

# **HANDBOOK: SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT**

## ***Background and Instruction***

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## **Colorado Sex Offender Management Board**

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The Division of Criminal Justice's Office of Research and Statistics (ORS) would like to thank the dozens of people who worked on the original development and implementation of the sexually violent predator (SVP) criteria. Dedicated members of the Sex Offender Management Board, in particular, worked very hard to define subtle and overt aspects of dangerousness. In 1998, representatives from probation, parole, corrections, the Parole Board, and victims' programs collaborated with the SOMB to develop risk criteria that supplements the empirically-based actuarial scale. Dr. Paul Retzlaff of the University of Northern Colorado provided psychometric expertise and data analysis in the development of the original scale. The probation departments in Jefferson, Arapahoe, Denver and El Paso counties, along with parole officers in Denver and El Paso, the staff of ComCor, Inc., and therapists at the Colorado Department of Corrections Sex Offender Treatment and Management Program (SOTMP) were key participants in the actuarial research, as were dozens of private therapists who worked closely with the ORS to forward data on offenders in their programs. Since the original development of the instrument, Linda Harrison of the Office of Research and Statistics conducted additional extensive analyses of the scale using follow-up data through August 2006. In addition, Dominique Simons assisted the ORS in the analysis of 1,300 completed SVP assessment instruments. At the Department of Corrections, we are grateful for the assistance of Suzanne MacKinnon, Chad Lewing, Carey Lavaux, Burl McCullar and Joe Stommel. Implementation assistance from the Division of Probation Services continues to be invaluable, and we especially are grateful for Chris Rowe's collaborative spirit and hard work.



## **INTRODUCTION TO THIS HANDBOOK**

The General Assembly requires that special precautions should be taken in the community management of sexual predators. Pursuant to 18-3-414.5, C.R.S., the Colorado Division of Criminal Justice's Office of Research and Statistics worked in consultation with representatives of the Colorado Sex Offender Management Board (SOMB) to develop a risk assessment screening instrument for use in the identification of *sexually violent predators (SVPs)*. The Division of Probation Services in the Judicial Branch, the Department of Corrections' Sex Offender Treatment and Management Program staff, and the Office of Research and Statistics in the Colorado Department of Public Safety work jointly to implement the use of the SVP Instrument among Probation Offices, DOC, and SOMB-approved sex offender and mental health evaluators statewide.

The intent of Colorado statute 18-3-414.5, C.R.S. is to identify convicted sex offenders who are at higher risk of committing subsequent sex crimes. These offenders will be designated sexually violent predators. The Sexually Violent Predator Instrument identifies the most dangerous offenders among those assessed with the instrument. The final legal determination of sexually violent predator is at the discretion of the court and/or the Parole Board.

## **CHANGES SINCE THE LAST EDITION**

Since this instruction handbook was last revised, there have been changes to the SVP statute along with changes in practice. These are briefly summarized below:

- In May 2006 the specific crimes that qualified a sex offender for a SVP assessment were expanded to include inchoate crimes. One misdemeanor is now included in the qualifying crimes. Section 18-3-403 (Sexual Assault in the second degree) was repealed in 2000.
- Also in May 2006, changes were made to Section 16-13-903(1), C.R.S. indicating that sexually violent predators shall be subject to community notification.
- Because some offenders refused to participate in the required interview with the officer or evaluator, Part 3C was added to the Sexually Violent Predator Assessment Screening Instrument (SVPASI). A score of 3 or more on this 6-item risk scale increases the probability that an offender will score in the high risk group to reoffend.
- Efforts have been made to clarify the instructions on the SVPASI and, in particular, the Sex Offender Risk Scale.
- A recent study by the ORS found that the instrument predicts treatment/supervision failure in the short term and strongly predicts re-arrest for a sexual or violent crime.



## BACKGROUND

### Legislation

Legislation was passed by the Colorado General Assembly in 1997 regarding the identification and registration of sexually violent predators. An adult convicted of at least one of the following offenses and found to be a sexually violent predator is required for the remainder of his or her natural life to register his or her residential address with local law enforcement every three months rather than annually. Information describing the offender is placed on the Internet listing of sex offenders maintained by the Colorado Bureau of Investigations (CBI) and linked to the State of Colorado's homepage. Further, the offender is subject to community notification by the local law enforcement agency. The offenses specified in 18-3-414.5 (A through E), C.R.S. describe sexual assault "as it existed prior to July 1, 2000." The qualifying crimes, including attempt, solicitation, and conspiracy to commit one of the following, are:

- Sexual assault, in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of section 18-3-402, C.R.S. as it existed prior to July 1, 2000;
- Sexual assault in the second degree, in violation of section 18-3-403, C.R.S. as it existed prior to July 1, 2000 (*Note: Section 18-3-403 was repealed in 2000*);
- Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S., or sexual assault in the third degree, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;
- Sexual assault on a child, in violation of sections 18-3-405, C.R.S.; or
- Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.

The offender must be convicted of one of the above on or after July 1, 1999 for offenses committed on or after July 1, 1997.

## **Background**

In the mid-1990s, federal law mandated that each state develop a mechanism to identify “sexually violent predators.” The federal legislation identified the offender’s behavior present in the current crime and his/her risk of committing future similar crimes as primary criteria for the states to use in the designation of sexually violent predators (SVPs). The Colorado General Assembly complied with the federal SVP mandate during its 1998 session by enacting section 18-3-414.5, C.R.S. Note that the state law requires the assessment and designation process on active cases only,

Pursuant, then, to 18-3-414.5, C.R.S, the Colorado Division of Criminal Justice (DCJ) worked in conjunction with representatives of the Colorado Sex Offender Management Board (SOMB) to develop specific behavioral criteria consistent with the language in the statute. To comply with the portion of the statute that addressed the risk for future crimes, the ORS worked with many therapists and supervision officers to conduct a study of nearly 500 convicted sex offenders to develop an empirically-based, actuarial risk assessment scale for use in the identification of sex offenders at significant risk to commit a subsequent serious crime. The overall screening instrument is the *Colorado Sexually Violent Predator Assessment Screening Instrument (SVPASI)* and, within this, the Sex Offender Risk Scale (SORS) provides information about the probability of future reoffending. The behavioral criteria—those pertaining to the relationship to the victim--were defined by representatives from the SOMB, the Parole Board, the Division of Parole, the private treatment community, and the victim services agencies during a three-day meeting in 1998. The basis of the behavioral criteria (Part 2 of the SVPASI) was the wording in federal and Colorado SVP laws. The actuarial scale (Part 3A of the SVPASI ) was developed by the DCJ’s Office of Research and Statistics (ORS) and requires periodic updating to ensure continued predictive ability. The ORS also conducts ongoing analysis of the instruments completed on eligible cases. Please refer to Section Three for a discussion of the actuarial risk

scale research.

**Implementation**

Pursuant to legislation, the Division of Probation Services in the Judicial Department, the Department of Corrections, and DCJ's Office of Research and Statistics are responsible for implementing the SVPASI. Training is available from the ORS upon request.

## **HOW TO USE THIS HANDBOOK**

Probation officers, Sex Offender Management Board (SOMB) approved evaluators, trained DOC staff or DOC contractors will complete the assessment instrument on men and women who qualify for screening as described on pages 19-20 of this handbook.

Section One provides instructions for completing the Sexually Violent Predator Assessment Screening Instrument.

Section Two provides information on the common errors found when completing the instrument and frequently asked questions.

Section Three provides a description of the research study and findings that resulted in the development of Parts 3A and 3B of the SVPASI.

Section Four discusses the ten risk factors that made up the Sex Offender Risk Scale (SORS).

Statutory directives are included in Appendix A. Appendix B includes the SVPASI. Appendix C provides a flowchart for completing the SVPASI.

**SECTION ONE:  
INSTRUCTIONS FOR COMPLETING THE  
SEXUALLY VIOLENT PREDATOR  
ASSESSMENT SCREENING  
INSTRUMENT (SVPASI)**

## INSTRUCTIONS

*Only probation officers, SOMB-approved evaluator and SVP-trained DOC staff or contractors are qualified to complete the Sexually Violent Predator Assessment Screening Instrument (SVPASI).<sup>1</sup>*

The completion of the Sexually Violent Predator Assessment Screening Instrument for qualifying cases is mandated in 18-3-414.5, C.R.S. The qualifying crime categories are listed below.

Offender has been convicted on or after July 1, 1999 of one of the following offenses committed on or after July 1, 1997 (including attempt, solicitation, or conspiracy to commit). Conviction includes verdicts of guilty, pleas of guilty and nolo contendere, or having received a deferred judgment and sentence: Offender must be 18 years or older on the date of the offense or tried as an adult

- Sexual assault, in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of section 18-3-402, C.R.S. as it existed prior to July 1, 2000;
- Sexual assault in the second degree, in violation of section 18-3-403, C.R.S. as it existed prior to July 1, 2000 (*Note: Section 18-3-403 was repealed in 2000*);
- Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S., or sexual assault in the third degree, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;
- Sexual assault on a child, in violation of sections 18-3-405, C.R.S.; or
- Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.

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<sup>1</sup> Must be trained in the administration of the SVP by DCJ or DOC SVP instrumentation experts. Shadowing a trained individual does not qualify.

For cases when **Probation** is involved, the probation officer is responsible for completing certain portions of the instrument and forwarding it to the SOMB-listed sex offender evaluator for completion. The evaluator then returns the completed form to the probation officer. The probation officer assures that each item and data source is entered on the form, and then faxes or mails a photocopy of the completed instrument to Chris Rowe of the Division of Probation Services. The probation officer forwards the original instrument to the sentencing judge who makes the final Sexually Violent Predator (SVP) determination and enters the SVP order in the record.

For the **Department of Corrections** cases, the trained DOC staff or contractors are responsible for completing the entire instrument. The trained staff member or contractor makes sure that each item and data source is filled out and entered into the Department of Corrections Information System (DCIS). A copy of the instrument is then printed and submitted to the Parole Board. The Parole Board makes the final Sexually Violent Predator (SVP) determination and enters the SVP order in the record. A copy of the instrument is then faxed or mailed to Pat Lounders of the Division of Criminal Justice (DCJ).

Following these instructions is required by state statute. The DCJ and the SOMB must ensure that the statute is implemented as the General Assembly intended according to 18-3-414.5 (2) and (3), C.R.S.: subsection (2) describes the probation and court process and subsection (3) describes the Department of Corrections and Parole Board process.

In addition, when the Parole Board considers an offender who is convicted of one of the specified crimes during the qualifying time period, “the Parole Board shall make specific findings concerning whether the offender is a sexually violent predator...”

An offender found to be a sexual violent predator by the court or the Parole Board is required to register his or her residential

address with law enforcement pursuant to 16-22-108(1)(d) and is subject to community notification by the local law enforcement agency.

Sexually violent predator status requires the offender to register with local law enforcement every ninety days for the rest of their natural life (see 16-22-108(1)(d), C.R.S.). The offender must register in the jurisdiction where they live within five business days of becoming a temporary or permanent resident. The offender must re-register if they legally change their name. Upon changing residences, the offender must un-register and re-register accordingly to ensure that the address documentation is correct. Failure to comply with these requirements is a felony crime (per C.R.S 18-3-412.5).

### **Summary**

All offenders 18 years or older on the date of the offense or tried as adults, and convicted (including guilty and nolo contendere pleas or having received a deferred judgment and sentence) on or after July 1, 1999 of one or more of the qualifying crimes committed on or after July 1, 1997, must be assessed using the SVP Assessment Screening Instrument (SVPASI). The probation officer and the SOMB-approved sex offender evaluator or the trained DOC staff or contractor must complete each item on the SVPASI and document the data source for each item on the instrument. The SVPASI is forwarded with the PSIR and the mental health sex offense specific evaluation to the court or Parole Board that then makes the final determination and enters the order into the record. Those individuals found to be SVPs must register every ninety days with the local law enforcement agency in the jurisdiction in which he or she establishes residence. SVPs must register within five business days of being released from incarceration for the commission of the offense requiring registration or after receiving notice of the duty to register. Following the finding by the court or Parole Board, copies of the SVPASI should be faxed or mailed to the Division of Probation Services or Division of Criminal Justice (*see cover page of instrument for contact information*).



## **INSTRUCTIONS** *(Found also on page 3 of the instrument)*

### **Probation Officers**

Probation officers are to complete Part 1, Part 3A items 1-6, Part 3C if necessary, and the Instrument Summary on the SVPASI. If the Probation Officer is completing Part 3C, they also can complete Part 2. When these sections are completed, probation officers should forward the form and copies of any police reports and victim statements to the Sex Offender Management Board approved evaluator. If the accompanying documentation is not available, it is the responsibility of the probation officer to explain the absence of these materials on the provided space. The ORS is tracking the availability of these documents.

### **SOMB Evaluators**

The Sex Offender Management Board approved evaluator is selected by the probation officer pursuant to the SOMB's *Statewide Standards*. The evaluator is required to complete the following:

- Part 2
- Part 3A items 7-10
- Part 3B, **if available**
- Instrument Summary

Upon completion of the form, the evaluator will return it to the probation officer with the mental health sex offense specific evaluation. Both the evaluation and the sexually violent predator assessment instrument will be attached to the PSIR. **Where necessary, the evaluator must expand the data obtained during the evaluation to acquire the information necessary to complete the form.**

### **Trained DOC Staff or Contractors**

The Trained DOC staff or contractor must complete the entire form (Parts 1, 2, 3A, 3B *when available*, 3C *if necessary*, and the Instrument Summary).

### **Data Sources**

A list of potential data sources is provided on page 3 of the SVPASI for use by both the probation officer and SOMB-listed evaluator or trained DOC staff or contractor when completing the assessment screening instrument. It is important that all data sources that apply be clearly identified and documented when requested on the instrument. The form will become a part of the court record and officials may be asked to testify on the sources of the information used to classify the offender. Self-report should be used only when other data sources are not available, though it is often the only available source for this instrument.

1. *Criminal History*
2. *Pre-Sentence Investigation Process*
3. *Police Report*
4. *Mental Health Evaluation*
5. *Official Record/Documentation*
6. *Child Protection or Social Service Records*
7. *Demographic Information*
8. *NCIC*
9. *Education Records*
10. *Victim Report (self report or from any data source)*
11. *Sexual History (official record, self report)*
12. *Sex Offense Specific Mental Health Evaluation*
13. *Prison Record*
14. *Self-Report*
15. *CCIC*
16. *Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)*
17. *Polygraph*
18. *Other (Specify) \_\_\_\_\_*

### **Send to the Division of Probation Services**

After the court makes the finding of fact and completes the box on the cover page of the instrument, the probation officer must forward a copy of the instrument to the Division of Probation Services (DPS) *within one month*.

### **Send to the Division of Criminal Justice**

After the Parole Board makes the SVP determination and completes the box on the cover page of the instrument, a copy of

the instrument should be sent to the ORS at the Division of Criminal Justice *within a month*.

## **PART 1** (Page 4 of the instrument)

*Entire section is to be filled out by the probation officer or trained DOC staff or contractor.*

### **Client Information**

Please ensure that all of the requested client information is provided. This information will assist in the ongoing research and analysis of this group of offenders.

First and Last Name

CC#: Court Case Number

SS#: Social Security Number

SID#: State Identification Number

ML#: Master List Number

DOB: Date of Birth (mm-dd-yyyy)

Gender: Male or Female

Ethnicity: Anglo, Black, Hispanic or Other

### **Eligible Cases for Screening**

Probation officers and SOMB-listed sex offender evaluators or trained DOC staff or contractors will complete the entire instrument for every sex offender that meets the following criteria:

- Is 18 years of age or older on the date of the offense, or has been tried as an adult pursuant to section 19-2-517 or 19-2-518, C.R.S.

Has been convicted (including verdicts of guilty, pleas of guilty and nolo contendere, or receiving a deferred judgment and sentence) on or after July 1, 1999 of one of the following offenses committed on or after July 1, 1997, including an attempt, solicitation or conspiracy to commit one of the following:

- Sexual assault, in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of

- section 18-3-402, C.R.S. as it existed prior to July 1, 2000;
- Sexual assault in the second degree, in violation of section 18-3-403, C.R.S. as it existed prior to July 1, 2000 (*Note: Section 18-3-403 was repealed in 2000*);
  - Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S., or sexual assault in the third degree, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;
  - Sexual assault on a child, in violation of sections 18-3-405, C.R.S.; or
  - Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.

Please proceed to Part 2.

## **PART 2** (*Pages 5 and 6 of the instrument*)

*Entire section is to be completed by the SOMB evaluator or trained DOC staff or contractor. However, if the Probation Officer is completing Part 3C, they can also complete Part 2.*

These relationship criteria were defined by an expanded committee of the SOMB because the SVP statute does not provide definitions. Without clear descriptions of these relationship criteria, arbitrary and subjective scoring methods could result.

