

No. 81324-8

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

---

IN RE THE PERSONAL RESTRAINT PETITION OF:

MARK MATTSON,

Respondent.

---

FILED  
COURT OF APPEALS DIV. #1  
STATE OF WASHINGTON  
2008 AUG - 8 PM 4:48

SUPPLEMENTAL BRIEF OF RESPONDENT

---

GREGORY C. LINK  
Attorney for Respondent

WASHINGTON APPELLATE PROJECT  
1511 Third Avenue, Suite 701  
Seattle, Washington 98101  
(206) 587-2711

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
08 AUG 12 AM 7:58  
BY RONALD R. CARPENTER  
CLERK

**TABLE OF CONTENTS**

A. SUMMARY OF ARGUMENT ..... 1

B. SUMMARY OF CASE ..... 1

C. ARGUMENT..... 3

    THE COURT OF APPEALS PROPERLY CONCLUDED  
    DOC VIOLATED RCW 9.94A.728..... 3

        1. Mr. Mattson is entitled to relief without regard to  
        Fourteenth Amendment liberty interest analysis..... 3

        2. Mr. Mattson has a liberty interest in his earned  
        early release..... 5

        3. DOC has violated the requirements of RCW  
        94.A.728(2)..... 9

D. CONCLUSION ..... 15

APPENDICES ..... 16

## TABLE OF AUTHORITIES

### **United States Constitution**

U.S. Const. amend. XIV .....	3, 4, 6
------------------------------	---------

### **Washington Supreme Court**

<u>In re Personal Restraint Petition of Smith</u> , 139 Wn.2d 199, 986 P.2d 131 (1999) .....	11
<u>In re the Personal Restraint Petition of Anderson</u> , 112 Wn.2d 546, 772 P.2d 510 (1989) .....	7
<u>In re the Personal Restraint Petition of Cashaw</u> , 123 Wn.2d 138, 866 P.2d 8 (1994) .....	6
<u>In re the Personal Restraint Petition of Fogle</u> , 128 Wn.2d 56, 904 P.2d 722 (1995) .....	7
<u>In re the Personal Restraint Petition of McCarthy</u> , 161 Wn.2d 234, 164 P.3d 1283 (2007) .....	6
<u>R/L Assocs. v. City of Seattle</u> , 113 Wn.2d 402, 780 P.2d 838 (1989) .....	11
<u>Sintra, Inc. v. City of Seattle</u> , 119 Wn.2d 1, 829 P.2d 765 (1992) .....	11

### **Washington Court of Appeals**

<u>In re the Personal Restraint Petition of Capello</u> , 106 Wn.App. 576, 24 P.3d 1074, <u>review denied</u> , 145 Wn.2d 1006 (2001) .....	12
<u>In re Personal Restraint Petition of Crowder</u> , 97 Wn.App. 598, 985 P.2d 944 (1999) .....	7

In re the Personal Restraint Petition of Dutcher, 114  
Wn.App. 755, 60 P.3d 635 (2002) ..... passim

In re Personal Restraint Petition of Liptrap, 127 Wn.App.  
463, 111 P.3d 1227 (2005) ..... passim

In re the Personal Restraint Petition of Mattson, 142  
Wn.App. 130, 172 P.3d 719 (2007) ..... 2, 10

**United States Supreme Court**

Board of Pardons v. Allen, 482 U.S. 369, 107 S.Ct. 2415,  
96 L.Ed.2d 303 (1987) ..... 6, 8

Board of Regents v. Roth, 408 U.S. 564, 570-71, 92 S.Ct.  
2701, 33 L.Ed.2d 548 (1972) ..... 4

Greenholtz v. Inmates of Neb. Penal & Corr. Complex, 442  
U.S. 1, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979) ..... 6

**Statutes**

RCW 9.94A.728 ..... passim

**Court Rules**

RAP 16.4 ..... 15

**Other Authorities**

Carver v. Lehman, 528 F.3d 659 (9<sup>th</sup> Cir. 2008) ..... 7, 8

A. SUMMARY OF ARGUMENT

RCW 9.94A.728(2) provides that sex offenders are eligible for transfer to community custody status in lieu of earned early release time. The statute permits the Department of Corrections (DOC) to deny release if it finds the offenders proposed release plan may violate the conditions of the sentence, poses a danger to the community or victim, or creates a risk of reoffense. This statute does not permit DOC to categorically exempt from transfer to community custody, those inmates DOC believes may potentially be found to meet the criteria for commitment as sexually violent predators (SVP). Instead, the remedy in that scenario is for DOC to refer the matter for consideration for filing of an SVP petition.

Even after two published Court of Appeals opinions concluded DOC could not lawfully employ such categorical exemptions, DOC has continued to do so and relied upon such a policy to deny Mark Mattson's transfer to community custody. DOC's action violate RCW 9.94A.728. Mr. Mattson is entitled to relief by way of his present Personal Restraint Petition (PRP)

B. SUMMARY OF CASE

Mr. Mattson was eligible for community custody in July 2005. To date, DOC has refused to transfer Mr. Mattson to community

custody based upon former DOC policy 350.200 (effective date June 25, 2002)<sup>1</sup> which provided:

For those cases in which a forensic evaluation has been completed and an expert has concluded that the offender does meet the criteria for civil commitment as defined RCW 71.09.020, no proposed community release plan will be deemed sufficiently safe to ensure community protection.

Mr. Mattson then filed the present Personal Restraint Petition (PRP).

Based on its prior decisions in In re the Personal Restraint Petition of Dutcher, 114 Wn.App. 755, 60 P.3d 635 (2002), and In re Personal Restraint Petition of Liptrap, 127 Wn.App. 463, 111 P.3d 1227 (2005), the Court of Appeals concluded DOC's continued reliance upon categorical exemptions to the deny release pursuant to RCW 9.94A.728 violates the plain language of the statute. In re the Personal Restraint Petition of Mattson, 142 Wn.App. 130, 139-40, 172 P.3d 719 (2007). Consistent with those decisions, the Court of Appeals said

If a forensic evaluation concludes an inmate meets the criteria of sexually violent predator, "24/7 prison-like monitoring and lock-down" can only be

---

<sup>1</sup> All DOC policies, both former and current versions, discussed in this brief are attached as appendices. Because each of the policies at issue have been revised or amended, they are referred to by their effective date which appears at the top of each page of the policy directive.

accomplished within the constraints of due process by means of a civil commitment proceeding.

Id. at 140.

DOC has never denied that it has relied upon a categorical exemption, instead it stubbornly insists that it is entitled to do so despite the plain language of RCW 9.94A.728 and the holdings of Liptrap, Dutcher, and now Mattson. See e.g., Motion for Discretionary Review (MDR) at 8 (contending Court of Appeals wrongly “held that [DOC] cannot categorically exempt sex offender from community placement”).

C. ARGUMENT

THE COURT OF APPEALS PROPERLY  
CONCLUDED DOC VIOLATED RCW 9.94A.728

1. Mr. Mattson is entitled to relief without regard to Fourteenth Amendment liberty interest analysis. The State contends the Court of Appeals wrongly granted Mr. Mattson’s petition, because the State contends Mr. Mattson does not have a limited liberty interest in earned early release. MDR at 10-11. But the existence of liberty interest is irrelevant to the determination of whether Mr. Mattson’s restraint is unlawful.

When a person contends the government has deprived him of due process in violation of the Fourteenth Amendment, a court

must first determine whether the person enjoys a liberty interest in the claimed right of which he was denied. Board of Regents v. Roth, 408 U.S. 564, 570-71, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).

The Court explained that to have such a liberty interest

... a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined.

Id. at 577.

If this case concerned whether DOC deprived Mr. Mattson of due process, it would be necessary for this Court to determine whether he has a protected liberty interest in his earned early release credits. But Mr. Mattson has not contended, and the Court of Appeals did not find, his confinement violates the Due Process Clause of the Fourteenth Amendment. Instead, he contends his continued confinement violates the provisions of RCW 9.94A.728. The Court of Appeals agreed saying "neither the current nor former versions of RCW 9.94A.728 authorize DOC to categorically exempt offenders who meet the criteria of sexually violent predators." The determination of whether a liberty interest exists is unnecessary and irrelevant to this statutory analysis.

2. Mr. Mattson has a liberty interest in his earned early release. Assuming it is necessary for the Court to determine whether DOC's actions infringe upon a protected liberty interest of Mr. Mattson, the Court must determine it does.

RCW 9.94A.728 provides in relevant part:

(2)(a) A person convicted of a sex offense . . . may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(c) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community placement or community custody terms eligible for release to community custody status in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(d) The department may deny transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement . . . .

In Greenholtz v. Inmates of Neb. Penal & Corr. Complex, the United States Supreme Court recognized that while an inmate does not have right to or liberty interest in early release or parole, a statute may create a liberty interest where the statute provides for release unless some specified finding is made warranting denial of release. 442 U.S. 1, 12, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979). A statute may create such an expectation even if it does not employ mandatory terms such as "shall" and "unless." See, Board of Pardons v. Allen, 482 U.S. 369, 378, 107 S.Ct. 2415, 96 L.Ed.2d 303 (1987). This Court has recognized that

by enacting a law that places substantive limits on official decisionmaking, the State can create an expectation that the law will be followed, and this expectation can rise to the level of a protected liberty interest.

In re the Personal Restraint Petition of Cashaw, 123 Wn.2d 138, 144, 866 P.2d 8 (1994); see also, In re the Personal Restraint Petition of McCarthy, 161 Wn.2d 234, 164 P.3d 1283 (2007) (finding liberty interest in procedures of RCW 9.95.420 pertaining to release from indeterminate sentence).

Applying this analysis, this Court has already recognized that the statutory right to good time, or earned early release, credits creates a liberty interest protected by the Fourteenth Amendment.

In re the Personal Restraint Petition of Anderson, 112 Wn.2d 546, 548, 772 P.2d 510 (1989); In re the Personal Restraint Petition of Fogle, 128 Wn.2d 56, 65-66, 904 P.2d 722 (1995); see also, In re Personal Restraint Petition of Crowder, 97 Wn.App. 598, 600 n.4, 985 P.2d 944 (1999); Dutcher, supra; Liptrap, supra. The statute creating this liberty interest in earned early release is RCW 9.94A.728(1). RCW 9.94A.728 does not exclude sex offenders from the accrual of earned early release credits, but simply directs to what those earned early release credits entitle sex offenders; “transfer to community custody status in lieu of earned early release time.” RCW 9.94A.728(2). RCW 9.94A.728, therefore, provides sex offenders the same entitlement to earned early release credits enjoyed by other offenders. Dutcher, supra; Liptrap, supra. See also, Carver v. Lehman, 528 F.3d 659, 667 (9<sup>th</sup> Cir. 2008) (appeal of grant of summary judgment in action pursuant to 42 U.S.C. §1983, concluding RCW 9.94A.728(2) created liberty interest but concluding DOC official had qualified immunity at time of deprivation of right).

The Court of Appeals has found the language of RCW 9.94A.728(2)

require[s] the department to make its early release decision based upon plans proposed by inmates and reviewed by the department, and has (we believe wisely) not authorized any exemption from this process simply because [End of Sentence Review Committee] believes the offender qualifies for a civil commitment hearing.

Dutcher, 114 Wn.App. at 765-66 (quoted in Liptrap, 127 Wn.App. at 472). Again, RCW 9.94A.728(2)(d) provides:

[t]he department may deny transfer to community custody status . . . if the department determines an offender's release plan . . . may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety.

By using language "may deny . . . if," as opposed to "may grant . . . if," the legislature has created a presumption of approval unless DOC finds one of the listed criteria. See Carver 528 F.3d at 667. Again, the absence of words such as "shall" and "unless" does not foreclose the finding of a liberty interest. Allen, 482 U.S. at 378. Indeed, as discussed previously, court's have long recognized a liberty interest in earned early release credits, yet the statute creating that right provides only that "the term of an offender. . . may be reduced by earned early release time." (Emphasis added.) RCW 9.94A.728(1). The Legislature used the same language in the portions of the statute pertaining to release in lieu of earned

early release and there is no basis to give those terms different meanings or effects.

Mr. Mattson has a liberty interest in his earned early release credits.

3. DOC has violated the requirements of RCW 94.A.728(2).

In Dutcher, DOC refused to investigate an inmate's release plan based upon a DOC policy, 350.200, which refused community custody for inmates referred for commitment as sexually violent predators. 114 Wn.App at 757-58. The court found the DOC policy which created the exemption violated the provisions of RCW 9.94A.728 as that statute requires "DOC to base its community custody eligibility decisions on the merits of the release plan." Dutcher, 114 Wn.App. at 762.

