

SEX OFFENDER MANAGEMENT BOARD

ANNUAL LEGISLATIVE REPORT

*Evidence-Based Practices for the Treatment and Management of
Adults and Juveniles Who Have Committed Sexual Offenses*



A Report of Findings per 16-11.7-109(2) C.R.S.

January 2018

Prepared By:

Kelly Hume

Chris Lobanov-Rostovsky

Office of Domestic Violence and Sex Offender Management

Chris Lobanov-Rostovsky, Sex Offender Management Unit Administrator

Division of Criminal Justice

Joe Thome, Director

Colorado Department of Public Safety

Stan Hilkey, Executive Director



COLORADO
Division of Criminal Justice
Department of Public Safety



COLORADO
Division of Criminal Justice
Department of Public Safety

Table of Contents

Contents

Executive Summary	1
Introduction	7
Purpose	7
Background of the Sex Offender Management Board	7
Report Organization.....	9
Section 1: Research and Evidence Based Practices.....	10
Co-occurrence of sex offenses and domestic violence.....	10
Child Sexual Abuse Images.....	13
Sexual Assault Against College Students	17
Cognitive Distortions.....	20
Section 2: Relevant Policy Issues and Recommendations.....	23
Juvenile Sexting.....	23
Registration of Juveniles Who Have Committed Sexual Offenses.....	26
SORN	31
Section 3: Milestones and Achievements.....	34
Overview of 2017 Accomplishments	34
Policy Updates.....	37
Current Availability of Providers	39
Additional year end accomplishments	41
Section 4: Future Goals and Directions.....	44
References	47
Appendices	51
Appendix A. Committee Updates	51
Appendix B. School Safety Resource Center Sexting Fact Sheet	59
Appendix C. Sexually Violent Predator Assessment Screening Instrument.....	60
Appendix D. Changes to Section 6.000	69
Appendix F. Sex Offender Management Board White Paper on the Research, Implications and Recommendations Regarding Registration and Notification of Juveniles Who Have Committed Sexual Offenses	78

Executive Summary

Pursuant to Section 16-11.7-109 (2), Colorado Revised Statutes (C.R.S), this annual report presents findings from an examination by the Sex Offender Management Board (SOMB) of best practices for the treatment and management of adult sex offenders and juveniles who have committed sexual offenses.

To identify the most current research- and evidence-based practices to date within the field of sex offender treatment and management, the SOMB conducted a series of literature reviews in support of ongoing committee work and the development of this report.

Section 1: Research and Evidence-Based Practices

Within the field of sexual offender treatment and management, the interest in evidence-based practice is increasing. Establishing the degree to which provided services are effective is an essential part in improving public policies aimed at reducing the risk for future sexual re-offense by identified adult sex offenders and juveniles who have committed sexual offenses.

- ***Co-Occurrence of Sex Offenses and Domestic Violence Offenses:*** The co-occurrence of sexual offending and domestic violence offending by one offender has not been studied in great detail. More attention is being drawn to this subject as treatment providers are finding more instances of this event. Research estimates that intimate partner sexual abuse rates range from 40% and 75% (Schafran, 2010). Alternately, women who experience rape by their spouse are likely to also be victims of severe physical violence, threats of violence, and the use of weapons (Bergen, 2006). There are many similarities between risk factors for both sexual abuse and physical abuse in intimate partner and domestic violence, suggesting a thinner veil between the two behaviors than previously thought. Research that has been conducted on the topic typically focuses on marital rape, intimate partner violence (not necessarily in domestic relationships), and juvenile intimate partner violence. Identifying this co-occurrence will allow for more appropriate treatment and supervision by addressing both of these problematic behaviors, instead of just focusing on one offense type.
- ***Child Sexual Abuse Images and Contact Offending:*** The increasing capability of mass communication through the internet has amplified availability and demand for child pornography (Henshaw, Ogloff, & Clough, 2017). Once the images are shared online, there is no means to remove them, leading to potential life-long re-traumatization of the victim (Bazelon, 2013). The term “child pornography” has traditionally been used to describe photographs, videos, and other forms of media depicting minor children engaged in sexually explicit activities or poses. More recently, clinicians, victim advocates, and other social service professionals have moved toward the term “child sexual abuse images” since it more clearly captures the traumatization and continuous victimization of the children depicted (U.S. Department of Justice, 2017). Most research has focused on offenders who use child sexual abuse images but have no known contact sexual offenses (e.g., sexual assault of a child), and those who are “mixed offenders” with both online and contact offenses. In these studies, several commonalities and some differences were identified between online-only offenders and

offenders who commit both online and contact offenses, suggesting that these are two distinct types of offenders. Since no causal relationship between viewing of child sexual abuse images and contact offending has been established, it is difficult to empirically substantiate if the use of child sexual abuse images is itself a risk factor for contact offending (Henshaw et al., 2017). Accurate occurrence rates are difficult to measure because these offenses often go unreported. Existing research estimates that between 55% and 85% of known online offenders also committed unreported contact offenses, according to self-report during sex offense specific treatment (Bourke & Hernandez, 2009; Seto, Hanson, & Babchishin, 2011). It is unknown, however, if the contact offense typically occurs before, during, or after the online offending. Knowing more about this subject and incorporating emerging research will allow for better risk assessment of offenders and ideally, prevention of future victimization.

- ***Sexual Assaults Against College Students:*** Sexual assaults where college students are the victims differ from other types of sexual assaults because it involves not only the victim and offender, but also secondary education institutions who are tasked with handling such situations. In 2014, the Bureau of Justice Statistics (BJS) published a report on rape and sexual assault among college-aged females between 1997 and 2013 that estimated a rate of rape and sexual assault of females in college was approximately 6 per 1,000 (Langton & Sinozich, 2014). Another study found approximately 21% of female students and 7% of male students reporting being victims of completed sexual assault since beginning college (Krebs, Lindquist, Berzofsky, Shook-Sa, Peterson, Planty, ... Stroop, 2016). Rates of sexual assault can vary depending on the study for different reasons, but this is often because of underreporting. Underreporting of sexual assaults occurs for many reasons, but according to the research, the most common reasons are because the victim did not know he or she was victimized, the victim did not think anyone would believe they were victimized (especially if drugs or alcohol were involved and the victim is under age 21), and fear of backlash for reporting (Beaver, 2017; Hayes et al., 2016; Rennison & Addington, 2014; Yung, 2015). One of the most difficult issues associated with sexual assaults that occur on college campuses are rape myths, as they can influence perpetration, victimization, and responses to sexual assaults. Rape myths are misconceptions about rape and sexual assault that minimize injury, place the blame on the victim, and distort the importance of consent (Armstrong, Hamilton, & Sweeney, 2006; Hayes et al., 2016). Acknowledging the issues discussed will allow for a change in narrative, by supporting victims, dispelling rape myths, and correctly identifying individuals who pose a threat to the community.
- ***Cognitive Distortions in Adult Sex Offenders and Juveniles Who Have Committed Sexual Offenses:*** Cognitive distortions in the context of sexual assault are statements and beliefs that allow individuals to rationalize, justify, excuse, minimize, deny, or otherwise support his or her sexual offending behavior (Helmus, Hanson, Babchishin, & Mann, 2013; Nunes & Jung, 2012). These can become problematic when addressing the sexually abusive behavior in treatment as they become defense mechanisms which reduce responsivity to the change process (Yates, 2009). Research indicates that high engagement in cognitive distortions about sex offending is correlated with high denial and minimization of one's own guilt (Nunes & Jung, 2012). Individuals who exhibit cognitive distortions tend to place blame on external elements in an attempt to make the offense more acceptable (Nunes & Jung, 2012). Some examples frequently seen with sex offenders are that their behavior was uncontrollable, that sexual abuse is acceptable under some circumstances, or that the world is a hostile place and they are misunderstood (Houtpen, Sijstema, & Bogaerts, 2014). Cognitive distortions can present



themselves in different ways. While some of the terms are used interchangeably, the research has typically identified the following three categories: minimization and denial, feelings of entitlement, and offense-supportive attitudes (Helmus et al., 2013; Nunes & Jung, 2012; Pemberton & Wakeling, 2009). Since cognitive distortions can impede the therapeutic process, being aware of these and knowing how they affect the offender will lead to more effective treatment plans, reducing recidivism and future victimization.

Section 2: Relevant Policy Issues and Recommendations

Relevant Policy Issues and Recommendations consist of a literature review of the empirical research on issues in sex offender management, policies, and practices. Specific policy issues are examined to highlight areas that may be of particular interest to the members of the general assembly. The following policy issues were identified by the SOMB for review:

- **Juvenile Sexting:** Sexting is the practice of sending or receiving sexually explicit images (including photographs or videos) via cellphone (Barkacs & Barkacs, 2010; Hasinoff, 2017; Strassberg, Rullo, & Mackaronis, 2014; Woodward, Evans, & Brooks, 2017). An issue arises when juveniles engage in this behavior since these sexually explicit images are considered child pornography in many states (Hasinoff, 2017; Strassberg et al., 2014). Woodard et al. (2017) identified two different types of sexting - aggravated and experimental. Aggravated sexting refers to distributing an explicit photo of another juvenile without their consent, or when one party in the exchange is an adult. Experimental sexting is defined as sexual expression and exploration between consenting juveniles. Research shows that between 20-39% of juveniles engage in either sending or receiving sexts (Temple et al., 2012; Strassberg et al., 2014; Strohmaier, Murphy, & DeMatteo, 2014; Woodward et al., 2017). Research indicates that consensual sexting, marked by natural sexual exploration, poses relatively few problems as long as both parties remain respectful of privacy (Hasinoff, 2017; Woodard et al., 2017). Unfortunately, this is not always the case with juveniles engaging in aggravated sexting by distributing or sharing images of other juveniles with unintended recipients, and this behavior often leads to serious consequences (Hasinoff, 2017; Strassberg et al., 2014; Woodard et al., 2017).

Recommendations:

- 1) Promote collaboration between the School Safety Resource Center and the SOMB, when appropriate.
 - 2) Establish criteria for risk levels and implement appropriate interventions based on risks and needs.
 - 3) Provide education and training for school officials, School Resource Officers, judicial officers, students and their families (specifically on normal sexual behaviors of teenagers, potential consequences of sexting, and malicious sexting, such as revenge porn or unsolicited sexts).
- **Registration of Juveniles Who Have Committed Sexual Offenses:** The registration of juveniles who are adjudicated of sexual offenses has come under question in many states, with concerns that the associated collateral consequences hinder the therapeutic process and

potentially decrease community safety. The registration requirements imposed on many juvenile offenders have been shown to increase risk factors and negatively impact protective factors (Batastini et al., 2011; Harris, Walfield, Shields, & Letourneau, 2016). Some of the juveniles on the registry are a danger to the community, with approximately 15% of juvenile registrants having committed a forcible sexual assault (Stevenson et al., 2013a; Stevenson et al., 2013b). That being said, efforts that attempt to manage juveniles adjudicated of sex offenses like adult sex offenders has raised concerns about the potential negative impacts on adolescent development (Batastini, Hunt, Present-Koller, and DeMatteo, 2011). There are many differences between adult and juvenile offenders, including financial independence, brain development, and reliance on others. Historically, the juvenile justice system has aimed to address the specific needs of juveniles however it sometimes mirrors the adult system, as in the case with juvenile registration (Batastini et al., 2011). Many professionals recognize that juveniles do not make decisions in the same way as adults, and much of juvenile offending is a result of their youthfulness (Harris et al., 2016). One component of this distinction is the information related to the juvenile offender that is made available to the public (Batastini et al., 2011). Allowing the public to access juvenile registry information can disrupt the juvenile's life at school and at home, often contraindicating the therapeutic goals set by the multidisciplinary team supervising the juvenile (Batastini et al., 2011; Harris et al., 2016; Stevenson, Smith, Sekely, & Farnum, 2013b).

Recommendations:

- 1) Make juvenile registry a law enforcement only tool that is non-public (do not include juveniles on the lists provided by law enforcement).
- 2) For those who are eligible, a hearing for discontinuation from the registry will automatically be set at the time of successful completion from supervision. All notifications including those required by the Victim Rights Amendment must be made with time allowed for responses prior to vacating the hearing. This hearing can be vacated if there are no objections.
- 3) Change the threshold for release from registration - instead of "more likely than not," release from registry should be contingent on being found to be low risk to commit a sex offense as evidenced by clinical indicators.
- 4) Improve sentencing procedures to increase the information provided and expand judicial discretion concerning registration, including developing criteria that an evaluator can use to make a recommendation for no registration. Please see Appendix F for more information.
- 5) Remove the ineligibility to petition for release after additional adjudication for non-sex offense.
- 6) Remove requirement for out-of-state juveniles to register if the originating state has already relieved the juvenile from registration requirements.
- 7) Consider allowing a juvenile access to court-appointed counsel for relief from registration.

- ***Sex Offender Registration and Notification Act (SORNA)***: The passage of the Adam Walsh Act (2006) repealed the requirements of The Jacob Wetterling Act (1994), which meant that states were no longer required by federal legislation to label certain sex offenders as Sexually Violent Predators (SVPs). Sex offender registration and notification was originally designed to inform the public of predatory and violent sex offenders who posed a significant threat to the community, and children specifically (Levenson, Grady, & Leibowitz, 2016). Classification systems that are not based on risk assessments generally do a poor job of accurately assessing risk to reoffend (Harris, Lobanov-Rostovsky, & Levenson, 2010; Levenson et al., 2016). Mislabeling a sex offender as higher risk than they actually are can contribute to loss of protective factors through social rejection (Levenson et al., 2016; Zgoba, Miner, Levenson, Knight, Letourneau, & Thornton, 2016). Mislabeling can also lead to wasted resources, as when lower-risk offenders are labeled as high risk, resulting in higher levels of supervision (Zgoba et al., 2016). A risk-based classification system to identify the highest risk sex offenders and provide community notification about these high-risk offenders is supported by research (Levenson et al., 2016; Zgoba et al., 2016). Additionally, mentally or physically incapacitated offenders may be unable to meet their registration requirements. The issues surrounding registration and deregistration of these incapacitated offenders has become a substantial burden on law enforcement. The AWA does not require the use of risk-based assessment, but does allow it to be used as an additional component to the offense-based classification system.¹

Recommendations:

- 1) Move to a three tier risk level system in lieu of SVP designation (based on risk assessment).
- 2) Recognize that risk is dynamic and tier levels (or SVP status) should be changed based on changes in risk level.
- 3) Provide provisions for the removal of incapacitated offenders from the registry.

Section 3: Milestones and Achievements

In 2017, the SOMB accomplished the majority of its strategic goals in collaboration with multiple stakeholders. For the purposes of this report, the SOMB has focused on accomplishments of the SOMB Strategic Plan created and approved in 2014. For a comprehensive summary of the work of the SOMB, please refer to Appendix A. Section 3 addresses the SOMB Strategic Action Plan in depth, highlighting its accomplishments and continued progress towards achieving its goals. The following highlights some of the many additional achievements of the SOMB in 2017:

- Managed 15 SOMB committees that functioned at some point during 2017. Several of these committees were convened in 2014 to address specific projects related to the strategic plan, such as the Adult Standards and Guidelines Revision Committee.

¹ Offense-Based Classification System: System where offender classification is based on the conviction offense.

- Addressed policy issues related to the Sexually Violent Predator Assessment Screening Instrument, including the revision and validation of the SOMB Sex Offender Risk Scale. Additional changes were made to clarify some ambiguous language throughout the assessment to more accurately reflect evidence based practices.
- Hosted two On-The-Road Board meetings in 2017 to reach stakeholders outside of the Denver Metro area. Meetings were held in Colorado Springs as well as Breckenridge.
- Conducted 60 trainings to over 4,200 attendees from across Colorado in calendar year 2017. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses. The SOMB also held its 11th annual statewide conference in Breckenridge, Colorado that offered three consecutive days of training for providers, probation officers, law enforcement, victim representatives, and many other stakeholder groups. Presentations were conducted on a variety of topics including domestic violence and sex offending cross-over, a balanced approach between treatment and supervision, Risk, Need, and Responsivity (RNR) and adolescent brain development, and multicultural competencies.
- Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement agencies around the state.
- No Standards Compliance Reviews were completed in 2017 as revisions to the compliance review process were developed. These changes will allow for more effective reviews in the future. As of this writing, cases for review have been selected, and will be addressed in early 2018.
- Received 13 complaints during 2017 made against approved providers, and disposed of eight cases. During 2017 there were no founded complaints; however, two cases are still open and under investigation. Three of the received complaints were found to not be under the SOMB purview.
- Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines* revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.
- Published the 2018 SOMB Annual Legislative Report and the 2017 Lifetime Supervision of Sex Offenders Annual Report.

Introduction

Purpose

Pursuant to Section 16-11.7-109 (2), C.R.S.,² this annual report presents findings from an examination by the Sex Offender Management Board (SOMB) of best practices for the treatment and management of adult sex offenders and juveniles who have committed sexual offenses. This report fulfills the statutory mandate by providing:

1. A summary of emerging research- and evidence-based practices regarding evaluation, assessment, treatment and supervision strategies in the field of sex offender management; and
2. A review of policy issues affecting the field of sex offender management that the Legislature may wish to review for potential statutory change.

Additionally, this report documents the 2017 achievements and current efforts being undertaken by the SOMB.

Background of the Sex Offender Management Board

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107, C.R.S.) that created a Sex Offender Treatment Board to develop *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (henceforth referred to as the *Adult Standards and Guidelines*). The General Assembly changed the name to the Sex Offender Management Board (SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Adult Standards and Guidelines* were originally drafted by the SOMB over a period of two years and were first published in January 1996. The *Adult Standards and Guidelines* applied to convicted adult sexual offenders under the jurisdiction of the criminal justice system. From the beginning, the *Adult Standards and Guidelines* were designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate to the SOMB and the primary goals of the *Adult Standards and Guidelines* are the safety of the community and the protection of victims. The *Adult Standards and Guidelines* were revised in written form in 1998, 1999, 2008, 2011, and 2017.

In 2000, the Colorado General Assembly amended and passed legislation (16-11.7-103, C.R.S.) that required the SOMB to develop and prescribe a standardized set of procedures for the evaluation and identification of juveniles who committed sexual offenses. The *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses* (henceforth referred to as the *Juvenile Standards and Guidelines*) was first published in 2003, and

² C.R.S.16-11.7-109 (2): On or before January 31, 2012, and on or before January 31 each year thereafter, the board shall prepare and present to the judiciary committees of the senate and the house of representatives, or any successor committees, a written report concerning best practices for the treatment and management of adult sex offenders and juveniles who have committed sexual offenses, including any evidence based analysis of treatment standards and programs as well as information concerning any new federal legislation relating to the treatment and management of adult sex offenders and juveniles who have committed sexual offenses. The report may include the board's recommendations for legislation to carry out the purpose and duties of the board to protect the community.

subsequently revised in 2008, 2011, 2014, and 2017. As with the *Adult Standards and Guidelines*, the *Juvenile Standards and Guidelines* continue to hold public safety as a priority, specifically the physical and psychological safety of victims and potential victims.

Both the *Adult* and *Juvenile Standards and Guidelines* are now continuously revised in real time on the SOMB website, updating each section with new changes as they are approved. Between 2011 and 2017, a number of revisions have been made to each document. These revisions are addressing omissions in the prior versions and continue to incorporate the growing literature on sex offender treatment and management.

The *Adult* and *Juvenile Standards and Guidelines* are both specifically designed to establish a framework for the systematic risk management, assessment, and clinical treatment of adult sex offenders and juveniles who have committed sexual offenses. Both the *Adult* and *Juvenile Standards and Guidelines* support a comprehensive range of therapeutic modalities and interventions for identified treatment needs, along with behavioral monitoring strategies for improved supervision based on risk level. This systemic approach fulfills a two-fold purpose: (1) managing and reducing sexually abusive risk behavior, while also (2) promoting protective factors that enable an offender's success.

The *Adult* and *Juveniles Standards and Guidelines* support a coordinated approach in which a Community Supervision Team (CST) for adult sex offenders, or a Multi-Disciplinary Team (MDT) for juveniles who have committed sexual offenses, provide an individualized treatment and supervision plan that targets both psycho-social deficits and potential risk factors, while concurrently building upon the resiliency and positive traits inherent in the person. To be effective, this approach must include interagency and interdisciplinary teamwork. The CST and MDT commonly consist of a supervising officer, treatment provider, victim representative, polygraph examiner, and other adjunct professionals, where applicable. CST and MDT members, independent of each other, possess critical expertise and knowledge that once shared can enable improved decision-making among the team. This enhances not only public safety but the supervision and accountability of the individual under supervision.

The *Adult* and *Juvenile Standards and Guidelines* are based on research and best practices for managing and treating adult sex offenders and juveniles who have committed sexual offenses. To the extent possible, the SOMB has based the *Adult* and *Juveniles Standards and Guidelines* on evidence-based practices in the field. However, the specialized field of sex offender management and treatment is still developing and evolving. Professional training, literature reviews, and documents from relevant professional organizations have also been used to direct the *Adult* and *Juveniles Standards and Guidelines*. The SOMB will continue to modify the *Adult* and *Juveniles Standards and Guidelines* periodically on the basis of new empirical findings.

In part, the SOMB stays current on research through the work of its active committees. These committees meet on a regular basis and report back to the SOMB to inform potential modifications to the *Adult* and *Juvenile Standards and Guidelines*. The following is a list of the SOMB committees:

1. Adult Treatment Standards Revisions Section 3.000
2. Adult Community Supervision Standards Revisions Section 5.000
 - 2.1. Adult Community Supervision Standards Revisions Section 5.700

- 2.2. Child Contact Assessment Workgroup
- 3. Adult Polygraph Standards Revisions Section 6.000
 - 3.1. Sex History Packet Sub-committee
- 4. SOMB Executive Committee
- 5. Juvenile Standards Revision Committee
- 6. Best Practices (Treatment Provider) Committee
- 7. Victim Advocacy Committee
- 8. Application Review Committee
- 9. Sexually Violent Predator (SVP) Assessment Committee
- 10. Circles of Support and Accountability (CoSA) Advisory Committee
- 11. Training Committee (in Collaboration with the Domestic Violence Offender Management Board)
- 12. Family Support and Engagement Committee
- 13. Sex Offender Registration Legislative Work Group
- 14. Human Trafficking Workgroup
- 15. Community Notification Technical Assistance Team

Report Organization

This annual legislative report consists of four sections. The first section provides a summary of the current and relevant literature concerning research and evidence-based practices. The second section highlights relevant policy issues. The third section highlights the 2017 achievements of the SOMB. This section will include an update to the progress of the SOMB Strategic Plan that was created in 2014 in part in response to the external evaluation of the *Adult Standards and Guidelines*. The fourth and final section provides the future goals and directions of the SOMB.

Section 1: Research and Evidence Based Practices

Co-occurrence of sex offenses and domestic violence

Individuals who abuse their intimate partners are commonly defined as perpetrators of domestic violence. The U.S. Department of Justice (2017) uses domestic violence as a blanket term, and defines it as “a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.” Another term frequently used in research regarding this topic is intimate partner violence, which was introduced to capture violence that occurs in non-domestic intimate relationships and that this type of abuse is not gender specific (Wallace, 2015). Colorado Revised Statutes §18-6-800.3 defines both domestic violence and intimate relationship to encompass any situations where one partner abuses another.³

Intimate partner abuse can also include sexual offending. McFarlane and Malecha (2002) researched 148 women who had protection orders in place. The study reported that 68% of physically abused women in the sample were also sexually assaulted. The authors also noted this is significantly higher than the 9% to 13% reported by other studies that surveyed women in the community (McFarlane & Malecha, 2002). Schafran (2010) reported intimate partner sexual abuse rates between 40% to 75% based on various studies. Davies and Simons (2017) found that **in their study of sex offenders and domestic violence offenders who were currently in sex offense-specific treatment, 53% engaged in sexual violence against their intimate partners, 40% engaged in emotional violence, and 28% engaged in physical violence.** Given the high occurrence rate of sexual abuse among women who are victims of domestic violence, this issue needs more attention from service providers and researchers.

There are many similarities between risk factors for both sexual abuse and physical abuse in intimate partner and domestic violence. Risk factors associated with physical abuse include jealousy and possessiveness, victim isolation, exposure to domestic violence as a child (both offender and victim), and victim pregnancy (Capaldi, Knoble, Shortt, & Kim, 2012; Riggs, Caulfield, & Street, 2000). Risk factors for perpetration of sexual abuse within an intimate relationship include jealousy (specifically suspicions of infidelity), victim pregnancy, victim attempts to leave the abuser, and substance use by the offender (Bergen, 2006). The research on this topic generally falls into three categories: marital rape, intimate partner violence, and juvenile intimate partner violence.

³ (1) “Domestic violence” means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. “Domestic violence” also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(2) “Intimate relationship” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.



Marital Rape

Marital rape is one of the most addressed topics related to the co-occurrence of sex offending and domestic violence offending, both in research and in law. Historically, most societies did not recognize marital rape as rape because it was commonly held that a wife could not be raped since her husband had a right to sex (Bergen, 2006). It was not until 1993 that all 50 states and all U.S. military branches recognized marital rape as a criminal offense (Bergen, 2006; Schafran, 2010). Yet in 2015, 13 states⁴ still had prosecutorial exemptions for individuals who rape their spouse (Byrne, 2015). In majority of these states, marital rape cannot be prosecuted if the assaulting spouse does not use force, if the victim is the husband, and if the couple is cohabitating (even if the victim was drugged, disabled, or otherwise unable to consent) (Byrne, 2015). In Colorado, spousal rape does not have any restrictions and is treated like any other form of sexual assault, and the marriage or relationship cannot be used as a defense for the crime (18-3-402 C.R.S.).

Marital rape typically does not occur in isolation. Women who experience rape by their spouse are likely to also be victims of severe physical violence, threats of violence, and the use of weapons (Bergen, 2006). **Most studies report between 40% and 50% of marital rape victims also experience physical violence, which can occur before, during, or after the rape** (Bergen, 2006; McFarlane & Malecha, 2002). Physical violence and rape are often linked. If the victim refuses sex, then the offender becomes violent, or the offender becomes sexually aroused by the violence and incorporates sex into the assault (Bergen, 2006; McFarlane & Malecha, 2006). One form of physical violence that is frequently associated with sexual assault is strangulation, both fatal and non-fatal (Zilkens, Phillips, Kelly, Mukhtar, Semmens, & Smith, 2016). Strangulation increases the chance of the abuse resulting in attempted or completed homicide by a factor of 7.5 (Armstrong & Strack, 2016; Glass et al, 2008; Zilkens et al, 2016).

