

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;">Risk Containment</p>		<p style="text-align: center;">Page 1 of 6</p>						
<p style="text-align: center;">CHAPTER: PROGRAMS – CLASSIFICATION AND CASE PLANNING</p>	<p style="text-align: center;">#371.10</p>	<p>Supersedes: #371.09, 371.10, and 371.11, all dated 12/30/2002</p>							
<p>Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: “B” – Anyone may have access to this document.</p>									
<p>Approved:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><u>SIGNED</u></td> <td style="width: 33%; border: none;"><u>07/17/2024</u></td> <td style="width: 33%; border: none;"><u>07/29/2024</u></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> </tr> </table>				<u>SIGNED</u>	<u>07/17/2024</u>	<u>07/29/2024</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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PURPOSE

This policy outlines the criteria and process used by the Vermont Department of Corrections (DOC) to identify incarcerated individuals who pose a high risk of dangerousness to the community if released.

AUTHORITY

28 V.S.A. §§ 1, 101, 701, and 721

DEFINITIONS

Offense: The conduct underlying a conviction.

POLICY

The DOC’s policy is to use a standardized process to identify incarcerated individuals who pose a high risk of harm to the community if released. The DOC

integrates evidence-based and gender responsive best practices and risk assessments to inform more effective support to individuals who are incarcerated. When the risk of harm posed by an incarcerated individual cannot be mitigated in the community, the DOC may refrain from releasing the individual, while under the DOC's discretion, and use incarceration to contain the risk until it can be appropriately managed in the community.

GENERAL PROCEDURES

A. Classification Criteria for Risk-Containment

1. An incarcerated individual may receive a risk-containment classification if:
 - a. The offense for which they have been convicted is a:
 - i. Sex offense, as defined in 13 V.S. A. § 5401 (10) (A); or
 - ii. Listed offense, as defined in 13 V.S.A. § 5301 (7); and
 - b. The individual constitutes a threat to the life, safety, or physical or mental well-being of others, on the basis of evidence establishing:
 - i. A pattern of repetitive behavior by the incarcerated individual showing a:
 - a) Failure to restrain their behavior and a future likelihood of causing death or injury to, or inflicting severe psychological harm on, others; or
 - b) Substantial degree of indifference on the part of the incarcerated individual respecting the reasonably foreseeable consequences to others as a result of their behavior;
 - ii. Any behavior by the incarcerated individual that is of such a brutal nature as to compel the conclusion that the individual's conduct in the future is unlikely to be inhibited by conventional standards of behavioral restraint;
 - iii. A failure to control their sexual or violent behavior that creates a likelihood they will cause injury or harm to others through failure to control their behavior in the future; or
 - iv. Continued violent behavior following the completion of intervention(s), sanction(s), or programming.

2. Examples of evidence which can be used to support the assessment that the incarcerated individual constitutes a threat to the life, safety, or physical or mental well-being of others may include, but are not limited to, the:
 - a. Number and nature of past offenses;
 - b. Time span between offenses (e.g., offenses getting closer together);
 - c. Pattern or escalation of violence or harm, including:
 - i. Institutional behavior;
 - ii. While under community supervision; and
 - iii. Continued violence, intimidation, grooming, or threatening behaviors towards victims/survivors or others matching the victim's/survivor's profile;
 - d. Circumstances surrounding the offenses (e.g., egregiousness, premeditation, brutality);
 - e. History of past substantiation by Department for Children and Families (DCF) or Department of Disabilities, Aging, and Independent Living (DAIL) for violent or sexual offenses; and
 - f. Safety implications that the incarcerated individual's release may have on victims/survivors.