Liptrap followed on the reasoning of Dutcher and concluded DOC policy 350.200 deferring consideration of release plans pending a forensic evaluation was equally violative of RCW 9.94A.728 as it again sought to craft exceptions which the Legislature did not create. Liptrap, 127 Wn.App. at 463.

DOC responded by amending policy 350.200 to provide that while it will allow submission of release plans, and will even investigate them, it will in no circumstances approve a release plan

for inmates who have been evaluated and referred for sexually violent predator proceedings; this is the policy employed to deny Mr. Mattson's transfer. The Court of Appeals granted the petition in the present case concluding the new policy was simply another unlawful generalized policy of denial. 142 Wn.App. at 139-40. After the petition was filed in Mattson but prior to issuance of a decision, DOC again amended Policy 350.200 eliminating the express requirement that such release plans be denied. DOC Policy 350.200 (effective December 25, 2006); Mattson, 142 Wn.App. at 140, n.6. However, the Court of Appeals concluded that former DOC Policy 350.500 (effective June 28, 2002), which barred release to community custody of any person found to be an SVP regardless of the merits of their release plan, was similarly violative of RCW 9.94A.728. Mattson, 142 Wn.App. at 140, n.6.

While DOC has reviewed and denied Mr. Mattson release plan, it has only done so pursuant to policies which categorically exempt him from transfer to community custody regardless of the substantive merits of his release plan.<sup>2</sup> Thus, DOC has never

---

<sup>2</sup> DOC Policy 350.500 was amended April 15, 2008, after the filing of DOC's motion for discretionary review and Mr. Mattson's answer. The amended policy still prohibits an inmate's release to community custody until such time as he is no longer under consideration for commitment as an SVP. Attached as Appendix.

considered Mr. Mattson's eligibility for release to community custody based upon the merits his proposed release plans.

In both Dutcher and Liptrap, the Court of Appeals concluded RCW 9.94.728(2) does not permit DOC to apply categorical exemptions to its decisions to release inmates to community custody. As this case demonstrates, DOC has steadfastly ignored the court's ruling, insisting the "Court of Appeals wrongly "held that [DOC] cannot categorically exempt sex offender from community placement" MDR at 8.

In a prior case in which DOC refused to change its policies in response to an opinion of the Court of Appeals this Court said:

We have repeatedly stated it offends the rule of law when agencies of the state willfully ignore the decisions of our courts. See Sintra, Inc. v. City of Seattle, 119 Wn.2d 1, 24, 829 P.2d 765 (1992); R/L Assocs. v. City of Seattle, 113 Wn.2d 402, 411, 780 P.2d 838 (1989). Once again, we find it necessary to reiterate this fundamental point.

In re Personal Restraint Petition of Smith, 139 Wn.2d 199, 203 n3, 986 P.2d 131 (1999). Smith concerned an inmate's challenge to DOC's conclusion that he was not eligible for more than 15% earned early release, even after the Court of Appeals had granted relief to an another inmate rejecting DOC's interpretation of the relevant statute. Id. at 202-03. Similarly, rather than seek review of

the decisions in either Dutcher or Liptrap, DOC simply elected to ignore these decisions, and continued to employ the categorical exclusions which led to its denial of Mr. Mattson release plan.<sup>3</sup> See former DOC Policy 350.200 (effective date June 25, 2002); DOC Policy 350.500 (effective date June 28, 2002) Again, this Court should reiterate the basic constitutional requirement that DOC is not free to disregard legislative restraint and judicial interpretations of its authority.

DOC maintains its action are permitted by RCW 9.94.728(2) because, DOC contends, the statute allows it to deny of release plans if the person poses a risk to the community or to reoffend, and, DOC continues, "a sexually violent predator is defined as person at risk of reoffense. MDR at 14. DOC contends it is "statutorily authorized to deny release to community custody to

---

<sup>3</sup> DOC's pattern of ignoring judicial interpretation of its authority is further illustrated by its response to the decision in In re the Personal Restraint Petition of Capello, 106 Wn.App. 576, 24 P.3d 1074, review denied, 145 Wn.2d 1006 (2001) in which the court concluded former RCW 9.94A.150 did not allow DOC to impose a requirement that an inmate obtain preapproval of a release address if that requirement was not imposed by the sentencing court. Following Capello, rather than ceasing to impose the unlawful condition, DOC took the position that each inmate subject to this unlawful restraint would be required to separately seek relief by way of a PRP. See, In re the Personal Restraint Petition of Stewart, 115 Wn.App. 319, 75 P.3d 521 (2003).

persons who meet the definition of a sexually violent predator.”

MDR at 14-15.<sup>4</sup> DOC’s logic suffers many flaws.

First, that DOC believes an inmate meets the criteria of an SVP is not the same as jury finding that he is. Unfortunately for DOC the Legislature has elected the former as the prerequisite for extended commitment rather than leave that determination to DOC’s ever evolving policies and practices. See RCW 72.09 (pertaining to SVP commitments). No matter how inevitable DOC may believe it to be, Mr. Mattson has not been found to be an SVP pursuant to the process created by the Legislature. Indeed, Liptrap noted that as of 2005, commitment proceedings were initiated in the cases of no more than half the individuals referred as sexually violent predators. Liptrap, 127 Wn.App. at 475 n.7. Nonetheless, DOC relies upon its inaccurate predictions to deny release to a large number of inmates who will not be found to be SVP’s. Even if the statute allowed DOC to deny release to inmates who will be found to be SVP’s by a jury, a point Mr. Mattson does not concede, it surely does not allow DOC to deny release to inmates who will

---

<sup>4</sup> DOC’s effort to argue its denial of Mr. Mattson’s release plan complies with the criteria delineated in RCW 9.94A.728(2) implicitly acknowledges its ability to deny a plan is limited to the those criteria alone. This acknowledgment lends further support to the conclusion that by so limiting DOC’s authority the Legislature has created a liberty interest.

not be subject to commitment. DOC is not to free to substitute its judgment of who is an SVP for that of a jury in a subsequent commitment proceeding.

Second, nothing in the opinion of the Court of Appeals in this matter, nor in Liptrap or Dutcher, prevents DOC from seeking the filing SVP petition where DOC believes it is warranted. Indeed, Liptrap stated:

If there is to be extended confinement for sex offenders based on their risk of reoffense, it must be accomplished within the constraints of due process, such as the initiation of a civil commitment proceeding.

127 Wn.App. at 463. For reasons known only to it, DOC has chosen to delay referral for filing until inmates attain their maximum release date. While DOC is free to make that choice the plain language of RCW 9.94A.728(2) does not allow DOC to deny transfer to community custody because DOC believes a person may be the subject of future commitment proceedings. Similarly if DOC has made a referral to the appropriate filing agency but that agency has failed to act on the referral, it is at their own peril, as RCW 9.94A.728(2) does not permit DOC's indefinite warehousing of inmates while the prosecuting agency delays its filing decision.

DOC's actions in this case violate RCW 9.94A.728.

Therefore, Mr. Mattson is unlawfully restrained and he is entitled to relief pursuant to RAP 16.4.

D. CONCLUSION

This Court should affirm the Court of Appeals decision granting Mr. Mattson's petition.

Respectfully submitted this 8<sup>th</sup> day of August, 2008.



---

GREGORY C. LINK – 25228  
Washington Appellate Project  
Attorney for Respondent

## **APPENDICES**

**DOC Policy 350.200 – Effective Date June 25, 2002**

**DOC Policy 350.200 – Effective Date December 25, 2006**

**DOC Policy 350.500 – Effective Date June 28, 2002**

**DOC Policy 350.500 – Effective date April 15, 2008**

**DOC Policy 350.200 – Effective Date June 25, 2002**

**DOC Policy 350.200 – Effective Date June 25, 2002**

**DOC Policy 350.200 – Effective Date June 25, 2002**

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p><b>POLICY DIRECTIVE</b></p> <p><input checked="" type="checkbox"/> Offender Manual   <input type="checkbox"/> Spanish</p>	<p><b>PRISON/PRE-RELEASE/ WORK RELEASE/FIELD</b></p>	<p>NUMBER <b>DOC 350.200</b></p>
	<p>SIGNATURE</p> 	<p>DATE</p> <p>6/25/02</p>
	<p>JOSEPH D. LEHMAN, SECRETARY</p>	<p>PAGE NUMBER</p> <p>1 of 17</p>
<p>TITLE</p> <p><b>RISK BASED TRANSITION FOR OFFENDERS</b></p>		

**SUPERSESSSION:**

DOC 350.200 effective 5/4/01; DOC 320.430 effective 12/11/00; DOC 350.280 effective 8/31/99; DCC 300.320 effective 2/28/95

**REFERENCES:**

DOC 100.100 is hereby incorporated into this Policy Directive; RCW 9.94A; RCW 71.05; RCW 71.09; RCW 72.02.100; RCW 72.09; WAC 137-28; WAC 137-56; DOC 200.730 Risk Management Transition Funds; DOC 310.100 Intake; DOC 320.410 Offender Risk Management; DOC 320.420 Offender Accountability Plans; DOC 320.430 Identification and Transition of Risk Management-A (RM-A) Offenders; DOC 350.240 Ten Day Release Denial; DOC 350.250 Order of Release and/or Transfer to Community Custody; DOC 350.255 Registration Notification; DOC 350.550 Reporting Abuse and Sex Offender Contact; DOC 350.600 Teletype Notification of Release of Offenders; DOC 380.250 Use of GENIE/Kiosk In Offender Supervision; DOC 380.550 Driver's License/Washington State Identification Cards for Offenders; DOC 390.300 Victim/Witness Notification; DOC 390.600 Imposed Conditions; DOC 530.200 Guardians; DOC 790.100 Work Ethic Program

**POLICY:**

- I. The Department shall use risk based offender management principles to transition offenders from the facility to the community. Those principles include:
  - A. An offender's risk to re-offend and commit violent acts shall be identified through assessment, using tools adopted by the Department.
  - B. Risk assessment shall result in an assigned risk management (RM) classification level as defined in DOC 320.410 Offender Risk Management.
  - C. Risk factors shall be targeted and intervention strategies developed based on the offender's assessed risk to do harm and the availability of resources. Intervention strategies shall include:
    1. The conditions with which the offender must comply;
    2. A verification plan to determine if the offender is in compliance; and

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	2 of 17

3. Documentation of the offender's level of compliance with the conditions and intervention strategy.
  - D. The offender's requirement for supervision upon release shall be based on the offender's assessed level of risk to the community and the Judgement and Sentence (J&S).
  - E. The content requirements for the Offender Accountability Plan (OAP) and the OAP with Transition Plan (OAP w/TP) shall be based on the offender's assigned RM classification level.
- II. The transition process shall include:
1. Document Search;
  2. Risk (re)assessment;
  3. Use of RM Teams;
  4. Creation of an OAP;
  5. Creating an OAP w/TP;
  6. Investigation of the TP and development and approval of the release OAP;
  7. Notifications and release; and
  8. Field intake.
- III. The Department shall use the OAP w/TP to develop and communicate the transition plan for offenders releasing from Department total and partial confinement facilities.
- IV. The Department shall utilize RM Team(s) to manage the transition of high-risk offenders from Department total and partial confinement facilities to the community.

**DIRECTIVE:**

I. Transition Timelines

- A. At the time of the offender's regularly scheduled classification review prior to 18 months from the offender's Earned Release Date (ERD), the document search shall be initiated by the assigned facility Counselor/Community Corrections Officer (CCO).
  1. The following timelines shall be followed for offenders who are sentenced to and arrive at the Washington Corrections Center - Reception Center (WCC-RC) or the Washington Corrections Center for Women (WCCW) Reception Center.
    - a. If 18 to 6 months to his/her ERD:
      - 1) The document search, Level of Service Inventory Revised (LSI-R) and Risk Management Identification (RMI) (re)assessment, assignment of an RM classification level, and Community Protection Unit (CPU) End of Sentence

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	3 of 17

Review (ESR) referral shall be done no later than 30 days after arrival at the initial placement from the Reception Center.

- b. If 6 to 4 months to his/her ERD, prior to the offender's transfer from the Reception Center, the assigned Counselor shall:
  - 1) Initiate the document search;
  - 2) Document the Criminal History Summary (CHS) using DOC 21-148 Criminal History Summary;
  - 3) Complete the LSI-R (re)assessment;
  - 4) Complete the RMI classification process;
  - 5) Assign the RM classification level; and
  - 6) Complete the CPU ESR referral, if one is required.
  
