Sexually Violent Predator (SVP)
Referrals, Commitments, and Bed Utilization
Forecast for FY 2015 – FY 2020

To the Governor and
Chairs of the House Appropriations and Senate Finance
Committees of the General Assembly

Prepared by the
Secretary of Health and Human Resources

November 2014

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Executive Summary

Mandate: This report is submitted in accordance with Item 278 A.1. of the 2014 *Appropriation Act,* which directs that:

> *B.1. The Secretary of Health and Human Resources, in collaboration with the Office of the Attorney General and the Secretary of Public Safety, shall present a six-year forecast of the adult offender population presently incarcerated in the Department of Corrections and approaching release who meet the criteria set forth in Chapter* 863 *and Chapter* 914 *of the 2006 Acts of Assembly, and who may be eligible for evaluation as sexually violent predators (SVPs) for each fiscal year within the six-year forecasting period. As part of the forecast, the secretary shall report on: (i) the number of Commitment Review Committee (CRC) evaluations to be completed; (ii) the number of eligible inmates recommended by the CRC for civil commitment, conditional release, and full release; (iii) the number of civilly committed residents of the Virginia Center for Behavioral Rehabilitation who are eligible for annual review; and (iv) the number of individuals civilly committed to the Virginia Center for Behavioral Rehabilitation and granted conditional release from civil commitment in a state SVP facility. The secretary shall complete a summary report of current SVP cases and a forecast of SVP eligibility, civil commitments, and SVP conditional releases, including projected bed space requirements, to the Governor and Senate Finance and House Appropriations Committees by October* 1 *of each year.*

Executive summary: This year's Sexually Violent Predator (SVP) forecast predicts that, due to a decline in admissions and an increase in discharges, the maximum census of 450 residents at the Virginia Center for Behavioral Rehabilitation (VCBR) will not be reached until the middle of calendar year 2018.

The rate of census growth at VCBR has been declining for a number of years. This is due to two primary factors. The projected number of SVP-eligible inmates referred each year from the Department of Corrections (DOC) for SVP evaluation, after several years of increase, is declining. A decline in the number of SVP-eligible inmates evaluated, translates into a similar decline in the number of individuals admitted to the VCBR. In total, admissions to VCBR have dropped from an average rate of 7.42 admissions per month in FY 2010, to an average rate of 4.50 per month in FY2014.

On the other end of the census continuum, the number of discharges from VCBR has grown steadily, from a total of two in FY 2004 to 30 in FY 2014. Most of this increase has occurred since FY 2011.

The impact of these factors in combination is a significant slowing of census growth. Put in context, the forecast for FY 2011 predicted that maximum census of 450 would be reached in mid-2013 (predicting 444 residents on 30 July 2013). The trends described above have steadily

pushed back the date of reaching maximum census to, in the present forecast, sometime during mid calendar year 2018 (predicting 456 residents admitted by 30 June 2018).

VCBR census is described using two statistics: "on-books" census and "in-house" census.
- On-books census includes all individuals actually admitted to the facility and carried on the roles or "on-books." Once admitted, VCBR residents remain on-books until they are formally discharged.
- In-house census is the number of residents physically residing in the facility on a particular date.

At any one time, about 20 individuals who are carried on-books will be held outside VCBR: in jail for annual review or other hearings, serving a sentence on conviction for a new crime, or while in a hospital. As such, the in-house census will always be lower than the on-books. It is important to understand that VCBR is responsible for providing a bed and care to all residents listed on-books.

Table 1: Predicted On-books and in-house Census on 1 July Forecast for VCBR for Fiscal Years 2015 to 2020

On-books Census

Fiscal Year	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
On-books census (June 30)	379	401	427	456	482	510

In-house Census

In-house census (June 30)	359	381	407	436	462	490

FORECAST

The data forming the basis for the SVP census growth forecast is the DOC SVP-eligible inmate SVP evaluation pool. The current DOC forecast suggests a stabilizing in the number of evaluations to be completed during the upcoming six years, FY 2015 to FY 2020. As the DOC forecast and the number of SVP evaluations are the starting points for the DBHDS SVP census growth forecast, this data trend flows through our forecast calculations into the number of predicted admissions each year in the DBHDS SVP forecast.[1] Changes in the DOC discharge trend predicted in the annual DOC forecast are reflected in the DBHDS forecast.

