



# Virginia Department of Corrections

## Mental Health and Wellness Services

### Operating Procedure 735.3

#### *Supervision of Sex Offenders in Community Corrections*

##### **Authority:**

Directive 735, Sex Offender Management and Treatment

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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 2023 and necessary changes have been made.*

### 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, ACA standards, PREA standards, and DOC directives and operating procedures.

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## DEFINITIONS

**ACUTE-2007** - The ACUTE-2007 rates behavior change in the short run; representing current risk and the short-term timing of re-offense.

**Assessment** - Utilizing specific techniques of evaluation and measurement to identify and collect information related to an inmate's/probationer's/parolee's thoughts and behaviors which contribute to sexual offending.

**Certified Sex Offender Treatment Provider (CSOTP)** - A staff member who is currently registered in good standing with the Virginia Board of Psychology as a Certified Sex Offender Treatment Provider.

**Correctional Offender Management Profiling for Alternative Sanctions (COMPAS-R) Community Corrections** - The DOC approved risk/needs assessment, which consists of different versions for community corrections and institutions. COMPAS-R Community Corrections is a support system for supervision and case-management decisions, a database used in combination with VACORIS, a tool that assesses two critical risks, violence and recidivism, risk, and a tool for determining the criminogenic needs that are used to develop case plans and set programming.

**Evidence Based Practices (EBP)** - Correctional decision making derived from research findings about practices proven to change inmate/probationer/parolee behavior thereby reducing the risk for recidivism.

**Family Reunification** - An in-depth process where all professionals involved with the family and family members work together to consider the type and degree of contact that might be possible with a child, or adolescent who has been sexually abused.

**Group Therapy** - Therapeutic sessions involving three or more inmates/probationers/parolees and one or more staff facilitators; groups are based on diagnostic category, therapeutic technique, or salient topic e.g., Symptom Management, Relationship Issues.

**Officer** - Any Chief P&P Officer, Deputy Chief P&P Officer, Senior P&P Officer, P&P Officer, or Surveillance Officer.

**P&P Officer** - Any Chief P&P Officer, Deputy Chief P&P Officer, Senior P&P Officer, or P&P Officer authorized by a Circuit Court Judge.

**Probationer/Parolee** - A person who is on community supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of Courts, paroling authorities, the Virginia Department of Corrections, or other release authority; this includes post release supervision and Community Corrections Alternative Programs.

**STABLE-2007** - The STABLE-2007 measures sex offender risk factors that can change over time, which will help formulate a case management plan or identify treatment/supervision targets for a sex offender. Additionally, it will allow the Officer to know whether a sexual offender is getting more dangerous or less dangerous over time.

**STATIC-99R** - An evaluation instrument that utilizes only static (unchangeable) factors that have been seen in the literature to correlate with sexual reconviction in adult males. The estimates of sexual and violent recidivism produced by the STATIC-99R can be thought of as a baseline of risk for violent and sexual reconviction. From this baseline of long-term risk assessment, treatment and supervision strategies can be put in place to reduce the risk of sexual recidivism.

## PURPOSE

This operating procedure establishes protocols on offense-specific case management approach for sex offenders being supervised by specially trained Probation and Parole (P&P) staff in the Department of Corrections (DOC).

## PROCEDURE

- I. Probationers/Parolees to be Supervised as Sex Offenders
  - A. This operating procedure provides for intensive supervision of the most serious, high-risk sex offenders defined as, but not limited to:
    1. A probationer/parolee who is required to register as a sex offender; see Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*; or
    2. A probationer/parolee who has a sex offense in their criminal history; or
    3. A probationer/parolee convicted of an offense of a sexual nature
  - B. Old Sex Offense Cases
    1. Probationers/Parolees with a sex offense in their past (offense for which they are not currently under supervision) may not necessarily need to be supervised by the sex offender supervision team.
    2. The following criteria should be considered:
      - a. Number of sexual offenses in the criminal history
      - b. Length of time since sexual offense
      - c. Type of offenses
      - d. Institutional adjustment
      - e. Prior assessments/treatment
      - f. Adjustment to community supervision
  - C. Gang Considerations
    1. When a probationer/parolee is a verified gang member and has committed a sexual offense, a case conference between the sex offender supervision specialist and the gang specialist must occur to determine the appropriate case assignment.
    2. All of the offense information and criminal history will be reviewed during a case conference. If warranted, an assessment will be completed by a Certified Sex Offender Treatment Provider (CSOTP).
    3. Final case assignment will be determined by the Chief P&P Officer or designee.
  - D. Mentally Ill and Intellectually Disabled Sex Offenders
    1. Probationers/Parolees who have a diagnosed mental illness, require treatment with psychotropic medications, or have been referred by the supervising P&P Officer will receive, at a minimum, a sex offender assessment to determine their sex offender education and treatment needs.
      - a. For probationers/parolees who have completed the *Sex Offender Awareness Program (SOAP)*, assessments performed during program participation may be utilized.
      - b. This assessment should address amenability and responsivity to treatment programs.
      - c. If the SOAP facilitator is a non-clinical person, the decision whether mental health issues preclude them from participating in a group therapy setting should be made in consultation with the Regional Mental Health Clinician (RMHC).
    2. Probationers/Parolees who have a diagnosis of intellectually disabled or who have been referred by the supervising P&P Officer will be assessed prior to placement in a sex offender group. If concerns arise regarding a probationer's/parolee's ability to benefit from group education/therapy after they are placed in a group, the probationer/parolee should be referred to the RMHC, or other available clinician,

