
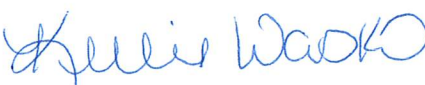


SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 400-13	PAGE NUMBER 1 OF 8
		DISTRIBUTION:	Public
		SUBJECT:	System Risk Level
RELATED STANDARDS:	None	EFFECTIVE DATE:	April 15, 2024
		SUPERSESSSION:	01/21/2022
DESCRIPTION: Offender Services	REVIEW MONTH: March	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that system risk classification is based upon violence risk assessments and history of committing violent offenses, restrictive housing placement, sex offender risk, and institutional disciplinary history. An offender's system risk may limit employment opportunities while incarcerated, limit eligibility for earning discharge credits, and effect notifications to the public/law enforcement upon release.

II. PURPOSE

The purpose of this policy is to establish and define the procedures to identify and appropriately classify and manage offenders who represent a high risk of violence towards others in both institutional and community settings.

III. DEFINITIONS

High Risk of Violence Offender:

Offenders that score Medium Risk/Level 2 or High Risk/Level 3 on the system risk assessment as a result of placement in restrictive housing or special management, institutional disciplinary behavior, criminal typology, sex offender typology/evaluation/assessment, or through a psychopathy/violence evaluation.

Minnesota Sex Offender Screening Tool – Revised (MnSOST-R):

Instrument is an actuarial risk assessment designed to predict the likelihood of sexual recidivism in convicted sex offenders leaving prison.

Personality Assessment Inventory (PAI):

A self-report, 344 item objective personality measure used to assess an offender's personality and psychopathology that may be utilized in violence risk evaluations. The completed test is then submitted to interpretive software specifically normed for correctional settings to identify an offender's risk of institutional misconduct during incarceration.

Psychopathy Checklist – Screening Version PCL:SV:

An instrument used to screen offenders for the presence of psychopathic traits and characteristics.

Psychosexual Assessment:

A psychosexual assessment that evaluates an offender's sexual development, sexual history, paraphilic interests, offense behaviors, sexual interest areas, risk level, victim preference, treatment needs, and supervision concerns.

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Risk Reduction Program:

The Risk Reduction Program is operated by the DOC. The goal of the Risk Reduction Program is to identify offenders who represent a high risk of violence and sexual recidivism and ensure the system responds appropriately to that risk.

Sex Offender Treatment:

The goal of sex offender treatment is to provide the offender with the attitudes and behaviors necessary to return to the community and to prevent the offender from committing further sex offending behaviors.

SOMP Screening Instrument:

A screening tool that reviews a sex offender’s risk using several predictive factors for sexual recidivism. Outcome of the instrument may be used to support referring the sex offender to the Parole Board to consider withholding the offender’s parole.

Violence Risk Appraisal Guide (VRAG):

Violence Risk Appraisal Guide – is an actuarial measure designed to predict likelihood of violent recidivism.

Violence Risk Appraisal Guide – Revised (VRAG-R):

Violence Risk Appraisal Guide - Revised is an actuarial measure designed to predict the likelihood of violent recidivism.

Violence Risk Evaluation:

Forensic evaluation report completed on offenders assessed for violence risk by the Risk Reduction Program.

IV. PROCEDURES

1. Authority:

- A. The system risk process sets forth objective criteria used to identify offenders that may represent a high risk of violence towards others.
- B. Any institutional response affecting the custody classification of an offender that is a direct result of system risk designation is considered an administrative risk factor.
- C. After review of the system risk factors, the risk reduction manager and case manager will determine an offender’s system risk level. The case manager will notify designated institutional staff of any changes to the offender’s system risk level status.
- D. Offenders sentenced in South Dakota that are housed in secure custody outside of South Dakota will be assigned a system risk level based upon information available to staff, comprehensive offender management system (COMS), and other records.

