

Lifetime Supervision of Sex Offenders

Annual Report



November 1, 2009

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

Lifetime Supervision of Sex Offenders | 2009

November 1, 2009

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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:

White Paper on the Adam Walsh Child Protection And Safety Act of 2006

Attachment D:

Sex Offender Management Board Provider List

Attachment E:

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 tenth 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 tenth 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. The first prison admission for the qualifying Lifetime Supervision sexual offenses occurred in the fall of 1999.

Through fiscal year (FY) 2008-2009, a total of 1,496 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, 2009.

- 1 offender sentenced in FY 1998-1999;
- 48 offenders sentenced in FY 1999-2000;
- 111 offenders sentenced in FY 2000-2001;
- 145 offenders sentenced in FY 2001-2002;
- 167 offenders sentenced in FY 2002-2003;
- 170 offenders sentenced in FY 2003-2004;
- 171 offenders sentenced in FY 2004-2005;
- 185 offenders sentenced in FY 2005-2006;
- 194 offenders sentenced in FY 2006-2007;
- 159 offenders sentenced in FY 2007-2008; and
- 145 offenders sentenced in FY 2008-2009.

Offenders sentenced to lifetime supervision were 99% male. The ethnic breakdown was 57% Caucasian, 26% 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 1,496 offenders sentenced to prison under the Lifetime Supervision provisions for sex offenses, 94 have discharged their sentence through June 30, 2009:

- 38 offenders released by court order;

- 31 offenders released to probation;
- 19 offenders died;
- 4 offenders released on an appeal bond; and
- 2 offenders had their sentence amended then released per Martin Cooper law.

Thirteen of the 94 offenders whose sentences were 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.

In addition to receiving new admissions under the lifetime supervision provision and offenders discharging their sentence, inmates may have their mittimus amended or inactivated. This may occur either as the lifetime supervision provision is *added* to mittimus or *removed* from a mittimus. Therefore, offenders originally sentenced to DOC under these provisions remain incarcerated but begin serving a non-lifetime sentence or may at some point during their incarceration begin serving a lifetime sentence. Therefore, there are constant changes to the population that are not reflected in the admission and discharge numbers.

As of June 30, 2009, 1,400 offenders were under DOC supervision for one or more sexual offense convictions sentenced under the Lifetime supervision provisions: 1 had not yet been received, 1,357 were in a CDOC or contract facility, 2 were on interstate compact, 2 were in YOS (one in Phase III in the community), 2 were in community corrections, 3 were in the community monitored by the Intensive Supervision Program inmate program, and 33 were on parole. Incarcerated lifetime supervision offenders represented 6.7% of the overall inmate population in DOC state and private prisons. Additionally, 540 (40%) were past their parole eligibility date (PED) as of June 30, 2009.

In order to assess the impact of the Lifetime Supervision Act on the prison population, comparisons were made between FY 1999 and FY 2009 sex offender admissions and inmate population. First, a list of qualifying sex offenses under the lifetime supervision provisions was obtained. In order to determine whether these sentences are impacting the CDOC population, this analysis examined qualifying crimes regardless of whether they met the time eligibility criteria and actually received a lifetime supervision sentence. Next, the proportions of new commitments who were admitted to CDOC with a new sex offense were compared: 11.0% of FY 1999 admissions and 10.8% of FY 2009 admissions were sentenced with one or more qualifying sex offenses.

Finally, comparisons were made between the inmate populations: 21.6% of the June 30, 1999, population and 20.8% of the June 30, 2009, population were incarcerated for an offense that now qualifies under the lifetime supervision provisions. *It is important to note that 10 years after implementation of this legislation, there are virtually no changes to the sentence rate of sex offenders to prison and sex offenders with qualifying offenses represent a slightly lower percentage of the inmate population now than they did then.*

PAROLE RELEASE HEARINGS AND IMPACT ON PAROLE POPULATION

The Parole Board held release hearing for 483 lifetime supervision sex offenders during FY 2009, although many offenders may have had multiple hearings over the course of the year. Of these, 31 were granted parole during the fiscal year. An additional 82 lifetime supervision inmates waived their parole board hearings prior to their hearing date.

The impact of this legislation on intensive supervision parole program and total parole population to date has been minimal. A total of 34 offenders under lifetime supervision have released to parole, with 26 of these releases occurring in FY 2009. Of these, eight paroled out of state, three were deported out of the country, and one was revoked back to prison. For the 23 offenders serving parole in Colorado, the average length on parole (through June 30, 2009) was 10.3 months and an average of 8.7 months spent in the intensive supervision parole program (with an upper range of 49 months on intensive parole supervision). All parolees supervised in Colorado have spent at least a portion of their parole period in the intensive supervision parole program.

