

LIFETIME SUPERVISION OF SEX OFFENDERS

Annual Report



November 1, 2002

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

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Lifetime Supervision Criteria;
Standards for Community Entities That Provide Supervision and Treatment for Adult Sex Offenders Who Have Developmental Disabilities
- Attachment B: Sexual Predator Risk Assessment Screening Instrument
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INTRODUCTION

The Department of Corrections, Department of Public Safety and the State Judicial Department have collaborated to write this Third Annual Report on Lifetime Supervision of Sex Offenders. The report is submitted pursuant to Section 18-1.3-1011 C.R.S. (previously 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 18-1.3-1004, 18-1.3-1006, and 18-1.3-1008;*
- (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 10 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 10 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pursuant to this part 10 who received parole or probation revocation hearings and the number whose parole or probation was revoked during the preceding twelve months, if any;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 10; 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

(h) 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 third year of implementation of the Lifetime Supervision Act in Colorado. It is organized into three sections, one for each of the required reporting departments. Each department individually addresses the information for which it is responsible in implementing lifetime supervision and associated programs.

IMPACT ON PRISON POPULATION

The legislation enacting the lifetime supervision of sex offenders affected persons convicted of offenses committed on or after November 1, 1998 and the full effects will not be realized for several years. Legislative sentencing changes began impacting the prison admissions and population approximately one year after the effective date of the legislation. The first prison admissions for the qualifying Lifetime Supervision sexual offenses were forecast beginning in the Fall of 1999 (Fiscal Year 1999-2000).

PRISON ADMISSIONS SENTENCED UNDER LIFETIME PROVISIONS

A total of 296 offenders have been sentenced to prison under the Lifetime Supervision provisions for sex offenses through Fiscal Year 2001-2002. One offender was sentenced in Fiscal Year 1998-1999, 46 offenders in Fiscal Year 1999-2000, 112 offenders in Fiscal Year 2000-2001, and 137 offenders in Fiscal Year 2001-2002. Numerous offenders have been identified as meeting the criteria of Lifetime Supervision with 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 of Corrections continues to work with the courts and prosecuting attorneys where possible to resolve these cases and clarify issues surrounding Lifetime Supervision sentencing. A common misconception among attorneys, court administrators and offenders appears to be that Lifetime Supervision sentences only apply to the parole supervision period.

SENTENCING TRENDS FOR PRISON ADMISSIONS FOR SEXUAL OFFENSES

Sentencing trends are being closely monitored as result 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 Supervision 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 an at-risk population.

Revisions to the sex offense statutes, effective on July 1, 2000, eliminated the designations of first, second or third degrees from the offenses. All sexual offenses have been reclassified according to the new statutorily defined categories for use in the following table.

Table 1.00 provides the number of prison admissions for sexual offenses by felony class for Fiscal Year 1996-1997 through Fiscal Year 2001-2002. 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 Supervision provisions.

Table 1.00 separates inchoate (attempt, conspiracy, solicitation or accessory) convictions for easier comparison. The number of lifetime-sentenced offenders is bolded and shown in parentheses by offense and is included in the number reported. The total number of admissions with sex offense convictions rose 16.5% in Fiscal Year 2001-2002, primarily as a result in increased admissions for class five felonies, as expected. Class four convictions were also higher, increasing 14.3%.

The increases in the class five inchoate convictions over the last two years indicate a shift in the sentencing trends for prison admissions from offenses subject to Lifetime Supervision provisions toward 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.

TABLE 1.00

Prison Admissions with Sexual Offense Conviction

SOURCE: Office of Planning & Analysis, CDOC. October 17, 2002.

