations or information about sentencing options or sanctions other than incarceration for which the defendant is eligible and special conditions of supervision. (4-APPFS-1B-06)
    - b. These conditions may be listed in the Community Resources section of the *Presentence Report* or attached as statements of possible eligibility for programs.
  4. Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), COMPAS-R, and the Women's Risks Needs Assessment (WRNA) are not validated or recommended to be used in Courts to inform sentencing decisions related to the length of incarceration or placement on supervision. P&P Districts who use COMPAS/COMPAS-R/WRNA in lieu of a *Presentence Report* per order of the Court, or to provide Courts with additional information at sentencing related to criminogenic needs and program recommendations, must place the following disclaimer, either on a cover sheet or as part of the report that states the following:

*COMPAS/COMPAS-R/WRNA are risk and needs assessment instruments designed and validated to be used by P&P Officers to inform decisions regarding the supervision, treatment, and case management of probationers/parolees. Any information contained in these documents pertaining to individual risk level should not in any way be used to impact or influence sentencing decisions related to length of incarceration, placement on supervision, or release to the community.*
- C. It is the responsibility of the investigating P&P Officer to interview the defendant, gather, verify, and carefully evaluate pertinent information from social agencies, law enforcement agencies, the defendant's family, employers, etc. Other authorized staff may collect some of the raw data for the *Presentence Report*.
- D. All information contained in the reports will be verified if possible. Any unverified information must be clearly indicated as unverified.
- E. Each *Presentence Report* will include the following minimum timely, relevant, and accurate information: (additional information may be required by the Court) (4-APPFS-1B-03)
1. Adult criminal record
  2. Available juvenile Court records
  3. Educational background
  4. Family environmental information
  5. Employment
  6. Information regarding the accused's participation or membership in a criminal street gang
  7. History of substance use



8. Any physical or health related problems as may be pertinent
  9. Restitution information
  10. Circumstances of the instant offense
  11. Proposed supervision, where applicable
- F. In some instances, it will be necessary for the investigating P&P Officer to obtain a *Victim Impact Statement* (DCJS Website) for inclusion in the *Presentence Report*. (4-APPFS-1B-04)
1. Completion of the *Victim Impact Statement* may involve interviewing the victim to obtain pertinent information for the Court.
  2. The *Victim Impact Statement* may also be utilized by the Virginia Victims Fund for victim's compensation claims.
- G. If it becomes necessary to gather information from another P&P Office, a request for the information will be made by email or other suitable method.
- H. The completed *Presentence Report* must be *LOCKED* in VACORIS using the submit button before being submitted to the sentencing Judge, Commonwealth's Attorney, and Defense Attorney at least five days prior to the sentencing hearing unless waived by the Judge. (4-APPFS-1B-02) A *Presentence Report* cannot be edited once it is completed; corrections and changes must be made by creating an *Addendum*; see Attachment 3, *Presentence Investigation Addendum (Sample)*.
- I. Once the Court has conducted the sentencing hearing, the sentencing information will be entered into VACORIS.
- J. The *Presentence Report* becomes a confidential document following the sentencing hearing. (4-APPFS-1B-10)
1. The *Presentence Report* is sealed by the Court after entry of the sentencing order and is thereafter made available only by Court Order, except as outlined below.
    - a. Such reports will be made available at any time to any criminal justice agency as described in COV §9.1-101, Definitions, as well as to any agency where the defendant is referred for treatment. (4-APPFS-1B-09)
    - b. The report will also be made available to counsel for any person who has been indicted jointly for the same felony as the subject of the report.
    - c. If the subject is later charged with a new felony, the report may be released to the defendant's attorney.
  2. See the section on *Criminal Investigative Information* in Operating Procedure 050.1, *Offender Records Management*, for information on dissemination and confidentiality.
- K. If a *Presentence Report* was not completed, the appropriate pages of the *Presentence Report* may be prepared and used as a "short form" report if needed i.e., for program referrals.

