



# Operating Procedure

<b>Effective Date</b> January 1, 2019	<b>Number</b> 920.5
<b>Amended</b> 4/1/19	<b>Operating Level</b> Department
<b>Supersedes</b> Operating Procedure 920.5 (2/1/16)	
<b>Authority</b> COV §19.2-303, §19.2-304, §19.2-305, §53.1-10, §53.1-136, §53.1-139 §53.1-167, §53.1-231.1, §53.1-231.2	
<b>Subject</b> <b>TERMINATION OF SUPERVISION</b>	
<b>ACA/PREA Standards</b> 4-APPFS-2A-13, 4-APPFS-2A-14	
<b>Incarcerated Offender Access</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Public Access</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <b>Attachments</b> Yes <input checked="" type="checkbox"/> #2 No <input type="checkbox"/>
<b>Office of Primary Responsibility</b> Probation and Parole Procedure Committee	

## I. PURPOSE

This operating procedure provides a systematic procedure for the termination and completion of supervision for offenders under community supervision by the Department of Corrections.

## II. COMPLIANCE

This operating procedure applies to all units operated by the 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.

## III. DEFINITIONS

**Administrative P&P** - A VACORIS virtual location for cases when the offender is not available for active supervision

**Conditional Pardon** - An act by the Governor to modify or end a sentence imposed by the Court; it is available only to people who are currently incarcerated. The Governor only grants a conditional pardon when there is substantial evidence of extraordinary circumstances to warrant it; such a pardon is not regarded as a substitute judgment for that of the convicting Court. COV §53.1-139 empowers the Parole Board to exercise supervision of these cases through Probation and Parole Officers.

**Conditions of Supervision** - A document that details the rules an offender must abide by in order to complete supervision successfully

**Early Termination of Supervision** - The discontinuance of probation, post release supervision, parole, or conditional pardon supervision prior to the scheduled expiration date because the offender's performance exceeds earlier expectations or further supervision would not be productive.

**Minimum Expiration Date (MED)** - The date established by the authority ordering supervision (Court or Parole Board) on which the supervision is expected to expire

**Parole** - A legal status that allows an offender to complete a sentence to incarceration in the community subject to certain conditions and supervision

**Post Release Supervision** - A judicial action which allows a period of supervision in the community, subject to certain conditions, for felony offenses committed after January 1, 1995 and for which offenders are ineligible for parole. Offenders sentenced to post release supervision prior to July 1, 2000 will be supervised and reviewed in the same manner as a probation case. Offenders sentenced to post release supervision after July 1, 2000 will be supervised and reviewed in the same manner as a parole case.

**Probation** - A judicial action in lieu of incarceration that allows an offender to be supervised in the community subject to Court-imposed conditions

**Special Conditions** - Rules imposed by the Court or Parole Board that an offender must abide by that are in addition to the standard conditions of supervision

#### IV. PROCEDURE

- A. Termination of supervision should be initiated when it is in the best interest of the offender, the agency, and public safety. Terminations will be considered at least annually for each case.
1. The P&P Officer must implement termination procedures when all conditions of the Court or Parole Board have been satisfied and minimum amounts of time under supervision have elapsed.
  2. The P&P Officer should consider termination of supervision when appropriate for those offenders who have consistently demonstrated positive adjustment and where the risk to the community is minimal.
  3. Terminations should be used as a case management tool to reward successful behavior and positive adjustment when all required criteria have been met.
  4. Terminations may also be considered when being on active supervision presents an undue hardship to the offender.
- B. Minimum Expiration Dates (MED's)
1. Minimum Expiration Dates are reflected on the Conditions of Supervision.
  2. The sentencing/paroling authority (sentencing Court or Virginia Parole Board) may extend the period of supervision beyond the MED.
  3. No case will be supervised beyond the MED without the written authorization of the sentencing/paroling authority.
- C. Termination of Parole and Conditional Pardon Supervision Prior to the Minimum Expiration Date (MED) (4-APPFS-2A-14)
1. The Parole Board may consider early termination of Parole or Conditional Pardon supervision at any time under unusual conditions or exemplary behavior.
    - a. With concurrence of the supervisor, the P&P Officer may recommend early termination if the offender has no history of violent behavior and has exhibited exemplary behavior and progress while on supervision.
    - b. In Post Release Supervision cases, the Parole Board has no authority to alter Minimum Expiration Date or grant early release. This authority lies with the sentencing Court.
  2. Terminating Active Supervision Prior to Minimum Expiration Date
    - a. All cases under active parole supervision for at least six months or two-thirds of the fixed supervision period, whichever is longer, may be considered for termination of active supervision.
    - b. Termination of active supervision prior to the Minimum Expiration Date will be considered in the following cases:
      - i. Terminal illness
      - ii. Severe, long-term physical or mental disability, such as might render the offender incapable of general activity
      - iii. Where continued supervision would constitute a severe hardship on the offender in areas of employment, family relations, or living arrangements
    - c. If the P&P Office recommends termination of active supervision, a [Parole Discharge Report \(PPS 60\) 920\\_F4](#) must be forwarded to the Post Release Unit. The *Parole Discharge Report* must be reviewed and approved by a supervisor.
    - d. The Parole Board may consider termination of active supervision pending completion of the fixed supervision period upon a determination that such termination would be in the best interest of society and the offender.
  3. All cases requiring active or inactive supervision for five consecutive years or more, must be reviewed by the P&P Officer once the five year point is reached and annually thereafter for recommendation to the Parole Board for termination of continued supervision.