to determine whether they are able to benefit from the mode of treatment being provided or to recommend other treatment interventions.

3. For probationers/parolees who are unsuitable for group sex offender treatment, the person completing the assessment should recommend other forms of treatment or intervention that would reduce their risk of sexual re-offense. Examples might include improved medication compliance, improved attendance at mental health appointments, participation in individual sex offender therapy, participation in pre-employment activities through Virginia Department of Aging and Rehabilitation Services, etc.

## II. Sex Offender Supervision Specialists

### A. Job Specialization

1. The goal of specialization is to ensure that P&P Officers working with sex offenders have specialized training and guidance in order to establish an offense-specific case management approach.
2. Specialization will be implemented in all P&P Offices.
3. It is anticipated that specialization will promote development of expertise as well as increase communication.
4. Specialization will improve consistency at all stages of sex offender management from investigation through assessment, supervision, and treatment.

- B. The sex offender specialist P&P Officers and Surveillance Officers supervising sex offenders must successfully complete the required specialized training regarding sex offenders. The training will include the following types of information:

1. An Introduction to Working with the Sex Offender I and II
2. The Importance of Assessment
3. An Overview of Sex Offender Treatment for the Probation and Parole Officer
4. Polygraph Protocol and Sex Offender Law
5. Electronic Monitoring Training
6. Simulations for Sex Offender Supervision Specialists
7. STABLE-2007 and ACUTE-2007 Training

## III. Supervision Requirements

### A. Initial Supervision Requirements

1. The supervision of sex offenders in the community entails unique considerations and guiding rationales. Listed below are elements of supervision for sex offenders to be utilized in all P&P Offices:
  - a. The supervising P&P Officer will ensure that for all applicable sex offenses, the STATIC-99R (or more current instrument) and STABLE and ACUTE Risk Assessment Instruments have been done and are documented in VACORIS.
  - b. All probationers/parolees actively being supervised for a sex offense, with the exception of *Failure to Register* must initially be supervised at level High. Supervision levels may be adjusted based on a probationer's/parolee's progress on supervision, status in treatment, adjustment in the community, and assessment tool results.
  - c. P&P Offices may establish supervisory teams. These teams will meet, at a minimum, quarterly to staff new and existing cases. The purpose of these meetings will be to determine treatment needs. Treatment needs include, but are not limited to, assessment, evaluations, polygraph examinations, and registration requirements.
  - d. Assessment or referral to any indicated treatment must be done within 45 days of case assignment.

### B. Case Plans



1. The *Case Plan* is a dynamic document used to guide the probationer's/parolee's progress in achieving their goals during supervision. It is a mutually agreed contract between the probationer/parolee and supervising staff that outlines the requirements for probationers/parolees while on supervision, identifies probationer/parolee goals, incentives, sanctions, tasks, and sets time frames for completion.
2. *Case Plans* will be developed and updated per Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*. Any case supervised as a sex offender will be administered the COMPAS EBP Community Corrections version during the first 45 days of supervision.
3. The *Case Plan* is to be developed and submitted within 60 days of the start of supervision. Probationers/Parolees will be given a copy of their *Case Plan*. The *Case Plan* will be evaluated and revised on a regular basis to reflect the probationer's/parolee's progress, performance, and delinquency toward their goals. A note will be entered into VACORIS indicating the probationer's/parolee's status toward their *Case Plan*.

