

HANDBOOK

SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT (SVPASI)

August 2010 Revision

Background and Instructions

Prepared on behalf of the
Colorado Sex Offender Management Board

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INTRODUCTION TO THIS HANDBOOK

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

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

CHANGES SINCE THE ORIGINAL EDITION

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

- In May 2006 the specific crimes that qualified a sex offender for an SVP assessment were expanded to include inchoate crimes.
- The defining crimes now include one misdemeanor (unlawful sexual contact) per 18-3-404(1.5) or (2), C.R.S.
- Also in May 2006, changes were made to Section 16-13-903(1), C.R.S. indicating that sexually violent predators shall be subject to community notification.
- Prior sex crime convictions have been included as an identifying factor in the determination of SVP status.
- Completion of Parts 3A, 3B and 3C in their entirety is now required, regardless of the findings in the prior section.
- The SOMB checklist has been removed.
- The Sex Offender Risk Scale (SORS) has been revised to a six-item scale. A recent study by the ORS found that the instrument predicts re-arrest for a serious sexual crime.
- The dynamic items based on the SOMB checklist which were included in the original SORS are now excluded.
- The abbreviated SORS applied to offenders who refused to participate (originally contained in Part 3C) was eliminated. The current version of the SORS may be completed without the cooperation of the offender.
- The Coolidge Correctional Inventory (CCI), currently used by the Department of Corrections, has been added to the instrumentation used in the determination of mental abnormality.
- The Psychopathy Check List Short Version has been eliminated from the instrumentation used in the determination of mental abnormality.

BACKGROUND

Legislation

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

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

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

Background

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

Pursuant, then, to 18-3-414.5, C.R.S., the Colorado Division of Criminal Justice (DCJ) worked in conjunction with representatives of the Colorado Sex Offender Management Board (SOMB) to develop specific behavioral criteria consistent with the language in the statute. To comply with the portion of the statute that addressed the risk for future crimes, the ORS worked with many therapists and supervision officers to conduct a study of nearly 500 convicted sex offenders to develop an empirically-based, actuarial risk assessment scale for use in the identification of sex offenders at significant risk to commit a subsequent serious crime. The overall screening instrument is the *Colorado Sexually Violent Predator Assessment Screening Instrument (SVPASI)* and, within this, the Sex Offender Risk Scale (SORS) provides information about the probability of future reoffending. The behavioral criteria—those pertaining to the relationship to the victim--were defined by representatives from the SOMB, the Parole Board, the Division of

Parole, the private treatment community, and the victim services agencies during a three-day meeting in 1998. The basis of the behavioral criteria (Part 2 of the SVPASI) was the wording in federal and Colorado SVP laws. The actuarial scale (Part 3B of the SVPASI) was developed by the DCJ's Office of Research and Statistics (ORS) and requires periodic updating to ensure continued predictive ability. The most recent revision was finalized in 2009. The ORS also conducts ongoing analysis of the instruments completed on eligible cases. Please refer to Section Three for a discussion of the actuarial risk scale research.

Implementation

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

HOW TO USE THIS HANDBOOK

Probation officers, SOMB approved evaluators, and trained DOC staff or contractors will complete the assessment instrument on men and women who qualify for screening as described on page 15 of this handbook.

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

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

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

Statutory directives are included in Appendix A. Appendix B provides an example of the SVPASI. Appendix C contains a diagram of the procedures to be followed in the completion of the SVPASI.

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

OVERVIEW

Only probation officers, SOMB-approved evaluators and SVP-trained DOC staff or contractors are qualified to complete the Sexually Violent Predator Assessment Screening Instrument.¹

The completion of the Sexually Violent Predator Assessment Screening Instrument (SVPASI) for qualifying cases is mandated in 18-3-414.5, C.R.S. The qualifying crime categories are listed below.¹ The law requires the assessment and designation process on active cases only, not cases in which the sentence has been previously discharged.

The offender must have been convicted on or after July 1, 1999 of one of the following offenses committed on or after July 1, 1997. Attempt, solicitation, or conspiracy to commit one of the following crimes are also considered to be qualifying offenses. Conviction is defined to include verdicts of guilty, pleas of guilty and nolo contendere, or having received a deferred judgment and sentence: Offender must be 18 years or older on the date of the offense or be tried as an adult.

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

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

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

¹ Staff or contractors must be trained in the administration of the SVP by DCJ or DOC SVP instrumentation experts. Shadowing a trained individual does not qualify.

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

An offender found to be a sexually violent predator by the court or the Parole Board is required to register his or her residential address with law enforcement pursuant to 16-22-108(1)(d) and is subject to community notification by the local law enforcement agency.

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

Summary

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

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

Probation Officers

Probation officers are to complete Part 1, Part 3A, Part 3B, the corresponding items on the Instrument Summary and the Assessment Summary on the SVPASI. If the offender refuses to cooperate, the probation officer may also complete Part 2.

When these sections are completed, probation officers should forward the form and copies of any police reports and victim statements to the SOMB approved evaluator (unless the offender has refused to cooperate and the entire form has been completed by the probation officer). If the accompanying documentation is not available, it is the responsibility of the probation officer to explain the absence of these materials on the provided space. The ORS is tracking the availability of these documents.

SOMB Evaluators

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

- Part 2
- Part 3C
- Corresponding items on the Instrument Summary

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

Trained DOC Staff or Contractors

The trained DOC staff or contractor must complete the entire form (Parts 1, 2, 3A, 3B, 3C, the Instrument Summary and the Assessment Summary).

Data Sources

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

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

Probation officers only: send the completed form to the Division of Probation Services

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

PART 1 (Page 4 of the instrument)

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

Client Information

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

First and Last Name
CC#: Court Case Number
SS#: Social Security Number
SID#: State Identification Number
ML#/DOC#: Master List Number or DOC Number
DOB: Date of Birth (mm-dd-yyyy)
Gender: Male or Female
Ethnicity: Caucasian, African American, Hispanic
or Other

Eligible Cases for Screening

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

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

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

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

Please proceed to Part 2.

PART 2 (Page 5 of the instrument)

This entire section is to be completed by the SOMB evaluator or trained DOC staff or contractor, unless the offender refuses to participate in the assessment. In this case, this section shall be completed by the probation officer using collateral sources of information.

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

Note that these definitions clarify the law but are not related to the statistical probability of being rearrested for a new sex crime. This part of the SVPASI is independent of item 2 of the Sex Offender Risk Scale (SORS) in Part 3B.

A. Stranger

- Please check either the 'Yes' or 'No' box presented after the statement "Meets STRANGER Criterion."
- Internet or child pornography offenders MAY or MAY NOT fall under this category. Situations such as Internet sting operations or child pornography cases in which the victim did not know the offender do meet the stranger criterion.
- If the offender *met* this criterion, the SOMB evaluator, the probation officer, or the trained DOC staff or contractor must indicate the data source(s) used to make this determination in the section at the bottom of the page, and then proceed to Part 3 of the SVPASI.

If the offender *did not meet* this criterion, continue to the ESTABLISHED A RELATIONSHIP criteria.

B. Established a Relationship

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

- *The offender has a history of sexual offending involving similar behavior* – The offender has a history of establishing a relationship for the purposes of sexual victimization. Does not require documentation in official court records. Self-report, clinical records, prison or community supervision records are important sources of this information.
- *The offender manipulated the environment to gain access to this victim* – this includes use of the offender's residence, workplace, and leisure activities. Examples include befriending parents, offering transportation to school, or offering assistance with child care in order to gain access to child. Creating an environment attractive to an intended victim, by providing access to video games, pornography, drugs or alcohol, or a pet would also be included. Using the Internet to gain access to the victim also falls under this criterion.
- *The offender introduced sexual content into the relationship prior to committing the initial sexual offense* – this criterion indicates that content such as inappropriate sexual discussions or pornographic material was introduced into the relationship. The introduction of sexual content is a deliberate attempt to gauge the victim's interest or curiosity in sexual issues. This criterion should not be confused with the one listed below

referring to *sexual contact*.

- *The offender engaged in sexually inappropriate behavior with the victim despite lack of consent or an inability to consent* – Non-consensual activity is the emphasis of this criterion. Not only must a lack of consent be taken into consideration, but also the inability of an individual to give appropriate consent. Individuals who are under the legal age for giving consent or who are developmentally disabled would fit this criterion, for example.

Please check either the 'Yes' or 'No' box presented after the statement "Meets Established Criteria." If the offender *met* this criterion, the SOMB evaluator, the trained DOC staff or contractor, or the probation officer must indicate the data source(s) used to make this determination in the section at the bottom of the page, and then proceed to Part 3 of the SVPASI. If the offender *did not meet* this criterion, continue to the PROMOTED A RELATIONSHIP criteria.

C. Promoted a Relationship

The presence of the first item and the presence of any one or more factors will make the determination for this criterion. The SOMB evaluator, the trained DOC staff or contractor, or the probation officer must check the first item to proceed to the other factors.