### III. Sentencing Guidelines

- A. *Sentencing Guidelines* are required in all felony cases for which a sentencing guideline is available. The date of the offense dictates the appropriate guideline to prepare.
- B. *Sentencing Guidelines* are normally prepared in conjunction with a *Presentence Report* or as requested by the Court. When a *Presentence Report* is not prepared, the Commonwealth's Attorney will be encouraged to prepare *Sentencing Guidelines* for the Court.
- C. P&P Office staff who need assistance in the preparation of sentencing guidelines will consult the appropriate *Virginia Sentencing Guidelines Manual* and Virginia Criminal Sentencing Commission staff.

## IV. Drug Screening, Assessment, Testing, and Treatment

- A. All non-capital felony defendants and specified misdemeanor defendants whose offense occurred after January 1, 2000, will be screened and, if indicated or ordered, assessed for substance use. Screenings and assessments will be conducted in accordance with local P&P Office practice.
- B. COMPAS, COMPAS-R, WRNA, or the Texas Christian University Drug Screen V and Opiate Supplement are the currently approved drug screening and assessment tools.
- C. The degree of alcohol and drug severity will be provided to the Court on page eight of the *Presentence Report* or by using the *Substance Abuse Information* page in VACORIS.
- D. Based on the assessment, the Court or P&P Office staff may require substance use education and treatment for the defendant if available and deemed appropriate.

## V. Prescription Medication Investigations

- A. In accordance with COV §54.1-3405, *Access to and copies of records; inspections*, only P&P Officers approved by the Virginia Department of Health Profession's (VDHP) Prescription Monitoring Program (PMP) may access PMP information.
- B. Qualified P&P Officers must be appointed by the Chief P&P Officer to serve as Prescription Medication Investigation (PMI) Officers. PMI Officers must have no active disciplinary notices and must be able to provide documentation of successful completion of training and requirements of 18VAC76-20-50, *Criteria for mandatory disclosure of information by the director*.
- C. The information collected in this program is maintained by the VDHP, and strict security and confidentiality measures are enforced.
  1. Only those persons authorized by law can be provided information from the database, and the list of authorized persons is very limited. Prescribers and dispensers may query the database to assist in determining treatment history and to rule out the possibility that a patient is "doctor shopping" or "scamming" in order to obtain controlled substances.
  2. Access will be predicated on written legal authority to do so and based on a reasonable suspicion that conditions of supervision have been violated or the individual has treatment needs that can be supported with the information; see *Prescription Medication Investigation Request 930\_F3*.
  3. Request for inquiry into the PMP may be initiated by any P&P Officer and must be documented with a *Prescription Medication Investigation Request 930\_F3* submitted to the PMI Officer for each individual inquiry.
  4. The PMI Officer must not dispense the report document nor any copy or facsimile of it.
  5. The PMI Officer will retain the *Prescription Medication Investigation Request 930\_F3* until destruction of the report. The *PMI Request* may be returned to the requesting P&P Officer and filed as an external document in the individuals VACORIS case file along with a notation (PMI) in *Supervision Notes*.
- D. COV §53.1-40.10, *Exchange of medical and mental health information and records*, provides for inmate/probationer/parolee medical and mental health information to be released to the following entities without their approval.
  1. P&P District or facility administration when the information is necessary to maintain security and safety of the P&P Office, staff, and other probationers/parolees. Disclosure will be limited to the information necessary to ensure the safety and security of the P&P Office.
  2. VPB as needed to conduct release investigations.
  3. P&P Officers as needed for release planning or case management decisions.
  4. DOC officials as needed for programs and treatment.



