

# Lifetime Supervision of Sex Offenders

## Annual Report



November 1, 2011

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

# Lifetime Supervision of Sex Offenders | 2011

**November 1, 2011**

**Division of Criminal Justice  
Office of Domestic Violence and Sex Offender  
Management**

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Please contact Chris Lobanov-Rostovsky (see contact information below) or visit the Sex Offender Management Board website at <http://dcj.state.co.us/odvsom> if you would like copies of the following attachments:

**Attachment A:**

*Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*

*Lifetime Supervision Criteria*

*Standards for Community Entities That Provide Supervision and Treatment for the Adult Sex Offenders Who Have Developmental Disabilities*

**Attachment B:**

*Sexual Predator Risk Assessment Screening Instrument*

**Attachment C:**

*Sexual Predator Risk Assessment Screening Instrument Handbook*

**Attachment D:**

*HB11-1138 Concerning the Sex Offender Management Board*

**Attachment E:**

*SOMB Provider List*

**Attachment F:**

*Process Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines*

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## INTRODUCTION

The Colorado Department of Corrections (CDOC), Colorado Department of Public Safety (CDPS) and the State Judicial Department has collaborated to write this Annual Report on lifetime supervision of sex offenders. The report is submitted pursuant to Section 18-1.3-1011, C.R.S.:

“On or before November 1, 2000, and on or before each November 1 thereafter, the department of corrections, the department of public safety, and the judicial department shall submit a report to the judiciary committees of the house of representatives and the senate, or any successor committees, and to the joint budget committee of the general assembly specifying, at a minimum:

(a) The impact on the prison population, the parole population, and the probation population in the state due to the extended length of incarceration and supervision provided for in sections 18-1.3-1004, 18-1.3-1006, and 18-1.3-1008;

(b) The number of offenders placed in the intensive supervision parole program and the intensive supervision probation program and the length of supervision of offenders in said programs;

(c) The number of sex offenders sentenced pursuant to this part 10 who received parole release hearings and the number released on parole during the preceding twelve months, if any;

(d) The number of sex offenders sentenced pursuant to this part 10 who received parole or probation discharge hearings and the number discharged from parole or probation during the preceding twelve months, if any;

(e) The number of sex offenders sentenced pursuant to this part 10 who received parole or probation revocation hearings and the number whose parole or probation was revoked during the preceding twelve months, if any;

(f) A summary of the evaluation instruments developed by the management board and use of the evaluation instruments in evaluating sex offenders pursuant to this part 10;

(g) The availability of sex offender treatment providers throughout the state, including location of the treatment providers, the services provided, and the amount paid by offenders and by the state for the services provided, and the manner of regulation and review of the services provided by sex offender treatment providers;

(h) The average number of sex offenders sentenced pursuant to this part 10 that participated in Phase I and Phase II of the department's sex offender treatment and monitoring program during each month of the preceding twelve months;

(i) The number of sex offenders sentenced pursuant to this part 10 who were denied admission to treatment in Phase I and Phase II of the department's sex offender treatment and monitoring program for reasons other than length of remaining sentence during each month of the preceding twelve months;

(j) The number of sex offenders sentenced pursuant to this part 10 who were terminated from Phase I and Phase II of the department's sex offender treatment and monitoring program during the preceding twelve months and the reason for termination in each case;

(k) The average length of participation by sex offenders sentenced pursuant to this part 10 in Phase I and Phase II of the department's sex offender treatment and monitoring program during the preceding twelve months;

(l) The number of sex offenders sentenced pursuant to this part 10 who were denied readmission to Phase I and Phase II of the department's sex offender treatment and monitoring program after having previously been terminated from the program during the preceding twelve months;

(m) The number of sex offenders sentenced pursuant to this part 10 who were recommended by the department's sex offender treatment and monitoring program to the parole board for release on parole during the preceding twelve months and whether the recommendation was followed in each case; and

(n) The number of sex offenders sentenced pursuant to this part 10 who were recommended by the department's sex offender treatment and monitoring program for placement in community corrections during the preceding twelve months and whether the recommendation was followed in each case.”

