

<b>SUBJECT:</b> <b>Sexually Violent Predators</b>	PAGE <u>  1  </u> OF <u>  5  </u>
	NUMBER: <b>105-PBD-11</b>
<b>RULE/CODE REFERENCE:</b> ORC 2903.01, 02, 04, 11; 2905.01, 2907.02, 03, 2907.05, 2941.147, 2971.02, 03, 2971.04; 5120.61, 5149.02, 5149.10; OAC 5120:1-1-70	<b>SUPERSEDES:</b> 105-PBD-11 dated 06/17/13
<b>RELATED ACA STANDARDS:</b>	<b>EFFECTIVE DATE:</b> <b>December 2, 2019</b>
	<b>APPROVED:</b> 

**I. AUTHORITY**

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

**II. PURPOSE**

The purpose of this policy is to establish a standard procedure for the parole board to efficiently and consistently carry out its duties pursuant to Ohio Revised Code (ORC) section 2971.04, Termination of Parole Board’s Control over Offender’s Service of Prison Term; Transfer of Control to Court and Administrative Rule 5120:1-1-70, Termination of the Parole Board’s Control Over Sexually Violent Predators, with respect to persons sentenced as sexually violent predators.

**III. APPLICABILITY**

This policy applies to all employees of the Ohio Department of Rehabilitation and Correction (ODRC). This policy also applies to inmates sentenced pursuant to the provisions of ORC Chapter 2971, Sexually Violent Predators, and to the attorneys representing them.

**IV. DEFINITIONS**

**Designated Homicide, Assault, or Kidnapping Offense** - A violation of ORC section 2903.01 (Aggravated Murder), 2903.02 (Murder), 2903.11 (Felonious Assault), 2905.01 (Kidnapping), or division (A) of 2903.04 (Involuntary Manslaughter).

**Discharge Summary** - The report completed by staff of an institution sex offender program documenting the offender’s participation and progress while in the program.

**Minimum Term** - For purposes of this policy, the minimum sentence imposed as part of an indefinite sentence pursuant to ORC section 2971.03.

**Parole Board** - That section of the Adult Parole Authority created in ORC sections 5149.02 and 5149.10 whose duties include, but are not limited to, reviewing and evaluating offenders for parole and clemency consideration and imposing post-release control.

**Physical Harm** - Any injury to a person, illness, or other physiological impairment, regardless of its gravity or duration.

**Sex Offender Treatment Program** - Program(s) conducted by professional staff inside state correctional facilities designated to reduce the likelihood that a person will commit another sex offense.

**Sexual Motivation Specification** - A specification, as described in ORC section 2941.147, indicating that a person charged with a designated homicide, assault, or kidnapping offense committed the offense with a sexual motivation.

**Sexually Violent Offense** - A violent sex offense or a designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.

**Sexually Violent Predator** - A person who has been convicted of or pleaded guilty to committing, on or after January 1, 1997, a sexually violent offense and is likely to engage in the future in one (1) or more sexually violent offenses.

**Sexually Violent Predator Hearing** - A hearing conducted by a quorum of the Parole Board to decide whether to terminate the Parole Board's control over the offender's service of the prison term.

**Sexually Violent Predator Risk Assessment** - The assessment completed by an ODRC independently licensed mental health professional addressing the offender's likelihood of committing assaultive offenses in the future.

**Sexually Violent Predator Specification** - A specification, as described in ORC section 2941.148, setting forth that a person charged with a violent sex offense or a person charged with a designated homicide, assault, or kidnapping offense and a sexual motivation specification, is a sexually violent predator.

**Termination of Control** - The action of the parole board wherein it relinquishes to the sentencing court all control over the service of the prison term for a sexually violent predator.

**Violent Sex Offense** - A violation of ORC section 2907.02 (Rape), 2907.03 (Sexual Battery), or of division (A)(4) or (B) of ORC section 2907.05 (Gross Sexual Imposition).

## V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (ODRC) that if a court sentences an offender as a sexually violent predator and imposes a prison term pursuant to ORC section 2971.03(A)(3) as it existed both prior to and after January 2, 2007, or if the court imposes a prison term for offenses committed on or after January 2, 2007 pursuant to ORC sections 2971.03 (B)(1)(a), (b), (c), or (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d), the Parole Board shall determine whether to terminate its control over the offender's service of the prison term after the offender has served the minimum term of the sentence. The Parole Board may not terminate its control over an offender's service of a prison term until the Parole Board conducts a hearing and decides that the offender does not represent a substantial risk of physical harm to others.

**VI. PROCEDURES****A. Assignment of Sexually Violent Predator Processing Duties**

The Parole Board chair shall designate an appropriate staff person(s) to be responsible for the Parole Board's processing of sexually violent predator cases.

**B. Identification and Verification of Sexually Violent Predators and Entering Information into the Database**

1. The sex offender designation area (SODA) supervisor at the Bureau of Records Management (BORM) shall notify designated Parole Board staff that copies of the following documents are available electronically for each new sexually violent predator admitted:
  - a. Indictment;
  - b. Journal Entry of Conviction;
  - c. Sentence, including any modification.
2. The person(s) designated by the Parole Board chair shall review the documents and verify that the offender is a sexually violent predator.
3. If no investigation is available, a special assignment referral shall be made to Quality Assurance for assignment to a Parole Board parole officer (PBPO).
4. A file containing all relevant documents shall be created by the Parole Board.

