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LIFETIME SUPERVISION OF SEX OFFENDERS

Annual Report



November 1, 2000

Colorado Department of Corrections
Colorado Department of Public Safety
State Judicial Department

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Attachment B:	Sexual Predator Risk Assessment Screening Instrument
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Attachment D:	Sex Offender Management Board Provider List

INTRODUCTION

The Department of Corrections, Department of Public Safety and the State Judicial Department have collaborated to write this First Annual Report on Lifetime Supervision of Sex Offenders. The report is submitted pursuant to Section 16-13-811 C.R.S.:

“On or before November 1, 2000, and on or before each November 1 thereafter, the Department of Corrections, the Department of Public Safety, and the Judicial Department shall submit a report to the judiciary committees of the house of representatives and the senate and to the joint budget committee of the general assembly specifying, at a minimum:

- (a) The impact on the prison population, the parole population, and the probation population in the state due to the extended length of incarceration and supervision provided for in sections 16-13-804, 16-13-806, and 16-13-808;
- (b) The number of offenders placed in the intensive supervision parole program and the intensive supervision probation program and the length of supervision of offenders in said programs;
- (c) The number of sex offenders sentenced pursuant to this part 8 who received parole release hearings and the number released on parole during the preceding twelve months, if any;
- (d) The number of sex offenders sentenced pursuant to this part 8 who received parole or probation discharge hearings and the number discharged from parole or probation during the preceding twelve months, if any;
- (e) The number of sex offenders sentenced pursuant to this part 8 who received parole or probation revocation hearings and the number whose parole or probation was revoked during the preceding twelve months, if any;
- (f) A summary of the evaluation instruments developed by the management board and use of the evaluation instruments in evaluating sex offenders pursuant to this part 8; and
- (g) The availability of sex offender treatment providers throughout the state, including location of the treatment providers, the services provided, and the

amount paid by offenders and by the state for the services provided, and the manner of regulation and review of the services provided by sex offender treatment providers.”

This report is intended to provide the Colorado General Assembly with information on the initial implementation of the Lifetime Supervision Act in Colorado. It is organized in three sections, one for each of the required reporting departments. Each department addresses the information for which it is responsible in implementing lifetime supervision and associated programs.

IMPACT ON PRISON POPULATION

PRISON ADMISSIONS SENTENCED UNDER LIFETIME PROVISIONS

The lifetime Supervision Act applies to persons convicted of sex offenses committed on or after November 1, 1998. The first prison admissions for the Lifetime Supervision Act qualifying lifetime sexual offenses were forecast beginning in the fall of 1999 (Fiscal Year 1999-2000).

The first offender sentenced to prison was received in June of 1999, slightly earlier than projected. Fiscal Year 1999-2000 prison admissions under lifetime sentencing provisions were slightly less than forecast at 43 offenders, for a total of 44 lifetime offenders to date through June 2000. Twenty-four offenders have been sentenced to prison for sex offenses meeting the criteria of lifetime of an enumerated sexual offense and offense date on or after November 1, 1998, but were not sentenced pursuant to the lifetime sentencing requirements. The Department is still working with the courts and prosecuting attorneys to resolve these cases and clarify the issues on lifetime. A common misconception among attorneys, court administrators and offenders appears to be that lifetime only applies to the parole supervision period.

ANALYSIS OF TIME FROM OFFENSE TO PRISON

The impact of lifetime on sex offenders sentenced to prison is not anticipated to be fully realized until Fiscal Year 2002-2003. An analysis was completed on the time from actual commission of the offense (offense date) to prison admission (admission date) for sexual offenses enumerated in the lifetime legislation. Convictions for the enumerated offenses that resulted in a prison admission between July 1, 1996 and June 30, 2000 were analyzed to determine the amount of time between offense and admission to prison. This analysis indicates that approximately 28% will be sentenced to prison within one year; 27% between one and two years; 15% between two and three

years; 25% between 3 and 4 years; and the remaining 5% after 4 years. Higher felony class two and three offenses had shorter time to prison admission, attributable in part to the large number of less severe felony class three and four offenses sentenced to probation or community corrections prior to the prison sentence. In these cases, the prison sentence is a result of the probation or community corrections sentence being revoked.

SENTENCING TRENDS FOR PRISON ADMISSIONS FOR SEXUAL OFFENSES

Sentencing trends will be closely monitored as part of this legislation to identify changes in the felony class and offense distributions for all sexual offenses resulting in prison admission. Class two, three and four felony sexual offenses are required to be sentenced under the lifetime provisions while class five and six felony sexual offenses are not included. Class five felonies consist of inchoate crimes involving attempt, conspiracy, solicitation or accessory to a higher class of sexual offense. Class six felonies also consist of inchoate offenses and third degree sexual assault against the at-risk population.

Table 1 provides information regarding the number of prison admissions for sexual offenses by felony class for fiscal years 1996-1997 through 1999-2000. The sexual offenses listed may not be the most serious crime; however the sexual offense will become the most serious crime in future years when sentenced to a maximum sentence of life under the lifetime provisions.