- c. If 4 months or less to his/her ERD, prior to the offender's transfer from the Reception Center, the assigned Counselor shall:
  - 1) Initiate the document search;
  - 2) Document the CHS using DOC 21-148 Criminal History Summary;
  - 3) Conduct the LSI-R (re)assessment;
  - 4) Complete the RMI classification process;
  - 5) Assign the RM classification level;
  - 6) Complete the CPU ESR referral, if one is required;
  - 7) Complete an OAP w/TP; and
  - 8) Initiate a Risk Management Intensive Transition (RMIT) Team, if required per DOC 320.410 Offender Risk Management.
    - a) After these steps are completed, the offender may be transferred upon completion of the initial classification process. The initial placement shall be based on the offender's RMI classification and proposed residence location in the OAP w/TP.
  
- d. If less than 30 days to Actual Release Date (ARD), the offender shall remain at WCC-RC or WCCW until release.
  - 1) If more than 15 days to serve, the document search shall be started immediately.
  - 2) If less than 15 days to serve, the field shall be responsible for the document search.

**B. 18 Months Prior to the ERD**

- 1. The assigned facility CCO/Counselor shall:

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	4 of 17

- a. Request a completed DOC 13-380 Transfer/Transition of Offender from medical staff;
  - b. Assign an RMI classification level;
  - c. Develop an OAP; and
  - d. Refer the case to CPU ESR if required.
2. Once assigned an RMI classification, the offender shall be placed on a time-driven review schedule as follows:
    - a. RM-A – quarterly reviews;
    - b. RM-B – semi-annual reviews;
    - c. RM-C – annual reviews; and
    - d. RM-D – annual reviews.
  3. Activities shall occur at each review based on Risk Management A - D Timelines (attached) or Risk Management Intensive Transition Timeline (attached) for each RM classification level.
  4. Significant actions by the offender or new information received that would result in a change to the OAP are also grounds for a plan review. When a plan review occurs, the time frames for the regularly scheduled review start over.
- C. 6 Months Prior to the ERD, at a Regular Review
1. The assigned facility CCO/Counselor shall assess the availability of resources to assist the offender in the transition process. This process shall include the discussion with the offender to address issues to assist in the development of the OAP w/TP. Suggested questions are included in the Transition Process Offender Discussion Guide (attached).
- D. 4 Months Prior to the ERD
1. Facility CCO/Counselors shall initiate the OAP w/TP.
    - a. If the offender is required by law to have an approved plan and does not have one, s/he may be held until his/her maximum expiration (Max Ex) date.
      - 1) If the offender will "max out":
        - a) The RMIT Team shall develop a TP that shall be used as a Community Protection Plan on all high-need RM-B offenders and RM-A offenders classified RM-A due to:
          - (1) An LSI-R score of 41 or more and one or more convictions for violent offenses;

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	5 of 17

- (2) Dangerously Mentally Ill Offenders (DMIO);
  - (3) Level III sex offenders; and/or
  - (4) Imminent and unremitting threat.
- b) All other RM-A offenders released on their Max Ex date shall have their TP developed by the Risk Management Transition Team Other (RMTO). The TP will be used as a Community Protection Plan and forwarded to the Assignment Officer in the county of release.
- (1) To mitigate the offender's risk to do harm upon release, the Assignment Officer may share the Community Protection Plan with other agencies that have an interest in monitoring or surveillance of the offender in the community.
- b. All offenders who need a plan developed, and are eligible for transition assistance from an RMIT Team, shall have the OAP w/TP assigned immediately to a field CCO for plan development/ investigation through the Community Risk Management Specialist.
- c. When an OAP w/TP for other than RMIT Team cases is submitted for investigation, the plan shall be investigated as required, based on the offender's assigned RM classification level. The investigation shall be completed within 30 days after receipt of the *Community Release Plan Packet (CRPP)*.
- E. Prior to the ARD, facility Records staff shall complete CPU Victim/Witness notifications per DOC 390.300 Victim/Witness Notification and Law Enforcement notifications, as legally required.
- F. On the ARD, the offender shall be released. If there is a 48-hour plan developed and approved by the RMIT Team, it is put into effect.
- G. Within 30 days after release, the supervising field CCO shall conduct an intake when one is required based on the offender's assigned RM classification level and DOC 310.100 Intake.
- H. Offenders transitioned with assistance from an RMIT Team shall have a 60-day post-release review.
- II. Document Search
- A. Not later than the offender's regularly scheduled review prior to 18 months from his/her ERD, the assigned facility CCO/Counselor shall initiate a document search in order to complete the Risk Management Identification classification

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	6 of 17

and/or End of Sentence Review process. The document search will be conducted per the Document Search Procedure (attached.)

### III. Risk (re)assessment

- A. At 18 months from the offender's ERD, the assigned facility CCO/Counselor shall:
1. Request a completed DOC 13-380 Transfer/Transition of Offender from medical staff.
  2. (Re)assess the offender using the LSI-R. Offender Based Tracking System (OBTS) DT55 LSI-R subcomponent narratives with information to support any change in a subcomponent score shall be updated.
  3. Complete the RMI assessment. The assessment shall be documented using DOC 02-191 Risk Management Identification Worksheet and OBTS DT55 Description of Violence and Victim and Community Concerns narrative components.
    - a. Staff shall consider the offender's criminal history, including arrest and offense behavior patterns, when assigning an RM classification level.
  4. Additional risk assessment tools (e.g., Minnesota Sex Offender Screening Tool (MNSOST), Rapid Risk Assessment for Sex Offender Risk (RRASOR), Violence Risk Appraisal Guide (VRAG), Washington State Risk Level Classification (RLC)), as adopted and approved by the Department, may be used by trained, authorized staff to assist in assessing offender risk.
    - a. Assessment results shall be documented on OBTS DT37.
    - b. The assessment documents shall be filed in the offender's central or medical file as appropriate.

### IV. Risk Management Teams

- A. RM Teams shall be used to assist in the development of the offender's OAP and OAP w/TP. RM Teams and their roles are defined in DOC 320.410 Offender Risk Management. The teams include:
1. Facility Risk Management Team (FRMT);
  2. Risk Management Intensive Transition (RMIT) Team;
  3. Risk Management Transition Team Other (RMTO); and
  4. Community Risk Management Team (CRMT).

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	7 of 17

V. Offender Accountability Plan Without Transition Plan

- A. At 18 months prior to the offender's ERD, or immediately for those offenders with less than 18 months to serve, the facility CCO/Counselor shall create an OAP w/oTP per DOC 320.420 Offender Accountability Plans.
  1. An RM classification level must be assigned in order to create an OAP w/o TP.
  2. For all RM classification levels, the OAP shall include OBTS DT55 LSI-R and RMI assessment narratives and the Risk Narrative section.
- B. The assigned facility CCO/Counselor shall, as approved by the FRMT, complete the OAP and forward it for review and approval through the facility Classification Review/ Approval process within 30 days of the date it is initiated.

VI. Offender Accountability Plan With Transition Plan

- A. At 4 months prior to the offender's ERD, the facility CCO/Counselor shall initiate the OAP w/TP and complete the TP component of the OAP w/TP per the procedures outlined in Offender Accountability Plan with Transition Plan Procedures (attached).
- B. In determining the appropriateness of a TP, the offender's risk, past compliance with supervision requirements, all OBTS DT37 "CC" chrono entries, and *End of Sentence Review Committee (ESRC)* decisions shall be considered. Additional chrono entries may also be considered (e.g., "LE," "RA," etc.).
- C. The TP component of the OAP w/TP shall be completed, with assistance from:
  1. An RMIT Team, on all offenders who meet the criteria:
    - a. RM-A offenders classified RM-A due to:
      - 1) An LSI-R score of 41 or more and one or more convictions for violent offenses;
      - 2) DMIOs;
      - 3) Level III sex offenders; and/or
      - 4) Imminent risk.
    - b. High-need RM-B offenders as defined in DOC 320.410 Offender Risk Management.
  2. An RMTO:
    - a. May be convened by the assigned CCO after consultation with the facility CCO/Counselor for RM-A offenders who do not meet the criteria for RMIT Team.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	8 of 17

- b. Will be convened by the field CCO when a plan is denied on an RM-A or RM-B offender per DOC 320.410 Offender risk Management.
    - 3. The FRMT for all other offenders who are not being released on the Max Ex date of an indeterminate cause.
  - D. Staff shall not complete or forward a TP for investigation if:
    - 1. They know it will place the offender in a situation where s/he is likely to re-offend;
    - 2. It will place the offender in violation of the J&S and/or Department conditions;
    - 3. The sponsor withdraws; or
    - 4. The ESRC has determined that the offender meets the criteria for referral as a sexually violent predator under RCW 71.09.
  - E. The reason for not referring the plan shall be entered on OBTS DT37 using the "CA" chrono code.
  - F. Only one TP at a time shall be submitted for investigation per offender.
    - 1. For offenders being transitioned with the assistance of an RMIT Team, more than one potential residence may be investigated for a plan (e.g., an Out Of State (OOS) and a county of conviction on a "to be developed" (TBD) plan).
  - G. The TP component shall be used by facility staff to:
    - 1. Document individuals, activities, programs, services, and needed resources, including additional financial resources for necessary personal or living expenses, which shall contribute to the mitigation of the offender's risk to do harm and the offender's successful transition from a Department total or partial confinement facility to the community; and
    - 2. Document the offender's release address, any verified employment, and means of transportation to the release residence.
- VII. Offender Accountability Plan With Transition Plan Investigation
- A. For RM-A, RM-B, and RM-C offenders releasing to *community custody* for supervision in the community, a review and investigation of the OAP w/TP by the field CCO is required.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	9 of 17

1. When a CCO is assigned as a member of an RMIT Team, s/he will assist in the development and investigation of an OAP w/TP.
  - a. If a proposed residence is developed for DMIO's, sex offender's, and offenders assigned to RM-A's, due to imminent/unremitting threat cases, a Community Release Referral (CRR) shall be sent to the CPU Victim/Witness section.
    - 1) CPU will address the referral per DOC 390.300 Victim/Witness Notification.
    - 2) Concerns related to victim's safety will be given great weight, and may result in a development Victim/Witness Wrap Around Plan per DOC 390.300 Victim/Witness Notification.
  - b. An OAP w/TP for all other RM-A, RM-B, and RM-C offenders shall be referred for investigation through the Assignment Officer in the county of release.
    - 1) Facility staff shall submit a CRR to the Assignment Officer.
    - 2) The Assignment Officer shall assign the case for investigation to a field CCO.
    - 3) Facility staff shall forward the OAP w/TP to the assigned field CCO for investigation.
    - 4) The CCO assigned the investigation shall be responsible for coordinating the offender's transition with the assigned facility CCO/Counselor and other members of the RMTO or CRMT.
2. A *CRPP* shall be forwarded by the facility CCO/Counselor to the field CCO assigned the investigation.
  - a. The *CRPP* content requirements are based on the offender's RM classification level and case specifics. *CRPP* content requirements are listed on DOC 20-047 Community Release Plan Packet Checklist.
  - b. The investigating CCO may request copies of any available file material through the assigned facility CCO/Counselor in addition to the documents that the facility provides in the *CRPP*.
3. The investigating CCO shall visit the proposed residence as part of the investigation.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	10 of 17

- a. The CCO shall assess the degree of risk for victims and potential victims of similar age or circumstances when investigating the TP for sex offenders.
  - b. The CCO shall collaborate with the Child Protective Services/Adult Protective Services (CPS/APS) per DOC 350.550 Reporting Abuse and Sex Offender Contact.
  - c. Plans with victimization concerns requiring mandatory reporting require approval by the Office/Unit Supervisor.
    - 1) Sex offenders shall not return to a residence where minor victim(s) or other children of similar age are present unless:
      - a) A family reunification plan is in effect by order of the Court or Department guidelines;
      - b) The Court is aware the offender will be returning to the home; and
      - c) CPS/APS is involved in the case.
  - d. The proposed sponsor shall be informed of:
    - 1) The offender's criminal history;
    - 2) Recommended level of sex offender notification and that local law enforcement may conduct community notification if the offender is a sex or *kidnapping* offender, if applicable; and
    - 3) Conditions of release.
  - e. When the offender will reside in an apartment complex, the apartment manager shall be informed of the possibility of public notification.
  - f. This action shall be noted on OBTS DT37 using an "FC" chrono code.
4. All other sections noted on the offender's TP shall be reviewed, the investigating CCO shall update the OAP w/TP and make recommendations to mitigate risk and enhance the offender's opportunity for a successful transition. Recommendations may include approval for up to an additional \$60, as authorized in RCW 72.02.100, for offenders being paroled to an Indeterminate Sentence Review Board (IRSB) approved plan. Other sections may include:

