




Department of  
Rehabilitation & Correction

SUBJECT: <b>Extended Restrictive Housing</b>	PAGE <u> 1 </u> OF <u> 18 </u>
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## I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

## II. PURPOSE

The purpose of this policy is to define the procedures for placing inmates into Extended Restrictive Housing (ERH) and Secure Adjustment Unit (SAU) status.

## III. APPLICABILITY

This policy applies to all Ohio Department of Rehabilitation and Correction (DRC) staff involved in the inmate classification process.

## IV. DEFINITIONS

**Annual** - A twelve (12) month period

**Extended Restrictive Housing (ERH)** - Housing that separates an inmate from the general population and restricts the inmate to their cell twenty-two (22) hours or more per day for a period of thirty (30) days or longer.

**ERH Level 1 (ERH1)** - Previously known as 4B, this is the lower level of Extended Restrictive Housing designed to provide increasing privileges. Although recreation still occurs alone at ERH Level 1, inmates are encouraged to participate in programs where they are in an area with multiple participants (using secured programming stations). It is also in this stage where an inmate can also be moved to ERH Transitional (ERHT), formally known as 4AT, where they are introduced to congregate recreation/program activity for a period of time before being placed at Level 4 security. Unless an inmate violates their Inmate Adjustment Plan (IAP), or they are exempted from eligibility for presumptive reduction by the chief of the Bureau of Classification and Reception (BOCR), they shall be placed into ERHT within twelve (12) months of entering ERH1.

**ERH Level 2 (ERH2)** - Previously known as 5A, this is the middle level of Extended Restrictive Housing designed to provide additional privileges when an inmate remains compliant with their IAP. Inmates are prepared in this stage to enter ERH Level 1, however they are still generally housed in a single celled environment with no congregate activity. Unless an inmate violates their IAP they shall be reduced to ERH Level 1 within twelve (12) months of entering this status.

**ERH Level 3 (ERH3)** - Previously known as Level 5B, this is the most restrictive level of Extended Restrictive Housing reserved for inmates who constitute the greatest threat to the safety and security of the community and/or a correctional facility. It is designed to be a short-term condition of confinement with minimal privileges so behavior can be assessed. During this period of time, an IAP is created and unless the inmate violates the IAP he/she shall be reduced to ERH Level 2 within ninety (90) days. Inmates are generally housed in a single cell with no congregate activity.

**ERH Transitional (ERHT)** - Previously known as Level 4AT, ERHT is a Restrictive Housing status where the inmate is introduced to limited and small group congregate recreation and programming. On certain days, they may receive out-of-cell time greater than two (2) hours, but out-of-cell and congregate opportunities may still be limited to the housing unit. This is also a status where inmates can be held when they are preparing for a release from ERH but they are still exhibiting behaviors in violation of their IAP which are not serious enough to require placement back into ERH 1 or 3.

**Inmate Adjustment Plan (IAP)** - A case plan which specifically outlines expected behaviors for an inmate placed in an Extended Restrictive Housing (ERH) or Secure Adjustment Unit (SAU) status. Any inmate placed in ERH/SAU status is required to have an IAP established within thirty (30) days of their arrival in an approved ERH/SAU unit. The IAP is comprised of behavioral and programmatic requirements which relate specifically to the inmate's misbehavior that resulted in the placement in Restrictive Housing.

**Limited Privilege Housing (LPH)** - Assignment of an inmate to a cell or other designated area for the purpose of separating them from other inmates, but is still considered general population. Designated out of cell time shall be more than two (2) hours daily. Inmates may participate in meaningful activities, programs, and recreational opportunities as deemed appropriate by the managing officer.

**Multidisciplinary Services Team** - A team which may include, but is not limited to, facility administrators as well as correctional custody, treatment and program staff. This team provides integrated services by assessing an inmate's needs, developing an individual's IAP and ensuring that services are delivered in an effective manner to assist the inmate in transition to general population or the community.

**Multidisciplinary Treatment Team** - A team which may include, but is not limited to, psychologists, psychiatric practitioners, licensed social workers, licensed mental health counselors, registered nurses, activity therapists and other correctional custody staff. This team provides an integrated team approach to inmate care and treatment. The members meet together to develop and provide necessary health and behavioral health services and individualized treatment for inmate with particular emphasis on addressing needs during confinement in Restrictive Housing step-down programs.

**Presumptive Release from ERH** - Unless an inmate has been determined to be ineligible for presumptive release by the chief of the BOCR, an inmate may not be housed in ERH, including ERHT, for more than thirty-three (33) months, excluding those who violate their IAP. The maximum length of time an inmate who is IAP compliant, and not exempt, may spend at each level is as follows:

ERH Level 3:	3 months
ERH Level 2:	12 months
ERH Level 1:	12 months
ERH Transitional:	6 months

**Residential Treatment Unit (RTU)** - A specialized housing unit within the institution that facilitates a secure treatment environment and on-site care from a multidisciplinary team consisting of psychiatrists, nurse practitioners, psychologists, social workers, nurses and other specialized mental health professionals.