#### C. Standards of Supervision

1. Sex offender supervision with minimum contacts is as follows:
  - a. The Chief P&P Officer must ensure that all sex offenders required to be on Global Position Satellite (GPS) Monitoring by law, Court order, or operating procedure are enrolled in GPS Monitoring and their GPS equipment is installed immediately on the same day of probationer's/parolee's sentencing, release from incarceration, or when the Court order is received, whichever happens first.
  - b. Initiate and document contact (phone, personal) within two working days of case assignment
  - c. Initial personal contact within five working days
  - d. Initial home visit within first 30 days
  - e. Follow-up home visit one time per month
  - f. A minimum of one personal contact per month
  - g. Urinalysis per Operating Procedure 841.5, *Inmate and Probationer/Parolee Substance Use Testing and Treatment Services*
  - h. Community contacts in accordance with Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*
  - i. Verify employment, mental health, and/or substance abuse counseling monthly
2. If appropriate, compliant sex offenders who have been on supervision, completed treatment or successfully completed at least one-half of their supervision period, and a reduced level of supervision is supported by the risk assessment instruments, must be supervised on Voice Monitoring Self-Report with minimum contacts as follows once documented risk reassessment is completed and approved by a supervisor.
  - a. One home visit every 90 days
  - b. One personal contact every 90 days
  - c. Self-report will happen once a month
3. Probationers/Parolees being supervised on Conditional Release for the Virginia Department of Behavioral Health and Developmental Services (VDBHDS) will be supervised in accordance with their conditional release plans.

#### D. Housing Requirements

1. COV §18.2-370.3, *Sex offenses prohibiting residing in proximity to children; penalty*, limits where an individual convicted of certain sexual offenses may live, but this law is very narrow in focus and rarely applies.
2. When investigating a home plan, the plan and the probationer's/parolee's history will be considered when determining suitability.

3. In the interest of public safety, it is recommended that the P&P Office provide the probationer/parolee alternative housing until their risk level can be determined. Housing alternatives may include local shelters, Community Residential Programs or motels. When a motel is the P&P Office's only alternative housing source, P&P Officers must complete the *Sex Offender Motel Contract 735\_F14*.
4. Any home plan must be investigated by a P&P Officer who is trained and knowledgeable in sex offender supervision practices.
  - a. The investigating P&P Officer must physically visit and cross the threshold of the proposed home plan.
  - b. The *Sex Offender Home Plan Checklist 735\_F16* must be incorporated into the home plan investigation and when completed, uploaded into the VACORIS notes.
5. The leaseholder of the residence must provide verification or documentation that the sex offender is allowed to live there by the owner of the residence or rental office only. (NOTE: Virginia is a passive notification state. Therefore, verification must not be obtained from any source that may notify others of the probationer's/parolee's supervision status; see Operating Procedure 050.1, *Offender Records Management*, for confidentiality requirements.
6. Information needed for home plan investigation purposes may include, but not be limited to:
  - a. Presentence Investigation (PSI)
  - b. Offense reports
  - c. Sex offender assessments
  - d. Polygraph examination results
  - e. Treatment records
  - f. Institutional records
  - g. Supervision notes
  - h. If a home plan is deemed safe and minors reside in the home, the Officers must complete the *Sex Offender Family Safety Contract 735\_F15*.

#### E. Employment

1. P&P Officers will review and approve employment.
2. Employment for sexual offenders will not include jobs that would place them in high risk situations according to their offense pattern.
3. The P&P Officer must verify the employment and ensure that the employment is not in violation of any Virginia Code Section.
4. The P&P Officer will communicate with the employer to minimize the potential of working in high risk situations.

#### F. Chaperone

1. A responsible adult may be designated as a chaperone to accompany the probationer/parolee in designated social contacts such as faith based activities, family reunification visits, etc.
2. The chaperone and their duties must be listed on a *Sex Offender Faith Based Safety Contract 735\_F13*, *Sex Offender Family Safety Contract 735\_F15*, or similar document.
3. Chaperone criteria and responsibilities:
  - a. Chaperone must be aware of probationer's/parolee's offense cycle.
  - b. Probationer/Parolee has developed, with the therapist, supervising P&P Officer, and chaperone a *Safety Contract*.
  - c. Chaperone will, when asked; share all details of all visits.
  - d. The chaperone must report any violation of the *Safety Contract* to the supervising P&P Officer and the therapist immediately



#### G. Community Activities

1. Involvement in community activities is a stabilizing factor and efforts will be made to help probationers/parolees reintegrate safely into community activities.
2. Restrictions from community activities will be done on an individual basis, and not blanket restrictions.