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	11 of 17

- a. Treatment needs and availability;
  - b. Community concerns/access to potential victims;
  - c. Support system;
  - d. Available resources; and
  - e. Employment.
5. For all RM-A and RM-B cases, the investigating CCO shall update the OAP components of the OAP w/TP per DOC 320.420 Offender Accountability Plans.
  6. For all RM-C cases where the investigating CCO has evidence that the offender's criminal behavior and/or the offender's access to and/or control of victims or potential victims warrants targeting specific risk factors:
    - a. Intervention strategies for the targeted risk factor shall be developed using Court-ordered or Department-imposed conditions.
    - b. Imposing a Department condition in an RM-C case requires the approval of the Field Administrator (FA). In the event a Department-imposed condition is approved by the FA, conditions may include:
      - 1) Prohibitions that will interrupt the offender's criminal behavior and/or access to and control of victims and potential victims;
      - 2) Affirmative acts intended to result in long-term mitigation of the offender's assessed risk to cause harm; and
      - 3) Reparations to the community for the harm done.
    - c. A verification plan to assess the extent of the offender's compliance with the conditions imposed in the intervention strategy is required.
      - 1) At a minimum, compliance entries shall be made at the time of the offender's regularly scheduled review and may also occur when the offender's non-compliance results in an updated OAP.
  7. All OAPs require the review and approval of the investigating CCO's Supervisor. The approval should occur after the TP has been approved.
  8. The approved OAP component of the OAP w/TP shall address, at a minimum, the plan for management of the offender from the point of release through the point of intake in the CCO's office after the offender is released.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	12 of 17

- B. The procedures in RM-D OMMU Referral and Release Procedure (attached) will be used to transition RM-D offenders releasing to *community custody* for supervision in the community.
- C. For all RM classification levels:
1. Staff shall not complete a referral/investigation for an offender with an in-state hold/detainer if the potential sentence is longer than 4 months or if release to detainers, Immigration and Naturalization Services (INS), or other jurisdictions has been confirmed by the CRM/designee.
  2. The offender may be released to the detainer up to 10 days prior to his/her ERD as authorized per DOC 350.240 Ten Day Release Denial.
  3. Staff shall complete the referral/investigation on an offender with an in-state hold/detainer when the potential confinement on the detainer is 4 months or less.
    - a. If the plan is approved:
      - 1) The offender may be released to the detainer up to 10 days prior to his/her ERD per DOC 350.240 Ten Day Release Denial;
      - 2) The investigating CCO shall telephone the Assignment Officer in the county of layover/detention and request an intake assignment;
      - 3) The layover office shall check-date the jail release on OBTS DT07, complete intake per DOC 310.100 Intake, and ensure the transfer on the day of release; and
      - 4) DOC 20-311 Order of Release shall be sent to the county of approved residence per DOC 350.250 Order of Release and/or Transfer to Community Custody.
    - b. If the plan is denied, the offender shall remain in custody until s/he develops a TP that is approved or to within 10 days of the Max Ex date of his/her sentence.
  4. For all offenders requesting consideration for OOS placement/release and who require an approved release plan, the facility CCO/Counselor shall forward the OAP w/TP and 3 copies (2 for Oregon) of the core CRPP requirements plus interstate and ESRC attachments, if applicable, to the Headquarters Interstate Compact Unit (ICU) 105 days prior to the ERD.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	13 of 17

VIII. Monetary Releases

- A. Monetary releases will be conducted per Monetary Release Procedures (attached).

IX. Notifications and Release

- A. For all RM-A, RM-B, and RM-C cases referred for investigation to a field CCO, the CCO shall complete the community release investigation within 30 days of receipt of the *CRPP*. Completion of the investigation shall be documented as follows:

1. The approved address shall be entered on OBTS DT24. The name(s) and age(s) of the person(s) approved to reside with the offender, any potential victim-aged children if the offender is a sex offender, and any other appropriate information shall be entered on OBTS DT37.
2. The OAP and TP investigation sections shall be updated based on the offender's assigned RM classification level.
  - a. Review and approval of the investigated OAP w/TP by the investigating CCO's Supervisor is required for all sex offender plans and any plan being recommended for denial.
  - b. The investigating CCO shall review all *close proximity* issues with his/her immediate Supervisor prior to recommending approval or denial of the residence.
3. For offenders assigned the classification level of RM-A, RM-B, or RM-C when an approved release plan is required, the investigating CCO shall deny release plans:
  - a. When the offender's plan is to return to a residence where there is a victim(s) that the CCO believes is at risk; or
  - b. If the *ESRC* has determined that the offender appears to meet the definition of a sexually violent predator and s/he has been referred for Civil Commitment under RCW 71.09.
  - c. If the *ESRC* has determined that the offender meets the criteria of and has been referred for civil commitment under RCW 71.05.
4. The investigating CCO shall telephone/E-mail the assigned facility CCO/Counselor to determine if there is/are alternate residence(s) when the initial plan is denied because the address:
  - a. Is not available;
  - b. Will place the offender in violation of Court-imposed conditions;

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	14 of 17

- c. Will place the offender at a likely risk to re-offend; and/or
  - d. Will place a sex offender in the same house or in *close proximity* to the minor victim(s), school, child care center, playground, or other facility where children of similar age and circumstances surrounding the conviction are present and who may be put at substantial risk of harm by the offender residing at that location.
5. If an alternative residence/plan is developed between the facility CCO/Counselor, the offender, and the field CCO, the new plan shall be re-submitted as a new TP and a new CRR shall be sent.
  6. CCOs assigned as members of an RMIT Team to assist in developing a TP for an offender shall remain assigned and actively involved in developing a plan until the RMIT Team determines no plan is available.
- B. If the plan is denied and there is no alternate plan:
1. The TP component of the OAP w/TP shall be recommended for denial by the CCO and forwarded to the CCO's Supervisor for review;
  2. The CCO's Supervisor shall review the denial;
  3. The *CRPP* shall be forwarded to the Records unit of the facility where the offender is located; and
  4. The CCO shall enter the denial on OBTS DT07 and DT37 with reasons for denial.
    - a. If the Supervisor denies the plan, the plan status shall be set to "Denied" and the TP forwarded to the facility CRM/designee who shall notify the assigned facility CCO/Counselor.
    - b. If the Supervisor does not concur with denial, s/he may approve it and forward it to the assigned facility CCO/Counselor, or return it to a field CCO for additional action/investigation.
- C. When a previously approved plan is denied based on additional information, the CCO shall immediately notify:
1. The Victim/Witness Program at "V/W2" E-mail mailbox;
  2. *ESRC* at "EOSR" E-mail mailbox;
  3. The facility Records Manager where the offender is assigned;
  4. The field Records Manager where the offender was initially approved; and
  5. The assigned facility CCO/Counselor.
- D. Offenders who are required to have an approved release address in order to be released on or about their ERD and do not have an acceptable plan, regardless

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	15 of 17

of their assigned RM classification level, shall be managed through the following process:

1. Work Ethic Camp (WEC) cases shall be referred to the WEC Transition Specialist. The WEC Transition Specialist shall develop a release plan per DOC 790.100 Work Ethic Program.
  2. All others shall remain in total/partial confinement until an acceptable address is established or they reach their Max Ex date (i.e., *post release supervision (PRS) or Community Custody Past Maximum Expiration Date (CCM)*).
- E. For all releases, CRMs/designees shall, upon receipt of the approved plan or prior to the Max Ex date if there is no approved plan, notify law enforcement and the Victim/Witness Unit as outlined in DOC 350.250 Order of Release and/or Transfer to Community Custody, DOC 350.600 Teletype Notification of Release of Offenders, and DOC 390.300 Victim/Witness Notification.
- F. An alternate plan to the same county where notifications were previously made will not delay the offender's release. This will not re-start the time frames for notification. CRMs shall:
1. Complete notifications of an alternate plan to the Victim/Witness Unit using OBTS DT22, and to law enforcement as a re-notification; and
  2. Re-register sex and kidnapping offenders.
- G. The CRM/designee of the facility where the offender is housed shall send E-mail notification of the offender's release per DOC 350.250 Order of Release and/or Transfer to Community Custody.
- H. CRMs/designees and Work Release CCOs shall transfer/release offenders per DOC 350.250 Order of Release and/or Transfer to Community Custody.
- I. The status transfer date shall be suspended for an offender who receives a Category A infraction prior to transfer to *community custody*, provided that earned release credits remain on the sentence. The offender cannot be held past his/her Maximum Expiration date.
- J. 2 weeks prior to the transfer/release, the CRM/designee or Work Release CCO shall:
1. Prepare DOC 20-311 Order of Release;
  2. Obtain the offender's signature; and
  3. Attach a photo of the offender to the order and forward it to the assigned supervising CCO.
    - a. The original document shall be retained in the central file.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	16 of 17

- b. A copy, without the photograph, shall be given/sent to the offender per DOC 350.250 Order of Release and/or Transfer to Community Custody.
  
- K. DOC 20-311 Order of Release, with an attached photo of the offender, shall be sent to the county of approved residence per DOC 350.250 Order of Release and/or Transfer to Community Custody.
  
- L. RM-D Releases
  - 1. Staff designated by the facility Superintendent/Supervisor shall:
    - a. Instruct the offender to comply with all conditions of supervision imposed by the Court;
    - b. Have the offender sign DOC 05-529 OMMU Conditions, Requirements and Instructions; and
    - c. Send the completed intake packet to the OMMU CCO.
  
  - 2. The offender shall:
    - a. Be required to report telephonically when changes occur in his/her address, phone number, employment, contact person and contact person's phone number, or if s/he is arrested; and
    - b. Be assigned to BI Telephonic Reporting and given the 900 number, PIN, and password.
      - 1) The offender may report via Kiosk rather than BI Profile, with permission of the CCO and when telephonic reporting is not possible due to indigence or special circumstances, per DOC 380.250 Use of Genie/Kiosk In Offender Supervision.
  
  - 3. On the ARD, the OMMU Assignment Officer shall assign an INT to the OMMU CCO.
  
  - 4. The OMMU CCO shall:
    - a. Review the intake packet to ensure it is complete; and
    - b. Ensure the offender is assigned/referred to a community service site or treatment provider before closing the INT check date.
  
- X. Community Intake
  - A. Offenders with *community custody* ordered shall, upon release from a Department total or partial confinement facility, report to the assigned CCO as required per the release conditions.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.200	RISK BASED TRANSITION FOR OFFENDERS	6/25/02	17 of 17

1. A field intake shall be scheduled and completed within 30 days of the offender's release per DOC 310.100 Intake.

**DEFINITIONS:**

The following words/terms are important to this Policy Directive and are italicized and defined in the Glossary section of the Policy Directive Manual: Close Proximity, Community Custody, Community Custody Past Maximum Expiration Date (CCM), Community Release Plan Packet (CRPP), End of Sentence Review Committee (ESRC), Kidnapping, Post Release Supervision (PRS). Other words/terms appearing in this Policy Directive may also be defined in the Glossary.

**ATTACHMENTS:**

Document Search Procedure  
P194 LSI-R RM-D Transition Reassessment  
Monetary Release Procedure  
Offender Accountability Plan with Transition Plan Procedure  
Risk Management A - D Timelines  
Risk Management Intensive Transition Timeline  
RM-D OMMU Referral and Release Procedure  
Transition Process Offender Discussion Guide

**DOC FORMS (See Appendix):**

DOC 02-191 Risk Management Identification Worksheet  
DOC 05-529 OMMU Conditions, Requirements and Instructions  
DOC 13-380 Transfer / Transition of Offender  
DOC 20-047 Community Release Plan Packet Checklist  
DOC 20-306 Risk Management Sponsor Form  
DOC 20-311 Order of Release  
DOC 21-148 Criminal History Summary

**DOC Policy 350.200 – Effective Date December 25, 2006**

**DOC Policy 350.200 – Effective Date December 25, 2006**

**DOC Policy 350.200 – Effective Date December 25, 2006**

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p><b>POLICY</b></p>	APPLICABILITY <b>PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</b>		
	REVISION DATE 12/25/06	PAGE NUMBER 2 of 7	NUMBER <b>DOC 350.200</b>
	TITLE <b>RISK BASED OFFENDER TRANSITION AND RELEASE</b>		

**REFERENCES:**

DOC 100.100 is hereby incorporated into this policy; RCW 9.94A; RCW 71.05; RCW 71.09; RCW 72.02.100; RCW 72.09; WAC 137-28; WAC 137-56; ACA 4-4446; ACA 6A-13; ACA 1C-01PP; DOC 210.025 Gate Money/Transportation Funds; DOC 300.380 Classification and Plan Review; DOC 320.145 Violator Confinement in Department Facilities; DOC 320.155 Violation Process/Violations of Conditions; DOC 320.410 Risk Management Teams; DOC 350.240 Ten Day Release; DOC 350.255 Registration Notification; DOC 350.500 End of Sentence Review/Post Confinement Review; DOC 350.600 Teletype Notification of Release of Offenders; DOC 380.605 Interstate Compact; DOC 390.300 Victim/Witness Notification Service; DOC 790.100 Work Ethic Program

**POLICY:**

- I. [1C-01PP] The Department manages offenders with the goal of enhancing public safety by providing opportunities for offenders to successfully transition into the community. When transitioning offenders to the community, the Department will focus on developing release plans that best utilize available resources. Risk based offender management principles will be used to transition offenders from a facility to the community, focusing resources on the highest risk offenders.