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

AND

- *The offender engaged in contact with the victim that was increasingly sexually intrusive over time.* The emphasis of this criterion is the sexually intrusive nature of the relationship that is promoted over time.
- *The offender used threat, intimidation, force or coercion in the relationship.* The use of such behavior makes the victim more vulnerable.
- *The offender engaged in repetitive non-consensual sexual contact.* Not only a lack of consent must be taken into consideration, but also the inability of an individual to give appropriate consent. Individuals who are under the legal age for giving consent or who are developmentally disabled would fit this criterion, for example.
- *The offender established control of the victim through means including but not limited to emotional abuse, physical abuse, financial control or isolation of the victim in order to facilitate the sexual assault.* The emphasis of this criterion is the establishment of control over or the infliction of some type of abuse on the victim.

Please check either the 'Yes' or 'No' box presented after the statement "Meets Established Criteria."

If the offender *met* this criterion, the SOMB evaluator, the trained DOC staff or contractor, or the probation officer must indicate the data source(s) used to make this determination in the section at the bottom of the page, and then proceed to Part 3 of the SVPASI. If the offender *does not* meet the relationship criterion, do not continue with the assessment.

Select the Data Source(s) Used to Determine Relationship Criteria

Regardless of the relationship criterion determined, at least one data source must be documented. The SOMB evaluator, the probation officer, or the trained DOC staff or contractor must check the appropriate box in the section at the bottom of page 5 of the instrument to indicate the data source(s) utilized to make this determination. The potential data sources include:

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

If a source other than those listed was utilized, check item 18 and specify the data source.

Please proceed to Part 3.

PART 3

Completion of Parts 3A, 3B and 3C in their entirety is now required, regardless of the findings in the previous part. However, if the offender refuses to participate in the assessment, Part 3C may be omitted.

PART 3A *(Page 6 of the instrument)*

If the defendant has previously been convicted as an adult of at least one felony or two misdemeanor sex crimes as defined by C.R.S. 16-11.7-102(3), check 'Yes'. Otherwise, check 'No'.

The qualifying crimes, which include attempt, solicitation, and conspiracy to commit one of the following, include:

- Sexual assault, in violation of section 18-3-402, C.R.S. or sexual assault in the first degree, in violation of section 18-3-402, C.R.S., as it existed prior to July 1, 2000;
- Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., as it existed prior to July 1, 2000;
- Unlawful sexual contact, in violation of section 18-3-404, C.R.S. or sexual assault in the third degree, in violation of section 18-3-404, C.R.S., as it existed prior to July 1, 2000;
- Sexual assault on a child, in violation of section 18-3-405, C.R.S.;
- Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.;
- Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.;
- Enticement of a child, in violation of section 18-3-305, C.R.S.;
- Incest, in violation of section 18-6-301, C.R.S.;
- Aggravated incest, in violation of section 18-6-302, C.R.S.;
- Trafficking in children, in violation of section 18-6-402, C.R.S.;
- Sexual exploitation of children, in violation of section 18-6-403, C.R.S.;
- Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.;
- Indecent exposure, in violation of section 18-7-302, C.R.S.;
- Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.;
- Pandering of a child, in violation of section 18-7-403, C.R.S.;
- Procurement of a child, in violation of section 18-7-403.5, C.R.S.;

- Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.;
- Pimping of a child, in violation of section 18-7-405, C.R.S.;
- Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.;
- Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.;
- Class 4 felony internet luring of a child, in violation of section 18-3-306 (3), C.R.S.; or
- Internet sexual exploitation of a child in violation of section 18-3-405.4, C.R.S.

“Convicted” is defined as a verdict or plea of guilty or nolo contendere. Court established factual basis sex crimes and out of state sex crime convictions are included in the definition of conviction. However, deferred judgments and sentences, failure to register and juvenile adjudications are EXCLUDED.

The criteria for defining a prior conviction follows the case law identified in section 18-1.3-801 of the Colorado Revised Statutes. To qualify, the date of the offense for which the offender is being assessed must have occurred after a conviction for one of the sexual crimes defined above. The prior conviction must be based upon charges separately brought and tried, and arising out of separate and distinct criminal episodes, either in this state or elsewhere.

Therefore, convictions related to the current/index offense, such as situations in which multiple cases result from a singular offense, are excluded. For example: if in the case of the current/index offense an offender assaulted a victim in two different counties, which resulted in convictions in both counties, both convictions would be related to a singular offense and would not be considered a prior conviction.

Single cases with multiple conviction charges are considered a single conviction. For example, if an offender had two victims within a single jurisdiction and was prosecuted for two counts of sexual assault in a single case, this would be a single conviction (though with multiple counts). If this was the situation in the current/index offense, this would not count as a prior conviction.

For further clarification regarding the definition of prior conviction, refer to section 18-1.3-801, C.R.S.

If this item is answered with a yes, the offender qualifies for designation as an SVP.

Complete Parts 3A, 3B and 3C, regardless of findings in each subsection, with the exception that Part 3C may be omitted if the offender refuses to participate in the assessment. While a ‘Yes’ response in Part 3A is sufficient to qualify an individual for SVP designation, it is necessary to complete Parts 3B and 3C to ensure the validity of the instrument over time.

Please proceed to Part 3B.

PART 3B *(Page 6 of the instrument)*

Each item in the Sex Offender Risk Scale (SORS) is assigned a score of 1 or 2 for each 'Yes' response, and a score of 0 for each 'No' response. Refer to page 3 of the SVPASI instrument for possible sources of the information required to complete this section.

Item 1: Age of offender at the time of the index offense.

This is the age of the offender at the time of the offense, or the earliest offense date recorded in official records for the actual index/instant offense.

Score 2 if the offender was age 25 or under, score 1 if the offender was between the ages of 26 and 35, or score 0 if the offender was over the age of 35.

For example, if the offender was age 24 through 26 at the time of commission of the current offense, score 2 because the offender was under the age of 25 at the earliest offense date.

If there are multiple index offenses (such as in the case of multiple victims or charges), score this item based upon the age of the offender at the time of the earliest offense.

Item 2: The offender was known to the victim.

This includes any person who is not a stranger to the victim, such as the spouse, relative, friend, or an acquaintance of the offender. Internet offenders *MAY* be considered strangers. However, they may be considered to be known to the victim if they were previously acquainted or if the offender developed a relationship with the victim.

If there are multiple victims involved, score 2 if the offender was known to at least one of the victims.

For more information concerning the offender being 'known', refer to the definition of 'stranger' in Part 2A. If the victim is a stranger as defined in Part 2A, the offender would not be known to the victim.

Score 2 if the victim was acquainted with the perpetrator, otherwise score 0.

Note that this item relates to the statistical probability of being rearrested for a new sex crime. As such, it is independent of the relationship criteria outlined in section 2 of the SVPASI. Congress identified the relationship between the perpetrator and the victim to be a critical element for consideration of SVP designation and thus it is included in section 2. DCJ's statistical analysis included more than 200 potential risk factors for use in the SORS. This analysis found that item 2, in combination with the other five factors in the scale, predicted new arrest for a sex crime. Therefore, both factors are included in this instrument

Item 3: The offender has been revoked from community supervision as an adult 2 or more times in the past.

This refers to revocations of probation, parole, community corrections, deferred judgments and deferred sentences, regardless of consequences or sanctions. Revocations resulting in a probation reinstatement are included, as are revocations related to both the current and prior convictions. However, bond and bail revocations are NOT included. Revocation from a work release program without a concurrent probation or parole revocation are also excluded.

For example, if an offender was sentenced to probation for the current crime and was revoked while serving the term of that probation, this would count as a revocation.

Score 1 if the offender has received 2 or more probation, parole, community corrections or deferred judgment/sentence revocations. Score 0 if the offender has received 1 or no revocations.

Item 4: The offender had NOT graduated from high school at the time of arrest.

This excludes the receipt of a GED UNLESS the offender has also attended any post-secondary educational program, including college, trade school or community college, or the equivalent level of secondary education.

Score 1 if the offender did not graduate, and score 0 if the offender did graduate from high school OR did attend a post secondary program after receiving their GED.

Offender self-report should not be overridden unless there is credible, corroborating evidence to suggest the offender is not being truthful about having graduated.

The evaluator must make efforts to obtain this information. However, if the offender's educational status remains unknown, score 1 and list the sources utilized in the attempt to obtain this information in the space provided.

Item 5: The offender has one or more prior adult convictions.

This includes adult felony and misdemeanor convictions and deferred judgments and sentences that occurred prior to the index sex offense. Misdemeanor traffic convictions such as DUI are also included, but lesser traffic citations are not. Adjudications as a juvenile are EXCLUDED.

Prior convictions do not include convictions related to the current/index offense, such as situations in which multiple cases result from a singular offense. For example: if in the case of the current/index offense an offender assaulted a victim in two different counties, which resulted in convictions in both counties, both convictions would be related to a singular offense and would not be considered a prior conviction.

Single cases with multiple conviction charges are also considered a single conviction. For example, if an offender had two victims within a single jurisdiction and was prosecuted for two counts of sexual assault in a single case, this would be a single conviction (though with multiple counts). Therefore, if this was the situation in the current/index offense, this would not count as a prior conviction.

Score 2 if the offender has one or more prior convictions as an adult. Score 0 if the offender has no prior adult convictions.

Item 6: The offender moved 2 or more times in the 2 years prior to arrest for the actual index/current offense.