FISCAL YEAR

	C.R.S.	96-97	97-98	98-99	99-00	00-01	01-02				
Felony Class 2											
Sexual Assault/Ser.Injury - At Risk	18-6.5-103					1		2	(2)		
Sexual Assault/Ser. Injury	18-3-402(5)	10	11	16	8	(3)	8	(4)	10	(7)	
Total-Felony Class 2		10	11	16	8	(3)	9	(4)	12	(9)	
Felony Class 3											
Sexual Assault-Phys. Force/Viol.	18-3-402(4)	30	23	35	11		18	(11)	12	(10)	
Sex Assault-Child P.O. Trust	18-3-405.3	2	55	59	70	(12)	61	(28)	61	(31)	
Sex Assault-Child	18-3-405	89	39	28	33	(3)	28	(11)	23	(11)	
Sexual Assault/Subm.-At Risk	18-3-402(1)	1			1		0		0		
Aggravated Incest	18-6-302	5	6	6	9	(2)	11	(4)	5	(1)	
Sex Exploit of Child	18-6-403								5	(1)	
Solic. For Child Prostitution	18-7-402								2	(1)	
Pandering a Child	18-7-403								1		
Patronizing a Prostituted Child	18-7-406										
Enticement of Child	18-3-305			1	1		3	(3)	0		
Subtotal - Offenses		127	123	129	125	(17)	121	(57)	109	(55)	
Inchoates (Class 2 Crime)											
Sexual Assault/Ser.Inj.-AtRisk Att									1	(1)	
Sexual Assault/Ser.Inj.-Attempt	18-3-402(5)	2	3	5	3	(2)	2	(0)	5	(4)	
Subtotal - Inchoate		2	3	5	3	(2)	2	(0)	6	(5)	
Total-Felony Class 3		129	126	134	128	(19)	123	(57)	115	(60)	
Felony Class 4											
Sex Assault-Child P.O.Trust	18-3-405.3	0	24	20	17	(1)	21	(5)	25	(5)	
Sex Assault-Child	18-3-405	115	83	91	114	(18)	107	(34)	106	(41)	
Sexual Assault-Submission	18-3-402(1)	34	32	23	23	(1)	16	(5)	31	(12)	
Unlawful Sexual Contact	18-3-404(2)	7	5	7	7	(1)	4	(1)	3		
Sexual Assault-Client by Psychotherapist	18-3-405.5		2	0	0		0		0		
Incest	18-6-301	1	1	3	5		1		2	(1)	
Enticement of Child	18-3-305	2	4	2	3		4	(3)	6	(5)	
Subtotal - Offenses		159	151	146	169	(21)	153	(48)	173	(64)	
Inchoates (Class 2 or 3 Crime)											
Sexual Assault/Force-Attempt	18-3-402(4)	6	5	7	(1)	8	(2)	6	(2)	6	(3)
Sex Assault-Child P.O.T. Attempt	18-3-405.3	1	4	1	1		1		2		
Sex Assault-Child Attempt	18-3-405	5	5	1	4	(1)	0	(0)	0		
Aggravated Incest Attempt	18-6-302			1			1	(1)	1		
Sex Exploit of Child Attempt	18-6-403								1		
Patron. a Prost.Child-Attempt	18-7-406			1					1	(1)	
Subtotal - Inchoate		12	14	11	(1)	13	(3)	8	(3)	11	(4)
Total-Felony Class 4		171	165	157	(1)	182	(24)	161	(51)	184	(68)
Felony Class 5 (Inchoate)											
Sexual Assault/Force-Accessory	18-3-402(4)		1								
Sex Assault-Child P.O.T. Att.	18-3-405.3	1	8	2	3		9		22		
Sex Assault-Child P.O.T. Consp	18-3-405.3								1		
Sex Assault-Child Attempt	18-3-405	33	28	35	45		58		76		
Sex Assault-Child Conspiracy	18-3-405						2		4		
Sexual Assault/Subm.- Attempt	18-3-402(1)	10	16	16	30		25		37		
Sexual Assault/Subm.- Consp	18-3-402(1)								2		
Unlawful Sexual Contact-Attempt	18-3-404(2)	1	3	3	1		7		10		
Incest Attempt	18-6-301	1	1		1		3		0		
Enticement of Child Attempt	18-3-305				2		2		0		
Enticement of Child Conspiracy	18-3-305						1		0		
Total-Felony Class 5 (Inchoate)		46	57	56	82		107		152		
Felony Class 6 (Inchoate)											
Unlawful Sexual Contact-At Risk	18-3-404			1	2		1		4		
Total-Felony Class 6 (Inchoate)		0	0	1	2		1		4		
Total Sexual Offense Convictions		356	359	364	(1)	402	(46)	401	(112)	467	(137)

