

# Lifetime Supervision of Sex Offenders

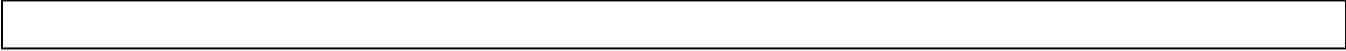
## Annual Report



November 1, 2008

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

# Lifetime Supervision of Sex Offenders | 2008



**November 1, 2008**

**Division of Criminal Justice**  
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Please contact Amy Dethlefsen (see contact information below) or visit the Sex Offender Management Board website at <http://dcj.state.co.us/odvsom> if you would like copies of the following attachments:

**Attachment A:**

*Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*

*Lifetime Supervision Criteria*

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

**Attachment B:**

*Sexual Predator Risk Assessment Screening Instrument*

**Attachment C:**

*Sex Offender Management Board Provider List*

**Attachment D:**

*Process Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines*

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## **INTRODUCTION**

The Department of Corrections, Department of Public Safety and the State Judicial Department have collaborated to write this ninth Annual Report on Lifetime Supervision of Sex Offenders. The report is submitted pursuant to Section 18-1.3-1011, C.R.S.:

“On or before November 1, 2000, and on or before each November 1 thereafter, the department of corrections, the department of public safety, and the judicial department shall submit a report to the judiciary committees of the house of representatives and the senate, or any successor committees, and to the joint budget committee of the general assembly specifying, at a minimum:

(a) The impact on the prison population, the parole population, and the probation population in the state due to the extended length of incarceration and supervision provided for in sections 18-1.3-1004, 18-1.3-1006, and 18-1.3-1008;

(b) The number of offenders placed in the intensive supervision parole program and the intensive supervision probation program and the length of supervision of offenders in said programs;

(c) The number of sex offenders sentenced pursuant to this part 10 who received parole release hearings and the number released on parole during the preceding twelve months, if any;

(d) The number of sex offenders sentenced pursuant to this part 10 who received parole or probation discharge hearings and the number discharged from parole or probation during the preceding twelve months, if any;

(e) The number of sex offenders sentenced pursuant to this part 10 who received parole or probation revocation hearings and the number whose parole or probation was revoked during the preceding twelve months, if any;

(f) A summary of the evaluation instruments developed by the management board and use of the evaluation instruments in evaluating sex offenders pursuant to this part 10;

(g) The availability of sex offender treatment providers throughout the state, including location of the treatment providers, the services provided, and the amount paid by offenders and by the state for the services provided, and the manner of regulation and review of the services provided by sex offender treatment providers;

(h) The average number of sex offenders sentenced pursuant to this part 10 that participated in phase I and phase II of the department's sex offender treatment and monitoring program during each month of the preceding twelve months;

(i) The number of sex offenders sentenced pursuant to this part 10 who were denied admission to treatment in phase I and phase II of the department's sex offender treatment and monitoring program for reasons other than length of remaining sentence during each month of the preceding twelve months;

(j) The number of sex offenders sentenced pursuant to this part 10 who were terminated from phase I and phase II of the department's sex offender treatment and monitoring program during the preceding twelve months and the reason for termination in each case;

(k) The average length of participation by sex offenders sentenced pursuant to this part 10 in phase I and phase II of the department's sex offender treatment and monitoring program during the preceding twelve months;

(l) The number of sex offenders sentenced pursuant to this part 10 who were denied readmission to phase I and phase II of the department's sex offender treatment and monitoring program after having previously been terminated from the program during the preceding twelve months;

(m) The number of sex offenders sentenced pursuant to this part 10 who were recommended by the department's sex offender treatment and monitoring program to the parole board for release on parole during the preceding twelve months and whether the recommendation was followed in each case; and

(n) The number of sex offenders sentenced pursuant to this part 10 who were recommended by the department's sex offender treatment and monitoring program for placement in community corrections during the preceding twelve months and whether the recommendation was followed in each case.”

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

## IMPACT ON PRISON POPULATION

The legislation enacting the Lifetime Supervision of sex offenders – CRS 18-1.3-1004, CRS 18-1.3-1006, and CRS 18-1.3-1008 – affected persons convicted of offenses committed on or after November 1, 1998, and the full effects are continuing to be realized since that time. Legislative sentencing changes began impacting the prison admissions and population approximately one year after the effective date of the legislation. The first prison admission for the qualifying Lifetime Supervision sexual offenses occurred in the Fall of 1999.

Through Fiscal Year 2007-2008 (FY08), a total of 1,351 offenders have been sentenced to prison under the Lifetime Supervision provisions for sex offenses. The following figures are by the earliest date sentenced for a lifetime supervision conviction as of June 30, 2008.

- 1 offender sentenced in Fiscal Year 1998-1999;
- 48 offenders sentenced in Fiscal Year 1999-2000;
- 111 offenders sentenced in Fiscal Year 2000-2001;
- 145 offenders sentenced in Fiscal Year 2001-2002;
- 167 offenders sentenced in Fiscal Year 2002-2003;
- 170 offenders sentenced in Fiscal Year 2003-2004;
- 171 offenders sentenced in Fiscal Year 2004-2005;
- 185 offenders sentenced in Fiscal Year 2005-2006;
- 194 offenders sentenced in Fiscal Year 2006-2007; and
- 159 offenders sentenced in Fiscal Year 2007-2008.

Offenders sentenced to lifetime supervision were 99% male. The ethnic breakdown was 56% Caucasian, 27% Hispanic, 13% African American, and 3% other races.

Offenders are frequently admitted to prison with a conviction for a non-lifetime supervision offense, along with a concurrent or consecutive lifetime supervision sentence to *probation* for the qualifying sexual offense conviction. Additionally, the Department has seen an increase in the number of offenders (originally sentenced to prison under the Lifetime Supervision Provisions) being released to probation or court order discharged. Of the 1,351 offenders sentenced to prison under the

Lifetime Supervision provisions for sex offenses, 87 have discharged their sentence through June 30, 2008:

- 29 offenders released by court order;
- 26 offenders released to probation;
- 18 offenders died;
- 7 offenders had their sentence amended;
- 3 offenders' sentences were inactivated;
- 2 offenders had their sentence amended then released per Martin/Cooper law; and
- 2 offenders released on an appeal bond.

Eleven of the 87 offenders whose sentence was discharged later returned on the same offense(s) with the lifetime supervision sentence reinstated. Additionally, two offenders had their lifetime supervision sentences suspended upon completion of a fixed term in the Youth Offender System (YOS). Several offenders have subsequently been re-sentenced to prison for a non-lifetime supervision sentence. These offenders were counted in prior year admissions, but will not be reflected in other statistics once the lifetime supervision sentence has been removed.

As of June 30, 2008, 1,275 offenders remained under DOC supervision for one or more sexual offense convictions sentenced under the Lifetime supervision provisions: 4 had not yet been received, 1,255 were in a CDOC or contract facility, 2 were in YOS, 1 was in community corrections, 6 were in the community monitored by the Intensive Supervision Program transition programs, and 7 on parole. Incarcerated lifetime supervision offenders represented 6% of the overall inmate population in DOC state and private prisons. Additionally, 457 (36%) were past their parole eligibility date (PED) as of June 30, 2008. Of the 457 past their PED, 175 refused treatment, 66 were previous deniers (denied offense) or were failures in treatment, and 216 have been accepted for treatment.

Table 1 summarizes lifetime supervision sentences for the 159 new lifetime supervision offenders sentenced in FY08 and all 2,545 lifetime supervision convictions through June 30, 2008. Inchoate (attempt, conspiracy, solicitation or accessory) convictions are separated for easier comparison.