5. Public and private medical and mental health hospitals, facilities, and other entities as needed for probationer/parolee care and treatment.
  6. Upon receipt of a Court Order, medical, dental, and mental health information may be released to any criminal justice agency without probationer/parolee consent.
- E. The release of probationer/parolee health information will comply with the Health Insurance Portability and Accountability Act, where applicable.
- F. After receipt of a properly completed and signed *Consent for Release of Information 920\_F8*, health care record information may be released to the probationer/parolee, an attorney, a Physician, or any other person, agency, or organization specified. NOTE: P&P Officers must check if federal confidentiality rules apply in the case of some substance use treatment or mental health information; see 42 CFR Part 2, *Confidentiality of Substance Use Disorder Patient Records*.
- G. No PMP report requested by a P&P Officer will be a part of any probationer/parolee case file records and may not be retained beyond the time needed to implement any prescribed case management strategy as a result of a need identified by the information.
- H. The dissemination of the PMI results must be documented as a *Supervision Note* in probationer's/parolee's VACORIS case file.
- I. The PMI Officer will report serious prescription medication discrepancies e.g., improper or over prescribing, prescription pill diversion, or "doctor shopping" to their Chief P&P Officer or designee and the applicable agent in VSP.

#### VI. Executive Clemency Report, Pardon Investigation

- A. Such reports will be submitted within thirty days or as otherwise specified by the VPB.
- B. The reports will respond to the questions set forth in the request but must, in every case, provide the following information:
1. Sentencing or current Judge's current comments concerning executive clemency.
  2. Prosecuting or current Commonwealth's Attorney comments concerning executive clemency. Note: If the Judge, Prosecuting Attorney, or current Commonwealth's Attorney wishes to express their comments in writing regarding a possible Executive Clemency, they will direct them to the VPB.
  3. Information on the individual's personal background and contributions or achievements since fulfilling obligations to the state.
  4. Length of time since fulfilling all obligations to the state including discharge from parole supervision, completion of restitution payments, etc.
  5. Community sentiment concerning the individual requesting Executive Clemency if known.

#### VII. Community Corrections Alternative Program Investigation

- A. The P&P Officer will enter in VACORIS an investigation type of *Community Corrections Alternative Program Evaluation* to document the referral source.
- B. The P&P Officer will enter in VACORIS an investigation type of *Community Corrections Alternative Program Referral* so that the CCAP Referral Unit can determine eligibility, suitability, and acceptability of the individual in accordance with Operating Procedure 930.2, *Community Corrections Alternative Program Referral Unit*.

#### VIII. Referral to the Youthful Offender Program (YOP)

##### A. Program Purpose

1. The YOP is designed to provide youthful inmates with evidence-based programs to meet criminogenic needs including the experience of incarceration while keeping them separate from older, more

hardened felons.

2. The environment is a general population that is intensely therapeutic and intended to alter the development of criminal lifestyles.
  3. Participants in this program are exposed to an initial period of cognitive restructuring, substance use education, as well as academic and vocational training.
  4. Approved participants are sentenced to an indeterminate commitment, not to exceed four years. Additionally, the Court must impose a suspended period of confinement.
  5. Participants are reviewed by the VPB to determine their readiness for release.
  6. All participants must be released within a period of four years and will receive intensive parole supervision for at least one and a half years upon release.
- B. Eligibility; see COV §19.2-311, *Indeterminate commitment to Department of Corrections in certain cases; duration and character of commitment; concurrence by Department.*
1. Status - Individuals considered by the Court as capable of returning to society as a productive citizen
  2. Age - Under 21 at the time of offense
  3. Health - Must meet physical and mental health requirements of the program
  4. Offenses - The conviction must occur in Circuit Court. The offense must be a felony offense other than the following: Capital Murder, Murder in the 1st or 2nd Degree, or sex offenses under COV §18.2-61, *Rape*, COV §18.2-67.1, *Forcible sodomy*, COV §18.2-67.2, *Object sexual penetration; penalty*, or COV §18.2-67.3, *Aggravated sexual battery; penalty*.
- C. Following conviction and prior to sentencing, the Court will order the DOC to screen the individual within 60 days for eligibility and suitability for participation in the Youthful Offender Program.
- D. Upon receipt of the referral from the Court, the P&P Officer will immediately contact the YOP and submit a *Youthful Offender Investigation* request through VACORIS to the appropriate facility to evaluate the individual for admission to the program.
- E. The P&P Officer will meet with the individual to explain the program and have the individual sign Attachment 4, *Youthful Offender Agreement to Participate*.
- F. If a *Presentence Report* was not completed, the P&P Officer must submit:
1. Name and contact information of person requesting the assessment
  2. Name of presiding Judge and sentencing Court with sentencing date
  3. Juvenile and adult criminal history record information
  4. History of any gang involvement
  5. Substance use history
  6. Highest educational level achieved
  7. Work history
  8. Jail adjustment
- G. *Mental Health Information* and *Substance Abuse Information* offender pages in VACORIS will be carefully completed.
1. Every effort will be made to obtain all mental health or substance use information from clinicians, service providers, and/or jail health services staff.
  2. If necessary, the P&P Officer may use information provided by the individual.
- H. A local medical professional usually medical staff at the local jail will complete, scan, and upload the *Physical Health Screening 930\_F2* into VACORIS or the P&P Officer will enter the information on the