PAROLE DISCHARGE HEARINGS AND NUMBER DISCHARGED FROM PAROLE

No parole discharge hearings have occurred for offenders sentenced under the Lifetime Supervision Act, as only 34 offenders have 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 (SOTMP) provides comprehensive assessment, evaluation, treatment and monitoring services to sexual offenders who are motivated to eliminate sexual abuse behaviors. SOTMP staff is responsible for assessing the offender's progress when recommending specific SOTMP phases for participation. To the extent resources permit, SOTMP offers the following services.

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, healthy sexuality, social skills, and relationship skills.

The program is offered at Fremont Correctional Facility, Arkansas Valley Correctional Facility, Colorado Territorial Correctional Facility, LaVista Women's Correctional Facility and the Youthful Offender System. 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 is offered at Colorado Territorial Correctional Facility and LaVista Women's Correctional Facility.

PHASE IE: This group addresses the same components as the regular Phase I group, but is designed for sex offenders who are Spanish speaking. 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. This phase is offered as a modified therapeutic community treatment program at Arrowhead Correctional Center and a regular group format at Fremont Correctional Facility (modified format), LaVista 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 extending beyond minimum sentences, the Department of Corrections (DOC) has designed treatment formats that provide offenders the opportunity to progress in treatment and be considered a candidate for parole.

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 staff.

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 2009, DOC had 524 minimum to lifetime sentenced offenders requiring the Modified Format.

Standard Format (Offenders with 6 years or more minimum sentences and all non-life time 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.
- Is 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 2009, DOC had 841 minimum to lifetime 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 FCF for lifetime supervision offenders with short minimum sentences to help them progress through the program more quickly.
- Developed a Phase II outpatient program at CTCF for offenders that cannot progress to Arrowhead Correctional Center.
- Moved the Phase I program at Sterling Correctional Facility to Arkansas Valley Correctional Facility. This new location improves our ability to recruit and retain therapists.
- Established a priority list to assign sex offenders to treatment openings. Since lifetime supervision offenders must progress in treatment to be considered a candidate for parole they will be given first priority for our limited treatment openings.
 - ❖ **First Priority** – Lifetime supervision offenders who are within 4 years of their PED will be the highest treatment priority.
 - ❖ **Second Priority** – Convicted sex offenders with traditional sentences that are near their PED.
 - ❖ **Third Priority** – Offenders that are determined to be sex offenders through Administrative Review Procedures .
- Actively communicating with the Parole Board, the Colorado Association of Community Corrections Boards and the Colorado Community Corrections Coalition regarding community transition for lifetime supervision offenders.

COMMUNITY CORRECTIONS AND PAROLE SUPERVISION

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

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 ongoing, 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 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.

AVAILABILITY AND COST OF SEX OFFENDER TREATMENT

The FY 2009 Colorado Department of Corrections budget included \$2,965,404 for the assessment, treatment, testing (including polygraphs), and research and registration coordination of sex offenders. Approximately \$99,569 was for polygraph testing. SOTMP inmate services included (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 (approximately 1,916 offenders for fiscal year 2009), 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 SOTMP. As new staff are brought on line, there are an increasing number of offenders participating in treatment per year.

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 re-offense
- 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 these criteria. 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 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 who do not meet treatment criteria cannot be compiled due to the dynamic nature of their status. Offenders are re-interviewed and screened upon request for reconsideration and may change from not meeting criteria to meeting criteria with 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, 2009 ($n = 1,365$) was reviewed. Thirty percent (411 lifetime supervision offenders) did not meet the admission criteria based on sentence length and time to parole eligibility. Of the remaining 954 offenders, 327 offenders denied their sex offense or refused treatment; 88 were previously in denial and are now amenable to treatment; 36 needed assessment by SOTMP; and 503 were either participating in treatment, on a waitlist for treatment, or ready for treatment.

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 probationary period and given extra assignments.

Offenders terminated from phase I may reapply and get on the program waitlist 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 wait list for Phase II; therefore, there are no denied phase II admissions. Sixty-four lifetime supervision offenders were reviewed for readmission to Phase II treatment in FY09. Twenty-five offenders were accepted and have been put on the wait list while 37 were not, due to the fact that they had not completed the required assignments to be readmitted to the program. Two were referred to repeat Phase I. Offenders generally may be reconsidered upon meeting the specified criteria at any time.