Intimate Partner Violence

Intimate partner violence encompasses all forms violence, abuse, violations, and mistreatments committed by one partner against another (Capaldi et al., 2012; Hall, Walters, & Basile, 2012; McFarlane & Malecha, 2002; Wallace, 2015). While physical violence is most frequently associated with the term, sexual abuse, psychological abuse, and other forms of abuse are also common (McFarlane & Malecha, 2002). Specifically, sexual violence can include any form of unwanted sexual contact (Hall et al., 2012; McFarlane & Malecha, 2002). Sexual violence does not necessarily need to involve the use of force, but typically includes coercion, threats of violence, and/or lack of consent (Hall, et al, 2012).

When examining the issue of intimate partner violence, there are several variables that need to be considered in order to get an accurate picture of the abuse occurring (Hall et al, 2012). Hall et al. (2012) aimed to identify the nuances between different forms of intimate partner violence by surveying male probationers. The authors' theoretical model identified four types of abuse, and two subgroups within each type, as follows:

⁴Connecticut, Idaho, Iowa, Maryland, Michigan, Minnesota, Mississippi, Nevada, Ohio, Oklahoma, Rhode Island, South Carolina, and Virginia all have prosecutorial exemptions for marital rape (Byrne, 2015).

1. Physical Abuse: non-lethal potential (moderate physical violence) and lethal potential (severe physical abuse)
2. Sexual Abuse: forced sexual contact and victim unable to consent for any reason
3. Psychological Abuse: emotional/verbal and dominating/isolating (including jealousy)
4. Stalking: contact which involves interaction between the victim and offender, and non-contact which involves surveillance (including cyberstalking)

Among all types of psychological abuse, shouting or swearing at their partner (emotional/verbal) and being jealous or possessive (dominance/isolation) were the most common types, with 74% and 62% of the study group displaying this behavior respectively. The most common forms of sexual abuse were trying to make their partner have sex but where no penetration occurred after refusal and attempting/completing sex while their partner was unable to consent (e.g., asleep, intoxicated, etc.), at 22% and 18% respectively. Among moderate physical abuse, pushing, grabbing, or shoving the partner was most common (38%), while hitting or punching was most common in the severe physical abuse category (13%). Lastly, the most common form of contact stalking behavior was repeatedly following or spying on the partner (9%), and the most common form of non-contact stalking behavior was repeated unwanted phone calls (12%).

Identifying any possible patterns in beliefs and attitudes would be beneficial as much existing research has highlighted these as contributors to domestic and intimate partner violence (Neighbors, Walker, Mbilinyi, O'Rourke, Edleson, Zegree, & Roffman, 2010; Pemberton & Wakeling, 2009; Scott & Straus, 2007). According to Neighbors et al. (2010), domestic violence offenders who committed sexual assaults against their partners had higher normative misconceptions about the prevalence of sexual assault in society. They also found that offenders who engaged in physical violence overestimated social acceptance of violence against partners. Patterns of partner blaming and a sense of entitlement are also seen among domestic violence and sex offenders (Pemberton & Wakeling, 2009; Scott & Straus, 2007). Identifying these types of beliefs and how they contribute to the perpetration of the abuse subtypes found by Hall et al. (2012) would allow for better prevention and treatment strategies.

Juvenile Intimate Partner Violence

Juvenile intimate partner violence depends on the experiences and development of a juvenile not only during their adolescent years, but also into young adulthood (Ramirez, Paik, Sanchagrin, & Heimer, 2011; Sweeten et al., 2016). Research on juvenile intimate partner violence has focused primarily on risk factors and predictive factors that lead to intimate partner violence (Ramirez et al., 2011; Smith, Greenman, Thronberry, Henry, Ireland, 2015; Sweeten, Larson, & Piquero, 2015). **Researchers agree that the strongest influences on juvenile intimate partner violence (both physical and emotional) are peer relationships, early onset of dating and sexual activity, and familial conflicts** (Ramirez et al., 2011; Smith et al., 2015; Sweeten et al., 2016). Peers who engage in violent and delinquent behaviors are more likely to condone dating violence (Ramirez et al., 2011; Smith, 2015). When peers allow violent behavior, even if it is not against an intimate partner, juveniles tend to view violence as a social norm (Ramirez et al., 2011; Smith, 2015). Juveniles who have large, violence-condoning peer networks are the most likely to engage in intimate partner violence, when compared to those who have smaller peer networks and non-violent peer networks (Ramirez et al., 2011). In their study of 1,354 juvenile offenders, Sweeten et al. (2016)

found that 44% of low violence juveniles and 43% of high violence juveniles began dating earlier than their non-violent counterparts. Additionally, those who had multiple sexual and dating partners were also more likely to be violent (Sweeten et al., 2016). Similar to these findings, Ramirez et al. (2011) found that 13% of juveniles who engaged in intimate partner violence had a sexual partner other than the person with whom they were in a relationship. Non-exclusivity with sexual partners was found to more than double the chances of intimate partner violence. Interestingly, those who made a virginity pledge were also two times more likely to engage in intimate partner violence (Ramirez et al., 2011). Researchers attributed this finding to heightened jealousy because of higher commitment standards (Ramirez et al., 2011). Finally, dysfunctional or turbulent home lives also contributed to the likelihood for juveniles to engage in intimate partner violence (Ramirez et al., 2011; Smith et al., 2015; Sweeten et al., 2016). Juveniles who experience family violence, especially between parents, along with lower socioeconomic backgrounds, were more likely to engage in intimate partner violence (Ramirez et al., 2011; Smith et al., 2015; Sweeten et al., 2016). In a study of juveniles who were adjudicated for felony or serious misdemeanor charges, Sweeten et al. (2016) reported that 27% engaged in physical violence against an intimate partner, 67% engaged in emotional violence, and 69% of the total sample engaged in some form of violence.

Researchers agree that early intervention among at-risk juveniles reduces the likelihood of intimate partner violence in adulthood (Ramirez et al., 2011; Smith et al., 2015; Sweeten et al., 2016).

Interventions should focus on juveniles who engage in sexual activity from an early age, those who engage in peer violence or socialize with violent peers, and those who come from homes that are known to be violent (Ramirez et al., 2011; Smith et al., 2015). Ramirez et al. (2011) recommended targeting students who were in middle school to have the most impactful intervention. Additionally, Smith et al. (2015) noted that pregnant teenagers should also be targeted as they are facing additional stressors which may contribute to both the perpetration of and the victimization of intimate partner violence. Both male and female students should be included in these interventions as the predictive factors for engaging in intimate partner violence were similar for both genders (Smith et al., 2015).

Summary

Overall, the co-occurrence of domestic violence offenses and sex offenses is a topic that needs to be kept in mind when treating and supervising these populations. Understanding the motivations behind the offense is key in successful intervention efforts. Existing research has indicated a higher prevalence of co-occurrence than previously thought and suggests that the offenders who do commit both types of offenses may be of higher risk to victims and the community. Fortunately, Colorado law recognizes the seriousness of sex offenses committed against a spouse or intimate partner, however additional steps could still be taken. Identifying this co-occurrence during evaluation will allow for more appropriate treatment and supervision by addressing both of the problematic behaviors, instead of just focusing on one offense type. Additionally, intervening with juveniles at early stages through working with schools can act as a powerful prevention tool for both sex offenses and domestic violence offenses among this population.

Child Sexual Abuse Images

The increasing capability of mass communication through the internet has amplified availability and demand for child pornography (Henshaw et al., 2017). Within this subject, there are several different

definitions that are used interchangeably, and some that have been more recently suggested by new studies. The term “child pornography” has traditionally been used to describe photographs, videos, and other forms of media depicting minor children engaged in sexually explicit activities or poses. More recently, clinicians, victim advocates, and other social services professionals have moved toward the term “child sexual abuse images” since it more clearly captures the traumatization and continuous victimization of the children depicted (U.S. Department of Justice, 2017). The U.S. Department of Justice uses the term child pornography or child pornography images, defined as “visual depictions include photographs, videos, digital or computer generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor.” it is also important to remember that legal images, such as those found in children’s clothing catalogs, can also be sexually stimulating to some offenders (Haupten et al., 2014).

The United States Department of Justice (2017) discusses the prolonged damage child sexual abuse images cause. **Once the images are shared online, there is no means to remove them, leading to potential life-long re-traumatization of the victim** (Bazelon, 2013). This online forum also allows offenders to interact with other offenders, creating relationships that support the continued use of these exploitive materials (U.S. Department of Justice, 2017). This sense of community can perpetuate cognitive distortions surrounding the use of child sexual abuse images, making this behavior seem acceptable (Haupten et al., 2014). The actual prevalence of this type of offending is currently unknown since most child sexual abuse image offenders go undetected, however researchers have made estimations based on self-report studies (Henshaw et al., 2017).

Offender Characteristics

Researchers have identified new categories for offenders who use child sexual abuse images (Elliott, Beech, Mandeville-Norden, 2013; Henshaw et al., 2017; Seto, 2017). These categories include the following:

- Offenders who use child sexual abuse images with no contact offenses⁵ (child pornography offenders, sexually explicit material involving children offenders, online child pornography offenders),
- Offenders who use both child sexual abuse images and commit contact offenses (referred to as mixed, cross-over, or dual offenders),
- Offenders who seek sexual contact with children through online platforms (online grooming, online solicitation, child sexual tourism/trafficking offenders),
- Offenders responsible for the production and online distribution of child sexual abuse images

Most research has focused on offenders who use child sexual abuse images but have no known contact offenses, and those who are “mixed offenders” with both online and contact offenses. In these studies, several commonalities and some differences were identified between the two groups, suggesting that these are two distinct types of offenders. The demographics of these offenders are strikingly similar,

⁵ Contact offenses can be defined as offenses where there was physical sexual contact with a child victim (Elliott et al., 2017).

with both types of offenders typically single white men between the ages of 25 to 50 (although some studies list late 30s to mid-40s), who are intelligent and well-educated (Bourke & Hernandez, 2009; Elliott et al., 2013; Houpten et al., 2014; Neutze, Grundmann, Scherner, & Beier, 2012; Seto, Cantor, & Blanchard, 2006). **Pedophilia⁶ is also commonly found among these types of offenders, and there is empirical support for sexual child abuse images being a predictive factor of pedophilia** (Galbreth, Berter, & Sawyer, 2002; Henshaw et al., 2017; Neutze et al., 2012; Seto, 2017; Seto, Sandler, & Freeman, 2017; Seto, Stephens, Lalumière, M., & Cantor, 2017; Seto et al., 2006). There is also empirical support showing that multiple paraphilias⁷ are found among child sexual abuse offenders, including child sexual abuse image offenders, and may increase recidivism (Kuhle, Schlinzig, Butcher, & Beier, 2017; Mann, Hanson, & Thornton, 2010). For child sexual abuse image offenders, having additional paraphilias (in addition to pedophilia) appears to be a risk factor, where voyeurism⁸, coprophilia⁹, and urophilia¹⁰ have the largest effect (Kuhle et al., 2017). Conversely, some research has suggested that having additional paraphilias, specifically fetishism¹¹, is actually a protective factor for contact offenders (Kuhle et al., 2017). Since the relationship has not been clearly established, more research is needed on the subject.

Table 1: Similarities and Differences between Online-Only and Mixed Offenders

Characteristics of Online-Only Offenders (Group A)	Characteristics of Mixed Offenders (Group B)	Characteristics Found in Both Groups A and B
Focus on minimization (e.g., 'other offenders are more dangerous because of actual physical sexual contact')	Higher levels of victim empathy when compared to online only and contact only offenders	Cognitive distortions are similar to child sexual abusers (e.g., minimization, justification, etc.)
Better socially adjusted than mixed and contact offenders	Poor self-management and lower self-control	Higher rates of pedophilia than contact only offenders (they are three times more likely to be diagnosed as a pedophile)
Less criminal history	Relate to fictional characters and engage in more sexual fantasy	Tendency to try and objectify children seen in child sexual abuse images
High levels of sexual deviance and sexual preoccupation	Peer networks supporting contact offending and cognitive distortions	Likely to have been sexually abused as children (11-26%)

⁶ Pedophilia: sexual interest in prepubescent child or children (generally age 13 years or younger).

⁷ Paraphilia: sexual interest in non-physically mature or non-consenting human partners, or sexual interest in non-sexual things.

⁸ Voyeurism: deriving sexual arousal from observing an unsuspecting person who is naked, in the process of disrobing, or engaging in sexual activity.

⁹ Coprophilia: deriving sexual arousal from feces.

¹⁰ Urophilia: deriving sexual arousal from urine.

¹¹ Fetishism: deriving sexual arousal from either the use of nonliving objects or non-sexual body parts
Above listed definitions per the DSM-V.

Risks for Mixed Offending

Several studies have looked at the occurrence of mixed offending, where an individual commits both online and contact offenses. These studies rely on self-reported information provided by the offenders since most online offenses, like most sexual offenses, go unreported and undetected, making it difficult to get accurate statistics on online only offenders and those who engage in both online and contact offending (Bourke & Hernandez, 2009; Henshaw et al., 2017; Neutze et al., 2012; Neutze, Seto, Schaefer, Mundt, & Beier, 2011; Seto et al., 2006). **Existing research estimates that between 55% and 85% of known online offenders also committed unreported contact offenses**, according to self-report during sex offense specific treatment (Bourke & Hernandez, 2009; Seto et al., 2011). It should be noted that no causal relationship between child sexual abuse images and contact offending has been established, making it difficult to empirically substantiate if the use of child sexual abuse images is itself a risk factor for contact offending or vice versa (Henshaw et al., 2017). Additionally, emerging research suggests that offenders who are exclusively online-offenders have lower recidivism rates than those who commit both types of offenses, implying that mixed offenders are a higher risk group (Babchishin, Hanson, & VanZuylen, 2015).

Having access to children increases the chance of contact offending, particularly when the offender has low self-control (Haupten et al., 2014). The amount and severity of child sexual abuse images procured by the offender may also act as a risk factor for mixed offending because prolonged exposure can contribute to overall desensitization and sexual objectification of the victim (Haupten et al., 2014). Engaging in cognitive distortions and displaying low victim empathy also increase the risk for contact offending (Haupten et al., 2014). Research has found that offenders who engage in sexual fantasies focusing on children have a higher chance of reoffending sexually (Neutze et al., 2012). Much like cognitive distortions, deviant fantasies can cause the offender to view victims as fictional characters who are playing a role in the offender's sexual fantasy, therefore reducing the perceived harm caused to the victim (Elliott et al., 2013). The most serious risk factors for mixed offending identified by the research (Elliot et al., 2017; Haupten et al., 2014; Neutze et al., 2012; Seto et al., 2006) are the following:

- Pedophilia,
- Deviant sexual fantasy focused on children,
- Peer networks supporting cognitive distortions and contact offending (both online and offline peer networks),
- Prior criminal history of any kind, and
- Elevated levels of anti-sociality (consistent disregard for the feelings or wellbeing of others)

While research estimates a relatively high occurrence rate of mixed offending, accurate rates are difficult to measure because these offenses often go unreported. Another unknown is if the contact offense typically occurs before, during, or after the online offending. **What research has indicated repeatedly, however, are the risk factors. These include engaging in cognitive distortions (minimization, justifications, etc.), poor self-control, peer networks supporting contact offending, and access to children.** Additionally,



pedophilia is common among the mixed offender population. Knowing more about this subject and incorporating emerging research will allow for better risk assessment of offenders and ideally, prevention of future victimization.

Sexual Assault Against College Students

Sexual assaults where college students are the victims differ from other types of sexual assaults because it involves not only the victim and offender, but the sexual assault involves the secondary education institutions who are tasked with handling such situations. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, passed in 1990, requires higher institutions to submit yearly data to the U.S. Department of Education regarding certain crimes on campus including sexual assault (Yung, 2015). These reports are helpful, especially when paired with local reporting rates and the National Crime Victimization Survey (NCVS) (Beaver, 2017; Rennison & Addington, 2014; Young, 2015). It is difficult to identify accurate rates because different definitions are used by various agencies (Rennison & Addington, 2014)¹².

Prevalence

Two of the best estimates of the prevalence of sexual assaults against college students (both on and off of campus) are the annual NCVS and the Campus Climate Survey Validation Study (CCSVS) conducted by the U.S. Bureau of Justice Statistics (BJS) (Krebs et al., 2016; Langton & Sinozich, 2014).¹³ The NCVS is a national survey that includes approximately 160,000 participants ages 12 and older (annually), providing a large and nationally representative sample (Langton & Sinozich, 2014). The survey asks about several different types of crimes, including rape and sexual assault. In 2014, the BJS published a report on rape and sexual assault among college-aged (18 to 24) females between 1997 and 2013 that **estimated a rate of rape and sexual assault of females in college was approximately 6 per 1,000** compared to almost 8 rapes or sexual assaults per 1,000 same age females not enrolled in college, during that same time period (Langton & Sinozich, 2014).

The CCSVS results indicated higher incidents of sexual assaults. This survey included only undergraduate students who were at least 18 years of age, and who lived on campus during the 2014-2015 academic school year on nine different college campuses (Krebs et al., 2016). Unlike the NCVS, the CCSVS is not nationally representative. The CCSVS used three definitions for their study on sexual assaults:

¹² U.S. Department of Justice: "Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape."

Federal Bureau of Investigation Uniform Crime Report: "Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Attempts or assaults to commit rape are also included; however, statutory rape and incest are excluded."

C.R.S. §18-3-402, define sexual assault as knowingly penetrating or sexually intruding upon a victim. This includes the victim being forced against their will, the offender assaulting the victim under the guise of medical treatment, the victim is unable to consent, and if the victim is under the age of consent.

¹³ While the Campus Sexual Assault (CSA) and the American Association of Universities' (AAU) Campus Climate Survey on Sexual Assault and Sexual Misconduct are frequently cited for the prevalence of sexual assaults, there have been newer studies published that are considered to be more generalizable to university campuses across the nation.

- **Sexual assault** was defined as any unwanted and nonconsensual contact that involved either sexual battery or rape (Krebs et al., 2016).
- **Sexual battery** includes any unwanted and nonconsensual contact that involved forced touching of a sexual nature, not including penetration (Krebs et al., 2016).
- **Rape involves** any unwanted and nonconsensual sexual contact including a penetrative act (oral, anal, or vaginal) with a finger or objects (Krebs et al., 2016).

The survey found that, during the 2014-2015 school year, 10.3% of female students and 1.4% of male students were victims of completed sexual assault (Krebs et al., 2016). These numbers did increase when looking at completed sexual assaults since the student entered college, with approximately **21% of female students and 7% of male students reporting being victims of completed versus attempted sexual assault since beginning college** (Krebs et al., 2016). The survey also found that there were 176 incidents of completed sexual assault per 1,000 female students, with 5.6% of respondents reporting one incident, 3.1% reporting two incidents, and 1.6% reporting three or more incidents (Krebs et al., 2016). For males, there were a total of 53 incidents of completed sexual assaults per 1,000 male students with some students experiencing multiple victimizations. Specifically, 1.8% male students reported one incident, 0.9% reported two incidents, and 0.4% reported three or more incidents (Krebs et al., 2016).

Underreporting

These study results are likely underestimates because research shows that victims are reluctant to report sexual assaults (Beaver, 2017; Hayes, Abbott, & Cook, 2016; Langton & Sinozich, 2014; Rennison & Addington, 2014; Yung, 2015). Underreporting of sexual assaults occurs for a variety of reasons, but according to the research, the most common reasons are because the victim did not know he or she was victimized, the victim did not think anyone would believe they were victimized (especially if drugs or alcohol were involved and the victim is under age 21), and fear of backlash for reporting (Beaver, 2017; Hayes et al., 2016; Rennison & Addington, 2014; Yung, 2015). In some cases, even when the victim did report the assault, school officials will choose to treat the case as an internal matter of less severity in order to protect the school's reputation (Yung, 2015). Some victims believe the assault was not important enough to report (Langton & Sinozich, 2014). Victims often believe that they will be ostracized from social groups because they report sexual assaults, especially if the social group believes in rape myths (Hayes et al., 2016; Yung, 2015). Rape myths are misconceptions about rape and sexual assault that minimize injury, place the blame on the victim, and distort the importance of consent (Armstrong et al., 2006; Hayes et al., 2016). Hostility toward complainants tends to be higher when the student body believes that false reporting is high, if the victim was engaging in alcohol or drug use, or if the victim is presumed to have multiple partners (Flack, Hansen, Hopper, Bryant, Lang, Massa, & Whalen, 2015; Yung, 2015).

Rape Myths

Armstrong et al. (2006) identified three types of rape myth seen frequently on college campuses: individual determinants, rape culture, and specific setting. Individual determinants focus on characteristics of either the victim or the offender, such as sexual history, gender roles, or family history. **Rape culture shifts the responsibility from the offender to the victim, suggesting that the victim should or could have done something to prevent the**



assault. Lastly, specific setting explores how the setting, such as a fraternity house or a bar, can affect how people view the assault.

Furthermore, society frequently has a false concept of “real rape”: a forcible rape of an innocent woman by a stranger who wielded a weapon (Addington & Rennison, 2008). Under this paradigm, the victim must prove that they did not consent to the sexual act, regardless of the specific situation (Addington & Rennison, 2008). Another popular rape myth is that there is a large number of false accusations made by female students (Hayes et al., 2016; Yung, 2015). Hayes et al. (2016) found that men believed in rape myths more frequently, and those who believed in them were more likely to have peers who believed the same. Unfortunately, these rape myths also impact sexual assault prevention strategies implemented by universities because they tend to focus on target hardening, suggesting that the potential victim needs to change to prevent sexual assaults (Armstrong et al., 2006; Hayes et al., 2016). Examples of target hardening strategies include things like distribution of rape whistles, setting up sexual assault hotlines for people who have been victimized, and endorsing events like “Take Back the Night” (Armstrong et al., 2006). Beaver (2017) reported that **a more effective prevention approach is to work on training bystanders to recognize victimization or potential victimization, and intervene.** This type of intervention can change the perception of sexual assaults and make them socially unacceptable.

Alcohol Consumption and Other Risk Factors

Alcohol consumption, although it does not cause sexual assault, appears to have a strong relationship with the potential for sexual assault to occur with an estimated 50% of all campus sexual assaults involving alcohol consumption (Armstrong et al., 2006; Beaver, 2017; Flack et al., 2015; Hayes et al., 2016). According to Rennison and Addington (2014), **only 26.2% of completed rapes and 32.4% of attempted rapes against female students are committed by sober offenders.** Having many young adults living in close proximity intensifies peer pressure, promotes “partying activities” (i.e., alcohol and drug use), and increases social interactions with strangers or new acquaintances (Armstrong et al., 2006; Garland, Calfano, & Wodhal, 2016). Some research suggests that majority of sexual assaults do not occur on the main campus, but at off-campus locations frequented by students (Armstrong et al., 2006; Rennison & Addington, 2014). Approximately two-thirds of sexual assaults occur at off-campus student housing (e.g., fraternity or sorority houses), off-campus parties, and other locations associated with off-campus student life (Armstrong et al., 2006; Rennison & Addington, 2014). Additionally, alcohol consumption increases the prevalence of casual sexual encounters, which are social interactions including a range of sexual behaviors where the intent is not to establish a long-lasting relationship (Flack et al., 2015). Binge drinking and having casual sexual encounters are both seen as more provocative behaviors for female students, and often contribute to the rape myths, particularly that the assault was the victim’s fault for engaging in these behaviors (Hayes et al., 2016). These casual sexual encounters often involve the use of alcohol as a date-rape drug, where the offender either encourages the victim to drink until he or she is incapacitated or specifically targets victims who are already incapacitated (Flack et al., 2015; Hayes et al., 2016).

Acknowledging the issues discussed will allow for a change in narrative, by supporting victims, dispelling rape myths, and correctly identifying individuals who pose a threat to the community. In the instance of sexual assaults against college students, contributing factors for perpetration and victimization are known, however a change in interventions is required. Addressing things like rape myths, underreporting, and victim-blaming will allow for better prevention and treatment of both

offenders and victims. Campuses should focus on educating students and staff on how to intervene if they see victimization occurring, on what qualifies as sexual assault, and what the consequences are.

Cognitive Distortions

Cognitive distortions in the context of sexual offenses are statements and beliefs that allow individuals to rationalize, justify, excuse, minimize, deny, or otherwise support his or her sexual offending behavior (Helmus et al., 2013; Nunes & Jung, 2012). **These thoughts can become problematic when addressing the sexually abusive behavior in treatment as they become defense mechanisms which reduce responsivity to the change process** (Yates, 2009). Research indicates that high engagement in cognitive distortions about sex offending is correlated with high denial and minimization of one's own guilt (Nunes & Jung, 2012). Individuals who exhibit cognitive distortions tend to place blame on external elements in an attempt to make the offense more acceptable (Nunes & Jung, 2012). Some examples frequently seen with sex offenders are that their behavior was uncontrollable, that sexual abuse is acceptable under some circumstances, or that the world is a hostile place and their behaviors are misunderstood (Haupten et al., 2014). Cognitive distortions can present themselves in different ways. While some of the terms are used interchangeably, the research has typically identified the following three categories: minimization and denial, feelings of entitlement, and offense-supportive attitudes, which are described below (Helmus et al., 2013; Nunes & Jung, 2012; Pemberton & Wakeling, 2009).

Minimization and Denial

According to Nunes and Jung (2012), minimization and denial are often used together or interchangeably as there can be varying levels of each and they are often linked. Minimization can be defined as attempts to downplay responsibility for the offense or harm to the victim. Denial tends to focus more on claims of innocence, where the offender refuses to or cannot see any harm caused by their action. There is debate among researchers regarding denial as a risk factor for recidivism in sex offenders, however, there is empirical support suggesting that denial is a risk factor specifically for intra-familial offenders (Yates, 2009). Offenders who minimize their offenses do not necessarily outright deny their responsibility, but rather imply that there was little or no harm caused by their actions (Nunes & Jung, 2012).

Attitudes of Entitlement

Entitlement is when the offender believes that they are superior to and more important than others, without regard for potential harm (Helmus et al., 2013; Pemberton & Wakeling, 2009). After reviewing existing literature, Pemberton and Wakeling (2009) identified four types of entitled attitudes found across all types of sex offenders, including rapists, intra- and extra-familial child offenders, and those who commit sexually motivated homicides. The first type of attitude identified in research is offenders viewing victims as property (e.g., "she is mine - I own her"). The next attitude identified is that sex is the offender's right because of his or her relationship to the victim (e.g., "I'm not raping her, she's my wife", "She's mine to do what I want with" [as a father]). Third, attitudes regarding offenders viewing sexual acts with the victims as their birthright as a male (e.g., "They (women) don't have a right to say no"). The last type of attitude is when offenders believe they are the only ones who matter (e.g., "I didn't care what she got out of it. I was only interested in what I wanted").