**Restrictive Housing (RH)** - Housing that separates an inmate from the general population and restricts the inmate to their cell twenty-two (22) hours or more per day.

**Secure Adjustment Unit (SAU)** - A unit dedicated to the housing of inmates who have committed ERH qualifying offenses but are seriously mentally ill or intellectually developmentally disabled and, as such, cannot be placed into ERH 1, 2 or 3. These units offer security, programming and mental health services to ensure the inmate's conditions of confinement do not qualify as Restrictive Housing. Inmates may only be placed into an SAU with the approval of the Serious Misconduct Panel (SMP) or upon reception as outlined in section VI.A.1 of this policy.

**Serious Misconduct Panel** - A panel of two (2) correctional staff who have been selected by a regional director and trained by Legal Services, who are authorized to conduct all misconduct hearings for offenses that would qualify for placement in ERH. The SMP makes decisions on culpability and makes recommendations for appropriate housing assignments based upon the results of the hearing. The panel must consist of two (2) individuals who are not employed in the same prison where the behavior leading to the recommendation for ERH placement occurred.

## V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to limit the use of Extended Restrictive Housing (ERH) to only those inmates who pose the greatest threat to the safety and security of a correctional facility and cannot be managed safely in general population. ERH is not to be used for punishment and is reserved for those whose violent, disruptive, predatory, riotous or other serious misbehavior poses a serious threat to other inmates, staff, the orderly operation of the institution, or the general public.

No youthful offender, pregnant female or severely mentally ill inmate shall be housed in ERH.

Inmates with Intellectual Developmental Disabilities (IDD) shall only be placed in ERH when they have a clear and documented threat to others and less restrictive means of housing them have been ineffective at preventing harm to others.

**VI. PROCEDURES****A. Referral for Placement in ERH****1. At Reception**

Inmates may be referred to ERH from reception if one, or more, of the following conditions are met:

- a. The inmate was released from a DRC prison while in an ERH2 or ERH3 status and they returned to prison within eighteen (18) months. In this situation, they may be considered for placement at ERH Level 1 for up to twelve (12) months.
- b. The inmate was released from an Ohio prison while in ERH1 or ERHT and they returned to prison within twelve (12) months. In this situation, they may be considered for placement into ERHT for up to 180 days to assess their behavior.
- c. The inmate was released from an Ohio prison while in any ERH status and was exempted from Presumptive Release from ERH either due to the severity of their placement offense or the extensive nature of their violence and disruption while incarcerated. Inmates who meet this criteria will be placed back into the ERH status they were released from but shall be reviewed within thirty (30) days of arrival to their parent institution to determine if ERH placement shall continue and to determine if they shall be eligible for Presumptive Release from ERH.
- d. The nature of the criminal offense, including documented behavior in another correctional agency, committed prior to incarceration with the DRC constitutes a current threat to the security and orderly operation of the institution and to the safety of others. For example, serious assaults against law enforcement, participation in organized criminal activity, serious violent acts in other correctional jurisdictions or actions indicating a serious escape risk.

Inmates who meet one (1) of these conditions may be referred for placement directly into ERH from reception by marking the ERH override section of the Security Designation form (DRC2568 for males and DRC2691 for females). The reception coordinator shall then refer the matter to the regional classification administrator who shall consult with Legal Services and approve or deny the placement.

**2. Following Reception**

After the Security Designation form (DRC2568/DRC2691) has been completed, an inmate may only be placed in ERH by using the procedures outlined in section VI.B & C of this policy and DRC policy 56-DSC-03, Disciplinary Procedures for the Serious Misconduct Panel (SMP).

3. Criteria

An inmate may be considered for placement in ERH if the inmate satisfies both an administrative and a behavioral criterion listed below.

**B. Administrative Criteria for Placement in ERH**

An inmate may not be considered for placement in ERH unless one (1) of the following administrative criteria are met:

1. The Serious Misconduct Panel (SMP) has found the inmate guilty of violating an institutional rule and as a consequence of the finding recommended the inmate be considered for placement in ERH; or
2. The inmate is guilty of a criminal offense that is described under behavioral criterion V.I.C.2 listed below, and has been sentenced and committed to the custody of the DRC; or
3. The inmate has committed a criminal or institutional offense in another jurisdiction that would qualify for placement in ERH and there is sufficient documentation from the other jurisdiction to justify placement in ERH; or
4. The inmate was previously held under the custody of the DRC and was held in ERH prior to their release.

**C. Behavioral Criteria Governing Placement in ERH**

Inmates may not be placed in ERH unless they demonstrate behavior meeting one (1) or more of the following behavioral criteria. These criteria guide the exercise of discretion, but do not mandate the outcome.