PARTICIPATION IN PHASE I AND PHASE II

During FY09, 294 lifetime supervision offenders participated in treatment. Their participation in treatment may not be continuous for various reasons, including successfully completing a phase of treatment and waiting for the next phase. The number of lifetime supervision sex offenders participating in sex offender treatment is provided in Table 1. 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, 2009 if the offender was still in the program on that date, as the end date. For lifetime supervision offenders who participated in treatment at any point during FY 2009, the average stay was 6.0 months in phase I and 13.8 months in phase II through June 30 or to date of termination or progression to community corrections or parole.

Table 1. Treatment Participation of Lifetime Supervision Offenders

Program	# on Waitlist June 30, 2009	# Participated During FY 2009^a	# Still in Treatment June 30, 2009
Phase I	134	172	85 ^b
Phase II	98	100	87
Phase IB	0	9	0
Phase IE	3	0	0
Phase II YOS	0	2	0
Total	235	283	172

^aOffenders may have participated in both Phase I and Phase II.

^bTwelve offenders in the Phase I group had completed the criteria for Phase I and were working on their progress in a specialized treatment group designed for meeting the criteria of the Parole Board.

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 are 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 that 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. Table 2 shows SOTMP terminations.

Table 2. Lifetime Supervision Sex Offender Program Terminations by Facility FY 2009*

	Fremont		LaVista		Ark Valley		Arrowhead		Total	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>N</i>	%
Self terminated	0	0%	1	100%	0	0%	1	3%	2	3%
Lack of progress	23	82%	0	0%	1	100%	19	56%	43	67%
Paroled	5	18%	0	0%	0	0%	14	41%	19	30%
Total	28	100%	1	100%	1	100%	34	100%	64	100%

*Terminations do not include successful completions.

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. 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. SOTMP implemented a new tracking system for offenders who were recommended to community placement beginning January 2009. As of June 30, 2009, the recommendations to community placement included 42 lifetime supervision sex offenders. None of these were placed into community corrections centers. Seven were released to parole during FY 2009. The remainder was still incarcerated at the end of the fiscal year, although some individuals have already released during the current fiscal year.

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 to address the risk posed by lifetime supervision cases, 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 but due to additional requirements developed since program inception the average length of time for completion is 4 years. There were 46 FTE appropriated for the program. Caseload sizes were capped at 25 offenders, for a program capacity of 1,150. The standing caseload now exceeds that capacity. 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, 2008 and June 30, 2009, 583 adults were charged in district court with one of the 12 mandatory lifetime eligible sex offenses identified in statute and were sentenced to probation. Of these, 166 offenders (28.47%) received an indeterminate sentence to probation 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 16 of these offenders were sentenced to community corrections and 30 offenders were ordered to serve a Department of Corrections sentence prior to being supervised by probation. Of the remaining 417, 308 (52.83%) were convicted of lesser or amended charges and also sentenced to SOISP. Of the remaining 109 offenders,

107 offenders received a sentence to regular probation with special terms and conditions for sex offenders and 2 were ordered into a non-sex offender specific intensive supervision caseload.

There were 93 offenders charged in district court with non-mandatory lifetime eligible offenses. Of these, 14 offenders (15.05%) received non-mandatory indeterminate sentences to probation.

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 eligible for mandatory and non-mandatory indeterminate sentences, as well as all applicable sex offender cases which terminated probation supervision, during Fiscal Year 2008 – 2009. The following statutory charges were reviewed and included in this analysis:

I. Offenders who **must** be sentenced to an indeterminate term:

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

II. Offenders who **may** be sentenced to an indeterminate term if certain conditions are met were also included in this analysis.

18-6-402 C.R.S.	Trafficking in Children
18-6-403 C.R.S.	Sexual Exploitation of Children
18-6-404 C.R.S.	Procurement of a Child for Sexual Exploitation
18-7-402 C.R.S.	Soliciting for Child Prostitution
18-7-403 C.R.S.	Pandering of a Child
18-7-403.5 C.R.S.	Procurement of a Child
18-7-404 C.R.S.	Keeping a Place of Child Prostitution
18-7-405 C.R.S.	Pimping a Child
18-7-405.5 C.R.S.	Inducement of Child Prostitution

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.

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 686 active cases was completed. This report also required the review of an additional 298 cases terminated from probation supervision for lifetime eligible offenses during Fiscal Year 2008-2009.