Offense-Supportive Attitudes

Offense-supportive attitudes resemble entitlement attitudes, but differ from minimization and denial because offense-supportive attitudes do not acknowledge any wrongdoing (Helmus et al., 2013). In fact, offenders with offense-supportive attitudes go further than not acknowledging any wrongdoing - they believe their actions were acceptable, and they endorse the behavior in others (Helmus et al., 2013). In their meta-analysis, Whitaker et al. (2008) found that child sexual abusers endorsed more offense-supportive attitudes, such as “sex with children is harmless” and “some children are provocative,” than did participants who were non-sex offenders and non-offenders. Along the same lines, rapists were more likely to engage in so-called “rape myths¹⁴,” such as “women deserve it” and “they asked for it by the way they dressed,” than non-sex offenders (Helmus et al., 2013). In their meta-analysis, Helmus et al. (2013) found that attitudes supportive of sexual offending had a significant positive relationship with general recidivism. They also found that offense-supportive attitudes were predictive of sexual recidivism, especially for child sexual abuse offenders. An additional conclusion drawn from this study is that offense-supportive attitudes of offenders were often supported by peer networks and social groups. These social groups do not need to be deviant in nature, but can include beliefs often held by the public, like victim blaming or the value of male dominance in relationships (Helmus et al., 2013).

Female Sex Offenders

Although less research has been conducted on female sex offenders, Strickland (2008) found similar cognitive distortions among the women sampled. The main forms of cognitive distortions seen in these offenders were lack of accountability, by blaming outside circumstances such as their own abuse and victimization to justify their actions. Interestingly, Strickland (2008) noted that many of the cognitive distortions by female sex offenders also occurs within society, where the harm caused by the female offender is minimized because of the nurturing and gentle role assigned to women in general.

Juveniles Who Commit Sexual Offenses

Juveniles exhibit many of the same cognitive distortions as adults, especially offense-supportive attitudes, according to McCrady et al., (2008). Examples include attributing a rape to the victim’s promiscuity or blaming a theft victim for being careless. Much like adult male sex offenders, cognitive distortions displayed by juveniles who have committed sex offenses seem to be exclusively for a self-serving purpose. Where adult sex offenders hold attitudes of entitlement or superiority that do not necessarily protect the offender in any specific way, most cognitive distortions in juveniles are for the purpose of deflecting blame and minimizing responsibility (Helmus et al., 2013; McCrady et al., 2008; Pemberton & Wakeling, 2009). Additionally, McCrady et al. (2008) found that both sex-specific and generic cognitive distortions contributed to a lack of empathy toward victims and general minimization of harm. This research is valuable because these cognitive distortions can become essential targets in treatment.

Summary

Cognitive distortions are arguably one of the greatest barriers to successful treatment and supervision of sex offenders and juveniles who commit sex offenses. Identifying them within individuals and then effectively addressing them will allow for greater reduction in future offending. Additionally,

¹⁴ See section on Campus Sex Offenses for more information on rape myths.

knowledge of these can assist in early interventions that target these beliefs and aim to change them. Cognitive distortions may also be good indicators of past traumas which need to be addressed in treatment.

Section 2: Relevant Policy Issues and Recommendations

Juvenile Sexting

Sexting is the practice of sending or receiving sexually explicit images (including photographs or videos) via cellphone (Barkacs & Barkacs, 2010; Hasinoff, 2017; Strassberg et al., 2014; Woodward et al., 2017). While sexting by adults of adult images is not illegal (absent harassment), an issue arises when juveniles engage in this behavior since these sexually explicit images are considered child pornography in many states (Hasinoff, 2017; Strassberg et al., 2014). Woodard et al. (2017) identified two different types of sexting - aggravated and experimental. **Aggravated sexting refers to distributing an explicit photo of another juvenile without their consent, or when one party in the exchange is an adult. Experimental sexting is defined as sexual expression and exploration between consenting juveniles.**

In May of 2017, the U.S. House of Representatives passed the *Protecting Against Child Exploitation Act*, which would impose a mandatory minimum sentence of 15 years for juvenile sexting.¹⁵ This bill does not differentiate between consensual and coercive behaviors between juveniles who sext, nor does it recognize the lack of education on the topic. Instead, it relies on the idea that stiff penalties will reduce the behavior but any deterrence based theory is not supported by research (National Institute of Justice, 2016).

Colorado House Bill 17-1302 (C.R.S. §18-7-109), effective January 1, 2018, does differentiate between consensual and nonconsensual behaviors, as outlined below. HB 17-1302 recognized that there are clear consequences and negative repercussions that can occur because of sexting, which should not be ignored. Nevertheless, research has found that sexting appears to mostly be normal sexual exploration in juveniles and that it is not necessarily indicative of delinquency, deviance, or future reoffending (Barkacs & Barkacs, 2010; Strassberg et al., 2014; Temple, Paul, van den Berg, Le, McElhany, & Temple, 2012; Woodward et al., 2017). For more information, please see Appendix B.

¹⁵ H.R. 1761 "Protecting Against Child Exploitation Act of 2017" amends section 2251 of title 18, U.S. code. This bill is currently under review by the Senate Judiciary Committee.

Table 2: Colorado House Bill 17-1302 Sentencing

Offense	Committed if juvenile:	Penalty	Enhanced to:
POSTING	Knowingly distributes, displays or publishes image another who is at least 14 or is less than 4 years younger <i>without permission</i> ; OR of him/herself if the recipient didn't request it and suffered emotional distress; OR the poster knew or should have known that the depicted person had a reasonable expectation of privacy.	<u>Class 2 Misdemeanor</u>	<u>Class 1 Misdemeanor</u> if: Intent to coerce, intimidate, threaten, or cause emotional distress; OR Prior posting of a private image and completion of a diversion or educational program; OR a prior adjudication; OR Posted 3 or more images of separate persons.
POSSESSION	Knowingly possesses image of another who is at least 14 or is less than 4 years younger <i>without permission</i> .	<u>Petty Offense</u>	<u>Class 2 Misdemeanor</u> if: possessor has 10 or more images depicting 3 or more separate persons.
EXCHANGING	Knowingly sends an image of self to another who is at least 14 or is less than 4 years younger and reasonably believed the recipient agreed; or Knowingly possesses an image of another who is at least 14 or is less than 4 years younger and reasonably believed depicted person agreed.	<u>Civil Infraction</u> May be required to participate in an educational program designed by CSSRC or a fine up to \$50 which may be waived.	

Source: Colorado Department of Public Safety, School Safety Resource Center. Table used with the permission of the School Safety Resource Center.

Prevalence

Research shows that between 20-39% engage in either sending or receiving sexually explicit images (Temple et al., 2012; Strassberg et al., 2014; Strohmaier et al., 2014; Woodward et al., 2017). In their study of high school sexting prevalence, Strassberg et al. (2014) found that 19% of their sample of college students had sent explicit photos of themselves while in high school, 38% had received explicit photos, and almost 19% of those who received explicit photos shared them with others who were not the intended recipients. They also found that girls were more likely to send photos to their partner (82%) than to friends (15%) or people with whom they wanted to have casual sexual encounters (2.4%). Boys were also most likely to send images to their partner (54%) than to friends (31%) or people with whom they wanted to “hook up” (19%). Woodward et al. (2017) found that among their sample of high school students, 31% reporting having sent explicit photos and 49% reporting having received explicit photos. Temple et al. (2012) reported that 68% of girls and 42% of boys in their sample of high school students were asked by someone else to send a photo of themselves.

Normal Sexual Behavior

Sexting has been identified by several researchers as part of normal teenage sexual exploration and should not immediately be seen as deviant or problematic (Batastini et al., 2011). Since text messaging has become a norm for communication, it is not surprising that sexting is an extension of teen sexual behavior. Research has found that juveniles are engaging in more sexual activities at earlier ages



overall, not just sexting (Batastini et al., 2011; Stevenson, Najdowski, & Wiley, 2013). As an example, researchers found that 46% of high school students have had sexual intercourse, and 55% engaged in oral sex (Stevenson et al., 2013). **Therefore, sexting may be a natural extension of sexual exploration for many teenagers.**

Risk Factors

Woodard et al. (2017) found that those who sent and/or received sexts were on average 16 years old, predominantly non-Hispanic/white, and typically engaged in more high risk activities than those who did not engage in sexting. More specifically, consuming alcohol increased the probability of having sent an explicit image for both male and females. While alcohol certainly decreases inhibitions, it does not directly cause any untoward sexual behaviors. Having tried marijuana and having bullied someone else increased the odds for males, while being a victim of bullying and having committed a property offense increased the odds specifically for females. In fact, Woodard et al. (2017) found that **those juveniles who sent and received sexted images were six times more likely to be bullied compared to those who did not engage in this behavior.** Temple et al. (2012) found that most teenagers in their study were at least somewhat bothered by being asked to send explicit images of themselves, suggesting some level of peer pressure or coercion might be present.

Research indicates that consensual sexting marked by natural sexual exploration poses relatively few problems as long as both parties remain respectful of privacy (Hasinoff, 2017; Woodard et al., 2017). Unfortunately, this is not always the case with juveniles engaging in aggravated sexting by distributing or sharing images of other juveniles with unintended recipients, and this behavior often leads to serious consequences (Hasinoff, 2017; Strassberg et al., 2014; Woodard et al., 2017). It was discovered in one Pennsylvania school district that boys were “trading” sexually explicit images with each other (Barkacs & Barkacs, 2010). In that particular case, the girls who initially sent the images to the intended recipient faced criminal charges, but there were no consequences for the boys who distributed them to twenty other students.

Although there is not much research on the subject, it appears that one of the biggest and least talked about issue is the privacy violation that occurs when sexually explicit images are shared with others (Hasinoff, 2017). As noted previously, sending sexts increases the risk of being bullied significantly, which is especially true for females (Woodard et al., 2017). Barkacs and Barkacs (2010) report that approximately 15% of boys admit to distributing explicit images of their ex-girlfriends post-breakup. This is evidently not an uncommon practice and has been noted by other research as well (Stone, 2011; Strohmaier et al., 2014). The common reaction to this bullying is victim-blaming or “slut-shaming” for having sent the sexually explicit images in the first place (Hasinoff, 2017; Woodard et al., 2017). The media often portrays those who disseminated the sexually explicit images messages as having made a teenage mistake (even if it was done in a retaliatory or malicious manner) that it was the girl’s fault for taking and sending the images to someone (even if that person was their significant other), and that the disseminator is being treated unfairly by the justice system (Hasinoff, 2017). The glaring issue with this is that there was a gross violation of privacy, a disregard for consent, and the act was done in a malicious manner with the intent to hurt the sender (Hasinoff, 2017).

Summary

The consensus among researchers seems to be that, in most cases, sexting is an extension of natural sexual exploration among teens (Batastini et al., 2011; Hasinoff, 2017; Woodard et al., 2017). This type

of sexting should not be seen as a legal issue, rather a social one where teens need to be educated on the potential risks of sexting (Woodard et al., 2017). Research has established that teens do not understand the potential consequences, including both social and legal ones (Strohmaier et al., 2014). On the other hand, **when privacy violations occur and sexually explicit images are distributed to unintended recipients, there needs to be a more serious intervention to counter this malicious behavior** (Barkacs & Barkacs, 2010; Hasinoff, 2017; Woodard et al., 2017). One subject that needs attention, which has not been addressed in the research, is the implications of unsolicited sexting.

Recommendations

Based on these research findings, the SOMB makes the following recommendations:

- 1) Promote collaboration between the School Safety Resource Center and the SOMB, when appropriate.
- 2) Establish criteria for risk levels and implement appropriate interventions based on risks and needs.
- 3) Provide education and training for school officials, School Resource Officers, judicial officers, students and their families (specifically on normal sexual behaviors of teenagers, potential consequences of sexting, and aggravated sexting, such as revenge porn or unsolicited sexts).

Registration of Juveniles Who Have Committed Sexual Offenses

The registration of juveniles who are adjudicated of sexual offenses has come under question in many states, with concerns that the associated collateral consequences hinder the therapeutic process and potentially decrease community safety. **The registration requirements imposed on many juvenile offenders have been shown to increase risk factors and negatively impact protective factors** (Batastini et al., 2011; Harris et al., 2016). Additionally, efforts that attempt to manage treating juveniles adjudicated of sex offenses like adult sex offenders has raised concerns about the potential negative impacts on adolescent development (Batastini et al., 2011). While this does not suggest doing away with registration for all juveniles, since some are a high risk to community safety, adjusting the requirements to meet juvenile needs would be appropriate. There are many differences between adult and juvenile offenders, including financial independence, brain development, and reliance on others.

Background

The federal sex offender registration and notification (SORN) requirement on the states began in 1994. The target of these laws was adult sex offenders with the intent of improving community safety by informing law enforcement and the public about these crimes. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) in the U.S. Department of Justice

provides a detailed timeline of the legislation passed regarding registered sex offenders. The legislative history is detailed below.¹⁶

- **1994 - Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act**
 - Established baseline standards for states to register convicted sex offenders with law enforcement.
 - Established a special class of offenders, "Sexually Violent Predators" (SVPs).
 - Required law enforcement address verification every 90 days for SVPs and annually for all other sex offenders.
 - Required SVPs to register with law enforcement for life and all other sex offenders to register for 10 years.
 - For SVPs, provided for discretionary public notification procedures when necessary to protect the public.
- **1996 - Megan's Law**
 - Mandated public disclosure of information about registered sex offenders. Provided that information collected under state registration programs could be disclosed for any purpose permitted under state law.
- **2006 - Adam Walsh Child Protection and Safety Act** (replaced the Wetterling Act and Megan's Law)
 - Created a new baseline of sex offender registration and notification standards for jurisdictions to implement, including the registration of juveniles.
 - Expanded the definition of "jurisdiction" to include 212 federally recognized Native American tribes; of which 197 have opted to establish sex offender registration and notification systems.
 - Expanded the number of sex crimes that must be captured by registration systems to include all state, territory, tribal, federal and Uniform Code of Military Justice sex offense convictions, as well as certain foreign sex crime convictions.
 - Created the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) in the U.S. Department of Justice, Office of Justice Programs, to (1) administer standards for sex offender notification and registration, (2) administer grant programs authorized by the Adam Walsh Act, and (3) coordinate related training and technical assistance.

¹⁶ <https://www.smart.gov/legislation.htm>

- Directed the Department of Justice to establish the Dru Sjodin National Sex Offender Public Website (www.NSOPW.gov) to provide a single point of access to search all state, tribal and territory sex offender registry websites.
- Established a Sex Offender Management Assistance program within the Department of Justice.

Specifically, the *Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006* (SORNA), set standards for registration and notification to include “juveniles [who are] at least 14 years’ old who are adjudicated delinquent for particularly serious sex offenses.” In the *Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration and Notification Act*, the Attorney General’s office provides additional provisions for juvenile registration. Specifically, certain juveniles who are adjudicated of lesser sex offenses do not need to be included in all registration requirements. Jurisdictions are also allowed to exempt from publicly disclosing information regarding juvenile offenders adjudicated of a sexual offense.

Since its implementation, notification for juveniles is no longer required by the *Adam Walsh Act*. As of 2016, 40 states^{17,18} (including Colorado) still have statutes mandating the original SORN requirements for juveniles including notification (Impact Justice, 2016.). Additionally, state statute requires juveniles to register in Colorado if they were required to register in another state, even if they were previously granted relief and removed from the registry.¹⁹ Juveniles are required to register for life automatically, but can petition to be removed from the registry after they successfully complete their sentence as long as they have not been convicted of or have pending charges for any other offense, including unlawful sexual behavior.²⁰

¹⁷ In the 2014 case of *J.B.*, No.87 MAP 2014, the Pennsylvania Supreme Court ruled that juvenile lifetime registration was unconstitutional. However, this was not known at the time the Impact Justice chart was developed. According to the Pennsylvania State Police Website “juveniles are no longer required to register..., except if they are classified by the Court as a Sexually Violent Delinquent Child”.

¹⁸ See Table 1 for full list.

¹⁹ C.R.S. §16-22-103(3).

²⁰ C.R.S. §16-22-113(1)(e).



Table 3: How the U.S. Includes Children in Sex Offense Registration & Notification Schemes (Impact Justice, 2016)

How The U.S. Includes Children in Sex Offense Registration & Notification Schemes: A 50 State Breakdown ^a					
Jurisdictions that place children adjudicated in juvenile court on their registries (40 states)	Alabama	Illinois	Michigan	North Carolina	South Dakota
	Arizona	Indiana	Minnesota	North Dakota	Tennessee
	Arkansas	Iowa	Mississippi	Ohio	Texas
	California	Kansas	Missouri	Oklahoma	Utah
	Colorado	Kentucky	Montana	Oregon	Virginia
	Delaware	Louisiana	Nevada	Pennsylvania ^b	Washington
	Florida	Maryland	New Hampshire	Rhode Island	Wisconsin
	Idaho	Massachusetts	New Jersey	South Carolina	Wyoming
Jurisdictions that do not place children adjudicated in juvenile court on their registries (10 states and the District of Columbia)	Alaska	New Mexico			
	Connecticut	Vermont			
	District of Columbia ^a	West Virginia			
	Georgia				
	Hawaii				
	Maine				
	Nebraska				
	New York				

^a Last updated June 2016

^b In the *Interest of J.B., et al.*, (2014) the Pennsylvania Supreme Court ruled mandatory, lifetime sex offense registration requirement for juveniles was unconstitutional. Due to that decision, youth adjudicated in juvenile court are no longer being placed on the registry in Pennsylvania, though the law has yet to reflect this change in practice.

Potential Benefits and Limitations

Historically, the juvenile justice system was formed to address the specific needs of juveniles however it sometimes mirrors the adult system, as in the case with juvenile registration (Batastini et al., 2011). Many professionals recognize that juveniles do not make decisions in the same way as adults, and much of juvenile offending is a result of their youthfulness (Harris et al., 2016). Harris et al. (2016) note “distinctive developmental mechanisms” between adults and juveniles involved in sexual offending. Specifically, there is a clear difference between the neurological, cognitive, and social capacities of adults and juveniles (Harris et al., 2016).

One component of this distinction is the information related to the juvenile offender that is made available to the public (Batastini et al., 2011). Allowing the public to access juvenile registry information can disrupt the juvenile’s life at school and at home, often contraindicating the therapeutic goals set by the multidisciplinary team supervising the juvenile (Batastini et al., 2011; Harris et al., 2016; Stevenson et al., 2013b). In their study, Harris et al. (2016) found that **juveniles who were subject to notification laws were more likely to develop mental health problems, more likely to be harassed, and more likely to have unstable living situations**. Public access to specific information can also negatively affect the juvenile’s family, particularly if the victim is a family member. This family stress can undermine the protective factors that are offered by family support (Batastini et al., 2011; Harris et al., 2016; Stevenson et al., 2013b). Additionally, labeling a juvenile as ‘deviant’ can become a self-fulfilling prophecy: the juvenile begins

to self-identify as deviant and continues the behavior (Stevenson et al., 2013b). The initial purpose of registration requirements was to assist law enforcement with investigations where a known sex offender may have been the perpetrator. This also includes the juvenile registry, which can help both apprehend and rule out potential suspects. Harris et al. (2016) found that according to their survey, law enforcement officers generally support the use of SORN specifically as a tool, and that they found it useful during their investigations. Additionally, these registries can potentially act as a restorative justice measure, reassuring victims that the juvenile who offended against them will not “forget” about the harm caused by their offense.

Juveniles typically have lower recidivism rates than adults, especially when it comes to sexual reoffending. Research indicates that registered juveniles have a sexual recidivism rate of approximately 7% (Harris et al., 2016). The general recidivism rate is much higher, reaching 43% for juvenile recidivism (Caldwell, 2010), and approximately 85% when recidivism was measured into adulthood (Batastini et al., 2011). Some research suggests that being registered is a risk factor for both types of recidivism in juveniles (Stevenson et al., 2013a; Stevenson et al., 2013b). While some of the juveniles on the registry are a danger to the community, with approximately 15% of juvenile registrants having committed a forcible sexual assault (Stevenson et al., 2013a; Stevenson et al., 2013b), researchers estimate that the majority of the juveniles who are high risk to reoffend, both as juveniles or as adults, are not identified by the current risk identified in state statutes (Batastini et al., 2011).

Recommendations

Given the various factors indicating that most **juveniles tend to be lower risk offenders who are more amenable to treatment interventions than adults** (Batastini et al., 2011), the SOMB makes the following recommendations:

1. Make juvenile registry information a law enforcement only tool that is non-public (do not include juveniles on the lists provided by law enforcement)
2. For those who are eligible, a hearing for discontinuation from the registry will automatically be set at the time of successful completion from supervision. All notifications including those required by the Victim Rights Amendment must be made with time allowed for responses prior to vacating the hearing. This hearing can be vacated if there are no objections.
3. Change the threshold for release from registration - instead of “more likely than not,” release from registry should be contingent on being found to be low risk to commit a sex offense as evidenced by clinical indicators²¹.
4. Improve sentencing procedures to increase the information provided and expand judicial discretion concerning registration, including developing criteria that an evaluator can use to make a recommendation for no registration. Please see Appendix F for more information.

²¹ Clinical indicators are anything which provides information regarding the individual’s clinical presentation, such as interviews, level of participation in treatment, risk assessment scores, evaluation, etc.



5. Remove the ineligibility to petition for release after additional adjudication for non-sex offense.
6. Remove requirement for out-of-state juveniles to register if the originating state has already relieved the juvenile from registration requirements.
7. Consider allowing a juvenile access to court-appointed counsel for relief from registration.

SORN

In 1994, the *Jacob Wetterling Act* was passed by Congress, mandating that states identify their most sexually dangerous offenders, labeling them accordingly for registration and notification purposes. In response to the passage of *Megan's Law*, an amendment to the *Jacob Wetterling Act*, the Colorado legislature created the Sexually Violent Predator (SVP) requirements for sex offenders. The *Adam Walsh Child Protection and Safety Act* (AWA) was signed into law in 2006. The AWA is the most recent sex offender registration and notification (SORN) legislation, which established stricter registration requirements and created a standardized offense-based classification system for registration tiering. These tiers are based solely on the offender's crime of conviction. The tier system mandated by the AWA requires that tier I offenders register for a minimum of 15 years, tier II offenders register for a minimum of 25 years, and tier III offenders are required to register for life. These registration and notification requirements include those who may be mentally or physically incapacitated. This population may be unable to meet their requirements leading them to become non-compliant with registration and notification. The passage of the AWA repealed the requirements of the *Jacob Wetterling Act* (1994), which meant that **states were no longer required by federal legislation to label certain sex offenders as SVPs.**

Sexually Violent Predator Designation

Sex offender registration and notification was originally designed to inform the public of predatory and violent sex offenders who posed a significant threat to the community, and children specifically (Levenson et al., 2016). Classifications systems that are not based on risk assessments generally do a poor job of accurately assessing risk to reoffend (Harris et al., 2010; Levenson et al., 2016).

Mislabeling a sex offender as higher risk than they actually are can contribute to loss of protective factors through social rejection (Levenson et al., 2016; Zgoba et al., 2016). Mislabeling can also lead to wasted resources, as when lower-risk offenders are labeled as high risk, resulting in higher levels of supervision (Zgoba et al., 2016). A risk-based classification system to identify the highest risk sex offenders and provide community notification about these high-risk offenders is supported by research (Levenson et al., 2016; Zgoba et al., 2016).

Research on SORN and recidivism has made several findings which suggest that improvements should be made to the current system used in Colorado. The current statute regarding the SVP designation requires recidivism to be defined as the likelihood to commit a future defining-crime type offense²².

²² Defining-crime type offense 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(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

However, it is not possible to develop a risk assessment instrument with this specific recidivism measure, which is why the use of broader instruments are beneficial. Finally, sex offenses committed by strangers, particularly those on which the AWA is based, are rare events - most offenders choose victims they know (Levenson et al., 2016). When implementing risk categorization, validated risk assessment tools should be used to ensure accurate classification of sex offenders (Harris et al., 2010; Levenson et al., 2016; Zgoba et al., 2016).

The AWA does not require the use of risk-based assessment, but does allow it to be used as an additional component to the offense-based classification system. Colorado law requires the use of a risk assessment tool, which greatly enhances the value of offense-based systems.

Sexually Violent Predator Assessment Screening Instrument

Several changes have been made to Colorado's Sexually Violent Predator Assessment Screening Instrument (SVPASI), effective as of January 1, 2018. A statement is included recognizing that while the relationship criteria section is required by statute, it is not evidence-based. It can, however, have an impact on the trauma level to the victim. The determination of final relationship criteria rests with the sentencing court or the parole board. Additionally, language in several sections was added to clarify the meaning of instructions and content. The SOMB Sex Offender Risk Scale (SORS) has also been revised and validated. Recidivism is defined as any new court filing for violent or sexual offense within 8 years of conviction. The scale calculates risk for recidivism based on the following criteria:

1. total number of adult cases filed in court (regardless of jurisdiction or conviction),
2. total number of juvenile cases filed in court (regardless of jurisdiction or conviction),
3. total number of cases containing a revocation from probation or community corrections (Colorado only; excluding parole convictions)
4. earliest sex offense court filing age (regardless of jurisdiction or conviction)

It is also noted that the instrument is not normed on women or those with developmental disabilities because the research sample used to develop the instrument included too few of these individuals. The last change is to Section 3C, where the title of the section has been changed to "Psychopathy and Personality Disorder" to remain consistent with statute (content remained the same). Please see Appendix C for more information.

Incapacitated Offender

Physically or mentally incapacitated offenders are at a significant disadvantage regarding both registration and release from their registration requirement. While there is no research on the subject, it is obvious that **due to their incapacitated status and the difficulty of reporting to the local police department every quarter, they may be unable to meet their registration requirements or petition off of the registry.** Instead, offenders may become non-compliant with registration requirements through no fault of their own. The issues of deregistration, and registration compliance for mentally or physically incapacitated offenders in

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.



particular has become a substantial burden on law enforcement, as there are limited options available to both the registering jurisdiction or the offender.

With no current statutory guidance on how to deal with incapacitated offenders, law enforcement agencies are working to address this concern. For example, some officers ensure that incapacitated offenders will continue their registration by visiting them in a senior care facility, or by contacting their power of attorney/family member. These humane efforts require significant local resources.

Colorado Bureau of Investigation (CBI) SORN Initiative

The sex offender registry and notification (SORN) system in Colorado was recently subject to civil action regarding its constitutionality in a case involving the Colorado Bureau of Investigation (CBI) as the defendant. In 13-CV-02406-RMP, three registered sex offenders claimed that the registration requirements under SORN violated their Eighth and Fourteenth Amendment rights. The District Court ruled in favor of the plaintiffs, and while the case is currently in the appeals process, it identified some potential areas for SORN reform.

CBI is initiating an independent external evaluation and has asked the Division of Criminal Justice's Office of Domestic Violence and Sex Offender Management (ODVSOM) and the SOMB to provide support and guidance in the process. The evaluation of the SORN process in Colorado will identify recommendations for statutory and non-statutory modifications. This may include, for example, specific recommendations related to low risk populations (e.g., juveniles and incapacitated offenders) whose inclusion in SORN for life may not significantly enhance community safety. CBI has identified existing resources for the first pilot phase of the evaluation but will need to seek additional funds such as federal grants to continue to phase two of the project.