1. Assault and Related Acts
  - a. The inmate caused or attempted to cause physical harm or death to another person including all assault related rules;
  - b. The inmate compelled or attempted to compel another person without consent to engage in sexual conduct or sexual contact; or
  - c. The inmate compelled or coerced another person, by force or the threat of serious physical harm or death, to provide anything of value, to perform any act, or to violate any rule.

For all placements involving assault related acts, the seriousness of the offense as well as the inmate's history of assaultive behavior shall be considered in determining whether a placement in ERH is warranted, as well as the length of the placement. The seriousness of the offense may include factors such as the amount of harm (or attempted harm), the intensity/duration of the assault and the motivation/intent of the aggressor(s).

2. The nature of the criminal offense or offenses in other correctional jurisdictions, committed prior to incarceration constitutes a current threat to the security and orderly operation of the institution and to the safety of others, for example, serious assaults against law enforcement/corrections officers, participation in organized criminal activity/riot or actions indicating a serious escape risk.
3. The inmate has led, organized, participated in, or incited a serious disturbance or riot that resulted in the taking of a hostage, significant property damage, physical harm, or loss of life.
4. The inmate has conspired or attempted to convey, introduce, or possess major contraband which poses a serious threat or danger to the security of the institution. This includes without limitation:
  - a. Deadly weapons. "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designated or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.
  - b. Ammunition. "Ammunition" means anything hurled by a weapon or exploded as a weapon, as bullets, gunpowder, shots, shells, bombs, grenades, rockets, etc.
  - c. Escape Instruments. "Escape instruments" include any substance, device, instrument, or article designed or specially adapted for criminal use in an escape attempt; or possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use in an escape attempt
  - d. Drugs or Intoxicating Substances

For all placements involving contraband related acts, the seriousness of the offense as well as the inmate's overall history of behavior shall be considered in determining whether a placement in ERH is warranted, as well as the length of the placement. The seriousness of the offense may include factors such as the amount of contraband, the danger associated with the specific type of contraband, the method the inmate used to possess (attempt) the contraband, and previous attempts to house the inmate in less restrictive environments.

5. The inmate functions as a leader, enforcer, or recruiter of a security threat group, which is actively involved in violent or disruptive behavior.
6. The inmate is an active member of a security threat group and has engaged in group violence or seriously disruptive behavior.
7. Escape and related acts:
  - a. The inmate escaped from a correctional facility, or aided another in the successful escape from a correctional facility.
  - b. The inmate attempted to escape from a correctional facility by taking significant actions to further their plan.

For all placements involving escape and related acts, the decision to place, as well as the length of the placement, shall be based upon the overall circumstances related to the escape. These include, but are not limited to: the type of institution the inmate escaped from, the totality of the circumstances related to the escape, the inmate's previous escape history, and the amount of time the inmate has left to serve or other factors which could affect their motivation to try and escape again.

8. The inmate has demonstrated an ability to compromise the integrity of staff which resulted in a threat to the security of the institution or the general public.
9. The inmate knowingly exposed others to the risk of contracting a dangerous disease, including without limitation HIV or hepatitis.
10. The inmate has engaged in repetitive violent and assaultive behavior while at Level 3 or Level 4, and less restrictive means of housing them have been ineffective at protecting inmates and staff from their offenses.
11. The inmate has a history of assault against others while in prison which would qualify for ERH placement and makes threats to repeat the assaultive behavior.

**D. Seriously Mentally Ill (SMI) and Intellectual Developmental Disability (IDD) Inmates and ERH**

1. Except in circumstances approved by the Director, or managing director, no inmate who is classified as a C1 (Seriously Mentally Ill) or IDD shall be placed into ERH. If an inmate, after they are placed into ERH, is re-classified as a C1 (SMI) or IDD, they shall be removed from ERH. While awaiting transfer, any inmate who is C1 (SMI) or IDD and has committed acts which qualify for ERH shall be provided the opportunity for at least two (2) hours out-of-cell time daily.
2. SMI or IDD inmates who have committed offenses which would qualify for placement into ERH shall be referred to the SMP. If the inmate is found guilty of the offense by the SMP, the SMP shall consult with the chief of the Bureau of Behavioral Health Services (BOBHS) to determine the proper placement for the inmate. This may include a security level change, placement in SAU status, placement in Residential Treatment Unit (RTU), or in rare circumstances where there is a substantial threat to safety, placement into ERH.
3. If an SMI or IDD inmate must be placed in ERH because they pose a serious threat to the safety of others and less restrictive means of housing them have been unsuccessful in protecting others, then a Multi-Disciplinary Treatment Team shall be convened to determine the conditions of confinement the inmate shall be managed at while in ERH. Even when an SMI or IDD inmate is placed in ERH, they shall still be offered more than two (2) hours out-of-cell time every day. Refusals to participate in the out-of-cell activities shall be documented and reviewed by the Multi-Disciplinary Treatment Team to develop intervention strategies.