#### H. Faith Based Activities

1. Probationer/Parolee safety requires that, at a minimum, probationers/parolees be expected to complete a safety plan (documented on a *Sex Offender Faith Based Safety Contract 735\_F13*) with faith-based officials, family (if family is involved), a designated Chaperone, and the supervising Officer.
2. Once the plan has been executed and approved, the probationer/parolee will be allowed to attend faith-based activities according to the *Sex Offender Faith Based Safety Contract 735\_F13*.

#### I. Library, Parks, and Recreation Areas - A probationer's/parolee's pattern will dictate a restriction to visit parks and recreation areas. Those probationers/parolees who are afforded the opportunity will have a safety plan.

#### J. Computer Access

1. The goal with computer management is to set responsible conditions and routinely monitor compliance with these conditions.
2. If computer and/or internet usage is approved, the Officer will implement the use of content filtering software; see *Sex Offender Special Instructions 735\_F18*.
3. Total prohibition will be reserved for those probationers/parolees whose offense dictates such a restriction.

#### K. Travel Requirements

1. Travel outside of the probationer's/parolee's travel area, but still within the state, requires the approval of the supervising Officer and will be appropriately documented. Any individuals accompanying the probationer/parolee should be aware that the probationer/parolee is a convicted sex offender and may be designated as a chaperone.
  - a. The supervising Officer must notify the impacted P&P District's email account if travel out of the area is approved for overnight.
  - b. Out of state travel may be permitted and if allowed, the following must occur:
  - c. Travel must be in accordance with Operating Procedure 920.4, *Interstate Transfer of Supervision*, and approved by Chief P&P Officer or designee on a *Travel Permit - Out of State 920\_F3*.
  - d. In compliance with *Supervision Conditions*; see Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*, and any special instructions; see *Sex Offender Special Instructions 735\_F18*.
  - e. If in a treatment group, travel plans have been processed by the group.
  - f. A *Safety Contract* will be developed and the probationer/parolee will be instructed to share the plan's details with any accompanying individuals and signed by the applicable local law enforcement entity of that jurisdiction.
  - g. The probationer/parolee is required to submit an executed notification letter upon return if travel is out of state; see *Sex Offender Travel Notification 735\_F17*.
2. Sexually Violent Predators on Conditional Release supervision are not permitted to travel out of state unless out of state travel is documented in the Conditional Release Order.
3. Sexually Violent Predators on Conditional Release supervision are not permitted to transfer out of state.



## IV. Transfer of Supervision between P&amp;P Districts

- A. Interstate transfers must follow current Interstate Compact Rules; see Operating Procedure 920.4 *Interstate Transfer of Supervision*.
- B. Transfer between P&P Districts (intrastate) of any probationer/parolee being supervised as a sex offender case must follow Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer* and Operating Procedure 435.5, *Electronic Technology Supervision Programs*.
- C. Any home plan must be investigated by an Officer who is trained and knowledgeable in sex offender supervision practices.
- D. The investigating Officer must physically visit and cross the threshold of the proposed home plan.
- E. The *Sex Offender Home Plan Checklist 735\_F16* will be incorporated into the home plan investigation and when completed, uploaded into the VACORIS notes; see the *Housing Requirements* section of this operating procedure.
- F. The leaseholder of the residence must provide verification or documentation that the sex offender is allowed to live there by the owner of the residence or rental office only. (NOTE: Virginia is a passive notification state. Therefore, verification must not be obtained from any other source that may notify others of the probationer's/parolee's supervision status; see Operating Procedure 050.1 *Offender Records Management* for confidentiality regulations.
- G. All denials of transfer requests must be approved by the Chief P&P Officer or designee as outlined in Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*. Denials must be documented in VACORIS *Log Notes* as a conference and reviewed by the Chief P&P Officer or designee. The formal transfer investigation is to be completed within seven working days of case assignment.