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

IMPACT ON PAROLE POPULATION, INTENSIVE SUPERVISION PAROLE PROGRAM AND LENGTH OF SUPERVISION

The intensive supervision parole program and total parole population have not experienced any changes resulting from the Lifetime Supervision sentencing provisions to date, as no offenders have been released by the Parole Board. Release to parole is subject to the discretion of the Parole Board and offenders must meet the release criteria established in the Sex Offender Management Board Standards & Guidelines (**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

PAROLE RELEASE HEARINGS AND NUMBER RELEASED TO PAROLE

The Parole Board has seen 68 Lifetime Supervision offenders for release consideration. The Board deferred 52 offenders at the last hearing. Fifty offenders were deferred for 11 months or more, including 7 offenders who were deferred for the maximum time of 3 years. There were 16 offenders who waived their last Parole Board hearing and are scheduled to appear before the Board again for release consideration within six to twelve months. 36 offenders have had two or more scheduled hearings with one offender scheduled for 7 hearings to date.

The most frequent deferral reasons cited by the Parole Board on the last hearing for the 21 offenders included aggravating factors (92%), risk control (79%), needs continued treatment (75%), and public risk (52%). Additional reasons included circumstances of the offense, sex offender treatment needs, remain incident report free, and mental health treatment needs.

PAROLE DISCHARGE HEARINGS AND NUMBER DISCHARGED FROM PAROLE

No parole discharge hearings have occurred for offenders sentenced under Lifetime Supervision, as no offenders have been 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 20 years for class two or three offenses to be considered for discharge by the Parole Board.

PAROLE REVOCATION HEARINGS AND NUMBER OF PAROLE REVOCATIONS

No parole revocation hearings have occurred to date for Lifetime Supervision offenders, as no offenders have been released to parole under this legislation.

SEX OFFENDER TREATMENT AND MONITORING PROGRAM (SOTMP)

Sex Offender Treatment Phases

The SOTMP is designed to utilize the most extensive resources with those inmates who have demonstrated a desire and motivation to change. Therapists are responsible for assessing the offender's treatment needs and making treatment recommendations based on the therapist's clinical judgment of the offender's eligibility and progress in treatment.

The SOTMP has a cognitive behavioral orientation and has strict requirements for participation. The requirements are designed to convey the inmate's responsibility for change and the depth of the commitment that must be made. The following groups are currently offered to inmates:

CORE CURRICULUM: This group is a prerequisite for participation in Phase I of the Sex Offender Treatment and Monitoring Program. The focus of the group is on thinking errors, anger management, and stress management. The group meets for a minimum of 18 hours. The time may vary depending on the progress of the group.

The Core Curriculum Group is offered at most state operated facilities.

PHASE I: Phase I is a time-limited therapy group focusing on the following common problem areas of sex offenders: why people commit sex offenses; developing victim empathy; cognitive restructuring; sex offense cycles; relapse prevention; sex education; sex roles; social skills; and relationship skills. At the Fremont Correctional Facility and the Sterling Correctional Facility, groups meet four times per week and continue for approximately six months. This program is offered twice per week at the Colorado Territorial Correctional Facility and Colorado Women's Correctional Facility.

PHASE IB: This group addresses the same components as the regular Phase I group, but is adapted for inmates who have low intellectual functioning. This group meets twice per week and is offered at Territorial Correctional Facility and the Colorado Women's Facility. Upon completion of Phase IB, an inmate may be integrated into a regular Phase I group at Colorado Territorial Correctional Facility with supportive services, such as homework tutoring. If the inmate successfully completes this program, he will be considered for mainstreaming into the Arrowhead Therapeutic Community.

PHASE IC: This group addresses the same components as the regular Phase I group, but it is designed for sex offenders who are chronically mentally ill. This group meets twice per week and is open-ended. Phase IC is offered at San Carlos Correctional Facility and Fremont Correctional Facility.

PHASE IE: This group addresses the same components as the regular Phase I group, but is designed for sex offenders who are Spanish speaking. This group meets once per week and is open-ended. Phase IE is offered at Fremont Correctional Facility.