TABLE 1
Prison Admissions with Sexual Offense Conviction

	C.R.S.	FISCAL YEAR			
		96-97	97-98	98-99	99-00
Felony Class 2					
First Deg. Sexual Assault	18-3-402	10	11	16	8 (3)
Total-Felony Class 2		10	11	16	8 (3)
Felony Class 3					
First Deg. Sexual Assault	18-3-402	30	23	35	11
Sex Assault-Child Position of Trust	18-3-405.3	2	55	59	70 (11)
Sex Assault-Child	18-3-405	89	39	28	33 (2)
Second Deg. Sexual Assault	18-3-403	1			
Second Deg. Sexual Assault-At Risk	18-3-403				1
Aggravated Incest	18-6-302	5	6	6	9 (2)
Patronizing a Prostituted Child	18-7-406				
Enticement of Child	18-3-305			1	1
Subtotal - Offenses		127	123	129	125 (15)
Inchoates (Class 2 Crime)					
First Deg. Sexual Assault-Attempt	18-3-402	2	3	5	3 (1)
Subtotal - Inchoate		2	3	5	3 (1)
Total-Felony Class 3		129	126	134	128 (16)
Felony Class 4					
Sex Assault-Child Position of Trust	18-3-405.3	0	24	20	17 (1)
Sex Assault-Child	18-3-405	115	83	91	114 (18)
Second Deg. Sexual Assault	18-3-403	34	32	23	23 (1)
Third Deg. Sexual Assault	18-3-404(2)	7	5	7	7 (1)
Sexual Assault-Client by Psychotherapist	18-3-405.5		2		
Incest	18-6-301	1	1	3	5
Enticement of Child	18-3-305	2	4	2	3
Subtotal - Offenses		159	151	146	169 (21)
Inchoates (Class 2 or 3 Crime)					
First Deg. Sexual Assault-Attempt	18-3-402	6	5	7 (1)	8 (2)
Sex Assault-Child Pos. of Trust Attempt	18-3-405.3	1	4	1	1
Sex Assault-Child Attempt	18-3-405	5	5	1	4 (1)
Aggravated Incest Attempt	18-6-302			1	
Patronizing a Prostituted Child Attempt	18-7-406			1	
Subtotal - Inchoate		12	14	11 (1)	13 (3)
Total-Felony Class 4		171	165	157 (1)	182 (24)
Felony Class 5 (Inchoate)					
First Deg. Sexual Assault-Accessory	18-3-402		1		
Sex Assault-Child Position of Trust Attempt	18-3-405.3	1	8	2	3
Sex Assault-Child Attempt	18-3-405	33	28	35	45
Second Deg. Sexual Assault Attempt	18-3-403	10	16	16	30
Third Deg. Sexual Assault Attempt	18-3-404(2)	1	3	3	1
Incest Attempt	18-6-301	1	1		1
Enticement of Child Attempt	18-3-305				2
Total-Felony Class 5 (Inchoate)		46	57	56	82
Felony Class 6 (Inchoate)					
Third Deg. Sexual Assault-At Risk	18-3-404			1	2
Total-Felony Class 6 (Inchoate)		0	0	1	2
Total Sexual Offense Convictions		356	359	364 (1)	402 (43)

(n) the number sentenced under lifetime provisions included in the total.

SOURCE: Office of Planning & Analysis, CDOC. October 23, 2000.

Table 1 separates inchoate (attempt, conspiracy, solicitation or accessory) convictions for easier comparison. The number of lifetime-sentenced offenders is shown in parenthesis by offense and is included in the number reported. The number of convictions for first degree sexual assault, the only class two felony, has fluctuated yearly but the overall number of admissions is low. Class three offense and inchoate convictions have remained stable over this four-year period with a slight decrease of 4% in fiscal year 1999-2000. Class four offense convictions increased nearly 16% in fiscal year 1999-2000, due to a large increase in sexual assaults on children. Class five inchoate convictions rose 46% in fiscal year 1999-2000, with second degree sexual assault attempts increasing 88% and sexual assault on a child attempts increasing 29%.

Increases in the class five inchoate convictions would indicate a shift in the sentencing trends for prison admissions from offenses subject to the lifetime provisions towards less severe offenses not falling under the lifetime legislation. Conviction rates for these offenses will be closely monitored over the next two years and additional research will be needed to ascertain the full extent to which sentencing has been modified. This research will need to encompass the severity of the underlying offense, prior criminal history and other factors that may influence or affect the final sentencing and placement of the offender.

IMPACT ON PAROLE POPULATION

Impact on the parole population is projected to begin in fiscal year 2000-2001 as the first prison admissions sentenced under lifetime are released to parole. These offenders are subject to the discretion of the Parole Board and must meet the release criteria established in the *Sex Offender Management Board Lifetime Supervision Criteria* (**ATTACHMENT A**).

ATTACHMENT A: *Sex Offender Management Board Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders;*

*Lifetime Supervision Criteria;
Standards for Community Entities That Provide Supervision and
Treatment for Adult Sex Offenders Who Have Developmental
Disabilities*

INTENSIVE SUPERVISION PAROLE PROGRAM AND LENGTH OF SUPERVISION

The first releases to parole are projected to occur in Fiscal Year 2000-2001 and these offenders will be placed in the Specialized Intensive Supervision Parole Program.

