

WAC 381-90-050 Release determination. (1) RCW 9.95.420 requires that any convicted person sentenced under the provisions of RCW 9.94A.507 shall be subject to a board hearing to determine releasability. The hearing must be held no later than ninety days before the expiration of the minimum term. However the hearing cannot be held unless the board has received:

(a) The results from the end of sentence review process;

(b) Recommendations for conditions of community custody from the department.

(2) The end of sentence review committee report may include, but is not limited to:

(a) A prediction based upon the administration of actuarial risk assessment instruments and the sexual and criminal history of the offender, of the likelihood that the offender will commit new sex offenses if released;

(b) The institutional progress report(s) covering the inmate's adjustment, achievement, infractions and program participation during incarceration;

(c) Psychiatric or psychological reports, such as IQ appraisals, personality inventories, actuarial risk assessments and sexual history polygraphs;

(d) Behavioral details of the crime(s) of conviction, such as law enforcement reports, prosecutor's statements, court records, and pre-sentence investigation reports;

(e) Recommendations for conditions of community custody in addition to those set by the sentencing court;

(f) The department's risk management level and the sex offender notification level;

(g) Written confirmation that the inmate has had an opportunity to review the information the department is submitting to the board and an opportunity to make a written statement.

(3) The board shall determine whether it is more likely than not that the offender will engage in sex offenses if released to the community in spite of board-imposed conditions of community custody. The board decision related to an offender's likelihood of sexual reoffense is based upon a preponderance of the evidence.

(4) In making a release decision the board may also consider:

(a) The length of time necessary for the offender to complete treatment and programming;

(b) The offender's failure to participate in required evaluations;

(c) The offender's proposed release plan; and

(d) Other pertinent information.

(5) If the board finds the offender not releasable, the board may add up to sixty months to the minimum term.

(6) If the offender is found not releasable and time is added to the minimum term:

(a) The offender may petition for an earlier review when the offender completes required treatment or programming.

(b) The board retains the authority to schedule an earlier review at its discretion.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-050, filed 3/31/09, effective 5/1/09.]