**C. Quarterly Review of all Cases**

1. Each quarter, a list of cases shall be prepared showing the expiration of minimum sentence for each case. The Parole Board designee(s) shall note any case whose minimum sentence expires within a year.
2. Each quarter, a list of cases with missing or incomplete information shall be prepared. The Parole Board designee(s) shall take steps to obtain the needed information.

**D. Initial & Subsequent Reviews**

1. Six (6) months before the expiration of the offender's minimum term, the Parole Board designee(s) shall request the following:
  - a. Copies of all Sexually Violent Predator Risk Assessments and reports completed pursuant to ORC section 5120.61;
  - b. Copies of the discharge summary if the offender completed a sex offender treatment program;
  - c. Copies of any Appellate or Federal Court decisions related to the offender's designation as a sexually violent predator.
2. Sixty (60) days before the expiration of the offender's minimum term, the Parole Board designee(s) shall request an update of the most recent Sexually Violent Predator Risk

Assessment and Report prepared by Behavioral Health Operations pursuant to ORC section 5120.61.

3. The Parole Board designee(s) shall also review the offender's file to ensure that all necessary items, in addition to those noted in VI.D.1 of this policy have been received and are adequate.
4. Subject to the hearing requirement set forth in section VI.D.6 of this policy, the Parole Board shall determine, by a majority vote of its membership, whether to terminate control over the offender's service of the prison term. In determining whether to terminate control over an offender's service of the prison term, the Parole Board shall consider the Sexually Violent Predator Risk Assessment Report and updates prepared by Behavioral Health Operations pursuant to ORC section 5120.61. This determination shall be made after the offender has served the minimum term imposed by the court.
5. In addition to the Sexually Violent Predator Risk Assessment Report, the Parole Board may consider the following:
  - a. The transcript of the proceeding held pursuant to ORC section 2971.02, at which the court or the jury determined the sexually violent predator specification;
  - b. Any Pre-Sentence Investigation or Offender Background Investigation Report prepared following the offender's conviction of the offense relating to the sexually violent predator specification;
  - c. Victim information;
  - d. Any other information the Parole Board deems appropriate.
6. At the conclusion of its review, the Parole Board, by majority vote of its membership, may vote to decline to terminate control over the sentence, in which case no hearing shall be conducted. The action declining to terminate control shall be made in the official minutes of the Parole Board and the next determination shall be scheduled in two (2) years unless an earlier date is recommended by a majority vote of the Parole Board. The Parole Board shall not terminate control without first conducting a sexually violent predator hearing as described in section VI.E of this policy.
7. If the Parole Board declines to terminate control over the offender's service of the prison sentence, all relevant documentation utilized during the review shall be forwarded to BORM.

E. Hearing

1. A hearing to consider terminating control of the prison term shall be conducted as soon as administratively possible. The hearing shall be conducted at a place designated by the Parole Board chair. A quorum of the Parole Board must be present at the hearing.
2. The following parties shall receive notice of the hearing by the Parole Board and shall be invited to attend and make a presentation or submit a written statement:
  - a. The prosecuting attorney of the county in which the sexually violent predator was sentenced;

- b. The offender, who shall only be present through videoconferencing arranged by the ODRC;
  - c. The offender's counsel;
  - d. The victim or victim's representative as statutorily mandated. If the victim or victim's representative would like to provide input but not speak in person at the hearing, he/she may participate in victim conference day or submit written information for the Parole Board's consideration.
3. The Sexually Violent Predator Risk Assessment Report and updates shall be distributed by the director of the Sex Offender Risk Reduction Center (SORRC) pursuant to ODRC Policy 67-MNH-30, Mental Health Assessment Activities.
  4. The Parole Board shall ensure, prior to the hearing, an Institution Summary Report (DRC2666) is provided to the prosecuting attorney and the law enforcement agency that arrested the offender, upon the prosecutor's or agency's request.
  5. At the hearing to determine whether to terminate its control over the service of the prison term, the Parole Board shall consider the same information that was previously considered by the Parole Board during its initial review, in addition to any statements or evidence presented or submitted by the parties who receive notice of the hearing. The Parole Board shall not consider the adequacy of the punishment imposed by the sentencing court. The Parole Board shall limit its deliberations to determining whether the offender represents a substantial risk of physical harm to others.
  6. A majority vote of the Parole Board shall be required to terminate control over the service of the prison term. In the event a tie vote occurs, control over the service of the prison term shall not terminate and the offender shall be scheduled for a subsequent review within two (2) years of the hearing.

F. Post Hearing Process

If the Parole Board votes to terminate control over the offender's service of the prison term, the Parole Board shall immediately provide written notice of its termination to the Bureau of Sentence Computation (BOSC), the APA superintendent, the court, the prosecuting attorney, offender, and victim or victim's representative as statutorily mandated. The Parole Board shall also ensure an Institution Summary Report (DRC2666) is provided to the prosecuting attorney and the law enforcement agency that arrested the offender, upon the prosecutor's or agency's request. The Parole Board chair shall appoint a Parole Board member to prepare a report to the court. The report shall include a recommendation requesting modification of the requirement that the offender serve the entire prison term in a state correctional institution.

G. All relevant documentation utilized shall be forwarded to BORM.

**Related Department Forms:**

Institution Summary Report

DRC2666