2. System Risk Information:

- A. Applicable assessment information from an offender’s restrictive housing (RH) hearings, offenses in custody (disciplinary history), LSI-R, VRAG, VRAG-R, PCL:SV, MnSOST-R, psychosexual evaluation, and the violence risk evaluation will be reviewed prior to assigning system risk to an offender.
 - 1. RH hearing information, offenses in custody committed, LSI-R, VRAG, VRAG-R, PCL: SV, MnSOST-R are documented and available in (COMS).
 - 2. Violence risk evaluations and psychosexual evaluations are available for review on the M-drive in the Risk Reduction and STOP folders.
 - a. Violence risk evaluations are reports completed by a contracted psychologist and may include video evaluations of the offender.

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3. Any staff member may submit relevant information to the risk reduction manager for review and consideration during assignment or review of an offender's system risk level.
- B. An offender's system risk level will be reviewed and updated as deemed necessary, and when changes occur to factors used to assign risk. Changes that prompt review of the offender's system risk level include, but are not limited to the following:
1. Changes in disciplinary history, including commission of specified violent offenses in custody. This is monitored on a regular basis by the risk reduction manager.
 2. Results of violence risk evaluations and results of any additional assessments such as the VRAG, VRAG-R or PCL:SV.
 3. Placement into or transfer from RH or special management. RH/special management staff will email the risk reduction manager.
 - a. Transfer to or from RH must be reviewed within five (5) business days of the transfer occurring.
 4. Assignment of a sex offender risk level or change in sex offender risk level and programming status (MnSOST-R).
 5. Behavioral health staff will notify the risk reduction manager in a monthly email of offenders assigned a behavioral health code of SMI P4 or SMI P5. Notification is also required when an offender's SMI P4 or SMI P5 behavioral health code is reduced.
- C. Confidential information may be used when assigning system risk.

3. System Risk Levels:

- A. Offenders will be assigned to one of the following three case management levels based on the system risk assessment.
1. High Risk/Level 3 – Score 30 points or more.
 2. Medium Risk/Level 2 – Score 20-29 points.
 3. Low Risk/Level 1 or below - Score 0-19 points.
- B. High Risk/Level 3:
1. Level 3 system risk offenders will have a high-risk release packet completed for review by designated DOC staff (the SOC, deputy secretary of corrections, IG, and associate director of offender services will be included on the law enforcement notification) for possible media notification.
 - a. The packet will be completed a minimum of forty-five (45) days prior to the offender's scheduled release or discharge date.
 - b. If the offender's system risk level elevates to a level 3 with less than forty-five (45) days remaining prior to release, the packet will be completed as soon as possible.
 - c. If staff are notified of a level 3 offender's release, and less than forty-five (45) days remain prior to the offender's set release or discharge date, staff will complete and submit the high-risk release packet for review by designated DOC staff within five (5) business days of being notified or becoming aware of the release.
 - d. The packet will include a summary report describing the type of release (discharge, suspended sentence, presumptive or discretionary parole).
 - e. The following information will be included in the packet, if available:
 - 1) Investigative summary report from COMS.
 - 2) Psychosexual report from SOMP.
 - 3) Violence risk assessment from risk reduction office.
 - 4) Summary of current restrictive housing level.
 - 5) Behavioral health summary.
 - f. All Level 3 offenders will have a law enforcement notification completed. The SOC, deputy secretary of corrections, IG, and associate director of offender services will be included on the law enforcement notification.
 - g. Level 3 offenders released to parole or suspended sentence due to violence risk evaluation scores or MnSOST-R level R offenders, or sex offenders who meet withholding criteria, will be placed on the Absconder Direct Notification list by the risk reduction manager.

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h. Level 3 offenders are not eligible for an award of offender earned discharge credits (EDC) for employment, but are eligible for programming EDC, as outlined in DOC policy.

C. Medium Risk/Level 2:

1. All Level 2 system risk offenders will have a law enforcement notification completed by the risk reduction manager.
2. Level 2 offenders due to violence risk evaluation scores and MnSOST-R scores, who are released to parole or suspended sentence, will be placed on the absconder direct notification list by the risk reduction manager.

D. Low Risk/Level 1 or below:

1. Level 1 offenders will be released in accordance with DOC policy and require no notifications.

E. The risk reduction manager will maintain a current list of offenders identified as High Risk/Level 3 or Medium Risk/Level 2. The list shall be stored on a central computer drive accessible to staff.