### **A. Stranger**

- Please check either the “Yes” or “No” box presented after the statement “Meets STRANGER Criterion.”
- At least one data source must be documented in this section whether the offender meets the criterion or not.
- If the offender *met* this criterion, the SOMB evaluator or trained DOC staff or contractor will fill out the summary on page 6 and then they may proceed to Part 3 of the Sexually Violent Predator Assessment Screening Instrument. If the offender *did not meet* this criterion, the SOMB evaluator or trained DOC staff or contractor must continue to the ESTABLISHED A RELATIONSHIP criterion.

### **B. Established a Relationship**

At least two of the listed criteria must be checked in order to affirm that the offender established a relationship with the victim.

- *Offender has a history of multiple victims and similar behavior* – a history of multiple victims does not require documentation in official court records. Self-report, clinical records, prison or community supervision records are important sources of this information.
- *Offender has actively manipulated the environment to gain access to this victim* – this includes use of the offender’s residence, workplace, and leisure activities. Examples include befriending parents, offering transportation to

school, or offering assistance with child care in order to gain access to child. Creating an environment attractive to an intended victim, by providing access to video games, pornography, drugs or alcohol, or a pet would also be included. Using the internet to gain access to the victim will also fall under this criterion.

- *Introduction of sexual content in the relationship* – this criterion indicates that content such as inappropriate sexual discussions or pornographic material was introduced into the relationship. The introduction of sexual content is a deliberate attempt to gauge the victim’s interest or curiosity in sexual issues. This criterion should not be confused with the one listed below referring to *sexual contact*.
- *Offender persisted in the introduction of sexual contact or inappropriate behavior of a sexual nature despite lack of consent or the absence of the ability to consent* – Non-consensual activity is the emphasis of this criterion. Not only must a lack of consent be taken into consideration, but also the inability of an individual to give appropriate consent. Individuals who are under the legal age for giving consent or who are developmentally disabled would fit this criterion, for example.
- Please check either the “Yes” or “No” box presented after the statement “Meets Established Criteria.”
- At least one data source must be documented in this section whether the offender meets the criterion or not.
- If the offender *met* this criterion, the SOMB evaluator or trained DOC staff or contractor will fill out the summary on page 6 and then they may proceed to Part 3 of the Sexually Violent Predator Assessment Screening Instrument. If the offender *did not meet* this criterion, the SOMB evaluator or trained DOC staff or contractor must continue to the PROMOTED A RELATIONSHIP criterion.

### **C. Promoted a Relationship**

The presence of the first item and the presence of any one or

more factors will make the determination for this criterion. The SOMB evaluator or trained DOC staff or contractor must check the first item to proceed to the other factors.

- *Offender took steps to change the focus of the relationship to facilitate the commission of a sexual assault such as but not limited to planning, increased frequency of contact, introduction of inappropriate sexual contact, stalking, seduction or drugging of the victim.* There must be an existing relationship between the offender and victim such as parent, step-parent, intimate partner, co-worker, or teacher/student.

**AND**

- *Offender engaged in contact with the victim that was progressively more sexually intrusive over time.* The emphasis of this criterion is the sexually intrusive nature of the relationship that is promoted over time.
- *Offender used or engaged in threat, intimidation, force or coercion in the relationship.* The use of such behavior makes the victim more vulnerable.
- *Offender engaged in repetitive non-consensual sexual contact.* Not only a lack of consent must be taken into consideration, but also the inability of an individual to give appropriate consent. Individuals who are under the legal age for giving consent or who are developmentally disabled would fit this criterion, for example.
- *Offender established control of the victim through means such as but not limited to emotional abuse, physical abuse, financial control or isolation of the victim in order to facilitate the sexual assault.* The emphasis of this criterion is the establishment of control over the victim by altering the relationship by inflicting abuse of some sort.
- Please check either the “Yes” or “No” box presented after the statement “Meets Established Criteria.”
- At least one data source must be documented in this section whether the offender meets the criterion or not.
- If the offender *met* this criterion, the SOMB evaluator or trained DOC staff or contractor will fill out the summary on



page 6 and then they may proceed to Part 3 of the Sexually Violent Predator Assessment Screening Instrument.

**Summary of Relationship Information**

Based upon the preceding determinations of the offender's status as a STRANGER, ESTABLISHED A RELATIONSHIP or PROMOTED A RELATIONSHIP, the SOMB evaluator or trained DOC staff or contractor is required to summarize the results in this section. Please check either the "Yes" or "No" or "NA" box for each criterion.

**Please proceed to Part 3.**

### **PART 3A** *(Page 7 of the instrument)*

*Probation officers are required to complete items 1 through 6.*

*SOMB evaluators are responsible for items 7 through 10.*

*Trained DOC staff or contractors will complete items 1 through 10.*

The first four items of this risk scale refer to the offender's historical information. The next three items refer to the current crime. Questions eight through ten are based upon three of the scales found on the SOMB checklist. This checklist is provided following Part 3C.

Each item is scored 1 (YES) or 0 (NO). At least one data source must be provided for each item, regardless of whether the offender meets the criterion. Refer to page 3 for the possible data sources.

**Complete this scale for women also, however omit items #3 and #7.**

*In the event that the offender refuses to participate in the interview required to complete **all** 10 items on this scale, please proceed to Part 3C.*

**Item One: The offender has one or more juvenile felony adjudications.** This item does include attempts and conspiracies but does not include misdemeanors or deferred judgments/adjudications. It refers to juvenile adjudications (including sex offenses), court actions that would have resulted in a felony conviction if the offender was an adult. **(Completed by probation officer or trained DOC staff or contractor)**

**Item Two: The offender has one or more prior adult felony convictions.** This item does include attempts/conspiracies,

deferred judgments/sentences, and sex offenses. **(Completed by probation officer or trained DOC staff or contractor)**

**Item Three: The offender was employed less than full-time at arrest.** *This item does not apply to women.* Employment status must be taken at the *point of arrest for the current crime*. Full time work refers to 35 or more hours a week. Full-time student or multiple, concurrent, stable part-time jobs can be considered full-time employment. However, if the offender is a seasonal employee (including teachers), or is on vacation or a summer holiday and is not working at the time of arrest, they are considered to be NOT EMPLOYED during this time. Additionally, retired persons or persons otherwise legitimately unemployed are not considered to have full time employment and must be coded yes (1). Self employment can be considered full time employment if the offender is working at least 35 hours per week. **(Completed by probation officer or trained DOC staff or contractor)**

**Item Four: The offender failed first or second grade.** The offender must have been held back in one or both of these grades in school. It does not refer to the possession of poor grades. It does not matter how many times the offender was held back in first or second grade. Failing any other grade level does not count. **(Completed by probation officer or trained DOC staff or contractor)**

**Item Five: The offender possessed a weapon during the current crime.** A weapon was present and is defined as a gun, knife, or object that could be used to intimidate or harm a victim. The offender need only *possess or threaten to use* the weapon during the crime, **not** use the weapon. If the victim was led to believe that a weapon was present, regardless if it was, score this criterion "yes." **(Completed by probation officer or trained DOC staff or contractor)**

**Item Six: The victim ingested or was administered alcohol or drugs during or immediately prior to the current crime.** The

intent of this item is to capture the use of alcohol or other drugs, including prescription drugs if their purpose was to incapacitate the victim or inhibit the ability of the victim to resist. The ingestion of alcohol or drugs by the offender has no relevance when determining this criterion. **(Completed by probation officer or trained DOC staff or contractor)**

**Item Seven: The offender was NOT sexually aroused during the current crime.** *This item does not pertain to women.* Sexual arousal refers to an erection. If the offender was NOT aroused, mark "yes". This information can sometimes be found in the police report or victim statement. Self-report should be relied on only if the information is not available elsewhere. **(Completed by SOMB evaluator or trained DOC staff or contractor)**

**Items Eight Through Ten:** The information needed to answer these criteria is found on the SOMB checklist, which is on page 10 of the SVPASI instrument. All 8 factors in each of the subscales apply to all offenders. Clarification of the Denial, Deviancy and Motivation scales is provided below. **(Completed by SOMB evaluator or trained DOC staff or contractor)**

- **Item 8: The offender scored 20 or above on the Colorado-SOMB Denial Scale.**
  - **Denies actual facts of the offense** – Offender does not agree with the stated facts regarding his/her conviction.
  - **Denies wrongfulness of actions** – Offender does not acknowledge that his actions were inappropriate, wrong, or adversely affected his or her victim(s).
  - **Minimizes prior sex offenses** – Offender does not indicate, or actively denies, the relevance of prior sex offenses.
  - **Portrays self as victim** – Offender views himself as the victim of current or past circumstances that led to his current life problems.

- **Blames others for the crime** – Offender expresses that others carry some or all responsibility for the current offense.
  - **Holds grudge against “system”** – Offender expresses frustration about official intervention resulting from this crime.
  - **Says victim “wanted it”** – Offender believes that the victim desired the actions that were administered by the offender.
  - **Says therapy is unnecessary** – Offender does not believe that any therapy, counseling, or treatment is needed.
- **Item 9: The offender scored 20 or above on the Colorado-SOMB Deviancy Scale.** *Indicate on the SORS and SOMB Checklist whether the responses reflect the offender’s current deviant sexual practices and/or their deviancy at the time of the crime.*
    - **Has no socially appropriate sexual outlet** – Offender has no realistic opportunities to engage, or does not engage, in healthy, consenting, age-appropriate and power equivalent sex. Private masturbation in prison is a sexually appropriate outlet, while sexual misbehavior in prison is not.
    - **Engages in many forms of deviant sexuality** – Offender has participated in a wide variety of deviant, perhaps criminal, sexual behavior.
    - **Obsessed with deviant sexual practices** – Offender is significantly preoccupied with thoughts of socially unacceptable and possible criminal sexual practices. Behavior indicating obsessive qualities applies here.
    - **Engages in bizarre sexual practices** – Offender participates in unusual, aberrant, unconventional, or peculiar sexual behavior.
    - **Poor control of sexual behavior** – Offender has difficulty controlling his/her sexual impulses.

- **Talks constantly about sex** – Offender is unable to refrain from discussing sexual topics or regularly sexualizes the content of the conversation.
  - **Nothing seems “off limits” sexually** – Offender does not view any type of sexual activity as unreasonable.
  - **Masturbation is compulsive or excessive** – Offender’s masturbation activity seems uncontrollable, unrestrained, or compelling.
- **Item 10: The offender scored 20 or below on the Colorado-SOMB Motivation Scale.**
    - **Verbalizes desire for treatment** – Offender expresses that he/ she is willing to, would like to, or would benefit from participation in sex offender treatment.
    - **Agrees with court order for intervention** – Offender does not resist intervention services.
    - **Pays attention to evaluator** – Offender listens to the SOMB approved evaluator and is engaged in the interactions with the evaluator(s).
    - **Arrives for appointments on time** – Offender is punctual for scheduled appointments.
    - **Is positive about evaluator’s testing** – Offender is willing and non-resistant to the evaluator’s methods of testing.
    - **Actively participates in evaluation** – Offender is involved in the evaluation process.
    - **Completes evaluation requirements** – Offender fulfills the necessary tasks and assignments required to complete the evaluation process.
    - **Seeks additional help** – Offender reaches out, or indicates a willingness to reach out, to obtain external assistance and support in a prosocial fashion.

Each item on the scale answered in the affirmative earns one point, which are totaled. The highest possible score for men is ten; for women the highest score is 8. For both men and women, a score of 4 or above is considered high risk.

**Please proceed to Part 3B.**

## **OPTIONAL: PART 3B** *(Page 8 of the instrument)*

*The SOMB evaluator or trained DOC staff or contractor may complete this section ONLY if the information is available. This information typically is NO LONGER available on DOC offenders. It is sometimes available on offenders evaluated in the community. An offender who meets the Part 3B criterion is at significantly higher risk to reoffend.*

### **Mental Abnormality**

The offender meets the mental abnormality criterion when he or she scores:

- 18 or more on the Psychopathy Check List Screening Version (PCL-SV), OR
- 30 or more on the Psychopathy Check List Revised (PCL-R), OR
- 85 or more on each of the following MCMI-III<sup>2</sup> scales – narcissistic, antisocial, and paranoid.

This item can be answered only if the scores from the PCL-SV, PCL-R, or MCMI are available. Indicate the score of the appropriate test in the space provided.

**Please proceed to the Instrument Summary.**

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<sup>2</sup> The MCMI-III (Millon Clinical Multiaxial Inventory-III) is a 240-item self-administered questionnaire that generates 26 subscales and assesses for 13 personality disorders and 9 clinical syndromes in adult patients.



### **PART 3C** *(Page 9 of the instrument)*

*The Probation Officer or Trained DOC Staff/Contractor is required to complete this section when the offender refused to participate in the SORS interview.*

In the event that the offender refuses to participate in the interview required to complete all of the 10-items on the SOMB Sex Offender Risk Scale (SORS), apply the following 6-item scale. Use any information that is available in the offender's file.

At the time of the offender's refusal, a probation officer or trained DOC staff/contractor will verbally read the following statements to the offender to try to encourage participation.

- a. Without cooperation in the SVP assessment interview required to complete this form, the interviewer will be required to complete an alternate risk scale (below) with information only from the offender's criminal history file;
- b. The 'alternate' scale contains valid risk factors, but is shorter and eliminates approximately 50% of sex offenders from recommendation as an SVP; and
- c. Participation in the interview required to complete the longer, 10-item SORS scale has been found to eliminate more than 80% of convicted sex offenders from recommendation as an SVP.
- d. Therefore, this 6-item scale more than doubles the chance that the offender will score high-risk than that of the 10-item SORS.

The 6-item scale is based on three SORS items and three predictors of future criminality commonly found in the criminology research literature. These items were selected based on predictive ability and because the information typically is easily found in the offender case files.

Each item is scored 1 (YES) or 0 (NO). At least one data source must be provided for each item, regardless of whether the offender meets the criterion. Refer to page 3 for the possible data sources.

**Complete this scale for women also, however omit item #3.**

- **Item One: The offender has one or more juvenile felony adjudications.** This item does include attempts and conspiracies but does not include misdemeanors or deferred judgments/adjudications. It refers to juvenile adjudications, court actions that would have resulted in a felony conviction if the offender was an adult. **(Completed by probation officer or trained DOC staff or contractor)**
- **Item Two: The offender has one or more prior felony conviction.** This item does include attempts/conspiracies and deferred judgments/sentences. **(Completed by probation officer or trained DOC staff or contractor)**
- **Item Three: The offender was employed less than full-time at arrest.** *This item does not apply to women.* Employment status must be taken at the *point of arrest for the current crime*. Full time work refers to 35 or more hours a week. Full-time student or multiple, concurrent, stable part-time jobs can be considered full-time employment. However, if the offender is a seasonal employee (including teachers), or is on vacation or a summer holiday and is not working at the time of arrest, they are considered to be NOT EMPLOYED during this time. Additionally, retired persons or persons otherwise legitimately unemployed are not considered to have full time employment and must be coded yes (1). Self employment can be considered full time employment if the offender is working at least 35 hours per week. **(Completed by probation officer or trained DOC staff or contractor)**

- **Item Four: Any documented history of violence or weapon use (lifetime).** Includes any documented violent behavior or weapon use as an adult or juvenile, in the institution or in the community, whether or not it resulted in an arrest or investigation. This includes pretending to use a weapon during the commission of the crime and any domestic violence arrests. **(Completed by probation officer or trained DOC staff or contractor)**
- **Item Five: Any documentation of substance-abuse related crime (lifetime).** Includes any arrest for a drug crime or DUI, OR any past or current offense that was committed when the offender was abusing drugs or alcohol. **(Completed by probation officer or trained DOC staff or contractor)**
- **Item Six: More than one sexual assault victim or more than one sexual assault (lifetime).** This item includes the current offense and any information in the file that documents any type of sexual assault against more than a single victim or evidence of more than a single sex crime event. **(Completed by probation officer or trained DOC staff or contractor)**

Total the number of “Yes” responses for these six items. A score of 3 or more on this scale places the offender in a group at high-risk to reoffend.

**Please proceed to the Instrument Summary.**

## **INSTRUMENT SUMMARY**

After the Probation Officer/SOMB Evaluator or the Trained DOC Staff or Contractor completes Parts 1, 2, 3A, 3B *if available*, and 3C *if necessary*, the findings need to be summarized in the Instrument Summary.

Please check either the “Yes” or “No” box presented after the statements...

- Defining Sexual Assault Crimes Criterion **(Part 1)**?
- Meets Date Requirement **(Per Statute)**?
- Meets Relationship Criteria **(Part 2)**?
- Scored 4 *or more* on DCJ Sex Offender Risk Scale **(Part 3A)**? **OR**
- PCL or MCMI scores were available and offender meets the mental abnormality criteria in **Part 3B**? **OR**
- Offender refused to participate in the SORS interview and scored 3 or more on the 6-item scale in **Part 3C**?
- Did offender meet SVP Criteria? *In order for an offender to qualify for designation as a sexually violent predator, a YES is required on **Parts 1+2+(3A or 3B when available or 3C when necessary)**.*

**Please record this information on page 1 of the instrument as well.**

**SECTION TWO:  
Common Errors in Completing the  
Sexually Violent Predator Assessment  
Screening Instrument and Frequently  
Asked Questions**

## **COMMON ERRORS IN COMPLETING THE SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT**

An analysis of 1,300 completed SVPASI instruments revealed some common coding problems. Errors are common when busy professionals work with complicated and confusing forms. The ORS appreciates the feedback it receives from many in the field who are working with the SVPASI, and we will continue our efforts to improve the instrument based on this important feedback from users. The following is a list of errors from a large sample of completed SVPASIs we have received from the Department of Corrections and Probation.

