Sexually Violent Predator
Referrals, Commitments, and Bed Utilization
Forecast for FY 2016 – FY 2021

**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**

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I.   EXECUTIVE SUMMARY

Mandate: This report is submitted in accordance with Item 278 A.1-3 of the 2015 *Appropriation Act,* which directs that: The Secretary of Health and Human Resources, in collaboration with the Office of the Attorney General and the Secretary of Public Safety *and Homeland Security*, shall present a six-year forecast of the adult offender population presently incarcerated in the Department of Corrections (DOC) 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 (VCBR) 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 November 15 of each year.

This year's SVP forecast predicts that the maximum census of 450 residents at Virginia Center for Behavioral Rehabilitation (VCBR) will be reached by mid2018 (See Table 1).

Table 1: 2015 SVP Forecast of Predicted Census at VCBR for FY 2016 to FY 2021

Fiscal Year	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Predicted census as of June 30 of FY	397	424	449	475	502	530

While there continues to be slight variations in the number of DOC inmates released each year who are eligible to be screened for possible SVP commitment, the frequency rate for those who meet the threshold for further evaluation for commitment and the rate of those who are recommended for and eventually committed remain relatively stable.   During FY 2015 the number of admissions to VCBR relating to revocation from SVP conditional release increased from a yearly average of three to a total of 15. However, this increased census pressure was balanced by an equal (and unexpected) increase in the number of discharges from VCBR. As a result, census growth is very close to that predicted in the 2014 SVP forecast. The experiences from FY 2015 have been carefully analyzed and incorporated into the FY 2016 – FY 2021 forecast.

Table 2: SVP conditional release revocations requiring admissions to VCBR for FY08 to FY15

Type of Revocation	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
Individual released from VCBR	0	0	0	0	3	0	2	9
Individual released directly from DOC	0	3	2	3	2	2	4	6
Total	0	3	2	3	5	2	6	15

Table 3: SVP Discharges from VCBR FY08 to FY15

Discharge from VCBR	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
	0	3	10	20	26	31	30	48

II.   FORECAST

Understanding how the census at VCBR will grow over the next several years is critical to strategic planning for residential capacity, treatment, and manpower resource development. In support of this, in 1999, DBHDS began producing forecasts of SVP census growth. In 2006, the General Assembly mandated that DBHDS produce an annual six-year SVP census forecast. In meeting this mandate, the department has found that five primary variables best predict census growth. These variables are dynamic, responsive to external systemic influences, and vary from year-to-year. It is possible to analyze these data to determine how stable the trends are and for those which are unstable, make appropriate adjustment to the forecasts. Starting in 2006, the Office of SVP Services (OSVP) created a forecast algorithm, incorporating the five variables including:

1. the number of SVP-eligible inmates pending release from DOC,
2. the percentage of cases that meet the threshold screening criteria established in §37.2-903 (B),
3. the number of cases found SVP and committed to VCBR pursuant to §37.2-908,
4. the number of cases completing treatment and discharged to SVP conditional release pursuant to §37.2-912, and
5. the number of cases where persons formerly placed on SVP conditional release have their release revoked and are admitted to VCBR pursuant to §37.2-913.

The assumptions used in the forecast are described in Appendix B of this report. This year's forecast is presented in Table 4 below.

Table 4: 2015 VCBR Census Growth Forecast for FY 2016 through FY 2021[1]

	By Year	FY16	FY17	FY18	FY19	FY20	FY21
1	SVP-eligible DOC inmates to be screened for SVP civil commitment[2]	625	612	586	599	605	621
2	SVP-eligible inmates evaluated for SVP civil commitment.[3] (20% of line 1)	125	122	117	120	121	124
3	Admitted to VCBR. (45% of line 2)	56	55	53	54	55	56
4	Projected yearly discharges from VCBR[4]	-38	-38	-38	-38	-38	-38
5	Projected yearly admissions of persons revoked from SVP conditional release[5]	+10	+10	+10	+10	+10	+10
6	Projected VCBR census (June 30th each year)	397	424	449	475	502	530

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

[2]   This number is provided by DOC based on its own estimates of inmate admission and release.

[3]   In addition to these inmates, each year a number of non-inmate, *Unrestorably Incompetent to Stand Trial* (URIST) individuals, are also screened for SVP civil commitment. Few are admitted to VCBR. Last year no URIST individuals were admitted. Given these small numbers, they are not included in calculating six-year SVP census growth.

[4]   This number is based on estimates by the VCBR clinical department of how many discharges will be achieved by VCBR in the upcoming year. This estimate is matched with discharge rates over the past several years and adjusted to represent a rough average of releases for the past four years.