4. Staff Referral Process:

A. Staff may refer offenders to the risk reduction manager for system risk review. Staff referrals will be reviewed by the risk reduction manager. The risk reduction manager will consult with staff as necessary.

B. The risk reduction manager will determine if the offender's risk level should be raised to a Level 2 or Level 3. The offender must meet the following criteria:

1. The condition prompting the staff referral is not captured by the assessment (violent disciplinary act, restrictive housing placement, sex offender issues, etc.).
 - a. One of the following conditions exist:
 - 1) A documented incident by the offender conveying a clear and present danger to staff or the public.
 - 2) The offender's crime is so heinous or high profile, that the release or discharge of the offender warrants specific communication to the public to proactively address concerns or questions that may be raised about the offender's release or discharge.
 - b. If risk reduction staff determines no elevated risk is present, the offender will maintain their system risk level and a case note will be generated noting the same.

C. If it is determined an offender represents an elevated system risk, (documented information involving a history of violence which is not scored on the assessment, or the offender presents a clear and present danger to staff or the public), the offender will have their system risk level set at Level 2 or Level 3, as determined appropriate by the risk reduction manager.

1. The risk reduction manager will determine the offender's next system risk review date, if appropriate.
 - a. This review date can be set after the offender's TED if no additional review is necessary.
 - b. The risk reduction manager will document the next review date on the system risk assessment in COMS.
2. The risk reduction manager's decision will be documented in the "Comments" section of the system risk assessment, as well as in the Case Note section.

D. If the risk reduction manager does not conclude elevated system risk is present:

1. The decision will be documented on the system risk assessment in COMS in the "Comments" section, as well as a Case Note in the offender's record.
2. Once reviewed, the decision is final and no further review is necessary, unless new information is discovered that prompts another review or referral of the offender.

5. Law Enforcement Notification:

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- A. The following law enforcement agencies will be notified by the risk reduction manager a minimum of five (5) days prior to a Level 2 or 3 offender releasing from a SD DOC facility. If the risk reduction manager is notified of a Level 2 or 3 offender's release date with less than five (5) days prior to the release, the Risk reduction manager or designee will complete the law enforcement notification within three (3) business days of becoming aware of the release.
1. Local law enforcement in the city or county at the location of the offender's release.
 - a. Notification is modified if the offender is releasing directly into the custody of another jurisdiction to a verified hold.
 2. Local law enforcement in the city and/or county where the offender committed his/her crime.
 3. Local law enforcement in the city and/or county where the offender will be residing following release/discharge (receiving jurisdiction if known).
 4. The Fusion Center, which is managed by the SD Department of Public Safety.
- B. Notification to law enforcement will consist of a telephone call and/or email to the contact person. Preference of the notification method/process for each law enforcement department/office/agency will be maintained by the risk reduction manager.
1. The notification shall include the following information:
 - a. The offender's name.
 - b. Crime (s) of conviction.
 - c. A brief summary describing why the notification is being sent (explain why the offender is considered a high risk release).
 - d. If known, the offender's address upon release/discharge (location/destination of offender upon release).
 - e. Scheduled release date.
 - f. Type of release – discharge, discretionary parole, presumptive parole, or suspended sentence release, and
 - g. Other information provided upon request by law enforcement.
 2. The risk reduction manager will provide a second notification to all law enforcement agencies previously notified of the high-risk release if there are substantial changes to the offender's release plans or changes in the release date.
 3. When directed by the SOC or deputy secretary, the risk reduction manager will contact law enforcement of the receiving jurisdiction and request confirmation of the offender's arrival within that jurisdiction.
 - a. The offender's parole agent may be contacted to confirm the arrival of a high-risk offender at the receiving jurisdiction if the offender is releasing to parole supervision.

6. Media Advisory:

- A. The SOC or designee will determine if a media advisory will be issued notifying the media/public of the offender's release or discharge. The DOC public information officer (PIO) or designee will prepare a media advisory in accordance with DOC policy.

