

Directive 371.10 Level C Designation For Offenders Convicted Of Listed Offenses

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF CORRECTIONS**

Directive: 371.10

Subject: Level C Designation For Offenders Convicted Of Listed Offenses

Effective Date: 12/30/02 **Review and Re-Issue Date:**

Supersedes: 3/1/02 **APA Rule Number:**

Recommended for approval by: Richard Turner, Director/Correctional Services		Authorized By: Steven M. Gold, Commissioner	
_____	_____	_____	_____
Signature	Date	Signature	Date

1. Authority:

1.1. 28 V.S.A., chapter 1 -section 1(a-c) – section 2a, Chapter 3 - section 101 (1), section 102 (c) (1) (3) (4) (5) (8), Chapter 6, Chapter 11 – section 701, section 701a, section 701b, section 702, section 703, section 706, section 721 – 726, section 808, 13 V.S.A., chapter 165, section 5301

2. Purpose:

- 2.1. Consistent with 28 VSA § 1(b) and with the goal of providing Vermont’s citizens safety from violent crime, this directive;
 - 2.1.1 Applies evidence-based and validated assessment procedures to determine risk and program needs of offenders convicted of statutorily listed crimes and other violent crimes that the Department of Corrections has determined that meet the rational that established the listed offenses;
 - 2.1.2 Identifies offenders whose offense is egregious and whose risk for future violence is high.

3. Applicability/Accessibility

3.1. All individuals and groups affected by the operation of the department may have a copy of this directive.

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4. Directive

- 4.1. Level C designation is reserved for those inmates whose listed offenses are egregiously harmful and who are assessed as high risk for future violent criminality. In considering a Level C recommendation the CSS should review the instant offense and consider the following:
 - 4.1.1 The offender used violence or threats of violence on the victim;
 - 4.1.2 The harm to the victim was severe;
 - 4.1.3 The behavior towards the victim was characterized by cruelty, brutality, or wanton callousness
- 4.2. In order to proceed with a Level C designation the following steps need to be followed by the CSS in preparing a case for this designation:
 - A. The offender must be convicted of a Listed Offense as defined in directive 371.09.
 - B. The crime must be determined as egregious by use of the "Egregious Form" see (Appendix A)
 - C. The offender must have a score of 24 and above on the LSI
 - D. The offender must have a score of 7-9 on the VRAG
 - E. A case staffing review will be held and a decision will be made (Appendix B)
- 4.2.1 If an inmate is convicted of multiple crimes, the most serious ones should be considered for Level C designation eligibility.
- 4.2.2 Offenders must have a score of 24 and above on the LSI, and a score of 7-9 on the VRAG to support the assessment of high risk for future violent criminality.
- 4.2.3 The CSS shall determine whether the crime meets Level C criteria after reviewing the information contained on the "Egregious Form" see (Appendix A). If the LSI score is 24 or above and the Egregious Form is completed and at least one box in section 1, 2, and 3, is checked on the form, then the Director of Classification will have the VRAG assessment completed.
- 4.2.4 If the VRAG score is 7-9, the Director of Classification will schedule a case staffing to proceed with the process of Level C designation.

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- 4.3 It is the responsibility of the Superintendent to review Level C materials prepared by the CSS and determine if the criteria have been met. He/she shall then submit a Case Staffing Review report to Director of Classification containing the relevant documentation (Egregious Form, Level C designation form and supporting reports) and placement recommendation. The Director of Classification will review the material and schedule a case staffing review. The Director of Correctional Services shall make a final determination concerning Level C designation based on the facts submitted and the entirety of the case. (Appendix B)
- 4.4 Inmates with Level C designation shall be reviewed by facility and central office classification review teams upon initial classification, the expiration of the minimum sentence and every two years thereafter.

5. Training Method

- 5.1. It is the responsibility of Superintendents at facility and field sites to ensure that all CSS staff are fully trained in the application of this directive. HRD will develop case planning training curricula to support this directive.

6. Quality Assurance Processes

- 6.1. The Director of classification will conduct annual audits of this directive at each CCSC and facility. The Director will identify report compliance issues and report to the Director of Correctional Services.