PAROLE RELEASE HEARINGS AND NUMBER RELEASED TO PAROLE

Five offenders sentenced under the lifetime provisions were seen by the Parole Board for release consideration. Four offenders were deferred by the Parole Board for at least one year (2 offenders) up to three years (1 offender). One offender waived his Parole Board hearing and will see the Parole Board in August 2000. Three of the five offenders had participated in sex offender treatment before seeing the Board. One offender was expelled from Phase I, one offender unsatisfactorily completed Phase I and must repeat the program, and one offender completed Phase I and is currently in Phase II.

PAROLE DISCHARGE HEARINGS AND NUMBER DISCHARGED FROM PAROLE

No parole discharge hearings have occurred for offenders sentenced under lifetime as no offenders have released to parole under this provision. Parole discharge hearings are not anticipated for the next several years as the offender must complete ten years on parole for class four offenses or twenty years for class two, or three offenses to be considered for discharge by the Parole Board.

PAROLE REVOCATION HEARINGS AND THE NUMBER OF PAROLE REVOCATIONS

No parole revocation hearings have occurred to date for lifetime offenders as no offenders have released to parole under this legislation.

SEX OFFENDER TREATMENT AND MONITORING PROGRAM (SOTMP)

Minimum to Life Treatment Formats

The lifetime supervision legislation is not intended to increase the minimum sentence for sex offenders. In order to provide treatment without increasing minimum sentences, the Sex Offender Treatment and Monitoring Program (SOTMP) has developed additional program formats to accommodate shorter minimum sentences.

The current program has been expanded to provide treatment formats for the following three groups of sex offenders:

- 1) Offenders with six years or more minimum sentence;
- 2) Offenders with two to six years minimum sentence;
- 3) Offenders with less than two years minimum sentence.

Group 1 will be offered the Standard SOTMP Format at Fremont Correctional Facility, Colorado Territorial Correctional Facility, Sterling Correctional Facility and Arrowhead Correctional Center. Group 2 will be offered the Modified Format at Fremont Correctional Facility. Group 3 will be offered the Foundation Format at Fremont Correctional Facility and Colorado Territorial Correctional Facility. We are also offering a deniers group at Sterling Correctional Facility that is intended to help offenders meet participation criteria for sex offense treatment.

Standard Format - projected 2 ½ years treatment

Criteria for release:

- Actively participating and progressing in treatment
- Non-deceptive baseline polygraph
- Any recent monitoring polygraph exams must also be non-deceptive
- No institutional acting-out within the last year
- Personal Change Contract (Relapse Prevention Plan)
- Identified educated community support person
- Compliant with any psychiatrist recommended medications
- Current treatment program which includes evaluation, Phase I, and Phase II (Therapeutic Community)

Modified Format - projected 9 to 18 month treatment

Criteria for release:

- Actively participating and progressing in treatment
- Non-deceptive baseline polygraph
- Any recent monitoring polygraph exams must also be non-deceptive
- No institutional acting-out within the last year
- Defined sexual offense cycle
- Identified educated community support person
- Compliant with any psychiatrist recommended medications
- Offense specific evaluation and expanded Phase I to include defined sexual abuse cycle, sexual history and family education. The relapse prevention plan and community support person will be developed during community sex offender treatment.

Foundation Format - projected 3 month treatment

Criteria for release:

- Actively participating in group
- Non-deceptive baseline polygraph
- Completed offense specific evaluation
- No institutional acting-out behavior

- Compliant with any psychiatrist recommended medications
- Offense specific evaluation and group to develop sexual history and prepare for baseline polygraph

Availability and Cost of Sex Offender Treatment

The Fiscal Year 1999-2000 Department of Corrections budget included \$2,034,534 for the assessment, treatment, testing including polygraphs, research and registration coordination of sex offenders. 616 sex offenders participated in treatment while incarcerated in fiscal year 1999-2000, including 8 offenders sentenced under the lifetime provisions.

468 offenders participated in sex offender treatment while under parole supervision during Fiscal Year 1999-2000. Sex offender treatment is funded through the parole contract services budget that also includes funding for mental health, medical, and other services and the specific amounts used for sex offender treatment cannot be identified. The Parole Tracking Information System currently being developed and implemented is intended to assist the Department of Corrections in identifying all services provided while offenders are under parole supervision.

SUMMARY OF EVALUATION INSTRUMENTS

The Sex Offender Management Board (SOMB) has participated in the development of two distinct evaluation processes for convicted sex offenders. The first is the mental health sex offense-specific evaluation process outlined in the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, referred to in this document as the Standards (**ATTACHMENT A**). The second is the Sexual Predator Risk Assessment Screening Instrument, developed in collaboration with the Office of Research and Statistics in the Division of Criminal Justice, Department of Public Safety. Each evaluation is described below.

Mental Health Sex Offense-Specific Evaluation

The mental health sex offense-specific evaluation is to be completed as a part of the pre-sentence investigation, post-conviction and prior to sentencing. It is intended to provide the Court with information that will assist in identifying risk and making appropriate sentencing decisions. All offenders sentenced under the Lifetime Supervision Act would have received a mental health sex offense-specific evaluation as a part of their Pre-Sentence Investigation Report (PSIR)

The process requires that certain areas or components be evaluated for each offender, and identifies a number of instruments or methods that can be utilized to accomplish each task. This allows each evaluator to design the most effective evaluation for each offender, based on the individual behaviors and needs of the offender. It also ensures that each evaluation performed under the Standards will cover the appropriate areas necessary to assess risk and recommend appropriate interventions. For more information please refer to **ATTACHMENT A**.