## V. Risk Assessment, Evaluation, Treatment, and Psycho-Education

- A. Treatment is an essential element of supervision with a goal of assisting probationers/parolees in the development of internal behavioral controls. Group treatment is the preferred treatment modality. In cases where the probationer/parolee is not amenable for group treatment, individual treatment can be utilized once approval is obtained from the Chief, Sex Offender Programs (CSOP).
- B. Any probationer/parolee on supervision for a qualifying sex offense will have the following risk assessment tools completed: STATIC-99R (or most updated version of the STATIC-99R), Stable 2007, and Acute 2007. If a case comes on supervision without a STATIC-99R risk score, the referral for the STATIC-99R will be done at the initial interview. The Acute-2007 will be administered at each meaningful personal contact. The Stable-2007 will be scored during the month of the six month case review. For cases that have been reduced to Medium, the Stable will be scored a minimum every 12 months.
- C. At a minimum, probationers/parolees who present as high risk, either by STATIC-99R score or the nature of the offense, will be referred for a sex offender evaluation within 45 days of case assignment provided there is ample time for a probationer/parolee to complete treatment. Other probationers/parolees who present with a significant risk of re-offense will be evaluated at the discretion of the P&P Officer using the *Sex Offender Assessment Referral 735\_F21*.
- D. When an evaluation is done and treatment is recommended, a referral to a treatment provider on the DOC Contract shall be made within two working days of receiving the recommendation using *Sex Offender Treatment Referral 735\_F20*. If space or funding is not available, the probationer/parolee will be placed on a wait list.
- E. If a probationer/parolee successfully completed *Sex Offender Awareness Program*, Version 3 (SOAP-V3 July 2018) while incarcerated, they do not need to take SOAP-V3 in the community. Those probationers/parolees beginning supervision, who have not had SOAP-V3, will be considered for referral.

F. Once the probationer/parolee has completed the SOAP-V3, the sex offender team and the treatment provider will conference the case to determine if additional treatment is recommended. The probationer's/parolee's risk assessment scores, treatment responsiveness, and Court obligations will be considered.

#### VI. Polygraph Testing

A. See Attachment 1, *Polygraph Protocol*, for detailed descriptions and purpose of polygraphs. Based on their ability to pay, each probationer/parolee will be charged a co-payment fee for polygraph services.

#### B. Instant Offense (IO)/Crime of Conviction Polygraph Examination

1. The IO polygraph examination should be limited to those probationers/parolees whose self-reported description of the instant offense significantly differs from the official report
2. This examination will be conducted after an assessment, but no later than 90 days after the start of treatment.

C. The probationer/parolee is expected to disclose a comprehensive report of all of their victims, as well as all deviant sexual activity up to the start of supervision using the *Sexual History Disclosure 735\_F23*.

1. Preparation for this examination begins after completion of the assessment or when treatment begins.
2. The P&P Officer will provide the probationer/parolee with a copy of the *Sexual History Disclosure 735\_F23* and enough copies of the *Sexual History Disclosure - Victim Form 735\_F23A* for the probationer/parolee to complete a separate *Victim Form* for each victim.
3. The P&P Officer will review the directions for of the *Sexual History Disclosure* with the probationer/parolee, and set a time for completion.
4. The *Sexual History Disclosure* should be completed and the probationer/parolee prepared to take the sexual history examination within 90 days of the start of treatment, or as soon as practicable.
5. The probationer/parolee will review the contents of the *Sexual History Disclosure* with the P&P Officer.
6. The P&P Officer will make a copy of the completed *Sexual History Disclosure* for the treatment provider.
7. The probationer/parolee will review his *Sexual History Disclosure* with their group members.
8. When the P&P Officer, treatment provider, and group members are satisfied that the *Sexual History Disclosure* is complete, the P&P Officer will schedule the *Sexual History Disclosure* polygraph examination.
9. Prior to the examination, the P&P Officer will provide copies of the *Sexual History Disclosure*, PSI, sexual offender evaluation, and other relevant documents to the examiner one week before the exam.
10. The P&P Officer will send the offender a *Sex Offender Polygraph Appointment Letter 735\_F22*, with the date, time, location and cost of the polygraph examination.
11. The probationer/parolee will be expected to forward payment to the examiner no later than one week prior to the examination. If the examiner has not received payment, or notification of DOC's intent to pay for the examination, the examination will be cancelled.
12. It will be the examiner's responsibility to notify the supervising P&P Officer if payment has not been received.
13. If the results of the *Sexual History Disclosure* are deemed deceptive or inconclusive, the probationer/parolee will return to group and once again review the contents of the *Sexual History Disclosure*. A second examination may be scheduled and completed within 60 days. A second deceptive examination becomes a treatment issue.

