



COMMONWEALTH of VIRGINIA

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COMMISSIONER

DEPARTMENT OF
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December 1, 2024

To: The Honorable L. Louise Lucas, Chair, Senate Finance & Appropriations Committee
The Honorable Luke E. Torian, Chair, House Appropriations Committee
The Honorable Patrick A. Hope, Chair, House Courts of Justice Committee
The Honorable Scott A. Surovell, Chair, Senate Courts of Justice Committee
The Honorable Janet V. Kelly, Secretary, Health and Human Resources
Kristen J. Howard, Executive Director, Virginia State Crime Commission

From: Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services

RE: § 37.2-903 of the Code of Virginia

§ 37.2-903 of the Code of Virginia directs the Department of Behavioral Health and Developmental Services (DBHDS) to submit an annual report on the Sexually Violent Predator (SVP) screening protocol. Specifically, the language states:

The Commissioner shall report annually by December 1 to the Chairmen of the House Committees on Appropriations and Courts of Justice, the Senate Committees on Courts of Justice and Finance, and the Crime Commission on (i) the assessment protocol approved by the Director and Commissioner to identify prisoners and defendants who appear to meet the definition of a sexually violent predator pursuant to subsections B and C, including the specific screening instrument adopted and the criteria used to determine whether a prisoner or defendant meets the definition of a sexually violent predator and (ii) the number of prisoners screened pursuant to subsection B and the number of prisoners identified as meeting the definition of a sexually violent predator and referred to the CRC for assessment pursuant to subsection D. Such report shall also include a comparison of the number of defendants identified as appearing to meet the definition of a sexually violent predator and referred to the CRC pursuant to subsection C in the previous year and five years immediately prior thereto.

On July 1, 2018, an updated screening protocol went into effect to identify Virginia Department of Corrections (DOC) inmates who may be found by the court to meet sexually violent predator (SVP) criteria. The screening protocol utilizes both the Static 99R evidence based actuarial

instrument and the application of mitigating and/or aggravating risk factors supported by research as being related to an inmate’s risk of re-offense.

Of note, An SVP-eligible inmate is an individual who is presently serving a sentence in DOC on conviction for one of the SVP qualifying crimes listed in Virginia Code §37.2-900, who is approaching his or her release date or being considered for parole. In addition, The Commitment Review Committee (CRC) is established in Virginia Code §37.2-902 to evaluate and make recommendations regarding inmates and defendants relating to SVP civil commitment. The CRC is chaired by the DOC with members drawn from DOC, DBHDS, and the Office of the Attorney General (OAG).

The data below uses the inmate’s release date to define the calendar year in which their case and disposition are counted. For example, in Table 1 below, 31 of 453 inmates with release dates in 2022 that were screened for SVP were subsequently referred to the CRC for full evaluation. Of those same 31 inmates referred for full evaluation, 22 were eventually found to meet the criteria as an SVP by the court. Data regarding the SVP screening, assessment, and adjudication rates for 2024 and the past six calendar years is found in Table 1.

Table 1. Annual SVP Screening Data Summary

Calendar Year	2018	2019	2020	2021	2022	2023*	2024*
# of Inmates Screened	495	465	454	465	453	446	421
# of inmates referred to CRC for full evaluation	80	35	34	49	31	36	29
% of those screened who were referred to CRC	16%	7%	7%	11%	7%	8%	7%
# of Inmates referred to the CRC who were Adjudicated SVP	49	24	21	34	22	25 (18+7)*	18 (1+17)*
% of Inmates Evaluated who were Adjudicated SVP	61%	69%	62%	69%	69%	69%*	62%*

** SVP cases may take years from the date an individual is screened to adjudication as an SVP by the court. Data for these years includes estimates (number of cases adjudicated + estimated number from those still in court) as not all cases have reached final disposition at this time. Result figures are estimates based on yearly averages for OAG filings and related adjudications (90% adjudication rate).*

This data shows the status of the current, post-2018 protocol only. Overall, the past six years of data show a reduction in the percentage of inmates screened and increase in the number of inmates eventually adjudicated SVP. This suggests that the current protocol continues to identify the high-risk sex inmates who are found by the court to meet SVP criteria more accurately than the previous protocol.

DBHDS and DOC will continue to collaborate to ensure Virginia is using the best practices and identifying the inmates at highest risk for sexually reoffending in the most efficient manner possible. Further, DBHDS, DOC, and OAG will continue to routinely discuss the SVP process, monitor the impact of the current protocol, and recommend adjustments as needed.