[5]   This number was significantly greater during 2015 than during any previous year. Because of this, we have no data with which to model this projection for future years. We assume that the 2015 number may be anomalous. At the same time, we assume that there will be growth in this variable as the number of individual on conditional release continues to grow each year, thus there are more individuals eligible/ at risk for revocation. The "10" figure represents a compromise between the two to six admissions of previous years and the 19 of FY15. Clearly, given the paucity of data, this estimate may not be fully accurate and will be adjusted in subsequent forecasts based on future trends.

III. DISCUSSION

Forecast: The six-year SVP census growth forecast is critical to plan for the types and level of resources that will be necessary in the future to accommodate the needs of this population. One of the most pressing issues at hand is the availability of beds at VCBR to provide secure confinement and treatment for individuals committed to the custody of DBHDS. VCBR is currently the only DBHDS facility designated for the treatment of individuals committed as SVPs. VCBR has an absolute maximum bed capacity of 450. **Currently. DBHDS is projecting that the Commonwealth will reach this capacity by mid 2018.** While detailed planning for the expansion of VCBR has been completed, there is significant risk of not having sufficient bed space to meet the needs of this population without funds to immediately to begin construction of a new wing.

Another means to manage census growth is to invest resources to increase the discharge rate and support to individuals who have already been discharged to the community to decrease the probability that they will require revocation and return to secure confinement. With the growing census at VCBR, Virginia must invest in resources (e.g., transitional housing) to facilitate the discharge of those deemed to not pose a risk to the community if granted conditional release. There is a subset of individuals currently housed at VCBR who have fully participated in treatment and could safely be released and monitored in the community with stable, safe and affordable housing.

The forecast is calculated by adding or subtracting the input from each of the variables listed below. For example, while this year's forecast estimates that 56 individuals will be added to VCBR's census, it also estimates that about 38 will be discharged and subtracted from the census. Finally, we estimate that about 10 individuals on conditional release will have their release revoked and be admitted to VCBR. We do these calculations for each of the six years, always starting from DOC's prediction of the number of SVP-eligible inmates for each year. The resulting output is the six-year SVP census forecast. Key variables include:

1. The number of SVP-eligible inmates being released each year during the forecast period,
2. The number of these inmates, who will complete an SVP evaluation,
3. The number of these evaluated inmates who will be civilly committed to VCBR,
4. The number of VCBR residents who will be discharged to SVP conditional release,
5. The number of those discharged to SVP conditional release who will have their SVP conditional release revoked and be admitted to VCBR.

Occasionally, a formerly stable variable from this list has shown significant increases or decreases. Variable 5 (revocation-linked admission) is one example. Revocation occurs whenever an individual who has previously been approved for conditional release by the Court is no longer deemed to be a suitable candidate to remain on conditional release. Most often factors such as non-compliance with probation officer instructions, violation of GPS requirements, and/or positive drug screens are the cause of the revocation. Historically, values for this variable have been small with a long-term average over six years (FY 2008 to FY 2013) of 2.5 revocation-linked admissions per year. As seen in Table 5, this rate increased in FY 2014 by more than twice the long-term average. The FY 2014 increase was again more than double that in FY 2015.

Table 5: SVP conditional release revocations requiring admissions to VCBR (FY 2008 to FY 2015)

Type of Revocation	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Individual released	0	0	0	0	3	0	2	9

from VCBR								
Individual released directly from DOC	0	3	2	3	2	2	4	6
Total	**0**	**3**	**2**	**3**	**5**	**2**	**6**	**15**

Various combinations of revocation-linked admission rates for the years FY 2008 to FY 2015 were calculated. Also considered was revocation data from the first three months of FY 2016. Although at this time there is no information to explain the trend of increasing revocation-linked admissions, it is significant enough, spanning two years and three months, that it is expected to continue. A contributing factor may be that the increasing number of SVPs on conditional release (released both from VCBR and directly from DOC) expands the pool of individuals eligible and/or requiring revocation of conditional release; however, the magnitude of revocations in FY 2015 was unexpected. Considering fluctuations in this type of admission since FY 2008, DBHDS expects there will be ten revocation-linked admissions this year. As noted earlier, this increase occurs in the presence of a significant increase in the number of discharges from VCBR. The higher number of discharges helps reduce the impact of increasing revocation-linked admissions such that the overall rate of growth is very close to previous year's predictions.

IV.   APPENDICES

Appendix A: Admissions to and Discharges from VCBR 2003 to 2015

The following graph tracks VCBR census growth from the program's beginning in December 2003 through June 30, 2015. The General Assembly's addition of of SVP qualifying crimes in 2006 is easily discernible as is the effect of discharges on census growth. From these data it is clear that discharges significantly control census growth. Since opening in 2003, VCBR has discharged 171 individuals.[6] The vast majority of these discharges were to SVP conditional release. Without these discharges the VCBR census would have stood at 540 residents on June 30, 2015.