- About 20 percent of the SVPASIs had problems; most often, the form was incomplete or had missing data.
- Ten percent of the SVPASIs reviewed had missing data
- About four percent of the SVPASIs were incomplete (more than simply missing data)
- About four percent of the SORS 10-item scales were totaled incorrectly
- Two percent of the SOMB Checklist items were not complete
- About two percent had errors in the relationship section
- About two percent had errors in the Assessment Summary

## **FREQUENTLY ASKED QUESTIONS**

### **1. Who can complete or modify the items in the SVPASI?**

Only probation officers, trained DOC staff or contractors who have been trained to complete the instrument can complete the instrument. These individuals must be trained in the administration of the SVP by DCJ or DOC SVP instrumentation experts. Shadowing a trained individual does not qualify. The SVPASI is not intended to be modified or updated once completed.

### **2. Can the relationship definitions in Part 2B be changed? Can items in the SORS be changed?**

Yes and no. Part 2 of the SVPASI was developed by stakeholders (parole and probation officers, SOMB members, Parole Board members, probation and parole officials, treatment providers, and DCJ staff) to clarify the definitions provided in statute. These can be changed but would require the SOMB and others to convene a meeting and agree on specific modifications. The 10-item SORS, however, is a statistical tool and cannot be changed without additional study or analysis. Changes to the Part 2B can be made by decision makers; changes to the SORS can only be changed with additional research.

### **3. I think some of the risk factors in the 10-item scale are confusing. Can you explain them?**

In Section One of this handbook, each item is explained in detail. Please turn to pages 26-30 for more information.

### **4. What if my client was disabled and unable to work? Does he get a point for not being employed (item #3 on the SORS)? This seems unfair.**

If the person was not actively working or in school on a full-time basis, this must be coded "1." This item, while directly measuring employment or school, may be tapping leisure time. If so, it is consistent with findings from Hanson and Harris (1998) who found unstructured, unproductive time is linked to new sex

crimes. During the original data collection, researchers coded all types of daily activity, and those who were occupied with school or work most of the time had better outcomes. So this item may measure more than simply employment status. It may also measure daily structure, level of positive functioning, or possibly pro-social behavior.

**5. No one gets held back in school anymore. There is significant pressure to pass kids to the next grade. Can item #4 on the SORS be obsolete given current practices?**

Few children fail first or second grade. Those who do are usually suffering from behavioral or emotional problems that may be interfering with their cognitive abilities. Although it is rare, these are typically children with serious deficits that put them at risk for many negative life outcomes. Many of the offenders in the sample were children in the 1970s and 1980s; and changes in social practices and school policies are outside the control of researchers. Over time, the SORS will be tested on different samples of offenders and time will tell if item #4 continues to be predictive. Based on the child development and criminology research literature, odds are that this or some other measure of early childhood difficulty will remain in future versions of the SORS.

**6. The victim was aware that there were knives in the kitchen although the offender was not threatening use of a weapon. How should I code item #5 on the SORS?**

Code it "0." The victim's fear was very real, and nearly any object can be used as a weapon, even a fist. But the study found only the use or threatened use of an actual weapon in the traditional sense of the word was predictive of negative outcomes.

**7. The offender told me that he was not sexually aroused during the offense (item #7 on the SORS) but information in the file says he was. How should I score the item?**

Use the most reliable information available to score the SORS. Often the information in the file can be traced to the offender's



self report, so it is common to rely on self-reported data. In this case if you have another source of information that you think is more reliable, use it and document your source on the SVPASI.

**8. Why aren't there instructions for completing the 3 items from the SOMB checklist (items 8-10 on the SORS)?**

Usually the way to ensure that a form is completed the same way by many different people is to provide clear instructions. But the Checklist items were originally developed and tested with NO instructions. Psychometric research has found that robust scales require eight to 12 indicators. For that reason, the Checklist items have eight indicators. Researchers during the original study analyzed whether the responses from the SOMB-approved evaluators were similar and statistically "hung together" in a reliable way. Indeed, the three Checklist items in the SORS were found to be very reliable statistically and they proved to be strong predictors of both treatment failure and arrest for sex or violent crimes.



**SECTION THREE:  
ACTUARIAL RISK RESEARCH**

## ACTUARIAL RISK RESEARCH

Risk assessment is a key component of correctional population management. Research pertaining to offender risk of supervision failure dates back to the 1920s (Warner, 1923; Hart, 1923; Warner, 1928). Research specifically targeting risk assessment of adult sexual offenders has occurred only within the past two decades. Important work was reviewed prior to the 1998 Sex Offender Risk Assessment study conducted by DCJ,<sup>3</sup> and risk factors identified and studied by other researchers were incorporated in this research. These risk factors included the factor of *psychopathy* (Hare, 1991; Harris et al., 1991; Hart, Kropp and Hare, 1988; Serin et al., 1990) as measured by the Hare Psychopathy Checklist, Short Version.

While other actuarial risk instruments for sex offenders exist today, this was not the case when the SORS was developed in 1998. Currently existing instruments such as the Rapid Risk Assessment of Sexual Offense Recidivism (RRASOR) and the Violence Risk Assessment Guide (VRAG) are likely to have less statistical power to discriminate between the low and high risk groups of Colorado offenders, since actuarial risk instruments developed on the population of interest, in the jurisdiction of interest (such as the state of Colorado), provide the most accurate predictions of future criminal behavior. Testing the efficacy of these alternative instruments would require a comprehensive study of these instruments on Colorado sex offenders.

The research design for developing the SORS was the product of the SOMB's Risk Assessment Subcommittee working collaboratively with the ORS. The research study described here exemplifies the multi-agency, multi-disciplinary collaborative process necessary for meaningful sex offender containment strategies.

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<sup>3</sup> See English, K., Retzlaff, P. and Kleinsasser, D. (2002). The Colorado Sex Offender Risk Scale. *Journal of Child Sexual Abuse*, 11, 77-96

Factors that predict risk vary considerably across studies because the studies and the samples vary considerably in a number of ways. First, studies often vary in how risk and recidivism is defined. Recidivism may be defined as: rearrest for any crime; violent rearrest; violent conviction; sex crime rearrest; or sex crime conviction and recommitment. These common measures rely on official records of police and criminal justice system intervention. Official record data will always under-report actual offending behavior because many sex offenses go unreported. A less common outcome variable is treatment or supervision compliance, a measure that does not depend completely on official records. This was the outcome measure used in the original SORS study. **The SORS predicted supervision and/or treatment failure and, as subsequent research revealed, such failure indeed predicted later arrest for a serious crime.**<sup>4</sup>

The reliance on official records to obtain information about new assaults leads to another problem in risk prediction: Official reports of offending behavior likely reflect the type of victim targeted and so the outcome data may be systematically biased by victim type. For example, if certain types of victims are less likely to report the assaultive behavior, say incest victims or victims of acquaintance rape, then these crime types will be underrepresented in all of our offender samples. Some study samples, such as those used to build the RRASOR (Hanson 1998) and the Minnesota Sex Offender Screening Tool (MnSOST) (Epperson et al, 1998), specifically excluded incest offenders and so the instruments will miss the risk presented to this victim type. In other words, these tools may lack power with regards to predicting recidivism among incest offenders.

Another research challenge involves the availability of data across jurisdictions. If available, data may vary in reliability,

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<sup>4</sup> Harrison, L. and English, K. (2007). *Colorado Adult Sex Offender Risk Scale (SORS): Nine Year Follow-Up*. Unpublished manuscript.

completeness, and accuracy. Characteristics of offenders will vary across studies. Only those factors that were identified as relevant to the study when the research project was designed will be collected and incorporated into any new risk models.

Finally, the at-risk study period varies considerably across studies. The longer the at-risk period, the greater the likelihood of failure. Typical observation periods range from 2 to 5 years. In the original 1998 SORS study, a 12 month follow-up period was used due to legislation requiring the development of the scale within a short time period. The sample was studied again at 30 months and the predictive power remained consistent with the 12-month findings.

### **The Theory Behind Statistical Risk Prediction**

Statistical predictions of behavior sort individual offenders into subgroups which have the behavior of interest occurring at different rates, such as more vs. fewer traffic accidents, or in the case of the CSORS, new offenses. *Individual behavior* is not being predicted. Rather, statistical risk tools predict an individual's *membership in a subgroup* that is correlated with future offending. Individuals falling into a statistically determined high risk group may be considered dangerous, whether or not the offender actually reoffends upon release.

In summary, an instrument that predicts reoffending (such as the CSORS) does so by considering each assessed offender's characteristics. If these characteristics are similar enough to those offenders who were found to later reoffend, the assessed offender is considered "high risk." If the assessed offender does not share characteristics similar to those offenders who later offended, this offender is considered "low risk."

## **SUMMARY OF THE 1998 COLORADO SEX OFFENDER RISK SCALE STUDY DESIGN**

### **Description of the Sample**

The sample consisted of adult male sex offenders who were placed on probation supervision, in community corrections (court diversion or prison transition), parole, and prison treatment (Phase One and Phase Two) in the following jurisdictions between December 1, 1996 and November 30, 1997. A total of 494 cases from the following jurisdictions participated in the study:

#### Probation Districts:

- 18<sup>th</sup> (Arapahoe County)
- 2<sup>nd</sup> (Denver County)
- 4<sup>th</sup> (El Paso County)
- 1<sup>st</sup> (Jefferson County)

#### Community Corrections:

- ComCor, Inc. in El Paso County

#### Parole:

- Denver County
- El Paso County

#### Department of Corrections (DOC):

- Sex Offender Treatment Program, Phase One, Fremont Correctional Facility
- Sex Offender Treatment Program, Phase Two, Arrowhead Correctional Facility

Phase One of the Department of Corrections' Sex Offender Treatment and Management Program (SOTMP) is a six month psycho-educational program for inmates; It is a prerequisite for entering Phase Two. Phase Two is a prison-based therapeutic community. Participants are involved in treatment activities for at least four hours each day.

These jurisdictions and programs were selected because the sites, in general, processed the largest number of sex offender cases in the state, and because professionals in those jurisdictions were willing to work with the SOMB and DCJ research staff. Sex offenders in probation, community corrections, prison and parole were included in the sample.

The total number of cases from each placement is as follows:

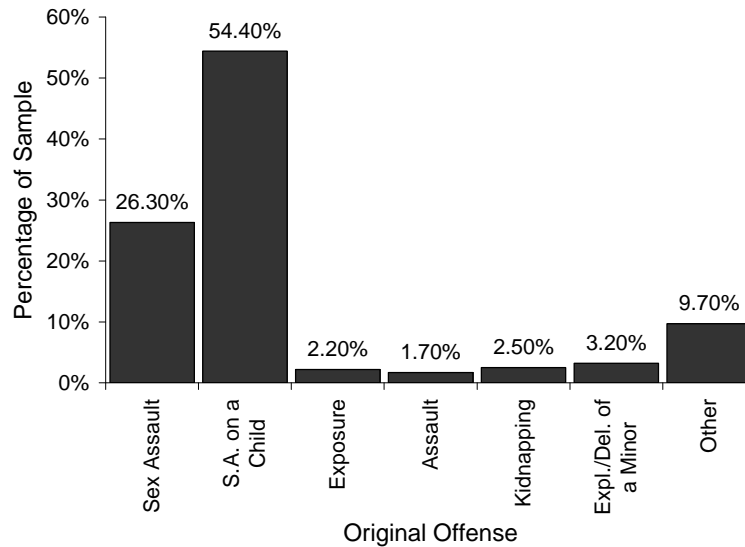
Probation	221	44.7%
Department of Corrections	226	45.8%
Parole	<u>47</u>	<u>9.5%</u>
TOTAL	494	

Eighty percent (80%) of the study sample consisted of adult sex offenders convicted of one of the defining crimes, i.e., first, second or third degree sexual assault, sexual assault on a child, or sexual assault on a child by a person in a position of trust.

Figure 1 reflects the conviction crime of the offenders in the original sample. Note that these offenders were convicted before the SVP law went into effect, so none of the offenders in the sample were subject to community notification. Most were required to annually register their residential address with local law enforcement.



**Figure 1. Conviction Crime of SORS Development Sample.**



### **Data Collection**

Data were collected on a number of dimensions considered to be related to failure in sex offender treatment and reoffense, according to the research literature and the clinical experience of members of the SOMB Assessment Committee. The constructs that the group agreed to attempt to measure were:

- Personality Descriptions
- Psychopathy
- Cognitive Distortions
- Criminal History
- Juvenile Criminal History
- Sexual History
- Characteristics of the Current Offense
- Demographic Information
- Substance Abuse History
- Dynamic Indicators of:
  - Motivation for Treatment
  - Denial

- Empathy
- Readiness to Change
- Social Competence and Relationships
- Deviancy
- Pro-Social Behaviors

The original study design allowed for measures of both static and stable dynamic variables for predictor variables. Working with private treatment providers in the Denver Metro Area and Colorado Springs, and the clinical staff of the Sex Offender Treatment Program of the Department of Corrections, the following data collection instruments were used.

1. **Personality Disorders.** The MCMI-III<sup>2</sup> is a personality inventory scored on all inmates entering the Department of Corrections. This is a 240-item client self-report questionnaire that identified thirteen different personality or mental health diagnoses. Therapists were responsible for obtaining the MCMI forms from DCJ researchers, asking the offender to complete the form, and returning the form to DCJ for data entry and analysis. A total of 274 MCMI instruments were analyzed for this study (55.5% of the total sample).
2. **Psychopathy.** The HARE Psychopathy Checklist Revised (PCL-R) and the Screening Version (PCL-SV),<sup>6</sup> identifies a particular dimension of dangerousness, and has been tested in a variety of countries, including Canada, New Zealand and Australia. Offenders who score 18 or above on the PCL-R have been found to be at considerable risk for violent reoffense. The SOMB invited Dr. Robert Hare and Dr. Steven Hart to Colorado for a 3-day training for therapists who agreed to

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<sup>5</sup> The MCMI-III is the Millon Clinical Multiaxial Inventory, version three, by Theodore Millon, Carrie Millon and Roger Davis, available from National Computer Systems, phone 800.627.7271.

<sup>6</sup> Hare, R.D. (1991). *Manual for the Hare Psychopathy Check List-Screening Version*. Toronto, Ontario, Canada: Multi-Health Systems.

participate in the study and paid for their certification in the use of the tool. The PCL-SV forms were supplied to therapists by the SOMB (using research grant funds) for completion on study cases and returned to DCJ for data entry and analysis. A total of 196 PCL-SV were analyzed (39.7% of the total sample).

3. **Sexual History.** Dr. Jack Gardner from Greeley, a member of the SOMB Research Assessment Committee in 1997, developed a Sexual History Questionnaire based on a literature review, clinical discussions within the Committee, and Dr. Gardner's experience. This 50-item questionnaire was completed by the therapists after the offender had entered treatment. 190 of these forms were returned to DCJ for analysis (38.5% of the total sample). This instrument proved to be extremely valuable and will be included in the SOMB's future data collection and case tracking research mandated by the General Assembly.
4. **DCJ Criminal Justice Data Collection Form.** This data collection instrument had been used by ORS researchers for more than a decade. It focuses on demographic items, juvenile and criminal history, current crime factors, victim characteristics, substance abuse and other case descriptions that are typically used by decision makers who handle the case. ORS researchers used this form to collect data from case files on 460 offenders in the study (93.1% of the total sample).
5. **Colorado SOMB Checklist.** The SOMB Research Assessment Committee identified several clinical issues that they believed were central to dangerousness. The Committee worked with Dr. Paul Retzlaff, an expert in psychometrics from the psychology department of University of Northern Colorado, to develop an instrument that could capture and quantify these dynamic factors. The Committee identified *Motivation for*

*Therapy, Level of Denial, Level of Empathy, Readiness to Change, Interpersonal Competence, Positive Social Support, Deviant Sexual Practices, Lifestyle Stability and Treatment Compliance.* Dr. Retzlaff constructed, with the group's considerable input, an eight-item instrument with 8-item subscales (each with a 1 through 5 measure) describing each dimension. Therapists were instructed to score the offender on the SOMB Checklist during the first month of therapy. A total of 232 forms (47% of the total sample) were completed during the first month of treatment and were analyzed for this study.

6. **Polygraph disclosures.** ORS researchers obtained polygraph data when it was available (152 cases; 30.1% of the total sample) in an effort to better understand the relationship between polygraph disclosures and risk. Because the data were unavailable in many cases, analysis of this information was considerably limited and, ultimately, none of the information was used in the SORS.