ATTACHMENT A: *Sex Offender Management Board Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, Section 2.00 Standards for Mental Health Sex Offense-Specific Evaluations*

Sexual Predator Risk Assessment Screening Instrument

In response to federal legislation, the Colorado General Assembly passed legislation regarding the identification and registration of Sexually Violent Predators (Section 16-11.7-103 (c.5) C.R.S.). A person who is found to be a Sexually Violent Predator by the courts or Parole Board is required to register quarterly rather than annually (Section 18-3-412.5 (3.5) C.R.S.), be posted on the internet by the Colorado Bureau of Investigation (Section 18-3-412.5 (3.5) (e) C.R.S.), and may be subject to community notification (Section 16-13-903 C.R.S.).

Pursuant to Section 16-11.7-103 (4) (c.5) C.R.S., the Sex Offender Management Board collaborated with the Office of Research and Statistics in the Division of Criminal Justice, to develop criteria and an empirical risk assessment scale for use in the identification of Sexually Violent Predators. The criteria were developed between July 1, 1998 and December 1, 1998 by representatives from the Sex Offender Management Board, the Parole Board, the Division of Adult Parole, the private treatment community and victim services agencies. The actuarial scale was developed by the Office of Research and Statistics in consultation with the SOMB over a three-year period and will require periodic updating. The Sexual Predator Risk Assessment Screening Instrument identifies those sex offenders convicted of certain crimes who will be most likely to re-offend with new sexual crimes.

The Office of Probation Services in the Judicial Department and the Office of Research and Statistics are responsible for implementing the Sexual Predator Risk Assessment Screening Instrument. From January 1, 1999 to May 31, 1999, a team from both offices obtained feedback on the instrument from probation officers and evaluators from across the state, including conducting a pretest of the instrument. A statewide training on the

use of the instrument was conducted via video-conferencing on June 30, 1999. Videotapes of the training are available for on-going training of new staff.

Currently, when an offender commits one of five specific crime types, either probation or the Department of Corrections and an SOMB Approved Sex Offender Treatment Provider administer the Sexual Predator Risk Assessment Screening Instrument. If the offender meets the criteria outlined in the instrument, the court or Parole Board makes a determination that the offender is a Sexually Violent Predator. The Sexual Predator Risk Assessment Screening Instrument and the handbook describing their development and use are located in **ATTACHMENT B and C**.

ATTACHMENT B: Sexual Predator Risk Assessment Screening Instrument

ATTACHMENT C: Sexually Violent Predator Risk Assessment Screening Instrument Handbook

DESCRIPTION OF SERVICES

Background

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107 C.R.S.) which created a Sex Offender Treatment Board to develop standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of sex offenders. The General Assembly changed the name to the Sex Offender Management Board (hereafter SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (hereafter Standards) were originally drafted by the SOMB over a period of two years and were first published in January 1996. The Standards were revised in 1998 and 1999 for two reasons: To address omissions in the original Standards, that were identified during implementation, and to keep the Standards current with the developing literature in the field of sex offender management. The Standards apply to adult sexual

offenders under the jurisdiction of the criminal justice system. The Standards are designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate of the SOMB and the primary goals of the Standards are to improve community safety and protect victims.

While the legislation acknowledges, and even emphasizes, that sex offenders cannot be "cured", it also recognizes that the criminal sexual behaviors of many offenders can be managed. The combination of comprehensive sex offender treatment and carefully structured and monitored behavioral supervision conditions can assist many sex offenders to develop internal controls for their behaviors.

A coordinated system for the management and treatment of sex offenders "contains" the offender and enhances the safety of the community and the protection of victims. To be effective, a containment approach to managing sex offenders must include interagency and interdisciplinary teamwork. The system developed by the Sex Offender Management Board requires the use of community supervision teams which must include a treatment component, a criminal justice supervision component and a post-conviction polygraph component to monitor behavior and risk.

These Standards are based on the best practices known today for managing and treating sex offenders. To the extent possible, the SOMB has based the Standards on current research in the field. Materials from knowledgeable professional organizations also have been used to direct the Standards. Sex offender management and treatment is a developing specialized field. The SOMB will remain current on the emerging literature and research and will continue to modify the Standards periodically on the basis of new findings. It is certain, however, that many decisions will have to be made in the absence of clear research findings. Such decisions will therefore be directed by the governing philosophy of public safety and on a common-sense interpretation of the *Guiding Principles* listed in the Standards which form the foundation of the Standards.

State statute prohibits the Department of Corrections, the Judicial Department, the Division of Criminal Justice of the Department of Public Safety, or the Department of Human Services from employing or contracting with, or allowing a convicted sex offender to employ or contract with providers unless they meet these Standards (Section 16-11.7-106 C.R.S.).

Mental Health Sex Offense-Specific Evaluation

According to the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, Standards 2.010 and 2.020, each sex offender shall receive a **mental health sex offense-specific evaluation** at the time of the pre-sentence investigation. The mental health sex offense-specific evaluation has the following purposes:

- To document the treatment needs identified by the evaluation (even if resources are not available to address adequately the treatment needs of the sexually abusive offender);
- To provide a written clinical evaluation of an offender's risk for re-offending and current amenability for treatment;
- To guide and direct specific recommendations for the conditions of treatment and supervision of an offender;
- To provide information that will help to identify the optimal setting, intensity of intervention, and level of supervision, and;
- To provide information that will help to identify offenders who should not be referred for community-based treatment.