4. If the P&P Office feels that discharge after five years is inappropriate, a recommendation for continued supervision with justification must be forwarded to the Post Release Unit utilizing the *Parole Discharge Report*.

#### D. Regular Parole/Post Release Supervision/Pardon Discharges

1. When an MED is approaching and the P&P Office feels there is no need to continue supervision, the case will expire on the scheduled MED.
2. When there are concurrent or overlapping periods of supervision, the P&P Office may request administrative discharge from the Parole Board on the shorter of the overlapping terms. The supervisor must submit a [Casework Review and Recommendation \(PPS 43\)](#) 920\_F5 to the Post Release Unit with the pertinent facts.

#### E. Early Release of Virginia Probation/Post Release Supervision Cases (4-APPFS-2A-14)

1. Early release should be initiated as soon as possible in compliance with individual Court criteria.
2. Unless otherwise specified by the Court, cases placed on supervision for a period of two years or more must be recommended for early release from supervision after serving one-half or three years, whichever comes first. If the case is not felt to be a candidate for early release, the reason should be documented in the *Supervision Notes*.
3. An offender must not be maintained under supervision solely for nonpayment of fines, fees, or costs, if no affected Court or Attorney for the Commonwealth objects to their removal from supervised probation.
4. If the Court grants an early release, active supervision of the case ends.
5. If the sentencing Court fails to follow the recommendation for early release, the case should be placed in a reduced level of supervision.

#### F. Regular Supervised Probation Discharge

1. When an MED is approaching and the P&P Office feels there is no need to continue supervision, the case will expire on the scheduled MED; unless the sentencing Court requires notification prior to closing and release.
2. If there are multiple supervised probation obligations, active supervision will continue until the final MED is reached.

#### G. Termination of Out-Of-State Cases

1. Out-of-state cases that reach the MED with no outstanding charges or requests for extension should be closed on the MED unless notified otherwise by the Interstate Compact Unit.
2. ~~In addition to normal termination of supervision in VACORIS, a~~ At the MED the ~~receiving state~~ Virginia P&P Officer will complete a *Case Closure Notice* in ICOTS. (changed 4/1/19)
3. ICOTS requires the sending state to complete a *Case Closure Reply* in ICOTS to confirm the termination of supervision. The VACORIS case should not be closed until an approved *Case Closure Notice Reply* is received by Virginia. (added 4/1/19)

#### H. Termination of Supervision Contact

1. As part of the Termination of Supervision, the P&P Officer should establish contact with the offender to advise the offender that supervised probation and/or parole has been completed and inform the offender regarding any period of good behavior, unsupervised probation, or other obligations still in effect.
2. The P&P Officer will provide the offender with the *Restoration of Civil Rights Information* (See Operating Procedure 820.2, *Re-entry Planning*.) and or other information on Restoration of Civil Rights. (See *Restoration of Civil Rights* section of this Operating Procedure.)