VCBR Admission and Discharges
Fiscal Year As Of June 30, 2015
Census - 369

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15
Census	9	16	31	48	91	149	215	275	310	327	353	369
Admissions	9	6	15	19	43	61	76	80	61	48	56	64
Discharges	0	1	0	2	0	3	10	20	26	31	30	48
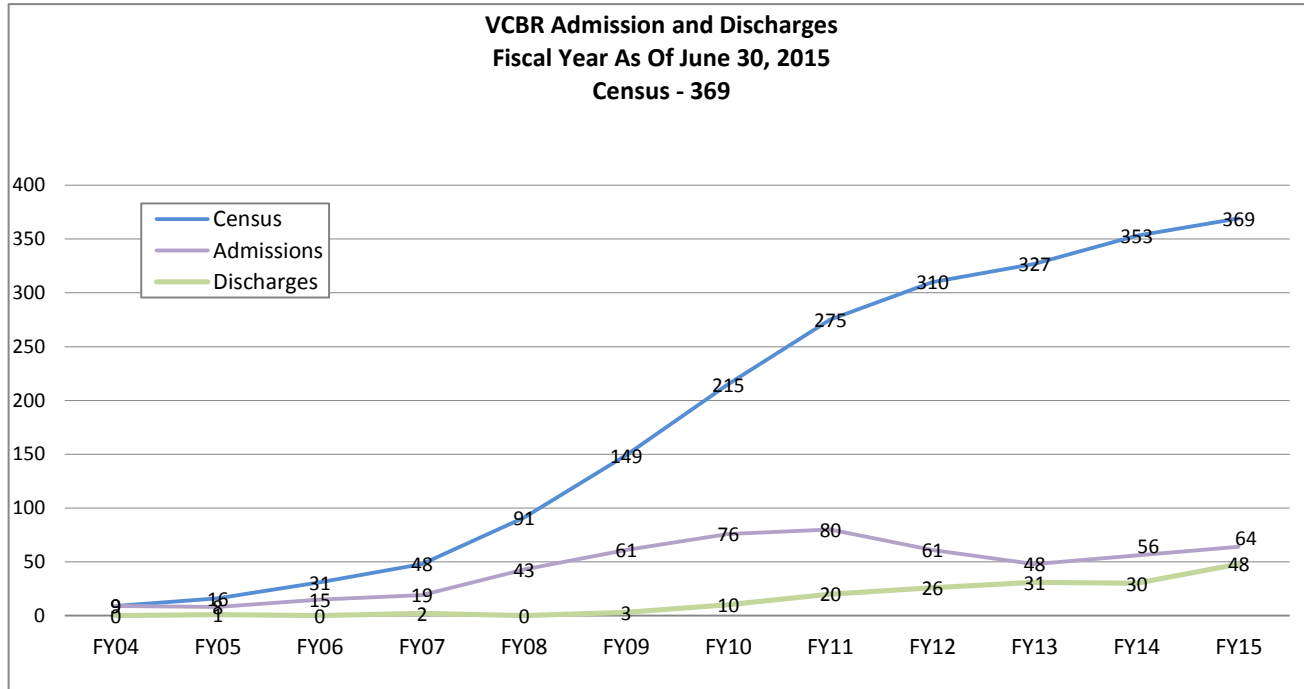
Note: The top blue line tracks on-books census growth, the purple line depicts yearly admissions and the green line depicts yearly discharges.

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[6] In this statistic, discharge includes individuals released by the court for legal/technical reasons, death, on petition for health reasons, and to SVP conditional release.

Appendix B: Methodology

The purpose of the annual SVP forecast is to predict census growth at VCBR. The core operation in this prediction is estimating:

1. The number of SVP-eligible inmates being released each year during the forecast period,
2. The number of these inmates, who will complete an SVP evaluation,
3. The number of these evaluated inmates who will be civilly committed to VCBR,
4. The number of VCBR residents who will be discharged to SVP conditional release,
5. The number of those discharged to SVP conditional release who will have their SVP conditional release revoked and be admitted to VCBR.

Assumptions

Inmate releases from DOC: Each year the DOC provides the DBHDS with their forecast of discharge of inmates who are SVP-eligible. This year's six-year DOC prediction is located in Line 1 of the forecast.

SVP evaluations rate: For most of the history of the Virginia SVP system, the percentage of SVP-eligible inmates to be discharged each year who meet the criteria of §37.2-903(B) and are subsequently evaluated for SVP civil commitment has remained at around 20 percent. Due to the stability of this percentage since 2006, it is assumed that future rates will remain in the 20 percent range. As such, DBHDS selected a 20 percent evaluation rate for the upcoming six years.

Admission rate: Admission rate has ranged from a low of 42 percent to a high of 50 percent of cases evaluated. The long-term average of the last six years is 45 percent. Given the yearly oscillations of this rate, and the observed tendency to regress toward the mean, DBHDS assumes that this admission rate will accurately reflect that of the upcoming years. DBHDS assumes that 45 percent of cases completing an SVP evaluation will be admitted to VCBR.