Please refer to **ATTACHMENT A** for additional information on mental health sex offense-specific evaluations located in Section 2.000 of the Standards.

ATTACHMENT A: *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, Standards 2.000 Mental Health Sex Offense-Specific Evaluation*

Sex Offense-Specific Mental Health Treatment

Consistent with current professional practices, **sex offense-specific treatment** means a long-term comprehensive set of planned therapeutic experiences and interventions to change sexually abusive thoughts and behaviors. Such treatment specifically addresses the occurrence and dynamics of sexually deviant behavior and utilizes specific strategies to promote change. Sex offense-specific programming focuses on the concrete details of the actual sexual behavior, the fantasies, the arousal, the planning, the denial and rationalizations.

Due to the difficulties inherent in treating sex offenders and the potential threat to community safety, sex offense-specific treatment should never be done in isolation, but must be a part of a system including criminal justice supervision and behavioral monitoring. It should continue for several years, followed by a lengthy period of aftercare and monitoring. Much more importance is given to the meeting of all treatment goals than the passage of a specific amount of time, since offenders make progress in treatment at different rates. The primary treatment modality for sex offense-specific treatment is group therapy for the offenders. Adjunct modalities may include partner or couples therapy, psycho-education, and/or individual therapy. However, such adjunct therapies by themselves do not constitute sex offense-specific treatment. The content of offense-specific treatment for sex offenders shall be designed to:

- Reduce the offenders' denial and defensiveness;
- Decrease and/or manage offenders' deviant sexual urges and recurrent deviant fantasies;
- Educate offenders (and individuals who are identified as the offenders' support systems) about the potential for re-offending and an offender's specific risk factors;
- Teach offenders self-management methods to avoid a sexual re-offense;
- Identify and treat the offenders' thoughts, emotions, and behaviors that facilitate sexual re-offenses or other victimizing or assaultive behaviors;
- Identify and correct offenders' cognitive distortions;

- Educate offenders about non-abusive, adaptive, legal, and pro-social sexual functioning;
- Educate offenders about the impact of sexual offending upon victims, their families, and the community;
- Provide offenders with an environment that encourages the development of empathic skills needed to achieve sensitivity and empathy for victims;
- Provide offenders with guidance to prepare, when applicable, written explanation or clarification for the victim(s) that meets the goals of: establishing full perpetrator responsibility, empowering the victim, and promoting emotional restitution for the victim(s);
- Identify and treat offenders' personality traits and deficits that are related to their potential for re-offending;
- Identify and treat the effects of trauma and past victimizations on offenders as factors in their potential for re-offending. (It is essential that offenders be prevented from assuming a victim stance in order to diminish responsibility for their actions);
- Identify and decrease offenders' deficits in social and relationship skills, where applicable;
- Require offenders to develop a written relapse prevention plan for preventing a re-offense; the plan should identify antecedent thoughts, feelings, circumstances, and behaviors associated with sexual offenses;
- Provide treatment referrals, as indicated for offenders with co-existing medical, pharmacological, mental, substance abuse and/or domestic violence issues, or other disabilities;
- Maintain communication with other significant persons in offenders' support systems when indicated, and to the extent possible, to assist in meeting treatment goals;
- Evaluate cultural, language, developmental disabilities, sexual orientation and/or gender factors that may require special treatment arrangements;
- Identify and address issues of gender role socialization, and;
- Identify and treat issues of anger, power, and control.

Please refer to the Lifetime Supervision Criteria (**ATTACHMENT A**) that outlines criteria and methods for determining a sex offender's progress through treatment and for successful completion.

ATTACHMENT A: *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders; Lifetime Supervision Criteria; Standards for Community Entities That Provide Supervision and Treatment for Adult Sex Offenders Who Have Developmental Disabilities*

BEHAVIORAL MONITORING

The Standards and Guidelines require the use of three types of behavioral monitoring for sex offenders, polygraph, plethysmograph and Abel Screen.

Polygraph

All sex offenders are required to undergo periodic post-conviction polygraph examinations under the Standards. Polygraph examinations are used to assess the full extent of an offenders' sexual offending history, and to monitor current behavior including compliance with court directives, conditions of supervision and treatment and current risk or offending behavior. Knowledge of an offender's full offending history allows the community supervision team to plan interventions to adequately treat and contain the offender's risk. Monitoring of current behavior serves as a deterrent to re-offending and allows the team to identify risk behavior prior to re-offense.

Plethysmograph and Abel Screen

Sexual interest and arousal are strong, research based, indicators of risk for re-offense. The plethysmograph is a measure of sexual arousal patterns. The Abel Screen is a measure of visual response time that can indicate degrees of sexual interest. Under the

Standards, evaluators are required to use either the plethysmograph or Abel Screen in mental health sex offense-specific evaluation. Treatment providers may also utilize these tools as components of on-going treatment and risk assessment.