Table 2: Census Forecast Statistics for VCBR, Showing Estimates for FY 2015 to FY 2020[2]

	By Year	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
1	SVP-eligible DOC inmates to be screened for SVP civil commitment	611	558	603	636	608	631
2	SVP-eligible inmates evaluated for SVP civil commitment.[3] (22% of line 1)	134	123	133	140	134	139
3	Individuals Admitted to VCBR. (42% of line 2)	56	52	56	59	56	58
4	Projected yearly discharges from VCBR.[4]	-30	-30	-30	-30	-30	-30
5	Average Gross monthly admissions (line 3 ÷ 12 months)	4.67	4.33	4.67	4.92	4.67	4.83
6	Average Net monthly Admissions. (line 3 minus line 4, ÷ 12)	2.17	1.83	2.17	2.42	2.17	2.33
7	Projected on-books census at VCBR	379	401	427	456	482	510
8	Projected in-house census at VCBR.[5]	359	381	407	436	462	490

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[1] *Secretary of Public Safety State Responsible Forecast Model.* The DOC prepares an annual forecast of trends in inmate sentencing and release. Part of this forecast is an estimation of how many SVP-eligible inmates will be released during each of the upcoming six years. This data forms the basis of the DBHDS SVP census forecast.

[2] Calculations were made using Excel software. Due to rounding conventions in calculators, re-estimations of this data may produce slight variance.

[3] Each year a number of Unrestorably Incompetent to Stand Trial (URIST) individuals are screened for SVP civil commitment. Last year, four of these individuals were evaluated for SVP civil commitment. Last year no URIST individuals were admitted to VCBR.

[4] There is no way of accurately knowing how many discharges will be achieved by VCBR in upcoming years. As such, the figure presented represents the average of releases for the past three years.

[5] At any given moment, about 20 residents are on-leave from VCBR – but still on-books – while being held in other facilities such as jail, prison, or medical hospital.

DISCUSSION

Although SVP civil commitment selects the most dangerous sex offenders for confinement and treatment and a sizable group of these individuals are and will remain resistant to treatment, a substantial number are able and willing to commit to change. These individuals actively participate in treatment, and, by making progress though the phases of treatment, they ultimately become eligible for conditional release. A small number will have their SVP civil commitment overturned by a court for technical and legal reasons and will be discharged without conditions. Some will pass away. Since 2003, 130 individuals have been discharged from VCBR:

- 16 were unconditionally discharged by the court for technical and legal reasons,
- 88 were discharged to conditional release,
- 4 were discharged to other mental health or medical facilities,
- 5 were discharged as a result of death, and
- 17 were detainees.[6]

SVP conditional release (CR) returns SVP individuals to the community under specialized and intensive supervision that includes close and regular face-to-face monitoring, ongoing sex offender treatment, GPS tracking, and the use of regular polygraphs and other testing as a means of monitoring individuals' compliance with rules, violations or new crimes, and participation in treatment. Conditional release, when appropriate, is a cost-effective alternative means of managing a less dangerous subset of SVP in the community, while still robustly protecting the public safety.

The impact of these discharges on the rate of census growth at VCBR cannot be overstated. Without discharges, VCBR census would be increased by 130 residents, pushing the present census to 483.[7]

Clearly, the current trend toward a slower growth rate, even if temporary, is good news. It pushes back maximum census date thereby affording the Commonwealth time in which to consider alternative strategies for managing growth in SVP civil commitment.

As for cost, discharge from VCBR does not eliminate the need for and expense of providing SVP services. Rather, discharge to conditional release transfers that need from the facility to the community. And, while the cost of SVP conditional release is significantly below the cost of care and treatment at VCBR, the budget for maintaining individuals on conditional release grows as the number of participants increase. While individuals on CR are under a supervision obligation to the state (probation or parole), the cost of this supervision is borne by DOC. Once

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[6] Detainees are most often persons found URIST and who are held at VCBR while undergoing consideration for SVP civil commitment. Those not civilly committed as SVP are released.

[7] Based on an on-books census of 353 on 1 July 2014, plus the 130 individuals if they had not been discharged.

that obligation ends, supervision costs shift to the DBHDS and are paid to the DOC under a memorandum of understanding (MOU) between the DBHDS and the DOC. The costs for this service are paid by DBHDS through the Office of Sexually Violent Predators (OSVP) to the DOC.

A significant threat to maintaining the current rate of conditional release discharges is the low availability of, and lack of funding for, housing appropriate for men and women with SVP issues. More housing resources will need to be developed and supported if we are to continue discharging to conditional release at the present level.

