



**Sexually Violent Predator
Referrals, Commitments, and Bed
Utilization Forecast
for FY 2017 – FY 2022
(Item 284.A.1)**

November 15, 2016

Sexually Violent Predator Referrals, Commitments, and Bed Utilization Forecast for FY 2017 – FY 2022

Preface

Item 284.A.1 of the 2016 Appropriation Act requires the Secretary of Health and Human Resources to 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. The language for Item 284.A.1, including reporting requirements, is included below:

A.1. 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 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 November 15 of each year.

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Sexually Violent Predator Referrals, Commitments, and Bed Utilization Forecast for FY 2017 – FY 2022

Executive Summary

The six-year census growth forecast is critical to plan for the future resources needed to ensure there is adequate capacity to address census growth at the Virginia Center for Behavioral Rehabilitation (VCBR). VCBR is currently the only Department of Behavioral Health and Developmental Services (DBHDS) facility designated for the treatment of individuals committed as sexually violent predators (SVPs). The facility has a maximum bed capacity of 450, with 150 single occupancy rooms (as they were originally designed) and 150 double occupancy rooms with bunk beds. Currently, one of the most pressing issues is the availability of beds at VCBR to provide secure confinement and treatment for individuals committed to the custody of DBHDS. The 2016 forecast anticipates that maximum census at VCBR will be reached in FY 2020 (see Table 1).

Table 1: 2016 Forecast. Predicted census growth at VCBR between FY 2017 and FY 2022

Fiscal Year	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Projected Census (As of June 30 of Fiscal Year)	390	412	435	454	478	502

Through a concerted effort to increase discharges from VCBR to the sexually violent predator (SVP) conditional release program (see Table 2), the date at which VCBR is expected to reach capacity has been delayed approximately 18-24 months later than the 2015 forecast.

Table 2: VCBR Census Reduced by All Discharges for Fiscal Years FY 2011 to FY 2016¹

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Admissions	+80	+61	+48	+56	+64	+65
Discharges	-20	-26	-31	-30	-48	-61
Net Admissions	60	35	17	26	16	4

However, DBHDS is closely monitoring this trend and is concerned about the sustainability of this rate of census reduction. Chief among the reasons for DBHDS' caution is that the rate of SVP conditional release failures, resulting in revocation-admissions to VCBR, is also increasing. In Virginia there are two main pathways to conditional release: 1) After having been found by the court to be an SVP, the court can order conditional release if it finds the individual to meet the criteria for being an SVP but also finds the individual does not require secure confinement

¹ Not all discharges from VCBR are to SVP CR. Some are unconditional releases by the court and others are removed from census by reason of being deceased.

and treatment; or 2) After having been found by the court to be an SVP and after having been subsequently committed to the custody of VCBR for secure confinement and treatment, the court may subsequently order conditional release when it finds the individual no longer requires secure confinement. When a court finds individuals no longer requires secure confinement, it is often due to having progressed in treatment to the degree they are deemed safe to be released to the community. Data collected on conditional releases are clearly demonstrating some individuals released to conditional release (either from VCBR or directly from the Department of Corrections (DOC) following their sentences) violate the conditions of their release to the degree that the court determines secure confinement and treatment are once again necessary. These revocations and subsequent readmissions contribute to the census demand at VCBR. (See Table 3, below).

Table 3: Discharges from VCBR to SVP Conditional Release (CR), Then Revoked and Returned to VCBR²

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Discharge to SVP CR from VCBR	10	18	21	25	42	49
Revocation from SVP CR and admissions to VCBR	3	5	3	6	17	19
Net Discharges to SVP CR from VCBR	7	13	18	19	25	30

An additional caution concerning the census reduction are clinical decisions made to match new admissions appropriately with the right type of bed. Individuals must be carefully placed in beds and units to best match their physical abilities and risk of institutional sexual violence. For example, individuals with certain physical disabilities are unable to use an upper bunk or climb stairs to second floor rooms. Also, VCBR attempts to avoid placing individuals with a high risk of sexual offending with those of low risk. These factors limit VCBR’s flexibility to assign beds and consequently could result in the facility reaching its maximum capacity before FY 2020.

Forecast

The six-year SVP census forecast is an effort to identify and integrate the input of multiple variables to describe trends in the flow of commitments to and discharges from VCBR. From this trend data, a forecast is extracted that attempts to predict how many individuals will be committed to and residing in the VCBR on June 30 for each of the next six fiscal years. These variables and their contribution to VCBR census growth is described in Table 4, below.