AVAILABILITY AND LOCATION OF SEX OFFENDER SERVICE PROVIDERS THROUGHOUT THE STATE

The Sex Offender Management Board Approved Service Providers are located in 18 of the 22 judicial districts in the state. The following is a list of number of providers approved in each specialty area:

- 142 Treatment Providers
- 62 Evaluators
- 17 Polygraph Examiners
- 13 Plethysmograph Examiners
- 9 Abel Screen Examiners

Some providers may be approved for more than one area of service. For instance, a person may be approved as a treatment provider and a plethysmograph examiner.

Please refer to **ATTACHMENT D** for the Sex Offender Management Board Provider List for a list of approved service providers and their locations throughout the state. *

Initially, some of the smaller, more remote rural communities were having difficulty identifying providers qualified to be approved to provide services. The SOMB formed a Service Availability Committee to address issues related to availability of service statewide. As a result of the Committee's work, the SOMB instituted the following activities to support the development of or access to services in remote or isolated areas:

- Identified service providers willing to travel to provide services and connected them with communities in need. For example, several polygraph examiners travel to other communities to provide polygraph examinations.

- Identified supervisors willing to provide remote supervision by phone and videotape to applicants requiring additional supervision.
- Allowed providers from other states to apply for approval in Colorado if criteria were met.
- Developed a waiver process for an extended applicant status if there were no approved providers in a given area.

ATTACHMENT D: Sex Offender Management Board Provider List

COST OF SERVICES

- Average costs of services were determined by sampling a range of providers across the state. Counties sampled are Archuleta, Delta, Denver, Eagle, Garfield, Jefferson, La Plata, Larimer, Mesa, Moffat, Pueblo and Weld. Please see Table 2 for average costs of sex offender treatment.
- Many providers offer services on a sliding scale.
- In community based programs, most sex offenders are expected to bear the costs of treatment and behavioral monitoring themselves. The Standards require weekly group treatment and polygraph examinations every six months at a minimum. Most programs require some additional services during the course of treatment.
- The Sex Offender Management Board recommended that \$209,000 from the Sex Offender Surcharge Fund be allocated to the Judicial Department in Fiscal Year 2000 for mental health sex offense-specific evaluations and assessments for pre-sentence investigation reports for indigent sex offenders and for assistance with polygraph examination costs post-conviction. These funds are made available to all indigent sex offenders through local probation departments.

TABLE 2
Average Cost of Services

Counties	Mental Health Sex Offense-Specific Evaluation	Mental Health Sex Offense-Specific Group Treatment	Mental Health Sex Offense-Specific Individual Treatment	Polygraph Examination
1.	X	X	X	\$150
2.	\$750	\$40	\$42	X
3.	\$600	\$40	\$60	X
4.	X	X	X	\$215
5.	\$750	\$45	\$42	X
6.	\$700	\$45	\$50	\$200
7.	\$800	X	\$125	X
8.	\$500	\$35	\$80	X
9.	\$750	\$40	\$80	X
10.	\$400	\$33	\$85	X
11.	\$950	\$25	\$60	\$200
12.	\$625	\$30	\$62	X
Average	\$682.50	\$37	\$68.60	\$191.25
Range	\$400-950	\$25-45	\$42-125	\$150-200

'X' denotes services not provided by local providers contacted. Services may be available through other providers, traveling providers or by providers in adjoining counties.

REGULATION AND REVIEW OF SERVICES PROVIDED BY SEX OFFENDER TREATMENT PROVIDERS

Application Process

Since 1996, the SOMB has been working to process the applications of treatment providers, evaluators, plethysmograph examiners, Abel Screen examiners and clinical

polygraph examiners to create a list of these providers who meet the criteria outlined in the Standards and who provide programs in compliance with the requirements in the Standards. These applications are reviewed through the SOMB Application Review Committee.

The Application Review Committee consists of Sex Offender Management Board Members and staff who review the qualifications of applicants against the Standards. The application is also forwarded to a private investigator contracted with the SOMB to conduct background investigations and personal interviews of references and referring criminal justice personnel. When the Application Review Committee deems an applicant approved, the applicant is placed on the SOMB Provider List. When a provider is listed in the Provider List, it means that he/she (1) has met the education and experience qualifications established in the Standards and (2) has provided sufficient information for a determination that services appear to be provided according to the Standards. In addition, each provider agrees in writing to provide services in compliance with the standards of practice outlined in the Standards and Guidelines.

Being on the List is neither licensure nor certification of the provider. It does not imply that all providers offer exactly the same services. The Provider List does not create an entitlement for referrals from the criminal justice system. The criminal justice supervising officer is best qualified to select the most appropriate providers for each offender.

Approvals for placement on the Sex Offender Management Board Provider List are in force for a three-year period. At the end of the three-year period, each applicant must submit re-application materials indicating that they have met the requirements for continuing education, training and clinical experience and demonstrating that their programs are operating in compliance with the Standards. The first re-application process is currently underway. Approximately 50 providers are currently being reviewed for re-application.

Sex Offender Service Providers

The general requirements for service providers are as follows:

Treatment Provider – Full Operating Level: In addition to meeting all the other applicable Standards, a Treatment Provider at the Full Operating Level has accumulated at least 1000 hours of clinical experience with sex offenders in the last five years, and may practice without supervision.

Treatment Provider – Associate Level: In addition to meeting all the other applicable Standards, a Treatment Provider at the Associate Level has accumulated at least 500 hours of clinical experience with sex offenders in the last five year, and must receive regular supervision from a Treatment Provider at the Full Operating Level.