FINDINGS

Over the past four years, the rate of admissions to VCBR has decreased and the rate of discharges has increased. The net result is a stabilized growth rate at a level below previous forecasts. Based on this data, the maximum on-books census of 450 will be reached around mid calendar year 2018.

The current schedule for delivery of the expanded VCBR in FY 2018 coincides with need identified in this census forecast. With prompt approval of funding, and utilization of the Construction Manager (CM)-at-Risk method of procurement and delivery to expedite construction, DBHDS is optimistic that the expanded facility will be delivered concurrent with the need for additional beds.

As VCBR census continues to grow, there are continued concerns about the availability of treatment and support spaces prior to occupancy of the expanded facility. Already maximized, the space available for treatment in the existing building will be increasingly problematic as census approaches 450. As a result, DBHDS is exploring options for provision of temporary space (trailers, et.al.) and/or phased occupancy of the expanded facility to ease crowding in existing treatment areas prior to complete delivery of the expanded facility. This will ensure that DBHDS will be able to provide adequate treatment and support to the residents of the program as the population increases. This is needed in order to maintain the rate of discharges.

Appendix A: Admissions to and Discharges from VCBR 2003 to 2014

This graph tracks VCBR census growth from its beginning through to June 30, 2014. The impact on census growth of adding SVP qualifying crimes in 2006 is easily discernible as is the effect of discharge.

The top, blue line tracks on-books census growth.

The purple line depicts yearly admissions.
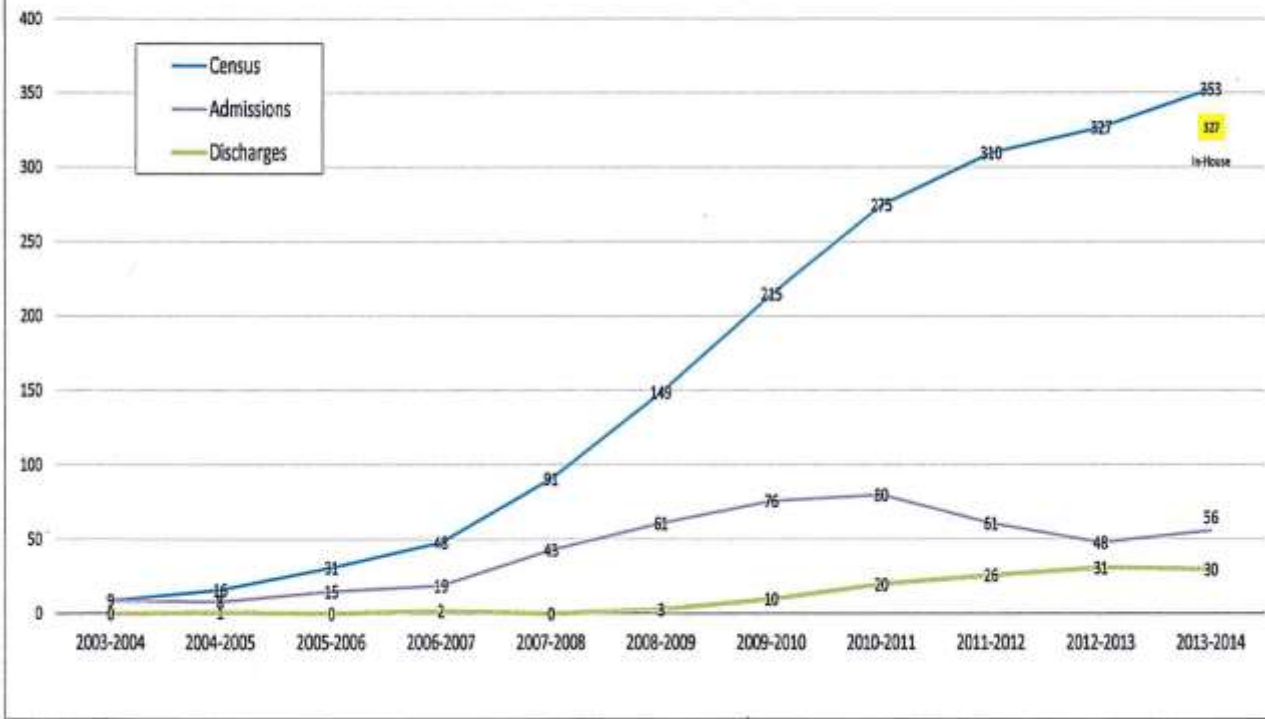
The green line depicts yearly discharges.

From these data it is easy to see the impact of discharges on overall census. As noted in the body of this report, without discharges VCBR's 30 June 2014 census would have been 483 residents.