### **Outcome Measures**

Measures of very short-term outcomes were used as the initial follow-up period was short (12 months), which was required by the length of the research grant and a legislatively mandated completion date of January 1, 1999.<sup>7</sup> Therefore, multiple outcome variables were collected. Information was collected concerning whether or not the offender had:

- Committed a new crime (sex crime or other crime),
- Been revoked from supervision, was revoked and reinstated,
- Been revoked and placed on ISP, was revoked with the case pending,
- Been terminated from treatment for noncompliance,

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<sup>7</sup> Mandated by 18-3-414.5 (a) (IV), C.R.S.

- Been expelled from treatment and readmitted,
- Absconded from supervision,
- Successfully completed supervision and/or treatment,
- Transferred out-of-state,
- Died, or
- Was still in treatment.

Outcome data were collected by ORS researchers reviewing electronic rap sheets (obtained from the Colorado Crime Information Center and the National Crime Information Center). Because very few offenders were expected to fail by this measure in one year, additional data were collected by interviewing each supervising officer, therapists, or both to obtain details about the status of each case where the offender was not rearrested.

Considerable support in the literature exists for using revocation and treatment failure variables as risk indicators. These failures in supervision and treatment are significantly related to future rearrest. Marques et al. (1994), in the most carefully designed and executed study of sex offender treatment effects of an incarcerated population, found noncompliance with treatment to predict rearrest in the community. Epperson et al. (1995), Hanson et al. (1993), Lab et al. (1993), Pierson (1989), and Reddon (1996) have found offenders to be at high risk when they fail to comply with institutional treatment. Hall (1995), Lab (1993) and Money and Bennet (1981) found noncompliance with community supervision to indicate high risk.

Research conducted by the sex offender treatment program at the Colorado Department of Corrections (from which nearly half of the sample was drawn) documents the link between treatment failure, dropping out, and rearrest. Problems of almost any kind are related to risk of reoffense, according to Hanson and Harris' (1998) study of dynamic predictors. Notable exceptions are problems related to life stress, length of treatment, and lack of access to fun and relaxation.

Other dimensions have also been found to correlate with sexual

offending. Pithers, Beal and Buell (1988) found anger, anxiety, and depression to precede sex crimes and have explicitly defined the risk cycle as: negative affect → paraphiliac sexual fantasy → cognitive distortions → passive planning just before the assault. MacCulloch et al. (1983) identified planning and behavioral referral to precede the assault. Work on dynamic variables found social maladjustment, substance abuse, sexual pre-occupations, victim blaming and poor self-management to be significantly positively related to committing a new sex offense.<sup>8</sup>

For the 30-month follow-up analysis, the definition of failure was narrowed to revocation, revocation pending, negative treatment termination, absconded, or commission of a new sex crime.

### **Findings**

Using this definition of failure, 54% of the sample failed in one year, while only 40% failed at 30 months. This is because many of the cases considered failures at 12 months were back in good standing at the 30-month follow-up. The remaining cases were considered “ok so far.”

The predictive power in an actuarial scale is linked to the use of all ten items together, which can change the relationship (making it stronger or weaker) of any one of the variables to failure. The following table presents the association between each individual risk variable and failure.

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<sup>8</sup> Hanson, R.K. & Harris, A.J.R. (1998). Dynamic predictors of sexual recidivism (User Report No. 98-01). Ottawa, Ontario, Canada: Department of the Solicitor General of Canada.

**Table 1. Association Between CSORS Items and Failure:  
Original Study of Treatment/Supervision Failure.**

	OK So Far	Failure	Chi Square (p)
1 or more juvenile convictions	40%	60%	6.20 (.185)
1 or more prior adult felony conviction	35%	65%	20.28 (.009)
Failed first or second grade	30%	70%	2.72 (.099)
Not employed full time at arrest	45%	55%	2.01 (.170)
Victim was intoxicated			8.74 (.033)
Drugs	28%	72%	
Alcohol	49%	51%	
Both	36%	64%	
NOT sexually aroused during crime	26%	74%	10.69 (.001)
Possessed a weapon			2.91 (.040)
Gun	36%	64%	
Knife	45%	55%	
Checklist subscale: Motivated for treatment (mean score)	26	22	t = 5.01 <.001
Checklist subscale: Is in denial (mean score)	20	23	t = -4.11 <.001
Checklist subscale: Engages in deviant sexual practices (mean score)	19	22	t = -3.21 .001

## **Nine Year Follow-up: The SORS Predicts New Arrests**

In 2007, the ORS undertook another study of the original 494 offenders used to develop the SORS in 1998. Enough time had elapsed for many of the offenders to acquire new arrests, allowing for testing the SORS to determine if it predicted new criminal behavior in addition to treatment/supervision noncompliance.. However, for 49 cases (9.9% of the total sample), information adequate to identify new arrests was not available. In addition, 15 offenders (3% of the total sample) were incarcerated continuously since the time of the original study. These cases were excluded from the current validation analysis.

State criminal justice records (not regional or national) were used to identify recidivism crimes. After the initial search for new crimes, ORS researchers made additional efforts to identify the location and status of those who did not reappear in the state criminal justice system records. Half of these were found to have recently registered on the Colorado Sex Offender Registry, verifying their residency in Colorado. The National Sex Offender Registry, the National Crime Information Center<sup>9</sup> and Accurint®<sup>10</sup> were used to search for the remainder of offenders to determine their location and status. This effort ensures that offenders who are not identified in state arrest records are not automatically considered “nonrecidivists”. Offenders who were not actually residing in Colorado, or who died prior to release into the community were removed from subsequent analysis, leaving a sample of 405 (82% of the original sample).<sup>11</sup> The distribution of the original placement for the remaining sample is as follows:

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<sup>9</sup> National arrest data are maintained by the FBI's National Crime Information Center (NCIC). Researchers used NCIC to look up individuals not found during the recidivism and other search efforts in order to verify location only.

<sup>10</sup> Offender location and death information was obtained using the LexisNexis service Accurint®. Accurint® is a widely accepted locate-and-research tool available to government and law enforcement.

<sup>11</sup> Eleven were found on sex offender registries in other states. DOC release data, NCIC and Accurint® were used to identify another 8 who were residing out of state during the entire follow-up period, 2 who were deported and 3 who were deceased. One individual was simply lost from the sample.



Probation	193	47.7%
Department of Corrections	178	43.9%
Parole	<u>34</u>	<u>8.4%</u>
TOTAL	405	

### Findings

In all, 226 offenders out of the sample of 405 were arrested for recidivism crimes between 1997 through 2006. The proportion of the sample arrested for new sex, violent, and any crime each year following probation or treatment intake or after prison release are presented in Table 2. Failure to register as a sex offender, failure to appear in court, and technical violations are excluded as recidivism crimes as they are status crimes and not reflective of public safety risk.

Over half of the sample had been at risk in the community for 9 years, while 88.6 percent had over 8 years at risk. Only 2.9 percent had less than 5 years at risk. Over this entire span of time, 20.0 percent of the sample had a violent arrest, 29.9 percent had a sexual arrest, and 38.5 percent had a non-violent non-sexual arrest. Fully 55.8 percent were arrested at some point during the follow-up period. Arrest details by year for the first 5 years at risk are presented in Table 2. Table 2 can be read as follows: only 371 offenders from the original sample had been in the community (at risk) for all five years, and of these, 92 (24.8 percent) committed a new sex crime, 47 (12.7 percent) committed a violent crime, and nearly half (46.4 percent) were arrested for a felony or misdemeanor (or both) including sex and violent crimes.

**Table 2. New Arrests at 1, 2, 3, 4 and 5 years.**

	Sex Crime*		Violent Crime**		Any Crime***	
	N	%	N	%	N	%
New arrest 1 yr (n=403)	40	9.9%	9	2.2%	66	16.4%
New arrest 2 yr (n=401)	57	14.2%	15	3.7%	96	23.9%
New arrest 3 yr (n=395)	68	17.2%	26	6.6%	124	31.4%
New arrest 4 yr (n=383)	79	20.6%	40	10.4%	155	40.5%
New arrest 5 yr (n=371)	92	24.8%	47	12.7%	172	46.4%

\*Sex crime is defined as: Rape, sexual assault, incest, indecent exposure, voyeurism and prostitution.

\*\*Violent crime is defined as: Homicide, aggravated and other assaults, robbery, kidnap, and weapons offenses.

\*\*\*Any crime includes the above and any other misdemeanor and felony crimes reported to Colorado Crime Information Center (CCIC). Arrests for failure to register are excluded.

Note: Only those at risk in the community the requisite time are included. Therefore, the total number of cases is less than 405 for each of these measures.

### **New Sex Crimes**

Over the entire span of time at risk, up to 9 years for most offenders, 121 individuals (29.0 percent) had new arrests for sex crimes. Of these, 23 had hands-off crimes. These hands-off crimes were most often indecent exposure and some manner of prostitution. Five of these offenders eventually had a sexual assault arrest. Two more also had kidnapping charges, three had child abuse charges, and four had assault charges. Nine had property or miscellaneous other offenses. Only five had no arrests involving another type of crime. Table 3 provides details regarding the types of sexual offenses involved in the arrests that occurred during the first 5 years of the follow-up period.

**Table 3. New Arrests Involving Sex Crimes: Offense Detail.**

	Number of Offenders who received each Sex Crime Charge Type	
	n	% of total offenders*
1st Degree Sexual Assault	15	11.9%
2nd Degree Sexual Assault	17	13.5%
3rd Degree Sexual Assault	18	14.3%
Attempted Sexual Assault	3	2.4%
Sexual Assault on a Child	59	46.8%
Sexual Assault on a Client	2	1.6%
Enticement of a Child	3	2.4%
Exploitation of a Child	3	2.4%
Indecent Exposure	8	6.3%
Incest with Minor	2	1.6%
Prostitution	4	3.2%
Child/Position of Trust	14	11.1%
Promoting Obscenity to a Minor	1	0.8%
Unspecified Sexual Assault	22	17.5%
TOTAL	121	100%

\*Percentages total more than 100% since multiple charges may be associated with each offender.

### **Failure to Register**

Fourteen percent (56 offenders) of the study sample was arrested for failure to register as a sex offender, which was not placed in any crime category and not considered a recidivism event in the analysis. However, 26 of these individuals (46.4%) were arrested for actual sex crimes and 10 more (17.9%) for violent crimes. Thus, 64 percent of those who failed to register also committed a sex and/or violent crime. Only nine (16.1%) of those who failed to register did not receive an arrest of any sort. The remaining 11 were arrested for crimes that were not sexual or violent in nature.

### **Predicting new arrest**

The original 1998 study found that offenders scoring four or more on the SORS were at greater risk of supervision or treatment failure than those scoring less than four. Such failure was found in the current study to correlate with all arrest types,

particularly violent arrests (see Table 4). This finding supports the argument that treatment and supervision failure in the first few years of supervision is linked with rearrest. Those who failed treatment and supervision were 7.3 times as likely to be arrested for a violent crime.

The current study also found that a score of 4 or more was predictive of new arrest. As with treatment and supervision failure, the greatest predictive power was found with arrests for violent crimes. A score of 4 or more on the SORS yielded an odds ratio of 2.84 against new violent arrest at five years, as shown in Table 4. This means that those scoring at least 4 were almost 3 times as likely to be arrested for a violent crime.

**Table 4: Predicting Risk for Violent Arrests\***

	Odds Ratio	Tx failure % arrested	Tx success % arrested	P***
Treatment/Supervision Outcome	7.269	16.9	2.7	<.0001
	Odds Ratio	Score 4 + % arrested	Score <4 % arrested	P***
Sex Offender Risk Scale Score	2.841	25.9	11.0	.005

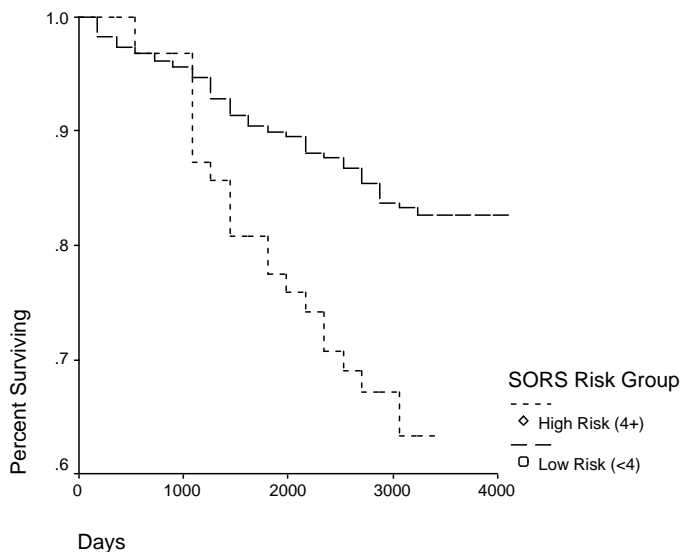
\*N=371. Only those at risk in the community for a minimum of five years are included.

\*\* From 1998 study.

\*\*\*Statistical significance determined using Fisher's Exact Test.

A valuable measure of recidivism is found in the interval of time over which an individual remains arrest-free. Survival analysis was used to compare time to new arrest and arrest-free time up to nine years post-intake for those scoring 4 or more to those scoring under 4. As can be seen in Figure 3, individuals in the low-risk group (scoring less than 4 on the SORS) remained arrest-free, or 'survived', for longer periods of time than did those in the high-risk group (scoring 4 or more). In the accompanying figure, the increasing separation of the lines representing each risk group indicates that the difference between the risk groups becomes greater with increasing time. Even after 9 years, the rate of failure for the high-risk group remains consistent. This again highlights the import of long-term follow-up.

**Figure 2. Days to New Violent Arrest.**



P=.004, using Tarone-Ware statistic. N=405

### **The Consequences of Incomplete Data**

During the course of examining new arrests, it was found that a certain group of offenders that were scored as low risk on the SORS appeared to be failing very rapidly. Further investigation revealed that these offenders were often missing the data obtained from the SOMB checklist, which contributes three of the ten items on the scale. This artificially placed them in the low risk group. Upon further analysis it was found that this group had disproportionately higher rates of arrest than the remaining sample of low risk offenders. In fact, they had substantially higher rates of new sexual arrests than even the high-risk group. The results of this analysis, displayed in Table 4, highlights the importance of completing the SORS in its entirety. Missing information will lower the risk score, placing an unknown number of high-risk offenders into the low-risk group.

**Table 4. Arrest Rates by Risk Group and Cases with Missing Data**

	New Sex Arrests	New Violent Arrests	Any New Arrests
Risk group	% arrested	% arrested	% arrested
Score <4 (Low Risk)	24.5	8.2	38.8
Score 4+ (High Risk)	24.1	34.5	72.4
Missing Data	31.2	20.8	56.9
Total	29.9	20.2	46.4

**Conclusion**

The Colorado Adult Sex Offender Risk Scale (SORS) was found in this analysis to accurately delineate lower-risk sex offenders from those presenting a greater risk of subsequent criminal behavior, particularly as measured by new violent arrests.

The scale performs much better in detecting risk of new violent arrests than risk of new sexual arrest. Because violent crimes are almost twice as likely to be reported to law enforcement compared to sexual crimes<sup>12</sup>, and because research has found that only 43 percent of reported sex crimes against adults results in an arrest, and fewer still in prosecution and conviction (Thonnes and Tjaden, 2006), the ORS uses violent arrest as the recidivism measure in sex offender studies. The use of violent crime as an outcome measure is a reasonable proxy, as these crimes have a significant impact on public safety and, in the case of sex offenders, may have a sexual component or motivation (Quinsey, Harris, Rice, & Cormier, 1998).

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<sup>12</sup> The National Crime Victimization Survey collects crime victimization data semiannually from over 40,000 households; information is obtained on crimes committed against household members over the age of 12. In 2005, the NCVS found 61.5 percent of violent crimes were reported to law enforcement compared to 38.3 percent of rapes and sexual assaults. (see Table 93, Criminal Victimization in the United States, 2005 Statistical Tables, December 2006, available at : <http://www.ojp.usdoj.gov/bjs/abstract/cvusst.htm>).

**SECTION FOUR:  
DISCUSSION OF THE TEN RISK  
FACTORS**

## The Ten Risk Factors

**Item One: Juvenile felony adjudications.** Early onset of delinquent or aggressive behavior is frequently cited in the criminology literature as an important risk factor. Hawkins and Catalano (1993) have summarized their review of 30 years of delinquency research on risk factors for co-occurring problem behaviors, including delinquency, dropout, teenage pregnancy, substance abuse, and violence. Those who endorse the social development model of delinquency propose that specific factors cause the onset, maintenance and continuation of delinquent careers and that these factors occur in relation to the chronological development of the child (Elliott, 1994; Farrington, 1986; Farrington and Hawkins, 1991). The chronological development emphasizes the influence of family variables in the early life of the child, followed by school experiences, and later, by peer group influences during adolescence.