7. Financial Impact:

- 7.1. The cost associated with level C offenders is long term incarceration. This will cause an increased cost over time. The minimal number of these cases mitigates the impact.

8. References

Title 28 V.S.A.

9. Responsible Director and Draft Participants

Ray Flum, Director of Classification

Egregious Form

Offender Name:

DOB:

Conviction of Listed Offense:

Please check the appropriate boxes. In order to recommend a Level C Classification, at least one box in each of Sections 1, 2 and 3 must be checked. You should check more than one box in any section, if multiple items apply

1. Did the offender use violence or use threats of violence on the victim?**VIOLENCE**

- Restrained** the victim, e.g. kidnapped, tied up, held down, and dragged.
- Use of **physical violence** against the victim, to include but not limited to hitting, biting, shaking, bruising, shoving, kicking, tripping, punching, twisting, strangling, hitting with other objects, burning, breaking bones, throwing to ground and/or down stairs, stabbing or shooting.
- The act of poisoning, to include poisoning by drugging
- Use of **sexual violence** with or without a weapon against the victim to include but not limited to rape, sodomy, pedophilia, gang rape, other forced acts, sadistic sexual acts, etc.

THREATS OF VIOLENCE

- Used a **weapon** to threaten or coerce the victim.
- Verbally **threatened to use a weapon** against the victim, or the victim's family, friend, etc.

2. Was the harm inflicted substantial?

- Victim suffered, or (likely suffered*) substantial physical and/or emotional trauma as a result of the crime (to include but not limited to acts of physical violence, lost consciousness, deep cuts, injury requiring hospitalization, injury requiring extended or extensive medical care, being hit in abdomen during pregnancy, emotional distress, heightened anxiety, depression, fears of retaliation and/or additional violence from the offender if released, etc.

*likely suffered is used in absence of evidence regarding the detail of the crime's impact or input from the victim

- Please list any additional factors, not identified above, that indicate that the harm to the victim(s) was substantial:
- Victim died as a result of the crime.

3. Can the behavior and/or the intent of the crime be characterized as particularly cruel, brutal or demonstrating wanton callousness?

- The victim was particularly vulnerable, due to age, infirmity, or reduced physical/emotional or mental capacity
- The harm was planned in advance or pre-meditated and /or occurred over a lengthy period of time.
- Evidence of torture. to include but not limited to practices meant to inflict pain, i.e. burning, cutting, inserting objects, depersonalized violence, bizarre forms of violence, sadistic acts, etc.
- The offense involved multiple violent acts to the victim.
- If violent behavior occurred during the commission of the crime, did the violence go beyond what was needed to carry out the crime? i.e., violence was disproportionate to intent of the crime.
- The offender used his or her status or position to facilitate the commission of the offense. This includes positions of trust, confidence or fiduciary relationships.
- The offense was random, predatory, or arbitrary in nature
- Please list any other factors, not identified above, that indicate that the behavior or intent of the crime was particularly cruel, brutal or demonstrated wanton callousness:

This offender meets the criterion for an egregious offender.

Prepared by _____ Date _____
Corrections Services Specialist

I believe that the information contained in this report supports the offender being classified as an egregious offender.

Superintendent Date Site

LEVEL C DESIGNATION FORM

Offender Name:

DOB:

Sentence:

Min Rel Date:

Max Rel Date:

Level C Criteria

1) Conviction of Listed Offense:

2) LSI Score:

3) Egregious Criteria met: yes / no

In answering these questions three elements are to be considered:

1. The offender used violence or threats of violence on the victim.
2. The victim experienced harm that was substantial.
3. The behavior by the offender was characterized by cruelty, brutality or wanton callousness.

4) VRAG Score:

5) Case Staffing Date:

To be completed by the Director of Correctional Services

I have determined that the information in this case supports a Level _____ classification.

Director of Correctional Services

Date

The plan as of this staffing is as follows:

Offenders with Level C designation shall be reviewed by facility and central office classification review teams upon initial classification, the expiration of the minimum sentence and every two years thereafter.