The offender has resided at 3 or more different addresses during the two years prior to arrest for the current offense. This includes those who are transient for any period of time in the past 2 years. Additionally, military transfers are considered moves.

If the offender was incarcerated at any point during the 2 years prior to arrest for the current offense, do not count this a move. However, if the offender is living at one residence prior to incarceration and returns to a different residence upon release, this is considered one move.

If the offender has moved 2 or more times in the 2 years prior to arrest, score 2. If not, score 0. The evaluator must make efforts to obtain this information. However, if the offender's status remains unknown, score 0 and list the sources utilized in the attempt to obtain this information in the space provided.

Total Score:

Each item on the scale answered in the affirmative earns one or two points (depending on the item), which are totaled. The highest possible score is 9.

A score of 8 or above is considered high risk and qualifies the offender for designation as an SVP. Enter the total score in the space provided.

An example of the scoring process is provided below.

- Item 1: The offender was 27 years of age at the time of the index offense – scores 1 point
- Item 2: The offender was not known to victim – scores 0 points
- Item 3: The offender has previously been revoked from probation AND from a community corrections placement (2 total revocations) – scores 1 point
- Item 4: The offender did not graduate from high school, obtained a GED, and has not participated in any post-secondary education - scores 1 point
- Item 5: The offender has previously been convicted on a felony burglary charge – scores 2 points.
- Item 6: Information regarding the number of residences the offender has had in the two years prior to arrest is not available – scores 0 points (and document the sources utilized in the effort to obtain this information).

Adding these scores together gives a total score of 5, so enter a “5” in the space provided next to “Total Score”. Since the total score for the offender is less than 8, this individual would not qualify for the SVP designation based solely on the results of the SORS. If, however, they score ‘Yes’ on any of the elements in Part 3A or Part 3C, they may still qualify.

Please proceed to Part 3C.

PART 3C (Page 7 of the instrument)

The SOMB evaluator or trained DOC staff or contractor must complete at least one of the following three assessment instruments UNLESS the offender refuses to participate in the assessment:

*The Hare Psychopathy Check List Revised (PCL-R),
The Millon Clinical Multiaxial Inventory (MCMI-III)² or
The Coolidge Correctional Inventory (CCI)³*

The evaluator or the trained DOC staff must meet the minimum qualifications to administer the instrumentation as determined by the author of the instrument. An offender who meets the Part 3C criterion is at significantly higher risk to reoffend.

Prior to administering the Hare PCL-R, a clinician is required to attend a training with Dr. Hare or his appointee. A certificate is provided after the training. The use of the PCL-R is not allowed without this formalized training, per the requirements of the instrument.

Users of the MCMI-III must have completed graduate-level courses in tests/measurements or have received equivalent documented training.

The CCI should be used only on incarcerated populations with the same stipulations outlined above for the MCMI-III.

Mental Abnormality

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

- 30 or more on the Hare Psychopathy Check List Revised (PCL-R), OR
- 85 or more on each of the following Millon Clinical Multiaxial Inventory (MCMI-III) scales – narcissistic, antisocial, and paranoid, OR.
- 70 or more on each of the following Coolidge Correctional Inventory (CCI) scales – narcissistic, antisocial, and paranoid.

Indicate whether the score of the applicable test met the criteria defined above in the checkboxes provided, or indicate 'N/A' if the specified instrument was not used.

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

³ The CCI (Coolidge Correctional Inventory) is a 250 item self-report psychological inventory that measures Axis I clinical syndromes and Axis II personality disorders as well as neuropsychological symptoms such as memory problems, inattention, language dysfunction, neurosomatic problems, neuropsychological syndromes, adult ADHD, and executive function deficits of the frontal lobes. This instrument is used within DOC only.

If the offender did meet the criteria defined above, check 'Yes' in the boxes provided under "Meets Mental Abnormality Criteria." Otherwise, check 'No'.

If the offender is assessed with more than one of the specified instruments and a 'Yes' is indicated in any of the boxes, the offender qualifies for the Sexually Violent Predator designation.

Please proceed to the Instrument Summary.

INSTRUMENT SUMMARY *(Page 7 of the instrument)*

After the probation officer, the SOMB evaluator, or the trained DOC staff or contractor completes Parts 1, 2, 3A, 3B, and 3C, the findings need to be summarized in the Instrument Summary.

Please check either the 'Yes' or 'No' box presented after the statements:

- Meets Defining Sexual Assault Crimes Criterion **(Part 1)**?
- Meets Date Requirement **(Per Statute)**?
- Meets Relationship Criteria **(Part 2)**?
- Meets the Prior Conviction Criterion **(Part 3A)**?
- Scored 8 *or More* on DCJ 2009 Sex Offender Risk Scale **(Part 3B)**?
- PCL, MCMI-III or CCI scores were available and meets the Mental Abnormality Criteria **(Part 3C)**?
- Did the offender meet the SVP Criteria? *In order for an offender to qualify for designation as a sexually violent predator, a YES is required on **Part 1 and Part 2 and either Part 3A, Part 3B, or Part 3C.***

Please record this information in the assessment summary on page 1 of the instrument as well.

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

COMMON ERRORS IN COMPLETING THE SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT

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

- About 20 percent of the SVPASIs had problems; most often, the form was incomplete or had missing data.
- Ten percent of the SVPASIs reviewed had missing data
- About four percent of the SVPASIs were incomplete (more than simply missing data)
- About four percent of the SORS scales were totaled incorrectly
- About two percent had errors in the relationship section
- About two percent had errors in the Assessment Summary

FREQUENTLY ASKED QUESTIONS

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

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

2. Can the relationship definitions in Part 2B be changed?

Yes and no. Part 2 of the SVPASI was developed by stakeholders (parole and probation officers, SOMB members, Parole Board members, probation and parole officials, treatment providers, and DCJ staff) to clarify the definitions provided in statute. These can be changed but would require the SOMB and others to convene a meeting and agree on specific modifications.

3. I think some of the risk factors in the 6-item Sex Offender Risk Scale (SORS) are confusing. Can you explain them?

In Section One of this handbook, each item is explained in detail. Please turn to pages 29-32 for more information.

**SECTION THREE:
ACTUARIAL RISK RESEARCH**

ACTUARIAL RISK RESEARCH

Risk assessment is a key component of correctional population management. Research pertaining to offender risk of supervision failure dates back to the 1920s (Warner, 1923; Hart, 1923; Warner, 1928). Research specifically targeting risk assessment of adult sexual offenders has occurred only within the past two decades. Important work was reviewed prior to the 1998 Sex Offender Risk Assessment study conducted by DCJ,⁴ and risk factors identified and studied by other researchers were incorporated in this research. These risk factors included the factor of *psychopathy* (Hare, 1991; Harris et al., 1991; Hart, Kropp and Hare, 1988; Serin et al., 1990) as measured by the Hare Psychopathy Checklist.

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

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

Factors that predict risk vary considerably across studies because the studies and the samples vary considerably in a number of ways. First, studies often vary in how risk and recidivism is defined. Recidivism may be defined as: rearrest for any crime; violent rearrest; violent conviction; sex crime rearrest; or sex crime conviction and recommitment. These common measures rely on official records of police and criminal justice system intervention. Official record data will always under-report actual offending behavior because many sex offenses go unreported.

A less common outcome variable is treatment or supervision compliance, a measure that does not depend completely on official records. This was the outcome measure used in the original 1998 SORS study. Subsequent research revealed that such failure indeed predicted later arrest for a serious crime.⁵ In the development of the 2009 version of the SORS, the outcome measure used was new arrest for a sexual crime.

The reliance on official records to obtain information about new assaults leads to another problem in risk prediction: Official reports of offending behavior likely reflect the type of victim targeted and so the outcome data may be systematically biased by victim type. For example, if

⁴ See English, K., Retzlaff, P. and Kleinsasser, D. (2002). The Colorado Sex Offender Risk Scale. *Journal of Child Sexual Abuse*, 11, 77-96

⁵ Harrison, L. and English, K. (May, 2008). Colorado Adult Sex Offender Risk Scale (SORS): Nine Year Follow-Up. *Elements of Change*, 12(1). Colorado Department of Public Safety, Division of Criminal Justice.

certain types of victims are less likely to report the assaultive behavior, say incest victims or victims of acquaintance rape, then these crime types will be underrepresented in all of our offender samples. Some study samples, such as those used to build the RRASOR (Hanson 1998) and the Minnesota Sex Offender Screening Tool (MnSOST) (Epperson et al, 1998), specifically excluded incest offenders and so the instruments will miss the risk presented to this victim type. In other words, these tools may lack power with regards to predicting recidivism among incest offenders.

Another research challenge involves the availability of data across jurisdictions. If available, data may vary in reliability, completeness, and accuracy. Characteristics of offenders will vary across studies. Only those factors that were identified as relevant to the study when the research project was designed will be collected and incorporated into any new risk models.

Finally, the at-risk study period varies considerably across studies. The longer the at-risk period, the greater the likelihood of failure. Typical observation periods range from 2 to 5 years. In the original 1998 SORS study, a 12 month follow-up period was used due to legislation requiring the development of the scale within a short time period. The sample was studied again at 30 months and the predictive power remained consistent with the 12-month findings. For the 2009 SORS revision, members of the study sample had up to nine years at risk in the community.