Table 4: Annual Six-Year VCBR Census Forecast

	Fiscal Year	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1	DOC Sex Offender Pool Forecast	629	581	583	550	606	607
2	DOC Forecast Variance (10%)	- 63	- 58	- 58	- 55	- 61	- 61
3	Corrected SVP-eligible Pool	566	523	525	495	545	546
4	SOSA Evaluation Request Rate (20%) ³	113	105	105	99	109	109

² These numbers apply only to those cases discharged from VCBR to SVP CR.

³ The term “SOSA” refers to the Sex Offender Screening and Assessment Unit located in the DOC.

	Fiscal Year	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
5	Found SVP at Trial (55%)	62	58	58	54	60	60
6	SVP Released To CR Directly From DOC	-11	-10	-10	-10	-11	-11
7	VCBR Gross Admits	51	48	48	44	49	49
8	Discharges to CR, Unconditional Release, Death	-56	-48	-46	-46	-46	-46
9	Revocations and Admits to VCBR	22	22	21	21	21	21
10	Adjusted VCBR (NET) Admits	17	22	23	19	24	24
11	VCBR Census Forecast as of June 30	390	412	435	454	478	502

Discussion and Methodology

Ten variables are identified as having primary influence on census growth at VCBR. Many of these variables also strongly interact with each other. For example, how many individuals are discharged to SVP conditional release strongly impacts census growth. During the development of each year's SVP forecast, the impact of each variable is reviewed to assess its current impact. The nature and influence of these variables, and the influence of their various interactions, is described in the following section.

Among the variables used, the number of admissions to, and discharges from, the SVP facility are preeminent in understanding SVP census growth. These variables are the sum of multiple inputs. For example, the variable "admission" consists of:

1. How many SVP-eligible inmates will be released from DOC during a specific time period.
2. Given this number, what percentage of these cases will meet criteria for further SVP review and evaluation. The criteria are that the person is (a) serving a sentence on conviction of an SVP qualifying crime and (b) meeting or exceeding the prevailing actuarial risk score.
3. Of those cases reviewed and evaluated, how many will be found SVP.
4. Of those found SVP, how many will be committed to VCBR.

The variable "discharge" includes:

1. The number of individuals completing treatment and being recommended for SVP conditional release.
2. The number of these individuals whom the court subsequently agrees that they are appropriate for SVP conditional release and orders their release.
3. The number of these individuals who will successfully find appropriate and affordable housing in the community.
4. The number of these individuals who have funds to pay rent on this housing.

5. The number of individual who independently petition for their release and whom the court eventually grants release.
6. The number of individuals who die while in custody of VCBR.

Sometimes unanticipated influences emerge that have not been part of the forecast algorithm in the past, but are added to the algorithm because their influence will improve overall forecast accuracy. Examples of such influences have been the addition of new predicate crimes which qualify for review as an SVP and the change from the RRASOR screening instrument to the Static-99.

The most recent variable is DBHDS' reallocation of existing funding for VCBR specifically targeted to facilitate conditional release discharges. In FY 2014 as VCBR's census continued to grow and more individuals were satisfactorily progressing through treatment, the number of individuals was increasing who would be safe to discharge except they lacked the conditional release requirement that they must secure appropriate community resources, such as housing. As a result, DBHDS expanded the staffing and resources to aid individuals in securing appropriate community supports to facility the safe return to the community. DBHDS began offering limited financial support to these individuals through the Discharge Assistance Program to develop community resources such as securing home placements (e.g. paying for a security deposit) and facilitating transportation (e.g. purchase bus passes). Funds are modest and time-limited to avoid creating dependency and are used only when there are no existing funds/sources to pay for the necessary resources. To be eligible for these funds, individuals must have shown a commitment to their community success by having saved a portion of any money earned while at VCBR. As a result of these funds, VCBR was able to discharge a backlog of individuals who had been ready for discharge other than lacking appropriate resources. The impact of this funding increased discharges from about 30 per year in FY 2014 (average for the previous three years), to 48 discharges in FY 2015, and 61 discharges in FY 2016. This had a significant impact on the SVP forecast, especially the high number of discharges in FY 2016. While much of the backlog has now been resolved, access to these funds undoubtedly will aid others who become clinically ready for discharge but lack appropriate community resources.

Ten variables were used to calculate the 2016 SVP forecast, described below. The values assigned to these variables change each year in response to actual values observed during the previous year. Rates are then calculated and adjusted until a best-fit between predicted and actual values is achieved.