*Physical Health Information* page in VACORIS.

- I. The Court Order, *Youthful Offender Agreement to Participate*, and *Consent for Release of Information*; will be scanned and uploaded in VACORIS and the appropriate YOP notified of the referral; see Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*.
  - J. The YOP within 30 days of receiving the *Youthful Offender Investigation* request will provide the referring P&P Office with an acceptance decision and entry date.
  - K. The P&P Officer will provide the YOP with the final Court Order.
  - L. The P&P Officer will conduct a record check to ensure that there are no outstanding warrants or detainers before the participant is transported to the YOP.
  - M. Violation/Removal Process – Any participant who fails to complete the program will be returned to the sentencing Court for a hearing.
  - N. Transitional Issues
    1. All participants who complete the program will be released on parole.
    2. Transitional and re-entry services will be provided to the participant while in the program.
    3. In accordance with COV §19.2-314, *Supervision of persons released*, the participant will receive intensive parole supervision (Level High) for a period of at least one and a half years following release.
- IX. Obtaining Out-Of-State Information
- A. Community Corrections staff are encouraged to contact the out-of-state source directly to gather necessary investigative information, with the exception of cases, which are on active interstate supervision. In such cases, the Interstate Compact Unit is to be contacted.
  - B. Gathering out-of-state information may be accomplished through the use of correspondence, fax, telephone, or Virginia Criminal Information Network (VCIN) terminal. Use of an Administrative Message via the VCIN terminal is an efficient means of securing specific criminal history record information from a criminal justice agency in another state.
- X. Availability of Automated Information
- A. Automated information is available to Community Corrections staff from a variety of sources. Utilization of automated information is efficient, cost effective, and a worthy time management tool.
  - B. The VCIN and the Court Automated Information System (CAIS) can be used to obtain detailed criminal history record data on any individual under supervision of the DOC.
  - C. VACORIS can be accessed to gather information relative to an individual's institutional adjustment and sentencing history.
  - D. VACORIS can provide knowledge concerning an individual's current or prior contact with P&P authorities and incarceration in DOC facilities.
  - E. Community Corrections staff are encouraged to utilize these resources, as well as email and fax capabilities, in completing assigned investigations.
- XI. Record Checks
- A. Record check requests received from other P&P Offices or states will be completed within 30 days of assignment.
  - B. If the investigation cannot be completed within this period, the requesting agency will be provided with a status report at the 30-day point.
  - C. Record checks between P&P Offices will only be requested after attempts to locate a disposition through

the CAIS have been proved unsuccessful.

## XII. Referrals to Behavioral Corrections Programs (BCP)

A. The BCP is a sentencing option that orders inmates in need of substance use treatment into the Therapeutic Community (TC) established by the 2009 Budget Bill Chapter 781, Item-J.