#### D. Maintenance and Monitoring Examination



1. This examination enables the supervising P&P Officer to assess compliance with supervision and provides the therapist with information on compliance with treatment directives. This enables the supervising P&P Officer to be proactive in identifying precursors to possible relapse behavior.
2. Scheduling and/or frequency of the maintenance/monitoring examinations will be determined by the treatment team.
3. When a determination to test is made, the P&P Officer will send the probationer/parolee a *Sex Offender Polygraph Appointment Letter 735\_F22* with the date, time, location, and cost of the polygraph examination.
4. The probationer/parolee will be expected to forward payment to the examiner no later than one week prior to the examination. If the examiner has not received payment, or notification of DOC's intent to pay for the examination, the examination will be cancelled.
5. It will be the examiner's responsibility to notify the supervising P&P Officer if payment has not been received.
6. Prior to the examination, the P&P Officer will forward to the examiner a referral using *Sex Offender Polygraph Referral 735\_F19*. The referral form will outline the issues that need to be addressed in the examination.
7. Deceptive polygraph results become a treatment issue and will be addressed in group by the therapist.
8. Deceptive polygraph results will not be used in revocation hearings.

## VII. Family Reunification

### A. Reunification Factors

1. When family reunification is considered, it should be slow and cautious.
2. The following factors should be considered:
  - a. Probationer/Parolee is actively involved in specialized treatment and has taken full responsibility.
  - b. Probationer/Parolee has developed a solid risk management plan.
  - c. Family is actively involved in treatment.
  - d. Releases are signed so all treatment providers are able to communicate with each other.
  - e. Ensure appropriate assessments/polygraphs are completed before contact is allowed. Polygraphs should not show deception or inconclusive results.

### B. Family Readiness Requirements

1. Ensure appropriate adjustment to supervision.
2. Victims living in the home must be in treatment, feel supported by all family members, and ready for reunification. If the victim is in treatment, consultation with the therapist/counselor should be considered.
3. Ensure no one in the household blames the victim.

### C. Rules for probationer/parolee visits (i.e., home and overnight) are outlined in *Sex Offender Family Safety Contract 735\_F15*.

### D. Chaperone, designated by *Sex Offender Family Safety Contract 735\_F15*, criteria and responsibilities

1. The chaperone must be aware of probationer's/parolee's offense cycle.
2. The probationer/parolee has developed a *Family Safety Contract* with the therapist, supervising P&P Officer, and chaperone.
3. The chaperone will, when asked, share all details of all visits. The chaperone must report any violation of the *Sex Offender Family Safety Contract* to the supervising P&P Officer and the therapist immediately.

E. Role of supervising P&P Officer and treatment provider

1. The supervising P&P Officer will be part of a team in the reunification of a family.
2. The supervising P&P Officer will approve all team decisions that involve contact between the probationer/parolee and the family.

VIII. Commitment and Conditional Release of Sexually Violent Predators (SVP)

- A. The DOC is responsible to identify those probationers/parolees who are currently serving time for one or more of the predicate offenses for commitment and conditional release of SVP's; see Attachment 2, *Predicate Offenses for Commitment and Conditional Release of Sexually Violent Predators*.
- B. The Sex Offender Screening and Assessment Unit must review the probationers/parolees using an evidence-based assessment protocol approved by the Director and the Commissioner. They will refer those who appear to meet the definition of a sexually violent predator to the Commitment Review Committee (CRC) for further evaluation. The CRC will request a full evaluation in accordance with COV §37.2-904, *CRC assessment of prisoners or defendants eligible for commitment as sexually violent predators; mental health examination; recommendation*, on referred probationers/parolees to determine if the probationer/parolee meets the definition of a SVP.
- C. The CRC will review evaluations and make non-binding recommendations to the Office of the Attorney General. These recommendations are to Civilly Commit, Conditionally Release, or release the probationer/parolee.
- D. The Office of the Attorney General then has 90 days to file motions in Court, or up until the probationer's/parolee's release date, whichever is later.
- E. SVP is a Court designation based on a finding of "clear and convincing evidence" that the probationer/parolee: (COV §37.2-900, *Definitions*)
1. Is convicted of and serving incarceration for a predicate crime or is charged with a predicate crime but unrestorably incompetent to stand trial.
  2. Has a personality disorder or mental abnormality which makes it difficult to control their behavior and likely to engage in sexually violent acts
- F. Commitment
1. When a probationer/parolee has been committed to the Virginia Center for Behavioral Rehabilitation (VCBR), the sentencing P&P District will determine if that probationer/parolee has a probation/parole or post-release obligation and upload relevant documents in VACORIS, including the Court order. When the probationer's/parolee's obligation is released to the sentencing P&P District in VACORIS, and if the probationer/parolee has a supervision obligation, the P&P District will administratively transfer the case to "Sex Offender Programs - Community." If there is no supervision obligation, the P&P District will close the case.
  2. Once the case is transferred to the Sex Offender Programs - Community, the CSOP will place the case in Low Level supervision and assign the case to the VCBR P&P Officer.
  3. The VCBR P&P Officer will meet with the probationer/parolee at the quarterly orientation session. The VCBR P&P Officer will review all paperwork and have the probationer/parolee execute all necessary documents. These are Low Level supervision cases and do not require a COMPAS.
  4. After the initial interview, the VCBR P&P Officer will meet with the probationer/parolee when the probationer/parolee submits a request. These contacts will be documented in VACORIS *Case Notes*.
  5. The VCBR P&P Officer will be responsible for initiating the issuance of a PB-15 when indicated, and follow-up with the Major Violation Report (MVR) and Sentencing Guidelines. The VCBR P&P Officer will also notify the sentencing P&P District when cases achieve their expiration dates and close interest in the case.