The following table reflects an analysis comparison of sentences to probation for lifetime eligible offenses for Fiscal Years 2006-2007 through 2008-2009:

Table 3: Placement of New Cases Eligible for Indeterminate Lifetime Term Sentences to Probation for Fiscal Years 2006-07 through 2008-09:

Type of Supervision	Number of Cases (Percent) FY 2006-07	Number of Cases (Percent) FY 2007-08	Number of Cases (Percent) FY2008-2009
Lifetime Probation with SOISP	118 (26.28%)	146 (29.8%)	180* (30.20%)
SOISP (Non-lifetime Probation for felony sex offenses with SOISP)	215 (47.88%)	236 (48.16%)	308 (51.68%)
Intensive Supervision Program (ISP) or Domestic Violence Programs (DV)	1 (.2%)	1 (.2%)	2 (.33%)
Regular Probation (Cases Ineligible for Lifetime or SOISP and/or sex offense reduced to misdemeanors)*	115 (25.61%)	107 (21.83%)	106 (17.79%)
TOTAL CASES	449	490	596

*Includes 14 cases which were non-mandatory indeterminate sentence offenses.

**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 2007-2008 to 2008-2009 reflects a 12.14% increase in the number of offenders (34) eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

As of June 30, 2009, there were approximately 1,296 offenders under SOISP probation supervision. Of these, approximately 590 (45.52%) offenders were under lifetime supervision.

PROBATION DISCHARGE HEARINGS AND DISCHARGES

For Fiscal Year 2009, 56 offenders under a lifetime supervision sentence completed SOISP and were transferred to regular probation. Four (4) lifetime offenders have since successfully completed SOISP and terminated probation pursuant to court order.

PROBATION REVOCATION HEARINGS AND REVOCATIONS

During Fiscal Year 2008-2009, fifty-two (51) sex offenders sentenced between November 1, 1998 to June 30, 2009, had their lifetime supervision sentences terminated. The following represents the termination status for these offenders:

- 3 offenders – probation revoked; new felony
- 1 offender – probation revoked; new misdemeanor
- 27 offenders – probation revoked; technical violations
- 4 offenders – deported
- 5 offenders – died
- 9 offenders – absconded; warrants issued and remain outstanding
- 2 offenders - had judgments set aside

Of the offenders whose probation was revoked for a new felony (3) or a new misdemeanor (1), one offender was charged with a new felony sex offense, one was charged with a new misdemeanor sex assault, and two offenders were charged with a felony Failure to Register. All 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 for 46.0 FTE probation officers and funding to provide treatment services. In FY 2000-01 all 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 and partially meet expenses associated with completion of the offense specific evaluations required by statute and case law.

Table 4: Treatment and Evaluation Costs by Fund

YEAR	PURPOSE	CF - SEX OFFENDER SURCHARGE	CF - OFFENDER SERVICES FUND	TOTAL
FY 04	SOISP Treatment	\$0	\$383,207	\$720,667
	Evaluation	\$202,933	\$134,527	
FY 05	SOISP Treatment	\$0	\$454,547	\$850,847
	Evaluation	\$200,400	\$195,900	
FY 06	SOISP Treatment	\$0	\$524,608	\$873,625
	Evaluation	\$172,245	\$176,772	
FY07	SOISP Treatment	\$0	\$434,416	\$1,119,894
	Evaluation	\$275,029	\$410,449	
FY08	SOISP Treatment	\$0	\$771,186	\$1,659,578
	Evaluation	\$253,704	\$634,688	
FY09	SOISP Treatment	\$0	\$974,996	\$2,014,100
	Evaluation	\$247,664	\$791,440	

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 \$2 million for adult sex offender related evaluation and treatment costs represents approximately thirty-one percent of the total dollars (\$6.5 million) expended in FY 2009 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 – specifically, the way in which the community supervision team functions, contact with children provisions and the Parental Risk Assessment. At the completion of the standards revision, the public will have an opportunity to comment. 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. Part of the way the SOMB stays current on research is through the use of working committees. Currently, there are 15 committees that meet on a regular basis and report back to the SOMB: Adult Standards Revision Committee, Juvenile Standards Revision Committee, Best Practices Committee, Defense Bar Committee, Sex Offender Registration Legislative Work Group, Victim Advocacy Committee, Risk Discrimination Committee, Juvenile Developmental Disability Committee, Application Review Committee, Domestic Violence/Sex Offender Crossover Committee, Training Committee, Community Notification Technical Assistance Team, Adult Standards Effectiveness Work Group, Juvenile Standards Outcome Study Work Group, and the Housing Committee.

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. In response to the passing of the AWA, the SOMB formed a committee regarding the implementation of the AWA in Colorado. In addition to conducting educational forums for stakeholders throughout the state regarding the passing of the Adam Walsh Act, this SOMB committee created a White Paper (see **Attachment C**) for the Multi-Agency Implementation Committee's consideration in its final recommendations to the State of Colorado. This White Paper details the SOMB committee's work

including a review of current published literature, a review of AWA implementation in other states, results of a survey developed to ascertain initial reactions to AWA enactment in Colorado, and a comparison of current SOMB standards with AWA requirements.