**Item Two: Prior adult felony convictions.** The common adage “past behavior predicts future behavior” is frequently mentioned in risk research. In fact, prior adult criminal history is usually the strongest predictor of future criminality (Farrington, 1988), and nearly every risk instrument contains some measure of this factor. In criminology research, this information is relatively easy to obtain from electronic files and institutional records, increasing its value to researchers. The review of risk factors presented earlier in this paper reflect the consistent finding of criminal history measures (violence, sexual offending history, general criminal history) in the sex offender risk prediction literature.

**Item Three: The offender was employed less than full time at arrest.** This item refers to full time employment or being a full time student; part-time or sporadic employment had no effect on recidivism. Employment has been identified by Hart, Kropp and Hare (1988) as linked to failure in sex offender populations. Work by DCJ's Office of Research and Statistics has consistently found employment status to be related to failure under supervision, on both probation and parole samples (Mande and English, 1988;



English and Patzman, 1995; English, Chadwick and Pullen, 1994; English and Mande, 1991). Hanson's (1998) study of dynamic risk factors found lack of accountability during leisure time to be correlated with rearrest for a sex crime, and being employed full time could reflect having less free time to commit sex crimes. As we have suggested before (English and Mande, 1991), employment may reflect an individual's higher level of functioning (compared to those not employed), and lower functioning—as measured by unemployment—may predict failure.

**Item Four: The offender failed first or second grade.** This was one of two “school failure” variables on which researchers collected information. The other variable studied was “any grade failure in elementary school.” Both of these are common measures in criminology literature, and both statistically predicted negative outcomes in the development of the SORS. Researchers only collected these two pieces of information on early school failure so, while failing third grade might *a/so* predict rearrest, that information was not collected and analyzed. Rather, this study, like all informed research, is built on the work of prior studies, and these two measures (failure in elementary school, and failing first or second grade) have been found to be very strong predictors of future criminality. As mentioned in the discussion for Item One, above, the delinquency research clearly identifies evidence of early childhood problems to correlate consistently with adult criminality. For the SORS research, two measures commonly used in criminology reflecting early childhood adjustment problems were tapped. The literature on conduct disorders<sup>13</sup> identifies early temperamental difficulties as important to pro-social adjustment. Temperament refers to aspects of personality

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13 The DSM-III-R defines conduct disorder as a disturbance lasting at least six months, during which at least three of the following have been present: 1) has stolen without victim confrontation on more than one occasion; 2) has run away overnight at least twice; 3) often lies; 4) deliberately sets fires; 5) often truant from school; 6) has broken into house, building, car; 7) deliberately destroyed property; 8) been physically cruel to animals; 9) forced someone into sexual activity; 10) used a weapon on more than one fight; 11) often initiates physical fights; 12) has stolen with confrontation; 13) been physically cruel to people.

that are consistent across time (Kazdin, 1992) and include individual characteristics such as: activity level, responsiveness, consistency of mood, social adaptability, willingness to adjust to change, level of happiness (Chess and Thomas, 1977; Rutter and Quinton, 1984). Children who are difficult tend to show later behavioral problems compared to children who are easy to manage (Bates et al, 1991; Reitsma-Street et al, 1985). In young children, these are the precursors of conduct disorder. Children with chronic ill health, central nervous system damage have three to five times the risk of conduct disorders (Brown, et al, 1981; Cadman et al, 1986). Loeber and Dishion (1983) found that children who are aggressive at ages four to six have an increased likelihood of developing conduct disorder, and as the aggression is combined with other behavior characteristics, the predictive power increases. Aggressiveness combined with shyness has also been found to be predictive of conduct disorder (Farrington and West, 1990; McCord, 1988). The number of symptoms--and the earlier they occur--have been consistently linked to serious, chronic antisocial behavior (Farrington, et al, 1990; Loeber, et al. 1990; Tolan, 1987; Loeber and Dishion, 1983). Conduct disorder is hard to treat and has a significant level of persistence into adult life (Mrazek and Haggerty, 1994).

**Item Five: The offender possessed a weapon during the current crime.** Scoring a 1 on this item does **not** require that the offender use the weapon, only that he possess a weapon on his person or threaten to use it during the offense. Harris et al. (1993) and Quinsey et al. (1995) found victim injury during the index crime to predict future sexual recidivism, but this factor does not require physical injury. Two other measures of violence during the offense were analyzed (extensive psychological coercion and physical force) but this item revealed the most predictive power.

**Item Six: The victim had ingested or was administered alcohol or drugs during or immediately prior to the current crime.** This risk factor is one of many crime characteristics collected and analyzed in the current study. The data element refers to intoxication by drugs, alcohol or both. This item is

important because it likely reflects the method of operation used by the offender to increase the victim's vulnerability.

**Item Seven: The offender reports he was NOT sexually aroused during the current crime.** This information was obtained from self-report data. Therapists asked the offender if he experienced an erection during the index crime. This item correlated with several other variables in the data set: on bond at the time of arrest for the current crime, on parole at arrest, convicted of multiple counts, older victim in the offense, juvenile history, use of a weapon during the current crime, and not motivated for treatment. It does not correlate with the dynamic measure of denial. Not surprisingly, this group was significantly more likely to receive a prison sentence for the current crime compared to probation or community corrections. The use of multivariate statistics, such as the regression technique used to develop the scale, accounts for overlap among the variables analyzed, so very little redundancy exists across the ten items. Item Six correlates with three of the other items in the scale: juvenile history, use of a weapon, and not motivated for treatment. However, our analysis found it indeed measures a distinct characteristic or phenomenon as well. It may tap individual aggression as measured separately from criminal history and behavior during the index crime. It may also measure attraction and interest in power, domination and violence rather than sex. Further analysis of this variable is necessary, but its value in the model is quite clear: This item clearly separates the success and failure groups in a chi-square analysis.

**Items Eight Through Ten.** The last three items in the risk scale are derived from a checklist of behaviors developed specifically for this study. Members of the SOMB Research and Assessment Subcommittee wanted the study to include measures of attitudes that are commonly assumed to be related to treatment and supervision failure. For some of the items (denial and empathy, for example), validated instruments exist in the clinical literature that tap these dimensions, however, the instruments are very long. Our objective of developing a "user friendly" risk

assessment tool led us to develop our own measures with the assistance of a nationally respected psychometrics expert from the University of Northern Colorado, Dr. Paul Retzlaff. In the end, what came to be called the DCJ/SOMB Checklist turned out to be quite predictive of failure. Individuals can score 8 to 40 on each characteristic, and those who scored 20 or above (or below, depending on the item) were significantly more likely to fail in this study.

Because the dynamic measures in the Checklist allow for changes over time (unlike, for example, failing first or second grade), the offender can work to change his score (for the better or the worse) on the risk assessment tool. This design, then, means the instrument can be scored to detect changes in the offender over time.

Three of the eight checklist items are included in the risk assessment scale. However, all eight items can be used by supervising officers and treatment providers to monitor changes in offender attitudes that are linked to supervision and treatment failure. All eight items are included with the Sexual Predator Assessment Instrument in case professionals choose to use the Checklist as a case management tool, but only three of the items are part of the Colorado Sex Offender Risk Scale.

**Item Eight: The offender scored 20 or more on the Colorado-SOMB Denial Subscale.** Denial is commonly identified as an important issue in sex offender management. Anna Salter (1988) describes denial as occurring along a continuum, from denial of the acts themselves, to denial of fantasy and planning, to denial of the seriousness of the behavior, to denial of the difficulty in changing abusive patterns. Brake (1996) has identified four levels of denial (weak or occasional avoidance or resistance, moderate avoidance indicative of defensiveness, strong avoidance but admitting less harmful behaviors, and primitive, full denial, possibly dissociative), and provided valuable assistance in the development of the Checklist. This item predicted treatment and supervision failure very well (chi square was 8.9,  $n=245$ ,  $p=.003$ ).

**Item Nine: The offender scored 20 or more on the Colorado-SOMB Deviancy Subscale.** As noted in the review of risk factors presented earlier in this report, deviant arousal has been found to predict recidivism, particularly when it is paired with psychopathy. The score on this subscale indicates significant separation between the group failing treatment and supervision and the group that did not fail (chi square=16.3, n=245, p<.001).

**Item Ten: The offender scored below 20 on the Colorado-SOMB Motivation Subscale.** This item reflects the extent to which the offender is motivated to participate in sex offender treatment, as measured after conviction and during the first month of involvement in therapy. Active participation in the intervention that is defined clearly by the SOMB's statewide standards for evaluation, treatment and monitoring is linked to successful supervision during the first 12 months of placement.

## Reliability

The reliability coefficients (alpha) for the SOMB Checklist Scale ranged from .74 to .94. Due to time constraints, therapists were not formally trained on the use of this form, and written instructions were not included. These reliability statistics suggest that this Checklist may be a useful addition to sex offender management because high scores (above 20) on any of the categories can target specific areas for intervention. In Colorado, therapists evaluating sex offenders per the SOMB statewide standards for sex offender management will be required to use this form as part of the evaluation process. The forms will be forwarded to DCJ for analysis, so we will continue to learn about and improve the Checklist. The reliability coefficients for the SOMB Checklist are presented below (the number of cases ranges from 222 to 226).

<b>Colorado-SOMB Checklist</b>	<b>alpha</b>
Social Skills	.91
Motivated for Treatment	.91
Interpersonal Competence	.90
Lifestyle Stability	.89
Readiness to Change	.94
Level of Denial	.74
Level of Empathy	.91
Deviant Sexual Practices	.91

**The HARE Psychopathy Scale** (Revised-PCL-R or Screening Version-PCL-SV) significantly correlated with the outcome measure as follows:

Hare Factor One       $r=.30$  ( $p < .01$ )  
Hare Factor Two       $r=.16$  ( $p < .05$ )  
Hare TOTAL Score    $r=.28$  ( $p < .01$ )

Factor One measures personality characteristics such as selfishness and narcissism. It taps the psychological dimension of an individual. Factor Two measures behavior such as criminal history, and it reflects the extent to which a person is engaged in an antisocial lifestyle. Using revocation as an outcome measure, personality traits as measured by Factor One, are more predictive of failure, but Factor Two is also significantly related to outcome. This finding must be considered preliminary and viewed with caution since only 29 offenders scored 18+ on the PCLPsychopathy Checklist. Despite the small number of cases scoring in the psychopathic range, this group proved to be at very high risk: 24 out of the 29 offenders (82.8%) had a negative outcome within 12 months.

**The MCMI** calculates 26 personality subtypes. Factor analyses were conducted to determine if any of the subtypes “clustered” within the study sample, but this analysis proved unproductive. Twelve subtypes were identified as adding useful information about the sample: Schizoid, Narcissistic, Anti-Social, Sadistic, Negativistic, Schizotypal, Paranoid, Alcohol Abusive, Drug Abusive, Post-Traumatic Stress Disorder, Thought Disorder, and Delusional Disorder.<sup>10</sup> Analysis of the MCMI data identified a valuable method for applying the MCMI data on this sample that is not dependent on specific MCMI diagnoses. Rather, this approach uses the *number* of diagnoses an individual scores on the MCMI. Two-thirds (67.4%,  $n=64$ ) of the group of offenders

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<sup>14</sup> Two MCMI subtypes were excluded because they were significantly related to errors in prediction in the final regression model. The Self-Defeating subscore increased the rate of false negatives (those predicted to succeed who actually failed) and Anxiety increased the rate of false positives (those predicted to fail who actually succeed).

that scored *three or more MCMII diagnoses* failed on the outcome measure, and the probability of failure averaged a probability of failure exceeding 71%. Those who had zero, one or two diagnoses had a relatively equal chance (approximately 50-50 on each score) of falling into the OK SO FAR category or the Revoked. Statistical analysis of the relationship between MCMII personality categories and sex offender risk will continue.



## LIMITATIONS OF ACTUARIAL PREDICTION

In 1978, the American Psychological Association (APA) withdrew its support of members who testified to the dangerousness of individual offenders. The APA's position was based on a number of studies that revealed the error rate of clinical prediction was intolerably high. Studies of clinical prediction indicated that experts were wrong in their predictions of dangerousness, on average, two out of three times.<sup>15</sup> While actuarial (statistical) prediction is not an ideal solution to the prediction of dangerousness, the approximate error rate of group predictions is known. Policy decisions about the cost of errors—over predicting and under predicting dangerousness—can be made in light of known probabilities.

The science of risk prediction is imperfect, however. Prediction variables are limited to data available and to items that have a practical or theoretical link. The research literature is quite clear that criminal history, lifestyle, social adjustment and opportunity are relevant and statistically powerful indicators of risk. However, actuarial methods are limited because offenders in any study group may vary on factors not measured. Additionally, prediction tools may lose efficiency over time and generalizability of prediction tools across jurisdictions is suspect: As stated by Farrington, "...it is essential that the sample from which it is derived is drawn from the population on which it is to be used" (Farrington and Tarling, 1985). Developing the scale on sex offenders convicted of crimes in Colorado and subject to the SOMB standards of assessment, evaluation, treatment and monitoring is, in fact, the ideal research design, despite the general limitations of actuarial risk assessment discussed here.

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<sup>15</sup> Monahan, John. *The Clinical Prediction of Violent Behavior*. (1995). Northvale, New Jersey: Jason Aronson Inc.



**APPENDIX A:  
STATUTES**

**18-3-414.5. Sexually violent predator.**

(1) As used in this section, unless the context otherwise requires:

(a) "Sexually violent predator" means an offender:

(I) Who is eighteen years of age or older as of the date the offense is committed or who is less than eighteen years of age as of the date the offense is committed but is tried as an adult pursuant to section [19-2-517](#) or 19-2-518, C.R.S.;

(II) Who has been convicted on or after July 1, 1999, of one of the following offenses, or of an attempt, solicitation, or conspiracy to commit one of the following offenses, committed on or after July 1, 1997:

(A) Sexual assault, in violation of section [18-3-402](#) or sexual assault in the first degree, in violation of section [18-3-402](#), as it existed prior to July 1, 2000;

(B) Sexual assault in the second degree, in violation of section [18-3-403](#),<sup>16</sup> as it existed prior to July 1, 2000;

(C) Unlawful sexual contact, in violation of section [18-3-404](#) (1.5) or (2) or sexual assault in the third degree, in violation of section [18-3-404](#) (1.5) or (2), as it existed prior to July 1, 2000;

(D) Sexual assault on a child, in violation of section [18-3-405](#); or

(E) Sexual assault on a child by one in a position of trust, in violation of section [18-3-405.3](#);

(III) Whose victim was a stranger to the offender or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and

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<sup>16</sup> Section 18-3-403 was repealed in 2000.

(IV) Who, based upon the results of a risk assessment screening instrument developed by the division of criminal justice in consultation with and approved by the sex offender management board established pursuant to section [16-11.7-103](#) (1), C.R.S., is likely to subsequently commit one or more of the offenses specified in subparagraph (II) of this paragraph (a) under the circumstances described in subparagraph (III) of this paragraph (a).

(b) "Convicted" includes having received a verdict of guilty by a judge or jury, having pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(2) When a defendant is convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, the probation department shall, in coordination with the evaluator completing the mental health sex offense specific evaluation, complete the sexually violent predator risk assessment, unless such an evaluation and assessment has been completed within the six months prior to the conviction or the defendant has been previously designated a sexually violent predator. Based on the results of such assessment, the court shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator. If the defendant is found to be a sexually violent predator, the defendant shall be required to register pursuant to the provisions of section [16-22-108](#), C.R.S., and shall be subject to community notification pursuant to part 9 of article [13](#) of title [16](#), C.R.S.

(3) When considering release on parole or discharge<sup>17</sup> for an offender who was convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, if there has been no previous court order, the Parole Board shall make specific findings concerning whether the offender is a sexually violent predator, based on the results of a

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<sup>17</sup> This law requires the assessment and designation process on active cases only,

sexually violent predator assessment. If no previous assessment has been completed, the Parole Board shall order the department of corrections to complete a sexually violent predator assessment. If the Parole Board finds that the offender is a sexually violent predator, the offender shall be required to register pursuant to the provisions of section [16-22-108](#), C.R.S., and shall be subject to community notification pursuant to part 9 of article [13](#) of title [16](#), C.R.S.

**16-11.7-103. Sex offender management board – creation – duties.**

(c.5) On or before January 1, 1999, the board shall consult on, approve, and revise as necessary the risk assessment screening instrument developed by the division of criminal justice to assist the sentencing court in determining the likelihood that an offender would commit one or more of the offenses specified in section [18-3-414.5](#) (1) (a) (II), C.R.S., under the circumstances described in section [18-3-414.5](#) (1) (a) (III), C.R.S. No state general fund moneys shall be used to develop the risk assessment screening instrument. In carrying out this duty, the board shall consider sex offender risk assessment research and shall consider as one element the risk posed by a sex offender who suffers from a mental abnormality, psychosis, or personality disorder that makes the person more likely to engage in sexually violent predatory offenses. For purposes of this subsection (4) only, "mental abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a significant risk to the health and safety of other persons. If a defendant is found to be a sexually violent predator, the defendant shall be required to register pursuant to article 22 of this title and shall be subject to community notification pursuant to part 9 of article 13 of this title.