7. Pre-Release/Discharge Procedures:

- A. Release procedures contained within DOC policy 400-06 – *Offender Release Procedure* apply to all system risk offender releases. Victim notification shall be completed in accordance with DOC policy 500-09 – *Adult Offender Victim Notification*.
- B. High Risk/Level 3 and Medium Risk/Level 2 offenders must abide by the pre-approved transportation arrangements when releasing to parole supervision.
1. This includes unit staff confirming the offender:
 - a. Picked up by the facility by pre-approved transporters (family, friends).
 - b. Boards the bus (commercial bus line or Pennington County transport shuttle).
 - c. Picked up by the parole agent for transport, or

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- d. Utilizes other transportation as approved.
 2. Confirmation of transportation and departure information (time of departure) may be required and should be documented in COMS as a case note.
- C. The risk reduction manager will retain the following records:
1. High risk packets submitted to the SOC, including revisions, additions, and clarifications received following initial packet submission.
 2. Law enforcement notification documentation, including revisions, additions, and clarifications received following initial law enforcement notification.
 3. A master list of all High Risk/Level 3 and Medium Risk/Level 2 offender releases and the type of notification completed on the offender (law enforcement and/or media).
 4. The absconder direct notification list and case notes documenting the decision to remove offenders from the absconder direct notification list.

8. Classification Response:

- A. High Risk/Level 3 offenders that have a PCL:SV score of 18 or higher and VRAG score of 14 or higher or a VRAG-R score of 19 or higher will maintain at least a medium custody level and are only able to be housed at South Dakota State Prison (SDSP) & Jameson Prison (JP).
- B. High Risk/Level 3 and Medium Risk/Level 2 offenders are not eligible for minimum custody and cannot be placed at a level 2 or 1 facility. They must be placed at a level 3, 4, or 5 facility.

9. Institutional Work Assignments:

- A. Offenders meeting one or more of the following criteria shall be identified as high-risk for the purpose of being assigned to an institutional work assignment:
 1. Offenders with a System Risk level 3.
 2. Offenders with a System Risk level 3 or level 2 due to disciplinary violations or institutional violence.
 3. Offenders with a System Risk level 3 or 2 score and with a score greater than 13 on the VRAG or a score greater than 18 on the VRAG-R assessment.
 4. Offenders with a System Risk Level 3 due to an MnSOST-R level R score.
 5. Offenders who have refused to participate in the Violence Risk Assessment.
 6. Offenders with an "Open Care In Placement (CIP)" designation within COMS, which may be due to disciplinary or placement in restrictive housing, special management, investigative purposes, or behavioral health issues.
 7. Offenders employed at the time they are moved to an open CIP may remain assigned to the work assignment, provided the open CIP is temporary, and the offender has not been terminated from the work assignment by the supervisor.
 8. Offenders with an Immigration and Customs Enforcement (ICE) hold.
- B. **The agency shall use information from the screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive [PREA 115.42].** Each work assignment must be assessed at least once per calendar year, or sooner, if the risk elements of the assignment change, i.e., changes in tools, supervision, offender access/movement.
 1. All offender work assignments at the institution will be documented within the High-Risk folder located on the DOC M-drive and in COMS.
 2. The associate warden or designee is responsible for updating the list of offender work assignments and assessment scores assigned to for each offender work assignment, as changes occur.
 3. All newly created offender work assignments must have an assessment completed prior to offenders being assigned to the work assignment.
 4. The associate warden will review and approve all final scores assigned to each offender work assignment and ensure the annual work assignment assessment process is completed.

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5. Each offender work assignment will be assigned a risk level, which shall be based on the score assigned to the work assignment. The levels of risk scores are as follows:
 - a. High Risk- Score 40-46 points.
 - b. Medium Risk-Score 22-39 points.
 - c. Low Risk-Score 22 points or less.
- C. Offenders identified as high-risk may not be assigned to a work assignment assessed/scored as High Risk. High Risk offenders may only be assigned to Medium Risk or Low Risk work assignments.
- D. Offenders NOT identified as High Risk may be assigned to High Risk, Medium Risk or Low Risk work assignments.
- E. The risk score assigned to offender work assignments at each institution is located at M:\DOC\Incidents\HighRiskJobs.
- F. Offenders pending Violence Risk Assessment are not eligible to work institutional High Risk jobs until they can be assessed and are not considered High Risk.