Table 7: Admission Rates by Fiscal Year

Fiscal Year	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Admissions	47%	44%	45%	44%	42%	45%

Discharges: As shown below, the discharge rate from VCBR has been steadily increasing since 2010.

Table 8: Discharge Rates by Fiscal Year

Fiscal Year	FY10	FY11	FY12	FY13	FY14	FY15
Discharges	10	20	26	31	30	48

For the 2015 forecast DBHDS estimates that the 18 case increase in discharges may be an artifact of the size of the cases backlogged for release for lack of sufficient resources (which were eventually acquired in FY 2015). DBHDS assumes that once this backlog is cleared this number will reduce back toward the mean. Based on averaging and observation of the overall pattern of discharges, DBHDS expects that on average 38 individuals will be discharged each year.

Revocation-linked admissions: For this year, the assumption is that the observed increase in FY 2015 may be an anomaly. The data for previous years (measured from FY 2010) show minimum variability in revocation/admission. Based on long term averaging, and accounting for the significant increases in FY 2014 and FY 2015, DBHDS assumes that on average 10 individuals will be admitted to VCBR each year because of having been revoked from SVP conditional release. Because of the high potential for skewing the long term forecast, this variable will be tracked and revised as new data are acquired.

Predictive reliability and variance: Given the naturally occurring variance in data used in the SVP forecast algorithm, it is impossible to predict exactly when VCBR will reach maximum census. Other uncontrolled variance exists that can impact the date at which maximum census is reached. 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.
2. Some individuals will be too vulnerable to exploitation and thus cannot be placed in a double occupancy room.
3. Some individuals will be too predatory to be placed in a double occupancy room.

Given these conditions, even if upper bunks remain open[7], the facility can reach maximum operating capacity at a census below 450.

Additionally, the following factors could also move closer the date when VCBR reaches maximum capacity:

1. If the high rate of conditional release revocations continues and/or increases
2. If the rate of discharges from VCBR to SVP conditional release were to decrease significantly below the projected 38 per year.

Generally, admissions and discharges during individual months vary above or below the forecast rate. As a result, DBHDS believed that there can be as much two month's variance either way around the predicted "full" date.

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[7] Double-bunking" expanded the VCBR census from 300 to 450 by creating double occupancy in 150 formerly single occupancy rooms.

Appendix C: Definitions and Terminology

Definitions

Forecast Data Matrix (Table 4):
- **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 established in §37.2-903 (B) 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. On average 20 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 45 percent of all inmate cases evaluated and reviewed by the CRC and taken forward by the OAG for SVP civil commitment, are found by the court to meet the criteria for SVP commitment (§37.2-908) and admitted to the VCBR.
- **Row 4:** This row is subtracted from the total and represents the total number of individuals anticipated to be released from VCBR. Over the previous three years, an average, of about 30 individuals have been discharged from VCBR, however, with the marked increase in discharged in FY 2015 the projection has been raised to an average of 38 per year. Individuals leave VCBR via various means. While the vast majority leave via conditional release, some individuals die, some are discharge to another facility, and some are unconditionally released by a court. All this situations are accounted for in this prediction.
- **Row 5:** This number is added to the total. Revocation admissions to VCBR consists of individuals who have been previously placed on SVP conditional release and subsequently revoked and returned to VCBR.
- **Row 6:** The census is the total number of individuals civilly committed to VCBR for secure control, care, and treatment.

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 Evaluators. These are either licensed clinical psychologists or psychiatrists (as described in §37.2-904. B.) who are designated by the Commissioner, 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.

Revocation from SVP conditional release: Pursuant to §37.2-913 an individual previously placed on Conditional Release may be revoked when he/she is deemed to no longer be a proper subject for conditional release. Since the SVP program opened in December 2003, there have been 41 cases revoked for various technical and criminal violations. Far and away, the majority of these revocations (47 percent) are the result of three violation behaviors; GPS violations, alcohol and drug violations, and failure to follow the supervising probation officer's instructions. New criminal sexual behavior accounts for only about 7 percent of all violations.

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 investigated by the DOC office of Community Corrections/Probation and Parole. Ultimately it is the committing court who determines whether or not an individual meets the criteria for conditional release. Conditional releases are implemented within the constraints of the Court approved Conditional Release Plan (CRP). This plan is developed by the DBHDS, in cooperation with the DOC and is responsive to the individuals continuing risk and needs. It places public safety first. 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 and communication between community sex offender treatment providers and the probation officer. Regular progress and incident reports are provided to DBHDS, the OAG, and the courts.

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.

Secretary of Public Safety State Responsible Forecast Model: Virginia's public safety annual forecasts are produced each year. (For more information: 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 §19.2-169.3.