PHASE II: Phase II focuses on changing the inmate's distorted thinking and patterns of behavior, as well as helping the inmate develop a comprehensive personal change contract. Participants must keep a daily interactions journal and maintain appropriate behavior. This phase is offered as a therapeutic community treatment program at Arrowhead Correctional Center. The therapeutic community treatment program will house sex offenders together in a therapeutic milieu operating 24 hours per day, 7 days a week. Phase II is offered at Arrowhead Correctional Center with an adapted format of Phase II

offered at the Colorado Women's Correctional Facility and Fremont Correctional Facility once per week.

Specialized Treatment Formats for Lifetime Supervision of Sex Offenders

The 1998 passage of the Colorado Lifetime Supervision Act requires that offenders must serve the term of their minimum sentence in prison and participate and progress in treatment, in order to be considered a candidate for parole. 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 Department of Corrections has designed treatment formats that provide offenders the opportunity to progress in treatment and be considered a candidate for parole within the time period of their minimum sentence. The new treatment formats were designed with the following assumptions:

- § Sex offenders will continue in treatment and supervision if placed in community corrections or on parole;
- § Sex offenders should be given the opportunity to sufficiently progress in treatment within the time period of their minimum sentence;
- § Specialized formats will not ensure sex offender cooperation with or progress in treatment. Offenders need to be willing to work on programs and be motivated to change; and,
- § Sex offenders must meet all of the Sex Offender Management Board Lifetime Supervision Criteria to receive a recommendation for release to parole from the Sex Offender Treatment and Monitoring Program staff;

Foundation Format

Offenders with a two year or less minimum sentence will participate in an evaluation and a group to prepare his/her sexual history. They must be actively participating in treatment, applying learned skills, and meet the following requirements in order to receive a recommendation for parole:

1. Completion of a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.

2. Participation in a comprehensive sex offense-specific evaluation and have a SOTMP approved individual treatment plan.
3. No institutional acting-out behavior/misconduct within the past 12 months.
4. Compliance with any DOC psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
5. Development of a plan to establish at least one approved support person.

As of October 1, 2002, the Department of Corrections had 46 minimum to life sentenced offenders requiring the Foundation Format .

Modified Format

Offenders with three to five years minimum sentence will participate in an evaluation and expanded Phase I group that will include the definition of his/her sexual abuse cycle and preparing his/her sexual history. They must be actively participating in treatment, applying learned skills, and meet the following requirements in order to receive a recommendation for parole:

1. Completion of a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
2. Practice relapse prevention with no institutional acting-out behaviors within the past 12 months.
3. Defined and documented his/her sexual offense cycle.
4. Identified, at a minimum, one approved support person who has attended family/support education and has reviewed and received a copy of the offender's sexual offense cycle.
5. Compliance with any DOC psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
6. Be able to be supervised in the community without presenting an undue threat.

As of October 1, 2002, the Department of Corrections had 68 minimum to life sentenced

offenders requiring the Modified Format.

Standard Format

Offenders with a six year or more minimum sentence will participate in Phase I and Phase II. They must be actively participating in treatment, applying learned skills, and meet the following requirements in order to receive a recommendation for parole:

1. Actively participating in treatment and applying what he/she is learning.
2. Completion of a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
3. Completion of a comprehensive personal change contract (relapse prevention plan) that is approved by the SOTMP team.
4. Identified, at a minimum, one approved support person who has attended family/support education and has reviewed and received a copy of the offender's personal change contract.
5. Practice relapse prevention with no institutional acting-out behaviors within the past 12 months.
6. Compliance with any DOC psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
7. Be able to be supervised in the community without presenting an undue threat.

As of October 1, 2002, the Department of Corrections had 209 minimum to life sentenced offenders requiring the Standard Format.

The number of lifetime sex offenders participating in sex offender treatment is provided in Table 1.10 below.

TABLE 1.10
Lifetime Sex Offender Participation in Treatment as of October 1, 2002

	Core	Lifetime	Phase I	Phase II	Total
Foundation	4	8	8	4	24
Modified	4	12	10	13	39
Standard	6	2	18	4	30
Total	14	22	36	21	93

There are 270 additional sex offenders participating in treatment as of October 1, 2002 who are not subject to the lifetime sentencing provisions.