**E. Secure Adjustment Units (SAU)**

1. Inmates who are classified as SMI (C1) or IDD and have engaged in behavior which would otherwise require their placement in ERH according to sections VI.A, B and C of this policy, may be placed into a Secure Adjustment Unit (SAU) in lieu of placement in ERH. The SAU is not RH and the length of stay therein is determined based upon the inmate's behavior and treatment plan.
2. Placement in SAU is a status and the inmate shall remain therein until released by the Multi-Disciplinary Treatment Team.
3. After the inmate is released from the SAU, the unit committee shall conduct a security review as outlined in DRC policy 53-CLS-01, Inmate Security Classification Levels 1 through 4, and place the inmate in the appropriate security level.

**F. Bureau of Classification Procedures for Placing an Inmate into ERH**

1. The Bureau of Classification and Reception (BOCR) will receive the recommendation of the SMP for a placement in ERH after review by Legal Services in accordance with the processes set forth in DRC policy 56-DSC-03, Disciplinary Procedures for the Serious Misconduct Panel.
2. The assigned BOCR representative shall consider the recommendation of the SMP, any appeal submitted by the inmate to Legal Services and the review and recommendation of Legal Services when rendering a final decision. The regional BOCR representative must act within thirty (30) days of the recommendation from Legal Services and may affirm, reject or modify the recommendations of the SMP. They shall report their decision to the inmate and the SMP in writing using the Bureau of Classification's Decision form (DRC4031). The regional BOCR representative shall also review whether or not the inmate shall be eligible for Presumptive Release from ERH if they are compliant with their Inmate Adjustment Plan (IAP). In order to make an individual exempt from Presumptive Release eligibility, the regional BOCR representative must consult with the chief of the BOCR.
3. If the BOCR representative rejects the recommendation of the SMP to place the inmate into ERH, the BOCR representative may use the information provided by the SMP to place the inmate into the appropriate security level needed to safely manage the inmate.
4. If the decision is made to place the inmate into ERH, the inmate may be placed in ERH3, ERH1 or ERHT. The effective date of the inmate's placement into ERH shall be the date the inmate was originally placed in RH for the offense which resulted in their referral to the SMP. In all cases, the inmate shall receive all credit for time served in RH. If the inmate is placed into ERH3, but the credit for the amount of time served exceeds ninety (90) days, the inmate shall be placed in ERH2 as long as they have not committed any further acts which could have qualified for ERH3.



5. The inmate may appeal the decision of the BOCR Representative by filing a Notice of Objection – ERH Placement/Review (DRC2596) with the chief of the BOCR within fifteen (15) days. If fifteen (15) days expires, no additional response from the chief of the BOCR is required. The decision of the regional BOCR representative shall be affirmed and the inmate shall be placed in the appropriate security level and/or status. If an appeal is filed, the chief of the BOCR shall respond within fifteen (15) days of receipt.

## **G. ERH Level Review Committee**

1. General Provisions for the Review of Inmates in ERH
  - a. The unit classification committee shall serve as the ERH Level Review Committee as assigned by the managing officer of the facility.
  - b. An inmate shall be released from ERH when there are no longer sufficient security concerns justifying retention in ERH.
  - c. Regardless of eligibility for presumptive release from ERH, all inmates shall be meaningfully considered at each review for a reduction in ERH Level, or release from ERH, if they are compliant with their IAP.
  - d. After any status review, as outlined in DRC policy 55-SPC-02, Restrictive Housing Procedures, and documented on the Restrictive Housing Individual Record (DRC4118/4115), an inmate may be referred to the ERH Level Review Committee for consideration of release from ERH or reduction in ERH level.
  - e. No inmate, excluding those in ERHT, may have their ERH level increased via a level review. During a level review, the inmate may only be kept at the same ERH level or decreased.
  - f. Inmates in ERH1 or ERH2 may only have their status level raised by using the Serious Misconduct Panel (SMP).
  - g. An ERH Level Review is considered a replacement for the annual security review as required in DRC policy 53-CLS-01, Inmate Security Classification Levels 1 through 4.
  - h. All inmates shall receive at least forty-eight (48) hours notice of any level review using the Classification and Reclassification Processing form (DRC2099).
  - i. At any ERH level if an inmate is compliant with both the programmatic and behavioral requirements of their IAP, the managing officer/designee may grant a special review and lower the inmates ERH status or release them from ERH.
2. Inmate Adjustment Plan (IAP) and Thirty (30) Day Transfer Review
  - a. When the recommendation of the SMP is affirmed by the BOCR and the inmate is placed into ERH, the inmate shall receive a preliminary IAP which shall notify

him/her of whether they are eligible for Presumptive Release from ERH and provide an expected IAP to be followed while they are awaiting transfer to an ERH approved facility. This shall be documented on a Bureau of Classification's Decision form (DRC4031).