The Theory Behind Statistical Risk Prediction

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

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

SUMMARY OF THE 1998 COLORADO SEX OFFENDER RISK SCALE STUDY DESIGN

Description of the Sample

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

Probation Districts:

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

Community Corrections:

- ComCor, Inc. in El Paso County

Parole:

- Denver County
- El Paso County

Department of Corrections (DOC):

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

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

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

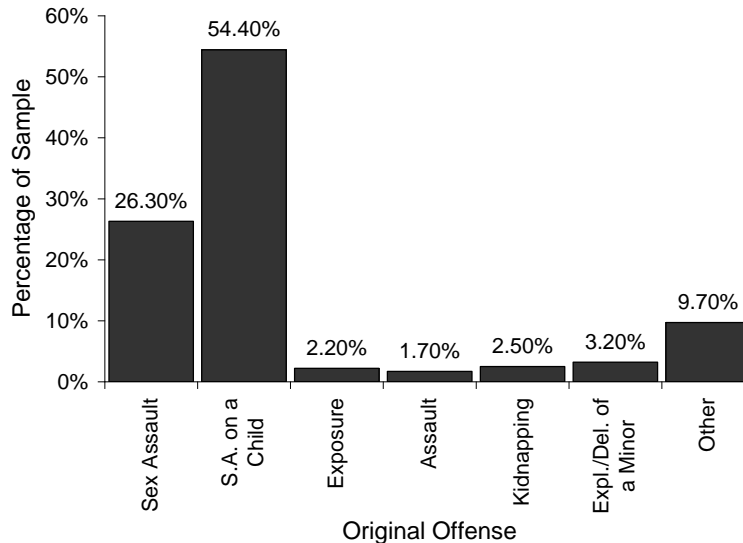
The total number of cases from each placement is as follows:

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

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

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

Figure 1. Conviction Crime of SORS Development Sample.



Data Collection

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

- Personality Descriptions
- Psychopathy
- Cognitive Distortions
- Criminal History
- Juvenile Criminal History
- Sexual History
- Characteristics of the Current Offense
- Demographic Information
- Substance Abuse History
- Dynamic Indicators of:
 - Motivation for Treatment
 - Denial
 - Empathy
 - Readiness to Change
 - Social Competence and Relationships
 - Deviancy
 - Pro-Social Behaviors

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

- 1. Personality Disorders.** The MCMI-III² is a personality inventory scored on all inmates entering the Department of Corrections. This is a 240-item client self-report questionnaire that identified thirteen different personality or mental health diagnoses. Therapists were responsible for obtaining the MCMI forms from DCJ researchers, asking the offender to complete the form, and returning the form to DCJ for data entry and analysis. A total of 274 MCMI instruments were analyzed for this study (55.5% of the total sample).
- 2. Psychopathy.** The HARE Psychopathy Checklist Revised (PCL-R) and the Screening Version (PCL-SV)⁷ identifies a particular dimension of dangerousness, and has been tested in a variety of countries, including Canada, New Zealand and Australia. Offenders who score 18 or above on the PCL-R have been found to be at considerable risk for violent reoffense. The SOMB invited Dr. Robert Hare and Dr. Steven Hart to Colorado for a 3-day training for therapists who agreed to participate in the study and paid for their certification in the use of the tool. The PCL-SV forms were supplied to therapists by the SOMB (using research grant funds) for completion on study cases and returned to DCJ for data entry and analysis. A total of 196 PCL-SV were analyzed (39.7% of the total sample).
- 3. Sexual History.** Dr. Jack Gardner from Greeley, a member of the SOMB Research Assessment Committee in 1997, developed a Sexual History Questionnaire based on a literature review, clinical discussions within the Committee, and Dr. Gardner's experience. This 50-item questionnaire was completed by the therapists after the offender had entered treatment. 190 of these forms were returned to DCJ for analysis (38.5% of the total sample). This instrument proved to be extremely valuable and will be included in the SOMB's future data collection and case tracking research mandated by the General Assembly.
- 4. DCJ Criminal Justice Data Collection Form.** This data collection instrument had been used by ORS researchers for more than a decade. It focuses on demographic items, juvenile and criminal history, current crime factors, victim characteristics, substance abuse and other case descriptions that are typically used by decision makers who handle the case. ORS researchers used this form to collect data from case files on 460 offenders in the study (93.1% of the total sample).
- 5. Colorado SOMB Checklist.** The SOMB Research Assessment Committee identified several clinical issues that they believed were central to dangerousness. The Committee worked with Dr. Paul Retzlaff, an expert in psychometrics from the

⁶ The MCMI-III is the Millon Clinical Multiaxial Inventory, version three, by Theodore Millon, Carrie Millon and Roger Davis, available from National Computer Systems, phone 800.627.7271.

⁷ Hare, R.D. (1991). *Manual for the Hare Psychopathy Check List-Screening Version*. Toronto, Ontario, Canada: Multi-Health Systems.

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

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

Outcome Measures

Measures of very short-term outcomes were used as the initial follow-up period was short (12 months), which was required by the length of the research grant and a legislatively mandated completion date of January 1, 1999.⁸ Therefore, multiple outcome variables were collected. Information was collected concerning whether or not the offender had:

- Committed a new crime (sex crime or other crime),
- Been revoked from supervision, was revoked and reinstated,
- Been revoked and placed on ISP, was revoked with the case pending,
- Been terminated from treatment for noncompliance,
- Been expelled from treatment and readmitted,
- Absconded from supervision,
- Successfully completed supervision and/or treatment,
- Transferred out-of-state,
- Died, or
- Was still in treatment.

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

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

⁸ Mandated by 18-3-414.5 (a) (IV), C.R.S.

comply with institutional treatment. Hall (1995), Lab (1993) and Money and Bennet (1981) found noncompliance with community supervision to indicate high risk.

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

Other dimensions have also been found to correlate with sexual offending. Pithers, Beal and Buell (1988) found anger, anxiety, and depression to precede sex crimes and have explicitly defined the risk cycle as: negative affect → paraphiliac sexual fantasy → cognitive distortions → passive planning just before the assault. MacCulloch et al. (1983) identified planning and behavioral referral to precede the assault. Work on dynamic variables found social maladjustment, substance abuse, sexual pre-occupations, victim blaming and poor self-management to be significantly positively related to committing a new sex offense.⁹

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

Findings

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

The predictive power in an actuarial scale is linked to the use of all the items in combination, which can change the relationship of any one of the variables to failure. That is, the association of each variable with failure may be increased or decreased when combined with the impact of another item in the scale.

⁹ Hanson, R.K. & Harris, A.J.R. (1998). *Dynamic predictors of sexual recidivism (User Report No. 98-01)*. Ottawa, Ontario, Canada: Department of the Solicitor General of Canada.

NINE YEAR FOLLOW-UP: THE 1998 SORS PREDICTED NEW VIOLENT ARRESTS

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

State criminal justice records (not regional or national) were used to identify recidivism crimes. After the initial search for new crimes, ORS researchers made additional efforts to identify the location and status of those who did not reappear in the state criminal justice system records. Half of these were found to have recently registered on the Colorado Sex Offender Registry, verifying their residency in Colorado. The National Sex Offender Registry, the National Crime Information Center¹⁰ and Accurint®¹¹ were used to search for the remainder of offenders to determine their location and status. This effort ensures that offenders who are not identified in state arrest records are not automatically considered “nonrecidivists.” Offenders who were not actually residing in Colorado, or who died prior to release into the community were removed from subsequent analysis, leaving a sample of 405 (82% of the original sample).¹² The distribution of the original placement for the remaining sample is given in Table 1.

Table 1. Placement of 9-Year Follow-Up Sample

	N	%
Probation	193	47.7%
Department of Corrections	178	43.9%
Parole	34	8.4%
TOTAL	405	100%

Findings

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

Over half of the sample had been at risk in the community for 9 years, while 88.6 percent had over 8 years at risk. Only 2.9 percent had less than 5 years at risk. Over this entire span of time, 20.0 percent of the sample had a violent arrest, 29.9 percent had a sexual arrest, and 38.5

¹⁰ National arrest data are maintained by the FBI's National Crime Information Center (NCIC). Researchers used NCIC to look up individuals not found during the recidivism and other search efforts in order to verify location only.

¹¹ Offender location and death information was obtained using the LexisNexis service Accurint®. Accurint® is a widely accepted locate-and-research tool available to government and law enforcement.

¹² Eleven were found on sex offender registries in other states. DOC release data, NCIC and Accurint® were used to identify another 8 who were residing out of state during the entire follow-up period, 2 who were deported and 3 who were deceased. One individual was simply lost from the sample.

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

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

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

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

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

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

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

New Sex Crimes

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

Failure to Register

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

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

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

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

Predicting new arrest

The original 1998 study found that offenders scoring four or more on the SORS were at greater risk of supervision or treatment failure than those scoring less than four. Such failure was found in the current study to correlate with all arrest types, particularly violent arrests (see Table 4). This finding supports the argument that treatment and supervision failure in the first few years of supervision is linked with rearrest. Those who failed treatment and supervision were 7.3 times as likely to be arrested for a violent crime.