Table 1. Lifetime Supervision Prison Admissions by Conviction and Felony Class

| Felony Class                     | Crime   | Fiscal Year 2008                              |                                   | Total                                |                                     |   |
|----------------------------------|---|---|-----------------------------------|--------------------------------------|-------------------------------------|---|
|                                  |   | # Offenders Convicted<br>(n = 159)            | Total # of Sentences<br>(n = 360) | # Offenders Convicted<br>(N = 1,351) | Total # of Sentences<br>(N = 2,545) |   |
| <b>2</b>                         | 1 <sup>st</sup> Deg. Kidnapping (unharmd)             |   |                                   | 1                                    | 1                                   |   |
|                                  | 2 <sup>nd</sup> Deg. Kidnapping                       | 2   | 2                                 | 7                                    | 7                                   |   |
|                                  | Sexual Assault At Risk                                | 2   | 2                                 | 6                                    | 6                                   |   |
|                                  | Sexual Assault/Aided/Ser.Injury/Weapon At Risk        | 1   | 3                                 | 3                                    | 5                                   |   |
|                                  | Sexual Assault/Aided/Ser. Injury/Weapon               | 6   | 6                                 | 41                                   | 60                                  |   |
|                                  | 1 <sup>st</sup> Deg. Sexual Assault                   |   |                                   | 11                                   | 14                                  |   |
|                                  | Sex Assault-Child P.O. Trust At Risk                  |   |                                   | 3                                    | 4                                   |   |
|                                  | Sex Assault-Child At Risk                             |   |                                   | 2                                    | 2                                   |   |
|                                  | 1 <sup>st</sup> Deg. Assault At Risk                  |   |                                   | 1                                    | 4                                   |   |
|                                  | 1 <sup>st</sup> Deg. Sexual Assault At Risk           |   |                                   | 4                                    | 5                                   |   |
| <b>Inchoates (Class 2 Crime)</b> |   |   |                                   |                                      |                                     |   |
|                                  | 1 <sup>st</sup> Deg. Sexual Assault At Risk Att/Consp |   |                                   | 1                                    | 1                                   |   |
| <b>3</b>                         | Enticement of Child                                   |   |                                   | 8                                    | 9                                   |   |
|                                  | Sexual Assault  | 1   | 1                                 | 16                                   | 17                                  |   |
|                                  | Sexual Assault Phys. Force/Threat/Helpless            |   |                                   | 23                                   | 35                                  |   |
|                                  | 1 <sup>st</sup> Deg. Sexual Assault                   | 1   | 1                                 | 30                                   | 38                                  |   |
|                                  | Sexual Assault-Child                                  | 19  | 37                                | 132                                  | 259                                 |   |
|                                  | Sexual Assault-Child P.O. Trust                       | 47  | 97                                | 333                                  | 598                                 |   |
|                                  | Sexual Assault-Child P.O. Trust At Risk               |   |                                   | 3                                    | 4                                   |   |
|                                  | Sexual Assault-Child At Risk                          |   |                                   | 1                                    | 2                                   |   |
|                                  | Sexual Assault/Subm/Incap/Incus At Risk               | 12  | 14                                | 58                                   | 70                                  |   |
|                                  | 2 <sup>nd</sup> Deg. Sexual Assault At Risk           |   |                                   | 1                                    | 1                                   |   |
|                                  | 3 <sup>rd</sup> Deg. Sexual Assault At Risk           |   |                                   | 2                                    | 2                                   |   |
|                                  | Sexual Contact At Risk                                |   |                                   | 1                                    | 1                                   |   |
|                                  | Sexual Contact/Induce At Risk                         |   |                                   | 1                                    | 1                                   |   |
|                                  | Sexual Exploitation-Child                             | 3   | 5                                 | 18                                   | 52                                  |   |
|                                  | Aggravated Incest                                     | 13  | 40                                | 67                                   | 145                                 |   |
|                                  | Aggravated Robbery                                    | 1   | 1                                 | 3                                    | 3                                   |   |
|                                  | <b>Inchoates (Class 3 Crime)</b>                      |   |                                   |                                      |                                     |   |
|                                  |   | Sexual Assault/Weap At Risk Att/Consp         | 1                                 | 1                                    | 1                                   | 1 |
|                                  |   | Sexual Assault/Aided/Ser.Inj./Weap Att/Consp  |                                   |                                      | 3                                   | 3 |
|                                  |   | 1 <sup>st</sup> Deg. Sexual Assault Att/Consp | 1                                 | 1                                    | 9                                   | 9 |
|                                  | Sexual Assault/Helpless At Risk Att/Consp             |   |                                   | 1                                    | 1                                   |   |
|                                  | Sexual Assault-Child P.O. Trust At Risk Att/Consp     |   |                                   | 1                                    | 1                                   |   |
|                                  | 1 <sup>st</sup> Deg. Sexual Assault At Risk Att/Consp |   |                                   | 2                                    | 2                                   |   |
| <b>4</b>                         | Enticement of Child                                   | 6   | 10                                | 45                                   | 73                                  |   |
|                                  | Sexual Assault-Child P.O. Trust                       | 19  | 23                                | 110                                  | 131                                 |   |
|                                  | Sexual Assault-Child                                  | 56  | 79                                | 544                                  | 644                                 |   |
|                                  | Sexual Assault/Subm/Incap/Incus                       | 17  | 20                                | 103                                  | 120                                 |   |
|                                  | Sexual Assault<15yrs                                  | 2   | 2                                 | 13                                   | 15                                  |   |
|                                  | 2 <sup>nd</sup> Deg. Sexual Assault                   | 1   | 1                                 | 22                                   | 29                                  |   |
|                                  | Internet Sexual Exploitation                          | 3   | 3                                 | 3                                    | 3                                   |   |
|                                  | Sexual Contact Unlawful                               |   |                                   | 4                                    | 15                                  |   |
|                                  | Sexual Contact/Nonconsent/Medical                     | 2   | 2                                 | 13                                   | 16                                  |   |
|                                  | Sexual Contact/Induces                                |   |                                   | 7                                    | 30                                  |   |
|                                  | 3 <sup>rd</sup> Deg. Sexual Assault                   |   |                                   | 8                                    | 11                                  |   |
|                                  | Sexual Assault on Client                              |   |                                   | 1                                    | 1                                   |   |
|                                  | Sexual Exploitation-Child                             | 1   | 1                                 | 1                                    | 1                                   |   |
|                                  | Contributing Delinquency Minor                        |   |                                   | 2                                    | 2                                   |   |

| Felony Class                | Crime  | Fiscal Year 2008                   |                                   | Total                                |                                     |  |
|-----------------------------|--|------------------------------------|-----------------------------------|--------------------------------------|-------------------------------------|--|
|                             |  | # Offenders Convicted<br>(n = 159) | Total # of Sentences<br>(n = 360) | # Offenders Convicted<br>(N = 1,351) | Total # of Sentences<br>(N = 2,545) |  |
| 4                           | Aggravated Incest                                |                                    |                                   | 1                                    | 1                                   |  |
|                             | Incest   |                                    |                                   | 14                                   | 20                                  |  |
|                             | <b>Inchoates (Class 4 Crime)</b>                 |                                    |                                   |                                      |                                     |  |
|                             | Sexual Assault/Phys Force/Helpless Att/Consp     |                                    |                                   | 7                                    | 8                                   |  |
|                             | 1st Deg. Sexual Assault Att/Consp                |                                    |                                   | 8                                    | 8                                   |  |
|                             | Sex Assault-Child Att/Consp                      |                                    |                                   | 6                                    | 7                                   |  |
|                             | Sex Assault-Child P.O. Trust Att/Consp           | 2                                  | 2                                 | 12                                   | 14                                  |  |
|                             | Sexual Assault/Subm/Incap/Incus At Risk Att/Cons | 3                                  | 3                                 | 7                                    | 7                                   |  |
|                             | Sexual Exploit of Child Att/Consp                |                                    |                                   | 1                                    | 1                                   |  |
|                             | Patronizing a Prostitute Child Att/Consp         |                                    |                                   | 1                                    | 1                                   |  |
|                             | Keeping a Place Child Prostitution Att/Consp     |                                    |                                   | 1                                    | 1                                   |  |
| Aggravated Incest Att/Consp | 1  | 1                                  | 6                                 | 6                                    |                                     |  |
| 5                           | Sexual Assault                                   |                                    |                                   | 1                                    | 1                                   |  |
|                             | Sexual Assault-Child                             |                                    |                                   | 2                                    | 2                                   |  |
|                             | <b>Inchoates (Class 5 Crime)</b>                 |                                    |                                   |                                      |                                     |  |
|                             | Sex Assault-Child P.O. Trust Att/Consp           | 1                                  | 1                                 | 3                                    | 3                                   |  |
|                             | Sex Assault-Child Att/Consp                      | 1                                  | 1                                 | 5                                    | 5                                   |  |
|                             | Sex Assault/Submission Att/Consp                 |                                    |                                   | 2                                    | 2                                   |  |
| 6                           | Sex Offender Failure to Register                 |                                    |                                   | 1                                    | 2                                   |  |
|                             | Sexual Assault Misdemeanor                       |                                    |                                   | 2                                    | 2                                   |  |

## PAROLE RELEASE HEARINGS AND NUMBER RELEASED TO PAROLE AND COMMUNITY

The Parole Board saw 398 Lifetime Supervision offenders for release consideration in FY08. Five offenders were granted release, although two of those did not release until early in the next fiscal year. During the year, the Board deferred 369 offenders and tabled 26 others.