PHASE III RAM COMMUNITY CORRECTIONS SUPERVISION: Phase III provides specialized community corrections placements for sex offenders. The program is grant funded and provides continuing intensive treatment, specialized supervision (including pager or global positioning monitoring and tracking services) and polygraph monitoring. This phase of treatment is available in Colorado Springs and Denver.

PHASE IV RAM PAROLE SUPERVISION: Phase IV involves intensive, specialized supervision and polygraph monitoring of sex offenders on parole. These offenders are required to participate in approved sex offender treatment programs in the community. Treatment providers selected for referral must meet certain criteria including a willingness to report the offender's progress, or more importantly, lack of progress to the parole officer. The RAM parole officer also maintains an on-going, active relationship with the Sex Crimes Unit of the local law enforcement agency.

Although, parole services are funded in a separate budget line, the SOTMP contributes funds for some treatment and polygraph services designated for parolees.

FAMILY SUPPORT/EDUCATION: Educational meetings are offered to the offender's family and identified community support system. These meetings provide continued education on sex offenders' cycles and problem areas and how family members can intervene in the cycle, preventing high risk situations, identifying when the offender is victimizing or manipulating the family, and processing current emotions, situations, and concerns related to the offender.

VIOLENT CRIMINAL APPREHENSION PROGRAM (VICAP): VICAP is an FBI nationwide data information center designed to collect, collate, and analyze crimes of violence, including sexual offenses. The DOC uses VICAP to capture method of operation data on all sexual offenders entering the department. This data will be used for sex offender evaluation, research, and law enforcement notification of the offender's method of operation when the offender returns to the community. This data is periodically forwarded to CBI and FBI to be included in the Colorado and national VICAP database for law enforcement agencies to match unsolved crime characteristics with solved crime

characteristics. DOC has entered approximately 1,000 cases into the VICAP system this year.

SEX OFFENDER REGISTRATION COORDINATOR: This position ensures the following: offenders are notified of their requirement to register, offenders have signed a notice to register, offenders have provided a valid release address, offenders have been DNA tested, and the offender has had a recent picture taken. This position also enters the intended release date and “needs to register requirement” in CCIC and notifies local law enforcement of the offender’s release, requirement to register, and past history of sexual offending.

AVAILABILITY AND COST OF SEX OFFENDER TREATMENT

The Fiscal Year 2001-2002 Department of Corrections budget included \$2,482,346 for the assessment, treatment, testing (including polygraphs), research and registration coordination of sex offenders. Approximately \$188,162 of the budget was spent on polygraph and initial treatment for parolees. SOTMP inmate services include (when fully staffed): Group treatment for 760 inmates per year; Supplemental individual therapy; Polygraph testing (135 exams per year); Identification of sex offenders at DRDC (1,170 offenders per year); Administrative review preparation and participation per Chamber’s Court Decision; Screening sex offenders for participation in treatment (estimated 500 inmates per year); Education classes for family members (700 family members per year); Training correctional staff on identification of risk factors; Parole Board reports; Offense Specific Evaluations; Registration Coordination; Research; Obtaining offense records; and Recording offense information in ViCAP for use in offender evaluations, registration, and program evaluation.

ADDITIONAL ISSUES

Several positions within the SOTMP remained vacant during FY 00–01 as the state personnel system reorganized the social worker/counselor job classifications. The SOTMP was finally able to fill the majority of these vacant positions in FY 01-02; however, SOTMP lost 4 FTE (\$165, 689 personal services), \$10,566 in operating and \$85,000 in polygraph

funds as part of the Governor mandated cuts to offset the drop in state revenues. In FY 02-03, the program regained 1 FTE and \$41,266, but an additional \$40,000 in polygraph funding was taken from the budget. These reductions impact the number of sex offenders in treatment.

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, during 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 may 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 encompass the appropriate areas necessary to assess risk and recommend appropriate interventions.

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. For information that outlines criteria and methods for determining a sex offender's progress through treatment and for successful completion under Lifetime Supervision, please see the Lifetime Supervision Criteria also in **ATTACHMENT A**.