Recommendations

Given that there is no longer a federal requirement to designate certain sex offenders as SVP, the SOMB has approved a series of recommendations for the Legislature to consider regarding the modification of the current classification system to eliminate SVP designation. This change would allow for the addition of a risk-based classification system on top of the offense-based classification system which is already in place and compliant under the AWA mandates. This change can only be made by the legislature, as the SVP requirements are included in statute (16-13-901-906 C.R.S). These recommendations are as follows:

- 1) Move to a three tier risk level system in lieu of SVP designation (based on risk assessment).
- 2) Recognize that risk is dynamic and tier levels (or SVP status) should be changed based on changes in risk level.
- 3) Provide provisions for the removal of incapacitated offenders from the registry.

Section 3: Milestones and Achievements

Overview of 2017 Accomplishments

The SOMB established the SOMB Strategic Action Plan in March, 2014. Over the last three years, the SOMB Strategic Action Plan has driven change and enhanced collaboration between stakeholders. Throughout 2017, the SOMB accomplished majority of its strategic goals through collaboration with multiple stakeholders. The following section addresses the SOMB Strategic Action Plan, highlighting its accomplishments and continued progress towards achieving its goals.

Formation of the SOMB strategic action plan

The SOMB Strategic Action Plan was approved on March 21, 2014, following the January 3, 2014 publication of *External Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines*, and a series of stakeholder focus groups conducted by SOMB staff. Analysis of the information provided by the External Evaluation and the SOMB focus groups resulted in the identification of 28 action items to improve the effectiveness of the *Adult Standards and Guidelines*. Nine of these were prioritized and updates are discussed below. Please see Table 4 for a brief description of the status of the remaining action items.

The SOMB Strategic Action Plan included the following nine prioritized items:

1. Incorporate the Risk-Need-Responsivity (RNR) Principles into the *Adult and Juveniles Standards and Guidelines*
2. Incorporate victim voice into treatment
3. Ensure treatment continuity
4. Replace the Sexually Violent Predator Risk Assessment Instrument (SVPRAI) with a different instrument
5. Develop an implementation model and strategy
6. Replace the Low Risk Protocol with a different process
7. Study whether to deemphasize the role of polygraph, including sex history
8. Special populations: Develop standards for adults with developmental disabilities
9. Develop alternative conflict resolution for team disagreement

Incorporate the Risk, Need, Responsivity Principles (RNR) into the SOMB revisions to the Standards and Guidelines

The Adult Standards Revisions Committee reconvened in 2014. The Adult Standards Revision Committee began an incorporation of RNR, as well as other practices such as the Good Lives Model (GLM), into revisions of the *Adult Standards and Guidelines*. In the last year, the following Sections have been revised and approved by the SOMB with the incorporation of RNR and evidence-based practices:

Section 3.000: Standards of Practice for Treatment Providers

Section 5.000 (Excluding Section 5.700): Standards and Guidelines for Management of Sex Offenders on Probation, Parole and Community Corrections

Section 6.000: Standards of Practice for Post-Conviction Sex Offender Polygraph Testing (Final approval will be addressed on January 19, 2018)

Section 9.000: Standards for Plethysmography

The Adult Standards Revision Committee split into the Adult Treatment Standards Revisions Section 3.000 Committee, Adult Community Supervision Standards Revisions Section 5.000 Committee, and the Adult Polygraph Standards Revisions Section 6.000 Committee to revise their respective sections. Section 3.000 and Section 6.000 have been approved by the Board as of January, 2018. Section 5.000 has been completed and ratified by the Board, excluding Section 5.700. This Section discusses sex offender contact with victims, minor children, and at risk adults. Given the sensitive nature of the section, the 5.000 committee wants to ensure that all relevant literature is reviewed, that all changes are evidence-based, and that contact is only prohibited with valid reason. The Definitions section of the *Adult Standards and Guidelines* has not been revised at this time, and has an anticipated completion date of December 2018.

The SOMB has also undertaken revisions to the *Juvenile Standards and Guidelines*. The following sections have been revised and approved by the SOMB:

Section 2.000: Evaluation and Ongoing Assessment of Juveniles Who Have Committed Sexual Offenses

Section 3.000: Standards of Practice for Treatment Providers

Section 4.000: Qualifications of Treatment Providers, Evaluators, and Polygraph Examiners Working with Juveniles who have Committed Sexual Offenses

Section 5.000: Establishment of a Multidisciplinary Team for the Management and Supervision of Juveniles Who Have Committed Sexual Offenses

Section 6.000: Polygraph Examination of Juveniles Who Have Committed Sexual Offenses

Section 11.000: Informed Supervision Protocol

Primarily, the revisions focused on interconnectedness between different sections of the *Juvenile Standards and Guidelines* and the appendices, specifically in Sections 2, 3, 5, 6, and 11. Minor changes were made to the qualification criteria in Section 4.000. Additionally, the Juvenile Standards Revision Committee also added the following new sections to the *Juvenile Standards and Guidelines*:

Section 7.000: Continuity of Care and Information Sharing

Section 8.000: Victim Impact and a Victim Centered Approach

Please note that the section numbers have changed in order to mirror the *Adult Standards and Guidelines*.

To ensure that service providers and other stakeholders have access to the most up-to-date information, the Office of Domestic Violence and Sex Offender Management provides dynamic, on-line *Standards and Guidelines* that can be accessed here ([adult](#)) and here ([juvenile](#)).

Incorporate victim voice into treatment

In achieving this strategic goal, the SOMB Victim Advocacy committee continues to provide input into all *Adult* and *Juvenile Standards and Guidelines* revisions to ensure that the victim voice is represented throughout the *Standards and Guidelines*. The Victim Advocacy Committee offers input into *Standards and Guidelines* revisions to ensure that they are being crafted in ways that are sensitive to the needs of victims.

The SOMB Victim Advocacy Committee collaborated with The Colorado Coalition against Sexual Assault (CCASA) and The Blue Bench in obtaining a Victims of Crime Act Fund (VOCA) grant. The objective of this grant is to provide the resource of victim representation on MDTs and CSTs. This pilot project will take place in the 1st Judicial District, utilizing employees of The Blue Bench. This overall goal has been completed as of September 2016, with the grant program ongoing.

Replace the Sexually Violent Predator Assessment Screening Instrument (SVPASI) with a different instrument

The SOMB established the Sexually Violent Predator Assessment Committee in 2013 to revise the SVPRAI with a focus on the following four goals:

Clarifying the relationship criteria

Identifying needs of special populations

Making recommendations about the SVP/Registry Process

Exploring the possibility of developing a new actuarial scale in the instrument

In 2014, language was added to the SVPSI addressing the relationship criteria and the needs of special populations. The SOMB approved the development and validation of a new actuarial risk scale in 2017. The new scale will be implemented in early 2018. **It should be noted that the SVP Committee and the SOMB believe that the SVP statute should be modified, especially since there is no longer a federal mandate to use the phrase “sexually violent predator”.** Please see Section 2 for more information regarding the SOMB recommendation for modifications to the SVP statute. Please see Appendix C for a full list of changes to the SVPASI.

Study whether to deemphasize the role of polygraph, including sex history

To clarify the role and use of polygraph in treatment, the SOMB Best Practices Committee conducted a literature/research review, determining that this action item should be addressed by a multi-disciplinary stakeholder group. Thus, the SOMB Adult Polygraph Standards Committee was established

to revise section 6.000, Standards of Practice for Post-Conviction Sex Offender Polygraph Testing. This committee began meeting in August, 2016 and has concluded all necessary revisions. A detailed list of all changes made to this section can be found in Appendix D.

Explore whether and how to add the special populations/specializations Adult and Juvenile Standards and Guidelines

The SOMB has not created a new section in the *Adult and Juvenile Standards and Guidelines* to specifically address special populations. However, as the *Adult and Juvenile Standards and Guidelines* were revised, discussion points were added into relevant sections that highlight the need for sensitivity and the need for potential modification of services when working with special populations. This guidance includes addressing client trauma, mental illness, and cognitive impairments. Emphasis was placed on creating individualized treatment plans for those in this population to ensure the appropriate delivery of treatment and supervision.

Additional SOMB action items

The SOMB Strategic Action Plan was developed following the publication of *External Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines* and a series of stakeholder focus groups conducted by SOMB staff. Analysis of the information provided by the External Evaluation and the SOMB focus groups resulted in the identification 28 action items to improve the effectiveness of the *Adult and Juvenile Standards and Guidelines*. The SOMB prioritized nine strategic action items following external and internal stakeholder recommendations. Below is an update on the remaining items scheduled to be completed in 2018.

Table 4. Remaining action items identified from external and internal evaluations

Action Item Identified	How Action Item has been addressed
<i>Modify CCA</i>	The CCA is currently being addressed in the Adult Standards Revision Committee for Section 5.000, <i>Standards and Guidelines for Management of Sex Offenders on Probation, Parole and Community Corrections</i> . Anticipated completion December 2018.
<i>Revise victim clarification and contact readiness criteria</i>	Victim contact readiness and clarification have been updated in the <i>Adult Standards and Guidelines</i> under Section 8.000, Victim Impact and a Victim Centered Approach, and have been additionally incorporated into Section 5.000 revisions. Section 8.000 was completed in September 2016, and Section 5.000 has an anticipated completion date of December 2018.

Policy Updates

Committees

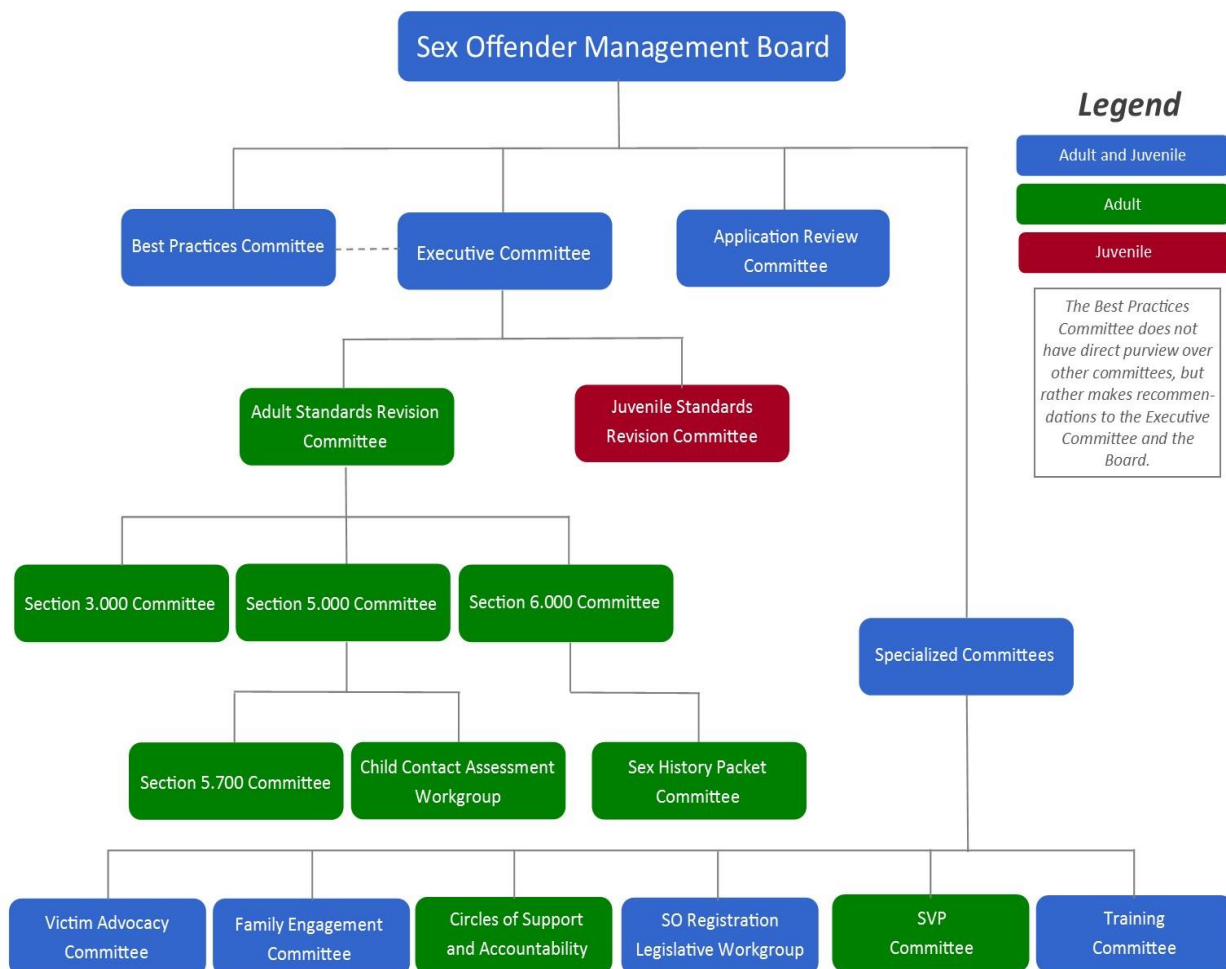
The majority of the work conducted by the SOMB occurs at the committee level. Within these committees, a variety of policy and implementation related work is proposed, discussed, and reviewed by relevant stakeholders. These committees then make proposals for the SOMB to consider. The SOMB

staffed 15 active committees during the course of 2017, which were open to all stakeholders in order to work on statutorily mandated duties. These committees included the following:

1. Adult Treatment Standards Revisions Section 3.000
2. Adult Community Supervision Standards Revisions Section 5.000
 - 2.1. Adult Community Supervision Standards Revisions Section 5.700
 - 2.2. Child Contact Assessment Workgroup
3. Adult Polygraph Standards Revisions Section 6.000
 - 3.1. Sex History Packet Committee
4. SOMB Executive Committee
5. Juvenile Standards Revision Committee
6. Best Practices/Treatment Provider Committee
7. Victim Advocacy Committee
8. Application Review Committee
9. Sexually Violent Predator (SVP) Assessment Committee
10. Circles of Support and Accountability (CoSA) Advisory Committee
11. Training Committee (in Collaboration with the Domestic Violence Offender Management Board)
12. Family Support and Engagement Committee
13. Sex Offender Registration Legislative Work Group
14. Human Trafficking Workgroup
15. Community Notification Technical Assistance Team

All of these committees have been and continue to be engaged in studying advancements in the field of sex offender management, recommending changes to the *Adult and Juvenile Standards and Guidelines* as supported by research, and suggesting methods for educating practitioners and the public to implement effective offender management strategies. For a comprehensive summary of the work of the SOMB, please refer to Appendix A.

Figure 1. Organizational chart of the SOMB committees and workgroups.



Current Availability of Providers

Table 5 provides the current statistics on the availability of service providers approved to operate in Colorado. Currently, there are **299 adult treatment providers and 219 juvenile treatment providers** approved by the SOMB in Colorado. As of December 2017, there are **28 adult polygraph examiners and 20 juvenile polygraph examiners**. Treatment providers may choose to pursue an addition of services onto their status. For example, a full operating treatment provider may also be approved as a full operating treatment provider DD/ID, a full operating evaluator, a full operating evaluator DD/ID, a clinical supervisor for treatment providers, and a clinical supervisor for evaluators.

On average, providers operated in four different counties. In total, the SOMB has approved providers located in all 22 judicial districts in the state, as depicted in Figure 2.

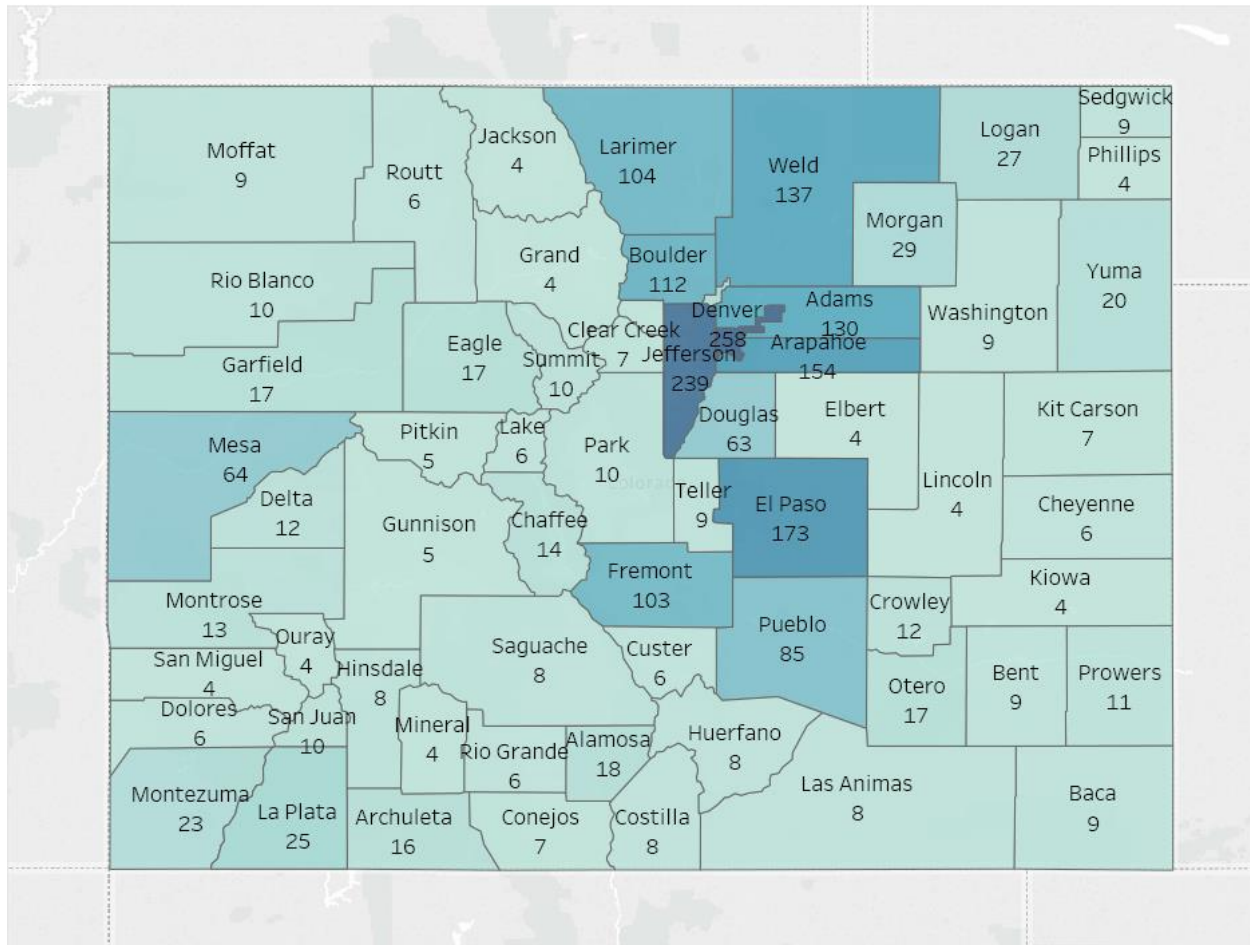
Table 5. Number of approved sex offender service providers in Colorado, 2017

Population	Service	Service Level				Grand Total	
		Associate		Full Operating		n	%
		n	%	n	%		
Adult	Treatment Provider	135	45%	164	55%	299	100%
	Treatment Provider DD/ID ²³	23	37%	39	63%	62	100%
	Clinical Treatment Provider	N/A		88	100%	88	100%
	Evaluator	46	41%	65	59%	111	100%
	Evaluator DD	5	22%	14	78%	18	100%
	Clinical Evaluator	N/A		40	100%	40	100%
	Polygraph Examiner	3	14%	25	86%	28	100%
	Polygraph Examiner DD/ID	0	0%	13	100%	13	100%
Juvenile	Treatment Provider	90	45%	112	55%	202	100%
	Treatment Provider DD/ID	13	27%	22	63%	35	100%
	Clinical Treatment Provider	N/A	0%	64	100%	64	100%
	Evaluator	21	37%	36	63%	57	100%
	Evaluator DD	3	25%	9	75%	12	100%
	Clinical Evaluator	N/A	0%	25	100%	25	100%
	Polygraph Examiner	6	30%	14	70%	20	100%
	Polygraph Examiner DD/ID	1	13%	7	88%	8	100%

²³ Developmentally Disabled/Intellectually Disabled

Figure 2. Number and location of SOMB service providers by county, 2017

Note: The total number of service providers approved to practice are listed by county. Providers may be approved to operate in multiple counties.



Map based on Longitude (generated) and Latitude (generated). Color shows sum of Count Of County Served. The marks are labeled by County Served and sum of Count Of County Served. Details are shown for County Served.

Number of Providers Per County 2  258

Additional year end accomplishments

Over the course of 2017, the SOMB accomplished many goals in addition to the SOMB strategic action plan. For a comprehensive summary of the work of the SOMB, please refer to Appendix A. The following highlights some of the many achievements of the SOMB:

Managed 15 SOMB committees that functioned at some point during 2017. Several of these committees were convened in 2014 to address specific projects related to the strategic plan, such as the Adult Standards Revision Committee and policy issues related to the Sexually Violent Predator Assessment Inventory.

Addressed policy issues related to the Sexually Violent Predator Assessment Screening Instrument, including the revision and validation of the SOMB Sex Offender Risk Scale. Additional changes were made to clarify some ambiguous language throughout the assessment to more accurately reflect evidence based practices.

Hosted two On-The-Road Board meetings in 2017 to reach stakeholders outside of the Denver Metro area. Meetings were held in Colorado Springs as well as Breckenridge.

Conducted 60 trainings to over 4,200 attendees from across Colorado in calendar year 2017. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses. The SOMB also held its 11th annual statewide conference in Breckenridge, Colorado that offered three consecutive days of training for providers, probation officers, law enforcement, victim representatives, and many other stakeholder groups. Presentations were conducted on a variety of topics, including domestic violence and sex offending cross-over, a balanced approach between treatment and supervision, RNR and adolescent brain development, and multicultural competencies.

Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement around the state.

No Standards Compliance Reviews were completed in 2017 as revisions to the compliance review process were developed. These changes will allow for more effective reviews in the future. As of this writing, cases for review have been selected, and will be addressed in early 2018.

Received 13 complaints during 2017 made against approved providers, and disposed of eight cases. During 2017 there were no founded complaints; however, two cases are still open and under investigation. Three of the received complaints were found to not be under the SOMB purview.

Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines* revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.

Published the 2018 SOMB Annual Legislative Report and the 2017 Lifetime Supervision of Sex Offenders Annual Report.

Ongoing implementation

Ongoing implementation refers to the dissemination of information from the SOMB to approved service providers. The main components of ongoing implementation include training professionals, implementing policies with fidelity, and offering research/program evaluation support activities.

Training

In calendar year 2017, the SOMB provided 60 trainings to over 4,200 attendees from across Colorado. While there were fewer trainings overall when compared to 2016, **the SOMB worked to provide specific trainings to targeted audiences, which effectively increased the total number of attendees**. These trainings covered a range of topics related to the treatment and supervision of individuals convicted or adjudicated for sexual offenses such as:



- Adherence and Application of the Risk, Need and Responsivity Principles
- *Adult and Juvenile Standards and Guidelines* Introduction Trainings
- *Adult and Juvenile Standards and Guidelines* Booster Trainings
- Vermont Assessment of Sex Offender Risk -2 (VASOR - 2) and SOTIPS Risk Assessment Trainings
- JSOAP II
- Trauma Informed Care
- Sex Offender Registration and Notification
- Cyber safety, Sexting, and Juveniles
- Victim Centered Sex Offender Treatment

Section 4: Future Goals and Directions

The mission of the SOMB as written in its enabling statute is to have continuing focus on public safety. To carry out this mission for communities across the state, the SOMB strives toward the successful rehabilitation of offenders through effective treatment and management strategies while balancing the welfare of victims of sexual crimes, their families and the public at large. The SOMB recognizes that over the past 20 years, much of the knowledge and information on sexual offending has evolved. Since the creation of the SOMB, the *Adult and Juvenile Standards and Guidelines* for the assessment and treatment of sexual offenders has been a ‘work in progress.’ Thus, periodic revisions to improve the *Adult and Juvenile Standards and Guidelines* remains a key strategic priority for the SOMB through its process of adopting new research and evidence based practices as they emerge from the literature and the field. The SOMB will continue to recognize the key role that the RNR model plays in the successful rehabilitation and management of adults and juveniles who commit sexual offenses.

Strategic goals and initiatives

Over the last three years, the SOMB has driven change and enhanced collaboration between stakeholders through the creation of the SOMB Strategic Action Plan. Utilizing feedback and recommendations from external and internal stakeholders allowed for the creation of such plan. **In these last three years, the SOMB accomplished all but two of its strategic goals through the collaboration of multiple stakeholders.** While there have been many revisions and changes to SOMB *Adult and Juvenile Standards and Guidelines*, there have also been factors which remain constant. The SOMB consistently demonstrates and fulfills its statutory authority and mandate to ensure that a community safety and victim centered approach is the focus of any work that is done. Research and evidence based practices have allowed for the SOMB to continue to evolve over the years, and will continue to encourage growth and involvement while work is continued on additional goals.

Table 6. Summary of SOMB Strategic Action Plan goal completion.