Eight lifetime supervision sex offenders have been accepted and transitioned into community corrections programs to date, with two of those progressions occurring during FY08. Seven offenders were still in community placements at the end of the year; one had been returned to DOC.

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

The intensive supervision parole program and total parole population have experienced only minor changes resulting from the Lifetime Supervision sentencing provisions to date. Only 8 offenders have been released by the Parole Board through FY08, with one subsequent revocation. Of the 8, two paroled out of state and one was deported out of the country. The average length of incarceration prior to release was 4.4 years for these 8 offenders. For the 5 offenders serving parole in Colorado,

the average length on parole (through June 30, 2008) was 22.6 months, with an average of 15.1 months spent in the intensive supervision parole program.

## **PAROLE DISCHARGE HEARINGS AND NUMBER DISCHARGED FROM PAROLE**

No parole discharge hearings have occurred for offenders sentenced under Lifetime Supervision, as only 8 offenders have been released to parole under this provision. Parole discharge hearings are not anticipated for the next several years as the offender must complete 10 years on parole for class four offenses or 20 years for class two or three offenses to be considered for discharge by the Parole Board.

## **PAROLE REVOCATION HEARINGS AND NUMBER OF PAROLE REVOCATIONS**

Only one revocation hearing has been conducted to date on Lifetime Supervision offenders. That offender was revoked in 2006 after serving 14.3 months on parole.

## **SUMMARY OF EVALUATION INSTRUMENTS**

Release to parole or community corrections is subject to the discretion of the Parole Board and offenders should meet the release criteria established in the Sex Offender Management Board Standards & Guidelines (**ATTACHMENT A**).

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

*Lifetime Supervision Criteria;*

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

## **SEX OFFENDER TREATMENT AND MONITORING PROGRAM (SOTMP)**

### **Sex Offender Treatment Phases**

The Sex Offender Treatment and Monitoring Program provides comprehensive assessment, evaluation, treatment, and monitoring services to sexual offenders who are motivated to eliminate

sexual abuse behaviors. SOTMP staff are responsible for assessing the offender's progress when recommending specific SOTMP phases for participation. To the extent resources permit, SOTMP offers:

PHASE I: Phase I is a time-limited therapy group. The group includes an initial curriculum on criminal thinking errors, anger management, and stress management. Some of the sex offense specific issues and areas that are addressed include: characteristics of sex offenders, development of victim impact; cognitive restructuring; sex offense cycles; relapse prevention; sexuality; social skills; and relationship skills. At the Fremont Correctional Facility and Youthful Offender System, groups meet four times per week and continue for approximately six months. This program is offered twice per week at the Colorado Territorial Correctional Facility, Sterling Correctional Facility, and Colorado Women's Correctional Facility. Hearing impaired offenders are accommodated in the groups at Colorado Territorial Correctional Facility.

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

PHASE IE: This group addresses the same components as the regular Phase I group, but is designed for sex offenders who are Spanish speaking. Phase IE is offered at Fremont Correctional Facility.

PHASE II: Phase II focuses on changing the inmate's distorted thinking and patterns of behavior, as well as helping the inmate develop a comprehensive personal change contract. Participants must keep a daily interactions journal and maintain appropriate behavior. This phase is offered as a modified therapeutic community treatment program at Arrowhead Correctional Center. The offender's sexual history and monitoring of current behavior are verified by polygraph testing.

Phase II is offered at Arrowhead Correctional Center with an adapted format of Phase II offered at the Colorado Women's Correctional Facility, Colorado Territorial Correctional Facility, and the Youthful Offender System.

## **Specialized Treatment Formats for Lifetime Supervision of Sex Offenders**

The 1998 passage of the Colorado Lifetime Supervision Act requires that offenders must serve the term of their minimum sentence in prison and participate and progress in treatment, in order to be considered a candidate for parole. The Lifetime Supervision legislation is not intended to increase the minimum sentence for sex offenders. In order to provide treatment, without increasing minimum sentences, the Department of Corrections has designed treatment formats that provide offenders the opportunity to progress in treatment and be considered a candidate for parole within the time period of their minimum sentence. The new treatment formats were designed with the following assumptions:

- Sex offenders will continue in treatment and supervision if placed in community corrections or on parole,
- Specialized formats do not ensure sex offender cooperation with or progress in treatment. Offenders need to be willing to work on problems and be motivated to change and
- Sex offenders must meet all of the Sex Offender Management Board Lifetime Supervision Criteria to receive a recommendation for release to parole from the Sex Offender Treatment and Monitoring Program (SOTMP) staff.

### **Foundation Format (Offenders with less than 2 years minimum sentence)**

The SOTMP does not make parole or community recommendations until an inmate:

- is actively participating in treatment and is applying what he or she is learning.
- has completed non-deceptive polygraph assessments of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
- has participated in a comprehensive sex offense-specific evaluation and has a SOTMP approved individual treatment plan.
- has no institutional acting-out behavior within the past 12 months.
- is compliant with any Department of Corrections (DOC) psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
- has a plan to establish at least one approved support person.
- is able to be supervised in the community without presenting an undue threat.

As of June 2008, the Department of Corrections had 2 minimum to life sentenced offenders requiring the Foundation Format.

**Modified Format** (Offenders with 2 to 5 years minimum sentence)

The SOTMP does not make parole or community recommendations until an inmate:

- is actively participating in treatment and is applying what he or she is learning.
- has completed a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive
- is practicing relapse prevention with no incidents of institutional acting out within the past year.
- has defined and documented his or her sexual offense cycle.
- has identified at least one approved support person who has attended support education and has reviewed and received a copy of the sexual offense cycle.
- is compliant with any DOC psychiatric recommendations for medication which may enhance his or her ability to benefit from treatment and or reduce his/her risk of re-offense.
- is able to be supervised in the community without presenting an undue threat.

As of June 2008, the Department of Corrections had 462 minimum to life sentenced offenders requiring the Modified Format.

**Standard Format** (Offenders with 6 years or more minimum sentences, and all non-lifetime supervision offenders.)

The SOTMP does not make parole or community recommendations until an inmate:

- is actively participating in treatment and applying what he/she is learning.
- has completed a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
- has completed a comprehensive personal change contract (relapse prevention plan) that is approved by the SOTMP team.
- has identified, at a minimum, one approved support person who has attended support education and has reviewed and received a copy of the offender's personal change contract.
- practicing relapse prevention with no institutional acting-out behaviors within the past 12 months.

- is in compliance with any DOC psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
- is able to be supervised in the community without presenting an undue threat.

As of June 2008, DOC had 811 minimum to life sentenced offenders requiring the Standard Format.