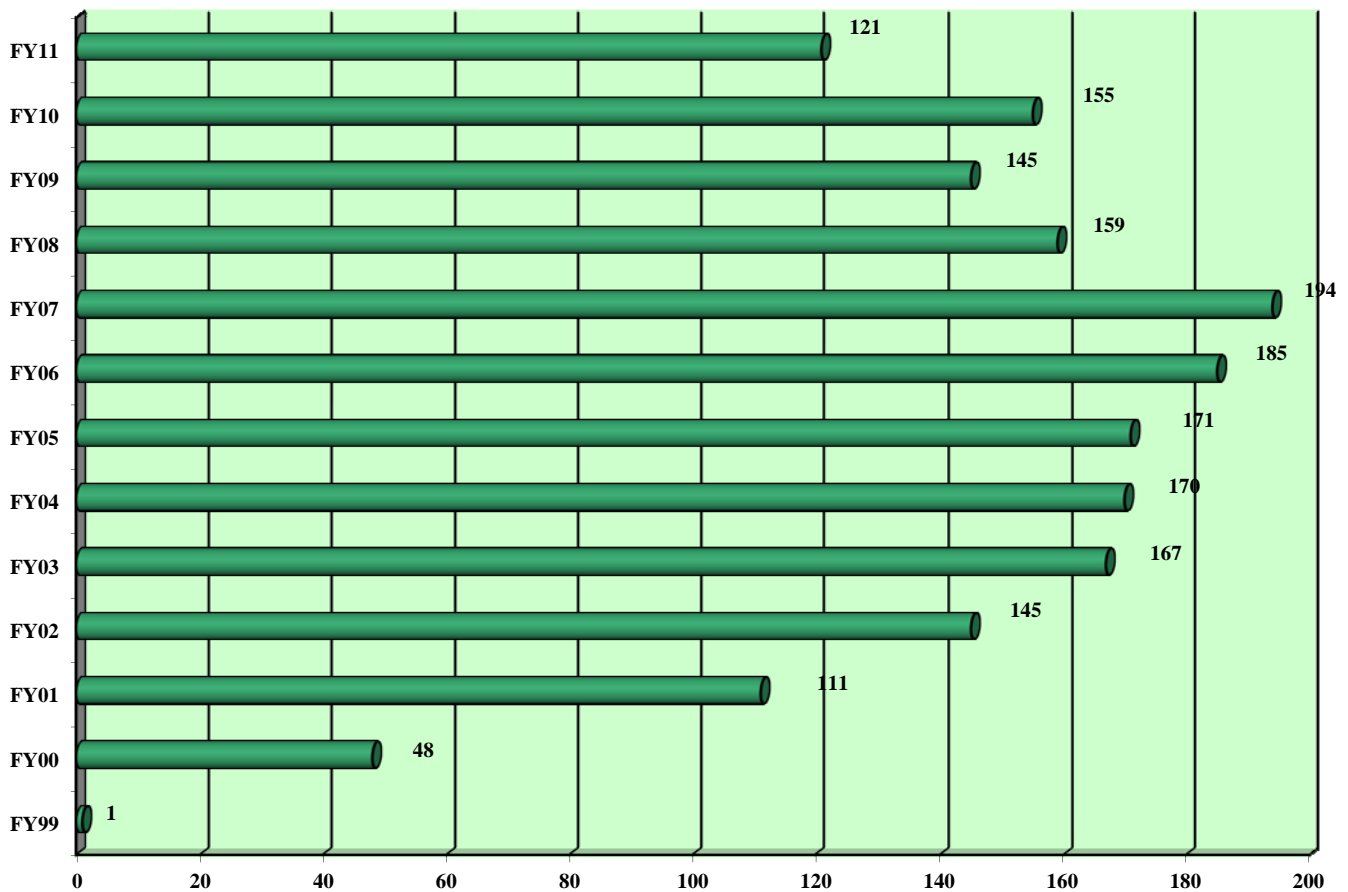
This report is intended to provide the Colorado General Assembly with information on the twelfth year of implementation of the Lifetime Supervision Act in Colorado. The report is organized into three sections, one for each of the required reporting departments. Each department individually addresses the information for which it is responsible in implementing lifetime supervision and associated programs.