Action Item	SOMB Prioritized Action Item? (Y/N)	Action Item Status (Completed, in progress, ongoing)	Completion Date or Anticipated Completion Date
Incorporate the Risk-Need-Responsivity (RNR) Principles into the <i>Adult and Juvenile Standards and Guidelines</i>	Yes	Completed	Completed: November 2017
Ensure Treatment Continuity	Yes	Completed	Completed: September 2016
Replace the SVPRAI with a Different Instrument	Yes	Completed	Completed: November 2017
Replace the Low Risk Protocol with a Different Process	Yes	Completed	Completed: July 2017
Revise the Lifetime Supervision Criteria	No	Completed	Completed: January 2016
Study Whether to Deemphasize the Role of Polygraph, Including Sex History	Yes	Completed	Completed: December 2017
Develop a Formal Conflict Resolution Process for Team Disagreement	Yes	Completed	Completed: January 2016
Explore whether and How to Add Special Populations and Specializations Standards	Yes	Completed	Completed: December 2017
Modify Contact with Children and Contact with Children Assessment	No	In Progress	Anticipated Completion Date: December 2018
Incorporate Victim Voice into Treatment	Yes	Completed	Completed: September 2016
Incorporate Good Lives Model and Motivational Factors	No	Completed	Completed: November 2017
Revise the Application and Complaint Process (Treatment Providers)	No	Completed	Completed: December 31, 2015
Address Concerns with Probation and Parole	No	Completed	Completed: January 2016
Revise the Guiding Principles	No	Completed	Completed: May 2016

Consider Whether to Deemphasize Denial as a Risk Factor	No	Completed	Completed: January 2014
Develop an Implementation Model and Strategy	Yes	In Progress	Completed: January 2017
Advocacy for Providers	No	Completed	Completed: January 2016
Address Clarification and Reunification	No	In Progress	Anticipated Completion Date: July 2018
Improve External Communication	No	Completed	Completed: December 2016
Consider whether to Deemphasize Empathy as a Risk Factor	No	Completed	Completed: November 2017
Educate all Professionals on RNR	No	Completed	Completed: December 2016
Revise Victim Clarification and Contact Readiness Criteria	No	Completed	Completed: September 2016



References

- Addington, L. A., & Rennison, C. M. (2008). Rape co-occurrence: Do additional crimes affect victim reporting and police clearance of rape? *Journal of Quantitative Criminology*, 24, 205-226.
- Armstrong, E. A., Hamilton, L., & Sweaney, B. (2006). Sexual assault on campus: A multilevel, integrative approach to party rape. *Social Problems*, 53(4), 483-499.
- Babchishin, K. M., Hanson, R. K., & VanZuylen, H. (2015). Online child pornography offenders are different: A meta-analysis of the characteristics of online and offline sex offenders against children. *Archives of Sexual Behavior*, 44(1), 45-66.
- Barkacs, L. L. & Barkacs, C. B. (2010). Do you think I'm sexy? Minors and sexting: Teenage fad or child pornography? *Journal of Legal, Ethical and Regulatory Issues*, 13(2), 23-31.
- Batastini, A. B., Hunt, E., Present-Koller, J., & DeMatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy, and Law*, 17(3), 451-474.
- Bazon, E. (2013, January 24). The Price of a Stolen Childhood. *The New York Times*. Retrieved from <http://www.nytimes.com/2013/01/27/magazine/how-much-can-restitution-help-victims-of-child-pornography.html>
- Beaver, W. R. (2017). Campus sexual assault: What we know and what we don't. *The Independent Review*, 22(2), 257-268.
- Bergen, R. K. (2006). Marital rape: New research and directions. *Applied Research Forum: National Online Resource Center on Violence Against Women*, 1-13.
- Bourke, M. L. & Hernandez, A. E. (2009). The 'Butner Study' redux: A report of the incidence of hands-on child victimization by child pornography offenders. *Journal of Family Violence*, 24, 183-191.
- Caldwell, M. F. (2010). Study characteristics and recidivism base rates in juvenile sex offender recidivism. *International Journal of Offender Therapy and Comparative Criminology*, 54(2), 197-212.
- Capaldi, D. M., Knoble, N. B., Shortt, J. W., & Kim, H. K. (2012). A systematic review of risk factors for intimate partner violence. *Partner Abuse*, 3(2), 231-280.
- Colorado Revised Statutes §18-3-402
- Davies & Simons (2017). Gender Bias and Domestic Violence and Sexual Offenders. Conference Presentation.
- Elliott, I. A., Beech, A. R., & Mandeville-Norden, R. (2013). The psychological profiles of internet, contact, and mixed internet/contact sex offenders. *Sexual Abuse: A Journal of Research and Treatment*, 25(1), 3-20.
- Federal Bureau of Investigation (2014). Crime in the United States 2013: Rape. Retrieved from <https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violent-crime/rape>

- Flack, W. F., Hansen, B. E., Hopper, A. B., Bryant, L. A., Lang, K. W., Massa, A. A., & Whalen, J. E., (2015). Some types of hookups may be riskier than others for campus sexual assault. *Psychological Trauma: Theory, Research, Practice, and Policy*, 8(4), 413-420.
- Galbreath, N., Berlin, F., & Sawyer, D. (2002). Paraphilias and the internet. In A. Cooper (Ed.), *Sex and the internet: A guidebook for clinicians* (pp. 187-205). Philadelphia: Brunner-Routledge.
- Garland, B., Calfano, B., & Wodahl, E. (2016). College student perceptions of notifications about sex offenders on campus. *Criminal Justice Police Review*, 1-18.
- Hall, J. E., Walters, M. L., & Basile, K. C. (2012). Intimate partner violence perpetration by court-ordered men: Distinctions among subtypes of physical violence, sexual violence, psychological abuse, and stalking. *Journal of Interpersonal Violence*, 27(7), 1374-1395.
- Harris, A. J., Lobanov-Rostovsky, C., & Levenson, J. S. (2010). Widening the net: The effects of transitioning to the Adam Walsh Act's federally mandates sex offender classification system. *Criminal Justice and Behavior*, 37(5), 503-519.
- Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 28(8), 770-790.
- Hassinoff, A. A. (2017). Sexting and privacy violations: A case study of sympathy and blame. *International Journal of Cyber Criminology*, 11(2), 202-217.
- Hayes, R. M., Abbott, R. L., & Cook, S. (2016). It's her fault: Student acceptance of rape myths on two college campuses. *Violence Against Women*, 22(13), 1540-1555.
- Helmus, L., Hanson, R. K., Babchishin, K. M., & Mann, R. E. (2013). Attitudes supportive of sexual offending predict recidivism: A meta-analysis. *Trauma, Violence, & Abuse*, 14(1), 34-53.
- Henshaw, M., Ogloff, J. R. P., & Clough, J. A. (2017). Looking beyond the screen: A critical review of the literature on the online child pornography offender. *Sexual Abuse*, 29(5), 416-445.
- Houpten, J. B. M., Sijtsma, J. J., & Bogaerts, S. (2014). From child pornography offending to child sexual abuse: A review of child pornography offender characteristics and risks for cross-over. *Aggression and Violent Behavior*, 19, 466-473.
- Impact Justice (2016). [Graph] How the U.S. Includes Children in Sex Offense Registration & Notification Schemes: A 50 State Breakdown. Retrieved from http://impactjustice.org/wp-content/uploads/2016/08/50-STATE-BREAKDOWN-CHART_July_2016.pdf
- Krebs, C., Lindquist, C., Berzofsky, M., Shook-Sa, B., Peterson, K., Planty, M., ... Stroop, J. (2016). *Campus climate survey validation study: Final technical report*. (Report No. NCJ 249545). Bureau of Justice Statistics. Washington, DC.
- Langton, L., & Sinozich, S. (2014). Rape and sexual assault victimization among college-age females, 1995-2013. (Report No. NCJ 248471). Bureau of Justice Statistics. Washington, DC.
- Levenson, J. S., Grady, M. D., & Leibowitz, G. S. (2016). Grand challenges: Social justice and the need for evidence-based sex offender registry reform. *Journal of Sociology & Social Welfare*, 43(2), 3-38.



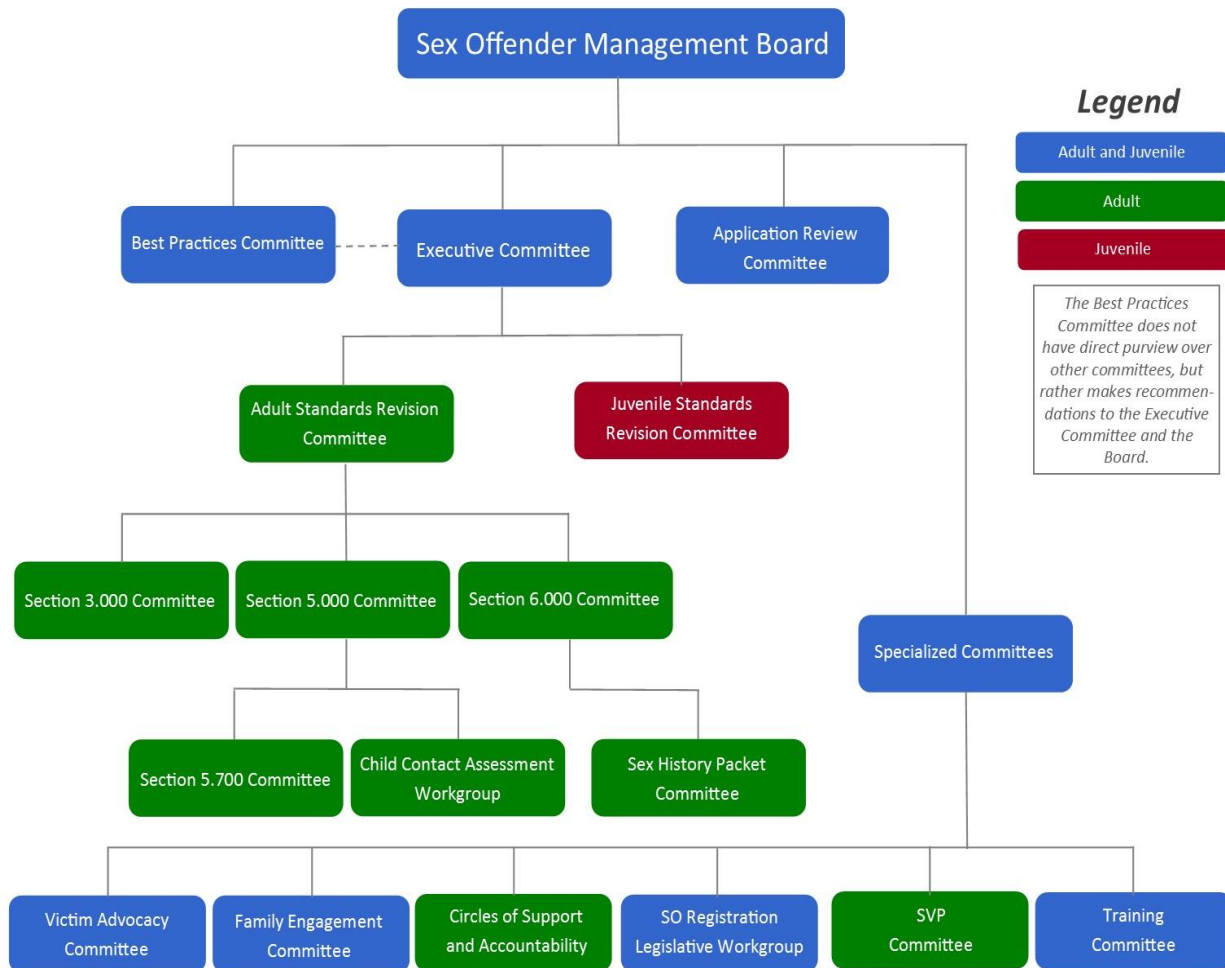
- McCrary, F., Kaufman, K., Vasey, M. W., Barriga, A. Q., Devlin, R. S., & Gibbs, J. C. (2008). It's all about me: A brief report of incarcerated adolescents sex offenders' generic and sex-specific cognitive distortions. *Sexual Abuse: A Journal of Research and Treatment*, 20(3), 261-271.
- McFarlane, J. & Malecha, A. (2005). *Sexual assault among inmates: Frequency, consequences and treatment* (NCJRS Grant No. 2002-WG-BX-0003).
- Neighbors, C., Walker, D. D., Mbilinyi, L. F., O'Rourke, A., Edleson, J. L., Zegree, J., & Roffman, R. A. (2010). Normative misconceptions of abuse among perpetrators of intimate partner violence. *Violence Against Women*, 16(4), 370-386.
- Neutze, J., Grundmann, D., Scherner, G., & Beier, K. M. (2012). Undetected and detected child sexual abuse and child pornography offenders. *International Journal of Law and Psychiatry*, 35, 168-175.
- Nunes, K. L. & Jung, S. (2012). Are cognitive distortions associated with denial and minimization among sex offenders? *Sexual Abuse: A Journal of Research and Treatment*, 25(2), 166-188.
- Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART). (n.d.). Legislative history of federal sex offender registration and notification. Retrieved from <https://www.smart.gov/legislation.htm>
- Pemberton, A. E., & Wakeling, H. C. (2009). Entitled to sex: Attitudes of sexual offenders. *Journal of Sexual Aggression*, 15(3), 289-303.
- Ramirez, M., Paik, A., Sanchagrin, K., & Heimer, K. (2012). Violent peers, network centrality, and intimate partner violence perpetration by young men. *Journal of Adolescent Health*, 51, 503-509.
- Rennison, C. M., & Addington, L. A. (2014). Violence against college women: A review to identify limitations in defining the problem and inform future research. *Trauma, Violence, & Abuse*, 15(3), 159-169.
- Schafran, L. H. (2010). Risk assessment and intimate partner sexual abuse: The hidden dimension of domestic violence. *American Judicature Society*, 93(4), 161-163.
- Scott, K., & Straus, M. (2007). Denial, minimization, partner blaming, and intimate aggression in dating partners. *Journal of Interpersonal Violence*, 22(7), 851-871.
- Smith, C. A., Greenman, S. J., Thornberry, T. P., Henry, K. L., & Ireland, T. O. (2015). Adolescent risk for intimate partner violence perpetration. *Society for Prevention Research*, 16, 862-873.
- Seto, M. C. (2017). Research on online sexual offending: What have we learned and where are we going? *Journal of Sexual Aggression*. 23(1), 104-106.
- Seto, M. C., Hanson, R. K., & Babchishin, K. M. (2011). Contact sexual offending by men with online sexual offenses. *Sexual Abuse: A Journal of Research and Treatment*, 23(1), 124-145.
- Seto, M. C., Sandler, J. C., Freeman, N. J. (2017). The revised screening scale for pedophilic interests: Predictive and concurrent validity. *Sexual Abuse*, 29(7), 636-657.
- Seto, M. C., Stephens, S., Lalumière, M., Cantor, J. M. (2017). The revised screening scale for pedophilic interests (SSPI-2): Development and criterion-related validation. *Sexual Abuse*, 29(7), 619-635.

- Stevenson, M. C., Najdowski, C. J., & Wiley, T. R. (2013a). Knowledge of juvenile sex offender registration laws predicts adolescent sexual behavior. *Journal of Child Sexual Abuse*, 22, 103-118.
- Stevenson, M. C., Smith, A. C., Sekely, A., & Farnum, K. S. (2013b). Predictors of support for juvenile sex offender registration: Educated individuals recognize the flaws of juvenile registration. *Journal of Child Sexual Abuse*, 22, 231-254.
- Stone, N. (2011). The 'Sexting' quagmire: Criminal justice responses to adolescents' electronic transmission of indecent images in the UK and the USA. *Youth Justice*, 11(3), 266-281.
- Strassberg, D. S., Rullo, J. E., & Mackaronis, J. E. (2014). The sending and receiving of sexually explicit cell phone photos ("Sexting") while in highschool: One college's students' retrospective. *Computers in Human Behavior*, 41, 177-183.
- Strickland, S. M. (2008). Female sex offenders: Exploring issues of personality, trauma, and cognitive distortions. *Journal of Interpersonal Violence*, 23(4), 474-489.
- Strohmaier, H., Murphy, M., & DeMatteo, D. (2014). Youth sexting: Prevalence rates, driving motivations, and the deterrent effect of legal consequences. *Sexuality Research and Social Policy*, 11(5), 245-255.
- Sweeten, G., Larson, M., & Piquero, A. R. (2016). Predictors of emotional and physical dating violence in a sample of serious juvenile offenders. *Criminal Behaviour and Mental Health*, 26, 263-277.
- Temple, J. R., Paul, J. A., van den Berg, P., Le, V. D., McElhany, A., & Temple, B. W. (2012). Teen sexting and its association with sexual behaviors. *Archives of Pediatrics & Adolescent Medicine*, 166(9), 828-833.
- United States Department of Justice (2017). *Child pornography*. Retrieved from <https://www.justice.gov/criminal-ceos/child-pornography>
- Whitaker, D. J., Le, B., Hanson, R. K., Baker, C. K., McMahon, R. M., Ryan, G., ... Rice, P. D. (2008). Risk factors for the perpetration of child sexual abuse: A review and meta-analysis. *Child Abuse & Neglect*, 32, 529-548.
- Woodward, V. H., Evans, M., & Brooks, M. (2017). Social and psychological factors of rural youth sexting: An examination of gender-specific models. *Deviant Behavior*, 38(4), 461-476.
- Yates, P. M. (2009). Is sexual offender denial related to sex offense risk and recidivism? A review and treatment implications. *Psychology, Crime, and Law*, 15(2-3), 183-199.
- Yung, C. R. (2015). Concealing campus sexual assault: An empirical examination. *Psychology, Public Policy, and Law*, 21(1), 1-9.
- Zgoba, K. M., Miner, M., Levenson, J., Knight, R., Letourneau, E., & Thornton, D. (2016). The Adam Walsh Act: An examination of sex offender risk classification systems. *Sexual Abuse: A Journal of Research and Treatment*, 28(8), 722-740.
- Zilkens, R. R., Phillips, M. A., Kelly, M. C., Mukhtar, S. A., Semmens, J. B., & Smith, D. A. (2016). Non-fatal strangulation in sexual assault: A study of clinical and assault characteristics highlighting the role of intimate partner violence. *Journal of Forensic and Legal Medicine*, 43, 1-7.



Appendices

Appendix A. Committee Updates



1. Adult Treatment Standards Revisions Section 3.000

Active

Committee Chair: Missy Gursky

Purpose: This Committee reviewed and revised, as appropriate, Section 3.000 of the *Adult Standards and Guidelines*, based on the desire to incorporate the Risk, Need, Responsivity (RNR) model, and new research and literature into the *Adult Standards and Guidelines*.

Major Accomplishments: This Committee worked to continue incorporating the Risk, Need, Responsivity model to the *Adult Standards and Guidelines*. Section 3.000 was rewritten to focus on responsivity, in addition to providing treatment providers more discretion to make therapeutic decisions. The goal was to move away from prescriptive treatment, and individualize treatment for each offender.

Future Goals: The Committee will reconvene following any legislative changes or identified needs regarding standards revision.

2. Adult Community Supervision Standards Revisions Section 5.000

Active

Committee Chairs: Missy Gursky, Jeff Geist, and Angel Weant

Purpose: This Committee reviewed and revised, as appropriate, Section 5.000 of the *Adult Standards and Guidelines*, based on the desire to incorporate the Risk, Need, Responsivity (RNR) model, and new research and literature into the *Adult Standards and Guidelines*.

Major Accomplishments: In 2016, this Committee incorporated the TEAMS model in order to increase the collaborative role of each member of the CST as a replacement for the containment approach. Clarification has been added to provide teams guidance on how to respond to polygraph disclosures and results while incorporating RNR principles. In addition, enhancements have been made to the Behavioral Monitoring section (5.600) to incorporate evidence based methods of responding to positive and negative behaviors. In revising Section 5.000, the Committee has re-ordered sections to create a better flow within the *Adult Standards and Guidelines*.

Future Goals: This Committee has completed all sections of section 5.000, except for 5.700. Revisions of 5.700 will continue in order to fully address all concerns regarding offender contact with victims, minor children, and at-risk adults by incorporating evidence based practices. This Committee has extensively reviewed literature on the subject, and will continue to do so in order to adhere to Best Practices.

2.1 Adult Community Supervision Standards Revisions Section 5.700

Active

Committee Chairs: Missy Gursky, Jeff Geist, and Angel Weant

The 5.700 Revisions was convened in order to focus exclusively on the topic surrounding offender contact with victims, minor children, and at-risk adults. This Committee has reviewed extensive research on the subjects in order to adhere to evidence based practices, in addition to past court cases. Given the sensitive



nature of the section, the 5.000 Committee wants to ensure that all relevant literature is reviewed, that all changes are evidence-based, and that contact is only prohibited with valid reason.

2.2 Child Contact Assessment Workgroup

Active

Committee Chair: Missy Gursky

This workgroup consists of treatment providers who are reviewing the current Child Contact Assessment. The 5.700 committee opted to convene this committee in order to address concerns about the cost and effectiveness of the current Child Contact Assessment. The treatment providers on this committee are in the process of reviewing all aspects of the assessment to ensure evidence based practices are being followed, streamline the assessment for treatment providers, and make it more economical for offenders.

3. Adult Polygraph Standards Revisions Section 6.000

Active

Committee Chair: Jeff Jenks

Purpose: This Committee reviewed and revised, as appropriate, Section 6.000 of the *Adult Standards and Guidelines*, based on the desire to incorporate the Risk, Need, Responsivity (RNR) model, and new research and literature into the *Adult Standards and Guidelines*.

Major Accomplishments: Through the participation of stakeholders from various disciplines, this Committee worked diligently to update Section 6.000 of the *Adult Standards and Guidelines*. Since the Committee was first convened in 2016, members have continuously reviewed research and best practices relating to the use of the polygraph, with a common-sense and evidence based practice orientation in mind. The goal throughout the revisions process was to utilize the polygraph as a treatment and supervision tool, but also identify when the polygraph was misused or overused in the past, and make appropriate changes. Standards were added which allow some flexibility to members of the CST regarding when and how frequently offenders are tested. Please see Appendix D for a list of detailed changes to Section 6.000.

Future Goals: The Committee will reconvene following any legislative changes or identified needs regarding standards revision.

3.1 Sexual History Disclosure Packet

Active

Sub-Committee Chair: Michelle Geng

The 6.000 Polygraph Revisions Committee appointed a workgroup to revise the SOMB Sexual History Packet for adult sex offenders. The revisions are consistent with the Risk, Need, and Responsivity principals. The sexual history disclosure packet is no longer designed to be an investigative tool but a therapeutic tool to operationalize the polygraph process as risk informative.

4. SOMB Executive Committee

Active

Committee Chair: Judge Marcelo Kopcow

Purpose: The purpose of the SOMB Executive Committee is to review and maintain the mission of the SOMB. The Executive Committee prepares the agenda consisting of presentations, decisions items and discussions prior to the SOMB meeting.

Major Accomplishments: Managed the SOMB agenda and Strategic Action Plan implementation process, which included the completion and progress on many of the SOMB strategic goals. The SOMB Executive Committee additionally ensures the efficiency and efficacy of the SOMB's work.

Future goals: The SOMB Executive Committee will continue to maintain the mission of the SOMB and ensure that the SOMB continues to move forward with its initiatives.

5. Juvenile Standards Revision Committee

Active

Committee Chair: Carl Blake

Purpose: The Committee is reviewing and revising *the Juvenile Standards and Guidelines* as needed, based on emerging research and best practices. Revisions are also made to clarify information based on any feedback received from stakeholders.

Major Accomplishments: The recent focus of the Committee was to review research related to juvenile registration and draft a white paper for the SOMB and the Mentally Ill in the Criminal Justice System task force (MICJS). The Committee completed a white paper outlining the relevant research and provided this to the MICJS and subsequently the SOMB.

Future Goals: The Committee will re-convene following any legislative changes or identified needs regarding standards revisions.

6. Best Practices Committee

Active

Committee Chair: Tom Leversee, Jeff Geist

Purpose: This Committee strives to ensure that the *Adult and Juvenile Standards and Guidelines* remain current with any emerging research by making recommendations to other active committees, including the SOMB when necessary. This Committee consists of 80% treatment providers, in accordance with language from the Sunset Bill. This Committee meets once per month.

Major Accomplishments: The SOMB directed the Best Practices Committee to continue addressing revisions within other committees. The Best Practices Committee reviewed and provided feedback on Section 3.000, 5.000, and 6.000. Reviewed topics included child sexual abuse image use, clarification statements, and effective use of the polygraph, among others.

Future Goals: The Best Practices Committee will continue to review and provide feedback to



the SOMB and other revisions committees. This Committee will continue to review relevant and contemporary research to ensure adherence to evidence-based practices.

7. Victim Advocacy Committee

Active

Committee Chair: Allison Boyd

Purpose: To ensure that the SOMB remains victim-centered and that the *Adult and Juvenile Standards and Guidelines* address victim needs and include a victim perspective.

Major Accomplishments: In 2017, the Victim Advocacy Committee reviewed and provided input for various *Adult and Juvenile Standards and Guidelines* revisions and provided a panel presentation to the SOMB regarding Victim Representation on Supervision Teams. At the 2017 SOMB Conference, the Victim Advocacy Committee nominated a recipient for the Norma Anderson Excellence in Victim Advocacy. During Sexual Assault Awareness Month and National Crime Victims' Rights Week the Victim Advocacy Committee collaborated with TESSA on a presentation for the April SOMB meeting.

Future Goals: Moving forward, the Victim Advocacy Committee will continue provide input into the SOMB *Adult and Juvenile Standards and Guidelines* revisions, in particular in sections related to offender contact with minors and at-risk adults. The Victim Advocacy Committee will continue to support the SOMB in a victim centered approach to sex offender management.

8. Application Review Committee

Active

Committee Chair: Carl Blake

Purpose: The Application Review Committee (ARC) reviews all new and re-applications for treatment providers, evaluators and polygraph examiners. Complaints made against listed providers are also reviewed by ARC. ARC additionally conducts randomized or for-cause Standards Compliance Reviews.

Major Accomplishments: ARC continued to review provider applications and complaints. ARC has fully implemented the new Competency Based Model for provider approval as well as a more streamlined approach to variances. Additionally, treatment providers will now be allowed more flexibility with references when submitting applications. ARC found that some prospective treatment providers did not have the required references to complete their applications, and has moved to allow substitutions in this event.

Future Goals: Continue reviewing applications, complaints, and variances. Review and revise, as needed, the Competency Based Model and the application process.

9. Sexually Violent Predator (SVP) Assessment Committee

Active

Committee Chair: Chris Lobanov-Rostovsky

Purpose: The purpose of the Sexually Violent Predator (SVP) Assessment Committee was to work on addressing recent court cases regarding SVP status designation, and consider potential

revisions to the protocol and whether to make recommendations for statutory change. The Committee has considered recommendations for a shift from an SVP system of classifying sexual offenders to a risk-based classification system given that the SVP designations is no longer a federal mandate. The Committee meets once per month.

Major Accomplishments: The SOMB approved the Sexually Violent Predator Assessment Screening Instrument (SVPASI), the new SVP risk assessment developed by Office of Research and Statistics. The primary changes include language to clarify instructions and content, recidivism is now defined as new court filing for violent or sexual offense within eight years of conviction, and the validation of the SOMB Sex Offender Risk Scale (SORS). The new assessment will be effective early 2018. Please see Section 2 for additional information, Appendix C for a full list of changes and the full SVPASI.

Future Goals: Offer training to all providers utilizing this instrument and provide continued support throughout the implementation process.

10. Circles of Support and Accountability (CoSA) Advisory Committee

Active

Committee Chair: Chris Lobanov-Rostovsky

Purpose: The purpose of the SOMB Circles of Support and Accountability (CoSA) Steering Committee is to provide support and guidance to the development and implementation of CoSAs in Colorado.

Major Accomplishments: SOMB staff supports the work of Colorado CoSA, who is currently undergoing a change in leadership. At this time, CoSA is currently operating with fewer core members than usual until the transition is completed.

Future Goals: Identify permanent funding for the CoSA program, as it is currently being funded by a time-limited grant, as well as probation and parole discretionary funding. In addition, expansion in the availability of CoSA to other offenders in varying geographic areas across the state will be pursued.