In an effort to meet the growing treatment needs of lifetime supervision offenders with DOC's limited treatment resources, the following changes were implemented to increase treatment opportunities for offenders:

- Developed a Modified Phase II program at Fremont Correctional Facility for lifetime supervision offenders with short minimum sentences. This program should help motivated offenders to progress in treatment and meet the Sex Offender Management Board criteria for successful progress in treatment in prison.
- Developed a Phase II group for offenders that cannot progress to Phase II at Arrowhead Correctional Facility.
- Moved the Sterling Correctional Facility Phase I program to Arkansas Valley Correctional Facility to improve staff recruitment and retention.
- Communicated with the Parole Board and the Community Corrections Board Association regarding community transition for lifetime supervision offenders.
- Met with several University officials to enhance staff recruitment.

## **COMMUNITY CORRECTIONS AND PAROLE SUPERVISION**

The DOC Division of Adult Parole, Community Corrections, and YOS provides specially trained officers to supervise sex offenders in the community and under parole supervision, through the Sex Offender Registration and Intensive Supervision Program (SORIS).

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

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

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

## **TREATMENT COMPLIANCE**

Offenders sentenced under sex offense lifetime supervision provisions have demonstrated more motivation to participate and comply with treatment recommendations than traditional sentenced sex offenders. Lifetime supervision offenders are more than twice as likely to comply with treatment.

## **AVAILABILITY AND COST OF SEX OFFENDER TREATMENT**

The FY08 Department of Corrections budget includes \$2,991,999 for the assessment, treatment, testing (including polygraphs), research and registration coordination of sex offenders. Approximately \$99,569 is for polygraph testing. SOTMP inmate services include (when fully staffed): group treatment for 675 inmates per year; supplemental individual therapy; polygraph testing (approximately 400 exams per year); identification of sex offenders at DRDC (2,020 offenders per year); screening sex offenders for participation in treatment; education classes for support system members (700 members per year); training correctional staff on identification of risk factors; Parole Board reports; offense specific evaluations; registration coordination; research; and obtaining offense records. New appropriations have restored some of the resources lost in the 2003 budget cuts to the



sex offender treatment program. As new staff are brought on line, there is an increasing number of offenders participating in treatment per year.

It is important to note that the 1,275 minimum to lifetime supervision sentenced offenders represent 21% of the 5,958 DOC offenders that need sex offender treatment. The current budget allocation covers treatment of all sex offenders, not just those sentenced under the Lifetime Supervision Act. As of June 30, 2008, 65% of sex offenders participating in phase I and 77% participating in phase II treatment were lifetime supervision offenders. Regardless of the type of sentence offenders are serving, most will eventually return to the community. Therefore, treatment becomes an important public safety measure for all sex offenders.

### **DENIED ADMISSION OR READMISSION TO PHASE I AND PHASE II**

Offenders are rarely denied admission or readmission into sex offender treatment. However, offenders must meet basic eligibility criteria in order to be placed in treatment. The offender criteria for admission into sex offender treatment are listed below:

- has 8 years or less to parole eligibility date
- admits committing a sex offense and is willing to discuss an offense in treatment
- acknowledges a problem in the area of committing sexual abuse that he/she is willing to work on in treatment
- is motivated to work on problems as demonstrated by a willingness to acknowledge and discuss problems, participate in group, address problematic patterns and behavior, and acknowledges the risk of reoffense
- is willing to comply with conditions of the group contract

Case managers refer sex offenders to SOTMP for treatment evaluations. Offenders are interviewed and screened prior to participation in treatment using the criteria above. Even if the offender does not initially meet participation requirements, the requirements and the specific reasons for the requirements are explained, and the offender is assisted and encouraged to reapply if they think they meet the criteria in the future. Many offenders are able to meet the criteria and become amenable to treatment over time through additional interviews. The cumulative number of inmates that do not meet treatment criteria cannot be compiled due to the dynamic nature of their status.

Offenders are reinterviewed and screened upon request for reconsideration and may change from not meeting criteria to meeting criteria within the course of the year.

The treatment admission and participation status of the lifetime supervision population incarcerated in a DOC state or private facility on June 30, 2008 ( $n = 1,255$ ) was reviewed. Thirty percent (374 lifetime supervision offenders) did not meet the admission criteria based on sentence length and time to parole eligibility. Of the remaining 881 offenders, 318 offenders were in denial of a need for sex offender treatment, 94 were previously in denial and are now amenable to treatment; and 416 are either participating in treatment or on a waitlist.

Many of the DOC sentenced sex offenders failed other treatment and community supervision opportunities prior to DOC sentencing and continue this pattern in DOC. They may initially meet criteria to participate in treatment yet fail to comply with treatment requirements or decide to drop out of treatment. Offenders are encouraged to reapply for treatment as soon as they are willing to comply with the requirements. Sex offenders not participating according to group contract expectations are generally placed on probation and given extra assignments.

Offenders terminated from phase I may reapply and get on the program waitlist at any time upon completion of the assignments. Although the reasons for readmission denial are not stored in the Department of Corrections Information System (DCIS), a manual review of the information indicates that failure to complete assignments was the most common reason for non-readmission.

Satisfactory completion of phase I is an automatic acceptance into phase II. Only those offenders who refuse phase II treatment are not placed on the waitlist for Phase II; therefore, there are no denied phase II admissions. Forty-three lifetime supervision offenders were reviewed for readmission to phase II treatment in FY08. Thirteen offenders were accepted and admitted while 30 were not. Twenty-eight lifetime supervision offenders had not completed the required assignments to be readmitted to the program, one offender could not be placed at the treatment facility for medical reasons, and one was referred to phase I. Offenders generally may be reconsidered upon meeting the specified criteria at any time.

## PARTICIPATION IN PHASE I AND PHASE II

During FY08, 280 lifetime supervision offenders participated in treatment. Their participation in treatment may not be continuous for various reasons, including if they terminate unsuccessfully from the program. The number of lifetime supervision sex offenders participating in sex offender treatment is provided in Table 1.10 below. Length of participation for lifetime supervision offenders in phase I and phase II was compiled using the most recent program participation admission and termination dates, or June 30, 2008 as the end date if the offender was still in the program on that date. For lifetime supervision offenders who participated in treatment at any point during FY08, the average stay was 6.9 months in phase I and 13.3 months in phase II through June 30 or to date of termination.

Table 1.10. Treatment Participation of Lifetime Supervision Offenders

| Program      | # Waitlist | # Participated | # Still In |
|--------------|------------|----------------|------------|
| Phase I      | 132        | 142            | 68         |
| Phase II     | 127        | 124            | 74         |
| IB           | 0          | 8              | 2          |
| IC           | 0          | 1              | 1          |
| IID          | 0          | 5              | 4          |
| <b>Total</b> | 259        | 280            | 149        |

## TERMINATIONS FROM PHASE I AND PHASE II

Standardized program termination types are used for all program and work assignments throughout the Department. Terminations from phase I and phase II have been grouped into the following categories for this report:

- **Dropped Out/Self Terminated:** offender decides to discontinue treatment or stops attending groups and informs the treatment staff that they no longer interested in participating in treatment.
- **Expelled or Lack of Progress:** offender is terminated from treatment for a group contract violation. In the majority of cases, the offender is terminated after being placed on probation and given an opportunity to improve his/her participation. If the offender is terminated, completion of assignments is required before readmission to treatment is allowed. This category includes offender behaviors that threaten the safety and security of other treatment participants. Termination from treatment without a period of probation may result based on the seriousness of the behaviors.

- **Finished Program:** offender completes a time limited group. If the offender completes the group goals, he/she satisfactorily completes the group. If the offender needs more time to understand the material or achieve the group goals, he/she unsatisfactorily completes and may be recommended to repeat the group.
- **Progressed to Parole or Community:** offender progresses to a community corrections placement or parole. This category also includes offenders who complete their sentence and are discharged.

As of April 2007, the Department instituted a new due process system for sex offender treatment terminations. Under this system, the therapist recommends offenders for termination. The facility sex offender treatment team is charged with establishing whether sufficient facts exist to affirm the therapist’s recommended termination. If the team affirms the termination, the offender is served with a Notice of Right to Termination Review. The offender requests a termination review where a three member panel evaluates all information presented by the offender and his or her therapist. A disposition is issued regarding the termination.