- b. All inmates placed into ERH and transferred to an approved ERH facility must have a review completed by an assigned unit staff member within thirty (30) calendar days of arrival to determine if they have been properly assigned. This review must include a review of the inmate's file to ensure that proper documentation has been included detailing how/why the inmate has been placed in ERH. The assigned staff member shall also create a permanent IAP, including both programmatic and behavioral criteria the inmate must follow to be eligible for Presumptive Release from ERH. This review and IAP shall be documented on an Extended Restrictive Housing (ERH) Placement Orientation, Review, and IAP form (DRC4036) and the inmate shall be provided a copy.
- c. If, while in ERH, an inmate commits new rule violations which change the behavioral or programmatic expectations of their IAP, a new Extended Restrictive Housing (ERH) Placement Orientation, Review, and IAP form (DRC4036) may be completed and served upon the inmate within thirty (30) days of the new behavior.

#### **H. ERH Level Review Procedures**

1. ERH3 Reviews (All ERH Inmates)
  - a. Any inmate placed at ERH3 shall have their level reviewed within ninety (90) days of their original placement in RH.
  - b. Prior to the review, they shall receive forty-eight (48) hours notice using the Classification and Reclassification Processing form (DRC2099).
  - c. If they have not been found guilty at RIB for an offense which violates their IAP, they shall be reduced to ERH2.
  - d. If the inmate violated the IAP within the ninety (90) day period, the unit classification committee may extend the stay in ERH3 for a maximum of ninety (90) days and review the inmate again.
  - e. If an inmate is reduced to ERH2, the date for the next review shall be set for twelve (12) months later.
  - f. The level review shall be documented using an ERH Level Review form (DRC4029). Only the managing officer's approval is necessary to move an inmate from ERH3 to ERH2. The BOCR representative section is not required to be completed.

2. ERH2 Reviews (All ERH Inmates)
  - a. Once an inmate is placed into ERH2, they shall have their level reviewed twelve (12) months from the month they were reduced to ERH2.
  - b. Prior to the review, they shall receive forty-eight (48) hours notice using the Classification and Reclassification Processing form (DRC2099).
  - c. If an inmate is compliant with the behavioral aspects of their IAP for twelve (12) months, they shall be reduced to ERH1. No inmate shall be held at ERH2 beyond twelve (12) months solely for not complying with the programmatic aspects of their IAP.
  - d. If an inmate is not compliant with the behavioral aspects of their IAP, as indicated by findings of guilt by the RIB for behaviors outlined in their IAP, they may be held in ERH2 for up to an additional twelve (12) months. The committee shall set the next month of review twelve (12) months from the date the inmate last violated their IAP.
  - e. The level review shall be documented using ERH Level Review form (DRC4029).
  - f. The committee shall forward their recommendation to the managing officer who shall either approve, disapprove or modify the decision. A copy of the ERH Level Review form (DRC4029) shall be served on the inmate. Once signed by the inmate, a copy of the ERH Level Review form (DRC4029) shall be forwarded to the assigned BOCR representative.
  - g. The inmate has fifteen (15) days to appeal the recommendation of the managing officer to the BOCR by completing and submitting a Notice of Objection to ERH Placement/Review form (DRC2596).
  - h. The BOCR representative shall consider the recommendation of the managing officer and any appeals by the inmate when rendering a final decision. The BOCR representative may approve, disapprove, or modify the recommendation of the managing officer. This final decision shall be recorded on the ERH Level Review form (DRC4029) and forwarded to the institution and a copy served on the inmate.
  - i. The inmate shall have fifteen (15) days after receipt of the BOCR's decision to file one (1) final appeal. This appeal shall be submitted to the BOCR chief on a Notice of Objection to ERH (DRC2596). The decision of the BOCR chief is final. If the inmate does not file an appeal, the decision of the BOCR representative is considered affirmed and no further action is required.
3. ERH1 Reviews - Presumptive Release Eligible Inmates Only
  - a. Once a Presumptive Release eligible inmate is placed into ERH1, they shall have their level reviewed twelve (12) months after their placement into ERH1.