11. Training Committee (In collaboration with the Office of Domestic Violence Offender Management)

Active

Committee Chair: Raechel Alderete

Purpose: The Training Committee assists with the ongoing identification of training topics and objectives, and provides support in the planning process of long-range and large-scale training event, to include the annual SOMB conference. This Committee also helps define and assess training needs for stakeholders affiliated with the treatment and management of adults and juveniles who have committed sexual offenses.

Major Accomplishments: The Training Committee has focused on bringing Standards Booster Trainings to SOMB, VASOR and SOTIPS as well as Sex Offender Registration and Notification to providers across Colorado. In addition, trainings have been held on topics such as Trauma-Informed Care, cyber safety and sexting, and cultural competency. The SOMB held its 11th



Annual SOMB Conference in July of 2017, featuring trainings and panels impacting the management of adult sex offenders and juveniles who commit sexual offenses.

Future Goals: In 2017, the Training Committee is planning trainings that will be impactful to both SOMB providers and DVOMB providers. The Training Committee has sent out the call for papers for the 2018 SOMB Conference that will be held in July. Advanced series trainings are currently being planned for both SOMB and DVOMB providers.

12. Family Education, Engagement and Support Committee

Active

Committee Chairs: Chris Renda and Roberta Ponis

Purpose: The purpose of the Family Support and Engagement Committee is to provide a mechanism for ongoing educational information to offenders family members and guidance to Community Supervision Teams (CSTs)/Multi-Disciplinary Teams (MDTs) on how to better engage with family members. This Committee meets once per month.

Major Accomplishments: This Committee provided panel presentations to the SOMB to educate them on family engagement. This Committee completed the role of the family representative on the CST and submitted this to the Section 5.000 Committee for inclusion. Throughout 2017, this Committee has worked on drafting an educational document, named the Family Resource Guide, and has completed Chapters 1 through 3 of the document.

Future Goals: The Committee will continue working on drafting an educational document for families to help them better understand the system and what will happen with their loved one, while also working with other agencies such as the Colorado Department of Corrections (CDOC) and the Colorado Judicial Branch to translate what these agencies do for family members. Additionally, distribution strategies will be developed in order to provide this resource to those who need it.

13. Sex Offender Registration Legislative Workgroup

Active

Committee Chair: Jeff Shay

Purpose: The Sex Offender Registration Legislative Work Group strives to ensure that sex offender registration and community notification is working effectively by addressing system-level concerns of stakeholders. The Committee works with law enforcement to examine and make suggestions for improvements to registry processes.

Major Accomplishments: In 2017, the Sex Offender Registration Legislative Workgroup discussed key sex offender registration policy issues including transience, incapacitation and deregistration. The Committee continues to identify other key registration issues and concerns while attempting to problem solve within the work group.

Future Goals: Moving forward, the Committee will continue to discuss key registration issues and identify problem areas and potential solutions. This Committee will continue to provide input into the work of the *Adam Walsh Act* (AWA) 15 Implementation Grant obtained by the Sex Offender Management Unit to work on further registration training for law enforcement

personnel, and the integration of the Colorado Sex Offender Registry (COSOR) and the Sexual Offender Tracking and Registration (SOTAR) system.

14. Human Trafficking Workgroup

Active

Committee Chair: Michelle Geng

Purpose: Sex traffickers present with unique risk and needs that require expanded evaluation and treatment techniques. This Committee convened to review research regarding convicted sex traffickers to determine how to best identify and respond to their unique risks, needs and responsivity factors. This Committee is drafting a position paper to provide additional direction to SOMB providers working with this population.

Major Accomplishments: The Committee conducted an extensive literature review regarding offenders of human trafficking. The purpose was to identify similarities and differences between human trafficking offenders and traditional sex offenders. This literature review serves as the basis for the position paper currently being drafted.

Future Goals: This Committee plans to publish a position paper regarding the supervision and treatment of human trafficking offenders in 2018. Additionally, this Committee will continue to review research and offer guidance to the SOMB and providers regarding human trafficking offenders.

15. Community Notification Technical Assistance Team

Active

Committee Chair: Michelle Geng

Purpose: This Committee assists law enforcement agencies with community notification regarding sexually violent predators pursuant to C.R.S. §16-13-907 through §16-13-905. The purpose of this team is to review criteria and protocols, and the accompanying resources, and make appropriate changes based on contemporary research.

Major Accomplishments: This Committee reviewed the *Criteria, Protocols and Procedures for Community Notification Regarding Sexually Violent Predators*, and formulated several recommendations. These include eliminating the mandate for town-hall style meetings for the initial notification of a sexually violent predator moving to the community. The Committee also identified more cost-effective methods for notifications, including use of social media.

Future Goals: This Committee will continue to review and revise protocols and accompanying resources, such as PowerPoint presentations, to reflect aforementioned recommendations and adhere to best practices.

Appendix B. School Safety Resource Center Sexting Fact Sheet



COLORADO
School Safety Resource Center
Department of Public Safety

Sexting: New Legislation/HB17- 1302 (C.R.S. § 18-7-109)

Juvenile Posting/Possessing/Exchanging Private Images

- Prior to the enactment of this law, prosecutors' only option for charging teen sexting behavior (even among consenting friends) was felony exploitation of a child. The new law, which applies to behavior on or after January 1, 2018, is a tiered approach which separates abusive forms of sexting (such as malicious distribution) from consensual electronic exchange of explicit images:

Offense	Committed if juvenile:	Penalty	Enhanced to:
POSTING	Knowingly distributes, displays or publishes image another who is at least 14 or is less than 4 years younger <i>without permission</i> ; OR of him/herself if the recipient didn't request it and suffered emotional distress; OR the poster knew or should have known that the depicted person had a reasonable expectation of privacy.	<u>Class 2 Misdemeanor</u>	<u>Class 1 Misdemeanor</u> if: Intent to coerce, intimidate, threaten, or cause emotional distress; OR Prior posting of a private image and completion of a diversion or educational program; OR a prior adjudication; OR Posted 3 or more images of separate persons.
POSSESSION	Knowingly possesses image of another who is at least 14 or is less than 4 years younger <i>without permission</i> .	<u>Petty Offense</u>	<u>Class 2 Misdemeanor</u> if: possessor has 10 or more images depicting 3 or more separate persons.
EXCHANGING	Knowingly sends an image of self to another who is at least 14 or is less than 4 years younger and reasonably believed the recipient agreed; or Knowingly possesses an image of another who is at least 14 or is less than 4 years younger and reasonably believed depicted person agreed.	<u>Civil Infraction</u> May be required to participate in an educational program designed by CSSRC or a fine up to \$50 which may be waived.	

- Felony charges are still available under aggravating circumstances, but the court may not charge sexual exploitation AND posting of an image by a juvenile under the same facts. Juveniles MAY NOT be charged with felony exploitation if their conduct is limited to the elements of petty offense (*possession*) or civil infraction (*exchange*) under this law. Additionally, the court has discretion to exempt first offenders from the sex offender registry where their conduct meets the elements of posting or possessing private images by a juvenile.
- It is an **affirmative defense** if the juvenile takes reasonable steps to delete or report the image to law enforcement or an SRO within 72 hours of viewing, or if the juvenile was coerced, threatened or intimidated.
- Calls for a comprehensive education program (to be developed by the CSSRC by June 1, 2018) regarding risks, consequences, and defenses to charges of sexting behavior.
- Requires the court to order juvenile to be assessed for suitability to participate in restorative justice practices and encourages each D.A. to develop a diversion or alternative program for first offenders who violate the law.
- Records are expunged within 42 days after completion of the sentence or alternative program.

July, 2017

Appendix C. Sexually Violent Predator Assessment Screening Instrument

Approved Modifications

- The color RED was added to various statements throughout the document.
- Page 1 - Assessment Summary Section: Clarifying information was added as follows:
 - Yes, the person DID meet the above SVP criteria (court still must decide if relationship criteria are met and on SVP/non-SVP status).
 - The person refused to participate but DID meet the above SVP criteria (court still must decide if relationship criteria are met and on SVP/non-SVP status).
- Page 1 - At the bottom of page 1, the following statement was added as follows:

Following the court finding, probation officers must securely email the completed form within one month to: Office of Research and Statistics (cdps_dcj_ors_svp@state.co.us). Instructions for emailing this form can be found at: <https://www.colorado.gov/pacific/dcj-orsriskscales>.

- Page 4 - Client Information heading was changed to “Person Information”. Other changes made are as follows:
 - The request for the person’s Social Security number has been removed.
 - At the bottom of page 4, “this crime was an Attempt, Solicitation, or Conspiracy: Yes/No” statement was removed.
- Page 5 - The legal citations have been clarified.
- Page 6 - Section 3A. Prior Sex Crime Conviction - changed that if 3A is yes, you can skip 3B rather than also doing 3B:

If Yes, Proceed to Part 3C. If No, Proceed to Part B.

- Page 6 - Section 3B. SOMB Sex Offender Risk Scale (SORS): Inserted the new SORS.
- Page 6 - The statement at the bottom of page 6 has been reworded to:

“Evaluators using this instrument with women or persons with an Intellectual Disability (Intellectual Developmental Disorder), or if the evaluator has other significant concerns, shall also attach a document with an explanation of the scoring, limitations of the assessment, any relevant research, and a recommendation on whether the person should be designated a Sexually Violent Predator.”

- Page 7 - Section 3C. Mental Abnormality heading has been revised to “Psychopathy or Personality Disorder”.
- Page 7 - The bullet points have been reworded, but use the same concepts.
- Page 8 - Instrument Summary - Added “The evaluator agrees with the instrument findings - the evaluator has reviewed sections 3A, 3B, 3C” box.



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 person is designated a sexually violent predator.***

Review the 2018 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 individual satisfies the legislatively defined eligibility criteria for the definition of sexually violent predator (SVP) pursuant to 18-3-414.5(1), C.R.S.

- ☐ The person 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 person meets the prior conviction criterion (Part 3A). **OR**
 - ☐ The person scores 22 or more on the Sex Offender Risk Scale (SORS, Part 3B), pursuant to 18-3-414.5 and 16-11.7-103(4)(d), C.R.S. **OR**
 - ☐ Meets additional risk criteria (Part 3C), pursuant to 16-11.7-103(4)(d), C.R.S.
- ☐ Yes, the person DID meet the above SVP criteria (court still must decide if relationship criteria are met and on SVP/non-SVP status).
 - ☐ No, the person DID NOT meet the above SVP criteria.
 - ☐ The person refused to participate but DID meet the above SVP criteria (court still must decide if relationship criteria are met and on SVP/non-SVP status).
 - ☐ The person refused to participate but DID NOT meet the above SVP criteria.

RECOMMENDATION REGARDING RELATIONSHIP CRITERIA:

Per recent Supreme Court decisions, the court/parole board shall make the determination regarding whether the person meets the relationship criteria based on a recommendation from the evaluator. If the court/parole board determines that the person DOES meet the relationship criteria, the court /parole board shall then consider whether to designate the person as an SVP or not.

- ☐ The victim was a stranger to the offender (Part 2A), **OR** the offender established a relationship primarily for the purpose of sexual victimization (Part 2B), **OR** the offender 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 person refuses to participate in the assessment, this criteria is automatically affirmative.

COURT OR PAROLE BOARD FINDING:

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

Following the court finding, probation officers must securely email the completed form within one month to:
Office of Research and Statistics (cdps_dcj_ors_svp@state.co.us). Instructions for emailing this form can be found at:
<https://www.colorado.gov/pacific/dcj-ors/ors-riskscales>.

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT

BACKGROUND

P 2 OF 8

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 person 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:

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

- o A stranger to the offender or
- o A person with whom the offender established a relationship primarily for the purpose of sexual victimization or
- o A person with whom the offender promoted a relationship primarily for the purpose of sexual victimization.

(IV) Pursuant to 18-3-414.5(1)(a)(IV), C.R.S., and 16-11.7-103(4)(d), 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)(d), 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 found on the following pages of this form, the court/parole board shall make specific findings of fact and enter an order concerning whether the person is a sexually violent predator.

A person 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. Persons found to be sexually violent predators will also be placed on the Internet listing of sex offenders maintained by the Colorado Bureau of Investigation 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 received a deferred judgment and sentence per 18-3-414.5(b).

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

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT

INSTRUCTIONS

P 3 OF 8

OVERVIEW

- 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.
- 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 person is considered for release.
- All forms completed by Probation must be securely emailed to the Division of Criminal Justice (see cover page).
- A copy of the SVPASI handbook can be obtained from the Sex Offender Management Board (SOMB) or downloaded from <https://www.colorado.gov/pacific/dcj-ors/ors-riskscales>

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 person 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).**

PROCEED TO PART 1

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT			
P	<i>Probation Officer or Trained DOC Staff/Contractor Please Complete Part 1</i>		P 4 of 8
1. PERSON INFORMATION			
Person's First Name:		Person's Last Name:	
SID#:		ML#/DOC#:	
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female		DOB: (MM/DD/YYYY)	
Race/ethnicity: <input type="checkbox"/> Caucasian <input type="checkbox"/> Hispanic <input type="checkbox"/> African American <input type="checkbox"/> Other			
PO Name: (Does not apply to DOC)		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 #:	
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.)			
<p>The person 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 person 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.</p> <p>Please check the box indicating which of the five crimes qualifies the person for this assessment. Please include attempts, solicitations, and conspiracies to commit any of the following:</p> <p><input type="checkbox"/> Sexual assault in violation of section 18-3-402, C.R.S., or sexual assault in the first degree, in violation of section 18-3-402, C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Sexual assault in the second degree, in violation of section 18-3-403, C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2), C.R.S. as it existed prior to July 1, 2000;</p> <p><input type="checkbox"/> Sexual assault on a child, in violation of section 18-3-405, C.R.S.; or</p> <p><input type="checkbox"/> Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3.</p> <p>Meets DEFINING SEXUAL ASSAULT CRIMES Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			

PROCEED TO 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 8		
<p>The relationship categories are identified, but not defined, in state statute. The following definitions were provided by the Colorado Supreme Court in 2013 cases to assist in the identification of sexually violent predators as outlined in 18-3-414.5 (III) C.R.S. These Colorado Supreme Court decisions found that the Sex Offender Management Board (SOMB) does not have the authority to define the relationship criteria. Therefore, final determination of relationship criteria rests with the sentencing court or the parole board.</p> <p>The SOMB notes that the relationship criteria section of the SVP assessment screening instrument, although required by the statute, is not based on research and may not be correlated with recidivism. However, the SOMB recognizes that the offender's relationship to the victim can have a significant impact on the level of trauma to the victim.</p> <p>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 criteria. Refer to the manual for further information and examples.</p>				
Identify which of the following, if any, relationship categories apply.				
A. STRANGER				
<p>The stranger relationship criterion "is satisfied where either the victim is not known by the offender or the offender is not known by the victim, at the time of the offense." When the trial court assesses whether or not the stranger criterion is met, "it should consider the context of the parties' relationship at the time of the offense." <i>People v. Hunter</i>, 307 P.3d 1083, 1086, 2013 CO 48, ¶ 10.</p> <p>Meets the STRANGER Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
B. ESTABLISHED RELATIONSHIP				
<p>An offender "establishes a relationship" with his/her victim primarily for the purpose of sexual victimization where he/she creates, starts, or begins a relationship primarily for that purpose. <i>People v. Gallegos</i>, 307 P.3d 1096, 1100, 2013 CO 45, ¶ 12.</p> <p>Meets the ESTABLISHED RELATIONSHIP Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
C. PROMOTED A RELATIONSHIP				
<p>An offender "promotes a relationship" if, "excluding the offender's behavior during the commission of the sexual assault that led to his conviction, he otherwise encouraged a person with whom he had a limited relationship to enter into a broader relationship primarily for the purpose of sexual victimization." <i>People v. Gallegos</i>, 307 P.3d 1096, 1100, 2013 CO 45, ¶ 14.</p> <p>Meets the PROMOTED A RELATIONSHIP Criterion: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
D. NONE OF THE ABOVE				
<p>DOES NOT Meet Any Of The Above Relationship Criteria: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
SELECT THE DATA SOURCE(S) USED TO DETERMINE RELATIONSHIP CRITERIA				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> 1. Criminal History <input type="checkbox"/> 2. Pre-Sentence Investigation Process <input type="checkbox"/> 3. Police Report <input type="checkbox"/> 4. Mental Health Evaluation <input type="checkbox"/> 5. Official Record/Documentation <input type="checkbox"/> 6. Child Protection or Social Service Records <input type="checkbox"/> 7. Demographic Information <input type="checkbox"/> 8. NCIC <input type="checkbox"/> 9. Education Records </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> 10. Victim Report (self-report or from any data source) <input type="checkbox"/> 11. Sexual History (official record, self-report) <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation <input type="checkbox"/> 13. Prison Record <input type="checkbox"/> 14. Self-Report <input type="checkbox"/> 15. CCIC <input type="checkbox"/> 16. Plethysmograph Examination or VRT Assessment <input type="checkbox"/> 17. Other (Specify) </td> </tr> </table>			<input type="checkbox"/> 1. Criminal History <input type="checkbox"/> 2. Pre-Sentence Investigation Process <input type="checkbox"/> 3. Police Report <input type="checkbox"/> 4. Mental Health Evaluation <input type="checkbox"/> 5. Official Record/Documentation <input type="checkbox"/> 6. Child Protection or Social Service Records <input type="checkbox"/> 7. Demographic Information <input type="checkbox"/> 8. NCIC <input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 10. Victim Report (self-report or from any data source) <input type="checkbox"/> 11. Sexual History (official record, self-report) <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation <input type="checkbox"/> 13. Prison Record <input type="checkbox"/> 14. Self-Report <input type="checkbox"/> 15. CCIC <input type="checkbox"/> 16. Plethysmograph Examination or VRT Assessment <input type="checkbox"/> 17. Other (Specify)
<input type="checkbox"/> 1. Criminal History <input type="checkbox"/> 2. Pre-Sentence Investigation Process <input type="checkbox"/> 3. Police Report <input type="checkbox"/> 4. Mental Health Evaluation <input type="checkbox"/> 5. Official Record/Documentation <input type="checkbox"/> 6. Child Protection or Social Service Records <input type="checkbox"/> 7. Demographic Information <input type="checkbox"/> 8. NCIC <input type="checkbox"/> 9. Education Records	<input type="checkbox"/> 10. Victim Report (self-report or from any data source) <input type="checkbox"/> 11. Sexual History (official record, self-report) <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation <input type="checkbox"/> 13. Prison Record <input type="checkbox"/> 14. Self-Report <input type="checkbox"/> 15. CCIC <input type="checkbox"/> 16. Plethysmograph Examination or VRT Assessment <input type="checkbox"/> 17. Other (Specify) 			

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT

P

Probation Officer or Trained DOC Staff Please Complete Parts 3A and 3B

P 6 of 8

3A. PRIOR SEX CRIME CONVICTION

The person has previously been convicted in any state 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 2018 SVPASI handbook for further details regarding this item.

☐ Yes☐ No

IF YES, PROCEED TO PART 3C. IF NO, PROCEED TO PART 3B.

3B. SOMB SEX OFFENDER RISK SCALE (SORS) 2018

Pursuant to 16-11.7-103(4)(d), 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 a person's risk for recidivism. Recidivism was measured as a new court filing for a violent or sexual offense within 8 years. A score of 22 or above, automatically calculated below, reflects that the individual falls into a risk category with a 50-60% likelihood of a new sex or violent crime court filing within 8 years. Note: Less than 5% of individuals assessed for SVP eligibility will score 22 or higher.

The SORS formula is:

Score = (# Adult Cases x 2.1) + (# Juvenile Cases x 3.1) + (# Cases with a revocation x 2.2) – (Earliest Sex Offense Filing Age x .23)

This research is described in the 2018 SVPASI handbook.

Note that risk of recidivism for a new sexual or violent offense remains unknown for women and persons with developmental disabilities because the research sample used to develop this instrument included too few of these individuals. Caution should be exercised in the use of this instrument with these populations. For more information, please see the SOMB White Paper on women and risk assessment (available at <https://drive.google.com/file/d/0ByCqXGmcaW-aam1XTmliQnpudIU>) and Standards 2.061DD, 2.70DD, and 4.210DD.

Please fill in the information below and press the **Calculate** button. If you make a change press **Calculate** to update the score.

☐

Total number of adult cases filed

(Include District and County cases in Colorado or another state with sex or non-sex misdemeanor or felony charges, regardless of conviction, excluding this case.)

☐

Total number of juvenile cases filed

(Include Juvenile Delinquency cases in Colorado or another state with sex or non-sex misdemeanor or felony charges, regardless of conviction, excluding this case.)

☐

Total number of cases containing a revocation from probation or community corrections

(Include District, County, and Juvenile Delinquency cases in Colorado only, having misdemeanor or felony charges. Include cases in which probation or community corrections was reinstated. Do not include parole revocations.)

☐

Earliest sex offense filing age

(Include District, County, and Juvenile Delinquency cases in Colorado or another state with sex misdemeanor or felony charges, regardless of conviction, including this case. Round age to the nearest full year.)

Calculate

Total score

Meets SORS criteria:

Note that negative scores are possible and valid.

Evaluators using this instrument with women or persons with an Intellectual Disability (Intellectual Developmental Disorder), or if the evaluator has other significant concerns, shall also attach a document with an explanation of the scoring, limitations of the assessment, any relevant research, and a recommendation on whether the person should be designated a Sexually Violent Predator.

PROCEED TO PART 3C

January 1, 2018



COLORADO
Division of Criminal Justice
Department of Public Safety

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT

E

SOMB Evaluator or Trained DOC Staff Please Complete Part 3C

P 7 of 8

3C. Psychopathy or Personality Disorder

Pursuant to 16-11.7-103(4)(d), C.R.S., this assessment "...shall consider as one element the risk posed by an adult sex offender who suffers from psychopathy or a personality disorder..." 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 2018 SVPASI Handbook for more details regarding these qualifications. **SKIP THIS SECTION IF THE PERSON REFUSES TO PARTICIPATE IN THE ASSESSMENT.**

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

Check the appropriate box:

- | | Yes | No | N/A |
|---|--------------------------|--------------------------|--------------------------|
| • 30 or more on the Psychopathy Check List - Revised (PCL-R),
OR | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| • 85 or more on each of the following Millon Clinical Multiaxial
Inventory-IV (MCMI-IV) scales: narcissistic, antisocial, and
paranoid,
OR | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| • 70 or more on each of the following Coolidge Correctional
Inventory (CCI) scales: narcissistic, antisocial, and paranoid. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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

Meets Psychopathy or Personality Disorder Criteria: ☐ Yes ☐ No ☐ Refused testing

January 1, 2018

COLORADO SEXUALLY VIOLENT PREDATOR ASSESSMENT SCREENING INSTRUMENT		
P/E	INSTRUMENT SUMMARY	P 8 of 8
To be designated a sexually violent predator, the person 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) <u>AND</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Date Requirement (Per Statute) <u>AND</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Prior Conviction Criterion (Part 3A) <u>OR</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets SORS criterion on the DCJ SORS 2018 Scale (Part 3B) <u>OR</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Meets Psychopathy or Personality Disorder Criterion (Part 3C)		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Refused testing
The evaluator agrees with the instrument findings The evaluator has reviewed sections <input type="checkbox"/> 3A <input type="checkbox"/> 3B <input type="checkbox"/> 3C <i>(Please check if reviewed)</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No
DID PERSON MEET THE ABOVE SEXUALLY VIOLENT PREDATOR CRITERIA? IF YES, THE COURT/PAROLE BOARD SHALL MAKE A DETERMINATION REGARDING THE RELATIONSHIP CRITERIA AND DETERMINE SVP STATUS.		<input type="checkbox"/> Yes <input type="checkbox"/> No <i>(Record this response on page 1 as well.)</i>

January 1, 2018



COLORADO
 Division of Criminal Justice
 Department of Public Safety

Appendix D. Changes to Section 6.000

I. Best Practice Recommendation #1: Prescribed frequency of or duration between polygraph exams

Approved Changes:

- Section 6.000 - Now is provided as a definition of polygraph rather than a specific requirement.
- Section 6.002 - Previously required timeframes for polygraph are now provided as recommended guidelines for Community Supervision Teams (CSTs) rather than requirements.
- Section 6.003 - Defines the different types of polygraph exams using the American Polygraph Association (APA) definitions, and discusses the differences between APA exam types and those identified in the Standards.
- Section 6.011 - Now is provided as a definition of an instant offense exam per the APA rather than a specific requirement, and connects its required usage and timeframe to treatment Standards for provider discretion related to offenders in denial (3.520) and readiness for victim clarification (5.752 D) rather than requiring a specific timeframe.
- Section 6.012 - Now is provided as a definition of a sex history exam per the APA rather than a specific requirement, and eliminates the required timeframe. Instead, the frequency and timeframe for sex history exams are now connected to treatment plan Standards (3.160 I. 2.) and treatment progress Standards (3.160 M.) with provider discretion for implementation.
- Section 6.012 Discussion Point - Encourages CST consultation prior to a sex history exam being administered if the sex history packet has not been completed before referring for a sex history polygraph in such a situation.
- Section 6.012 F - Discusses the CST being able to waive the requirements for a fully resolved sex history exam question, and removes the qualifier in “rare circumstances”.
- Section 6.012 G - Moved the discussion about delaying sex history polygraph examination for offenders in significant denial regarding the instant offense from a discussion point to a Standard.
- Section 6.013 - Now is provided as a definition of maintenance and monitoring exams per the APA rather than a specific requirement.
- Section 6.013 Discussion Point - Discusses the mixing of maintenance and monitoring polygraph questions on a single exam.
- Section 6.013 - The frequency of maintenance and monitoring exams can be adjusted based on risk and need, but are required initially at a minimum of twice yearly. Based on an assessment of all clinical indicators of risk and need, the CST may decide over time to decrease the frequency of maintenance exams to every nine months, or monitoring exams to once per year. In cases where only annual monitoring exams are being used, a maintenance exam can still be implemented on an as-needed basis to address specific identified supervision and treatment risk concerns, but cannot cover timeframes longer than nine months.
- Section 6.013 Discussion Point - Criteria for a determination of low risk is based on all clinical indicators including non-deceptive polygraph results over a consistent period of time, as well as amenability to and cooperation with treatment and supervision.