Evaluator – Full Operating Level: In addition to meeting all the other applicable Standards, an evaluator has conducted at least 40 mental health sex offense-specific evaluations of sex offenders in the last five years. To be initially placed on the list as an Evaluator at the Full Operating Level, the individual must be on the list as a Treatment Provider at the Full Operating Level.

Evaluator – Associate Level: In addition to meeting all the other applicable Standards, an evaluator at the Associate Level has conducted fewer than 40 mental health sex offense-specific evaluations to date and is receiving supervision from an Evaluator at the Full Operating Level. To be initially placed on the List as an Evaluator at the Associate Level, the individual must be on the list as a Treatment Provider at either the Full Operating Level or the Associate Level.

Clinical Polygraph Examiner – Full Operating Level: In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner has conducted at least 150 criminal specific-issue examinations. They shall have conducted a minimum of 50 clinical polygraph examinations of which 20 must be disclosure polygraph examinations

and 20 more must be either maintenance or disclosure polygraph examinations within a twelve (12) month period.

Clinical Polygraph Examiner – Associate Level: In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner at the Associate Level is working under the guidance of a qualified Clinical Polygraph Examiner listed at the Full Operating Level to complete at least 50 clinical polygraph examinations in a 12 month period as required for Clinical Polygraph Examiners at the Full Operating Level.

Plethysmograph Examiner: In addition to meeting all the other applicable Standards, a Plethysmograph Examiner has received qualified training in the use of the instrument and the interpretation of test results, and has agreed to comply with the “Guidelines for the Use of the Penile Plethysmograph” published by the Association for the Treatment of Sexual Abusers. In addition, a Plethysmograph Examiner will be required to be on the List as a Treatment Provider at the Full Operating Level under the Standards.

Abel Screen Examiner: In addition to meeting all the other applicable Standards, an Abel Screen Examiner has demonstrated that they are trained and licensed as a site to utilize the instrument. In addition, an Abel Screen Examiner will be required to be on the Provider List as a Treatment Provider at the Full Operating Level under the Standards.

ATTACHMENT A: *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders; Lifetime Supervision Criteria; Standards for Community Entities That Provide Supervision and Treatment for Adult Sex Offenders Who Have Developmental Disabilities*

PROGRAM EVALUATION

The Sex Offender Management Board has a legislative mandate to evaluate the system of programs initially developed by the SOMB and to track offenders involved in the programming (Section 16-11.7-103 (4) (d) C.R.S.). This mandate was not originally

funded by the state. The SOMB sought a decision item through the state budget process in Fiscal Year 1999 to fund compliance with this mandate, but was denied funding.

In Fiscal Year 2000 the SOMB sought and was awarded a Drug Control and System Improvement Program Grant (Federal Dollars administered through the Division of Criminal Justice). The grant will fund the beginning of a four-year evaluation process to evaluate compliance with the Standards throughout the state and the impact of the programs established on the offenders involved. The funding begins in late fall of Fiscal Year 2001.

PROBATION POPULATION IMPACT

At the close of Fiscal Year 2000, there were 64 adult sex offenders who had been sentenced to lifetime supervision and placed on sex offender intensive supervision probation (SOISP). Because this number is far below that which had been anticipated, the Office of Probation Services reviewed all cases filed with the court for sexual offenses that might be eligible for lifetime supervision sentences. Staff at the Office of Probation Services ran a query on data located on the ICON automated case management system, selecting all cases sentenced after November 1, 1998 with any of the following statutory charges listed:

- 18-3-402 C.R.S. Sexual Assault in the First Degree
- 18-30403 C.R.S. Sexual Assault in the Second Degree
- 18-3-404 (2) C.R.S. Felony Sexual Assault in the Third Degree
- 18-3-405 (2) C.R.S. Sexual Assault on a Child
- 18-3-405.3 C.R.S. Sexual Assault on a Child by one in a position of Trust
- 18-3-405.5 C.R.S. Aggravated Sexual Assault on a Client by
Psychotherapist
- 18-3-305 C.R.S. Enticement of a Child
- 18-6-301 C.R.S. Incest
- 18-6-302 C.R.S. Aggravated Incest
- 18-7-406 C.R.S. Patronizing a Prostituted Child

Criminal attempts, conspiracies and solicitations of the above offenses, when they were a class 2, 3 or 4 felony, were also included in the selection. Our analysis was run only on cases for which there has been a plea or finding entered.

Between November 1, 1998 and September 25, 2000 (approximately 22 months) 1,975 adults charged with one of the above sex offenses were sentenced. The Office of

Probation Services sampled 1,000 cases, a little over 50% of the 1,975 cases. Our analysis resulted in the following findings:

TABLE 3
Felony Dispositions for Adult Sex Offenses
11/1/98 through 9/25/00

Cases <u>Not</u> Eligible for Indeterminate Lifetime Sentences	Number	Percent	Cases <u>Eligible</u> for Indeterminate Lifetime Sentences	Number	Percent
Cases excluded due to an offense date prior to 11/1/98 – convicted of a sex offense	520	52%	Sentenced to Lifetime Supervision – probation or DOC (75% to DOC and 25% to Probation)	28	2.8%
Cases excluded due to an offense date prior to 11/1/98 – convicted of a non-sex offense or sex offense classed as an F5, F6 or misdemeanor sex offense	43	4.3%	Cases that were eligible by offense date and type of offense that were sentenced outside the lifetime criteria due to plea agreement (79% to probation and 21% to DOC)	22	2.2%
Cases <i>initially</i> eligible but excluded due to a conviction for a lesser sex offense, or a non-sex offense per plea agreement	170	17%	Cases Pending Sentencing	54	5.4%
Cases dismissed by the district attorney	100	10%			
Other (death or deportation)	10	1%			
Finding of Not Guilty or Acquitted	53	5.3%			
TOTALS:	896	89.6%		104	10.4%