The following table shows sex offender treatment terminations. In addition to the terminations shown, 3 offenders in phase I and 1 offender in phase II had their termination denied by the hearing board. An additional phase II offender was waiting for his termination hearing at the end of the fiscal year.

Table 1.20. Lifetime Supervision Sex Offender Program Terminations by Facility Fiscal Year 2008

| Termination Type | Phase I   |             | Phase I         |             | Phase II  |             | Total     | %           |
|------------------|-----------|-------------|-----------------|-------------|-----------|-------------|-----------|-------------|
|                  | Fremont   | %           | Colorado Womens | %           | Arrowhead | %           |           |             |
| Self Terminated  | 17        | 59%         | 0               | 0%          | 5         | 14%         | 22        | 33%         |
| Lack of Progress | 11        | 38%         | 2               | 100%        | 30        | 81%         | 43        | 63%         |
| Paroled          | 1         | 3%          | 0               | 0%          | 2         | 5%          | 3         | 4%          |
| <b>Total</b>     | <b>29</b> | <b>100%</b> | <b>2</b>        | <b>100%</b> | <b>37</b> | <b>100%</b> | <b>68</b> | <b>100%</b> |

### RECOMMENDED FOR COMMUNITY OR RELEASE TO PAROLE

All lifetime supervision offenders meeting the statutory and departmental criteria for parole and community referral are referred for acceptance and placement in community transition programs unless the offender chooses to waive his rights. During FY08, 275 lifetime supervision offenders were mandatory referrals for community placement one or more times regardless of whether they met

the SOMB criteria for recommendation for release. Lifetime supervision offenders actively participating in treatment are individually staffed to determine whether they meet community placement eligibility. Sex offender program therapists work closely with community parole officers and community program providers that accept sex offenders in transitional programs. Sex offender therapists recommended all sex offenders who met SOMB criteria for community placement during FY08. Of the twenty-seven (27) that were recommended, 10 were granted, 3 were tabled, and 14 were deferred by the Colorado Parole Board.

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**PROBATION POPULATION IMPACT**

The sex offender intensive supervision program (SOISP) is designed to provide the highest level of supervision to adult sex offenders who are placed on probation. Although initially created in statute in 1998 primarily for lifetime supervision cases, based on the risk posed by those offenders, the legislature made a significant change to the statute in 2001. Pursuant to HB01-1229, **all** felony sex offenders convicted on or after July 1, 2001, are statutorily mandated to be supervised by the SOISP program.

Sex offending behavior is a life-long problem in which the goal is not “curing” the offender, but rather management or control of the assaultive behavior. The goal of intensive supervision for sex offenders is to minimize the risk to the public to the greatest extent possible. The State of Colorado has adopted a model of containment in the supervision and management of sex offenders. Depending on the offender, elements of containment may include severely restricted activities, daily contact with an offender, curfew checks, home visitation, employment visitation and monitoring, drug and alcohol screening and monitoring, and/or sex offense specific treatment to include the use of polygraph testing. SOISP consists of three phases, each with specific criteria that must be met prior to a reduction in the level of supervision. The program design anticipated a two-year period of supervision in the SOISP program. Those offenders that satisfactorily meet the requirements of the program are then transferred to regular probation for supervision for the remainder of their sentence.

Between July 1, 2007 and June 30, 2008, 490 adults were charged in district court with one of the 12 lifetime eligible sex offenses identified in statute and were sentenced to probation. Of these, 146 offenders (29.8%) received an indeterminate sentence of at least 10 or 20 years to a maximum of the offender’s natural life and, in addition, were sentenced to Sex Offender Intensive Supervision Probation (SOISP). As a condition of probation 13 of these offenders were sentenced to community corrections. Of the remaining 344, there were 236 (48.16%) who were convicted of lesser or amended charges and also sentenced to SOISP. Of the remaining 108 offenders, 107 offenders received a sentence to regular probation with special terms and conditions for sex offenders and 1 was ordered into a non-sex offender intensive supervision caseload.

Using E-Clipse/ICON, the State Judicial Department’s case management information system, staff at the Division of Probation Services selected all sex offender cases sentenced, as well as all

sex offender cases which terminated probation supervision, during Fiscal Year 2007-2008 for the following statutory charges for review and inclusion in this analysis:

|                      |   |
|----------------------|---|
| 18-3-402 C.R.S.      | Sexual Assault; or Sexual Assault in the First Degree, as it existed prior to July 1, 2000                        |
| 18-3-403 C.R.S.      | Sexual Assault in the Second Degree, as it existed prior to July 1, 2000  |
| 18-3-404(2) C.R.S.   | Felony Unlawful Sexual Contact; or Felony Sexual Assault in the Third Degree, as it existed prior to July 1, 2000 |
| 18-3-405             | Sexual Assault on a Child   |
| 18-3-405.3 C.R.S.    | Sexual Assault on a Child by One in a Position of Trust   |
| 18-3-405.5(1) C.R.S. | Aggravated Sexual Assault on a Client by a Psychotherapist  |
| 18-3-305 C.R.S.      | Enticement of a Child   |
| 18-6-301 C.R.S.      | Incest  |
| 18-6-302 C.R.S.      | Aggravated Incest   |
| 18-7-406 C.R.S.      | Patronizing a Prostituted Child   |
| 18-3-306(3) C.R.S.   | Class 4 Felony Internet Luring of a Child   |
| 18-3-405.4 C.R.S.    | Internet Sexual Exploitation of a Child   |

Criminal attempts, conspiracies and solicitations of the above offenses, when the original charges were class 2, 3 or 4 felonies, were also included in the selection.

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An effort was made in 2002 to install coding in E-Clipse/ ICON that would differentiate between lifetime and non-lifetime cases. As an ongoing check to determine that the coding changes provide the necessary level of detail required for this report a manual review of the dispositions of 490 active cases was completed. This report also required the review of an additional 301 cases terminated from probation supervision for lifetime eligible offenses during Fiscal Year 2007-2008.

The following table reflects an analysis comparison of sentences to probation for lifetime eligible offenses for Fiscal Years 2005-2006 through 2007-2008:

**Table 2.0:** Placement of New Cases Eligible for Indeterminate Lifetime Term Sentences to Probation for Fiscal Years 2004-05 through 2006-2007:

| <b>Type of Supervision</b>   | <b>Number of Cases (Percent) FY 2005-06</b> | <b>Number of Cases (Percent) FY 2006-07</b> | <b>Number of Cases (Percent) FY 2007-08</b> |
|--|---|---|---|
| Lifetime Probation with SOISP  | 140 (30.6%)                                 | 118 (26.28%)                                | 146 (29.8%)                                 |
| SOISP (Non-lifetime Probation for felony sex offenses with SOISP)                                      | 160 (35%)                                   | 215 (47.88%)                                | 236 (48.16%)                                |
| Intensive Supervision Program (ISP) or Domestic Violence Programs (DV)                                 | 6 (1.3%)                                    | 1 (.2%)                                     | 1 (.2%)                                     |
| Regular Probation (Cases Ineligible for Lifetime or SOISP and/or sex offense reduced to misdemeanors)* | 151 (33%)                                   | 115 (25.61%)                                | 107 (21.83%)                                |
| <b>TOTAL CASES</b>   | <b>457</b>                                  | <b>449</b>                                  | <b>490</b>                                  |

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

A comparison of data for Fiscal Year 2006-2007 to 2007-2008 reflects a 9.13% increase in the number of offenders (41) eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

As of June 30, 2007, there were approximately 1,184 offenders under SOISP probation supervision. Of these, approximately 601 (50.76%) offenders were under lifetime supervision.

### **PROBATION DISCHARGE HEARINGS AND DISCHARGES**

For Fiscal Year 2008, 54 offenders under a lifetime supervision sentence completed SOISP and were transferred to regular probation. Forty-seven offenders have since successfully completed SOISP and terminated probation pursuant to court order.