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

Table 4: Predicting Risk for Violent Arrests*

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

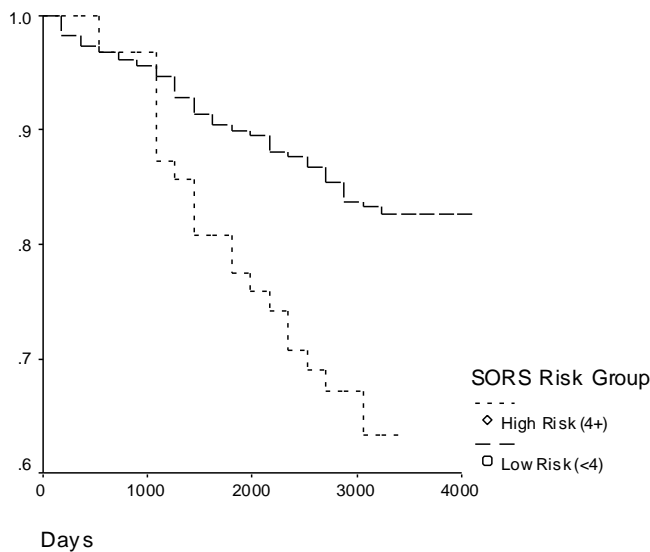
N=371. Only those at risk in the community for a minimum of five years are included.

** From 1998 study.

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

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

Figure 2. Days to New Violent Arrest.



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

The Consequences of Incomplete Data

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

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

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

Conclusion

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

The scale performs much better in detecting risk of new violent arrests than risk of new sexual arrest. Because violent crimes are almost twice as likely to be reported to law enforcement compared to sexual crimes¹³, and because research has found that only 43 percent of reported sex crimes against adults results in an arrest, and fewer still in prosecution and conviction (Thonnes and Tjaden, 2006), the ORS uses violent arrest as the recidivism measure in sex offender studies. The use of violent crime as an outcome measure is a reasonable proxy, as these crimes have a significant impact on public safety and, in the case of sex offenders, may have a sexual component or motivation (Quinsey, Harris, Rice, & Cormier, 1998).

¹³ The National Crime Victimization Survey collects crime victimization data semiannually from over 40,000 households; information is obtained on crimes committed against household members over the age of 12. In 2005, the NCVS found 61.5 percent of violent crimes were reported to law enforcement compared to 38.3 percent of rapes and sexual assaults. (see Table 93, Criminal Victimization in the United States, 2005 Statistical Tables, December 2006, available at : <http://www.ojp.usdoj.gov/bjs/abstract/cvusst.htm>).

The Development of the 2009 Revision of the Sex Offender Risk Scale

Subsequent to the 2007 validation of the original SORS, the ORS undertook the development of an actuarial instrument that would more accurately identify risk of committing a new sexual crime. The recidivism measure used in this effort was new arrest for a serious sexual crime within five years.

The development sample was comprised of the offenders who were located and at risk in the community for the 2007 SORS validation described above. Those who were not located in the State of Colorado and those who had been incarcerated continuously since the time of the original 1998 data collection were excluded from the original sample.¹⁴ Additionally, those who had less than five years at risk were excluded, leaving a sample of 371. The data collected for the original 1998 SORS development were utilized in the identification of factors correlated with a new sexual arrest.¹⁵

Almost one quarter (24.3%) of the sample was rearrested for a sexual crime within five years. Table 1 details the most serious of these crimes. Prostitution and failure to register as a sex offender were excluded as recidivism crimes.

Table 1. New Arrests for Sexual Crimes Within 5 Years: Offense Detail.

	Count	Percent
1st Degree Sexual Assault	11	12.2
2nd Degree Sexual Assault	10	11.1
3rd Degree Sexual Assault	16	17.8
Sexual Assault on a Child	36	40.0
Unspecified Sexual Assault	3	3.3
Exploitation of a Child	1	1.1
Indecent Exposure	5	5.6
Child/Position of Trust	8	8.9
Total	90	100.0

¹⁴ For further information regarding the study sample, refer to the SORS nine year follow-up of the 1998 SORS discussed on page 45.

¹⁵ For further information regarding the data collection, refer to the summary of the 1998 Colorado Sex Offender Risk Scale Study Design on page 37.

Preliminary statistical analyses were applied to identify items that were predictive of sexual rearrest. Logistic regression was then applied to reduce the pool to those that held the greatest predictive power when used in combination with one another and to develop weights for each factor. The six items that were identified for inclusion in the final scale include demographics, criminal history and information regarding the current crime. These items are listed below:

1. Age of offender at the time of the index offense
2. The offender was known to the victim.
3. The offender has been revoked from a community placement as an adult 2 or more times in the past.
4. The offender did NOT graduate from high school.
5. The offender has one or more prior adult convictions.
6. The offender moved 2 or more times in the 2 years prior to arrest.

The criteria for each of these identified factors are outlined in Table 2, along with the recidivism rates associated with each and the weights assigned to each value.

Table 2. 2009 SORS Items, Recidivism Rates and Scores

Item	Criteria	Percent with a New Sexual Arrest	Score
Age at offense	<26	32.2	2
	26-35	23.3	1
	>35	17.6	0
Acquaintance	No	4.17	0
	Yes	27.7	2
Prior Revocations	0-1	24.0	0
	2+	32.3	1
No HS Graduation	HS grad/ college	20.1	0
	<12th/GED	28.9	1
	Missing	27.3	1
Adult Convictions	none	19.5	0
	1+ prior conviction	26.8	2
Moved 2+ times	No	20.0	0
	Yes	30.9	1
	Missing	15.7	0
Total		24.3	9

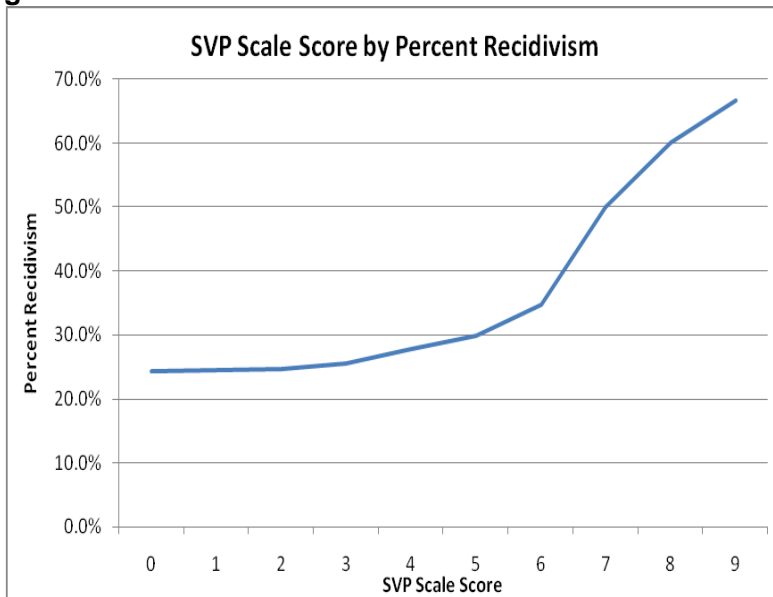
Valid scores for the final scale range from 0 to 9. The distribution of the scores among the development sample, the recidivism rate associated with each are given in Table 3. The recidivism rate associated with each potential score is graphically displayed in Figure 1. As can be seen, the recidivism rate increases dramatically for those scoring 7 and above.

The receiver operating characteristic (ROC) statistic for the 2009 SORS is .67, which is associated with good predictive accuracy and is comparable to the ROC statistic for other sex offender risk assessment instruments.

Table 3. 2009 SORS Scale Score Distribution and Recidivism

Minimum Score	Percent of Sample	Percent Recidivism
0	100.0	24.3%
1	98.4	24.4%
2	97.3	24.7%
3	88.7	25.5%
4	78.7	27.7%
5	59.6	29.9%
6	38.8	34.7%
7	18.9	50.0%
8	6.7	60.0%
9	0.8	66.7%

Figure 1.



A cutpoint of eight was selected by the Sex Offender Management Board as the threshold for the identification of sexually violent predators. Those who score 8 or above will be designated as an SVP, while those who score below 8 may or may not qualify for this designation. Offenders who score 8 or 9 on the 2009 SORS are 5.1 times as likely to recidivate with a new sexual crime as those who score below this threshold.

Reliability

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

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

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

The MCMI calculates 26 personality subtypes. Factor analyses were conducted to determine if any of the subtypes “clustered” within the study sample, but this analysis proved unproductive. Twelve subtypes were identified as adding useful information about the sample: Schizoid, Narcissistic, Anti-Social, Sadistic, Negativistic, Schizotypal, Paranoid, Alcohol Abusive, Drug Abusive, Post-Traumatic Stress Disorder, Thought Disorder, and Delusional Disorder.¹⁰ Analysis of the MCMI data identified a valuable method for applying the MCMI data on this sample that is not dependent on specific MCMI diagnoses. Rather, this approach uses the *number* of diagnoses an individual scores on the MCMI. Two-thirds (67.4%, $n=64$) of the group of offenders that scored *three or more MCMI diagnoses* failed on the outcome measure, and the probability of failure averaged a probability of failure exceeding 71%. Those who had zero, one or two diagnoses had a relatively equal chance (approximately 50-50 on each score) of falling into the OK SO FAR category or the Revoked. Statistical analysis of the relationship between MCMI personality categories and sex offender risk will continue.