**DIRECTIVE:**

- I. Transition Review Timeframes
  - A. At 18 months prior to the offender's Earned Release Date (ERD), the Classification Counselor/facility Community Corrections Officer (CCO) will begin the transition process for all offenders per DOC 300.380 Classification and Plan Review.
    1. The Counselor/facility CCO will prepare packets to forward to the End of Sentence Review Committee per DOC 350.500 End Of Sentence Review/Post Confinement Review for:
      - a. All offenders who have been convicted of a sex offense, a kidnapping offense, and all other registerable offenses per RCW 72.09.
      - b. All offenders who have committed a crime against a child.
      - c. Special needs offenders who are considered a high risk to re-offend due to their mental illness or developmental disability.



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD**  
OFFENDER MANUAL

REVISION DATE  
12/25/06

PAGE NUMBER  
3 of 7

NUMBER  
DOC 350.200

## POLICY

TITLE  
**RISK BASED OFFENDER TRANSITION AND  
RELEASE**

- d. Those offenders who are considered a high risk to re-offend in a violent way due to current threats they may be making toward past or future victims.
2. Any offender with a Community Placement requirement, whose crime was committed prior to June 11, 1992 must be released from Department confinement on his/her Earned Release Date if the Judgment and Sentence does not specifically require an approved address to transfer to community placement prior to the Maximum Expiration (Max Ex) date.
- B. At 9 months prior to the Re-entry Intensive Transition (RIT) offender's Earned Release Date, the Counselor/facility CCO will notify the Facility Re-entry Specialist (FRS) to initiate transition team development per DOC 320.410 Risk Management Teams.
- C. At 6 months prior to the offender's Earned Release Date, the Counselor/facility CCO will:
  1. Submit an Offender Release Plan (ORP) for Notification on Risk Management (RM)-D offenders who have a confirmed release address per Transition Plan Procedure (Attachment 6).
  2. Confirm the offender's proposed release address and document confirmation on the DT37 screen prior to submitting a plan for investigation.
- D. At 6 months prior to the offender's release date, a Transition Plan Investigation will be conducted for offenders who are required to have an approved address to release prior to Max Ex date to Community Placement - Community Custody Inmate (CCI) and Community Custody Prison (CCP), the Counselor/facility CCO will:
  1. Submit an Offender Release Plan (ORP) for Transition Plan Investigation on RM-A, RM-B, and RM-C offenders. RM-A and RM-B offenders whose proposed address is denied will be reassigned for plan development. The DT07 check date due date for MAT (RM-A offender) or TPB (RM-B offender) may be adjusted to allow more time for plan development. The Community Corrections Supervisor and the Correctional Unit Supervisor will ensure the Counselor/facility CCO and the CCO collaborate until an approved plan is developed.

## II. Transition Plan Development



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD**  
OFFENDER MANUAL

REVISION DATE  
12/25/06

PAGE NUMBER  
4 of 7

NUMBER  
DOC 350.200

## POLICY

TITLE  
**RISK BASED OFFENDER TRANSITION AND  
RELEASE**

- A. An Offender Release Plan (ORP) for Transition Plan Development will be submitted on RM-A and RM-B offenders who do not have a proposed release address per Release Determination for Offenders (Attachment 4). For Re-entry Intensive Transition offenders, the Counselor, CCO, Facility Re-entry Specialist, and Community Re-entry Specialist (CRS) will collaborate to establish a viable release plan per Release Determination for Offenders (Attachment 4).
- B. Maximum Expiration Date Releases - For offenders who will release on their maximum expiration date to Community Placement - Post Release Supervision (PRS), Community Custody Maximum (CCM), or Community Custody Prison (CCP), if at 60 days prior to the Max Ex date were unable to develop an approved release address or refused to provide a release address, the Counselor/facility CCO will:
1. Submit an Offender Release Plan Notification on all offenders releasing homeless per Release Determination for Offenders (Attachment 4).
  2. Submit an Offender Release Plan Notification on all offenders refusing to provide a release address per Release Determination for Offenders (Attachment 4).
    - a. Offenders who refuse to provide a release address may be processed as a violator by the CCO. The offender may be processed as a violator on his/her Max Ex date.

### III. Exceptional Transition Processes

- A. Offenders in the Work Ethic Program (WEP) will have a release plan per DOC 790.100 Work Ethic Program.
- B. Offenders being released to Parole/Community Custody Board status will have an Offender Release Plan submitted after the offender has been found paroleable/releasable by the ISRB.
- C. All offenders with supervision requirements requesting to release out of state, to include RM-D, must be accepted by the receiving state per DOC 380.605 Interstate Compact. These offenders will be processed per Prison Releases to Out of State Address (Attachment 3).
- D. For offenders serving Community Custody Jail (CCJ) sentences concurrent with a Prison commitment, the CCJ portion of the sentence does not require an approved release address.



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
12/25/06

PAGE NUMBER  
5 of 7

NUMBER  
DOC 350.200

## **POLICY**

TITLE  
**RISK BASED OFFENDER TRANSITION AND  
RELEASE**

- E. Offenders housed as an Out of State, County, or Federal boarder will be released on the date determined by the sending agency.
- F. Offenders housed in Department facilities as violators serving less than 120 days will be released per DOC 320.145 Violator Confinement in Department Facilities. An ORP will be developed for Offenders housed in Department facilities as violators serving 120 days or longer who are required to have an approved release address.

#### IV. Offenders Releasing To Detainers

- A. Offenders with an Immigrations and Customs Enforcement (ICE) Detainer will be released on their Earned Release Date. At 60 days prior to the offender's Earned Release Date, the Offender Release Plan Notification will be submitted to the ICE/Deportation Unit Assignment Officer.
- B. Offenders with Out of State or Federal Detainer will be released on their Earned Release Date per Offender Release Plan (ORP) and Release Process for Out of State Detainer (Attachment 2).
- C. Instate Detainer
  - 1. Offenders with an Instate Detainer that will require them to serve a period of confinement less than 4 months or the period of confinement is unknown, will be released to the requesting agency on the Earned Release Date if they have secured an approved release address, or on their Max Ex date if no release address has been approved.
  - 2. Offenders with an Instate Detainer that will require them to serve a period of confinement of 4 months or longer, will be released to the requesting agency on their Earned Release Date.
    - a. The Offender Release Plan Notification will be sent to the Field Office nearest to the receiving detention facility.
    - b. The assigned CCO will:
      - 1) Complete intake if required.
      - 2) Enter a DT07 check date for jail release and hold the file pending the offender's release.
      - 3) Work with the offender while s/he is detained to develop a community release plan.



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD**  
OFFENDER MANUAL

REVISION DATE  
12/25/06

PAGE NUMBER  
6 of 7

NUMBER  
**DOC 350.200**

## POLICY

TITLE  
**RISK BASED OFFENDER TRANSITION AND  
RELEASE**

- D. Offenders under ISRB jurisdiction will not release to a detainer without ISRB authorization.
- V. 5990/Supervision Closure Monetary Release
- A. Offenders releasing with monetary obligations and no supervision requirements will have an Offender Release Plan for Notification submitted per 5990/Supervision Closure Monetary Release Procedure (Attachment 1).
- VI. Offender Release Procedures
- A. Prior to offender transfer/release, records staff or designee will:
1. Complete the Order of Release and other required release procedures per Release Process (Attachment 5).
  2. Consider a release of up to 10 days prior to the earned release date per DOC 350.240 Ten Day Release.
- B. Offenders will be issued gate funds per DOC 210.025 Gate Money/Transportation Funds.
- C. [4-4446] [6A-13] Written procedures for releasing offenders at the end of their term include, but are not limited to:
1. Verification of identity.
  2. Verification of release papers.
  3. Completion of release arrangements, including notification of the parole authorities in the jurisdiction of release, if required.
  4. Return of personal effects or contraband.
  5. Check to see that no facility property leaves the facility.
  6. Arrangements for completion of any pending action, such as grievances or claims for damages or lost possessions.
  7. Medical screening and arrangements for community follow-up where needed.
  8. Instructions on forwarding of mail.

### DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Community Custody. Other words/terms appearing in this policy may also be defined in the glossary.

### ATTACHMENTS:



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
12/25/06

PAGE NUMBER  
7 of 7

NUMBER  
**DOC 350.200**

## **POLICY**

TITLE  
**RISK BASED OFFENDER TRANSITION AND  
RELEASE**

5990/Supervision Closure Monetary Release Procedure (Attachment 1)  
Offender Release Plan (ORP) and Release Process for Out of State Detainer (Attachment 2)  
Prison Releases to Out of State Address (Attachment 3)  
Release Determination for Offenders (Attachment 4)  
Release Process (Attachment 5)  
Transition Plan Procedure (Attachment 6)

### **DOC FORMS (See Appendix):**

DOC 02-243 5990/5256 Notice to Offender  
DOC 09-182 Court - Prison Special 5990 Supervision Closure  
DOC 09-332 60 Day Notification Letter  
DOC 20-047 Community Release Plan Packet Checklist  
DOC 20-311 Order of Release  
DOC 20-312 Registration Notification Requirements

## TRANSITION PLAN PROCEDURE

### TO DETERMINE THE APPROPRIATENESS OF A PROPOSED PLAN

Counselor/facility Community Corrections Officer (CCO) will consider:

1. The offender's risk (i.e., LSI-R, RMI),
2. All Offender Based Tracking System (OBTS) DT37 chrono entries, paying specific attention to "CC" chrono entries, and
3. All End of Sentence Review Committee (ESRC) decisions, including referrals for Civil Commitment under 71.09.

**A Transition Plan will not be forwarded for investigation for the following reasons, which will be documented on OBTS DT37 using "CA" chrono code:**

1. The plan will place the offender in a situation where s/he is likely to re-offend. This will be reviewed by the facility Risk Management Team (FRMT),
2. The plan will place the offender in violation of the Judgment and Sentence (J&S) and/or Department conditions,
3. The sponsor withdraws, and/or
4. The offender has an in-state hold/detainer and the potential sentence is longer than 6 months, or if release to detainers, Immigration and Customs Enforcement (ICE), or other jurisdiction has been confirmed by the Correctional Records Manager (CRM)/designee.

The following do not require a Transition Plan:

1. The current commitment is monetary release and/or eligible for 5990 supervision closure.
2. RM-C offenders without Court-ordered drug treatment. This does not include registerable sex offenders.
3. RM-D offender releasing to community placement or Community Custody.

### SUBMITTING THE TRANSITION PLAN INFORMATION FOR INVESTIGATION

Counselor/facility CCO will:

1. Complete the Transition Plan component of the Offender Release Plan (ORP) with assistance from the Facility Risk Management Team/Reentry Intensive Transition Team.
  - a. If at any time prior to release the offender provides a new address, the facility staff will notify the Field Office that has the current release packet. If the new address is in a different catchment area, the assignment officer will notify that assignment officer via email that the ORP is being transferred for investigation.

## TRANSITION PLAN PROCEDURE

- b. Assist in the development of the ORP if s/he is a member of the Reentry Intensive Transition Team.

### INVESTIGATING THE TRANSITION PLAN

#### CCO will:

1. Develop an investigation packet by reviewing Liberty for file material. If information is not available, s/he may request copies of any available file material through the facility records/designated staff. Facility will also scan copies into Liberty.
2. Visit the proposed sponsor's residence as part of the investigation.
3. Assess the degree of risk for victims and potential victims of similar age or circumstances for sex offenders.
4. Collaborate with Child Protective Services/Adult Protective Services (CPS/APS) per DOC 350.550 Reporting Abuse and Neglect.
5. Obtain Office/Unit Supervisor approval for plans with victimization concerns requiring mandatory reporting.
  - a. Sex offenders will not return to a residence where minor victim(s) or other children of similar age are present unless:
    - 1) A family reunification plan is in effect by order of the Court or Department guidelines,
    - 2) The Court is aware the offender will be returning to the home, and
    - 3) CPS/APS is involved with the case.
6. Inform the proposed sponsor of the following and document this on OBTS DT37 using an "FC" chrono code:
  - a. The offender's criminal history,
  - b. Recommended level of sex offender notification and that local law enforcement may conduct community notification if the offender is a sex or kidnapping offender with a requirement to register,
  - c. Conditions of release, and
  - d. Tentative release date.
7. Review and update the ORP and make recommendations to mitigate risk and enhance the offender's opportunity for a successful transition.
  - a. Recommendations may include approval for up to an additional \$60, when authorized in RCW 72.02.100, for offenders being paroled to an Indeterminate Sentence Review Board (ISRB) approved plan.
8. Update the ORP components for all Risk Management (RM)-A and RM-B cases, and include, at a minimum, the plan for management of the offender from the point of release through the point of intake in the CCO's office after the offender is released.