**[19-2-517. Direct filing.](#)**

(1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(I) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and is alleged to have committed a class 1 or class 2 felony; or

(II) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and:

(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section [18-1.3-406](#), C.R.S.; or

(B) Is alleged to have committed a felony offense described in part 1 of article [12](#) of title [18](#), C.R.S., except for the possession of a handgun by a juvenile, as set forth in section [18-12-108.5](#), C.R.S.; or

(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article [3](#) of title [18](#), C.R.S.; or

(D) Is alleged to have committed vehicular homicide, as described in section [18-3-106](#), C.R.S., vehicular assault, as described in section [18-3-205](#), C.R.S., or felonious arson, as described in part 1 of article [4](#) of title [18](#), C.R.S.; or

(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older at the time of the commission of the alleged offense, and allegedly has committed a crime defined by section [18-1.3-401](#), C.R.S., as a class 3 felony, except felonies defined by section [18-3-402](#) (1) (d), C.R.S., or section [18-3-403](#) (1) (e), C.R.S., as it existed prior to July 1, 2000; or

(IV) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense, has allegedly committed a delinquent act that constitutes a felony, and has previously been

subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section [19-2-518](#); except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; or

(V) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense, has allegedly committed a delinquent act that constitutes a felony, and is determined to be an "habitual juvenile offender". For the purposes of this section, "habitual juvenile offender" is defined in section [19-1-103](#) (61).

(b) The offenses described in subparagraphs (I) to (V) of paragraph (a) of this subsection (1) shall include the attempt, conspiracy, solicitation, or complicity to commit such offenses.

(2) Notwithstanding the provisions of section [19-2-518](#), after filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to this section. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(3) (a) Whenever criminal charges are filed by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile as follows:

(I) As an adult; or

(II) To the youthful offender system in the department of corrections in accordance with section [18-1.3-407](#), C.R.S., if the juvenile is convicted of an offense described in subparagraph (II) or (V) of paragraph (a) of subsection (1) of this section; except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:



- (A) A class 1 felony;
  - (B) A class 2 felony as a result of a plea agreement in cases where the juvenile is charged with a class 1 felony;
  - (C) A class 2 felony and the juvenile has one or more prior convictions for a crime of violence, as defined in section [18-1.3-406](#), C.R.S., or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;
  - (D) A class 2 felony and the juvenile is sixteen years of age or older;
  - (E) Any sexual offense described in section [18-6-301](#) or 18-6-302, C.R.S., or part 4 of article [3](#) of title [18](#), C.R.S.; or
  - (F) A second or subsequent offense described in said subparagraph (II) or (V), if such person received a sentence to the department of corrections or to the youthful offender system for the prior offense; or
- (III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age at the time of commission of the crime and is convicted of an offense other than a class 1 or class 2 felony, a crime of violence as defined under section [18-1.3-406](#), C.R.S., or an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section and the judge makes a finding of special circumstances.
- (b) Repealed.
  - (c) The district court judge may sentence a juvenile pursuant to the provisions of this article if the juvenile is convicted of a lesser included offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section.

(4) In the case of any person who is sentenced as a juvenile pursuant to subsection (3) of this section, section [19-2-908](#) (1) (a), regarding mandatory sentence offenders, section [19-2-908](#) (1) (b), regarding repeat juvenile offenders, section [19-2-908](#) (1) (c), regarding violent juvenile offenders, and section [19-2-601](#), regarding aggravated juvenile offenders, shall apply to the sentencing of such person.

(5) The court in its discretion may appoint a guardian ad litem for any juvenile charged by the direct filing of an information in the district court or by indictment pursuant to this section.

**19-2-518. Transfers.**

(1) (a) The juvenile court may enter an order certifying a juvenile to be held for criminal proceedings in the district court if:

(I) A petition filed in juvenile court alleges the juvenile is:

(A) Twelve or thirteen years of age at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a class 1 or class 2 felony or a crime of violence, as defined in section [18-1.3-406](#), C.R.S.; or

(B) Fourteen years of age or older at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a felony; and

(II) After investigation and a hearing, the juvenile court finds it would be contrary to the best interests of the juvenile or of the public to retain jurisdiction.

(b) A petition may be transferred from the juvenile court to the district court only after a hearing as provided in this section.

(c) If the crime alleged to have been committed is a felony defined by section [18-8-208](#), C.R.S., and no other crime is alleged to have been committed and the juvenile has been adjudicated a juvenile delinquent for a delinquent act which constitutes a class 4 or 5 felony, then the charge for the crime may not be filed directly in the district court, but the juvenile court may transfer such charge to the district court pursuant to paragraph (a) of this subsection (1).

(d) (I) Except as otherwise provided in subparagraph (II) of this paragraph (d), in cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court shall sentence the juvenile pursuant to the provisions of section [18-1.3-401](#), C.R.S., if the juvenile is:

(A) Convicted of a class 1 felony;

(B) Convicted of a crime of violence, as defined in section [18-1.3-406](#), C.R.S.; or

(C) Convicted of any other criminal charge specified in paragraph (a) of this subsection (1) and the juvenile was previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender.

(II) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court may sentence to the youthful offender system created in section [18-1.3-407](#), C.R.S., any juvenile who would otherwise be sentenced pursuant to the provisions of subparagraph (I) of this paragraph (d); except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) A class 2 felony as a result of a plea agreement in cases where the juvenile is charged with a class 1 felony;

(C) A class 2 felony and the juvenile has one or more prior convictions for a crime of violence, as defined in section [18-1.3-406](#), C.R.S., or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;

(D) A class 2 felony and the juvenile is sixteen years of age or older;

(E) Any sexual offense described in section [18-6-301](#) or 18-6-302, C.R.S., or part 4 of article [3](#) of title [18](#), C.R.S.

(III) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section and the juvenile is not eligible for sentencing pursuant to subparagraph (l) of this paragraph (d), the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion.

(IV) If, following transfer of criminal charges to the district court pursuant to this section, a juvenile is convicted of a lesser included offense for which criminal charges could not originally have been transferred to the district court, the court shall sentence the juvenile pursuant to the provisions of this article.

(e) Whenever a juvenile under the age of fourteen years is sentenced pursuant to section [18-1.3-401](#), C.R.S., as provided in paragraph (d) of this subsection (1), the department of corrections shall contract with the department of human services to house and provide services to the juvenile in a facility operated by the department of human services until the juvenile reaches the age of fourteen years. On reaching the age of fourteen years, the juvenile shall be transferred to an appropriate facility operated by

the department of corrections for the completion of the juvenile's sentence.

(2) After filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to section [19-2-517](#). Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(3) At the transfer hearing, the court shall consider:

(a) Whether there is probable cause to believe that the juvenile has committed a delinquent act for which waiver of juvenile court jurisdiction over the juvenile and transfer to the district court may be sought pursuant to subsection (1) of this section; and

(b) Whether the interests of the juvenile or of the community would be better served by the juvenile court's waiving its jurisdiction over the juvenile and transferring jurisdiction over him or her to the district court.

(4) (a) The hearing shall be conducted as provided in section [19-1-106](#), and the court shall make certain that the juvenile and his or her parents, guardian, or legal custodian have been fully informed of their right to be represented by counsel.

(b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(l) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile;

(VI) The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile court;

(VII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(VIII) The impact of the offense on the victim;

(IX) That the juvenile was twice previously adjudicated a delinquent juvenile for delinquent acts that constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence, as defined in section [18-1.3-406](#), C.R.S.;

(XI) That the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony;

(XII) That the juvenile is sixteen years of age or older at the time of the offense and the present act constitutes a crime of violence, as defined in section [18-1.3-406](#), C.R.S.;

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a

juvenile delinquent for delinquent acts against property that constitute felonies; and

(XIV) That the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of a delinquent act.

(c) The amount of weight to be given to each of the factors listed in paragraph (b) of this subsection (4) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts that constitute felonies or a record of two or more juvenile probation revocations based on acts that constitute felonies shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

(d) The insufficiency of evidence pertaining to any one or more of the factors listed in paragraph (b) of this subsection (4) shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction.

(5) When an action has been remanded to the juvenile court pursuant to section [19-2-517](#) (1) (a) (IV) and the prosecution seeks waiver of jurisdiction pursuant to this section, the court's findings from the prior transfer hearing regarding the factor listed in paragraph (c) of subsection (4) of this section shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

(6) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history may be considered by the court, but the court, if so requested by the juvenile, his or her parent or guardian, or other interested party, shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(7) (a) If the court finds that its jurisdiction over a juvenile should be waived, it shall enter an order to that effect; except that such order of waiver shall be null and void if the district attorney fails to file an information in the criminal division of the district court within five days of issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays. Upon failure of the district attorney to file an information within five days of the issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays, the juvenile court shall retain jurisdiction and shall proceed as provided in this article.

(b) As a condition of the waiver of jurisdiction, the court in its discretion may provide that a juvenile shall continue to be held in custody pending the filing of an information in the criminal division of the district court. Where the juvenile has made bond in proceedings in the juvenile court, the bond may be continued and made returnable in and transmitted to the district court, where it shall continue in full force and effect unless modified by order of the district court.

(8) If the court finds that it is in the best interests of the juvenile and of the public for the court to retain jurisdiction, it shall proceed with the adjudicatory trial as provided in part 8 of this article.

**18-3-402. Sexual Assault.**

1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if:

(a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or

(b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or



(c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or

(d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

(e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or

(f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search; or

(g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or

(h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

(2) Sexual assault is a class 4 felony, except as provided in subsections (3), (3.5), (4), and (5) of this section.

(3) If committed under the circumstances of paragraph (e) of subsection (1) of this section, sexual assault is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section [18-1.3-501](#) (3).

(3.5) Sexual assault is a class 3 felony if committed under the circumstances described in paragraph (h) of subsection (1) of this section.

(4) Sexual assault is a class 3 felony if it is attended by any one or more of the following circumstances:

(a) The actor causes submission of the victim through the actual application of physical force or physical violence; or

(b) The actor causes submission of the victim by threat of imminent death, serious bodily injury, extreme pain, or kidnapping, to be inflicted on anyone, and the victim believes that the actor has the present ability to execute these threats; or

(c) The actor causes submission of the victim by threatening to retaliate in the future against the victim, or any other person, and the victim reasonably believes that the actor will execute this threat. As used in this paragraph (c), "to retaliate" includes threats of kidnapping, death, serious bodily injury, or extreme pain; or

(d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission.

(e) (Deleted by amendment, L. 2002, p. 1578, § 2, effective July 1, 2002.)

(5) (a) Sexual assault is a class 2 felony if any one or more of the following circumstances exist:

(I) In the commission of the sexual assault, the actor is physically aided or abetted by one or more other persons; or

(II) The victim suffers serious bodily injury; or

(III) The actor is armed with a deadly weapon or an article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon or represents verbally or

otherwise that the actor is armed with a deadly weapon and uses the deadly weapon, article, or representation to cause submission of the victim.

(b) (I) If a defendant is convicted of sexual assault pursuant to this subsection (5), the court shall sentence the defendant in accordance with section [18-1.3-401](#) (8) (e). A person convicted solely of sexual assault pursuant to this subsection (5) shall not be sentenced under the crime of violence provisions of section [18-1.3-406](#) (2). Any sentence for a conviction under this subsection (5) shall be consecutive to any sentence for a conviction for a crime of violence under section [18-1.3-406](#).

(II) The provisions of this paragraph (b) shall apply to offenses committed prior to November 1, 1998.

(6) Any person convicted of felony sexual assault committed on or after November 1, 1998, under any of the circumstances described in this section shall be sentenced in accordance with the provisions of part 10 of article 1.3 of this title.

### **[18-3-403. Sexual assault in the second degree. \(Repealed\)](#)**

#### **18-3-404(1.5) or (2). Unlawful sexual contact.**

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

(2) (a) Unlawful sexual contact is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section [18-1.3-501](#) (3).

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), unlawful sexual contact is a class 4 felony if the actor compels the victim to submit by use of such force, intimidation, or threat as specified in section [18-3-402](#) (4) (a), (4) (b), or (4) (c) or if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section.

**18-4-405. Sexual assault on a child.**

(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child if the victim is less than fifteen years of age and the actor is at least four years older than the victim.

(2) Sexual assault on a child is a class 4 felony, but it is a class 3 felony if:

(a) The actor applies force against the victim in order to accomplish or facilitate sexual contact; or

(b) The actor, in order to accomplish or facilitate sexual contact, threatens imminent death, serious bodily injury, extreme pain, or kidnapping against the victim or another person, and the victim believes that the actor has the present ability to execute the threat; or

(c) The actor, in order to accomplish or facilitate sexual contact, threatens retaliation by causing in the future the death or serious bodily injury, extreme pain, or kidnapping against the victim or another person, and the victim believes that the actor will execute the threat; or

(d) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time must be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse,

whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section [16-5-401](#) (1) (a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section [18-3-401](#) (2.5).

(3) If a defendant is convicted of the class 3 felony of sexual assault on a child pursuant to paragraphs (a) to (d) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section [18-1.3-406](#).

**18-3-405.3. Sexual assault on a child by one in a position of trust.**

(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child by one in a position of trust if the victim is a child less than eighteen years of age and the actor committing the offense is one in a position of trust with respect to the victim.

(2) Sexual assault on a child by one in a position of trust is a class 3 felony if:

(a) The victim is less than fifteen years of age; or

(b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section [16-5-401](#) (1) (a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall

constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section [18-3-401](#) (2.5).

(3) Sexual assault on a child by one in a position of trust is a class 4 felony if the victim is fifteen years of age or older but less than eighteen years of age and the offense is not committed as part of a pattern of sexual abuse, as described in paragraph (b) of subsection (2) of this section.

(4) If a defendant is convicted of the class 3 felony of sexual assault on a child pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section [18-1.3-406](#).

**16-22-108(1)(d). Registration.**

(d) (I) Any person who is a sexually violent predator and any person who is convicted as an adult of any of the offenses specified in subparagraph (II) of this paragraph (d) has a duty to register for the remainder of his or her natural life; except that, if the person receives a deferred judgment and sentence for one of the offenses specified in subparagraph (II) of this paragraph (d), the person may petition the court for discontinuation of the duty to register as provided in section [16-22-113](#) (1) (d). In addition to registering as required in paragraph (a) of this subsection (1), such person shall reregister ninety days after the date he or she was released from incarceration for commission of the offense requiring registration, or ninety days after the date he or she received notice of the duty to register, if the person was not incarcerated, and every ninety days thereafter until such person's birthday. Such person shall reregister on his or her birthday and shall reregister every ninety days thereafter. If a person's birthday or other reregistration day falls on a Saturday, Sunday, or holiday, the person shall reregister on the first business day following his or her birthday or other reregistration day. Such person shall reregister pursuant to this paragraph (d) with the local law enforcement agency of each jurisdiction in which the

person resides on the reregistration date, in the manner provided in paragraph (a) of this subsection (1).

**16-22-1111. Internet posting of sex offenders-procedure.**

(1) The CBI shall post a link on the state of Colorado homepage on the internet to a list containing the names, addresses, and physical descriptions of certain persons and descriptions of the offenses committed by said persons. A person's physical description shall include, but need not be limited to, the person's sex, height, and weight, any identifying characteristics of the person, and a digitized photograph or image of the person. The list shall specifically exclude any reference to any victims of the offenses. The list shall include the following persons:

- (a) Any person who is a sexually violent predator;
- (b) Any person sentenced as or found to be a sexually violent predator under the laws of another state or jurisdiction;
- (c) Any person who is required to register pursuant to section [16-22-103](#) and who has been convicted as an adult of two or more of the following offenses:
  - (I) A felony offense involving unlawful sexual behavior; or
  - (II) A crime of violence as defined in section [18-1.3-406](#), C.R.S.; and
- (d) Any person who is required to register pursuant to section [16-22-103](#) because the person was convicted of a felony as an adult and who fails to register as required by section 16-22-108.

(1.5) In addition to the posting required by subsection (1) of this section, the CBI may post a link on the state of Colorado homepage on the internet to a list, including but not limited to the names, addresses, and physical descriptions of any person

required to register pursuant to section [16-22-103](#), as a result of a conviction for a felony. A person's physical description shall include, but need not be limited to, the person's sex, height, weight, and any other identifying characteristics of the person. The list shall specifically exclude any reference to any victims of the offenses.

(2) (a) For purposes of paragraph (d) of subsection (1) of this section, a person's failure to register shall be determined by the CBI. Whenever the CBI's records show that a person has failed to register as required by this article, the CBI shall forward to each law enforcement agency with which the person is required to register notice of the person's failure to register by the required date. Each law enforcement agency, within three business days after receiving the notice, shall submit to the CBI written confirmation of the person's failure to register. Upon receipt of the written confirmation from the law enforcement agency, the CBI shall post the information concerning the person on the internet as required in this section.

(b) If a local law enforcement agency files criminal charges against a person for failure to register as a sex offender, as described in section [18-3-412.5](#), C.R.S., the local law enforcement agency shall notify the CBI. On receipt of the notification, the CBI shall post the information concerning the person on the internet, as specified in subsection (1) of this section.