- b. Prior to the review, they shall receive forty-eight (48) hours notice using the Classification and Reclassification Processing form (DRC2099).
  - c. If an inmate is compliant with the behavioral aspects of their IAP for twelve (12) months, they shall be reduced to ERHT. No Presumptive Release eligible inmate shall be held at ERH1 beyond twelve (12) months solely for not complying with the programmatic aspects of their IAP.
  - d. If an inmate is not compliant with the behavioral aspects of their IAP, as indicated by findings of guilt by the Rules Infraction Board for behaviors outlined in their IAP, they may be held in ERH1 for up to an additional twelve (12) months. The committee shall set the next month of review from the date the inmate last violated their IAP.
  - e. The level review shall be documented using an ERH Level Review form (DRC4029).
  - f. The committee shall forward their recommendation to the managing officer who shall either approve, disapprove or modify the decision. A copy of the ERH Level Review (DRC4029) shall be served on the inmate for review and signature. Once signed by the inmate, the ERH Level Review (DRC4029) shall be forwarded to the assigned BOCR representative.
  - g. The inmate has fifteen (15) days to appeal the recommendation of the managing officer to the BOCR by using a Notice of Objection to ERH Placement/Review form (DRC2596).
  - h. The BOCR representative shall consider the recommendation of the managing officer and any appeals by the inmate when rendering a final decision. The BOCR representative may approve, disapprove, or modify the recommendation of the managing officer. This final decision shall be recorded on the ERH Level Review form (DRC4029) and forwarded to the institution and a copy served on the inmate.
  - i. The inmate shall have fifteen (15) days after receipt of the BOCR's decision to file one (1) final appeal. This appeal shall be submitted to the BOCR chief on a Notice of Objection to ERH Placement/Review form (DRC2596). The decision of the BOCR chief is final. If the inmate does not file an appeal, the decision of the BOCR representative is considered affirmed and no further action is required.
4. ERH1 Reviews- Non-Presumptive Release Eligible Inmates
- a. Once an ineligible inmate is placed into ERH1, they shall have their level reviewed twelve (12) months after their placement into ERH1.
  - b. Prior to the review, they shall receive forty-eight (48) hours notice using the Classification and Reclassification Processing form (DRC2099).
  - c. If an ineligible inmate is not compliant with the behavioral aspects of their IAP as indicated by findings of guilt by the Rules Infraction Board for behaviors outlined in their IAP, they may be held in ERH1 for up to an additional twelve (12) months. The

committee shall set the next month of review from the date the inmate last violated their IAP. If the ineligible inmate was not compliant with their IAP, the unit committee may use an ERH Level Review form (DRC4029) to complete the review and follow the procedures outlined in section VI.H.3 of this policy.

- d. If an inmate was compliant with their IAP, they are not automatically eligible for reduction to ERHT. The inmate must be meaningfully considered for release on no less than an annual basis. For IAP compliant inmates who are not eligible for presumptive release from ERH, ERH1 reviews shall be conducted in accordance with section I of this policy. If an inmate who is not eligible for Presumptive Release from ERH was placed in the status because their conduct constituted the greatest threat to the safety and security of an institution or the community, then more time may be needed to ensure the inmate is eligible for release.

5. ERHT Reviews (All ERH Inmates)

Once an inmate is placed in ERHT, they are automatically considered eligible for Presumptive Release. An inmate may only be made ineligible again if they are found guilty of a rule violation by the SMP and are exempted from Presumptive Release by the chief of the BOCR.

- a. The ERH Level Review Committee for inmates in ERHT shall consist of Multi-Disciplinary Services and Treatment Teams as defined in this policy. There shall be at least two (2) members from the committee from two (2) different disciplines. Prior to rendering any decision, the committee shall consult with a licensed practitioner in any area where the inmate has a significant need. This consultation shall be documented on the ERH Transitional Monthly Review (DRC4030) committee comments section.
- b. Once any inmate is placed into ERHT, they shall be reviewed monthly after their placement in ERHT to consider release to general population Level 4. No inmate shall be held in ERHT for more than six (6) months unless they have violated their IAP, or committed an offense which would qualify under section VI.C of this policy and have been referred to the SMP.
- c. If an inmate violates their IAP or a behavior which qualifies under section VI.C of this policy, as indicated by a finding of guilt at the RIB, the unit classification committee may hold a hearing and immediately place the inmate back into ERH1 for a maximum of twelve (12) months. The next review shall be set twelve (12) months from the date of the infraction resulting in their placement back into ERH1.
- d. The level review shall be documented using an ERH Transitional Monthly Review form (DRC4030). The BOCR approval is only needed if the inmate is placed back into ERH1 for a violation of their IAP or for the final release from ERH.
- e. The inmate's adjustment plan while in ERHT must be updated and monitored to reflect the specific step-down programs which will be offered to the inmate while in this transition phase in addition to the behavioral expectations. All of this

information shall be documented on the ERH Transitional Monthly Review form (DRC4030) in the Program Transition Plan section.

