

Sex Offender Management Board Policy
Adult Standards Variance Process
Approved – September 19, 2008
Amended – June 21, 2013

Problem Statement: The Sex Offender Management Board (SOMB) recognizes that when an offender's conviction is under appeal, it may be appropriate for Community Supervision Teams (CSTs) to agree upon a modified treatment plan that falls outside of the *Standards and Guidelines for the Evaluation, Assessment, Treatment, and Behavioral Monitoring of Adult Sex Offenders*, and believe this may place Board-approved members of the CST in a situation where they would be subject to sanctions for non-compliance with the *Standards*. The Guatney case set a precedent for convicted sex offenders whose cases are under appeal to assert their Fifth Amendment right to not self-incriminate, which would prevent a treatment provider from, among other things, asking sex offenders about the referral crime or requiring them to take a referral case specific issue polygraph.

Action Plan: Currently, the SOMB has approved a *Juvenile Standards* Variance Process. This process could be extended to the *Adult Standards*, requiring a treatment provider who wants to provide treatment services outside the requirements of the *Adult Standards* to seek permission to do so from the SOMB via the Application Review Committee (ARC). This solution would ensure SOMB quality control over the treatment and supervision of sex offenders under the Guatney exception and provide Listed Treatment Providers with protection from a complaint being filed for following an approved variance.

The *Adult Standards* currently allow for individualizing treatment and supervision services for adult sex offenders, including exceptions to the *Adult Standards*.

A. Standard 5.780 – Allowing contact prior to fulfillment of the criteria outlined in 5.740 of these Standards and Guidelines should occur only in **rare** circumstances. In addition, the CST shall agree that there is minimal risk of any crossover or additional crimes of opportunity. While it is not appropriate for the criteria to be waived in its entirety for ongoing contact, there may be parts of the criteria that may be waived or postponed.

B. Standard 3.130 – The treatment plan shall:

Be individualized to meet the unique needs and risk of the offender.

C. Standard 5.203 – If pursuant to Standard 6.210, the CST or the polygraph examiner determines the offender is currently unsuitable for polygraph examination, the requirement for polygraph examination may be waived.

D. Standard 5.110 E. – The CST may make exceptions to any of the following supervision standards if there is consensus among the CST members to do so and community and victim safety is not compromised. The rationale for any exception should be documented.

The Listed Treatment Provider shall complete the Standards Variance Request Form and submit it to the SOMB for initial screening review via the ARC. Specifically related to the treatment of sex offenders under terms of the Guatney case, the treatment provider shall be required to identify:

1. The specific goals of treatment to be addressed (i.e. cognitive restructuring, management of power and control dynamics, etc.)
2. How the treatment (non-sex offense specific treatment) will benefit the sex offender
3. How community safety will be maintained via enhanced supervision components (i.e. Intensive supervision, more frequent monitoring polygraph exams, global positioning, and the like).

The form must be accompanied by written statements from all professionals involved in the case. Furthermore, victim input and information indicating the offender's perspective and willingness to cooperate will be considered. (Please see the Standards Variance Request Form for details). After the ARC (Application Review Committee) has reviewed the Variance the full Board will review the matter. If a Variance is scheduled on a SOMB agenda the provider and supervising officer will be notified and it is expected they both will be in attendance in person to present the request and answer any questions the Board may have. In addition, other professionals involved in the case are welcome to attend. Variances are granted by a majority vote of the Board (SOMB) are **not** guaranteed.