The CCI is a 250 item, self-report, psychological inventory. It was created (a) to be a cost-effective measure of psychological problems, (b) to be a *DSM-IV-TR* aligned measure of Axis I clinical syndromes and Axis II personality disorders, (c) to measure neuropsychological symptoms such as memory problems, inattention, language dysfunction, and neurosomatic problems, and neuropsychological syndromes such as neurocognitive disorder, adult ADHD, and executive function deficits of the frontal lobes, and (d) to allow the differential diagnosis of those inmates who have clinically diagnosable syndromes from those who do not.

The median scale reliability (Cronbach’s alpha) for the 14 personality disorder scales measured by the CCI was .75. The median scale reliability for five Axis I scales was .85, and the median scale reliability for the remaining 13 scales and subscales was .78.¹⁷

¹⁶ Two MCMI subtypes were excluded because they were significantly related to errors in prediction in the final regression model. The Self-Defeating subscore increased the rate of false negatives (those predicted to succeed who actually failed) and Anxiety increased the rate of false positives (those predicted to fail who actually succeed).

¹⁷ Coolidge, F.L. (2006, December). *An Introduction to the Coolidge Correctional Inventory (CCI)*. Presentation given at

LIMITATIONS OF ACTUARIAL PREDICTION

In 1978, the American Psychological Association (APA) withdrew its support of members who testified to the dangerousness of individual offenders. The APA's position was based on a number of studies that revealed the error rate of clinical prediction was intolerably high. Studies of clinical prediction indicated that experts were wrong in their predictions of dangerousness, on average, two out of three times.¹⁸ While actuarial (statistical) prediction is not an ideal solution to the prediction of dangerousness, the approximate error rate of group predictions is known. Policy decisions about the cost of errors—over predicting and under predicting dangerousness—can be made in light of known probabilities.

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

Colorado Department of Corrections. Colorado Springs, CO.

¹⁸ Monahan, John. *The Clinical Prediction of Violent Behavior*. (1995). Northvale, New Jersey: Jason Aronson Inc.

**APPENDIX A:
STATUTES**

18-3-414.5. Sexually violent predator.

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

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

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

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

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

(B) Sexual assault in the second degree, in violation of section 18-3-403,¹⁹ as it existed prior to July 1, 2000;

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

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

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

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

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

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

(2) When a defendant is convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, the probation department shall, in coordination with the evaluator completing the mental health sex offense specific evaluation, complete the sexually violent predator risk assessment, unless such an evaluation and assessment has been completed within the six months prior to the conviction or the defendant has been previously designated a sexually violent predator. Based on the results of such assessment, the court shall

¹⁹ Section 18-3-403 was repealed in 2000.

make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator. If the defendant is found to be a sexually violent predator, the defendant shall be required to register pursuant to the provisions of section 16-22-108, C.R.S., and shall be subject to community notification pursuant to part 9 of article 13 of title 16, C.R.S.

(3) When considering release on parole or discharge²⁰ for an offender who was convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, if there has been no previous court order, the Parole Board shall make specific findings concerning whether the offender is a sexually violent predator, based on the results of a sexually violent predator assessment. If no previous assessment has been completed, the Parole Board shall order the department of corrections to complete a sexually violent predator assessment. If the Parole Board finds that the offender is a sexually violent predator, the offender shall be required to register pursuant to the provisions of section 16-22-108, C.R.S., and shall be subject to community notification pursuant to part 9 of article 13 of title 16, C.R.S.

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

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

19-2-517. Direct filing.

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

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

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

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

²⁰ This law requires the assessment and designation process on active cases only.

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

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

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

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

(IV) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-518; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; or

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

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

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

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

(I) As an adult; or

(II) To the youthful offender system in the department of corrections in accordance with section 18-1.3-407, C.R.S., if the juvenile is convicted of an offense described in subparagraph (II) or (V)

of paragraph (a) of subsection (1) of this section; except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

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

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

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

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

(F) A second or subsequent offense described in said subparagraph (II) or (V), if such person received a sentence to the department of corrections or to the youthful offender system for the prior offense; or

(III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age at the time of commission of the crime and is convicted of an offense other than a class 1 or class 2 felony, a crime of violence as defined under section 18-1.3-406, C.R.S., or an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section and the judge makes a finding of special circumstances.

(b) Repealed.

(c) The district court judge may sentence a juvenile pursuant to the provisions of this article if the juvenile is convicted of a lesser included offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section.

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

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

19-2-518. Transfers.

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

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

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

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

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

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

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

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

(A) Convicted of a class 1 felony;

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

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

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

(A) A class 1 felony;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a juvenile delinquent for delinquent acts against property that constitute felonies; and

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

(c) The amount of weight to be given to each of the factors listed in paragraph (b) of this subsection (4) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts that constitute felonies or a record of two or more juvenile

probation revocations based on acts that constitute felonies shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

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

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

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

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

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

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

18-3-402. Sexual Assault.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) The victim suffers serious bodily injury; or

(III) The actor is armed with a deadly weapon or an article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon or represents verbally or otherwise that the actor is armed with a deadly weapon and uses the deadly weapon, article, or representation to cause submission of the victim.

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

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

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

18-3-403. Sexual assault in the second degree. (Repealed)

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

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

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

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), unlawful sexual contact is a class 4 felony if the actor compels the victim to submit by use of such force,

intimidation, or threat as specified in section 18-3-402 (4) (a), (4) (b), or (4) (c) or if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section.

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

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

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

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

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

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

(d) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time must be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse, whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section 16-5-401 (1) (a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5).

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

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

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

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

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

(b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section 16-5-401 (1) (a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5).

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

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

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

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

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

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

(a) Any person who is a sexually violent predator;

(b) Any person sentenced as or found to be a sexually violent predator under the laws of another state or jurisdiction;

(c) Any person who is required to register pursuant to section 16-22-103 and who has been convicted as an adult of two or more of the following offenses:

(I) A felony offense involving unlawful sexual behavior; or

(II) A crime of violence as defined in section 18-1.3-406, C.R.S.; and

(d) Any person who is required to register pursuant to section 16-22-103 because the person was convicted of a felony as an adult and who fails to register as required by section 16-22-108.

(1.5) In addition to the posting required by subsection (1) of this section, the CBI may post a link on the state of Colorado homepage on the internet to a list, including but not limited to the names, addresses, and physical descriptions of any person required to register pursuant to section 16-22-103, as a result of a conviction for a felony. A person's physical description shall include, but need not be limited to, the person's sex, height, weight, and any other identifying characteristics of the person. The list shall specifically exclude any reference to any victims of the offenses.

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

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

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

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

(1) A sexually violent predator shall be subject to community notification as provided in this part 9, pursuant to criteria, protocols, and procedures established by the management board pursuant to section 16-13-904.

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

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

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

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

**APPENDIX B:
THE SEXUALLY VIOLENT PREDATOR ASSESSMENT
SCREENING INSTRUMENT (2010 VERSION)**

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT(SVPASI)

Pursuant to 18-3-414.5, C.R.S.

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

Review the 2010 SVPASI handbook prior to completion of this form for additional information and instructions.

ASSESSMENT SUMMARY:

Probation officers or trained DOC staff/contractors, based on the information provided on the following pages, please check the boxes that apply. Check the appropriate boxes below to indicate that the offender satisfies the legislative criteria for the definition of sexually violent predator pursuant to 18-3-414.5(1), C.R.S.

- The defendant is 18 years of age or older or has been tried as an adult, and has been convicted of, or received a deferred judgment and sentence for, one of the five crimes defined in Part 1, pursuant to 18-3-414.5(1)(a)(II) C.R.S., as revised to include attempt, solicitation, or conspiracy. **AND**
 - The conviction occurred on or after July 1, 1999 for a crime committed on or after July 1, 1997, pursuant to 18-3-414.5., C.R.S. **AND**
 - The victim was a stranger to the offender (Part 2A), **OR** the defendant established a relationship primarily for the purpose of sexual victimization (Part 2B), **OR** the defendant promoted a relationship primarily for the purpose of sexual victimization (Part 2C), pursuant to 18-3-414.5(1)(a)(III), C.R.S. If the offender refuses to participate in the assessment, this criteria is automatically affirmative. **AND**
 - The defendant meets the prior conviction criterion (Part 3A). **OR**
 - The defendant scores 8 or more on the Sex Offender Risk Scale (SORS, Part 3B), pursuant to 18-3-414.5 and 16-11.7-103(4)(c.5), C.R.S. **OR**
 - Meets additional risk criteria (Part 3C), pursuant to 16-11.7-103(4)(c.5), C.R.S.
- YES, the offender DID meet SVP criteria.**
 - NO, the offender DID NOT meet SVP criteria.**
 - The offender refused to participate but DID meet SVP criteria.**
 - The offender refused to participate but DID NOT meet SVP criteria.**

COURT OR PAROLE BOARD FINDING:

18-3-414.5(2) and 18-3-414.5(3), C.R.S. state in part that based on the results of this assessment, the court or the parole board shall make specific findings concerning whether the defendant is a sexually violent predator. Probation officer or trained DOC staff, based on the court or parole board decision, check the box that applies.

