

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

Directive: 371.09

Subject: Designation Of Listed Offenses
Effective Date: 12/30/02 **Review and Re-Issue Date:**
Supersedes: 3/1/02 **APA Rule Number:**

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

1. Authority:

1.1. Title 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, Title 13, V.S.A., Chapter 165, Section 5301

2. Purpose:

2.1. To provide a list of the statutorily listed crimes and other violent crimes that the Department of Corrections has determined that meet the rationale that established the listed offenses. For purposes of classification these are referred to as the Listed Offenses.

3. Applicability/Accessibility

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

4. Directive

4.1. The classification process commences when an incarcerated offender has been convicted of one or more statutorily listed offenses outlined below, or any of the violent crimes that the Department of Corrections has determined that meet the rationale that established the listed offenses. See appendix A, attached.

4.2. The CSS staff assigned to the case determines if the offender has been convicted of one or more of the following offenses described in 13 VSA Section 5301 (7), or any of the violent crimes listed in appendix A:

1. stalking as defined in section 1062 of 13 VSA;
2. aggravated stalking as defined in subdivision 1063(a)(3) or (4) of 13 VSA;
3. domestic assault as defined in section 1042 of 13 VSA;
4. first degree aggravated domestic assault as defined in section 1043 of 13 VSA;
5. second degree aggravated domestic assault as defined in section 1044 of 13 VSA

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6. sexual assault as defined in section 3252 of 13 VSA or its predecessor as it was defined in section 3201 or 3202 of 13 VSA;
7. aggravated sexual assault as defined in section 3253 of 13 VSA;
8. lewd or lascivious conduct as defined in section 2601 of 13 VSA;
9. lewd or lascivious conduct with a child as defined in section 2602 of 13 VSA;
10. murder as defined in section 2301 of 13 VSA;
11. aggravated murder as defined in section 2311 of 13 VSA;
12. manslaughter as defined in section 2304 of 13 VSA;
13. aggravated assault as defined in section 1024 of 13 VSA;
14. assault and robbery with a dangerous weapon as defined in subsection 608(b) of 13 VSA;
15. arson causing death as defined in section 501 of 13 VSA;
16. assault and robbery causing bodily injury as defined in subsection 608(c) of 13 VSA;
17. maiming as defined in section 2701 of 13 VSA;
18. kidnapping as defined in section 2405 of 13 VSA or its predecessor as it was defined in section 2401 of 13 VSA;
19. unlawful restraint in the second degree as defined in section 2406 of 13 VSA;
20. unlawful restraint in the first degree as defined in section 2407 of 13 VSA;
21. recklessly endangering another person as defined in section 1025 of 13 VSA;
22. violation of abuse prevention order as defined in section 1030 of 13 VSA, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);
23. operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in section 1210(e) and (f) of Title 23;
24. careless or negligent operation resulting in serious bodily injury or death as defined in section 1091(c) or (d) of Title 23;
25. leaving the scene of an accident with serious bodily injury or death as defined in section 1128(b) or (c) of Title 23;
26. burglary into an occupied dwelling as defined in section 1201 (c) of 13 VSA; and
27. The attempt to commit any of the offenses listed in this section.

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. Most correctional programming is intended for offenders convicted of listed offenses. If the number of listed offenses is increased the referrals to programming will be increased. All costs associated with providing needs reducing programming will also increase.

8. References

- 8.1 Title 28 V.S.A

9. Responsible Director and Draft Participants

Ray Flum, Director of Classification

The following are violent crimes that the Department of Corrections has determined that meet the rational that established the listed offenses:

1. Abuse of Disabled Adult – as defined in section 6913 of 33VSA
2. Arson 1st degree – as defined in section 502 of 13 VSA
3. Assault Law Enforcement 2nd – as defined in section 1028, (2) of 13 VSA
4. Accessory Arson
5. Possession Deadly Weapon During Felony – as defined in section 4005 of 13 VSA
6. Hate Crime – as defined in section 1455 of 13 VSA
7. Use of a Child in a Sexual Performance Title 13 V.S.A § 2822
8. Consenting to a Sexual Performance Title 13 V.S.S § 2823
9. Promoting a Recording of a Sexual Act Title 13 V.S.A §2824
10. Possession of Child Pornography Title 13 § 2827 and meeting penalty requirements in Title 13 V.S.A § 28259(c)(2)(d)
11. Use of Electronic Communications to Lure a Child 13 V.S.A § 2828
12. Careless or negligent operation resulting in serious bodily injury or death as defined in section 1091(b) of Title 23;

The commissioner has authority to add to this list as future review of cases would dictate that they meet the same rational that establish the listed offenses.