**IMPACT ON PRISON POPULATION**

The legislation enacting the Lifetime Supervision Act of sex offenders – CRS 18-1.3-1004, CRS 18-1.3-1006, and CRS 18-1.3-1008 – affected persons convicted of offenses committed on or after November 1, 1998. The first prison admission for the qualifying lifetime supervision sexual offenses occurred in the fall of 1999.

Through fiscal year (FY) 2011, a total of 1,772 offenders have been sentenced to prison under the lifetime supervision provisions for sex offenses. Figure 1 shows lifetime supervision sex offenders at their earliest date sentenced for a lifetime supervision conviction as of June 30, 2011.

**Figure 1**  
**Lifetime Supervision Sex Offenders**  
**Earliest Date Sentenced by Fiscal Year (N=1,772)**



Of the 1,772 offenders sentenced to lifetime supervision, 99% are male. The ethnic breakdown was 58% Caucasian, 26% Hispanic, 13% African American and 3% other races.

Offenders are frequently admitted to prison with a conviction for a non-lifetime supervision offense, along with a concurrent or consecutive lifetime supervision sentence to *probation* for the qualifying sexual offense conviction. Additionally, the department has seen an increase in the number of offenders (originally sentenced to prison under the lifetime supervision provisions) being released to probation or court ordered discharge. Of the 1,772 offenders sentenced to prison under the lifetime supervision provisions for sex offenses, 131 have discharged their sentence through June 30, 2011:

- 56 offenders released by court order;
- 41 offenders released to probation;
- 26 offenders died;
- 4 offenders released on an appeal bond;
- 3 offenders had their sentence amended then released per Martin Cooper law; and
- 1 offender released from the Youthful Offender System (YOS).

Of the 131 offenders who discharged their sentences, 22 returned on the same offense(s) with the lifetime supervision sentence reinstated. Additionally, one offender had his lifetime supervision sentence suspended upon completion of a fixed term in YOS. Twelve offenders have subsequently been re-sentenced to prison for a non-lifetime supervision sentence. These offenders were in prior year admission counts, but will not be reflected in other statistics once the lifetime supervision sentence has been removed.

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

As of June 30, 2011, 1,648 offenders were under CDOC supervision for one or more sexual offense convictions sentenced under the lifetime supervision provisions. Table 1 shows their location as of June 30, 2011. Incarcerated lifetime supervision offenders represented 6.9% of the overall inmate population. Additionally, 709 (43%) were past their parole eligibility date (PED) as of June 30, 2011.

**Table 1**  
**Colorado Department of Corrections**  
**Lifetime Supervision Sex Offender Location**  
**June 30, 2011**

In CDOC Facilities	1,250
In Private Prison	303
Jail Backlog	1
Youthful Offender System	1
ISP – Inmate	3
Community Corrections	16
Interstate Compact	3
Parole	71
<b>Total Offenders in CDOC Supervision</b>	<b>1,648</b>



In order to assess the impact of the Lifetime Supervision Act on the prison population, comparisons were made between FY 1999 and FY 2011 sex offender admissions and inmate population. First, a list of qualifying sex offenses under the lifetime supervision provisions was obtained. In order to determine whether these sentences are impacting the CDOC population, the analysis examined qualifying crimes regardless of whether they met the time eligibility criteria and actually received a lifetime supervision sentence. Next, the proportion of new commitments who were admitted to CDOC with a new sex offense were compared: 11.0% of FY 1999 admissions and 14.4% of FY 2011 admissions were sentenced with one or more qualifying sex offenses. Finally, comparisons were made between the inmate populations: 21.6% of the June 30, 1999, population and 22.5% of the June 30, 2011, population were incarcerated for an offense that now qualifies under the lifetime supervision provisions. *Note that after 13 years implementation of the lifetime supervision legislation, <1% change in population has occurred to the sentence rate of sex offenders to prison and sex offenders with qualifying offenses representing the same proportion of the inmate population now than they did then.*

## PAROLE RELEASE HEARINGS AND IMPACT ON PAROLE POPULATION

The Parole Board scheduled release hearings for 844 lifetime supervision sex offenders during FY 2011; many of the offenders may have had multiple hearings over the course of the year. Of the 21 offenders who were granted parole, 17 received their first release to parole in FY 2011, 1 had a previous revocation and re-paroled on a granted hearing, and the remaining 3 offenders were granted parole in FY 2011 but were not scheduled for release until FY 2012. A total of 9 offenders were waiting on a full board final outcome decision.