VCBR Admission and Discharges
FIscal Year
As Of June 30, 2014
Census - 353   In-House - 327

Fiscal Year																						
	2003-2004		2004-2005		2005-2006		2006-2007		2007-2008		2008-2009		2009-2010		2010-2011		2011-2012		2012-2013		2013-2014	
Census of Year	9		16		31		48		91		149		215		275		310		327		353	
	9		7		15		17		43		58		66		60		35		17		26	
	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC	ADMT	DISC
	9	0	8	-1	15	0	19	-2	43	0	61	-3	76	-10	80	-20	61	-26	48	-31	56	-30
July			0		1		1		4		7		4	-1	4		2	-3	6	-3	5	-4
August			0		2		1		5		6		7		6		4	-2	3	-1	8	-1
September			1		1		1		4		4		7		8	-1	6	-2	2	-3	5	-1
October			0		1		3		2		9		5	-3	11	-2	5	-3	2	-2	4	0
November			1		1		1		4		0	-2	8		9	-3	5	-4	7	-4	4	-6
December	2		0		2		1		0		6		3	-1	5	-1	6	-1	4	-3	4	-4
January	1		2		0		3		1		4		7	-2	8	-1	4	-1	4	-1	6	-1
February	0		1		0		2		1		4		5		4	-1	3	-3	5	0	3	-1
March	2		1	-1	1		0		2		5	-1	7	-1	4	-4	7	0	6	-2	4	-2
April	0		0		4		3		6		5		10	-1	5	-2	8	-3	1	-4	2	-6
May	1		2		0		1		6		5		4	-1	8	-3	6	-2	4	-6	3	-2
June	3		0		2		2	-2	8		6		9		8	-2	5	-2	4	-2	8	-2
e Total	9	0	17	-1	32	-1	51	-3	94	-3	155	-6	231	-16	311	-36	372	-62	420	-93	476	-123

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Appendix B

METHODOLOGY and DEFINITIONS

Methodology

Assumption: The purpose of the annual SVP forecast is to predict how many individuals will be found sexually violent predators and civilly committed to the VCBR. The basis of this prediction is estimations of (1) how many SVP-eligible inmates will be released from DOC each year, (2) how many will be found SVP and admitted to the VCBR, (3) and how many will be discharged from VCBR. In tracking and analyzing each of these three areas, we find that they show strong internal consistency year-on-year. That is, over the last several years a similar percentage (right now, 22 percent) of SVP-eligible inmates released each year from DOC completed SVP evaluations.

About 42 percent of these evaluated individuals were found SVP and civilly committed to VCBR.

At the same time, around 30 individuals per year are discharged from VCBR.

The accuracy of these percentages was calculated by comparing past year's forecasts with actual results. Through this process, we found that the long-term average of cases evaluated, cases committed, cases admitted, and cases discharged, captured current system patterns and helped mitigate the impact of anomalous yearly oscillations in the data.

For example, in the following calculation of the forecast number of SVP evaluation requests, we selected the last four years of actual or observed data.

> FY2010-11 = 154 evaluation requests were actually made by DOC to DBHDS.
> FY2011-12 = 133 evaluation requests
> FY2012-13 = 108 evaluation requests
> FY2013-14 = 134 evaluation requests
>   Total = 529 evaluation requests
>   = a yearly average of 132 evaluation requests

The 132 evaluation average is very close to the last full fiscal year's request for 134 evaluations. We apply this logic in the present forecast.

Predictive reliability and variance: Given the naturally occurring variance in data used in the SVP forecast algorithm, it is impossible to predict exactly when the VCBR will reach maximum census. Other uncontrolled variance exists that can move forward or push back the maximum census date. For example: (1) due to the configuration of the double occupancy rooms, for medical reasons, VCBR might find that it has more residents who can only use a lower bunk than there are lower bunks available; and (2) some individuals will be too vulnerable to exploitation and abuse or, alternately, be too predatory to be placed in double occupancy rooms. Given these

conditions, even if upper bunks remain open, the facility can reach maximum operating capacity at a census below 450.

Additionally, admissions and discharges during individual months vary above and below the average forecast rate. It can happen that monthly admissions are greater or lesser than predicted in the forecast. As a result, the date of reaching maximum census will be moved forward or back. Given this possible variation, there can be as much two month's variance either way around the forecast predicted full date.