## TRANSITION PLAN PROCEDURE

9. Review all close proximity issues with his/her immediate supervisor prior to recommending approval or denial of the residence. All denials must be reviewed and approved by the Community Corrections Supervisor and facility Correctional Unit Supervisor. Only one plan will be considered at one time. Previous plan must be denied and OBTS/DT07 must be updated before a new ORP is submitted.
  - a. The assigned Counselor/facility CCO will continue to work on the development of an alternative plan.
  - b. If the ORP is denied, the assigned CCO will telephone/email the assigned Counselor/facility CCO to determine if there is/are alternate residence(s) when the initial plan is denied because the address:
    - 1) Is not available,
    - 2) Will place the offender in violation of Court-imposed conditions,
    - 3) Will place the offender at a likely risk to re-offend,
    - 4) Will return the offender to a residence where there is a victim(s) that the CCO believes is at risk, and/or
    - 5) Will place a sex offender in the same house or in close proximity to a minor victim(s), school, child care center, playground, or other facility where children of similar age and circumstance to the offender's sexually motivated conviction(s) are present and who may be put at substantial risk of harm by the offender residing at that location.
10. Document:
  - a. The approved address on OBTS DT24, and
  - b. Appropriate information in the investigation section of the ORP Transition Plan.
    - 1) If the ESRC has identified the offender for civil commitment consideration under RCW 71.09, the assigned CCO must review and consider all relevant information, to include static and dynamic risk factors relating to the offender's risk within the larger community, before a proposed release plan can be approved or denied.
    - 2) The assigned CCO will review all file materials up to the offender's actual release date, including End of Sentence Review (ESR) file material available in Liberty, and may contact the ESR/Civil Commitment Program Manager for additional information.
    - 3) Prior to approving or denying an ORP, the CCO must contact his/her Field Administrator for assistance, who will in turn contact the End of Sentence Review/Civil Commitment Program Manager to ensure that all relevant information has been made available to them for review, including but not limited to:

## TRANSITION PLAN PROCEDURE

- 4) Sex Offender Treatment information,
  - 5) Psychological/psychiatric reports, and
  - 6) Forensic Psychological Evaluation (FPE) reports that have been completed to assess whether the offender meets criteria for civil commitment consideration under RCW 71.09.
- c) If a forensic psychological evaluation has been completed and an expert has concluded that the offender does meet civil commitment criteria, as defined under RCW 71.09.020, the proposed plan must meet the level of protection necessary to ensure community safety.
  - d) If a forensic psychological evaluation is pending a professional assessment of public safety risks, the assigned CCO and Field Administrator must carefully review all available file material to determine whether approval of a proposed plan is appropriate when the level of protection necessary to ensure community safety is not fully known.
11. Close the OBTS DT07 check date, as appropriate. The OBTS/DT07 check date must be closed before an ORP process is considered complete.

**DOC Policy 350.500 – Effective Date June 28, 2002**

**DOC Policy 350.500 – Effective Date June 28, 2002**

**DOC Policy 350.500 – Effective Date June 28, 2002**

STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS   <b>POLICY DIRECTIVE</b>  <input checked="" type="checkbox"/> Offender Manual <input type="checkbox"/> Spanish	<b>PRISON/PRE-RELEASE/          WORK RELEASE/FIELD</b>	NUMBER <b>DOC 350.500</b>
	SIGNATURE  DATE	EFFECTIVE DATE <b>6/28/02</b>
	JOSEPH D. LEHMAN, SECRETARY	PAGE NUMBER <b>1 of 8</b>
TITLE <b>END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW</b>		

**SUPERSESSION:**

DOC 350.500 effective 3/15/96; DOP 350.500 effective 6/28/91; DCC 200.490 effective 4/15/96; DCC 200.491 effective 4/15/96

**REFERENCES:**

DOC 100.100 is hereby incorporated into the Policy Directive; RCW 4.24.550; RCW 71.09; RCW 72.09; DOC 320.410 Offender Risk Management; DOC 390.300 Victim Witness Notification

**POLICY:**

- I. The Department is mandated to establish and administer an End of Sentence Review Committee (ESRC) for the purpose of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders.
- II. ESRC shall review all offenders who have been convicted of a sex offense, a kidnapping offense, and all other registerable offenses in accordance with RCW 72.09. In addition, ESRC shall review all offenders who have committed a crime against a child and special needs offenders who are considered a high risk to re-offend due to their mental illness or developmental disability, and those offenders who are considered a high risk to re-offend in a violent way due to current threats they may be making toward past or future victims.
- III. The Department shall ensure that all offenders who appear to meet the definition of a Sexually Violent Predator (SVP) are reviewed by ESRC and are referred to the appropriate prosecuting authority.
- IV. ESRC membership shall include representation from each state agency with jurisdiction over the release of sex offenders and law enforcement.

**DIRECTIVE:**

- I. Referral
  - A. The Community Protection Unit (CPU) is responsible for administering the Department's ESRC, Dangerous Mentally Ill Offender (DMIO) Program Selection Committee, Risk Management Transition Program, and Victim Services. Recognizing that many offenders have multiple needs or present risks that are

NUMBER <b>DOC 350.500</b>	TITLE <b>END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW</b>	EFFECTIVE DATE 6/28/02	PAGE NUMBER 2 of 8
------------------------------	--	---------------------------	-----------------------

addressed by separate functions within CPU, staff may request multiple services utilizing a single End of Sentence Review (ESR)/CPU referral form. Likewise, CPU staff may refer the offender for other services within the Unit once the referral is received.

- B. Facility Counselors/Community Corrections Officers (CCO) shall identify and refer all offenders requiring review to CPU 18 to 24 months prior to the offender's Earned Release Date (ERD) using DOC 05-411 End of Sentence Review/Community Protection Unit Referral.
1. Offenders with less than 18 months to serve when identified shall immediately be referred to CPU.
  2. Offenders who have previously been referred but have decompensated or demonstrated dangerous behavior shall be referred to CPU through an amended referral which includes all new information.
  3. Designated facility staff shall prepare an ESRC packet in accordance with DOC 20-315 End of Sentence Review/Community Protection Unit Referral Attachments Checklist and forward it to CPU, attention Records.
- C. CPU Records staff shall document the receipt of the referral on Offender Based Tracking System (OBTS) DT07. Records staff shall also review the documents within the referral to determine if additional information is needed prior to ESRC review.
- D. Attempts to gather the above-noted records shall be documented if the information is no longer available. Document requests will be recorded in the ESR file.
1. CPU Records staff shall make at least 3 attempts to retrieve the information unless it is documented by the agency of record that it is no longer available.
  2. If the information has not been received 120 days prior to the offender's ERD, the case shall be assigned to CPU staff to prepare for review based on available information.

## II. Preparation

- A. Designated CPU staff shall review all available documents and prepare a detailed narrative which includes:
1. A summary of the current offense;
  2. Criminal history;
  3. Sexual deviancy history;
  4. Psychological history;
  5. Treatment history;

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.500	END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	6/28/02	3 of 8

6. Infractions;
7. Employment; and
8. Community resources.

- B. CPU staff shall complete DOC 05-729 Washington State Sex Offender Risk Level Classification, and update the Risk Management Identification (RMI) if appropriate.

### III. ESRC Review

- A. CPU staff shall present the prepared cases to ESRC for review. The presentation shall include a verbal summary of the offender's criminal history and history of sexual deviancy.
- B. Each committee member shall be provided a copy of the file review, completed sex offender risk assessment, and supporting case documents.
- C. ESRC shall have access to all relevant records and information in possession of public agencies relating to the offender under review, including those attached to the ESR referral.
- D. ESRC shall determine:
  1. The appropriate risk level classification for all offenders required to register; and/or
  2. If the offender appears to meet the statutory definition of an SVP for referral to the SVP Subcommittee.
- E. ESRC may direct CPU to:
  1. Alert local law enforcement of the release of offenders who may be of special interest to them due to the nature of their crime and/or current behavior at least 30 days prior to their release, when possible.
  2. Alert Child Protective Services (CPS) of offenders who are returning to a residence where the victim or victim-aged children reside, or where CPS is already involved or has a special interest. In the event of an unanticipated release, CPS shall be notified as soon as possible by CPU Notification staff.
  3. Provide potential victim notification. ESRC shall work with the Department's Victim/Witness Notification Program staff to notify identified potential victims of the release of the offender when the potential victim did not have a previous opportunity to enroll in the program or when current substantiated threats are being made.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.500	END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	6/28/02	4 of 8

4. Explore program options and services with the Department of Social and Health Services (DSHS). If appropriate, ESRC shall work with facility staff to set up referrals for mental health and developmental disability services. Eligibility for services must be established by DSHS before services can be rendered; neither ESRC nor the Department determines eligibility for these services.
5. Refer cases to the DMIO Program Selection Committee for its review and appropriate action.
6. Notify other state agencies or organizations based on their need to know necessary and relevant information.

#### IV. ESRC Decisions

- A. CPU staff shall document ESCR's decision on OBTS DT07.
- B. The completed ESR/CPU referral form shall be returned to the facility with copies of DOC 05-729 Washington State Sex Offender Risk Level Classification, the file review, and all new documents obtained by CPU Records staff. An additional copy of this material shall be imaged in the Office of Correctional Operations (OCO) Imaging System.
- C. If the offender is determined to meet the requirements for Risk Management Transition, facility staff shall be notified in accordance with DOC 320.410 Offender Risk Management.
- D. If ESRC determines the offender may meet the definition of an SVP, CPU Records staff shall request copies of all facility files, to include:
  1. Juvenile reports;
  2. State hospital reports;
  3. Out of state DOC and state hospital records;
  4. Police reports for all uncharged offenses;
  5. Treatment records; and
  6. Court documents on all underlying criminal offenses.
- E. The CPU/ESRC Program Manager shall request an evaluation from the Mental Health Manager at the facility where the offender is currently incarcerated.
  1. The evaluation must be completed by a licensed Psychologist and should be given a priority status.
  2. Following receipt of additional documentation and the evaluation, the ESRC Program Manager shall review the records and prepare a formal referral to the ESRC SVP Subcommittee.

NUMBER DOC 350.500	TITLE END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	EFFECTIVE DATE 6/28/02	PAGE NUMBER 5 of 8
-----------------------	--	---------------------------	-----------------------

V. Subcommittee Review

- A. The ESRC Program Manager shall present the case to the Subcommittee for its review. Each committee member shall review a copy of the referral and supporting documents.
- B. If the Subcommittee determines that the offender meets the definition of an SVP, the ESRC Program Manager shall notify the appropriate prosecuting authority and document the decision on OBTS DT07, DT08, and DT37, and place a hold on OBTS DI63.

VI. Sexually Violent Predator Referrals

- A. The ESRC Program Manager shall submit the SVP referral to the Criminal Division of the Attorney General Office or King County for offenders under their jurisdiction. A copy of the referral letter shall be sent to the Prosecutor of the county of the offender's most recent sexually violent offense 90 days prior to the offender's maximum expiration date or Actual Release Date (ARD) if the offender does not have community custody.
- B. A copy of the Civil Commitment letter shall be sent to the facility Superintendent and retained in the offender's Central File.
- C. Offenders who have been found by ESRC to meet the definition of an SVP shall not be:
  - 1. Transferred to a facility designated to be any level of minimum custody except Minimum 3 (MI3); or
  - 2. Released to Community Placement.
- D. Facility/field staff shall not contact the Prosecutor or the Attorney General Office directly to check on the status of an offender's SVP referral. All questions and concerns shall be directed to the ESRC Program Manager.
- E. If a significant change occurs prior to the offender's release, ESRC shall conduct an additional review to determine whether the Civil Commitment referral continues to be appropriate. Significant changes may include, but are not limited to:
  - 1. Offender completed sex offender treatment and is determined a low to moderate risk to re-offend; or
  - 2. Offender becomes medically incapacitated to commit additional sex offenses.
- F. The ESRC Program Manager shall monitor the offender's release dates and movements to ensure that appropriate actions are taken within allowable time

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.500	END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	6/28/02	6 of 8

frames. All actions and completion dates shall be documented on OBTS DT07 and in the offender's Chronos.