B. Process for Risk-Containment Classification

1. Determinations on whether an incarcerated individual receives a risk-containment classification shall be made by the Central Case Staffing Committee.
2. The assigned Correctional Services Specialist (CSS) or Probation and Parole Officer (PPO) shall identify the case of any incarcerated individual they believe may meet the criteria for a risk-containment classification, and refer the case to the Living Unit Supervisor (LUS) or Probation and Parole Supervisor (PPS).
3. The LUS or PPS shall review the case, and if they agree that the case meets the criteria for a risk-containment classification, they shall submit the case to the Central Case Staffing Committee for review.
4. The Committee:
 - a. Shall determine if the case is appropriate for consideration for a risk-containment classification;

- b. Shall refer all cases identified as appropriate for consideration for a risk-containment classification for forensic evaluation by an evaluator certified in (an) evidence-based tool(s) approved by the DOC; and
 - c. May request cultural consultation services, when deemed necessary after review or recommended by the forensic evaluator.
5. For all cases referred for forensic evaluation, the Director of Classification and Facility Designation shall notify the assigned CSS.
6. The CSS shall:
 - a. Provide the incarcerated individual with written notification that they have been referred for a forensic evaluation. The form shall include the purpose of the evaluation, and inform the incarcerated individual that they can provide mitigating information for consideration and the consequences of not participating;
 - b. Review the form with the incarcerated individual and ask the individual to sign the notification, acknowledging receipt. If the incarcerated individual refuses to sign:
 - i. The CSS shall indicate that the individual refused to sign; and
 - ii. The CSS and another facility staff member shall sign the notification as witnesses to the individual's refusal; and
 - c. Return the signed notification to the Director of Classification and Facility Designation.
7. The Director of Classification and Facility Designation shall ensure the signed notification of the forensic evaluation is uploaded into the custom form of OMS.
8. After the forensic evaluation, the Committee shall review the case again, including the results of the evaluation and an updated record check, to make a final determination on whether the incarcerated individual shall receive a risk-containment classification.
9. Whenever an incarcerated individual receives a risk-containment classification, the Director of Classification and Facility Designation shall draft the notification of the classification in writing, and send it to the Superintendent and the individual's assigned CSS and PPO. The notification shall include:
 - a. The specific reasons for the classification;
 - b. When the Central Case Staffing Committee will next review the classification;

- c. Notification that they can grieve the classification, in accordance with the policy on the grievance system; and
 - d. Information on how to meet with an Open Ears coach or obtain a referral for mental health services.
- 10. The CSS shall notify the following of the risk-containment classification:
 - a. The Victim Services Specialist (VSS), if the incarcerated individual's case already has an assigned; and
 - b. The Victim Services Unit (VSU) Director, if there is no assigned VSS. Upon notification, the VSU director shall then assign a VSS to the case.
- 11. The assigned CCS shall:
 - a. Hand-deliver two copies of the notification to the incarcerated individual;
 - b. Offer the individual the opportunity to meet with an Open Ears coach;
 - c. Make a referral for mental health services, if appropriate;
 - d. Ask the individual to sign the notification, indicating receipt and that they were offered the opportunity to meet with an Open Ears coach and a referral for mental health services. If the incarcerated individual refuses to sign:
 - i. The CSS shall indicate that the individual refused to sign; and
 - ii. The CSS and another facility staff member shall sign the notification as witnesses to the individual's refusal; and
 - e. Upload the signed notification into OMS.
- 12. An incarcerated individual shall have an opportunity to grieve any risk-containment classification, in accordance with the policy on the grievance system.

C. Review of Risk-Containment Classification

- 1. An incarcerated individual who has received a risk-containment classification may submit a written petition to the Director of Classification and Facility Designation for a change in their risk-containment classification no more than once every 12 months. The petition must contain substantive evidence that they have addressed one or more of the factors that contributed to their risk.

2. The Director of Classification and Facility Designation shall review the petition to determine if the evidence provided is substantive, and if so, shall refer the petition to the Central Case Staffing Committee for review.
3. Upon the determination by the Director of Classification and Facility Designation that the evidence provided is substantive, the Committee shall review the case for any changes in the significant details of the case or new intervention modalities that the preponderance of evidence suggest may reasonably mitigate the risk presented.