### B. Criteria for participation in BCP

1. Prior to sentencing, P&P Officers will email Central Classification Services to determine the defendant's eligibility for a BCP sentence.
  - a. The email will include the defendant's name, VACORIS number, offenses they are being sentenced on, and the sentencing Court date.
  - b. Based on a review of the criminal convictions, a response will be provided by email regarding the defendant's eligibility.
  - c. The P&P Officer is responsible for notifying the Court of the results of the referral.
2. A BCP sentence requires a minimum active felony sentence of three years. Neither sentences from multiple jurisdictions nor misdemeanor time can be combined to achieve the three-year sentence.
3. The defendant must have:
  - a. A documented history of substance use.
  - b. Never been convicted of a violent felony as defined in COV §17.1-805, *Adoption of initial discretionary sentencing guideline midpoints*.
  - c. Never been convicted of a felony violation of COV §18.2-248, *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties*, and COV §18.2-248.1, *Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana*.
  - d. No major medical condition that would require assignment to a hospital or infirmary.
  - e. No current major mental health issues that would render the defendant unable to benefit from program participation. Note: The medical and mental health evaluations will be completed when the inmate is transferred into the facility.

### C. BCP Completions and Removals

1. The Facility Unit Head will notify the Court of an inmate's successful completion of the 24-month TC program. The Court may suspend the balance of the inmate's sentence and order that the inmate be released on probation.
2. Poor behavior and/or refusal to fully participate will result in the inmate's removal from the program.
  - a. It will require the inmate serve out the balance of their sentence and prohibit their earning good time.
  - b. The Facility Unit Head must notify the Court and the Chief P&P Officer of an inmate's removal from the BCP.

## REFERENCES

42 CFR Part 2, *Confidentiality of Substance Use Disorder Patient Records*

18VAC76-20-50, *Criteria for mandatory disclosure of information by the director*

COV §9.1-101, *Definitions*

COV §16.1-226 et seq., *Juvenile and Domestic Relations District Court Law*

COV §17.1-805, *Adoption of initial discretionary sentencing guideline midpoints*

COV §18.2-46.1, *Definitions*

COV §18.2-61, *Rape*



COV §18.2-67.1, *Forcible sodomy*  
COV §18.2-67.2, *Object sexual penetration; penalty*  
COV §18.2-67.3, *Aggravated sexual battery; penalty*  
COV §18.2-248, *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties*  
COV §18.2-248.1, *Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana*  
COV §19.2-299, *Investigations and reports by probation officers in certain cases*  
COV §19.2-311, *Indeterminate commitment to Department of Corrections in certain cases; duration and character of commitment; concurrence by Department*  
COV §19.2-314, *Supervision of persons released*  
COV §37.2-912, *Conditional release; criteria; conditions; reports*  
COV §52-8.6, *Criminal street gang reporting*  
COV §53.1-40.10, *Exchange of medical and mental health information and records*  
COV §54.1-2520, *Program establishment; Director's regulatory authority*  
COV §54.1-3400 et seq., *Drug Control Act*  
COV §54.1-3405, *Access to and copies of records; inspections*  
Operating Procedure 050.1, *Offender Records Management*  
Operating Procedure 435.2, *Gang and Security Threat Group Identification and Tracking*  
Operating Procedure 435.5, *Electronic Technology Supervision Programs*  
Operating Procedure 735.3, *Supervision of Sex Offenders in Community Corrections*  
Operating Procedure 820.2, *Inmate Re-entry Planning*  
Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*  
Operating Procedure 920.4, *Interstate Transfer of Supervision*  
Operating Procedure 920.5, *Termination of Supervision*  
Operating Procedure 920.6, *Violation of Supervision Conditions*  
Operating Procedure 930.2, *Community Corrections Alternative Program Referral Unit*  
Virginia Sentencing Guidelines Manual

## **ATTACHMENTS**

Attachment 1, *Presentence Investigation Manual*  
Attachment 2, *Presentence Investigation Report (Sample)*  
Attachment 3, *Presentence Investigation Addendum (Sample)*  
Attachment 4, *Youthful Offender Agreement to Participate*

## **FORM CITATIONS**

*Gang/STG Observation Report 435\_F1*  
*Gang/STG Observation Report - Tattoo Locator 435\_F2*  
*Sexually Violent Predator Progress and Adjustment Report 735\_F12*  
*Consent for Release of Information 920\_F8*  
*Physical Health Screening 930\_F2*  
*Prescription Medication Investigation Request 930\_F3*  
*Suspected Alien Reporting Form (SP-229) (VSP Website)*

*Victim Impact Statement (DCJS Website)*