- G. If the prosecuting authority declines to file for Probable Cause on the offender as an SVP, the ESRC Program Manager shall notify the appropriate Department staff.

#### VII. Release of Offenders Subject to Notification

- A. At least 30 days prior to the release of all sex offenders and any other offender designated by ESRC to be the subject of notification, the assigned CPU staff shall request any additional relevant information from the offender's Counselor, Risk Management Specialist, or CCO to include treatment summaries, release address, and information regarding the release conditions.
- B. The assigned CPU staff shall review the offender's Offender Accountability Plan (OAP), update the ESRC file, and complete the notification to the appropriate law enforcement and/or other agencies if needed.
  - 1. The narrative notices shall, at a minimum, describe the identity and criminal history of the offender and shall include the Department's risk level classification for the offender as well as the underlying reasons for the classification.
  - 2. The notification shall be distributed to:
    - a. Prosecutor's Office from the county of conviction;
    - b. Sheriff's Office from the county of residence;
    - c. Police Department from the city in which the offender will reside;
    - d. Department office where the offender will be supervised;
    - e. Homicide Information Tracking System (HITS) Unit;
    - f. If the offender is releasing to another state, that state's Interstate Unit; and
    - g. Indeterminate Sentence Review Board (IRSB).
- C. Changes in the offender's release plan shall be reported to CPU as soon as possible to allow CPU staff to issue amended notifications necessary to ensure that accurate and updated information is shared.
  - 1. The facility Records Managers shall contact CPU Notification Program Manager immediately if the offender's release date is changed.
  - 2. The Counselor is responsible for reporting any changes in the offender's release address or release location, if the address is unknown.
- D. If an offender is returned to custody for violations that indicate a continuation of the offender's sexual deviancy or a new offense, the Counselor must submit a new ESRC/CPU referral.

NUMBER DOC 350.500	TITLE END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	EFFECTIVE DATE 6/28/02	PAGE NUMBER 7 of 8
-----------------------	--	---------------------------	-----------------------

#### VIII. Post Confinement Reviews

- A. CCOs shall immediately refer an offender to CPU if it appears the offender has committed an overt act and has been released from confinement. Overt acts include:
1. Any act or threat that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows the history and mental condition of the person engaging in the act; and
  2. Conviction of a crime against a minor-aged victim and returned to a residence where the minor victim or victim-aged minor reside, regardless of the authority having jurisdiction over the offender's release.
- B. CCOs shall complete the Violent Sex Predator E-form and forward it to the Community Corrections Supervisor (CCS) for review and approval, and immediately telephone the ESRC Program Manager.
- C. The CCS shall forward the E-form to the ESRC Program Manager and shall:
1. Ensure the violation report is routed immediately to the ESRC Program Manager when the overt act centers around actual violations;
  2. Document action(s) taken on OBTS DT37; and
  3. Notify the Risk Management Team for Risk Management A (RM-A) offenders.
- D. If ESRC determines a recent overt act has occurred, the appropriate Prosecuting authority shall be notified and a Civil Commitment referral shall be completed for filing consideration as an SVP. This referral shall be logged and tracked on OBTS DT07 and DT37 by the ESRC Program Manager.
- E. If the Prosecuting Attorney declines to file Probable Cause for Civil Commitment, the ESRC Program Manager shall enter this decision on OBTS DT07 and DT37.
- F. The offender's Risk Management Team shall reconvene to modify the offender's OAP and release plan into the community.
- G. All hearing reports shall be routed to the ESRC Program Manager for those offenders convicted of a registerable sex offense.

#### DEFINITIONS:

Words/terms appearing in this Policy Directive may also be found in the Glossary section of the Policy Directive Manual.

NUMBER	TITLE	EFFECTIVE DATE	PAGE NUMBER
DOC 350.500	END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW	6/28/02	8 of 8

**ATTACHMENTS:**

None

**DOC FORMS (See Appendix):**

DOC 05-411 End of Sentence Review/Community Protection Unit Referral  
DOC 05-729 Washington State Sex Offender Risk Level Classification  
DOC 20-315 End of Sentence Review/Community Protection Unit Referral Attachments  
Checklist

**DOC Policy 350.500 – Effective date April 15, 2008**

**DOC Policy 350.500 – Effective date April 15, 2008**

**DOC Policy 350.500 – Effective date April 15, 2008**



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
1 of 13

NUMBER  
**DOC 350.500**

## POLICY

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

### REVIEW/REVISION HISTORY:

Effective: 3/15/96  
Revised: 6/28/02  
Revised: 4/15/08

### SUMMARY OF REVISION/REVIEW:

Major changes. Read carefully.

- Removed Community Protection Unit
- New Victim Services referral process established for Imminent Threat offenders who do not require referral to End of Sentence Review Program
- Revised violator referral process

### APPROVED:

**ELDON VAIL**, Secretary  
Department of Corrections

3/4/08

Date Signed



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
2 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

### **REFERENCES:**

DOC 100.100 is hereby incorporated into this policy; RCW 4.24.550; RCW 9.94A.712; RCW 9.95.140; RCW 9A.44.130; RCW 10.77; RCW 71.09; RCW 72.09.340; RCW 72.09.345; RCW 72.74

### **POLICY:**

- I. The Department is mandated to establish and administer an End of Sentence Review Committee for the purpose of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders per RCW 72.09.345 and RCW 9.95.140.
- II. The End of Sentence Review Committee will review all offenders preparing for release from state confinement, as well as certain offenders accepted from another state under a reciprocal Interstate Compact agreement, who have been adjudicated, convicted of, or found not guilty by reason of insanity of:
  - A. Any sex offense or kidnapping/unlawful imprisonment offense that requires registration per RCW 9A.44.130.
  - B. Any sexually violent offense as defined in RCW 71.09.020(15).
- III. The End of Sentence Review Committee may also review offenders who have committed a:
  - A. Sex offense or sexually motivated offense that does not require registration.
  - B. Crime against a child.

### **DIRECTIVE:**

- I. End of Sentence Review Referral
  - A. Counselors/facility Counselor or Community Corrections Officer (CCO) will identify and refer all offenders requiring review to the End of Sentence Review/Civil Commitment Program 18 months prior to the offender's Earned Release Date (ERD). The following require immediate referral:
    1. Offenders with less than 18 months to their Earned Release Date, and
    2. Pre-1984 Indeterminate Sentence Review Board (ISRB) offenders who have been found eligible for parole consideration.
  - B. Supervising CCOs will identify and immediately refer any non-Community Custody Jail offender requiring review who has been sanctioned to serve 120 or



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
3 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

more days, or who has been incarcerated for 120 days, in a Department or violator facility for violation behavior.

- C. Staff making an End of Sentence Review Referral will prepare and forward an End of Sentence Review referral packet to the End of Sentence Review/Civil Commitment Program, Attention Records, using DOC 05-411 End of Sentence Review Referral and DOC 20-315 End of Sentence Review Referral Attachments Checklist.
1. Violator referral packets should include only the most recent supervision/violation information, including, but not limited to:
    - a. Notice of Violation/Hearing reports,
    - b. Police investigation reports,
    - c. Child Protective Services reports,
    - d. Sex offender treatment reports,
    - e. Polygraph/Plethysmograph assessments, and/or
    - f. Psychological/psychiatric evaluations.
- D. Counselors/facility CCOs will complete the End of Sentence Review section of the DI50 Offender Based Tracking System (OBTs) screen by entering "R" for Referral, the date, and officer position number.
- E. Supervising CCOs will notify the End of Sentence Review Records Supervisor when a violator referral packet has been submitted.
- F. Staff making an End of Sentence Review Referral will forward any new information that becomes available after the initial End of Sentence Review referral is submitted to the End of Sentence Review Records Supervisor or the assigned Law Enforcement Notification Specialist, including, but not limited to:
1. Sexual misconduct or infractions, including alleged or attempted sexual offenses and/or threats to sexually re-offend against past or potential victims,
  2. Possession of inappropriate items that may relate to the offender's sexual deviancy, such as sexual letters, drawings, photographs, magazines, or pornographic materials,
  3. Disclosure of previously unreported victims,
  4. Change in status relating to offender treatment programs,
  5. Violation of protective/no contact order,
  6. Acts or threats of violence toward past or potential victims, and/or
  7. Psychological/psychiatric reports.



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
4 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

- G. Community Custody Board cases will initially be referred as noted above. Following the initial review by the End of Sentence Review Committee, if the ISRB extends the offender's minimum term, facility staff will forward a referral packet containing only new information.
1. Six months prior to the Community Custody Board offender's new Earned Release Date , facility staff will forward the updated information to the End of Sentence Review/Civil Commitment Program, Attention Records, and enter a 400 ESR SUBMITTED code on OBTS DT07.
- H. End of Sentence Review Records staff will:
1. Enter a 401 ESR RECV HQTRS code on DT07 to document receipt of the referral.
    - a. A 440 CCB RE-REFERD code will be entered to document receipt of updated Community Custody Board referrals.
  2. Review End of Sentence Review referral packets, determine if additional information is needed, and update OBTS DI57 Registration screen with a "Y" or "N" to indicate whether registration is required.
  3. Prioritize/assign files to the Law Enforcement Notification Program according to the offender's Earned Release Date . Pre-1984 ISRB offenders who have been determined eligible for parole/conditional parole will be immediately assigned.
  4. Make at least 3 attempts to retrieve additional information unless it is documented by the agency of record that the information is no longer available.
    - a. All attempts to gather additional records will be documented in the End of Sentence Review file.
    - b. If requested information has not been received 120 days prior to the offender's Earned Release Date , the case will be assigned to the Law Enforcement Notification Program to prepare for review based on the available information.
- II. Victim Services Program Referral
- A. Counselors/facility CCOs will refer directly to the Victim Services Program any offender who does not require a referral to the End of Sentence Review Program per this policy, but is considered a high risk to re-offend due to either:

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p>	APPLICABILITY <b>PRISON/WORK RELEASE/FIELD</b> OFFENDER MANUAL		
	REVISION DATE 4/15/08	PAGE NUMBER 5 of 13	NUMBER <b>DOC 350.500</b>
	TITLE <b>END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW</b>		

## POLICY

1. Threatening behavior toward past or potential future victims, or
  2. Pursuit of a relationship with a past victim.
- B. Victim Services Program referrals will be made using DOC 07-028 Threatening Behavior/Victim Services Program Referral.
- C. Victim Services Program staff will review the referral form and related file materials, and offer the targeted person(s), as needed:
1. Enrollment in the victim/witness notification service,
  2. Individual safety planning,
  3. Referral to appropriate social and legal services, and/or
  4. Facilitation of victim wraparound services.
- III. End of Sentence Review Committee Preparation
- A. The assigned Law Enforcement Notification Specialist will:
1. Review the available documents and prepare a detailed draft file review narrative, including the following information:
    - a. A summary of the current offense,
    - b. Sex offense history,
    - c. Other criminal history,
    - d. Psychological history,
    - e. Treatment history,
    - f. Infractions during current incarceration,
    - g. Employment history, and
    - h. Family/community support.
  2. Complete DOC 05-729 Washington State Sex Offender Risk Level Classification Revised 1999 for all sex offenders who are required to register under RCW 9A.44.130.
  3. Complete a draft report to the ISRB for all offenders sentenced under RCW 9.94A.712, which will:
    - a. Predict the probability that the offender will engage in sex offenses if released, using methodologies that are recognized by experts in the prediction of sexual dangerousness, and
    - b. Recommend additional or modified conditions of community custody.
- IV. End of Sentence Review Committee



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY

**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE

4/15/08

PAGE NUMBER

6 of 13

NUMBER

**DOC 350.500**

## **POLICY**

TITLE

**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

- A. The End of Sentence Review/Civil Commitment Program Manager will administer the End of Sentence Review Committee. Membership will include representatives from local law enforcement and Washington State agencies who have jurisdiction over the release of sex offenders or are significantly impacted by their release.
- B. Notwithstanding any other provision of law, the End of Sentence Review Committee will have access to all relevant public agency records and information relating to the offender under review. Records and information requested and obtained will not be disclosed outside the committee unless otherwise authorized by law.
- C. The End of Sentence Review Committee will review each sex offender prior to release from confinement or the start of community placement/custody to:
  1. Classify the offender's risk level for the purpose of public notification under RCW 4.24.550, where applicable.
  2. Report to the ISRB, where appropriate, the results of actuarial risk assessments recognized by experts in the prediction of sexual dangerousness and include a prediction of the probability that the offender will engage in sex offenses if released.
  3. Where available, review the offender's proposed release plan.
  4. Make appropriate referrals.
- D. Prepared cases will be prioritized for End of Sentence Review Committee review according to the offender's Earned Release Date or an authorized parole/conditional parole decision by the ISRB.
- E. Each committee member will receive copies of the draft file review narrative, completed sex offender risk assessment(s), and supporting case documents.
- F. The End of Sentence Review Committee will direct Law Enforcement Notification staff to:
  1. Alert local law enforcement of the release of offenders who may be of special interest to them due to the nature of their crime and/or current behavior at least 30 days prior to the offender's release, when possible.
  2. Alert the Department of Social and Health Services Children's Administration of offenders who are returning to a residence where a minor victim (i.e., under age 18) or victim-aged children reside, or where

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p><b>POLICY</b></p>	APPLICABILITY <b>PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</b>		
	REVISION DATE 4/15/08	PAGE NUMBER 7 of 13	NUMBER <b>DOC 350.500</b>
	TITLE <b>END OF SENTENCE REVIEW/POST CONFINEMENT REVIEW</b>		

the Children's Administration is already involved or has a special interest. In the event of an unanticipated release, the Children's Administration will be notified as soon as possible.

