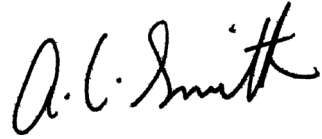




Department of  
Rehabilitation & Correction

SUBJECT: <b>Level E (ERH) Security Reviews</b>	PAGE <u>1</u> OF <u>7</u>
	NUMBER: <b>53-CLS-10</b>
ORC/OAC REFERENCE: ORC 5120.01	SUPERSEDES: 53-CLS-10 dated 02/03/2020
RELATED ACA STANDARDS: 5-ACI-4A-08	EFFECTIVE DATE: <b>June 27, 2022</b>
	APPROVED: 

## 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 define the procedures for reviewing and releasing incarcerated individuals from Extended Restrictive Housing (ERH).

## III. APPLICABILITY

This policy applies to all Ohio Department of Rehabilitation and Correction (ODRC) staff involved in the classification process.

## IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the ODRC Intranet at the following:

### [Definitions Link](#)

- **Annually**
- **Extended Restrictive Housing (ERH)**
- **Extended Restrictive Housing- Enhanced Behavioral Health Monitoring (EM)**
- **Extended Restrictive Housing- Ineligible for Presumptive Release (EN)**
- **ERH Transitional (ET)**
- **Individual Adjustment Plan (IAP)**
- **Limited Privilege Housing (LPH)**
- **Multidisciplinary Services Team (MST)**
- **Multidisciplinary Treatment Team (MTT)**
- **Residential Treatment Unit (RTU)**
- **Restrictive Housing (RH)**

**V. POLICY**

It is the policy of the ODRC to limit the use of extended restrictive housing (ERH) to only those individuals who pose the greatest threat to the safety and security of a correctional facility and cannot be managed safely in general population. ERH is not to be used for punishment and is reserved for those whose violent, disruptive, predatory, riotous, or other serious misbehavior poses a serious threat to other incarcerated individuals, staff, the orderly operation of the institution, or the general public. Therefore, any individual placed into ERH shall receive regular reviews and shall be released from ERH as soon as they can be safely managed in a less restrictive environment.

**VI. PROCEDURES****A. Release from ERH**

1. All individuals in ERH who have been provided a presumptive release date shall be released from ERH before their presumptive release date unless:
  - a. They have violated their IAP as indicated by a finding of guilt by the RIB, or
  - b. They have committed a new ERH qualifying offense.
2. Any individual in ERH shall be considered for release during all unit team 7-day (calendar) status reviews as outlined in ODRC Policy 55-SPC-02, Restrictive Housing Procedures. If during a status review the unit staff member completing the review believes the individual is possibly ready for a release, staff shall refer them to the ERH review committee.
3. At any point during individual's placement in ERH who has been identified as C1 or IDD, behavior health staff may recommend an elevated specialized mental health housing placement based on clinical need. Behavior health staff shall notify the managing officer of this recommendation and proceed with referral per ODRC Policy 67-MNH-23, Residential Treatment Units and Day Treatment Programs.
4. In addition to the 7-day (calendar) status reviews, all incarcerated individuals in ERH shall receive a full committee review at least annually.
5. Prior to any ERH review, the individual shall sign that they received forty-eight (48) hours' notice, to be completed in DOTS.

**B. ERH Review Guidelines****General Provisions for the Review of Incarcerated Individuals in ERH**

1. An individual shall be released from ERH when there are no longer sufficient security concerns justifying retention in ERH and the committee can reasonably conclude they can be safely managed in a less restrictive environment.

2. Presumptive release dates, for those eligible, are maximum dates and individuals shall be released on/before that date if they are IAP compliant. In addition, individuals who are compliant with their IAP, particularly those engaging in programs, shall be considered for an earlier release.
3. Unless there is a rule infraction which violates the incarcerated individual's IAP, a managing officer shall not retain any individual in ERH longer than their presumptive release date without the express, written authorization of the regional director. This authorization shall articulate the specific reasons why retention is necessary for the safety and security of a correctional facility or the community. A copy of the written authorization shall be provided to the incarcerated individual and scanned into the review. The individual shall have the right to appeal the decision to the deputy director of Prisons/designee.
4. An ERH review is considered a replacement for the annual security review as required in ODRC Policy 53-CLS-01, Security Classification for Incarcerated Persons Levels 1 - 4.