(3) The internet posting required by this section shall be in addition to any other release of information authorized pursuant to this article or pursuant to part 9 of article 13 of this title, or any other provision of law.

**16-13-903. Sexually violent predator subject to community notification-determination-implementation.**

(1) A sexually violent predator shall be subject to community notification as provided in this part 9, pursuant to criteria,



protocols, and procedures established by the management board pursuant to section [16-13-904](#).

(2) (Deleted by amendment, L. 2006, p. 1312, § 3, effective May 30, 2006.)

(3) (a) When a sexually violent predator is sentenced to probation or community corrections or is released into the community following incarceration, the sexually violent predator's supervising officer, or the official in charge of the releasing facility or his or her designee if there is no supervising officer, shall notify the local law enforcement agency for the jurisdiction in which the sexually violent predator resides or plans to reside upon release from incarceration. The local law enforcement agency shall notify the Colorado bureau of investigation, and the sexually violent predator's status as being subject to community notification shall be entered in the central registry of persons required to register as sex offenders created pursuant to section [16-22-110](#).

(b) When a sexually violent predator living in a community changes residence, upon registration in the new community or notification to the new community's law enforcement agency, that agency shall notify the Colorado bureau of investigation and implement community notification protocols.

(4) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "Colorado Governmental Immunity Act", article [10](#) of title [24](#), C.R.S.



**APPENDIX B:  
SEXUALLY VIOLENT PREDATOR  
ASSESSMENT SCREENING  
INSTRUMENT**

**COLORADO SEXUALLY VIOLENT PREDATOR  
ASSESSMENT SCREENING INSTRUMENT (SVPAS)**

**Pursuant to 18-3-414.5, C.R.S.**  
This assessment must be completed for all adult cases convicted on or after July 1, 1999 for specific sex crimes— including attempt, solicitation or conspiracy to commit those crimes—on or after July 1, 1997. The completed assessment must accompany the pre-sentence report and the mental health sex offense specific evaluation submitted to the court/parole board. According to 18-3-414.5(2) and (3), C.R.S.: "Based on the results of such assessment, the court/parole board shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator. This assessment instrument combines empirical research conducted by the Division of Criminal Justice (Part 3) with additional criteria specified by the Colorado Sex Offender Management Board (Part 2). Please see the SVP Handbook for additional information and instructions.

**ASSESSMENT SUMMARY:**  
Probation officers or trained DOC staff/contractors, based on the information provided on the following pages, please check the boxes that apply. Checks in boxes I, II, III and IVa or IVb or IVc indicate that the offender satisfies the legislative criteria for the definition of sexual predator pursuant to 18-3-414.5(1), C.R.S.

- (I) The defendant is 18 years of age or older or has been tried as an adult, and has been convicted of, or received a deferred judgment and sentence for, one of the five crimes defined in Part 1, pursuant to 18-3-414.5 C.R.S., as revised to include attempt, solicitation, or conspiracy. **AND**
- (II) The conviction occurred on or after July 1, 1999 for a crime committed on or after July 1, 1997, pursuant to 18-3-414.5, C.R.S. **AND**
- (III) The victim was a stranger to the offender (Part 2A), OR the defendant established a relationship primarily for the purpose of sexual victimization (Part 2B), OR the defendant promoted a relationship primarily for the purpose of sexual victimization (Part 2C), pursuant to 18-3-414.5, C.R.S. **AND**
- (IVa) The defendant scores 4 or more on the Sex Offender Risk Scale (SORS, Part 3A), pursuant to 18-3-414.5 and 16-11.7-103(4)(c.5), C.R.S. **OR**
- (IVb) Meets additional risk criteria (Part 3B), pursuant to 16-11.7-103(4)(c.5), C.R.S. **OR**
- (IVc) The defendant scores 3 or more on Part 3C.
- YES, the offender DID meet SVP Criteria.**  
 **NO, the offender DID NOT meet SVP Criteria.**

**COURT/PAROLE BOARD FINDING:**  
18-3-414.5(2), C.R.S. states: "Based on the results of such assessment, the court/parole board shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator." Probation officer or trained DOC staff, based on the court's/ parole board's decision, please check the box that applies.

- The court/parole board finds this offender to meet the criteria specified in 18-3-414.5, C.R.S., sexually violent predator.
- The court/parole board finds this offender to meet the criteria specified in 18-3-414.5(1), C.R.S., but the court/parole board does NOT find the offender to be a sexually violent predator.
- The court/parole board finds this offender does NOT meet the criteria specified in 18-3-414.5, C.R.S., sexually violent predator.

**PART 3C: OFFENDERS WHO REFUSE TO PARTICIPATE IN THE SVP INTERVIEW**  
Please check the box below if the offender refused to participate in the interview required to complete all 10-item on the SOMB Sex Offender Risk Scale (SORS), and therefore the 5-item scale in Part 3C was used.

- Yes, the offender refused to participate in the interview and Part 3C was completed.  
 Offender scored 3 or more on the 5-item scale in Part 3C.

**Placement Decision:**     Probation     Community Corrections     DOC     Parole

Following the court finding, Probation Officers must mail or fax all completed pages within one month to:

Chris Rows  
Division of Probation Services  
1301 Pennsylvania Street, Ste 300  
Denver, CO 80203  
Fax: (303) 837-2340

Following the parole board's finding, trained DOC staff must mail or fax all completed pages within one month to:

Pat Lounders  
Division of Criminal Justice  
705 Kipling Street, Ste 3000  
Denver, CO 80215  
Fax: (303) 238-4401

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
<b>BACKGROUND:</b>		P 2 of 9
<p>Probation officers and sex offender evaluators listed on the Sex Offender Management Board (SOMB) provider list or <u>trained</u> DOC staff/contractors will complete this instrument on every sex offender that meets the following criteria:</p> <p>(I) Is 18 years of age or older at the date of the offense, or who is younger but is tried as an adult pursuant to section 19-2-517 or 19-2-518, C.R.S.</p> <p>(II) Has been convicted<sup>1</sup> on or after July 1, 1999 of one of the following offenses, including an <b>ATTEMPT, SOLICITATION OR CONSPIRACY TO COMMIT</b> one of the following, on or after July 1, 1997:</p> <ul style="list-style-type: none"> <li>o Sexual assault, in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of section 18-3-402, C.R.S. as it existed prior to July 1, 2000;</li> <li>o Sexual assault in the second degree, in violation of section 18-3-403,<sup>2</sup> C.R.S. as it existed prior to July 1, 2000;</li> <li>o Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S., or sexual assault in the third degree, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;</li> <li>o Sexual assault on a child, in violation of sections 18-3-405, C.R.S.; or</li> <li>o Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.</li> </ul> <p>(III) Whose victim was one of the following (per 18-3-414.5(1)(a)(III), C.R.S.):<sup>3</sup></p> <ul style="list-style-type: none"> <li>o A stranger to the offender (see Part 2A on page 5 of this form), or</li> <li>o A person with whom the offender established a relationship primarily for the purpose of sexual victimization (see Part 2B on page 5 of this form),<sup>4</sup> or</li> <li>o A person with whom the offender promoted a relationship primarily for the purpose of sexual victimization (see Part 2C on page 6 of this form).</li> </ul> <p>(IV) Pursuant to 18-3-414.5(1)(a)(IV), C.R.S., and 16-11.7-103(4)(c.5), C.R.S., is likely to subsequently commit one or more of the offenses specified in 18-3-414.5(II)(a), C.R.S., under the circumstances described in 18-3-414.5(III)(a), C.R.S., according to the scores derived from the SOMB actuarial risk assessment instrument (Part 3A, or Part 3B if available, or Part 3C if necessary, of this form), specifically pursuant to 16-11.7-103(4)(c.5), C.R.S.</p> <p>Once the form is completed by the probation officer and the evaluator or <u>trained</u> DOC staff or contractor, it should be forwarded to the court/parole board, pursuant to 18-3-414.5(2) and (3) C.R.S. Based on the results of the assessment (included on the following pages of this form), the court/parole board shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator.</p> <p>An offender found to be a sexually violent predator is required to register with the local law enforcement agency in the jurisdiction in which they reside within five days of becoming a temporary or permanent resident, and on a quarterly basis thereafter, for the remainder of his or her natural life, pursuant to Section 16-22-106(1)(d), C.R.S. Offenders found to be sexually violent predators will also be placed on the internet listing of sex offenders maintained by the Colorado Bureau of Investigations (CBI) and linked to the State of Colorado's homepage, pursuant to Section 16-22-111, C.R.S., and shall be subject to community notification pursuant to Section 16-13-903, C.R.S.</p> <p><sup>1</sup> Convicted includes having pleaded guilty or nolo contendere, or having received a deferred judgment and sentence per 18-3-414.5(b).</p> <p><sup>2</sup> The relationship categories are specified in federal and state statute. The SOMB defined each relationship category for the purposes of this assessment.</p> <p><sup>3</sup> Section 18-3-403 C.R.S. was repealed in 2000.</p> <p><sup>4</sup> The members of the Sex Offender Management Board determined that the three relationship categories are mutually exclusive. This document reflects the Board's decision.</p>		

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
<b>INSTRUCTIONS:</b>		P 3 of 9
<b>OVERVIEW</b>		
<ul style="list-style-type: none"> <li>o This instrument requires information from both the Pre-Sentence investigation writer and the SOMB-listed sex offender evaluator; once complete, the instrument must be forwarded to the court.</li> <li>o For Department of Corrections' cases, a trained DOC staff member or contractor must complete the instrument and forward it to the parole board when the offender is considered for release.</li> <li>o All completed forms for Probation must be faxed or mailed to the Division of Probation Services, and those from the Department of Corrections should be mailed or faxed to the Division of Criminal Justice (see cover page).</li> <li>o Pursuant to 16-22-100(1)(d)(i), C.R.S., the parole board shall make specific findings concerning whether the offender is a sexually violent predator based on the results of this assessment conducted by DOC. If the parole board finds an offender meets the criteria defined in this instrument, the offender is required to register pursuant to 16-22-100(1)(d)(i), C.R.S. and will be the subject of active community notification.</li> <li>o A copy of the SVP handbook can be obtained for the Sex Offender Management Board (SOMB) or downloaded from <a href="http://dcj.state.co.us/ora/risk_assessment.htm">http://dcj.state.co.us/ora/risk_assessment.htm</a>.</li> </ul>		
<b>PROBATION OFFICER</b>		
<p>The probation officer completes Part 1, Part 3A items 1 through 6, Part 3C if necessary, and the Instrument Summary. If the Probation Officer is completing Part 3C, they also can complete Part 2. The probation officer then forwards the instrument to the SOMB-listed sex offender evaluator along with police reports and victim statements. If either police reports or victim statements are NOT forwarded with this instrument to the SOMB evaluator, please indicate why here:</p> <hr/>		
Sections of this instrument to be completed by the probation officer are designated with: <b>F</b>		
<b>SOMB LISTED EVALUATOR</b>		
<p>The SOMB listed evaluator completes Part 2, Part 3A items 7 through 10, Part 3B if the information is available, and the Instrument Summary. The SOMB evaluator then returns the completed instrument to the probation officer, along with the completed mental health sex offense specific evaluation, pursuant to C.R.S. 16-11.7-104(1).</p>		
Sections of this instrument to be completed by the mental health evaluator are designated with: <b>E</b>		
<b>TRAINED DOC STAFF</b>		
<p>The trained DOC staff or contractor must complete the entire form (Parts 1, 2, 3A, 3B if the information is available, 3C if necessary, and the Instrument Summary).</p>		
<b>Data Sources used to complete this instrument must be identified:</b>		
Please choose from the following data sources when completing Parts 2, 3 and, when necessary, Part 3C.		
<ol style="list-style-type: none"> <li>1. Criminal History</li> <li>2. Pre-Sentence Investigation Process</li> <li>3. Police Report</li> <li>4. Mental Health Evaluation</li> <li>5. Official Record/Documentation</li> <li>6. Child Protection or Social Service Records</li> <li>7. Demographic Information</li> <li>8. NCIC</li> <li>9. Education Records</li> <li>10. Victim Report (self report or from any data source)</li> <li>11. Sexual History (official record, self report)</li> <li>12. Sex Offense Specific Mental Health Evaluation</li> <li>13. Prison Record</li> <li>14. Self-Report</li> <li>15. CCIC</li> <li>16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)</li> <li>17. Polygraph</li> <li>18. Other (Specify) _____</li> </ol>		

**PART 1**

COLORADO		SEXUALLY VIOLENT PREDATOR		ASSESSMENT SCREENING INSTRUMENT				
P			Probation Officer or Trained DOC Staff/Contractor Please Complete Part 1			P 4 of 9		
<b>CLIENT INFORMATION</b>								
Offender's First Name:			Offender's Last Name:			CC#: (Court Case Number)		
SS#:		SID#:		ML#:		DOB: (MM-DD-YYYY)		
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female			Ethnicity: <input type="checkbox"/> Anglo <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Other					
PO Name: (Does not apply to DOC cases)				PO Telephone Number: (Does not apply to DOC cases)				
Date Forwarded to SOMB Evaluator: (Does not apply to DOC cases)				Judicial District: (Does not apply to DOC cases)				
SOMB Evaluator/Trained DOC Staff Name:				Evaluator/Trained DOC Staff Telephone Number:				
Date of Evaluation:				Date Returned to PO: (Does not apply to DOC cases)				
<b>DEFINING SEXUAL ASSAULT CRIMES (18-3-414.5(1) C.R.S.)</b>								
<p>The offender is 18 years of age or older as of the date the crime was committed or is tried as an adult pursuant to 19-2-517 or 19-2-518, C.R.S.; the offender was convicted on or after July 1, 1999 of one of the following crimes committed on or after July 1, 1997. Attempts, solicitations, and conspiracies apply. Conviction includes receiving a verdict of guilty by a judge or jury, pleading guilty or nolo contendere, or having received a deferred judgment and sentence.</p> <p>Please check the box indicating which of the five crimes qualifies the offender for this assessment. Please include attempts, solicitations, and conspiracies to commit any of the following.</p> <p><input type="checkbox"/> Sexual assault in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of section 18-3-402, C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Sexual assault in the second degree, in violation of section 18-3-403, C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Sexual assault on a child, in violation of section 18-3-405, C.R.S.; or</p> <p><input type="checkbox"/> Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3.</p> <p>Meets DEFINING SEXUAL ASSAULT CRIMES Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>This crime was an Attempt, Solicitation, or Conspiracy: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>								