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

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

Office of Research and Statistics
Division of Criminal Justice
700 Kipling Street, Ste 1000
Denver, CO 80215
Fax: (303) 239-4491

BACKGROUND

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Probation officers and sex offender evaluators listed on the Sex Offender Management Board (SOMB) provider list or trained DOC staff/contractors will complete this instrument on every sex offender that meets the following criteria:

(I) Is 18 years of age or older at the date of the offense, or who is younger but is tried as an adult pursuant to section 19-2-517 or 19-2-518, C.R.S.

(II) Has been convicted¹ on or after July 1, 1999 of one of the following offenses, including an **ATTEMPT, SOLICITATION OR CONSPIRACY TO COMMIT** one of the following, on or after July 1, 1997:

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

(III) Whose victim was one of the following (per 18-3-414.5(1)(a)(III), C.R.S.):³

- A stranger to the offender (see Part 2A on page 5 of this form), **or**
- A person with whom the offender established a relationship primarily for the purpose of sexual victimization (see Part 2B on page 5 of this form),⁴ **or**
- A person with whom the offender promoted a relationship primarily for the purpose of sexual victimization (see Part 2C on page 6 of this form).

(IV) Pursuant to 18-3-414.5(1)(a)(IV), C.R.S., and 16-11.7-103(4)(c.5), C.R.S., is likely to subsequently commit one or more of the offenses specified in 18-3-414.5(1)(a)(II), C.R.S., under the circumstances described in 18-3-414.5(1)(a)(III), C.R.S., according to the scores derived from the SOMB actuarial risk assessment instrument (Part 3A, Part 3B, or Part 3C of this form), specifically pursuant to 16-11.7-103(4)(c.5), C.R.S.

Once the form is completed by the probation officer and the evaluator or trained DOC staff or contractor, it should be forwarded to the court/parole board, pursuant to 18-3-414.5(2) and (3) C.R.S. Based on the results of the assessment (included on the following pages of this form), the court/parole board shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator.

An offender found to be a sexually violent predator is required to register with the local law enforcement agency in the jurisdiction in which they reside within five days of becoming a temporary or permanent resident, and on a quarterly basis thereafter, for the remainder of his or her natural life, pursuant to Section 16-22-108(1)(d), C.R.S. Offenders found to be sexually violent predators will also be placed on the Internet listing of sex offenders maintained by the Colorado Bureau of Investigations (CBI) and linked to the State of Colorado's homepage, pursuant to Section 16-22-111, C.R.S., and shall be subject to community notification pursuant to Section 16-13-903, C.R.S.

¹ Convicted includes having pleaded guilty or nolo contendere, or having a received a deferred judgment and sentence per 18-3-414.5(b).

² Section 18-3-403 C.R.S. was repealed in 2000.

³ The relationship categories are specified in federal and state statute. The SOMB defined each relationship category for the purposes of this assessment.

⁴ The members of the Sex Offender Management Board determined that the three relationship categories are mutually exclusive. This document reflects the Board's decision.

INSTRUCTIONS

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OVERVIEW

- o This instrument may require information from both the Pre-Sentence Investigation writer and an SOMB-listed sex offender evaluator; once complete, the instrument must be forwarded to the court.
- o For **Department of Corrections** cases, a trained DOC staff member or contractor must complete the instrument and forward it to the parole board when the offender is considered for release.
- o All completed forms for **Probation** must be faxed or mailed to the **Division of Criminal Justice** (see cover page).
- o A copy of the SVPASI handbook can be obtained from the Sex Offender Management Board (SOMB) or downloaded from http://dcj.state.co.us/ors/risk_assessment.htm.

PROBATION OFFICER

The probation officer completes **Part 1, Part 3A, Part 3B, the corresponding items on the Instrument Summary, and upon completion of this instrument, the Assessment Summary.** The probation officer then forwards the instrument to the SOMB-listed sex offender evaluator *along with police reports and victim statements.* **If the offender refuses to participate in the assessment, the probation officer shall, in coordination with the evaluator, complete the SVPASI (18-3-414.5(2)) based on a review of available records.** If either police reports or victim statements are NOT forwarded with this instrument to the SOMB evaluator, please indicate why here:

Sections of this instrument to be completed by the probation officer are designated with: **P**

SOMB LISTED EVALUATOR

The SOMB listed evaluator completes **Part 2, Part 3C if available, and the corresponding items on the Instrument Summary.** The SOMB evaluator then returns the completed instrument to the probation officer, along with the completed mental health sex offense specific evaluation, pursuant to C.R.S. 16-11.7-104(1).

Sections of this instrument to be completed by the mental health evaluator are designated with: **E**

TRAINED DOC STAFF

The trained DOC staff or contractor must complete the **entire form (Parts 1, 2, 3A, 3B, 3C, the Instrument Summary, and the Assessment Summary).**

Data sources used to complete this instrument must be identified:

Please circle the data sources utilized to complete Parts 2 and 3.

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

PART 1

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
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P	Probation Officer or Trained DOC Staff/Contractor Please Complete Part 1	P 4 of 7
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CLIENT INFORMATION

Offender's First Name:		Offender's Last Name:		CC#: (Court Case Number)	
SS#:		SID#:		ML# / DOC# (circle ID type):	
				DOB: (MM-DD-YYYY)	
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> African American		<input type="checkbox"/> Hispanic <input type="checkbox"/> Other	
PO Name: (Does not apply to DOC cases)			PO Telephone Number: (Does not apply to DOC cases)		
Date Forwarded to SOMB Evaluator: (Does not apply to DOC cases)			Judicial District: (Does not apply to DOC cases)		
SOMB Evaluator/Trained DOC Staff Name:			Evaluator/Trained DOC Staff Telephone Number:		
Date of Evaluation:			Date Returned to PO: (Does not apply to DOC cases)		

DEFINING SEXUAL ASSAULT CRIMES (18-3-414.5(1) C.R.S.)

The offender is 18 years of age or older as of the date the crime was committed or is tried as an adult pursuant to 19-2-517 or 19-2-518, C.R.S.; the offender was convicted on or after July 1, 1999 of one of the following crimes committed on or after July 1, 1997. **Attempts, solicitations, and conspiracies to commit the following crimes apply.** Conviction includes receiving a verdict of guilty by a judge or jury, pleading guilty or nolo contendere, or having received a **deferred judgment and sentence.**

Please check the box indicating which of the five crimes qualifies the offender for this assessment. Please include attempts, solicitations, and conspiracies to commit any of the following.

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

Meets **DEFINING SEXUAL ASSAULT CRIMES** Criterion: Yes No

This crime was an **Attempt, Solicitation, or Conspiracy**: Yes No

PROCEED TO PART 2

PART 2

COLORADO | SEXUALLY VIOLENT PREDATOR | ASSESSMENT SCREENING INSTRUMENT

P/E | SOMB Evaluator, Trained DOC Staff or Probation Officer Complete Part 2. | P 5 of 7

The relationship categories are identified in state statute. The following definitions were developed by representatives of the Sex Offender Management Board, the Judicial Department and the Department of Corrections to assist in the identification of sexually violent predators as outlined in 18-3-414.5(III) C.R.S.

If the offender refuses to participate in the assessment, other collateral sources of information, such as victim statements or police reports, should be utilized to determine the relationship criterion. Refer to the manual for further information and examples.

THE OFFENDER MUST MEET ONE OF THE FOLLOWING THREE SEXUALLY VIOLENT PREDATOR RELATIONSHIP DEFINITIONS: 1) STRANGER, **OR** 2) ESTABLISHED A RELATIONSHIP, **OR** 3) PROMOTED A RELATIONSHIP.

A. STRANGER

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the victim is a **stranger** to the offender when the victim has never known or met the offender, or has met the offender but has little or no familiar or personal knowledge of said offender, prior to the current offense. See the manual if Internet or child pornography offenses are involved.

Meets **STRANGER** Criterion: Yes No

B. ESTABLISHED A RELATIONSHIP

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the offender **established a relationship** primarily for the purpose of sexual victimization when **any two of the following criteria** are present (*check all that apply*). List all data sources used in the boxes below.

- The offender has a history of sexual offending involving similar behavior.
- The offender manipulated the environment to gain access to this victim.
- The offender introduced sexual content into the relationship prior to committing the initial sexual offense.
- The offender engaged in sexually inappropriate behavior with the victim despite the lack of consent or an inability to consent.