3. For discharge from Parole, a copy of the *Discharge Certificate*, (see Attachment 1 for sample), will be provided to the offender.
  4. The P&P Officer must update VACORIS and make the appropriate *Supervision Notes* to provide a summary of the offender's performance during the entire period of supervision. This entry should be made in the *Supervision Notes* as a "Case Closing" entry and contain at least the following elements. (4-APPFS-2A-13)
    - a. Supervision Start date
    - b. Supervision End date
    - c. Goals accomplished
    - d. Goals unaccomplished
    - e. Goals to be continued
    - f. Overall behavior during supervision
    - g. Overview of situation offender was released to (Housing, work, family, etc.)
    - h. Document provision of *Restoration of Rights Information*
  5. The offender's Court ordered financial obligation status must be assessed and entered into VACORIS by the P&P Officer.
    - a. The offender's *Supervision Conditions* must be updated to reflect the financial obligation was fulfilled, (paid in full or otherwise removed by the Court), by checking the designated box and documenting the date, name, and office of the individual providing the information in the *Condition Details*.
    - b. If the financial obligation was not fulfilled, the P&P Officer must only provide the date, name, and office of the individual providing the information in the *Condition Details*.
- I. Termination and or suspension of Supervision Based on a New Conviction and Time to Serve
1. The supervision should be terminated and VACORIS updated with a transfer to facility pending custody intake when the offender is serving 12 months or more.
    - a. When the offender is serving between 6 to 12 months with probation upon release, the case should be placed in Administrative P&P, with active supervision resuming upon release from incarceration.
    - b. When the offender is serving less than 6 months, the case should be placed in waiver, with supervision resuming upon release from incarceration.
  2. If a parolee's new conviction results in a lengthy DOC/Federal sentence, update the *Supervision Notes* and VACORIS, notify Post Release Unit, and place in waiver until receipt of closing instructions.
- J. Death Discharges
1. Parole/Post Release Supervision/Pardon Cases
    - a. The P&P Officer must submit a [Parole Discharge Report \(PPS 60\)](#) 920\_F4 to the Virginia Parole Board, Post Release Unit including an accurate account of the circumstances surrounding the death.
    - b. The P&P Officer must submit documentation that provides notification of the offender's death, (i.e. Death Certificate, Obituary Notice or Funeral Announcement), along with the *Parole Discharge Report* to the Virginia Parole Board, Post Release Unit and await their instructions before closing the case.
    - c. The *Application for Certification of a Vital Record* (Form VS-6), (see Attachment 2 for sample), must be completed and attached to the *Parole Discharge Report*.
  2. Death of Probation/Post Release Supervision Case
    - a. The P&P Officer must secure verification of an offender's death as directed by the sentencing Court before a case can be closed.
    - b. If a death certificate is needed, the P&P Office must submit an *Application for Certification of a*

*Vital Record* (Form VS-6) (see Attachment 2 for sample) to the Virginia Division of Vital Records.

c. Once verification is secured, the sentencing Court should be informed and interest in the case closed.

3. Offender death is recorded in *Supervision Notes* and VACORIS is updated.

#### K. Restoration of Civil Rights (Removal of Political Disabilities)

1. The major civil rights forfeited by a person convicted of a felony include:

- a. The right to vote
- b. The right to hold public office
- c. The right to serve on a jury
- d. The right to serve as a Notary
- e. The right to possess a firearm

2. Offenders should be advised of the procedure for restoration of civil rights upon their release from active supervision. They should also be supplied a copy of the *Restoration of Civil Rights Information*. (See Operating Procedure 820.2, *Reentry Planning*.)

3. The restoration of rights does not restore the right to possess a firearm.

4. The restoration of rights does not expunge a criminal conviction.

5. The restoration of rights is not a pardon. A person who has been convicted of a felony must first have their rights restored in order to be considered for a pardon.

6. Only the Governor can restore lost civil rights. There is no appeal of the Governor's decision. A person who has been denied may not reapply for one year.

a. Effective August 22, 2016, by Executive Action the Office of the Governor provides a process for the restoration of civil rights for offenders who may meet the Governor's standards for restoration if they have been convicted of a felony and are no longer incarcerated or under active supervision by the Department of Corrections (DOC) or other state agency for any and all felony convictions.

b. The Secretary of the Commonwealth (SOC) is giving priority consideration to individuals who request the restoration of their civil rights. Those wishing to expedite restoration of their own civil rights may contact the SOC at <https://www.commonwealth.virginia.gov/>.

c. The Governor's Office will release the names of newly restored individuals monthly.

d. Additional information is available at [Restoration of Rights](#) (Secretary of the Commonwealth website).

e. COV §53.1-231.2 has made it possible for eligible non-violent convicted felons, to have the right to vote reinstated through a Circuit Court process.

i. The offender must be free from any active or suspended sentence, supervised or unsupervised probation, parole, post release supervision, or good behavior for a period of five years.

ii. The offender may petition the Circuit Court of conviction or the Circuit Court where they currently reside in Virginia, to approve a petition for voting rights only.

iii. If approved by the Circuit Court, the petition is then forwarded to the Secretary of the Commonwealth to transmit the matter to the Governor for review and final approval.

iv. Only the Governor can restore this civil right. There is no appeal of the Governor's decision.

#### V. REFERENCES

Virginia Parole Board Policy Manual

Operating Procedure 820.2, *Re-entry Planning*

#### VI. FORM CITATIONS

[Parole Discharge Report \(PPS 60\)](#) 920\_F4

[Casework Review and Recommendation \(PPS 43\) 920\\_F5](#)

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

*Signature Copy on File*

*11/28/18*

A. David Robinson, Chief of Corrections Operations

Date