## **PROBATION REVOCATION HEARINGS AND REVOCATIONS**

During Fiscal Year 2007-2008, 67 sex offenders had their lifetime supervision sentences terminated. The following represents the termination status for these offenders:

- 4 offenders – probation revoked; new felony
- 1 offenders – probation revoked; new misdemeanor
- 48 offenders – probation revoked; technical violations
- 5 offenders – deported
- 1 offender – died
- 7 offenders – absconded; warrants issued and remain outstanding
- 1 offenders – probation terminated successfully by order of the court

Of the offenders whose probation was revoked for a new felony (4) or a new misdemeanor (1), one offender was charged with a felony sex offense and two offenders were charged with a felony Failure to Register. The remaining two offenders were revoked for offenses not related to sexual misconduct. All felony offenders revoked were subsequently sentenced to the Colorado Department of Corrections.

## **COST OF SERVICES**

In July 1998, the SOISP program was created with a General Fund appropriation of 46.0 FTE probation officers and funding to provide treatment services. In FY 2000-01 the expenses associated with SOISP were transferred from General Fund to the Offender Services Cash Fund. Section 18-21-103 C.R.S. requires that sex offenders pay a surcharge, with collected revenue deposited in the Sex Offender Surcharge Fund. A portion of the funds are appropriated to Judicial that partially meet expenses associated with completion of the offense specific evaluations required by statute and case law.

**Table 2.10: Treatment and Evaluation Costs by Fund**

| <b>YEAR</b>  | <b>PURPOSE</b>  | <b>CF - SEX OFFENDER SURCHARGE</b> | <b>CF - OFFENDER SERVICES FUND</b> | <b>TOTAL</b> |
|--------------|-----------------|------------------------------------|------------------------------------|--------------|
| <b>FY 04</b> | SOISP Treatment | \$0                                | \$383,207                          | \$720,667    |
|              | Evaluation      | \$202,933                          | \$134,527                          |              |
| <b>FY 05</b> | SOISP Treatment | \$0                                | \$454,547                          | \$850,847    |
|              | Evaluation      | \$200,400                          | \$195,900                          |              |
| <b>FY 06</b> | SOISP Treatment | \$0                                | \$524,608                          | \$873,625    |
|              | Evaluation      | \$172,245                          | \$176,772                          |              |
| <b>FY07</b>  | SOISP Treatment | \$0                                | \$434,416                          | \$1,119,894  |
|              | Evaluation      | \$275,029                          | \$410,449                          |              |
| <b>FY08</b>  | SOISP Treatment | \$0                                | \$771,186                          | \$1,659,578  |
|              | Evaluation      | \$253,704                          | \$634,688                          |              |

The expenses associated with the sex offender offense specific evaluations, the sexually violent predator assessments and the parental risk assessments are increasing annually. Probation funds have been required to pay for these evaluations and assessments to avoid any delays in case processing for the courts and to ensure that offenders who are unable to pay all of the costs associated with court ordered evaluation and treatment are not returned to court for revocation based on non-payment. Revocations generally result in sentences to DOC, a significantly higher cost option for the state. The expenditure of \$1.6 million for adult sex offender related evaluation and treatment costs represents approximately twenty-nine percent of the total dollars (\$5.7 million) available in FY 2008 for treatment and service support for all offenders on probation. The adult sex offender population represents approximately seven percent of the adult offender population. The Judicial Department is seeking options for the containment of these costs.

## SUMMARY OF EVALUATION INSTRUMENTS

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

### Sex Offense-Specific Evaluation

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

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

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

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

Please refer to **ATTACHMENT A** for additional information on mental health sex offense-specific evaluations located in Section 2.000 of the Standards. For information that outlines criteria and methods for determining a sex offender's progress through treatment and for successful completion under Lifetime Supervision, please see the Lifetime Supervision Criteria also in **ATTACHMENT A**.

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

*Lifetime Supervision Criteria*

### **Sexual Predator Risk Assessment Screening Instrument**

In response to federal legislation, the Colorado General Assembly passed legislation regarding the identification and registration of Sexually Violent Predators (Section 16-11.7-103 (4) (c.5), C.R.S.). A person who is found to be a Sexually Violent Predator by the courts or Parole Board is required to register quarterly rather than annually (Section 16-22-108 (1) (d), C.R.S.), be posted on the internet by the Colorado Bureau of Investigation (Section 16-22-111 (1) (a), C.R.S.), and, as of May 30, 2006, subject to community notification (Section 16-13-903, C.R.S.).

Pursuant to Section 16-11.7-103 (4) (c.5), C.R.S., the Sex Offender Management Board collaborated with the Office of Research and Statistics in the Division of Criminal Justice, to develop criteria and an empirical risk assessment scale for use in the identification of Sexually Violent Predators. The criteria were developed between July 1, 1998 and December 1, 1998 by representatives from the Sex Offender Management Board, the Parole Board, the Division of Adult

Parole, the private treatment community and victim services agencies. The actuarial scale was developed by the Office of Research and Statistics in consultation with the SOMB over a three-year period and will require periodic updating. An update occurred in June 2006 that included a smaller actuarial risk scale required for offenders who decline to be interviewed, insuring that all offenders will be assessed per the intent of the legislation. In May 2007, the SOMB approved some language changes in the description of items in the SOMB Sex Offender Risk Scale (SORS) ten-point scale. The Sexual Predator Risk Assessment Screening Instrument was designed to predict supervision and treatment failure. Follow-up analyses, conducted by the Office of Research and Statistics in the spring of 2007, concluded that the instrument reliably predicts new violent crime arrests within five years.

The Office of Probation Services in the Judicial Department and the Office of Research and Statistics are responsible for implementing the Sexual Predator Risk Assessment Screening Instrument. From January 1, 1999 to May 31, 1999, a team from both offices obtained feedback on the instrument from probation officers and SOMB Approved Sex Offender Evaluators from across the state, including conducting a pretest of the instrument. Numerous statewide trainings took place on the use of the instrument, from 1999 through 2006. In the spring of 2007, two trainings were conducted on the updated version of the instrument as well as the research regarding its use and reliability. Additionally, updates regarding the Sexual Predator Risk Assessment Screening Instrument are presented at the various Sexually Violent Predator Community Notification meetings held throughout the state.

Currently, when an offender commits one of five specific crime types or associated inchoate offenses, the Sexual Predator Risk Assessment Screening Instrument is to be administered by either Probation Services or the Department of Corrections and an SOMB Approved Sex Offender Evaluator. Effective May 30, 2006, all offenders convicted of attempt, conspiracy, and/or solicitation to commit one of the five specific crime types is referred for a Sexual Predator Risk Assessment (Section 18-3-414.5, C.R.S.). If the offender meets the criteria outlined in the instrument, he or she is deemed to qualify as a Sexually Violent Predator. The authority to designate an offender an SVP rests with the sentencing judge and the parole board. The Sexual Predator Risk Assessment Screening Instrument is located in **ATTACHMENT B**.

**ATTACHMENT B:** Sexual Predator Risk Assessment Screening Instrument

## **Background of the Sex Offender Management Board**

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107, C.R.S.) that created a Sex Offender Treatment Board to develop standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of sex offenders. The General Assembly changed the name to the Sex Offender Management Board (SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (Standards) were originally drafted by the SOMB over a period of two years and were first published in January 1996. The Standards were revised in 1998, 1999, and 2008. Currently, portions of the standards are again being revised. In addition, the SOMB approved a modification to Appendix C-4 in the summer of 2001. In 2002, and again in 2004, the revision of Appendix F was approved. In 2004, Appendix E was updated. These revised appendices were included in the printing of the Standards in 2004. The latest revisions, in 2008, include changes to the Developmentally Disabled standards, polygraph standards, treatment standards, and provider qualifications standards. In addition, revisions were made in sections 2.10 and 1.00. These revisions were presented at a public hearing and were published. Currently, the SOMB is working on revisions in Sections 5.00. These changes are planned to go to public hearing in 2009. The Standards were revised for two reasons: to address omissions in the original Standards that were identified during implementation, and, to keep the Standards current with the developing literature in the field of sex offender management. The Standards apply to convicted adult sexual offenders under the jurisdiction of the criminal justice system. The Standards are designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate of the SOMB and the primary goals of the Standards are to improve community safety and protect victims.