**C. ERH Review Procedures for Incarcerated Individuals Eligible for Presumptive Release**

1. All individuals in ERH who are eligible for presumptive release shall be reviewed annually.
2. At any review, if an individual is compliant with their IAP, they shall be considered for a release to ET. No individual shall be held longer in ERH solely for not complying with the programmatic aspects of their IAP. In situations where the individual has spent less than six (6) months in ERH, the committee may recommend release into general population and use an LPH placement as a substitute for ET.
3. If an individual is not compliant with the behavioral aspects of their IAP, as indicated by findings of guilt by the RIB for behaviors outlined in their IAP in the past 12 months, they may be held in ERH for up to an additional twelve (12) months. If the individual has exceeded their original presumptive release date because of an IAP violation, the committee shall set the next review no later than eleven (11) months after the date of the IAP violation. IAP violations shall never be stacked or applied consecutively. If the individual has committed new rule violations which the committee believes requires more than twelve (12) months past a presumptive release date, then the individual may be referred for a new E-placement.
4. For C1 or IDD individuals, the ERH review committee must consult with the mental health manager/administrator on any identified concerns and/or recommendations. This shall be documented on the review form by the committee.
5. The ERH review shall be completed electronically in DOTS using the ERH Review form (DRC4029). During the review, the committee shall notify the incarcerated individual of their recommendation as well as their right to appeal the recommendation to the managing officer.

6. The committee shall forward their recommendation to the managing officer/designee who shall review the case, and then either approve, disapprove, or modify the decision. A copy of the ERH Review (DRC4029) with the managing officer's decision shall be served on the incarcerated individual.
7. The incarcerated individual has seven (7) calendar days to appeal the decision to the managing officer. The managing officer/designee has fourteen (14) calendar days to respond to the appeal from date of receipt.
8. The incarcerated individual has fourteen (14) calendar days to appeal the decision of the managing officer to the regional director. The regional director/designee has fourteen (14) calendar days to respond to the appeal from date of receipt.

**D. ERH Review Procedures for Incarcerated Individuals Ineligible for Presumptive Release (EN)**

1. ERH Review Committee
  - a. The ERH review committee must consist of three (3) members, who may include the deputy warden of operations (DWO) or designee, unit management chief (UMC), a unit manager, a case manager or other unit staff member and may include mental health staff.
  - b. The individual must be afforded the opportunity to appear and to submit a written statement and other documents.
  - c. If the ERH review committee intends to rely on a statement that previously was not made known to the individual, the review committee shall disclose the substance of such information to them. Before utilizing such information, the review committee shall provide the individual with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
  - d. The ERH review committee must document information presented by the staff and incarcerated individual.
  - e. The ERH review committee must take into consideration at a minimum the following information:
    - i. Reason for placement in ERH and relevant circumstances,
    - ii. Guilty findings by the RIB,
    - iii. Total time spent in ERH,
    - iv. Time left to spend on current sentence,
    - v. Time since last incident that resulted in individual being designated ERH,
    - vi. Program involvement,
    - vii. Behavior, including behavior prior to current ERH placement,
    - viii. Security level prior to current ERH placement,
    - ix. Adjustment/behavior after placement and during previous placements in general population,

- x. Factors which indicate a risk of future violence,
  - xi. Interaction with others (staff or other incarcerated individuals),
  - xii. Recognition and acknowledgment of the factors contributing to the commission of the placement offense and nature,
  - xiii. The findings and recommendations of the previous ERH review committees,
  - xiv. The findings and recommendations of all security and ERH review committees subsequent to placement in ERH.
- f. For C1 or IDD individuals, the ERH review committee must consult with the mental health manager/administrator on any identified concerns and/or recommendations. This shall be documented on the review form by the committee.
- g. The review committee shall use professional correctional judgment to evaluate the individual's likelihood to repeat the same or similar offense which resulted in their placement into ERH. The ERH review committee must make a comprehensive review of the individual's institutional adjustment and behavior including their behavior since placement in ERH to assess the risk to safety and security posed by them. The review committee must consider the factors listed above, the circumstances underlying the placement in ERH, the reasons for initial placement, the individual's subsequent adjustment, and their demonstrated attitude. The review committee must determine whether there has been a diminishing of the individual's risk to the safety of individuals within their correctional judgment.
- h. The review committee must make a recommendation accordingly and must articulate the reason(s) for its recommendation. The statement need not be lengthy; however, it must include every basis for the recommendation and may not be merely conclusory.
- i. The review committee must consider and communicate in enough detail the incarcerated individual's positive behavior during the annual review process.
- j. The review committee must provide a reasoned decision to the incarcerated individual that tells what they can do to increase the likelihood of reducing their ERH status to ET.
- k. The incarcerated individual must be served the ERH review committee's recommendation and appeal. The individual may file an appeal to the managing officer or designee no later than seven (7) calendar days from the date they are served.
2. The Managing Officer or Designee
- a. The managing officer/designee shall decide whether to retain the incarcerated individual in ERH or reduce them to ET. The managing officer shall articulate the reason(s) for the decision and list the sources of information on which they relied. The statement need not be lengthy but must include every basis for the decision and may not be merely conclusory.