- Section 6.013 Discussion Point - Highlights the purpose of maintenance/monitoring polygraph exams, and the research support for these benefits.
- Section 6.013 A - Further discusses purpose and focus of maintenance/ monitoring exams, and the potential impact and limitations on both an assessment of increased, or decreased, risk as a result.
- Section 6.014 - Now is provided as a definition of specific issue exam per the APA rather than a specific requirement. Deleted the reference to the sanctions grid.
- Section 6.014 - Moved the limitation on completing a specific issue exam during an active investigation from a discussion point to a Standard.
- Section 6.015 - Deferred the decision on the Child Contact Assessment Polygraph to the Adult Standards Revisions Committee to decide on the use of the CCA.
- Section 6.020 - Provided further guidance on what information to share or not share with the offender prior to the exam.
- Section 6.021 - CST members shall collaborate with the examiner regarding the type of exam and areas of concern, and provide documentation as available.
- Section 6.022 - The examiner shall note in the report any change in focus of the exam, if such change took place.
- Section 6.030 - Removed the required timeframe for follow-up exams and made it a recommendation. Prescribed a process of CST decision-making to include considering multiple factors, and to be based on risk and need. The “successive hurdles” approach to retests is highlighted per the APA definition.
- Section 6.030 B Discussion Point - Timeframes related to follow-up exams and how that factors in to the frequency of required routine maintenance/monitoring exams is clarified.
- Section 6.030 C - Recommendation for the use of the same examiner in the initial follow-up examiners, but the mechanism and procedure for changing examiners is discussed.
- Section 6.030 C Discussion Point - The limitations of non-deceptive polygraph results are discussed, and all clinical indicators should be considered.

Specific Best Practice Recommendations with Committee Response:

- Get away from prescribed time frames. Determine frequency based on risk and needs.
Response: Timeframes for polygraph are now recommended guidelines. Frequency and timing of exams is now connected to treatment Standards and provider discretion, and decisions will be based on risk and treatment needs.
- Emphasize an individualized approach based on RNR.
Response: Use of polygraph is now connected to risk and need, and responsivity factors (suitability) are addressed through the APA suitability criteria.
- Establish guidelines for MDT/CST to use when determining frequency. Some possible questions include:
 - What information is being sought by the polygraph and how will this information and the outcome impact or inform the course of treatment/supervision?
 - Besides Polygraph testing what alternate methods have been utilized or can be utilized to gain this information? What alternate methods can be utilized to address deceptive or inconclusive results?
 - What risk factors are the teams concerned with and how are these factors connected to the frequency of examination?



- iv. What factors are important in ensuring the polygraph examination is accuracy (e.g., a multi-year maintenance exam on certain risk markers such as use of pornography and contact with children may impact validity and accuracy, etc.)

Response: Much of the mandates for CSTs will be highlighted in Section 5.000 as that section is designed for the responsibilities of the CST, rather than Section 6.000 which is responsibilities for the polygraph examiner. Section 6.000 does now emphasize that polygraph is one clinical indicator to be considered, and one of many behavioral monitoring tools to be utilized by CSTs. The CST is now charged with assessing the value of the information received thus far from polygraph and whether further testing is needed to better assess risk and needs. Based on the concern to not diminish the accuracy and validity of maintenance/ monitoring exams, there are outer limits on the frequency of such exams and timeframes, but CSTs are free to adjust frequency within those timeframes. There is also a graduated decrease in maintenance/monitoring exams proposed for those who demonstrate as low risk.

- iv. Update suitability criteria and review with APA criteria.

Response: The APA suitability criteria has been added as an Appendix, and the Committee has revised the Standards to comport with these suitability criteria.

- v. Clarify standard 6.230 regard cultural awareness. Discuss sensitivity and how provider matching can help in this area.

Response: The Committee reviewed this Standard and added a footnote to the APA Model Policy.

- vi. Possibly consider adding appropriateness criteria similar to those in the juvenile standards. Appropriateness is differentiated from suitability (i.e. responsivity nuances, etc.) (juvenile standard 7.120)- (cross reference VII, c below in this document).

Response: The APA suitability criteria is now the reference for making decisions related to suitability.

- vii. Cross reference standards to ensure that the standards uniformly identify an approach that is individualized and based on RNR and there are not pre-determined requirements for a polygraph to be administered or sanctions based on results.

Response: See above.

II. Best Practice Recommendation #2:

Prescribed requirements for progress and outcomes/sanctions based specifically on polygraph results.

Approved Changes:

- Section 6.000 - Polygraph results should not be used in isolation (moved from Discussion Point to Standard).
- Section 6.001 - The purpose of polygraph is highlighted in terms of treatment planning and progress, and community safety.
- Appendix C - Removed the Sanctions grid for deceptive polygraph results - Approved prior to Committee convening.
- Section 6.012 E - Requires the CST to meet to address unresolved sex history polygraph questions, but no longer prescribes a timeframe. The purpose of the staffing is for treatment and supervision planning purposes, not sanction administration.
- Section 6.013 B - Removed the discussion about SLAs in relation to polygraph exam.

- Section 6.013 B - Removed the required timeframe for increasing maintenance/ monitoring exams based on having an unresolved sex history exam process, and instead made it an option for CSTs to consider.
- Section 6.013 D - Removed the specifications related to the resolution of all test question areas. This will be addressed in the follow-up exam section below.
- Section 6.020 Discussion Point - CSTs should not discuss potential sanctions with the offender prior to the polygraph.
- Section 6.030 - Removed the requirements and discussion point for CST response to unresolved exams along with the sanctions grid (previously removed), and will address this in the follow-up section below.
- Section 6.130 - Heading changed to Potential Conflict of Interest. Discusses limitations on requiring use of in-house examiners, and distinct roles.

Best Practice Recommendations with Committee Response:

- Clarify and strengthen language stating that decisions/changes/responses should not be based solely on the machine generated results of a polygraph examination (see c.ii. below).

Response: Section 6.000 was revised to address as noted above.

- Adjustments to treatment/supervision should be based on risk and need as determined by all forms of Clinical Indicators including; information from pre and post-test interviews, offender behavior and accountability, transparency and engagement in treatment, dynamic risk assessment, information gained during clinical sessions, information provided by family and support systems, and information gained through supervising officer interactions.

Response: Section 6.013 highlights that polygraph is one of multiple clinical indicators to be considered in decision-making.

- Provide clarity to teams responding to polygraph outcomes
 - The MDT/CST should discuss outcomes of the polygraph exam (including information obtained from interviews) and decide on the best course of action
 - It may not be suitable that a follow-up examination should be based solely on machine generated results of deception or inconclusive. The team must identify a rational and specific area of concern related to follow up testing. Prior to a second (or follow-up) examination, the MDT/CST shall consider whether any new information has been disclosed that would explain the results of prior exams.
 - Emphasize that the MDT/CST's has the discretion to change polygraph examiners. The wording of the standard should not dictate specific criteria/rationale for changing polygraphers so as not to tie the MDT/CST's hands in having complete discretion as professionals to do make this decision
 - Clarify discussion points, if needed, regarding follow up polygraphs and reasons for and against using the same examiner (6.031B)

Response: Section 6.030 discusses the process for CSTs to make decisions about future exams based on a consideration of risk and need, and continuity and changes in examiners as appropriate and needed. The approach in terms of using the same examiner for a follow-up exam and/or switching examiners has been addressed in 6.030 C.



III. Best Practice Recommendation #3:
Assumptions about the risk of the offender based specifically on polygraph results

Approved Changes:

- Section 6.012 Discussion Point - Removed the language regarding assumptions about the offender's level of risk and dangerousness.
- Section 6.012 E - Removed the reference to the risk of the offender based on unresolved sex history polygraph examination results.
- Section 6.013 E - Removed the notation about an offender with an unresolved maintenance exam being high risk.

Best Practice Recommendations and Committee Response:

- i. Clarify how a polygraph can and cannot be used
Response: The purpose of the polygraph in general (Section 6.000), and each type of polygraph in particular are highlighted in the definitions of each exam (Sections 6.011, 6.012, 6.013, and 6.014).
- ii. Clarify the limitations of polygraph
 - i. The ATSA Adult Guidelines Polygraph Appendix may be a good resource in describing how a polygraph can and cannot be used and limitations to the use of the polygraph
 - ii. The machine generated results in and of themselves in isolation do not indicate risk without further supporting information
Response: The current ATSA Polygraph Guidelines are included as an Appendix in the Standards. Section 6.000 discusses the limitations of the use of polygraph results as indicated above.
- iii. Adjustments to treatment/supervision should be based on risk and need as determined by all forms of collateral information including; information from pre and posttest interviews, information gained during clinical sessions, information provided by family and support systems
Response: The Standards have been adjusted to emphasize that treatment and supervision should be based risk and need as determined by all clinical indicators, of which polygraph is one but not the only aspect.
- iv. Clarify the purpose of the polygraph- Explore utilizing "polygraph assisted risk assessment" (Gannon, et al., 2008) as a language that more clearly articulates that we are using the polygraph to "inform" risk. The standards revision should also have some discussion as to differentiating in a particular case whether the polygraph is being used for treatment, supervision, etc. The Polygraph is an adjunct tool.
Response: See above. The purpose of the polygraph in informing risk and need is addressed as is its limitations.

IV. Best Practice Recommendation #4:
Guidance on how to respond to specific polygraph results

Approved Changes:

- Section 6.000 - Guidance is provided on how CSTs should respond to polygraph results as one of multiple clinical indicators and forms of behavioral monitoring.
- Section 6.013 A Discussion Point - Explores the use of broader screening exams vs. more narrowly focused tests, and the impact on the validity of the test as identified in research. The CST should consult with the examiner on the type of exam, and the final decision on the exam type is the examiner's decision.
- Section 6.020 - Deleted additional guidance for CSTs as this will be addressed in Section 5.000.
- Section 6.032 - Focuses on supporting offender accountability and addressing polygraph results rather than preventing splitting and triangulation. Language is more strengths based.
- Section 6.033 - References the polygraph examiner as the expert related to the polygraph exam, and provides a process for supervising officers and treatment providers to seek guidance related to exam results, including the solicitation of the exam video to resolve any discrepancies in the reported disclosures. Also discusses how the offender can work with the treatment provider and supervising officer to resolve these discrepancies as well.

Best Practice Recommendations with Committee Response:

- Eliminate the sanctions grid
Response: The sanctions grid has been eliminated.
- The CST/MDT must clarify the reason for the polygraph (treatment tool vs supervision tool) and respond accordingly.
Response: The polygraph exam has been clarified in terms of its use as a tool for both treatment and supervision.
- Clarify that responding to information gained from a polygraph (including the machine generated results) should be based on all forms of data and that responding to concerns about risk and needs should include methods besides polygraph testing.
Response: See above. Polygraph is one clinical indicator of risk and need, and other behavioral monitoring strategies are identified.
- Reiterate that decisions should not be based solely on the machine generated results of the polygraph.
Response: See above. Section 6.000 discusses that treatment and supervision decisions should not be made solely on the results of polygraph.

V. Best Practice Recommendations #5:

What role the polygraph examiner plays on the MDT/CST (core vs adjunct member)

Approved Changes:

- The role of the polygraph examiner on the CST has been addressed in Sections 5.000-5.600.
- Section 6.033 Discussion point - Provides role clarification in noting that it is not the polygraph examiner's role to recommend treatment or supervision interventions.
- Section 6.120 - Changed heading to Time Allotted for Exam, and provides further information in the discussion point about how actual exam time may vary.
- Section 6.143 - The pre-test interview language has been changed to remove the investigation language.



- Section 6.145 - Number of test charts/presentations (latter descriptor added). Minimum of 3 charts/presentations administered rather than specifying 3-5.
- Section 6.146 - Post-Test Review. Preliminary results, if available will be shared with the offender after the exam.
- Section 6.151 - Test scoring results are described by type and the language for generating the results has been adjusted to say the examiner shall render an opinion based on an empirically-supported scoring technique regarding the offender's reactions to each test question. Specifically, the language related to attempts to manipulate the test results have also been clarified.
- Section 6.160 - Examination reports will be forwarded specifically to the treatment provider and supervising officer (rather than the CST given the expansion of the membership), and a new discussion point encourages examiners to contact treatment providers and supervising officers as soon as possible rather than relying on the written report to provide this information.
- Section 6.163 - In order to ensure that the polygraph examiner maintains control over the release of the exam report, a statement of proprietorship has been added as a discussion point.
- Section 6.170-6.172 - Clarifies peer review, quality assurance reviews, and quality control reviews. The reasons for initiating a quality control review are discussed, and the mechanism for an offender to initiate such a review discussed.

Best Practice Recommendations with Committee Response:

- Clarify how the polygraph examiner could be utilized in a consultant manner to the MDT/CST when polygraph testing is being considered.
Response: The importance of the CST consulting with the polygraph examiner in decision-making related to examination is emphasized.
- Clarify that the polygraph examiner can play a role in discussing case specific issues that may impact the frequency (i.e. the utility of the polygraph at different time intervals based on the information being sought).

Response: The polygraph examiner is a resource to the CST on making decisions about the frequency and focus of examination.

- Clarify that the polygraph examiner can provide information about how a polygraph test can and cannot be used as well as the limitations to testing.
Response: The polygraph examiner should be consulted about the appropriate use of the polygraph.

VI. Best Practice Recommendation #6:

Guidance related to suitability and special considerations for polygraph testing

Approved Changes:

- Section 6.200 now references the APA Suitability Criteria rather than identifying the criteria in narrative form here. The APA Suitability Criteria includes all areas of suitability. The Standard also discusses ongoing review of suitability.
- Section 6.210 - Polygraph examiners no longer have discretion to test unsuitable examinees.
- Section 6.240 - The section that talks about malingering related to suitability has been removed as that is part of the Suitability assessment.

Best Practice Recommendations:

- i. Update suitability criteria
Response: Standard 6.200 and 6.210 address the determination of suitability for testing. The APA criteria is now the criteria used for such decisions.
- ii. Review APA criteria
Response: The APA criteria is now an Appendix to the Standards.
- iii. Consider appropriateness criteria
Response: The Committee has strengthened the suitability criteria and deferred to the APA Model Policy.
- iv. Discuss the impacts of medication, trauma, age, and cognitive functioning.
 - i. Include medical marijuana as a medication. Address dementia under cognitive functioning. Address minimum age also, adverse childhood experiences and trauma
 - ii. In addition to critically examining the current wording in our standards, need to explore what new research is available in these areas.
Response: The Committee has strengthened the suitability criteria and deferred to the APA Model Policy.
- v. Clarify that suitability, exclusionary, and appropriateness criteria need be evaluated on an on-going basis and prior to each exam. If the team determines suitability and appropriateness and the individual is referred for a polygraph examination the final determination of suitability shall be made by the polygraph examiner. (see juvenile standards 7.110 and 7.160). There is still some confusion about the appropriateness vs. suitability in the juvenile standards. Also that the polygrapher is not a core member of the MDT. Are they a core member of the CST? Does the CST feel like they can make a decision about the use of the polygraph without a polygraph examiners involvement?
Response: The Committee has strengthened the suitability criteria and deferred to the APA Model Policy. Standard 6.210 addresses the ongoing assessment of suitability by the CST.

VII. Best Practice Recommendation #7: Requirements related to content of exams including sex history content areas.

Approved Changes:

- Section 6.012 B - Identifies required content areas for sex history exam.
- Section 6.012 C - Specifically discusses possible additional sex history polygraph questioning related to internet-facilitated sexual offending including use of child sexual abuse images.
- Section 6.012 C Discussion Point - Encourages CSTs to discuss use of broad multi-issue vs. narrowly focused sex history exams with the polygraph examiner, and notes that the polygraph examiner has the final decision-making authority on what type of exam to administer.
- Section 6.012 D - Requires differential sex history polygraph questions for female sex offenders rather than recommending it.

Best Practice Recommendations with Committee Response:

- i. Clarify that content areas should be based on risk and need.



Response: Section 6.012 highlights required and optional content areas. The CST is empowered to make decisions about areas of testing.

- ii. Clarify that teams can supply the content area and topics of concern but the polygraph examiner is responsible for framing the actual question.
 - i. Consider reviewing language from the juvenile standards. 7.130 “The MDT [CST] shall identify question areas for a juvenile’s [offenders] exam prior to the scheduling of the exam. This information along with the Sexual History Disclosure Packet shall be referred to the polygraph examiner so that the examiner can formulate suitable questions for the exam based on input from the MDT [CST].”

Response: Sections 6.021 and 6.022 define the role of the CST and the examiner, and notes that the examiner has the final decision-making related to test questions.

- iii. Possible discussion point regarding unnecessarily testing on a content area when it is already known to be a risk area (i.e. asking about number of times someone has engaged in frottage when this is already known to be an area of concern. 25 times vs. 20 times is not going to alter treatment/supervision).

Response: Section 6.012 discusses that sex history question areas can be left unresolved based on CST decision-making, if the risk and need areas are thoroughly addressed.

- iv. Provide clarification regarding whether it is being used as a treatment tool vs. a supervision tool. Possibly consider alternate sections with guidelines for each type of polygraph. Provide cautionary statements around sanctioning when it is used as a treatment tool and information is gained that could aid in treatment (include in this limitations regarding laws and mandatory reporting). Are there different guidelines when the polygraph is being utilized as a treatment vs. a supervision tool? This includes more clearly differentiating maintenance and monitoring polygraphs.

Response: The polygraph’s use as a treatment and supervision tool are discussed throughout. Sanctioning is no longer based on polygraph results alone and must consider all clinical indicators. Maintenance and monitoring exams and the differences between them are discussed.

VIII. Best Practice Committee Recommendation #8: Appendix with outdated version of ATSA ethical standards

Approved Changes:

- The current version of the Adult Standards now includes both the American Polygraph Association Suitability Criteria, and the current version of the ATSA practice guidelines and ethical standards as appendices.

IX. Recent Court ruling²⁴

Approved Changes:

- Section 6.012 - Guidance for treatment providers and CSTs regarding offenders who refuse to answer sex offense history questions, including sex offense history polygraph questions.

²⁴ This was not part of the Best Practices Committee recommendations, and was changed prior to completion of the recommendations document.

Appendix F. Sex Offender Management Board White Paper on the Research, Implications and Recommendations Regarding Registration and Notification of Juveniles Who Have Committed Sexual Offenses

INTRODUCTION

The Colorado Sex Offender Management Board (SOMB) was created by 1992 legislation and under current statute the SOMB is charged with developing standards and guidelines for the evaluations, treatment, and supervision of adult sex offenders and juveniles who have committed sexual offenses. The SOMB is a multidisciplinary board of experts in the field representing victim advocacy, law enforcement, prosecution, legal supervision, human services, judges/magistrates, treatment, polygraph, education, defense attorneys, and county commissioners.

In response to growing concerns about the effectiveness and impacts of sex offender registration and notification (SORN) on juveniles²⁵ who have committed sexual offenses, the Sex Offender Management Board (SOMB) was asked to identify a committee of experts in the field to review current local and national laws, relevant research, and to provide recommendations to address the negative implications for juveniles as a result of SORN. A committee of treatment providers, evaluators, law enforcement, and attorneys was formed to explore the topic and write a White Paper. This White Paper will:

- discuss applicable laws including the Adam Walsh Act and the Sex Offender Registration and Notification Act (SORNA);
- discuss potential benefits of juvenile SORN, including its utility as a law enforcement tool;
- review the research as it pertains to juvenile SORN, including a challenge to the notion that SORN increases community safety and decreases recidivism;
- discuss potential collateral consequences, both intended and unintended, for juveniles, including a reduction in successful community integration and an increase in the risk for suicide following a requirement for SORN; and
- present recommendations for an enhanced SORN system in Colorado.

LEGAL BACKGROUND

Sex offender registration is a civil regulatory process requiring those individuals convicted of a sex offense to provide certain information (e.g., address, employment, internet identifiers, etc.) to law enforcement, and update this information on a regular and as-needed basis. Community notification encompasses the providing of certain information regarding registrants to the public via passive (e.g., sex offender registry public website) or active (e.g., law enforcement proactively provides registrant information to certain members of the public, such as those living in proximity to the registrant). Despite the public perception that SORN is punishment, the legislative mandate was not intended to serve this purpose.

Registration was first used in the 1930s with repeat criminal offenders as well as sex offenders. California became the first state to implement sex offender registration in 1947, while Washington became the first state to implement community notification on sex offenders in 1990.

The federal government has passed a series of SORN laws beginning in 1994. According to the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office):²⁶

²⁵ The term “juvenile” is used throughout this paper and refers to those youth who are eligible to be subject to SORN. In Colorado, all juveniles ages 10-18 who are adjudicated for a specified sex crime may be subject to SORN.

²⁶ <https://www.smart.gov/legislation.htm>



1994 - Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act - Enacted as a part of the Omnibus Crime Bill of 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act :

- Established guidelines for states to track adult sex offenders,²⁷
- Required states to track adult sex offenders by confirming their place of residence, annually for ten years after their release into the community or quarterly for the rest of their lives if the sex offender was convicted of a violent sex crime.

1996 - Megan's Law - During the mid-1990s, every state along with the District of Columbia, passed legislation consistent with Megan's Law. In January of 1996, Congress enacted the federal Megan's Law that:

- Provided for the public dissemination of information from states' sex offender registries,
- Provided that information collected under state registration programs could be disclosed for any purpose permitted under a state law,
- Required state and local law enforcement agencies to release relevant information necessary to protect the public about persons registered under a State registration, program established under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

2006 - Adam Walsh Child Protection and Safety Act - Repealed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act, and Megan's Law, and created a new federal SORN law that:

- Created a new baseline standard for jurisdictions to implement regarding sex offender registration and notification,
- Expanded the definition of "jurisdiction" to include 212 Federally-recognized Indian Tribes, of whom 197 have elected to stand up their own SORN systems,
- Expanded the number of sex offenses that must be captured by registration jurisdictions to include all State, Territory, Tribal, Federal, and UCMJ sex offense convictions, as well as certain foreign convictions,
- Created the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) within the Department of Justice, Office of Justice Programs, to administer the standards for SORN, administer the grant programs authorized by the Adam Walsh Act, and coordinate related training and technical assistance,
- Required registration jurisdictions for the first time to register all juveniles over the age of 14 adjudicated for certain sex crimes to be subject to SORN. The SMART Office subsequently modified this requirement twice through supplemental guidelines to first allow states not to publish juvenile registration information on a public website, and then to eliminate the requirement to register juveniles at all contingent on a system to apply SORN to those juveniles who are waived over and convicted in adult criminal court.

COLORADO SORN REQUIREMENTS FOR JUVENILE

²⁷ The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the subsequent Megan's Law amendment, did not include a requirement to register juveniles adjudicated for a sex crime, but set minimum requirements and did not preclude states from registering juveniles.

Colorado is among the forty (40) states requiring SORN for any juvenile adjudicated for a sexual offense in juvenile court.²⁸ In Colorado, the duty to register as a sex offender is mandatory for almost all enumerated sex crimes resulting in a juvenile adjudication or deferred adjudication.²⁹ Colorado also requires registration following an adjudication or deferred adjudication for a nonsexual crime if the crime is determined to have a sexual factual basis.

By default, a juvenile's duty to register is for life. There are statutory provisions to seek relief from the duty to register "after the successful completion of and discharge from a juvenile sentence or disposition ... if the person prior to such time has not been subsequently convicted or has a pending prosecution for unlawful sexual behavior...."³⁰

Additionally, Colorado requires individuals to register if they were adjudicated in another state or jurisdiction in which they were ever required to register as a sex offender.³¹ The duty to register based upon an out-of-state adjudication applies in Colorado, even if the person was already relieved of the duty to register by the state of adjudication.³² In such cases the default duty to register is for life unless and until they reach eligibility to petition for relief from registration.³³ Moreover, even if the person was never required to register in the jurisdiction of adjudication, if s/he would have been required to register if adjudicated of the same offense in Colorado, s/he must commence registration as a sex offender in Colorado during any periods of temporary or permanent residency.³⁴

Juveniles who are prosecuted for sexual offenses in adult court in Colorado or another state or jurisdiction are subject to Colorado's adult registration requirements and, if statutorily eligible, may be screened for Colorado's mandatory, lifetime status of "Sexually Violent Predator," which includes increased registration requirements and community notification.³⁵

REVIEW OF THE RESEARCH

Potential benefits and limitations of registration and notification policies

The sex offender registry was originally developed as a tool for law enforcement to assist with criminal investigations through the identification of a pool of suspects (known sex offenders). The belief was that law enforcement would be able to identify potential suspects for sex offenses committed by registrants, or conversely rule out suspects for sex offenses committed by non-registrants.

Subsequently, public notification of registrant information was added based upon the belief that providing information about who and where sex offenders are would allow the public to take precautionary steps to avoid contact with them and prevent from being sexually victimized. Therefore, in studying the benefits of SORN for juveniles adjudicated for sexual offenses, these benefits to law enforcement and the public should also be considered, in addition to the perceptions that registration could reduce juvenile sexual recidivism (not one of the original stated purposes of SORN).

There has been no research to date on the impact of SORN for juveniles related to the potential benefits for law enforcement and the public. However, there have been studies that have looked at the general impact of SORN on both law enforcement officials and public attitudes and behaviors,

²⁸ http://impactjustice.org/wp-content/uploads/2016/08/50-STATE-BREAKDOWN-CHART_July_2016.pdf

²⁹ The trial court may exercise its discretion to exempt a child from the mandatory juvenile registration requirement only if the child has not been previously charged with unlawful sexual behavior, the "offense, as charged in the first petition filed with the court, is a first offense of either misdemeanor unlawful sexual contact, as described in section 18-3-404, C.R.S., or [misdemeanor] indecent exposure, as described in section 18-7-302, C.R.S.," and the juvenile meets other statutory criteria. C.R.S. § 16-22-103(5) (emphasis added).

³⁰ C.R.S. § 16-22-113(1) (e).

³¹ C.R.S. § 16-22-103(3).

³² Id.

³³ Id., see also § 16-22-113.

³⁴ C.R.S. § 16-22-103(3).

³⁵ C.R.S. §§ 18-3-414.5, 16-13-901 et seq., and 16-22-108.



which would presumably include the impact of juvenile SORN. In a study of law enforcement officers, Harris and colleagues (2016) found that there was general support for the use of SORN as a criminal investigation tool. On the other hand, law enforcement officers had less confidence in the use of registrant information by the public.³⁶

When surveying the public, one multistate study ($n = 115$ from 15 states) of community members found general familiarity with and support for SORN, along with a belief that SORN prevents offending.³⁷

State-level surveys of community members regarding SORN in Florida, Nebraska, Washington, and Wisconsin found that the public—

- was aware of and supported SORN,³⁸
- thought it was fair,³⁹
- believed that it provides safety for their family,⁴⁰
- thought it makes sex offenders follow the law,⁴¹
- saw the benefits of SORN and learning about sex offenders through SORN,⁴²

³⁶ Harris, A.J., Lobanov-Rostovsky, C., & Levenson, J.S. (2016). *Law Enforcement Perspectives on Sex Offender Registration and Notification*. Retrieved from: <https://www.ncjrs.gov/pdffiles1/nij/grants/250181.pdf>

³⁷ Schiavone, S.K., & Jeglic, E.L. (2009). Public perception of sex offender social policies and the impact on sex offenders. *International Journal of Offender Therapy and Comparative Criminology*, 53(6), 679-695.