Table 5: Variables to calculate the 2016 SVP Forecast (*Line numbers coincide with those of the forecast matrix shown above in Table 4*)

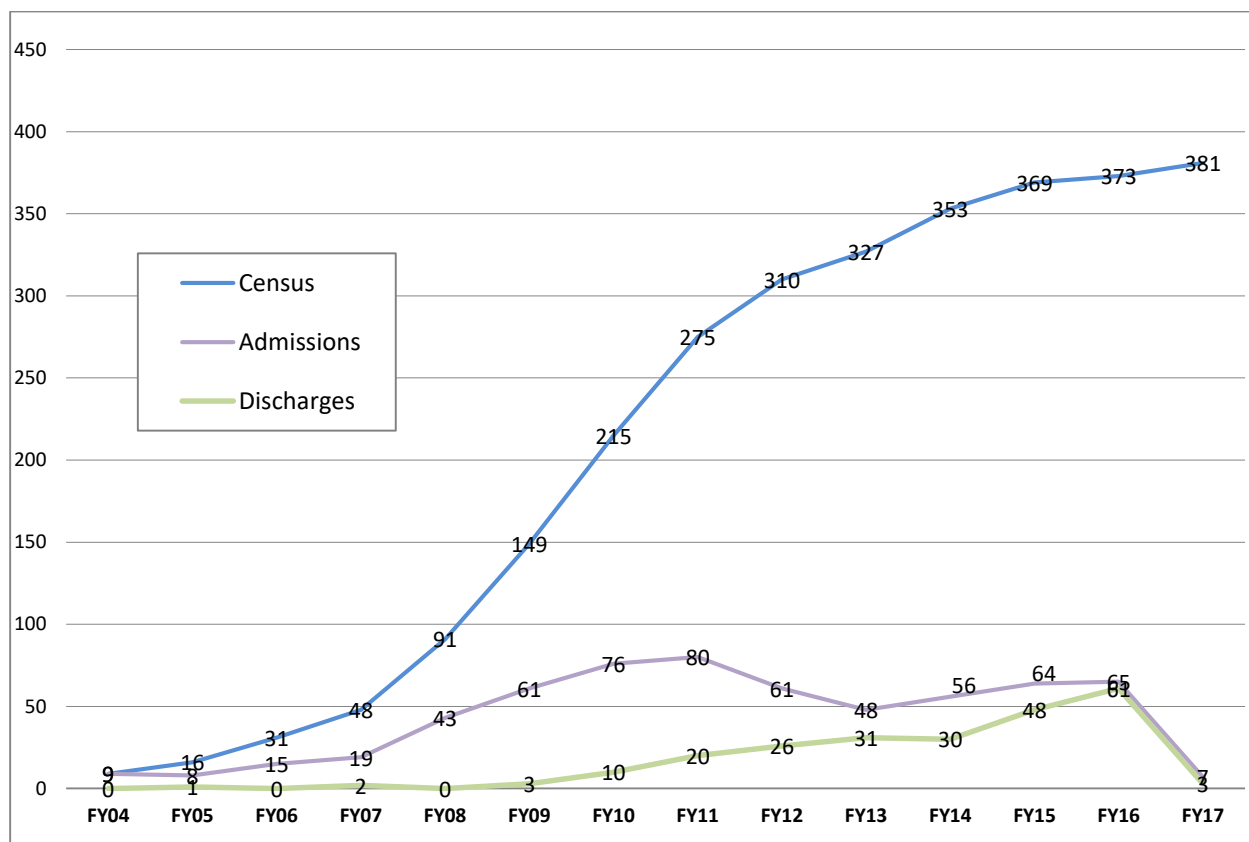
1	DOC Sex Offender Pool Forecast	This forecast is created by DOC each year to, among other things, estimate the number of inmates who are currently serving sentences on conviction for a qualifying SVP crime who will become eligible for release during each of the next six years. This data is provided to DBHDS and forms the basis for the SVP forecast.
2	(New Variable) DOC Sex Offender Pool Forecast Variance	For many reasons, the DOC sex offender pool always contains some cases that ultimately do not meet criteria for consideration for SVP civil commitment. For example, while an individual may have been sentenced for a SVP qualifying crime, he or she is no longer serving sentence for that conviction and is therefore ineligible for further SVP civil commitment consideration. In other cases it is found that some individuals are no longer eligible for release in a particular year and are removed from