- b. The incarcerated individual must be provided a copy of the managing officer's decision and reason(s). The incarcerated individual must be notified upon receipt of the managing officer decision that they may file an appeal with the regional director/designee no later than fourteen (14) calendar days from the date the individual is served with the managing officer's appeal decision.

3. **Regional Director Appeal**

Upon receipt of an appeal, the regional director/designee shall review the managing officer's decision as well as all supporting documentation for, and against, retention in ERH. They shall render a decision on the appeal within fourteen (14) calendar days of receipt and provide a written copy to the incarcerated individual who filed the appeal. The appeal response must address the concerns raised by the incarcerated individual in their appeal.

## **E. ET Reviews**

Once an incarcerated individual is placed in ET, they are automatically considered eligible for presumptive release. An individual may only be made ineligible again if they are found guilty of a new rule violation by the RIB and referred back for E-placement using the procedures outlined in ODRC Policy 53-CLS-04, Level E Placement.

1. Any individual placed into ET shall be reviewed monthly to be considered for release to general population. No individual shall be held in ET for more than six (6) months unless they have violated their IAP or been referred for a new E-placement.
2. If an individual violates their IAP, as indicated by a finding of guilt at the RIB, the ERH review committee may hold a hearing and either retain them in ET or return them to ERH for up to six (6) months from the date of the IAP violation. If the individual is retained in ET, the next review shall be set one (1) month later. If the individual is returned to ERH, the next review shall be set for five (5) months from the date of the IAP offense being used to place them back into ERH. If the individual has committed new rule violations which the committee believes requires more than six (6) months, then the individual may be referred for a new E-Placement.
3. The ERH review shall be documented using an ERH Transitional Monthly Review (DRC4030) in DOTS.
4. The individual's IAP must be updated and monitored to reflect the specific step-down programs which will be offered to them while in this transition phase in addition to the behavioral expectations.
5. The first month in ET is considered an evaluation phase where the individual is integrated into limited congregate activity and increased out-of-cell time.

6. During each subsequent monthly review, the committee shall evaluate the programs and activities the individual has been involved in during the transition phase as well as behaviors which may possibly lead to negative or positive adjustment in general population. At each review, the committee shall document gradual increases in out-of-cell time, group interaction, program/education opportunities, and privileges on the ERH Transitional Monthly Review (DRC4030).
7. Prior to release from ET, the individual shall have a complete review of their behavior and programmatic progress while in ET. The reasons an individual refused any recommended programs shall be documented but shall NOT be used solely to retain them in ET.
8. If the committee chooses to release the individual from ET, they shall also determine which security level the individual shall be placed in upon release. The committee may examine a multitude of factors when deciding the final security level placement; however, the seriousness of the ERH placement offense, the security level when the individual committed the offense, their adjustment while in ERH and ET, and their overall behavioral history shall all be considered. Once a suitable security level is determined, the committee shall set an annual security level review date twelve (12) months from the release date.
9. After an individual is released from ET to general population, a final monthly review shall be completed at least thirty (30) calendar days after their release, but no more than sixty (60) calendar days. This review does not require the completion of the ERH Transitional Monthly Review (DRC4030). It can be documented using the case plan in the ORAS case management system. During this review, the individual may NOT be placed back into ERH for any reason by the review committee.

**Referenced ODRC Policies:**

- 53-CLS-01 Security Classification for Incarcerated Persons Levels 1 - 4
- 53-CLS-04 Level E Placement
- 55-SPC\_02 Restrictive Housing Procedures
- 67-MNH-23 Residential Treatment Units and Day Treatment Programs

**Referenced Forms:**

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|--|---------|
| Incarcerated Individual Appeal of ERH placement/review | DRC2596 |
| ERH Review   | DRC4029 |
| ERH Transitional Monthly Review                        | DRC4030 |