



Guidance for Sex Offender Management Board Approved Evaluators Regarding Performing Evaluations for Consideration of Diversion February 18, 2022

Introduction

The Sex Offender Management Board (SOMB) is providing this Guidance Document for SOMB Approved Evaluators. Per Colorado Revised Statute (C.R.S.) §18-1.3-101(6), SOMB Approved Evaluators may receive referrals to evaluate clients who are being considered for placement in diversion as an alternative to prosecution. The SOMB has received inquiries from Approved Evaluators about how to conduct evaluations for these clients given that not all required components of the evaluation as described in Section 2.000 of the Adult and Juvenile Standards and Guidelines may be applicable in such cases (e.g., certain risk assessment instruments may not be appropriate for use, and are not being used with a non-convicted/non-adjudicated population).

As with all referrals, Approved Evaluators can determine whether to accept the evaluation referral or not, and may determine that an evaluation to determine suitability for division is outside of their area of expertise or practice. If the Approved Evaluator accepts the referral for evaluation per 18-1.3-101(6) C.R.S., the following guidance is offered for how to conduct the evaluation.

Applicable Standards

Adult Standards and Guidelines Section 2.250 states the following:

Evaluators shall not represent or imply that an evaluation meets the criteria for a sex offense specific evaluation if it does not comply with the SOMB Standards and Guidelines. Evaluators shall include a statement in each completed evaluation as to whether the evaluation is fully compliant with the SOMB Standards and Guidelines or not.

Juvenile Standards and Guidelines Section 2.800 states the following:

Any required evaluation areas that have not been addressed, or any required evaluation procedures that have not been performed, shall be specifically noted. In addition, the evaluator must state the limitations of the absence of any required evaluation areas or procedures on the evaluation results, conclusions or recommendations.

Guidance For Completion of Evaluation



Per the Standards and Guidelines noted above, Approved Evaluators should include language in the evaluation noting any components of the evaluation as required in Section 2.000 of the Adult and Juvenile Standards and Guidelines that were not completed. The following language is offered to Approved Evaluators as template language that can be used in the evaluation to explain the lack of using standardized and validated risk assessment instruments (note that the language can also be used for any other area of omission in a similar fashion):

This sex offense specific evaluation has been completed for the individual being considered for pre-trial diversion to meet the requirements identified in §18-1.3-101(6), C.R.S. Per Standard 2.250 of the Sex Offender Management Board (“SOMB”) Adult Standards and Guidelines, this evaluation meets all of the criteria for a sex offense specific evaluation with the exception of the following:

Section 18-1.3-101(9)(e), C.R.S. states that “a defendant shall not be required to enter any plea to a criminal charge as a condition of pretrial diversion.” The subject of this sex offense specific evaluation is being considered for pre-trial diversion and thus has not been convicted of a sexual offense. Risk of re-offense cannot be assessed through the use of a static or dynamic risk assessment instrument as required due to the fact that the individual being evaluated has not been convicted of a sexual offense. The use of these instruments in such cases is precluded by the instrument scoring manuals. The estimate for risk of re-offense in this evaluation is based on structured professional judgment identifying known re-offense risk factors. As a result, the identified level of risk, treatment amenability and planning recommendation, and appropriate placement option are qualified based on this deviation from the SOMB Standards and Guidelines.