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;*

Lifetime Supervision Criteria

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 (4) (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 16-22-108 (1) (d) C.R.S.), be posted on the internet by the Colorado Bureau of Investigation (Section 16-22-111 (1) (a) 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 was 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 SOMB Approved Sex Offender 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 Evaluator 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

Background of the Sex Offender Management Board

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107 C.R.S.) that 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. In addition, the SOMB approved a modification to Appendix C-4 in the summer of 2001. In 2002, the revision of Appendix F was approved. These revised appendices were included in the latest printing of the Standards in 2002. The Standards were revised 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 provides containment for 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.

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.).

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:

137	Treatment Providers
9	Treatment Providers with a Developmental Disability Specialty
62	Evaluators
19	Polygraph Examiners
17	Plethysmograph Examiners
12	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. The SOMB received 24 new provider applications for Fiscal Year 2001-2002, which is included in the numbers provided above.

Please refer to **ATTACHMENT D** for the Sex Offender Management Board Provider List for the 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 services 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. The SOMB then connected them with communities in need. (For example, several polygraph examiners travel to other counties 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 were Adams, Delta, Denver, Eagle, Garfield, Jefferson, La Plata, Larimer, Mesa, Moffat, Pueblo and Weld. Please see Table 2.00 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 2002 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 2.00
Average Cost of Services (Figures were obtained in 2002)

Counties	Mental Health Sex Offense-Specific Evaluation	Mental Health Sex Offense-Specific Group Treatment	Mental Health Sex Offense-Specific Individual Treatment	Polygraph Examination
1.	\$800	\$40	\$80	\$250
2.	\$750	\$43	\$60	\$225
3.	\$1000	\$38	\$78	\$220
4.	X	X	X	\$220
5.	\$750	\$43	\$60	\$225
6.	\$575*	\$40	\$70	\$220
7.	\$800	X	\$125	X
8.	\$800	\$43	\$90	\$220
9.	\$750	\$43	\$60	\$225
10.	X	\$40	\$100	X
11.	\$750*	\$38	\$58	\$215
12.	\$675	\$33	\$55	\$220
Average	\$765	\$40	\$76	\$224
Range	\$575-1000	\$33-43	\$55-125	\$215-250

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

* PPG or Abel Screening is not included in the evaluation.

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 whose programs are 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 Division of Criminal Justice 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.

Being on the SOMB Provider List is neither licensure nor certification of the provider. The Provider List does not imply that all providers offer exactly the same services, nor does it 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 he or she has met the requirements for continuing education, training and clinical experience and has demonstrated that their programs are operating in compliance with the Standards.

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. He or she 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 Provider 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 he or she is trained and licensed as an Abel site to utilize the instrument. 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 unsuccessfully requested funding through the state budget process in Fiscal Year 1999 to enable compliance with this mandate.

In Fiscal Year 2000, DCJ was awarded a Drug Control and System Improvement Program Grant (Federal dollars administered through the Division of Criminal Justice). The grant funded an evaluation process to evaluate compliance with the Standards throughout the state and the impact of the programs established on the offenders involved. This evaluation is being performed by the Office of Research and Statistics in the Division of Criminal Justice and will be completed by December 1, 2003 (Section 16-11.7-103 (4) (d) (II) C.R.S.).

PROBATION POPULATION IMPACT

There were 106 adult sex offenders sentenced to Lifetime Supervision probation and placed on sex offender intensive supervision probation (SOISP) in Fiscal year 2001-2002.

Using ICON, the automated case management system, staff at the Division of Probation Services selected all sex offender cases sentenced, as well as all sex offender cases which terminated probation supervision, during Fiscal Year 2001-2002 for the following statutory charges:

18-3-402 C.R.S.	Sexual Assault; or Sexual Assault in the First Degree, as it existed prior to July 1, 2000
18-3-403 C.R.S.	Sexual Assault in the Second Degree, as it existed prior to July 1, 2000
18-3-404(2) C.R.S.	Felony Unlawful Sexual Contact; or Felony Sexual Assault in the Third Degree, as it existed prior to July 1, 2000
18-3-405 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
18-3-305 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.