Definitions

Forecast Data Matrix:
Row 1: This row represents DOC's forecasts of how many inmates, serving a current sentence upon conviction for a SVP-qualifying crime, will become eligible for release from DOC during each year. This number is reported annually in September by the DOC to the DBHDS Office of Sexually Violent Predator Services (OSVP).

Row 2: All of the inmates in row 1 are reviewed by the DOC Sex Offender Screening and Assessment (SOSA) unit. Those inmates meeting or exceeding the SVP inclusion criteria are referred by SOSA to OSVP for an SVP evaluation. When completed, this evaluation is sent by the OSVP to the CRC for review and recommendation. Over the past three years, about 22 percent of all inmate cases reviewed by the SOSA qualify for, and are referred for, an SVP evaluation.

Row 3: Over the past three years, an average of 42 percent of all inmate cases evaluated and reviewed by the CRC and then taken forward by the OAG for SVP civil commitment, are admitted to the VCBR.

Row 4: Over the past three years, an average, about 30 individuals have been discharged from VCBR for all reasons: death, conditional release, discharge to another facility, and unconditional release by a court.

Row 5: This row represents the average number, or gross forecast admissions to VCBR that will occur monthly during a fiscal year. It is calculated by dividing the total yearly forecast admissions (gross admissions) by 12.

Row 6: This row represents the average number, or NET forecast admissions to VCBR during a fiscal year. This number is calculated by subtracting the number of forecast discharges for that year from the number of forecast admissions, and dividing by 12.

Row 7: The "on-books" census is the total number of individuals admitted to VCBR and currently carried on the census role, or "books".

Row 8: The "in-house" census is the number of individuals physically residing within VCBR on any given date.

Terminology:

Commitment Review Committee (CRC). The Code established the CRC in §37.2-902 for the purpose of evaluating and making recommendations regarding inmates and defendants (URIST) relating to SVP civil commitment. The CRC is chaired by the DOC with members drawn from the DOC, the OAG, and the DBHDS.

Commissioner Appointed SVP Evaluator. These are either licensed clinical psychologists or psychiatrists (as described in §37.2-904. B.) who are designated by the Commissioner of DBHDS, skilled in the diagnosis and risk assessment of sex offenders, knowledgeable about the treatment of sex offenders, and not currently a member of the CRC.

Maximum VCBR Census. The total number of beds available in the present VCBR. At this time, maximum census is 450 beds.

OSVP: Office of Sexually Violent Predator Services.

SVP-eligible inmate: An individual who is presently serving a sentence in DOC on conviction for one of the SVP qualifying crimes listed in COV at §37.2-900, who is approaching his or her release date.

SVP Conditional Release: §37.2-912A-B, allows for some individuals to be placed in the community on intensive SVP supervision. Individuals considered for conditional release must have a viable and acceptable home plan before release. Once a home plan is proposed, it is forwarded by the Office of SVP Services, to and reviewed by the DOC office of Community Corrections/Probation and Parole. Review is against criteria established between the DOC, DBHDS and the OAG. Supervision follows a model of Community Containment used nationally with this and other sex offender populations. This approach uses routine polygraph examinations and close cooperation between community sex offender treatment providers and the probation officer. Regular progress and incident reports are provided to DBHDS, the OAG, and the courts.

Secretary of Public Safety State Responsible Forecast Model: Virginia's public safety annual forecasts are produced by three committees using a consensus method. A technical committee employs quantitative methods to make projections based upon past trends and patterns. (For more information: http://www.vadoc.virginia.gov/about/facts/research/state.shtm.)

SOSA: Sex Offender Screening and Assessment unit in DOC. This unit screens all SVP-eligible inmates due for release during the upcoming year using actuarial risk instruments.

SVP: Sexually Violent Predator, as defined in the Code of Virginia at §37.2-900.

URIST: Unrestorably Incompetent to Stand Trial, as defined by THE CODE of Virginia at §§19.2-169.1 and 19.2-169.3.

VCBR: The Virginia Center for Behavioral Rehabilitation.

VCBR resident on-leave from the facility. When individuals are committed by a court to DBHDS and admitted to VCBR, they are said to be "on-books." They remain on-books until they are officially released from DBHDS by a court. VCBR residents not discharged from VCBR are classified as being "on-leave" from the facility when they are being taken temporarily from VCBR to incarceration to serve a sentence, completing an annual review or attending another hearing, sent to another facility for psychiatric assessment or treatment, or are placed in a hospital for medical care. At any time, there are approximately 20 individuals admitted to VCBR but on-leave. This reduces the on-books census and produces the in-house census.