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

A coordinated system for the management and treatment of sex offenders provides containment for the offender and enhances the safety of the community and the protection of victims. To be effective, a containment approach to managing sex offenders must include interagency and

interdisciplinary teamwork. The system developed by the SOMB requires the use of community supervision teams, which must include a treatment component, a criminal justice supervision component and a post-conviction polygraph component to monitor behavior and risk.

These Standards are based on the research and the best practices known today for managing and treating sex offenders. To the extent possible, the SOMB has based the Standards on current research in the field. Materials from knowledgeable professional organizations have also been used to direct the Standards. Sex offender management and treatment is a developing specialized field. The SOMB will remain current on the emerging literature and research and will continue to modify the Standards periodically on the basis of new findings.

In July 2006, President Bush signed the Adam Walsh Child Protection and Safety Act into law, establishing a national system for the registration of sex offenders. The Adam Walsh Act (AWA) requires individual state compliance by July 2009 or face a 10% loss of justice assistance grants for their state. The Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) office was established to administer implementation of AWA, and determines the level of compliance for each state. A Multi-Agency Implementation Committee was developed by the state of Colorado to review the fiscal and practical impact on the state should the AWA be ratified. This committee will make compliance recommendations to the Governor and Legislators of the state. In response to the passing of the AWA, the SOMB formed a committee regarding the implementation the AWA in Colorado. The SOMB committee has been conducting educational forums for stakeholders throughout the state regarding the passing of the Adam Walsh Act.

New state-level sex offender legislation also impacts the SOMB. In 2008, many changes occurred which have resulted in increased number of trainings and use of community supervision teams. Examples of these changes included:

- Sex offenders 18 years of age or older in a youthful offender system are allowed to receive adult sex offender treatment (16-22-108, C.R.S.); signed by the Governor into law on March 13, 2008.
- Law enforcement agencies, prosecuting officers, or other government officials are prohibited from asking a sexual assault victim to take a lie detector test as a condition of proceeding with the criminal investigation or prosecution. Law enforcement agencies are also prohibited from asking or requiring a sexual assault victim to participate in the criminal justice process in order

to receive a forensic medical exam that includes the collection of evidence (exam). The Division of Criminal Justice, not the victim, pays for the exam. And, a medical facility that performs an exam on a victim that is not at the request of a law enforcement agency to contact law enforcement regarding the storage of the evidence (18-3-407.5, C.R.S.); signed by the Governor into law on March 31, 2008.

- A registry is to be held within the Division of Developmental Disabilities in the Department of Human Services of caregivers with a substantiated allegation of exploitation, mistreatment, neglect, physical abuse, or sexual abuse of persons with developmental disabilities (27-10.5-142, C.R.S.); signed by the Governor into law on June 5, 2008.
- If the Department of Corrections receives a mittimus that does not indicate whether or not the court determined a defendant is a sexually violent predator, the Department of Corrections is to notify the court, and, if necessary, return the defendant to the custody of the sheriff for transport to the court for the determination (18-3-414.5, C.R.S.); signed by the Governor into law on March 27, 2008.
- In a child custody case in which one of the parties is a perpetrator of unlawful sexual behavior, the child and family investigator (when making his or her recommendations), the court (when determining parenting time and allocating decision making responsibilities), and the court-appointed evaluator (when making his or her recommendations) are to consult with the party's sex offender management team, if the party has one, and follow the Sex Offender Management Board's offender guidelines (14-10-129(3), C.R.S.); signed by the Governor into law on May 29, 2008.

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



## **AVAILABILITY AND LOCATION OF SEX OFFENDER SERVICE PROVIDERS THROUGHOUT THE STATE**

The SOMB Approved Service Providers are located in 20 of the 22 judicial districts in the state. The following is a list of the number of providers approved in each specialty area:

|     |   |
|-----|---|
| 172 | Treatment Providers   |
| 29  | Treatment Providers with a Developmental Disability Specialty |
| 86  | Evaluators  |
| 23  | Polygraph Examiners   |

The SOMB approved 73 individuals in FY 07-08. Of those, approximately 33 were new applicants and 40 were re-applicants, and are included in the numbers above.

Please refer to **ATTACHMENT C** for the SOMB Provider List for the approved service providers and their locations throughout the state.

### **ATTACHMENT C: SOMB Provider List**

### **COST OF SERVICES**

- Average costs of services in Table 3.00 (below) were determined by sampling a range of providers within each judicial district across the state.
- Many providers offer services on a sliding scale, dependent on the offender's income.
- In community based programs, most sex offenders are expected to bear the costs of treatment and behavioral monitoring themselves. The Standards require weekly group treatment and polygraph examinations every six months at a minimum. Most programs require some additional services during the course of treatment.
- The average number of treatment sessions a typical adult offender receives, reported by therapists throughout the state, was five sessions per month. This typically included four group treatment sessions and one individual treatment session per month.

- The SOMB recommended that \$275,029 from the Sex Offender Surcharge Fund be allocated to the Judicial Department in Fiscal Year 2007-2008. These funds are used for sex offense-specific evaluations and assessments for pre-sentence investigation reports for indigent sex offenders and for assistance with polygraph examination costs post-conviction. These funds are made available to all indigent sex offenders through local probation departments. The SOMB recommended that \$302,029 from the Sex Offender Surcharge Fund be allocated to the Judicial Department for Fiscal Year 2008-2009 and again in Fiscal Year 2009-2010 for the same purposes. This amount also includes \$27,000 to fund SB 06-22 (16-13-903, C.R.S.) to assist in the facilitation of services for the increased number of sexually violent predators.

**TABLE 3.00**  
**Average Cost of Services (Figures were obtained in October 2008)**

|                                    | Average Cost of....   |  |   |                       |
|------------------------------------|---|--|---|-----------------------|
|                                    | Sex Offense Specific Evaluation, including a PPG or Abel Screening* | Mental Health Sex Offense Specific Group Treatment Session | Mental Health Sex Offense Specific Individual or Other Adjunct (i.e., family or couples counseling) Treatment Session | Polygraph Examination |
| 1 <sup>st</sup> Judicial District  | \$850   | \$50   | \$60  | \$225                 |
| 2 <sup>nd</sup> Judicial District  | \$990   | \$49   | \$78  | \$225                 |
| 3 <sup>rd</sup> Judicial District  | \$700   | \$45   | \$60  | X                     |
| 4 <sup>th</sup> Judicial District  | \$925   | \$58   | \$50  | \$248                 |
| 5 <sup>th</sup> Judicial District  | X   | X  | X   | X                     |
| 6 <sup>th</sup> Judicial District  | X   | X  | X   | \$220                 |
| 7 <sup>th</sup> Judicial District  | \$775   | \$43   | \$68  | \$220                 |
| 8 <sup>th</sup> Judicial District  | \$925   | \$41   | \$110   | X                     |
| 9 <sup>th</sup> Judicial District  | \$775   | \$43   | \$68  | X                     |
| 10 <sup>th</sup> Judicial District | \$850   | \$42   | \$42  | \$248                 |
| 11 <sup>th</sup> Judicial District | X   | X  | X   | \$248                 |
| 12 <sup>th</sup> Judicial District | X   | \$45   | \$45  | X                     |
| 13 <sup>th</sup> Judicial District | X   | \$35   | \$80  | X                     |
| 14 <sup>th</sup> Judicial District | X   | \$40   | \$100   | X                     |
| 15 <sup>th</sup> Judicial District | X   | X  | X   | X                     |
| 16 <sup>th</sup> Judicial District | X   | X  | X   | X                     |
| 17 <sup>th</sup> Judicial District | X   | X  | X   | \$236                 |
| 18 <sup>th</sup> Judicial District | \$775   | \$47   | \$68  | \$236                 |
| 19 <sup>th</sup> Judicial District | \$900   | \$50   | \$60  | X                     |
| 20 <sup>th</sup> Judicial District | \$1000  | \$50   | \$80  | X                     |
| 21 <sup>st</sup> Judicial District | \$767   | \$40   | \$66  | X                     |
| 22 <sup>nd</sup> Judicial District | X   | X  | X   | \$220                 |
| <b>Average</b>                     | <b>\$853</b>  | <b>\$45</b>  | <b>\$69</b>   | <b>\$233</b>          |
| <b>Range</b>                       | <b>\$767-\$1000</b>   | <b>\$35 - \$58</b>   | <b>\$42 - \$110</b>   | <b>\$220 - \$248</b>  |

**NOTE:** 'X' denotes services that were not provided by the local providers contacted or there were no providers in that judicial district. Services to those areas may be available through other providers, traveling providers or by providers in adjoining areas.