Due to the risk sex offenders pose to the community and the time required for them to progress in treatment, the General Assembly enacted legislation effective May 30, 2002, mandating SOISP sentences for all felony sex offense convictions, or cases where the court made a finding that the offenses were sexual in nature. Data integrity standards and program changes were implemented into ICON in 2002 to differentiate between lifetime and non-lifetime SOISP cases. However, these changes will not provide consistent information until fiscal year 2003. Consequently, data analyzed for this report was pulled on a case-by-case basis, requiring a manual review of dispositions of 517 cases. These cases represent all felony sex offenses charged during fiscal year 2003 which could have been eligible for indeterminate sentences.

The following table reflects an analysis of sentences to probation for Fiscal Year 2001-2002 of the cases:

Table 3.00: Sentences to Probation for Fiscal Year 2001-2002

Type of Supervision Sentenced to:	Number of Cases:	Percent:
Lifetime Probation with SOISP	106	21%
SOISP (Other non-lifetime felony sex offense cases)	375	73%
ISP	5	.9%
Regular Probation: Cases Ineligible for Lifetime or SOISP*	31	6%
TOTAL CASES:	517	100%

* Offenders whose offense date occurred prior to November 1, 1998 are ineligible for indeterminate sentences and not eligible for SOISP as created in 16-13-807 C.R.S.

Between July 1, 2001 and June 30, 2002, 517 adults charged with one of the above sex offenses were sentenced. Of these, 106 offenders (21%) received an indeterminate

sentence of at least 10 or 20 years and to a maximum of the offender's natural life and sentenced to SOISP. There were 375 sex offenders (73%) who were convicted of lesser or amended charges and also sentenced to SOISP.

In 5 cases (.9%) the offenses were pled down from a lifetime eligible offense to a non-sexual felony offense. In these cases, the offender also pled to a misdemeanor sex offense. Additionally, there were 31 cases (6%) that were ineligible for lifetime or SOISP because the offense occurred prior to November 1, 1998.

As of June 30, 2002, there were 430 offenders under SOISP probation supervision. Of these, 102 (24%) were offenders under lifetime supervision.

The following table reflects an analysis of sentences during the prior fiscal year (Fiscal Year 2000 – 2001):

Table 3.10: Sentences to Probation for Fiscal Year 2000 - 2001

Type of Supervision Sentenced To	Number of Cases	Percent
Lifetime Probation with SOISP	54	30%
SOISP (F5 cases)	19	10.5%
ISP	1	.5%
Regular Probation: Cases ineligible for Lifetime or SOISP [1]	43	24%
Other [2]	63	35%
TOTAL CASES	180	100%

[1] Offenders whose offense date occurred prior to November 1, 1998 are not eligible for indeterminate sentencing or for SOISP.

[2] "Other" refers to cases that were pled out as misdemeanor sexual assault cases, misdemeanor assault cases, F5 sex offenses that could have been but were not placed on SOISP, or cases that were pled out to non sex offense cases.

A comparison of data for Fiscal Year 2001 – 2002 to Fiscal Year 2000 to 2001 reflects a 96.3% increase in the number of offenders eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

PROBATION DISCHARGE HEARINGS AND DISCHARGES

There are no sex offenders under a Lifetime Supervision sentence that have been discharged from probation.

PROBATION REVOCATION HEARINGS AND REVOCATIONS

During Fiscal Year 2001-2002, four sex offenders have had their lifetime Supervision sentences revoked. All four received a sentence to the Department of Corrections. As of

June 30, 2002, there were six warrants outstanding for sex offenders under lifetime supervision sentences and two offenders are pending revocation but remain under supervision.

COST OF SERVICES

In Fiscal Year 2001-2002, the Judicial Department received \$209,000 from the Sex Offender Surcharge Fund for sex offender pre-sentence evaluation including psycho-sexual evaluation and polygraph.

ATTACHMENTS

Lifetime Supervision of Sex Offenders

Annual Report

November 2002

Please contact Amy Dethlefsen (see contact information below) if you would like copies of the following attachments:

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 the Adult Sex Offenders Who Have Developmental Disabilities

Attachment B:

Sexual Predator Risk Assessment Screening Instrument

Attachment C:

Sexually Violent Predator Risk Assessment Screening Instrument Handbook

Attachment D:

Sex Offender Management Board Provider List

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