		that year's pool. Whatever the cause, the percentage of SVP ineligible cases included in the SVP pool tends to vary from year to year. This year, DBHDS/DOC were able to make historical comparisons between the predicted number of SVP eligible inmates who would be eligible for discharge in the coming years with the actual number who ended up being eligible for release. This allowed for a revision in the forecast as it was determined that despite best efforts, the DOC prediction of SVP eligible inmates due for release over-estimated the true number and thus contributed to an over-prediction of the number of SVPs who would be admitted to VCBR. As such, a long term average was estimated for how much the predicted value varies from the actual number qualifying for further review. Outlier years – years of extreme variance - were excluded. For the FY 2016 forecast, this method produced a predicted -10 percent variance. As such, 10 percent was deducted from each year of the FY 2016 DOC Sex Offender Pool six-year forecast.
3	(New Variable) Corrected SVP-eligible Pool	As noted above, this number represents the DOC sex offender pool number reduced by 10 percent.
4	SOSA Evaluation and CRC review Rate (20%)	This line represents the number of cases from the DOC pool (Line 3) that will meet criteria and be referred for SVP evaluation and review by the interagency Commitment Review Committee (CRC) for consideration for SVP civil commitment. A long-term average SVP evaluation rate is calculated to predict the number of cases found in Line 3 that meet actuarial screening criteria. In past years, this rate has ranged between 19 percent and 22 percent. Based on long-term averaging, it was decided that for this year, 20 percent was the most representative value.
5	Found SVP at Trial (55%)	After cases are reviewed by the CRC, they are referred to the Office of the Attorney General (OAG) for final review and the decision whether or not to pursue SVP civil commitment. The same methodology described above is used to calculate the value for this variable. Not all cases referred to the OAG for review are taken forward for SVP civil commitment. Some are released as not meeting criteria or for some other reason. Some cases taken forward for commitment are found to not be SVP by a jury or a court. These cases are released into the community on their assigned DOC release date or as soon as practicable thereafter. For the FY 2016 SVP forecast, 55 percent of cases reviewed at Line 4 are found SVP. Note that not all of these cases will be admitted to VCBR (See Line 6, below).
6	SVP Released by Court To CR Directly From DOC	Of those cases found to be SVP, the courts will choose to release some inmates directly from DOC to SVP conditional release. These cases do not go to VCBR but go directly to the community. While the value of this variable changes year-to-year, the long-term average of this value adopted for the FY 2016 forecast is 18 percent.
7	VCBR Gross Admissions	This is the number of individuals found SVP who are civilly committed to and admitted to VCBR. It equals the value of Line 5 minus Line 6. It is important to note that a small number of individuals who are charged with SVP qualifying crimes but are found Unrestorably Incompetent to Stand Trial (URIST) are also admitted to VCBR pending a finding of SVP and final commitment. These individuals are not included in the DOC sex offender pool. The majority of this group is found to not meet criteria for SVP civil commitment and is released. These numbers are small; in a typical year representing about four cases. As such, and because it is impossible to anticipate how many of these cases might be admitted during any given year, they are not included in calculating the final census.
8	(Revised variable) All Discharges (SVP CR, Unconditional Release, or Death)	Starting in FY 2014, this variable grew under the influence of the availability of expanded resources. However, given the short period of time for which current data on this variable are available, it is not possible to develop any quantitative estimate of its future performance. In this case, through conversations with the VCBR and the OAG, qualitative estimates are made of how many individuals will become eligible for