\*Average cost of a PPG or Abel Screening alone, across the state, is \$231 (range = \$225 - \$250).

## **REGULATION AND REVIEW OF SERVICES PROVIDED BY SEX OFFENDER TREATMENT PROVIDERS**

### **Application Process**

Since 1996, the SOMB has been working to process the applications of treatment providers, evaluators, plethysmograph examiners, Abel Screen examiners and clinical polygraph examiners to create a list of these providers who meet the criteria outlined in the Standards and whose programs are in compliance with the requirements in the Standards. These applications are reviewed through the SOMB Application Review Committee. In 2008, the SOMB discontinued the listing of plethysmograph examiners and Abel Screen examiners as the manufacturers of the instruments require training with them. Our listing of plethysmograph and Abel Screen examiners were a duplication of regulatory function so we now defer that approval process to the manufacturer.

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

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

Approvals for placement on the SOMB Provider List are valid for a three-year period. At the end of the three-year period, each applicant must submit materials for a re-application process that indicates that he or she has met the requirements for continuing education, training and clinical

experience and has demonstrated that their programs are operating in compliance with the Standards.

### **Sex Offender Service Providers**

The *general* requirements for service providers are as follows:

*Treatment Provider – Full Operating Level:* In addition to meeting all the other applicable Standards, a Treatment Provider at the Full Operating Level has accumulated at least 1000 hours of clinical experience working with sex offenders in the last five years (and in no less than one year), and may practice without supervision.

*Treatment Provider – Associate Level:* In addition to meeting all the other applicable Standards, a Treatment Provider at the Associate Level has accumulated at least 100 hours of clinical experience working with sex offenders in the last five year (and not less than one year), and must receive regular supervision from a Treatment Provider at the Full Operating Level.

*Evaluator – Full Operating Level:* In addition to meeting all the other applicable Standards, an evaluator has conducted at least 30 mental health sex offense-specific evaluations of sex offenders in the last five years.

*Evaluator – Associate Level:* In addition to meeting all the other applicable Standards, an evaluator at the Associate Level has conducted 10 adult sex offense specific evaluations in the past five years and is receiving supervision from an Evaluator at the Full Operating Level.

*Clinical Polygraph Examiner – Full Operating Level:* In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner has conducted at least 200 post-conviction sex offender polygraph tests and has received 100 hours of specialized clinical sex offender polygraph examiner training.

*Clinical Polygraph Examiner – Associate Level:* In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner at the Associate Level is working under the guidance of a qualified Clinical Polygraph Examiner listed at the Full Operating Level while completing 200 post-

conviction sex offender polygraph tests as required for Clinical Polygraph Examiners at the Full Operating Level.

*Intent to Apply for Listing:* Non-listed providers working towards applying for listed provider status are able to provide services under the supervision of a full operating level provider. These non-listed providers are required to submit a letter of Intent to Apply to the SOMB within 30 days of beginning to provide services to sex offenders covered under the Standards, undergo a criminal history check, provide a signed supervision agreement, and agree to submit an application within one year from the date of Intent to Apply status.

For a comprehensive list of requirements, please refer section 4.00 of the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*.

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

*Lifetime Supervision Criteria;*

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

## **PROGRAM EVALUATION**

The SOMB has a legislative mandate to evaluate the system of programs initially developed by the SOMB and to track offenders involved in the programming (Section 16-11.7-103 (4) (d), C.R.S.). This mandate was not originally funded by the state. The SOMB unsuccessfully requested funding through the state budget process in Fiscal Year 1999 to enable compliance with this mandate.

In Fiscal Year 2000, DCJ was awarded a Drug Control and System Improvement Program Grant (Federal dollars administered through the Division of Criminal Justice). This grant funded a process evaluation to evaluate compliance with the Standards throughout the state and the impact of established programs.

In December, 2003, this evaluation (**Attachment D**) was completed by the Office of Research and Statistics in the Division of Criminal Justice (Section 16-11.7-103(4)(d)(II), C.R.S.). The report was a first step in meeting this legislative mandate. Evaluating the effectiveness of any program or

system first requires establishing whether the program/system is actually implemented as intended and the extent to which there may be gaps in full implementation. The second step in evaluating effectiveness requires a study of the behavior of those offenders who are managed according to the Standards. Currently, the SOMB is working on a plan to undertake this portion of the evaluation. Data collection could possibly occur in 2009-2010.

**ATTACHMENT D:** *Process Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines*

## **SUMMARY**

This report is intended to provide the Colorado General Assembly with information on the ninth year of implementation of the Lifetime Supervision Act in Colorado. The Department of Corrections, The Judicial Department, and the Department of Public Safety work collaboratively in implementing the comprehensive programs for managing sex offender risk in Colorado.

The number of offenders sent to prison under Lifetime Supervision Provisions for sex offenses continues to increase. The Sex Offender Treatment and Monitoring Program (SOTMP) for DOC inmates is designed to utilize the most extensive resources with those inmates who have demonstrated a desire and motivation to change. Because the Lifetime Supervision legislation is not intended to increase the minimum sentence for sex offenders, the Department of Corrections has designed treatment formats that provide offenders the opportunity to progress in treatment and be considered a candidate for parole within the time period of their minimum sentence.

Further, the number of adults charged in district court with one of the ten lifetime eligible sex offenses and sentenced to probation continues to increase. Additionally, the number of offenders under Sex Offender Intensive Supervision Probation (SOISP) increases, along with the percentage of those under lifetime supervision.

Over the past year, the Sex Offender Management Board (SOMB) has been impacted by new legislation. The SOMB created a committee regarding the implementation of the Adam Walsh Child Protection and Safety Act (AWA). The SOMB committee has been conducting educational forums for stakeholders throughout the state regarding the passing of the AWA. Additionally, more and more sex offenders classified as Sexually Violent Predators are leaving prison and entering the community, resulting in an increase in the number of community notification meetings being held by local jurisdictions. This, in turn, necessitates an increased number of trainings conducted by the Community Notification Technical Assistance Team.

Lastly, the Sex Offender Management Board Standards and Guidelines need to be evaluated on their effectiveness. A process evaluation of the Standards and Guidelines was completed by the Office of Research and Statistics in the Division of Criminal Justice; however, this report was only a first step in meeting the legislative mandate. The second step in evaluating effectiveness requires a



study of the behavior of offenders managed according to the Standards. The SOMB has currently begun the process of this evaluation.

In summary, sex offenders subject to Lifetime Supervision in prison and in the community are rising, which has resulted in increased caseloads for those agencies responsible for the management of sex offenders. Additionally, it appears likely that more sex offenders will be identified, including those subject to lifetime supervision, due to new legislation passed in 2006. In an effort to achieve community safety, accurate risk assessments must be an element of sex offense specific evaluations to insure the proper placement of sex offenders in an appropriate level of supervision, and thereby using available resources wisely. The expenses associated with sex offense specific evaluations, sexually violent predator assessments, and parental risk assessments are increasing annually. State Judicial and the SOMB are currently collaborating on an effort to contain these costs. However, as a result of those costs and the costs associated with increased numbers of sex offenders subject to Lifetime Supervision both in prison and in the community, the Department of Corrections, the State Judicial Department, and the Department of Public Safety will continue to evaluate current resources and needs to achieve the goals of the Lifetime Supervision Act.