- f. The first month in ERHT is considered an evaluation phase where the inmate is integrated into limited congregate activity and increased out-of-cell time.
- g. During each subsequent monthly review, the committee shall evaluate the programs and activities the inmate has been involved in during the transition phase as well as any behaviors which may possibly lead to negative or positive adjustment in general population. At each review, the committee shall document gradual increases in: out-of-cell time, group interaction, program/education opportunities, and privileges on the ERH Transitional Monthly Review form (DRC4030).
- h. Prior to release from ERH, the inmate shall have a complete review of their behavior and programmatic progress while in ERHT. The reasons an inmate refused any recommended programs shall be documented but shall NOT be used solely to retain him/her in ERHT unless there is a specific behavior in violation of the IAP which would necessitate continuation in ERH.
- i. At the last review prior to release, the committee shall also make a final decision on the security level after an inmate is released from ERH. The default security level for all inmates exiting ERH is Level 4. If the committee concludes Level 4 is appropriate, the inmate shall be placed at that level and the next annual review shall be scheduled for one (1) year from that date. If the level review committee determines Level 4 may not be appropriate, they may complete a special review under the guidelines specified in DRC policy 53-CLS-01, Inmate Classification Levels 1 through 4, to consider reduction to another security level.
- j. After an inmate is released from ERHT to general population, a final monthly review shall be completed at least thirty (30) days after their release, but no more than sixty (60) days. During this review, the inmate may NOT be placed back into ERH for any reason by the review committee. If an inmate has committed any violation which requires consideration of placement back into ERH, they must be placed using the SMP procedures as outlined in this policy and in DRC policy 56-DSC-03, Disciplinary Procedures for the Serious Misconduct Panel (SMP). However, during this review, the committee shall discuss the inmate's progress and identify any barriers or concerns the inmate has about successful reintegration back into general population. The committee shall document any follow-up or actions taken to resolve the inmates concerns or to overcome any barriers to successful reintegration on the ERH Transitional Monthly Review form (DRC4030). No BOCR review is required for this after release review.

**I. ERH1 Level Review Procedures for IAP compliant inmates NOT Eligible for Presumptive Release**

1. Notice of hearing

The inmate must be served with a Notice of Hearing/ERH Level Review (DRC2646/2647/2648) at least forty-eight (48) hours prior to the hearing, unless waived in writing, and afforded the opportunity to appear before the entire committee, unless waived in writing, to offer any pertinent information, explanation, or objections to ERH retention.

2. Level Review Committee

- a. The Level Review Committee must consist of three (3) members, who may include the deputy warden of operations (DWO) or designee, unit management chief (UMC), a unit manager, a case manager or other unit staff member and may include mental health staff.
- b. The inmate must be afforded the opportunity to appear and to submit a written statement and other documents.
- c. If the Level Review Committee intends to rely on a statement that previously was not made known to the inmate, the Level Review Committee shall disclose the substance of such information to the inmate. Before utilizing such information, the Level Review Committee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Level Review Committee must document information presented by the staff and inmate on the Notice of Hearing/ERH Level Review (DRC2649/2627/2628). The Level Review Committee shall make an audio recording of the hearing.
- e. The Level Review Committee must review the Notice of Hearing/ERH Level Review (DRC2646/2647/2648) and must take into consideration at a minimum the following information:
  - Reason for placement in ERH and relevant circumstances;
  - Guilty findings by the RIB and SMP;
  - Current ERH Level;
  - Time served in current ERH level;
  - Total time spent in ERH;
  - Time left to spend on current sentence;
  - Time since last incident that resulted in inmate being designated ERH;
  - Program involvement;
  - Behavior, including prior to current ERH placement;
  - Security level prior to placement;
  - Adjustment/behavior after placement and during previous placements in general population;
  - Factors which indicate a risk of future violence;
  - Interaction with others (staff or inmates);

- Recognition and acknowledgment of the factors contributing to the commission of the placement offense and nature;
  - The findings and recommendations of the previous assessment committees;
  - Previous review committees;
  - The findings and recommendations of all assessment committees subsequent to the placement in ERH; and
  - The findings and recommendations of all security and level review committees subsequent to placement in ERH.
- f. The Level Review Committee shall use professional correctional judgment to evaluate the inmate's likelihood to repeat prohibited actions. The Level Review Committee must make a comprehensive review of the inmate's institutional adjustment and behavior including his or her behavior since placement in ERH in order to make an assessment of the risk to safety and security posed by the inmate. The Level Review Committee must consider the factors listed above, the circumstances underlying the placement in ERH, the reasons for initial placement, the inmate's subsequent adjustment and his or her demonstrated attitude. The Level Review Committee must determine whether there has been a diminishing of the inmate's risk to the safety of persons within their correctional judgment.
- g. The Level Review Committee must make a recommendation accordingly and must articulate the reason(s) for its recommendation in a written statement on the Recommendation of the Classification Committee/ERH Level Review (DRC2660) and list the sources of information relied on for the recommendation. The statement need not be lengthy; however, it must include every basis for the recommendation, and may not be merely conclusory.
- h. The Level Review Committee must consider and communicate in sufficient detail inmate's positive behavior during the annual review process.
- i. The Level Review Committee must provide a reasoned decision to the inmate that tells what he/she can do to increase the likelihood of reducing his or her ERH status to ERHT.
- j. The inmate must be provided promptly with a copy of the Level Review Committee's recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections on a Notice of Objection – ERH Placement/Review (DRC2596) before the next review. The inmate must be notified upon receipt of the Level Review Committee's recommendation that he or she may file a formal objection with the managing officer or designee no later than fifteen (15) calendar days from the date the inmate is served with the Level Review Committee's recommendation and reason(s).
3. The Managing Officer or Designee
- a. If the Level Review Committee recommends against retention and recommends placement in ERHT, the process for ERH retention shall terminate and the



