

**What Defenders Need to Know about Civil Commitment of
Sexually Dangerous Persons Resources Handout
August 20, 2026**

1. Statutes

- a. 18 U.S.C. § 4248: Civil Commitment of a sexually dangerous person
- b. 18 U.S.C. § 4247: General Provisions and relevant definitions

2. 28 C.F.R Part 549 Subpart H: Civil Commitment of a Sexual Dangerous Person

- a. § 549.92 Definition of “sexually violent conduct” includes any unlawful conduct of a sexual nature with another person (“the victim”) that involves:
 - i. The use or threatened use of force against the victim;
 - ii. Threatening or placing the victim in fear that the victim, or any other person, will be harmed;
 - iii. Rendering the victim unconscious and thereby engaging in conduct of a sexual nature with the victim;
 - iv. Administering to the victim, by force or threat of force, or without the knowledge or permission of the victim, a drug, intoxicant, or other similar substance, and thereby substantially impairing the ability of the victim to appraise or control conduct; or
 - v. Engaging in such conduct with a victim who is incapable of appraising the nature of the conduct, or physically or mentally incapable of declining participation in, or communicating unwillingness to engage in, that conduct.
- b. § 549.93 Definition of “child molestation.”
 - i. includes any unlawful conduct of a sexual nature with, or sexual exploitation of, a person under the age of 18 years.
- c. § 549.95 Determining “serious difficulty in refraining from sexually violent conduct or child molestation if released.” In determining whether a person will have “serious difficulty in refraining from sexually violent conduct or child molestation if released,” Bureau mental health professionals may consider, but are not limited to, evidence:
 - i. Of the person's repeated contact, or attempted contact, with one or more victims of sexually violent conduct or child molestation;
 - ii. Of the person's denial of or inability to appreciate the wrongfulness, harmfulness, or likely consequences of engaging

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- or attempting to engage in sexually violent conduct or child molestation;
- iii. Established through interviewing and testing of the person or through other risk assessment tools that are relied upon by mental health professionals;
- iv. Established by forensic indicators of inability to control conduct, such as:
 - 1. Offending while under supervision;
 - 2. Engaging in offense(s) when likely to get caught;
 - 3. Statement(s) of intent to re-offend; or
 - 4. Admission of inability to control behavior; or
- v. Indicating successful completion of, or failure to successfully complete, a sex offender treatment program.

3. Supreme Court Case Law

- a. *Kansas v. Hendrix*, 521 U.S. 346 (1997)
- b. *Kansas v. Crane*, 534 U.S. 2002 (2002)
- c. *United States v. Comstock*, 560 U.S. 126 (2010)

4. Significant Fourth Circuit Case Law

- a. *United States v. Hall*, 664 F.3d 456 (4th Cir. 2012)
- b. *United States v. Wooden*, 693 F.3d 440 (4th Cir. 2012)
- c. *United States v. Antone*, 742 F.3d 151 (4th Cir. 2014)
- d. *United States v. Caporale*, 401 F.3d 128 (4th Cir. 2012)

5. Our Team

- a. Joseph_Craven@fd.org
- b. Susanna_Henry@fd.org
- c. Paul_Downing@fd.org
- d. Christine_Piekelnjak@fd.org