### G. Conditional Release

1. When a *Conditional Release Plan (CRP)* has been ordered for a probationer/parolee housed at the VCBR or has been ordered by the Court and the probationer/parolee has submitted a *Home Plan*, the CSOP will establish a *Sexually Violent Predator Investigation* in VACORIS.
  - a. The investigation information will include a contact, address, and telephone number.
  - b. Additionally the CSOP will forward to the assigned P&P Officer the SVP evaluation and other relevant documentation.
  - c. The *Sex Offender Home Plan Checklist 735\_F16* will be attached as an external document in VACORIS notes.
2. This investigation is to be completed within 10 days of assignment.
3. The investigating P&P Officer will conduct a home visit and address the questions on the *Sex Offender Home Plan Checklist*. The investigating P&P Officer will upload the *Sex Offender Home Plan Checklist 735\_F16* into VACORIS *Case Notes* and e-mail a copy to the CSOP.
4. The VDBHDS will develop a *Conditional Release Plan (CRP)* to be forwarded to the CSOP. The CSOP will forward the CRP to the investigating P&P Officer for review.
5. If the probationer/parolee is granted Conditional Release, the investigating P&P Officer will enroll the probationer/parolee on GPS, review the CRP and make the appropriate referrals.
6. Conditional Release cases are supervised according to the CRP. Any deviations from the CRP have to be approved by the Court, or in some instances, with the approval of the VDBHDS and the Office of the Attorney General.
7. As outlined in COV §37.2-912, *Conditional release; criteria; conditions; reports*, there is a status report due every six months to the VDBHDS and the CSOP no later than the 15th of the month. VDBHDS will be responsible for ensuring that all parties receive a copy of the report; see *Sexually Violent Predator Progress and Adjustment Report 735\_F12*.
8. All major and minor violations must be reported to the VDBHDS and the Office of the Attorney General.
9. SVP's on Conditional Release supervision are not permitted to travel out of state unless out of state travel is documented in the Conditional Release Order.

### H. Conditional Release Violation Procedure

1. When a probationer/parolee on Conditional Release with a supervision obligation(s) violates the terms and conditions of release, the supervising P&P Officer will issue a PB-15 initially and the Emergency Custody Order (ECO) and Petition will follow. The ECO must be signed by either a Circuit Court Judge or Magistrate. The ECO and Petition will be served on the probationer/parolee by local law enforcement.
2. If no supervision obligation exists, the supervising P&P Officer will execute an ECO and the accompanying Petition. The ECO must be signed by either a Circuit Court Judge or Magistrate. The ECO and Petition will be served on the individual by local law enforcement.
3. Once the ECO and Petition have been completed, copies are e-mailed to the CSOP.
  - a. The CSOP will ensure that the other agencies receive copies and are aware of the probationer's/parolee's status.
  - b. The supervising P&P Officer will complete a MVR; see Operating Procedure 920.6, *Violation of Supervision Conditions*.
  - c. Once the MVR has been completed, the CSOP will ensure that the other agencies receive a copy.
4. The supervising P&P Officer will keep the CSOP and the other agencies updated on any criminal proceedings.