Of the 733 cases deemed not eligible for a lifetime sentence (this number excludes cases dismissed by the district attorney, the "other" category and those persons found not guilty or acquitted), 23% (170 cases) were offered a plea agreement that, in effect, took them out of the criteria for indeterminate sentencing. Of the 170 cases with plea agreements, 77% (131 out of 170) resulted in a conviction for a non-lifetime eligible sex offense. The remaining plea agreement cases (39) received a conviction for a non-sex offense. When convicted for a non-sex offense, the most frequently occurring was that of "contributing to the delinquency of a minor, F4". Other non-sex offense convictions included: burglary, trespass, kidnapping, harassment, menacing, assault (without the sexual qualifier) and child abuse with injury. Of those cases sampled, in four of the cases where the conviction was for a non-sex offense, the court made a specific finding that the case did not meet the factual basis of a sexual offense. In the *majority* of cases convicted for a non-sex offense, and in all cases convicted with a sex offense, the court required sex offense specific treatment and conditions of supervision as a part of the sentence.

In 77% of the non-eligible cases (563 of 733), the filed offense was consistent with those outlined for lifetime supervision or indeterminate sentencing. However, the date of the offense fell before November 1, 1998. Ninety-two percent (520 out of 563) of those cases were convicted of a sex offense and 8% (43 out of 563) of those cases were convicted of non-sex offenses or sex offenses classes as F5, F6 or a misdemeanor sex offense. Again, in those cases where the offender was convicted of a non-sex offense, the court often required sex offense specific treatment and conditions of supervision as a part of the sentence.

In 22 of the 1,000 cases reviewed (2% of the total) where the offense and the date of offense met the criteria for eligibility for indeterminate sentencing, it appears that plea agreements resulted in non-lifetime sentences. One of these cases is set for a hearing in October to "correct the sentence" to, what appears may be an indeterminate or lifetime sentence.

In the entire sample, those convicted of both lifetime eligible offenses and other offenses, 35% of the offenders were sentenced to the Department of Corrections, 55% were sentenced to probation, 6% were sentenced to jail and 4% received a direct sentence to community corrections.

Regardless of the type of probation sentence imposed, it is clear that the courts are sentencing with an expectation that the "sex offender program" will supervise sex offenders placed on probation and that the level of supervision will therefore be more intensive than that of regular probation supervision. In the majority of these cases, the only difference in the sentencing of lifetime vs. non-lifetime cases is the length of sentence imposed. The staff assigned to Sex Offender Intensive Supervision currently supervise all felony sex offenders sentenced to probation and will transition the "regular probation " cases to other officers as the number of lifetime sentences increase.

PROBATION DISCHARGE HEARINGS AND DISCHARGES

No probation discharge hearings or discharges have occurred to date for lifetime offenders.

PROBATION REVOCATION HEARINGS AND REVOCATIONS

There have been four revocation hearings since the inception of SOISP. Three of the defendants were revoked and reinstated to probation and one defendant was revoked and sentenced to the Department of Corrections.

COST OF SERVICES

In Fiscal Year 2000 the Judicial Department spent an average of \$1,675 per SOISP probationer on treatment services to include on-going assessment and polygraph. Offenders paid approximately 50% of the cost of treatment. For those offenders unable

to pay part or all of the cost of their treatment, the Judicial Department attempts cost recovery as much as possible in order to maximize dollars.

SUMMARY

All of the programs and documents required by the Lifetime Supervision Act are fully developed and in place. The law has become a national model because of its strong public safety focus and the ability to manage and contain sex offenders based on their continuing risk, rather than on an arbitrary time limit that may not effectively protect the community.

The program is still in the initial stages of implementation. Because the program is designed to be extremely long term, 10 years to life, to manage the long-term risk of sex offenders, the progress of full implementation will take time. Agency data indicate that numbers are slightly lower than anticipated in the first year of the program due to a variety of factors elucidated in the Judicial Department's section of the report. It is common to expect an adjustment period of 18 to 36 months for the full implementation of any new criminal justice program. In most cases, initial reactions to strengthened sanctions for offenders elicit a strong response from the defense bar. This often results in fewer convictions for crimes to which new sanctions can be applied in the initial years of implementation.

Training of involved criminal justice system components, especially judges and prosecutors, can assist in mitigating this effect. The involved departments have developed a training initiative to address the implementation of lifetime supervision. In the past two months trainings addressing lifetime supervision have been conducted for judges at Judicial in Denver (statewide attendance), in Durango and Grand Junction. Training was also conducted at the Colorado District Attorney's Council Statewide Conference in 1999 and 2000. Additional training will be scheduled throughout the coming year. The Departments will continue to monitor the implementation of the Lifetime Supervision Act and to report annually on its progress.