3. Notify the Department's Victim Services Program of potential victims who did not have a previous opportunity to enroll in the program, or when current substantiated threats are made.
4. Refer cases to the Dangerous Mentally Ill Offender (DMIO) Selection Committee for review and appropriate action.
5. Notify other state agencies or organizations based on their need to know necessary and relevant information.

V. End of Sentence Review Committee Decisions

- A. Law Enforcement Notification staff will document End of Sentence Review Committee decisions on OBTS DT07 and DT37 following committee meetings.
- B. The completed DOC 05-411 End of Sentence Review Referral will be returned to the facility housing the offender.
- C. Copies of the signed DOC 05-729 Washington State Sex Offender Risk Level Classification Revised 1999 and the draft file review narrative will be scanned into the Liberty Imaging System.
- D. If the End of Sentence Review Committee determines the offender appears to meet criteria for civil commitment as a Sexually Violent Predator, it will refer the case to the End of Sentence Review Sexually Violent Predator Subcommittee.
  1. Law Enforcement Notification staff will update OBTS DT37 and enter a 414 ESR REF SUBCOMM code on OBTS DT07.

VI. End of Sentence Review Sexually Violent Predator Subcommittee Review

- A. Following referral to the Sexually Violent Predator Subcommittee, the End of Sentence Review/Civil Commitment Program Manager will collaborate with the End of Sentence Review Records Supervisor to identify and request full copies of all records and facility files from:
  1. Adult and/or juvenile state, county, city and federal corrections agencies, to include prisons, probation, and parole,
  2. State mental health hospitals,
  3. Law enforcement agencies,
  4. Department of Social and Health Services Children's Administration,



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
8 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

5. Treatment providers, and
6. Court clerk and prosecutor files.

B. The End of Sentence Review/Civil Commitment Program Manager will present prepared cases to the End of Sentence Review Sexually Violent Predator Subcommittee, which will decide whether to order a Forensic Psychological Evaluation to determine if the offender meets the criteria for civil commitment under RCW 71.09.

1. Law Enforcement Notification Program staff will update OBTS DT37 and enter a 415 SVP code on OBTS DT07 to indicate that a Forensic Psychological Evaluation has been recommended.

### VII. Forensic Psychological Evaluations

A. When a Forensic Psychological Evaluation is ordered, End of Sentence Review/Civil Commitment Program staff will:

1. Organize, scan, and convert the compiled records onto a "raw data" compact disc (CD),
2. Document the status of all records requests on one Master Discovery sheet for the End of Sentence Review/Civil Commitment Program Manager's review and signature,
3. Print the offender's chronological record and Legal Face sheet (i.e., OBTS DT37 and DI51), and
4. Submit the supporting referral materials and signed Master Discovery sheet to:
  - a. The King County Prosecutor's Office, Criminal Division - Sexually Violent Predator Section, when the offender's most recent sexually violent offense was committed in King County, or
  - b. The Washington State Office of the Attorney General, Criminal Justice Division - Sexually Violent Predator Unit, if the offender's most recent sexually violent offense was committed outside of King County, including in another state.

B. Once the prosecuting authority has removed duplicates, and organized and numbered the referral materials on a final "Discovery CD", the End of Sentence Review/Civil Commitment Program Manager will assign the evaluation to an



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
9 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

expert Psychologist/Psychiatrist from the Joint Forensic Unit. The evaluator will receive a copy of the Discovery CD for review.

1. End of Sentence Review/Civil Commitment Program staff will update OBTS DT37 and enter a 437 SVP PSYCH RQUSTD code on OBTS DT07 on the date the Discovery CD is sent to the Joint Forensic Unit Evaluator.
- C. The End of Sentence Review/Civil Commitment Program Manager will submit a copy of the assigned Joint Forensic Unit Evaluator's Forensic Psychological Evaluation consent form to a designated contact person (e.g., the offender's CCO) for the offender's review and signature.
1. The contact person will review the Forensic Psychological Evaluation consent form with the offender and ask him/her to sign and date it, indicating willingness to participate in an evaluation interview with the assigned Joint Forensic Unit Evaluator.
    - a. If the offender agrees to participate, the End of Sentence Review/Civil Commitment Program Manager will provide the evaluator with directions to the appropriate facility, as well as the contact person's name and phone number in order to make interview arrangements.
    - b. If the offender declines to participate, the contact person will ensure the offender is informed that the evaluation will be completed without his/her input via records review only.
    - c. If the offender refuses to sign the consent form, the contact person will write "Refused to Sign" above the offender's signature line and ensure that the offender is informed that the evaluation will be completed without his/her input via records review only.
    - d. Once the consent form has been reviewed with the offender, the contact person will sign and date the form as the witness and return the original form to the End of Sentence Review/Civil Commitment Program Manager.
      - 1) The End of Sentence Review/Civil Commitment Program Manager will ensure that the appropriate prosecuting authority and the assigned Joint Forensic Unit Evaluator receive copies.
- D. Upon receiving the completed Forensic Psychological Evaluation, End of Sentence Review/Civil Commitment Program staff will forward a signed copy to the appropriate prosecuting authority and update OBTS DT07 and DT37.



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY

**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE

4/15/08

PAGE NUMBER

10 of 13

NUMBER

**DOC 350.500**

## **POLICY**

TITLE

**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

### VIII. Sexually Violent Predator Referrals

A. When an offender under Department jurisdiction appears to meet the criteria of a Sexually Violent Predator, as defined in RCW 71.09.020(16), the End of Sentence Review/Civil Commitment Program Manager will refer him/her, in writing, to the Prosecuting Attorney of the county where that person was charged.

1. The referral will be sent 3 months prior to the anticipated release from total confinement if the offender has been:
  - 1) Charged or convicted of a sexually violent offense, or
  - 2) Found to have committed a sexually violent offense as a juvenile.
2. End of Sentence Review/Civil Commitment staff will scan the original referral into Liberty and submit it to the Prosecuting Attorney of the county where the offender's most recent sexually violent offense was committed.
  - a. If the offender's last sexually violent offense was committed in another state, staff will submit the written referral to the Thurston County Prosecuting Attorney.
  - b. With the exception of King County cases, the Washington State Office of the Attorney General will process and represent all civil commitment referrals.
3. The Washington State Office of the Attorney General, Criminal Justice Division - Sexually Violent Predator Unit will receive copies of the original referral for all cases. If the original referral was submitted to a prosecutor outside of King County, the King County Prosecutor's Office, Criminal Division - Sexually Violent Predator Section will also receive a copy.

B. End of Sentence Review/Civil Commitment Program staff will update OBTS DT37 and enter a 433 ESR 7109 REFERD code on OBTS DT07 to indicate referral to the appropriate Prosecuting Attorney.

C. If the End of Sentence Review Committee and/or a Joint Forensic Unit Evaluator determines that an offender appears to meet the definition of a Sexually Violent Predator, the offender will not be:

1. Transferred to any facility with a custody level below Minimum (MI)3, or



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
11 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

2. Released to the community prior to receiving authorization from the End of Sentence Review/Civil Commitment Program Manager, unless the offender is no longer under civil commitment consideration.
- D. Facility/Field staff will direct all questions and concerns regarding the status of an offender's civil commitment referral to the End of Sentence Review/Civil Commitment Program Manager. Staff will not contact the King County Prosecutor's Office or the Washington State Office of the Attorney General directly.
  - E. The End of Sentence Review Committee Program Manager will monitor the offender's release dates and movements to ensure that appropriate actions are taken within allowable time frames. All actions and completion dates will be documented on OBTS DT37 and DT07.
  - F. Once the prosecuting authority elects or declines to file a Probable Cause petition, the End of Sentence Review/Civil Commitment Program Manager will notify the appropriate Department staff of the decision.
    1. End of Sentence Review/Civil Commitment Program staff will update OBTS DT37 and:
      - a. A 434 ESR 7109 FILED code will be entered on OBTS DT07 on the date that a probable cause petition is filed, or
      - b. A 416 ESR 7109 DCLND code will be entered on OBTS DT07 on the date that the prosecutor notifies the End of Sentence Review/Civil Commitment Program Manager of a decision not to pursue civil commitment.
- IX. Release of Offenders Subject to Notification
- A. When possible, the assigned Law Enforcement Notification Specialist will request any additional relevant information (e.g., treatment summaries, release address, release conditions, etc.) from the offender's Counselor, Re-entry Specialist, or CCO at least 30 days prior to the release of an offender designated subject to notification by the End of Sentence Review Committee.
  - B. The assigned Law Enforcement Notification Specialist will review the Offender Release Plan, update the End of Sentence Review file, and complete the notification to the appropriate law enforcement and/or other agencies.
    1. The narrative notices will, at a minimum, describe the identity and criminal history of the offender and will include the End of Sentence Review

 STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS	APPLICABILITY <b>PRISON/WORK RELEASE/FIELD          OFFENDER MANUAL</b>		
	REVISION DATE 4/15/08	PAGE NUMBER 12 of 13	NUMBER <b>DOC 350.500</b>
	TITLE <b>END OF SENTENCE REVIEW/POST CONFINEMENT          REVIEW</b>		

## POLICY

Committee's recommended risk level classification, if appropriate, as well as the basis for the classification.

2. The notification will be distributed to the:
  - a. Prosecutor's Office in the county of sex offense conviction(s),
  - b. Sheriff's Office in the county of residence,
  - c. Police Department in the city in which the offender will reside,
  - d. Department office that will supervise the offender,
  - e. Homicide Information Tracking System Unit,
  - f. Other state's Interstate Compact Unit and the assigned probation officer, if the offender is approved to release to another state with supervision, and
  - g. ISRB, if the offender is under ISRB jurisdiction.

- C. The Counselor/CCO will immediately report any changes in the offender's release date or release plan to the End of Sentence Review Records Supervisor and the assigned Law Enforcement Notification Specialist to allow Law Enforcement Notification Program staff to issue amended notifications.

### X. Recent Overt Act Referrals

- A. If it appears that an offender who has been released from total confinement has committed a recent overt act as defined under RCW 71.09.020(10):
  1. The CCO will:
    - a. Immediately contact the End of Sentence Review/Civil Commitment Program Manager.
    - b. Complete DOC 07-021 Violent Sex Predator and forward it to his/her Community Corrections Supervisor (CCS).
  2. The CCS will:
    - a. Review the completed DOC 07-021 Violent Sex Predator and forward it to the End of Sentence Review/Civil Commitment Program Manager.
    - b. Document action(s) taken on OBTS DT37.
    - c. Notify the Risk Management Team for Risk Management (RM)-A offenders.
  3. The End of Sentence Review/Civil Commitment Program Manager will:



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER MANUAL**

REVISION DATE  
4/15/08

PAGE NUMBER  
13 of 13

NUMBER  
**DOC 350.500**

## **POLICY**

TITLE  
**END OF SENTENCE REVIEW/POST CONFINEMENT  
REVIEW**

- a. Review the offender's behavior in the community and request additional information as needed.
- b. Contact the appropriate prosecuting authority, as noted above, to refer the case for civil commitment consideration if it appears that a recent overt act referral has occurred.
- c. Log and track the referral on OBTS DT07 and DT37.

### **DEFINITIONS:**

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

### **ATTACHMENTS:**

None

### **DOC FORMS:**

DOC 05-411 End of Sentence Review Referral  
DOC 05-729 Washington State Sex Offender Risk Level Classification Revised 1999  
DOC 07-021 Violent Sex Predator  
DOC 07-028 Threatening Behavior/Victim Services Program Referral  
DOC 20-315 End of Sentence Review Referral Attachments Checklist