recommendation against retention must control; unless the managing officer or designee overturns the recommendation against retention. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the Level Review Committee's recommendation against retention in ERH.

- b. The managing officer or designee must review the Notice of Hearing/ERH Level Review (DRC2646/2647/2648), the written recommendation and reasons of the Recommendation of the Classification Committee/ERH Level Review (DRC2660), any objections filed by the inmate on a Notice of Objection – ERH Placement/Review (DRC2596), and any other relevant information presented by staff or the inmate.
  - c. If the managing officer/designee intends to rely on a statement that previously was not made known to the inmate, the managing officer/designee shall disclose the substance of such information to the inmate. Before utilizing such information, the managing officer/designee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
  - d. The managing officer/designee must make a recommendation to retain or reduce the inmate's ERH Level to ERHT and must articulate the reason(s) for the recommendation in a written statement on the Recommendation of Managing Officer/ERH Level Review (DRC2650) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the decision and may not be merely conclusory.
  - e. The inmate must be provided promptly with a copy of the managing officer recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections on a Notice of Objection – ERH Placement/Review (DRC2596) before the review of the chief of the BOCR or designee. The inmate must be notified upon receipt of the managing officer recommendation that he/she may file a formal objection with the chief of the BOCR or designee no later than fifteen (15) days from the date he/she is served with the managing officer recommendation and reason(s).
4. Chief of the BCR or Designee
- a. If the managing officer or designee recommends against retention and recommends placement in ERHT, the process for ERH retention shall terminate and the recommendation against retention must control; unless the chief of the BOCR or designee overturns the recommendation against retention. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the managing officer/designee's recommendation against retention in ERH.
  - b. The chief of the BOCR/designee must review the Notice of Hearing/ERH Level Review (DRC2646/2647/2648), the written recommendations and reasons of the Recommendation of the Classification Committee/ERH Level Review (DRC2660)

and the Recommendation of Managing Officer/ERH Level Review (DRC2650), any objections filed by the inmate on a Notice of Objection – ERH Placement/Review (DRC2596), and any other relevant information presented by staff or the inmate.

- c. If the BOCR intends to rely on a statement that previously was not made known to the inmate, the BOCR shall disclose the substance of such information to the inmate. Before utilizing such information, the BOCR shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The chief of the BOCR/designee must decide whether to retain or reduce the inmate and must articulate the reason(s) for his or her decision in a written statement. The chief of the BOCR/designee must articulate the justification for the decision in a written statement of reasons on the Decision of the Bureau of Classification/ERH Level Review (DRC2656) and list the sources of information relied on for the decision. The statement need not be lengthy; however, it must include every basis for the decision and may not be merely conclusory.
- e. The inmate must be provided promptly with a copy of the decision and the reason(s).
- f. The decision of the chief of the BOCR/designee is final and not appealable.

### **Related Department Forms**

Security Designation/Long Form Male Page 1	DRC2568
Inmate Appeal of ERH level placement/review to Bureau Chief	DRC2596
Summary of Inmate's Information/ERH Placement/Review	DRC2627
Summary of Staff's Information/ERH Placement/Review	DRC2628
Security Designation (Long Form) Male (Page 2 of DRC2568)	DRC2630
Notice of Hearing/Level ERH Review	DRC2646
Security Level Review (ERH)	DRC2647
Security Level Review (Pg 2 of DRC2647)	DRC2648
Classification Committee Record of Hearing/ERH Review	DRC2649
Recommendation of Warden/Security ERH Review	DRC2650
Decision/Bureau of Classification/ERH Review	DRC2656
Recommendation of the Classification Committee/ERH	DRC2660
Classification Committee Record of Hearing/ERH	DRC2662
Security Designation/Female (Pg1)	DRC2690
Security Designation/Female (Pg2)	DRC2691
ERH Level Review	DRC4029
ERH Transitional Monthly Review	DRC4030
BOCR Regional Response to SMP Recommendation	DRC4031
ERH Orientation, Review, and Adjustment Plan	DRC4036