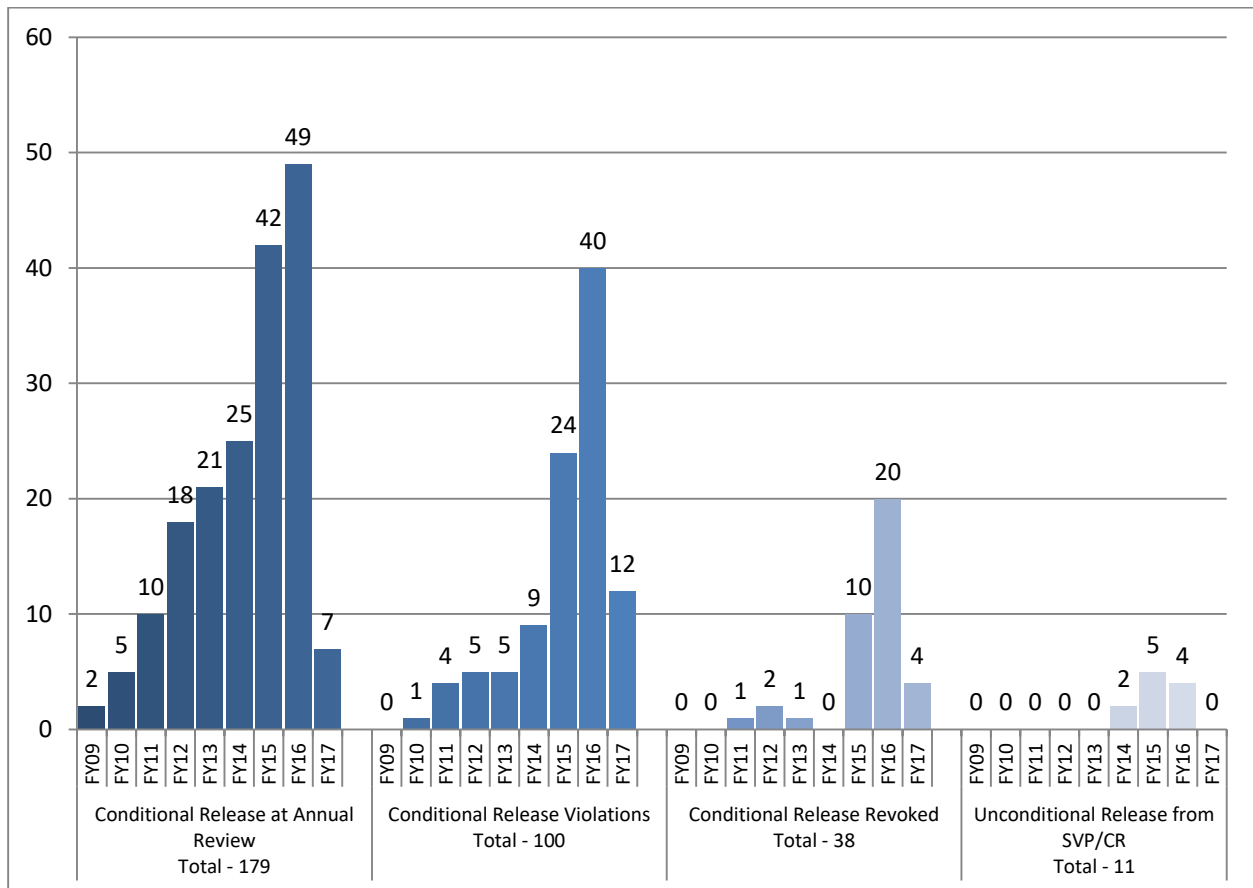
		discharge to SVP CR from VCBR during the upcoming year, how many individuals will be unconditionally discharged as “no longer SVP” by the courts, and how many VCBR residents will die each year. By comparing the available data with prior years, an estimate of this value is developed. From these same conversations, we estimate that backlog cases pending SVP CR, and their impact upon overall discharges, will be close to zero by the end of this year.
9	Revocations and Admits to VCBR	DBHDS keeps data on discharges to SVP CR, revocations from SVP CR, and admissions to VCBR. In FY 2015, along with the increase in discharges from VCBR, we observed an increase in revocations from SVP CR and admission to VCBR (See Table 3). It is important to understand that individuals found SVP but conditionally released directly from DOC can/are revoked when/if they no longer are considered suitable candidates to remain on conditional release.
10	Adjusted VCBR (NET) Admissions	This variable represents the total admissions to VCBR after subtracting Line 8 from Line 7 and adding the result to Line 9. This represents the final yearly admissions to VCBR, adjusted for discharges.
11	VCBR Census Forecast as of June 30	This line represents the yearly SVP census predicted for each of the upcoming six years on the final day of the Fiscal Year. It is calculated by adding Line 10 to the previous year’s June 30th census.

Appendices

Appendix A: Graph of VCBR Census, Admissions, and Discharges FY 2003 to FY 2016



Appendix B. Conditional Release History for VCBR FY 2009 to September 30, 2016



Appendix C. 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 have been examined and vetted by DBHDS, DOC, and the Office of the Attorney General (OAG), as 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 who are formally designated by the Commissioner of DBHDS as SVP evaluators.

Maximum VCBR Design Census: The total number of beds available in the present VCBR. At this time, VCBR has 450 beds, 150 of those beds in double occupancy rooms.

Maximum VCBR Operational Census: VCBR has converted 150 single occupancy rooms to double occupancy. This was accomplished by adding a top bed, accessed by climbing up steps to the top level. Not all persons admitted to VCBR are physically able to climb into or get down from the top bed. As a result, it is likely that maximum operational census will be below the design census. It has been estimated that VCBR operational maximum census is somewhere around 435 beds.

OSVP: Office of Sexually Violent Predator Services (OSVP). Created by the General Assembly in 2006 at §37.2-900.1.

Revocation from SVP conditional release: Since the SVP program opened in December 2003, there have been 143 cases revoked for various technical and criminal violations. The majority of these revocations (47%) 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% 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 reviewed by the DOC office of Community Corrections/Probation and Parole. Review is made using the criteria established by Code at §37.2-912, as applied by representatives of 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, the probation officer, the OAG, the OSVP, and the VCBR. 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.

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.