10. Withholding of Parole Eligibility:

- A. Sex Offenders scoring a system risk level meeting the criteria set forth in DOC policy 1400-01 – *Withholding of Parole Eligibility for Sex Offenders*, and who are identified within the risk criteria on the SOMP Screening Instrument, may have their parole eligibility withheld.
 1. Once risk has been confirmed by the withholding parole screening instrument, SOMP staff will notify the risk reduction manager and director of Parole the process to withhold parole has been initiated.
 - a. The outcome of any hearing scheduled to consider the withholding of the offender’s parole eligibility will be noted on the High Risk release packet.
 - b. If the offender meets withholding criteria, the offender will be assigned to High Risk/Level 3 offenders.

11. Management of Absconder Direct Notification List:

- A. Process to add offenders to the absconder direct notification list:
 1. Parolees meeting any of the following criteria will be placed on the absconder direct notification list by the risk reduction manager:
 - a. High Risk/Level 3 and Medium Risk/Level 2 parolees based on Violence Risk Evaluation Scores.
 - b. High risk/Level 3 and Medium Risk/Level 2 parolees based on MnSOST-R scores.
 2. The risk reduction manager will identify offenders meeting the above criteria. The risk reduction manager will verify the offender has been released to the community and will add them to the absconder direct notification list.
 3. The risk reduction manager will note the reason the offender was placed on the absconder direct notification list and the date the offender was released to the community on parole supervision or to suspended sentence.
 4. The absconder direct notification list will be updated and distributed whenever an offender is placed on or removed from the list. The list shall be distributed at least weekly by the risk reduction manager regardless of any changes made to the list.
- B. Process to remove offenders from the absconder direct notification list.
 1. Offenders will have their status on the absconder direct notification list reviewed after twelve (12) months in the community.
 2. A review team will determine if the offender still represents a high risk to community safety and should remain on the absconder direct notification list.

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- a. Offenders placed on the absconder direct notification list due to a High Risk release media notification can only be removed with approval of the SOS or deputy secretary of corrections.
3. The review team may include the following staff or his/her designee:
 - a. Director of Parole.
 - b. Associate director of offender services.
 - c. Associate director of field services.
 - d. Risk reduction manager.
 - e. SOMP program manager.
 - f. Regional supervisor.
 - g. Parole agent.
4. The offender must meet the following criteria for the review team to remove an offender from the absconder direct notification list:
 - a. No High Level Response within twelve (12) months.
 - b. No Moderate Level Response within six (6) months.
 - c. Offender is compliant with treatment plan (SOMP).
5. If the review team recommends removal from the list, the risk reduction manager will enter a case note into COMS, which shall include the following:
 - a. Names of review team members.
 - b. Reason offender was placed on the absconder direct notification list.
 - c. PDR responses since release.
 - d. SOMP compliance (sex offenders only).
 - e. Recommendation from review team.
6. The review team report will be forwarded to SOC and deputy secretary for offenders placed on the list due to a High Risk release media notification for removal.
7. If the decision of the review team is to continue the offender on the absconder direct notification list:
 - a. Risk reduction manager will set next review date on the absconder direct notify list.
 - b. Risk reduction manager will make a case note detailing review process and reason for leaving offender on Current System Risk Level.

V. RESPONSIBILITY

The director of Prisons is responsible for the annual review and revision of this policy.

VI. AUTHORITY

- A. SDCL § [22-24B-1](#) Sex crimes determined.
- B. SDCL § [24-15A-32.1](#) Withholding of parole eligibility of sex offender based upon history, treatment, and risk factors.

VII. HISTORY

April 2024
 December 2021
 June 2020
 May 2018
 October 2017
 October 2016
 October 2014 – New policy

ATTACHMENTS *(*Indicates document opens externally)*

1. DOC Policy Implementation / Adjustments