PLEASE PROCEED TO PART 2

**PART 2**

COLORADO		SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT																		
<b>E</b>	<b>SOMB Evaluator or Trained DOC Staff/Contractor Please Complete Part 2 (Note: The Probation Officer may complete Part 2 if using Part 3C).</b>		<b>P 5 of 9</b>																		
<p>The relationship categories are identified in federal and state statute. The following definitions were developed by representatives of the Sex Offender Management Board, the Judicial Department and the Department of Corrections to assist the court and the state board of parole (per 16-11.7-103(4)(e), C.R.S.) in the identification of undue risk.<sup>2</sup> For purposes of this document, undue risk includes the designation of sexual predator as outlined in 16-3-414.5(III) C.R.S.</p> <p><b>THE OFFENDER MUST MEET ONE OF THE FOLLOWING THREE SEXUALLY VIOLENT PREDATOR RELATIONSHIP DEFINITIONS: 1) STRANGER, OR 2) ESTABLISHED A RELATIONSHIP, OR 3) PROMOTED A RELATIONSHIP.</b></p>																					
<b>A. STRANGER</b>																					
<p>Pursuant to 16-3-414.5(1)(a)(III), C.R.S., the victim is a <b>stranger</b> to the offender when the victim has never known or met the offender, or has met the offender in such a casual manner as to have little or no familiar or personal knowledge of said offender, prior to the current offense.</p> <p>Meets <b>STRANGER</b> Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Select the appropriate data source(s):</p> <table border="0"> <tr> <td><input type="checkbox"/> 1. Criminal History</td> <td><input type="checkbox"/> 10. Victim Report (self report or from any data source)</td> </tr> <tr> <td><input type="checkbox"/> 2. Pre-Sentence Investigation Process</td> <td><input type="checkbox"/> 11. Sexual History (official record, self report)</td> </tr> <tr> <td><input type="checkbox"/> 3. Police Report</td> <td><input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation</td> </tr> <tr> <td><input type="checkbox"/> 4. Mental Health Evaluation</td> <td><input type="checkbox"/> 13. Prison Record</td> </tr> <tr> <td><input type="checkbox"/> 5. Official Record/Documentation</td> <td><input type="checkbox"/> 14. Self-Report</td> </tr> <tr> <td><input type="checkbox"/> 6. Child Protection or Social Service Records</td> <td><input type="checkbox"/> 15. CCIC</td> </tr> <tr> <td><input type="checkbox"/> 7. Demographic Information</td> <td><input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)</td> </tr> <tr> <td><input type="checkbox"/> 8. NCIC</td> <td><input type="checkbox"/> 17. Polygraph</td> </tr> <tr> <td><input type="checkbox"/> 9. Education Records</td> <td><input type="checkbox"/> 18. Other (Specify)</td> </tr> </table>				<input type="checkbox"/> 1. Criminal History	<input type="checkbox"/> 10. Victim Report (self report or from any data source)	<input type="checkbox"/> 2. Pre-Sentence Investigation Process	<input type="checkbox"/> 11. Sexual History (official record, self report)	<input type="checkbox"/> 3. Police Report	<input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation	<input type="checkbox"/> 4. Mental Health Evaluation	<input type="checkbox"/> 13. Prison Record	<input type="checkbox"/> 5. Official Record/Documentation	<input type="checkbox"/> 14. Self-Report	<input type="checkbox"/> 6. Child Protection or Social Service Records	<input type="checkbox"/> 15. CCIC	<input type="checkbox"/> 7. Demographic Information	<input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)	<input type="checkbox"/> 8. NCIC	<input type="checkbox"/> 17. Polygraph	<input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 18. Other (Specify)
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<input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 18. Other (Specify)																				
<b>B. ESTABLISHED A RELATIONSHIP</b>																					
<p>Pursuant to 16-3-414.5(1)(a)(III), C.R.S., the offender <b>established a relationship</b> primarily for the purpose of sexual victimization when <b>any two</b> of the following criteria are present (check all that apply). List all data sources used in the box below.</p> <p><input type="checkbox"/> The offender has a history of multiple victims and similar behavior.</p> <p><input type="checkbox"/> The offender has actively manipulated the environment to gain access to this victim.</p> <p><input type="checkbox"/> The offender introduced sexual content in the relationship (introduction of pornography, inappropriate discussion of sexual relations with child).</p> <p><input type="checkbox"/> The offender persisted in the introduction of sexual contact or inappropriate behavior of a sexual nature despite lack of consent or the absence of the ability to consent.</p> <p>Meets <b>ESTABLISHED A RELATIONSHIP</b> Criteria: (Offender must meet at least <b>two</b> of the above items to meet "established a relationship" criteria).</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Select the appropriate data source(s):</p> <table border="0"> <tr> <td><input type="checkbox"/> 1. Criminal History</td> <td><input type="checkbox"/> 10. Victim Report (self report or from any data source)</td> </tr> <tr> <td><input type="checkbox"/> 2. Pre-Sentence Investigation Process</td> <td><input type="checkbox"/> 11. Sexual History (official record, self report)</td> </tr> <tr> <td><input type="checkbox"/> 3. Police Report</td> <td><input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation</td> </tr> <tr> <td><input type="checkbox"/> 4. Mental Health Evaluation</td> <td><input type="checkbox"/> 13. Prison Record</td> </tr> <tr> <td><input type="checkbox"/> 5. Official Record/Documentation</td> <td><input type="checkbox"/> 14. Self-Report</td> </tr> <tr> <td><input type="checkbox"/> 6. Child Protection or Social Service Records</td> <td><input type="checkbox"/> 15. CCIC</td> </tr> <tr> <td><input type="checkbox"/> 7. Demographic Information</td> <td><input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)</td> </tr> <tr> <td><input type="checkbox"/> 8. NCIC</td> <td><input type="checkbox"/> 17. Polygraph</td> </tr> <tr> <td><input type="checkbox"/> 9. Education Records</td> <td><input type="checkbox"/> 18. Other (Specify)</td> </tr> </table>				<input type="checkbox"/> 1. Criminal History	<input type="checkbox"/> 10. Victim Report (self report or from any data source)	<input type="checkbox"/> 2. Pre-Sentence Investigation Process	<input type="checkbox"/> 11. Sexual History (official record, self report)	<input type="checkbox"/> 3. Police Report	<input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation	<input type="checkbox"/> 4. Mental Health Evaluation	<input type="checkbox"/> 13. Prison Record	<input type="checkbox"/> 5. Official Record/Documentation	<input type="checkbox"/> 14. Self-Report	<input type="checkbox"/> 6. Child Protection or Social Service Records	<input type="checkbox"/> 15. CCIC	<input type="checkbox"/> 7. Demographic Information	<input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards)	<input type="checkbox"/> 8. NCIC	<input type="checkbox"/> 17. Polygraph	<input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 18. Other (Specify)
<input type="checkbox"/> 1. Criminal History	<input type="checkbox"/> 10. Victim Report (self report or from any data source)																				
<input type="checkbox"/> 2. Pre-Sentence Investigation Process	<input type="checkbox"/> 11. Sexual History (official record, self report)																				
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<input type="checkbox"/> 8. NCIC	<input type="checkbox"/> 17. Polygraph																				
<input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 18. Other (Specify)																				

CONTINUE IN PART 2



**PART 2 Continued**

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
		P 6 of 9

**C. PROMOTED A RELATIONSHIP**

Consider only when stranger or established a relationship criteria above do not apply.

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the offender promoted an existing relationship primarily for the purpose of sexual victimization when the first item below is present and any other item is present (check all that apply). List all data sources used in the box below.

- The offender took steps to change the focus of the relationship to facilitate the commission of a sexual assault such as but not limited to planning, increased frequency of contact, introduction of inappropriate sexual contact, stalking, seduction or drugging of the victim,
- AND
- The offender engaged in contact with the victim that was progressively more sexually intrusive, or
- The offender used or engaged in threat, intimidation, force or coercion in the relationship, or
- The offender engaged in repetitive non-consensual sexual contact, or
- The offender established control of the victim through means such as but not limited to emotional abuse, physical abuse, financial control or isolation of the victim in order to facilitate the sexual assault.

Meets PROMOTED A RELATIONSHIP Criteria: (The provided criteria are met when the first bullet and at least one of the bottom four bullets apply).

Yes  No

Select the appropriate data source(s):

- |  |   |
|--|---|
| <input type="checkbox"/> 1. Criminal History                           | <input type="checkbox"/> 10. Victim Report (self-report or from any data source)                        |
| <input type="checkbox"/> 2. Pre-Sentence Investigation Process         | <input type="checkbox"/> 11. Sexual History (official record, self-report)                              |
| <input type="checkbox"/> 3. Police Report                              | <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation                              |
| <input type="checkbox"/> 4. Mental Health Evaluation                   | <input type="checkbox"/> 13. Prison Record  |
| <input type="checkbox"/> 5. Official Record/Documentation              | <input type="checkbox"/> 14. Self-Report  |
| <input type="checkbox"/> 6. Child Protection or Social Service Records | <input type="checkbox"/> 15. CCK  |
| <input type="checkbox"/> 7. Demographic Information                    | <input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SCMB Standards) |
| <input type="checkbox"/> 8. NCIC                                       | <input type="checkbox"/> 17. Polygraph  |
| <input type="checkbox"/> 9. Education Records                          | <input type="checkbox"/> 18. Other (Specify)  |

**SUMMARY OF PART 2 RELATIONSHIP INFORMATION**

A. Meets STRANGER Criterion:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA because "B" or "C" is Yes
B. Meets ESTABLISHED A RELATIONSHIP Criteria:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA because "A" or "C" is Yes
C. Meets PROMOTED A RELATIONSHIP Criteria:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA because "A" or "B" is Yes

If A, B, or C is YES, PLEASE PROCEED TO PART 3.

**PART 3A**

COLORADO		SEXUALLY VIOLENT PREDATOR		ASSESSMENT SCREENING INSTRUMENT																																																	
Probation Officers are required to complete items 1-6. SOMB Evaluators are responsible for items 7-10. Trained DOC Staff/Contractor will complete items 1-10.					P 7 of 9																																																
<b>3A. SOMB SEX OFFENDER RISK SCALE (SORS)</b>																																																					
Pursuant to 16-11.7-103(4)(c.6), C.R.S., the Division of Criminal Justice worked in consultation with the Sex Offender Management Board (SOMB) to develop an actuarial risk assessment scale to be used in the identification of an offender's risk to fail supervision/treatment. Data on demographic, index crime, criminal/juvenile history, sexual history and therapy/attitude characteristics were studied. This research is described in the SVP Handbook. Failure was measured at 12 and 30 months, and 5 years. Research conducted by DCJ in 2007 found that adult sex offenders scoring 4 or more on the 10-item scale below were three times as likely to be arrested for a violent crime as someone scoring below 4. Men and women who score 0-3 are considered low risk. Women who score 4-8 are considered high risk but the probability for revocation is unknown due to the small number of women in the study.																																																					
Each item is scored 1 (YES) or 0 (NO). Please indicate the data source(s) (the list of sources can be found on page 3). In the event that the offender refuses to participate in the interview required to complete all 10 items on this scale, please proceed to Part 3C. Please see the SVP Handbook for further information on each of the items below.																																																					
<table border="1"> <tr> <td colspan="6"><b>P Probation Officer or Trained DOC Staff Please Complete Items 1 through 6</b></td> </tr> <tr> <td>NA</td> <td>YES</td> <td>NO</td> <td colspan="3"></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">1. The offender has one or more juvenile felony adjudications. (Include sex offenses, attempts and conspiracies, but <u>not</u> deferred judgments/adjudications or misdemeanors). Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">2. The offender has one or more prior adult felony convictions. (Include sex offenses, attempts and conspiracies, and deferred judgments/sentences). Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">3. The offender was employed less than full-time at arrest. <i>This does not apply to women.</i> (Part-time, sporadic, or day labor is not considered full-time. Full time student or multiple, concurrent, stable part-time jobs are considered full-time employment. Being disabled or retired is not considered full-time employment and must be coded yes. Full-time work refers to 35 or more hours per week). Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">4. The offender failed first or second grade. (Whatever the reason, if the offender failed these grades in elementary school, and was held back or repeated the grade, this item scores "yes". Score "no" for individuals who were unable to attend grammar school. Probation Officers may need to work closely with the SOMB evaluator and polygraph examiner to obtain this information). Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">5. The offender possessed or threatened a weapon during the current crime. (A weapon is defined as a gun, knife, or object that could be used to intimidate or harm a victim. The offenders need only to possess or threaten use of the weapon during the crime, not use the weapon. If the victim was led to believe that a weapon was present, regardless if it was, score this criterion "yes"). Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td colspan="3">6. The victim had ingested or was administered alcohol or drugs during or immediately prior to the current crime. 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PLEASE PROCEED TO 3B

**PART 3B**

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
E	SOMB Evaluator or Trained DOC Staff/Contractor Please Complete Part 3B	P 8 of 9
<b>3B. ADDITIONAL INFORMATION WHEN AVAILABLE</b>		
Mental abnormality is referenced in 16-11.7-103(4)(c.5), C.R.S., and is addressed in the 10-item SORS in Part 3A. Additional information may be gathered here in Part 3B. Mental abnormality, according to statute, "means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that person to the commission of a criminal sexual act...." DCJ research found an offender may be at additional risk when he or she scores: <ul style="list-style-type: none"> <li>• 18 or more on the Psychopathy Check List Short Version (PCL-SV), OR</li> <li>• 30 or more on the Psychopathy Check List Revised PCL-R, OR</li> <li>• 65 or more on each of the following Millon Clinical Multiaxial Inventory (MCMI-III) scales: narcissistic, antisocial, and paranoid.</li> </ul>		
If the information is AVAILABLE, please indicate the score of the appropriate test below.		
<b>Psychopathy Checklist</b>		
PCL-SV Score:		
OR		
PCL-R Score:		
-OR-		
<b>Millon Clinical Multiaxial Inventory (MCMI-III)</b>		
Narcissistic Score:		
AND		
Antisocial Score:		
AND		
Paranoid Score:		

PLEASE PROCEED TO THE INSTRUMENT SUMMARY

**INSTRUMENT SUMMARY**

<b>To be identified a sexually violent predator, the offender must have answered YES on Parts 1+2+(3A or 3B or 3C)</b>	
Defining Sexual Assault Crimes Criterion (Part 1) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Date Requirement (Per Statute) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Relationship Criteria (Part 2) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Scored 4 or more on the DCJ SORS Scale (Part 3A) OR	<input type="checkbox"/> Yes <input type="checkbox"/> No
Information was available and offender meets Part 3B OR	<input type="checkbox"/> Yes <input type="checkbox"/> No
Offender refused to participate in the SORS interview and scored 3 or more on the 6-Item scale in Part 3C.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>DID OFFENDER MEET SVP CRITERIA?</b> Must have YES on Parts 1+2+ (3A or 3B when available or 3C when necessary).	<input type="checkbox"/> Yes (Record this response on page 7 as well.) <input type="checkbox"/> No

**PART 3C**

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT																																
Probation Officer or Trained DOC Staff/Contractor Please Complete Part 3C		P 9 of 9																																
<p>In the event that the offender refuses to participate in the interview required to complete all of the 10-Items on the SOMB Sex Offender Risk Scale (SORS), apply the following 6-Item scale. Use any information that is available in the offender's file.</p> <p>The probation officer or DOC staff will meet with the offender, give the offender an informed consent form, obtain the offender's signature on the consent form, and conduct the assessment per the protocol established in the SVP Assessment Handbook. If the offender refuses to participate in the SVP assessment using the form provided here and refuses to sign the informed consent form the following steps should be taken. To encourage participation, the probation officer or trained DOC staff/contractor will verbally read the following statements to the offender at the time of his/her refusal to participate.</p> <p>a. Without cooperation in the SVP assessment interview required to complete this form, the interviewer will be required to complete an alternate risk scale (below) with information only from the offender's criminal history file;</p> <p>b. The 'alternate' scale contains valid risk factors, but is shorter and eliminates approximately 50% of sex offenders from recommendation as an SVP; and</p> <p>c. Participation in the interview required to complete the longer, 10-item SORS scale has been found to eliminate more than 50% of convicted sex offenders from recommendation as an SVP.</p> <p>d. Therefore, this 6-item scale more than doubles the chance that the offender will score high-risk than that of the 10-item SORS.</p> <p>If the offender further refuses to participate, the provider will end the interview and score the six-item risk scale below using information available in the offender's file.</p> <p>Each item is scored 1 (YES) or 0 (NO). Please indicate the data source(s) (the list of sources can be found on page 3).</p> <table border="1"> <thead> <tr> <th>NA</th> <th>YES</th> <th>NO</th> <th></th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>1. The offender has one or more juvenile felony adjudications. (Include sex offenses, attempts and conspiracies, but not deferred judgments/adjudications or misdemeanors.) Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>2. The offender has one or more prior adult felony convictions. (Include sex offenses, attempts and conspiracies, and deferred judgments/sentences.) Data Source(s) _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>3. The offender was employed less than full-time at arrest. (This does not apply to women. 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PLEASE GO BACK AND FILL OUT THE INSTRUMENT SUMMARY ON PAGE 8																																		

**SOMB CHECKLIST**  
*(The three required scales for items 8-10 on Part 3A)*

Please endorse each of the following items as they apply to the client: "0" means "does not apply at all" to a "5" meaning "applies very much".

Date:	CR#:	SS#:
Client Name:		
SOMB Evaluator Name:		Referring Probation Officer Name:

Not at all...Very Much

- DENIAL**
- Denies actual facts of offense.  0  1  2  3  4  5
  - Denies wrongness of actions.  0  1  2  3  4  5
  - Minimizes prior sex offenses.  0  1  2  3  4  5
  - Portrays self as victim.  0  1  2  3  4  5
  - Blames others for the crime.  0  1  2  3  4  5
  - Holds grudges against "system".  0  1  2  3  4  5
  - Says victim "wanted it".  0  1  2  3  4  5
  - Says therapy is unnecessary.  0  1  2  3  4  5

- DEVIANT SEXUAL PRACTICES**
- Has no socially appropriate sexual outlet.  0  1  2  3  4  5
  - Engages in many forms of deviant sexuality.  0  1  2  3  4  5
  - Obsessed with deviant sexual practices.  0  1  2  3  4  5
  - Engages in bizarre sexual practices.  0  1  2  3  4  5
  - Poor control of sexual behavior.  0  1  2  3  4  5
  - Talks constantly about sex.  0  1  2  3  4  5
  - Nothing seems "off limits" sexually.  0  1  2  3  4  5
  - Masturbation is compulsive or excessive.  0  1  2  3  4  5
- Deviant Sexual Practice Responses Reflect:  Current Behavior and/or  Time of Crime

- MOTIVATION**
- Verbalizes desire for treatment.  0  1  2  3  4  5
  - Agrees with court order for intervention.  0  1  2  3  4  5
  - Pays attention to evaluator.  0  1  2  3  4  5
  - Arrives for appointments on time.  0  1  2  3  4  5
  - Is positive about evaluator's testing.  0  1  2  3  4  5
  - Actively participates in evaluation.  0  1  2  3  4  5
  - Completes evaluation requirements.  0  1  2  3  4  5
  - Seeks additional help.  0  1  2  3  4  5



**APPENDIX C:  
SEXUALLY VIOLENT PREDATOR  
ASSESSMENT SCREENING  
INSTRUMENT FLOWCHART**

## SVP VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT FLOWCHART