### I. Sex Offender and Crimes Against Minors Registration



1. Registration is required for probationers/parolees convicted on or after July 1, 1994, of any sex offense listed on the Virginia State Police (VSP) Registry; see Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*.
2. Upon conviction or release from any detention facility, jail, or institution, the supervising P&P Officer is to refer the probationer/parolee to local law enforcement or the VSP to execute the *Virginia State Police Registration Form (SP236)* with current identifying information, fingerprints, palm prints, and photograph. The completed SP236 is forwarded to the Sex Offenses and Crimes Against Minors Registry (SOR) at VSP Headquarters. The probationer/parolee has three days to comply with this law.
3. When the supervising P&P Officer becomes aware of any change in status (on supervision or off supervision), address, employment, school, vehicle, or internet, the P&P Officer must forward that information forthwith to the SOR by executing the *Change of Address by Registered Sex Offender (SP-236C) 735\_F24*; see Attachment 4, *Change of Address by Registered Sex Offender (SP-236C) - Instructions*. The SP-236C will not change information on the SOR.
4. Probationers/Parolees have three days to execute an updated SP236 when there has been a change in address, employment, school, or vehicle. Probationers/Parolees have 30 minutes to execute a change in internet address information. Changes require the execution of an updated SP236; see Attachment 3, *Sex Offender and Crimes Against Minors Registry Guidelines*.
5. Probationers/Parolees moving out of the Commonwealth of Virginia must notify the SOR of their move 10 days prior to their leaving.
6. The DOC is required to verify, or cause to be physically verified, registration information within 30 days of the initial registration or change of address, employment, school, and vehicle. Probationer/Parolee information is verified semi-annually thereafter. The date of the verification will be entered into the Sex Offender Verification System (SOV) once the verification has been completed.
7. Persons convicted of a Tier III offense are required to re-register every 90 days and other sex offenders (Tier I or Tier II) will re-register annually.
  - a. In addition, when a sex offender is convicted of failing to register, they will be required to re-register more frequently.
  - b. Tier III sex offenders will register monthly and other sex offenders (Tier I and Tier II) will register once between January and June and once between July and December.
  - c. The DOC will send in re-registration information for Tier I and Tier II sex offenders utilizing the SP-236C.
  - d. The duration of registration for sex offenders who have been convicted of failing to register is extended as they will no longer be permitted to be removed from the registry in 10 years from the date of registration. Instead, the requirement will be 15 years from the date of their last conviction for failing to register.
8. All those convicted of failing to register on or after July 1, 2006 are subject to GPS monitoring; see Operating Procedure 435.5, *Electronic Technology Supervision Programs*.
9. On or about the first of each month, a *Sex Offender Verification (SOV) Past Due Assignment* report is generated by the State Police.
  - a. Supervising P&P Officers must review any open assignments and take action necessary to resolve any past due assignments.
  - b. Questions about SOV should be directed to the CSOP or their designee.
  - c. The SOR Help Desk does not resolve SOV matters.

## REFERENCES

COV §18.2-370.3, *Sex offenses prohibiting residing in proximity to children; penalty*.

COV §37.2-900, *Definitions*.

COV §37.2-904, *CRC assessment of prisoners or defendants eligible for commitment as sexually violent*



*predators; mental health examination; recommendation.*

*COV §37.2-912, Conditional release; criteria; conditions; reports.*

*Operating Procedure 050.1, Offender Records Management*

*Operating Procedure 435.5, Electronic Technology Supervision Programs*

*Operating Procedure 735.1, Sex Offender and Crimes against Minors Registration*

*Operating Procedure 841.5, Inmate and Probationer/Parolee Substance Use Testing and Treatment Services*

*Operating Procedure 920.1, Community Case Opening, Supervision, and Transfer*

*Operating Procedure 920.4, Interstate Transfer of Supervision*

*Operating Procedure 920.6, Violation of Supervision Conditions*

## **ATTACHMENTS**

*Attachment 1, Polygraph Protocol*

*Attachment 2, Predicate Offenses for Commitment and Conditional Release of Sexually Violent Predators*

*Attachment 3, Sex Offender and Crimes Against Minors Registry Guidelines*

*Attachment 4, Change of Address by Registered Sex Offender (SP-236C) - Instructions*

## **FORM CITATIONS**

*Sexually Violent Predator Progress and Adjustment Report 735\_F12*

*Sex Offender Faith Based Safety Contract 735\_F13*

*Sex Offender Motel Contract 735\_F14*

*Sex Offender Family Safety Contract 735\_F15*

*Sex Offender Home Plan Checklist 735\_F16*

*Sex Offender Travel Notification 735\_F17*

*Sex Offender Special Instructions 735\_F18*

*Sex Offender Polygraph Referral 735\_F19*

*Sex Offender Treatment Referral 735\_F20*

*Sex Offender Assessment Referral 735\_F21*

*Sex Offender Polygraph Appointment Letter 735\_F22*

*Sexual History Disclosure 735\_F23*

*Sexual History Disclosure - Victim Form 735\_F23A*

*Change of Address by Registered Sex Offender (SP-236C) 735\_F24*

*Travel Permit - Out of State 920\_F3*