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.).

ATTACHMENT C: White Paper on the Adam Walsh Child Protection and Safety Act of 2006

AVAILABILITY AND LOCATION OF SEX OFFENDER SERVICE PROVIDERS THROUGHOUT THE STATE

Currently, the SOMB Approved Service Providers are located in 19 of the 22 judicial districts in the state. The following is a list of the number of providers approved in each specialty area:

162	Treatment Providers
25	Treatment Providers with a Developmental Disability Specialty
81	Evaluators
21	Polygraph Examiners

The SOMB approved 21 new applicants and conducted 51 re-applications which are included in the numbers above.

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

ATTACHMENT D: SOMB Provider List

COST OF SERVICES

- Average costs of services in Table 5 (below) were determined by sampling a range of SOMB listed providers within each judicial district across the state.
- Many providers offer services on a sliding scale, dependent on the offender's income.
- Some providers charge an additional fee for conducting an evaluation in jail.
- 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 5 sessions per month. This typically included four group treatment sessions and one individual treatment session per month.
- The SOMB recommended that \$302,029 from the Sex Offender Surcharge Fund be allocated to the Judicial Department in Fiscal Year 2008-2009. 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 2009-2010 and again in Fiscal Year 2010-2011 for the same purposes.



TABLE 5
Average Cost of Services (Figures were obtained in September 2009)

	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 st Judicial District	\$800	\$50	\$90	\$250
2 nd Judicial District	\$960	\$50	\$78	\$250
3 rd Judicial District	\$700	\$50	\$50	
4 th Judicial District	\$850	\$51	\$68	\$225
5 th Judicial District	X	X	X	\$250
6 th Judicial District	X	X	X	X
7 th Judicial District	\$800	\$45	\$70	X
8 th Judicial District	\$863	\$52	\$82	\$230
9 th Judicial District	\$800	\$45	\$70	X
10 th Judicial District	\$775	\$50	\$50	X
11 th Judicial District	\$700	\$50	\$50	X
12 th Judicial District	X	X	X	X
13 th Judicial District	X	X	X	X
14 th Judicial District	X	X	X	X
15 th Judicial District	X	X	X	X
16 th Judicial District	X	X	X	X
17 th Judicial District	\$1000	\$53	\$83	X
18 th Judicial District	\$850	\$48	\$73	\$245
19 th Judicial District	\$950		\$85	X
20 th Judicial District	\$800	\$48	\$73	X
21 st Judicial District	\$800	\$41	\$68	X
22 nd Judicial District	X	X	X	X
Average	\$775	\$49	\$67	\$242
Range	\$700-\$1200	\$36-\$58	\$50-\$110	\$230-\$250

NOTE: 'X' denotes services that were not provided by the local providers contacted, no response from the service provider 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 \$247 (range = \$200 - \$300).

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 E**) 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. As of now, the SOMB is planning on collecting data, including recidivism data, on a sample of offenders who have discharged from Parole and Probation. It is anticipated that this data will be examined in 2010.

ATTACHMENT E: *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 tenth 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.

Through fiscal year (FY) 2008-2009, a total of 1,496 offenders have been sentenced to prison under the Lifetime Supervision provisions for sex offenses. One hundred forty-five (145) of these offenders were sentenced in the last fiscal year (FY 2008 - 2009). Analyses conducted by the Department of Corrections found that 10 years after implementation of this legislation, there were virtually no changes to the sentence rate of sex offenders to prison. And, sex offenders with qualifying offenses represent a slightly lower percentage of the inmate population now than they did prior to this legislation. No parole discharge hearings have occurred for offenders sentenced under the Lifetime Supervision Act, as only 34 offenders have released to parole under this provision and offenders would need to complete 10 – 20 years on parole, dependent upon their conviction.

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. As of June 30, 2009, there were approximately 1,296 offenders under SOISP probation supervision. Of these, approximately 590 (45.52%) offenders were under lifetime supervision. A comparison of data for Fiscal Year 2007-2008 to 2008-2009 reflects a 12.14% increase in the number of offenders (34) eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

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 Judicial Department is seeking options for the containment of these costs.

The Sex Offender Management Board (SOMB) has created many committees to keep current with the research in the field of sex offender management and to update the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* accordingly. Of note, the SOMB has created a Research Working Group to conduct an evaluation of the effectiveness of the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*. It is anticipated that data collection, including data on recidivism rates, on a sample of offenders who have discharged from Parole and Probation will be examined in 2010.

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.