³⁸ Anderson, A.L., & Sample, L.L. (2008). Public awareness and action resulting from sex offender community notification laws. *Criminal Justice Policy Review*, 19(4), 371-396; Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-Year Follow-Up*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/08-03-1101.pdf.

³⁹ Brannon, Y.N., Levenson, J.S., Fortney, T., & Baker, J.N. (2007). Attitudes about community notification: A comparison of sexual offenders and the non-offending public. *Sexual Abuse*, 19, 369-379.

⁴⁰ Anderson, A.L., & Sample, L.L. (2008). Public awareness and action resulting from sex offender community notification laws. *Criminal Justice Policy Review*, 19(4), 371-396; Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-Year Follow-Up*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/08-03-1101.pdf; Zevitz, R.G., & Farkas, M.A. (2000). *Sex Offender Community Notification: Assessing the Impact in Wisconsin*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

⁴¹ Brannon, Y.N., Levenson, J.S., Fortney, T., & Baker, J.N. (2007). Attitudes about community notification: A comparison of sexual offenders and the non-offending public. *Sexual Abuse*, 19, 369-379; Center for Sex Offender Management (CSOM). (2001). *Community Notification and Education*. Silver Spring, MD: Center for Sex Offender Management. Retrieved from: www.csom.org/pubs/notedu.pdf; Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-Year Follow-Up*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/08-03-1101.pdf; Phillips, D. (1998). *Community Notification as Viewed by Washington's Citizens*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/CnSurvey.pdf.

⁴² Center for Sex Offender Management (CSOM). (2001). *Community Notification and Education*. Silver Spring, MD: Center for Sex Offender Management. Retrieved from: www.csom.org/pubs/notedu.pdf; Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-Year Follow-Up*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/08-03-1101.pdf; Phillips, D. (1998). *Community Notification as Viewed by Washington's Citizens*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/CnSurvey.pdf.

- accessed the registry (31 percent), but those who did were more likely to be female, to be affluent, and to have children,⁴³
- took preventive measures (38 percent) based on SORN information,⁴⁴
- reported suspicious behavior of offenders (3 percent),⁴⁵ and
- fear of sex offenders was related to support of registration requirements.⁴⁶

When victims/survivors of sexual assault were surveyed, respondents (n=598) reported support for SORN to be applied equally to all sexual offenders regardless of the relationship to the victim and did not believe it impacted reporting by survivors to law enforcement. Survey results provided less support for SORN as a mechanism to enhance public safety or deter future sexual offending, however, and indicated concerns related to SORN providing the community a false sense of security.⁴⁷ Professionals serving victims report victims may face life-long struggles and impacts as a result of being sexually assaulted, and a concern expressed by some victims is that when SORN is not implemented, perpetrators of sex crimes have the opportunity to put the crime behind them and potentially “forget” about the harm they caused.⁴⁸ Victims often ask if the perpetrator of the sexual offense will have to comply with SORN and endure a lifelong consequence just as they do.

Proponents of juvenile registration have argued that juvenile who commit a sexual offense pose a unique threat to the public and potential victims to sexually reoffend.⁴⁹ These advocates claim that collecting and providing public information about the residences of these juvenile will allow law enforcement, citizens, and entities such as schools and potential employers to better surveil and take precautions in how and whether they engage with them. Purportedly, these safeguards will reduce the risk of sexual re-offense.

Recent research into the registration of juveniles who have committed a sexual offense, however, has called into question past assumptions about juvenile who have sexually offended and the ability of SORN systems to affect sexual re-offense. Studies of juveniles who have committed a sexual offense comparing those who have been required to register to those who have not been required to register have shown that those who register have higher rates of nonsexual recidivism.⁵⁰ In addition, these studies have shown that registries:

⁴³ Sample, L.L., Evans, M.K., & Anderson, A.L. (2011). Sex offender community notification laws: Are their effects symbolic or instrumental in nature? *Criminal Justice Policy Review*, 22(1), 27-49.

⁴⁴ Anderson, A.L., & Sample, L.L. (2008). Public awareness and action resulting from sex offender community notification laws. *Criminal Justice Policy Review*, 19(4), 371-396.

⁴⁵ Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-Year Follow-Up*. Olympia, WA: Washington State Institute for Public Policy. Retrieved from: www.wsipp.wa.gov/rptfiles/08-03-1101.pdf.

⁴⁶ Kernsmith, P. D., Craun, S. W., & Foster, J. (2009). Public attitudes toward sexual offenders and sex offender registration. *Journal of child sexual abuse*, 18(3), 290-301.

⁴⁷ Craun, S.W., & Simmons, C.A. (2012). Taking a Seat at the Table: Sexual Assault Survivors' Views of Sex Offender Registries. *Victims and Offenders*, 7, 312-326.

⁴⁸ Sex Offender Management Board Victim Advocacy Committee Meeting. (2017). *June 8, 2017 Meeting Minutes*.

⁴⁹ Chaffin, M. (2008). Our minds are made up - don't confuse us with the facts: Commentary on policies concerning children with sexual behavior problems and juvenile sex offenders. *Child Maltreatment*, 110-121; Letourneau, E., & Miner, M. (2005). Juvenile sex offenders: A case against the legal and clinical status quo. *Sexual Abuse: A Journal of Research and Treatment*, 292-312.

⁵⁰ Bastastini, A., Hunt, E., & Damatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy & Law*, 451-474; Caldwell, M., Ziemke, M., & Vitacco, M. (2008). An examination of the sex offender registration and notification act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy & Law*, 89-114; Letourneau, E., & Armstrong, K. (2008). Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 393-408; Letourneau, E., Bandyopadhyay, D., Sinha, D., & Armstrong, K.



- fail to identify those individuals at a higher risk to sexually reoffend,
- fail to predict sexual recidivism,
- fail to reduce sexual recidivism, and
- subject registered juveniles to higher rates of arrest for sexual offenses but do not result in new sexual adjudications.⁵¹

Moreover, the specter of SORN has heavily influenced plea bargaining practices with many juveniles pleading to lesser charges to avoid SORN and, in some cases, becoming ineligible for government-funded treatment as a result.⁵² Harsh SORN policies have also been correlated with a dramatic decrease in the odds that a prosecutor would move forward in the prosecution of sexual offense charges.⁵³

Finally, after conducting a cost-benefit analysis, one scholar found SORN did not yield net benefits and recommended reforms to include removal of juvenile registrants, increased opportunities for prosecutorial discretion, and better risk assessment.⁵⁴

Recidivism

The public may consider juvenile SORN a community safety measure to protect from sexual re-offense. Researchers have conceded, however, that there is no statistically significant difference in sexual reoffense rates between juveniles who have committed sexual offenses and juveniles who commit other types of offenses.⁵⁵ During a five-year follow-up period, studies examining the recidivism rates of juveniles who commit sexual offenses have generally reported sexual recidivism rates ranging from 2.7% to 13%, with general criminal recidivism rates ranging up to 43%⁵⁶ Consequently, research does

(2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 136-153.

⁵¹ Bastastini, A., Hunt, E., & Damatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy & Law*, 451-474; Caldwell, M., Ziemke, M., & Vitacco, M. (2008). An examination of the sex offender registration and notification act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy & Law*, 89-114; Letourneau, E., & Armstrong, K. (2008). Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 393-408 (comparing juvenile who had committed a sexual offense between those required to registered and those not required to register and finding no statistically significant differences in sexual recidivism but 85% higher odds of general recidivism in the registered juvenile); Letourneau, E., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 136-153.

⁵² Calley, N. (2008). Juvenile sex offenders and sex offender legislation: Unintended consequences. *Federal Probation*, 37-41; Letourneau, E., Armstrong, K., Bandyopadhyay, D., & Sinha, D. (2012). Sex offender registration and notification policy increases juvenile plea bargains. *Sexual Abuse: A Journal of Research and Treatment*, 189-207.

⁵³ Letourneau, E., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2009). Effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, 149-165.

⁵⁴ Levenson, J., Grady, M., & Leibowitz, G. (2016). Grand challenges: Social justice and the need for evidence-based sex offender registry reform. *Journal of Sociology & Social Welfare*, 3-38 (citing Belzer, R. (2015). *The costs and benefits of subjecting juveniles to sex-offender registration and notification* (R Street Policy Study 41). Retrieved from <http://www.rstreet.org/wp-content/uploads/2015/09/RSTREET41.pdf>).

⁵⁵ Caldwell, M. (2007). Sexual offense adjudication and sexual recidivism among juvenile offenders. *Sex abuse*, 107-113; Caldwell, M., Ziemke, M., & Vitacco, M. (2008). An examination of the sex offender registration and notification act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy & Law*, 89-114.

⁵⁶ Alexander, M.A. (1999) Sexual offenders treatment efficacy revisited. *Sexual Abuse: A Journal of Research and Treatment*, 11(2), 101-116; Caldwell, M. (2010). Study characteristics and recidivism base rates in juvenile sex offender recidivism. *International Journal of Offender Therapy and Comparative*

not support public policy which seeks to identify and register juveniles who commit sexual offenses based on the incorrect assumption that they have a higher likelihood to commit a new sexual offense than other delinquent juveniles. While risk assessment tools are available for use with juvenile populations,⁵⁷ currently there are no empirically valid risk assessment tools which are able to accurately determine the risk of recidivism for juveniles who commit sexual offenses in the long term. Risk assessments for juveniles who commit sexual offenses may be beneficial, however, in determining short-term risk.⁵⁸

SORN Impact on the Juvenile

Some policymakers perceive juveniles who commit sexual offenses as a threat to community safety. The application of SORN policy to juveniles implies that juveniles who are registered are at a higher risk than their peer group to commit a new sexual offense. Research from a survey of juvenile treatment providers suggests, however, that SORN may inadvertently increase risk by isolating juveniles from their peer social networks, and disrupting their education and potential employment.⁵⁹ Further, this study indicates that juveniles under SORN requirements are likely to experience harassment, physical violence, difficulty in school, and trouble maintaining stable housing as their pro-social development is disordered.⁶⁰ Juveniles who are required to register as sex offenders face stigmatization, isolation, and depression. Many consider suicide, and some succeed. Registered children have a 400% higher odds of having *attempted* suicide in the past 30 days compared to nonregistered children who had committed comparable sex offenses.⁶¹ Juvenile treatment providers indicated that negative impacts were reported for 85% of registered juveniles with approximately 20% having attempted suicide.⁶²

SORN policy for juveniles is driven by misperceptions and inconsistencies regarding this population. Juveniles who have committed a sexual offense are part of a diverse population, with risks and needs

Criminology, 197-212; Caldwell, M. (2016). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy & Law*, 1-13; Reitzel, L.R., & Carbonell, J.L. (2006). The effectiveness of sexual offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment*, 18, 401-421.

⁵⁷ Caldwell, M., Ziemke, M., & Vitacco, M. (2008). An examination of the sex offender registration and notification act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy & Law*, 89-114.

⁵⁸ Fanniff, A.M., & Letourneau, E.J. (2012). Another piece of the puzzle: Psychometric properties of the J-SOAP-II. *Sexual Abuse: A Journal of Research and Treatment*, 24(4), 378-408; Vitacco, M.J., Caldwell, M., Ryba, N.L., Malesky, A., & Kurus, S.J. (2009). Assessing risk in adolescent sexual offenders: Recommendations for clinical practice. *Behavioral Sciences and the Law*, 27, 929-940; Worling, J.R., Bookalam, D., & Litteljohn, A. (2012). Prospective validity of the Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR). *Journal of Sexual Abuse: A Journal of Research and Treatment*, 24(3), 203-223.

⁵⁹ Harris, A., Walfield, S., Shields, R. & Letourneau, E. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 770-790.

⁶⁰ Harris, A., Walfield, S., Shields, R. & Letourneau, E. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 770-790.

⁶¹ Letourneau, E.J., Harris, A.J. & Shields, R.T., *Impact of Sex Crime Policies on Juvenile and their Families*. 2016 ATSA Conference Poster.

⁶² Levenson, J., Grady, M., & Leibowitz, G. (2016). Grand challenges: Social justice and the need for evidence-based sex offender registry reform. *Journal of Sociology & Social Welfare*, 3-38 (citing Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2015). Collateral consequences of juvenile sex offender registration and notification results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*).



that are not fixed, but rather are dynamic and changing based upon the juvenile's development and shifts in his/her circumstances.

According to professionals working with juveniles who commit sexual offenses who have concerns regarding subjecting this population to SORN, this policy may label them for life and impede their chances to become successful, educated, employable adults. Juveniles who are subject to SORN may be denied housing, jobs and education. They may also be vulnerable to cycles of incarceration for failing to update their addresses on time with local police if they become homeless, or forgetting to change their employment status if they obtain a new job.⁶³ Additionally, registries not only potentially harm registrants but also their families, their communities, and in some cases even their victims. Because child-on-child sexual harm often occurs within the family, placing a juvenile in a SORN system often also tears apart a victim's family and creates a risk that a victim's status as a victim will be revealed against his/her wishes.⁶⁴

The application of these policies to juveniles likely works to disrupt prosocial development, through negative impacts on peer networks, school, and employment opportunities.⁶⁵ Indeed, Chaffin (2008; p. 113) argued that subjecting juveniles to SORN "creates both direct stigmatization and can set in motion a series of cascading policy effects resulting in social exclusion and marginalization."⁶⁶

There are misperceptions that if a juvenile attends school, everyone in that school must be informed of the registered juvenile. This includes teachers and parents of all students. Some schools have advised visiting schools of registration when the juvenile attends sporting events, club functions or school dances. Other examples include notifying an employer about registration which may cause the juvenile to potentially lose their job and impact protective factors. A group representing professionals working with juveniles who commit sexual offenses (2016; pp. 1-2) noted, "Current research findings identified iatrogenic effects of juvenile SORN related to the interruption of pro-social development of juveniles by disrupting positive peer relationships and activities, interfering with school and work opportunities, facilitating housing instability and homelessness, and increasing social alienation. These factors may in turn lead to an increase rather than a decrease in the juvenile's risk for recidivism."⁶⁷

While traveling out of state, juveniles may be required to check in with law enforcement or register altogether in the visiting state. If parents are divorced and share joint custody, the juvenile is required to register in two counties. If a juvenile moves to Colorado from another state after being

⁶³ Human Rights Watch. (2013). *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US*. Retrieved from: https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf; National Juvenile Justice Network and Others (2016). Comments on the Proposed Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration And Notification Act. Retrieved from: <http://www.njjn.org/uploads/digital-library/Youth%20Justice%20Experts%20Response%20to%20SORNA%20Supplemental%20Guidelines.pdf>

⁶⁴ Garfinkle, E. (2003). Coming of age in America: The misapplication of sex-offender registration and community-notification laws to juveniles. *California Law Review*, 163-208.

⁶⁵ Association for the Treatment of Sexual Abusers. (2012). *Adolescents Who Have Engaged in Sexually Abusive Behavior: Effective Policies and Practices*. Retrieved from: <http://www.atsa.com/adolescents-engaged-in-sexually-abusive-behavior>

⁶⁶ Chaffin, M. (2008). Our Minds Are Made Up—Don't Confuse Us With the Facts: Commentary on Policies Concerning Children With Sexual Behavior Problems and Juvenile Sex Offenders. *Child Maltreatment*, 110-121.

⁶⁷ Association for the Treatment of Sexual Abusers. (2016). *Comments on The Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration and Notification Act*. Retrieved from: http://www.atsa.com/pdfs/Policy/2016.06.03_ATSA_SORNA_Supplemental_Guidelines_Letter.pdf

adjudicated for a sex offense; they are ultimately required to register as a sex offender and cannot de-register unless granted relief through a civil court proceeding.

A subsequent sexual conviction or adjudication renders Colorado juveniles ineligible to petition off the registry and the juvenile becomes a mandatory lifetime sex offender registrant.⁶⁸ Indigent juveniles are not eligible for appointment of counsel in petitions for relief from the registration requirement. Discontinuation of registration hearings have been deemed “civil” proceedings notwithstanding the continued standing of criminal prosecutors and crime victims to participate and be heard in deregistration matters. Juveniles seeking relief from registration requirements must either hire a private attorney or represent themselves in these hearings. In situations involving out-of-state adjudications, the juvenile must pay for and file a civil lawsuit in order to petition for relief from the Colorado sex offender registry. Since 2011, Colorado courts have been required to automatically set a date to review the propriety of continuing the sex offender registration requirement for juvenile at the time of discharge from the juvenile sentence.⁶⁹ Individuals who completed their adjudication prior to the 2011 law, however, must initiate the process entirely themselves.

Although registered adjudicated juveniles cannot be listed on the public website of the Colorado Bureau of Investigation,⁷⁰ local law enforcement agencies must release, upon request, information regarding any registrants – including juveniles -- to any person residing within the local law enforcement agency's jurisdiction.⁷¹ Law enforcement has discretion as to whether to release information to individuals who reside outside of the jurisdiction.⁷² In addition, a local law enforcement agency may post information on the law enforcement agency's website concerning certain adults and any juvenile with multiple adjudications for unlawful sexual behavior or crimes of violence, or a juvenile who was “adjudicated for an offense that would have been a felony if committed by an adult and has failed to register.”⁷³ Only those individuals deemed “sexually violent predators” based upon convictions in adult court are subject to mandatory public community notification meetings.⁷⁴

Although juveniles in Colorado are not placed on the sex offender internet registration site with the Colorado Bureau of Investigation, juvenile SORN information is being placed on private websites which adds to labeling and stigmatization along with requirements that they may have to pay high fees to have their information removed from these sites.

If a juvenile fails to comply with Colorado's registration requirements, s/he is subject to prosecution for the crime of failure to register (FTR).⁷⁵ If the juvenile fails to register before turning age 18, s/he is subject to prosecution for FTR within the juvenile justice system. Adjudication for FTR requires a mandatory period of detention, and, in some cases, a mandatory period of at least one (1) year of out-of-home placement.⁷⁶ If a person fails to register after age 18, s/he is subject to prosecution for FTR in adult court. If the duty to register was triggered by a juvenile adjudication for a sexual offense that would have been a felony if committed by an adult, the crime of FTR is an adult felony offense, punishable by a possible prison/parole sentence or probation. If the triggering sexual offense was a misdemeanor, the crime of FTR is an “extraordinary risk” misdemeanor and subject to punishment with

⁶⁸ Among other consequences, lifetime registration renders a person ineligible for federal housing assistance. See 42 U.S.C. § 13663.

⁶⁹ C.R.S. § 16-22-113.

⁷⁰ C.R.S. § 16-22-111.

⁷¹ C.R.S. § 16-22-112(1).

⁷² C.R.S. § 16-22-112(3).

⁷³ C.R.S. § 16-22-112(2).

⁷⁴ C.R.S. § 16-22-108.

⁷⁵ C.R.S. § 18-3-412.5.

⁷⁶ C.R.S. § 18-3-412.5(4).



up to two (2) years in a county jail or probation.⁷⁷ In any event, a conviction for FTR often requires the court to order a psychosexual evaluation to determine whether to order sexual offense-specific treatment as part of the sentence.⁷⁸ If ordered by the court, the individual who has failed to register is required to pay for such evaluation and treatment, subject to his/her ability to pay.⁷⁹

Juvenile providers' negative perceptions of juvenile registration and notification requirements are robust across a variety of contexts that might otherwise be expected to influence perceptions of juvenile sex crime policy. Treatment providers, irrespective of their background or the makeup of their client base, identify significant and harmful consequences of these policies.⁸⁰ These results join a growing chorus of voices that critique the application of adult criminal justice practices to juveniles in general⁸¹ and those specifically concerned with the practice of subjecting juveniles to SORN.⁸²

CONCLUSION

The topic of SORN is often an emotion-laden one with concerns expressed on both sides of the issue. It is important to note that the issue arises as the result of a crime being committed and an individual being victimized. Whether in support or opposition to juvenile SORN, it is clear that professionals on both sides see the gravity of the issue and the impacts to juveniles, the community, and to victims. The aim of this paper has been to frame the issues and provide relevant information needed to make an informed decision with an end goal of an enhanced system for all. Based on the information

⁷⁷ C.R.S. § 18-3-412.5.

⁷⁸ See C.R.S. §§ 16-11-102, 16-11.7-102, 16-11.7-104, and 16-11.7-105.

⁷⁹ See C.R.S. §§ 16-11.7-104 and 16-11.7-105.

⁸⁰ Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse*, 28(8), 770-790.

⁸¹ Cohen, A. O., & Casey, B. J. (2014). Rewiring juvenile justice: The intersection of developmental neuroscience and legal policy. *Trends in Cognitive Science*, 18, 63-65; Kupchik, A. (2006). *Judging juveniles: Prosecuting adolescents in adult and juvenile courts*. New York, NY: New York University Press; Myers, D. L. (2005). *Boys among men: Trying and sentencing juveniles as adults*. Westport, CT: Praeger.

⁸² Association for the Treatment of Sexual Abusers. (2012). *Adolescents Who Have Engaged in Sexually Abusive Behavior: Effective Policies and Practices*. Retrieved from: <http://www.atsa.com/adolescents-engaged-in-sexually-abusive-behavior>; Chaffin, M. (2008). Our Minds Are Made Up—Don't Confuse Us With the Facts: Commentary on Policies Concerning Children With Sexual Behavior Problems and Juvenile Sex Offenders. *Child Maltreatment*, 110-121; DiCataldo, F. C. (2009). *The perversion of youth: Controversies in the assessment and treatment of juvenile sex offenders*. New York, NY: New York University Press; Geer, P. (2008). Justice served? The high cost of juvenile sex offender registration. *Developments in Mental Health Law*, 27, 33-52; Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse*, 28(8), 770-790; Human Rights Watch. (2013). *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US*. Retrieved from: https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf; Markman, J. S. (2007). Community notification and the perils of mandatory juvenile sex offender registration: The dangers faced by children and their families. *Seton Hall Legislative Journal*, 32, 261-283; Miner, M., Borduin, C., Prescott, D., Bovensmann, H., Schepker, R., Du Bois, R., & Pfafflin, F. (2006). Standards of care for juvenile sex offenders of the International Association for the Treatment of Sex Offenders. *Sexual Offender Treatment*, 1, 1-6; Parker, S. C. (2014). Branded for life: The unconstitutionality of mandatory and lifetime juvenile sex offender registration and notification. *Virginia Journal of Social Policy & the Law*, 21, 167-205; Zimring, F. E. (2004). *An American travesty: Legal responses to adolescent sexual offending*. Chicago, IL: The University of Chicago Press.

reviewed, a committee of experts representing various disciplines of the juvenile justice system contends that modifications to the current system should be considered.

RECOMMENDATIONS

The recommendations made are intended to promote an improved system that will aid in the reduction of risk for juveniles, aid in the enhancement of protective factors, and maintain the oversight sought by supporters of juvenile registration. The committee makes the following recommendations:

- 1) Make juvenile registry a law enforcement only tool that is non-public (do not include juveniles on the lists provided by law enforcement)
 - a. Juveniles should not be on local law enforcement or CBI website
 - b. There should be parameters in place for how schools obtain and share registration information⁸³
- 2) For those who are eligible, a hearing for discontinuation from the registry will automatically be set at the time of successful completion from supervision. All notifications including those required by the Victim Rights Amendment must be made with time allowed for responses prior to vacating the hearing. This hearing can be vacated if there are no objections.
- 3) Change the threshold for release from registration - instead of “more likely than not,” release from registry should be contingent on being found to be low risk to commit a sex offense as evidenced by clinical indicators⁸⁴.
- 4) Improve sentencing procedures to increase the information provided and expand judicial discretion concerning registration
 - a. Develop criteria that an evaluator can use to make a recommendation for no registration.
 - b. Do not require registration under age 14
 - c. Expand the list of crimes that allow for a judge to waive registration. Expand court discretion not to require registration for:
 - i. all juvenile sex crimes / factual basis
 - ii. all juveniles except those whose offense of adjudication meets the Adam Walsh Act elemental requirements (a few versions of felonies in CO) - *i.e.*, court has discretion *except* where the crime “involved an attempt, conspiracy, or commission of a crime by a juvenile who was fourteen years of age or older on the date of the offense and the crime involved (a) sexual penetration, as defined in section 18-3-401(6), or sexual intrusion, as defined in section 18-3-401(5); and (b) commission of the sexual act with another was by force, by a threat of serious violence, by rendering the victim unconscious, or by involuntarily drugging the victim.” (all juvenile misdemeanor sex crimes / factual basis)

⁸³ § 22-33-106.5, C.R.S. - Requires mandatory notification by the courts to school districts upon adjudication or conviction of offenders below the age of 18 for “unlawful sexual behavior” as defined by § 16-22-102(9), C.R.S.

⁸⁴ Clinical indicators can be anything that provides information about a client’s overall clinical presentation, which may include but is not limited to interviews, quality of treatment participation, polygraph examination results, scores on dynamic risk assessments, psychological evaluation, behavioral observation, and collateral reports.



- iii. the current juvenile misdemeanor sex crimes where court has discretion but strike the “first petition” and/or “first offense” language in 16-22-103(5)(a)(III)(“as charged in the first petition filed with the court, is a first offense of either..”)
- 5) Eliminate mandatory lifetime registration (ineligible to ever petition) provisions for juveniles in 16-22-113(3) (c) based upon 2 adjudications [in *People v. Atencio*, 219 P.3d 1080 (Colo. Ct. App. 2009), COA said for adults that 2 convictions w/i same case triggers this provision; there is no case law interpreting this provision for juveniles].
 - a. Eliminate mandatory lifetime registration in 16-22-103(4) as well: “[A] person [who has received a juvenile adjudication / deferred] may petition the court for an order to discontinue the duty to register.... only if the person has not *subsequently* received a disposition for, been adjudicated a juvenile delinquent for, or been otherwise convicted of any offense involving unlawful sexual behavior.” (emphasis added).
 - b. Because of brain development and *Roper/Miller/Graham/Montgomery*, lifetime registration should be eliminated for juvenile prosecuted in adult court too and subject to the other provisions of 16-22-113(3).
- 6) Eliminate requirement (with potential impact on college students) that juveniles who have already been relieved of the duty to register (or never required to register) in another jurisdiction must resume/commence registration in Colorado and then file a new civil lawsuit to discontinue registration in Colorado (16-22-103(3)
- 7) Consider allowing a juvenile access to court-appointed counsel for relief from registration. If prosecution and victims are involved in the petition for relief from registration and this petition is considered a “critical stage,” juveniles should have access to court-appointed counsel as it is also a “critical stage” for Sixth Amendment purposes.
- 8) Modify the Failure to Register statute, 18-3-412.5, so that FTR based upon adjudication for a felony sex crime is no longer a felony after age 18 or subject to mandatory confinement when charged as an adjudication. *Redirect cost savings from imprisonment to prevention and victim services.*