Meets **ESTABLISHED A RELATIONSHIP** Criteria (*At least two of the above items apply*): Yes No

C. PROMOTED A RELATIONSHIP

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

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

Meets **PROMOTED A RELATIONSHIP** Criteria: (*The promoted criteria are met when the first bullet and at least one of the bottom four bullets apply*): Yes No

SELECT THE DATA SOURCE(S) USED TO DETERMINE RELATIONSHIP CRITERIA

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

PROCEED TO PART 3

PART 3

3A. PRIOR SEX CRIME CONVICTION

<p><i>The defendant has previously been convicted as an adult of at least one felony or two misdemeanor sex crimes as defined by C.R.S. 16-11.7-102(3). This INCLUDES court established factual basis sex crimes, hands off sexual offenses, Internet sex crimes and out of state sex crime convictions. This EXCLUDES deferred judgments and sentences, failure to register and juvenile adjudications. Please refer to the 2010 SVPASI handbook for further details regarding this item.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
PROCEED TO PART 3B REGARDLESS OF RESULTS IN PART 3A	

3B. SOMB SEX OFFENDER RISK SCALE (SORS) 2009

Pursuant to 16-11.7-103(4)(c.5), C.R.S., the Division of Criminal Justice worked in consultation with the Sex Offender Management Board (SOMB) to develop an actuarial risk assessment scale to be used in the identification of an offender's risk to be rearrested for a new sex crime. This research is described in the SVPASI handbook. Failure was measured as a new sexual arrest within 5 years. A score of 8 or above reflects that the individual is 5 times as likely to commit a new sex crime compared to those scoring 0-7

Each item is scored with either 0, 1 or 2. Check the appropriate response for each item. See the SVPASI handbook for further details on calculating the total score.

- | YES | NO | |
|---|----------------------------|---|
| <input type="checkbox"/> 2 <input type="checkbox"/> 1 | <input type="checkbox"/> 0 | 1. Age of the offender at the time of the index offense: Score 2 if offender was 25 or under, score 1 if offender was between 26 and 35, score 0 if over 35.
<i>Age at earliest event recorded in official records for the actual index/instant offense.</i> |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 0 | 2. The offender was known to the victim. <i>The victim was not a stranger, but was the spouse, relative, friend, or acquaintance of the offender. Internet offenders may be considered strangers. See SVPASI handbook for more detail.</i> |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 0 | 3. The offender has been revoked from community supervision as an adult 2 or more times in the past. <i>Refers to revocations on probation, parole, and community corrections, regardless of consequences or sanctions. Includes probation reinstatements. Includes revocations related to current and prior convictions.</i> |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 0 | 4. The offender had NOT graduated from high school at the time of arrest. <i>If the offender did not graduate, score 1. The definition of graduation EXCLUDES the receipt of a GED UNLESS the offender has also attended any post-secondary educational program, including college, trade school or community college. If unknown, score 1 and list sources utilized to attempt to obtain this information: _____</i> |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 0 | 5. The offender has one or more prior adult convictions. <i>Includes adult felony and misdemeanor convictions and deferred judgments and sentences that occurred prior to the index sex offense, but does not include adjudications as a juvenile. Includes misdemeanor traffic convictions. Does <u>not</u> include lesser traffic citations. Excludes convictions related to the current/index offense (e.g. multiple cases related to a singular incident).</i> |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 0 | 6. The offender moved 2 or more times in the 2 years prior to arrest for the actual index/current offense. <i>Offender resided at 3 or more different addresses during this time frame. Score 1 if there has been any period of transience in the past 2 years. If unknown, score 0 and list sources utilized to attempt to obtain this information: _____</i> |

	TOTAL SCORE <i>(Add up the scores for the items checked in Part 3B)</i>
--	--

Total score of 8 or more: Yes No

PROCEED TO PART 3C

PART 3

3C. MENTAL ABNORMALITY

Mental abnormality is referenced in 16-11.7-103(4)(c.5), C.R.S. Mental abnormality, according to statute, "means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that person to the commission of a criminal sexual act...." One of the following instruments must be completed by the evaluator, who must meet the minimum qualifications for administering the instrumentation utilized to make the following determination. Refer to the SVPASI handbook for more details regarding these qualifications. SKIP THIS SECTION IF THE OFFENDER REFUSES TO PARTICIPATE IN THE ASSESSMENT.

DCJ research has found that an offender may be at additional risk when he or she scores:

		Check the appropriate box:		
		Yes	No	N/A
<ul style="list-style-type: none"> ▪ 30 or more on the Psychopathy Check List Revised (PCL-R), OR 	PCL-R score 30+	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ 85 or more on each of the following Millon Clinical Multiaxial Inventory (MCMI-III) scales: narcissistic, antisocial, and paranoid, OR 	MCMI-III score 85+	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ 70 or more on each of the following Coolidge Correctional Inventory (CCI) scales: narcissistic, antisocial, and paranoid. 	CCI score 70+	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the offender is assessed with more than one of the specified instruments and a 'Yes' is indicated in any of the above boxes, the offender meets the mental abnormality criteria.

Meets Mental Abnormality Criteria: Yes No

PROCEED TO THE INSTRUMENT SUMMARY

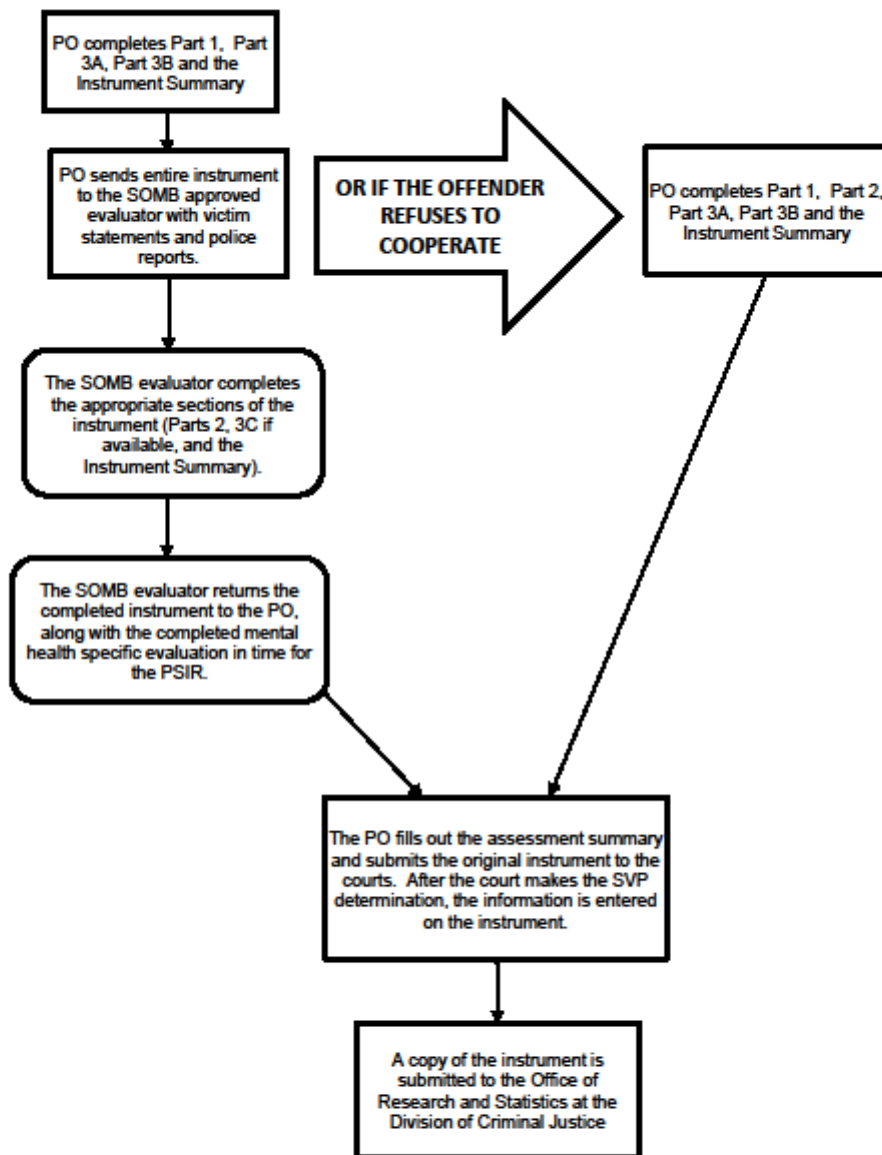
INSTRUMENT SUMMARY

To be identified a sexually violent predator, the offender must meet the criteria defined in Parts 1 and 2, as well as one of the following: Part 3A or 3B or 3C

Meets Defining Sexual Assault Crimes Criterion (Part 1) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Date Requirement (Per Statute) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Relationship Criteria (Part 2) AND	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Prior Conviction Criterion (Part 3A) OR	<input type="checkbox"/> Yes <input type="checkbox"/> No
Scored 8 or More on the DCJ SORS 2009 Scale (Part 3B) OR	<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Mental Abnormality Criteria (Part 3C)	<input type="checkbox"/> Yes <input type="checkbox"/> No
DID OFFENDER MEET THE SEXUALLY VIOLENT PREDATOR CRITERIA? <i>Must meet the criteria defined in Part 1 AND Part 2 AND one of the following: Part 3A OR Part 3B OR Part 3C.</i>	<input type="checkbox"/> Yes <i>(Record this response on page 1 as well.)</i> <input type="checkbox"/> No

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

Process for Probation Officers



Process for the Department of Corrections