**Table 2**  
**Parole Board Hearing Decisions**  
**Fiscal Year 2011**

Release Hearing Type	#
<b>Full Board Outcomes</b>	
Granted	18
Deferred	45
Pending Outcome	9
<b>Subtotal Full Board Hearings</b>	72
<b>Other Release Hearings</b>	
Waived	280
Deferred	483
Re-Paroled*	6
Granted	3
<b>Total Release Hearings</b>	<b>844</b>

\* One offender re-paroled twice during the fiscal year.

The impact of this legislation on intensive supervision parole program and total parole population to date has been minimal. A total of 85 offenders under lifetime supervision have released to parole, with 20 offenders releasing in FY 2011. The 20 releases included 2 offenders who were granted in FY 2010 and released in FY 2011 and 1 offender who was revoked and re-paroled. Table 3 shows location breakdown of the 85 offenders as of June 30, 2011.

**Table 3**  
**Colorado Department of Corrections**  
**Sex Offender Parolees Location – June 30, 2011**

Colorado In-State Parolees	37
Out of State Parolees	13
Paroled to Immigration Detainer	12
Parolees Revoked and Re-paroled	6
Parolees In-Custody	1
Parolees Absconded	2
<b>Subtotal Active Parolees</b>	<b>71</b>
Parolees Revoked	10
Multiple Revocations	3
Parolee Death	1
<b>Total Paroled</b>	<b>85</b>

For the 37 offenders serving parole in-state, the average length on parole (through June 30, 2011) was 21.6 months with an average of 15.6 months spent in the intensive supervision parole program (an upper range of 72.9 months on intensive parole supervision). Almost all lifetime supervision parolees in Colorado have spent at least a portion of their parole period in the intensive supervision parole program.

**PAROLE REVOCATION HEARINGS AND NUMBER OF PAROLE REVOCATIONS**

The Parole Board conducted 16 revocation hearings for lifetime supervision offenders in FY 2011 with an outcome of return to custody for all. One offender was revoked twice during that time period. The average length of time on parole for these offenders was 14.9 months (an upper range of 45 months). Five of the offenders who revoked during the fiscal year re-paroled after spending an average of 2.5 months in prison.

**PAROLE DISCHARGE HEARINGS AND NUMBER DISCHARGED FROM PAROLE**

According to CRS 18-1.3-1006, the period of parole for any sex offender convicted of a class 4 felony shall be an indeterminate term of at least ten years and a maximum of the remainder of the sex offender's natural life. The period of parole for any sex offender convicted of a class 2 or 3 felony shall be an indeterminate term of at least twenty years and a maximum of the remainder of the sex offender's natural life. Therefore, no discharge hearings have been held to date and are not expected for a few more years.

**SUMMARY OF EVALUATION INSTRUMENTS**

Release to parole or community corrections is subject to the discretion of the Parole Board. CDOC informs the Parole Board if offenders have participated in treatment and have met the Sex Offender Management Board's criteria for successful progress in prison treatment. (See ATTACHMENT A).

**ATTACHMENT A:** *Sex Offender Management Board Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders; Lifetime Supervision Criteria; Standards for Community Entities That Provide Supervision and Treatment for Adult Sex Offenders Who Have Developmental Disabilities*

**SEX OFFENDER TREATMENT AND MONITORING PROGRAM (SOTMP)**

All providers in CDOC must comply with the Sex Offender Management Board's Standards and provider qualifications.

**Sex Offender Treatment Phases**

The Sex Offender Treatment and Monitoring Program (SOTMP) provides comprehensive assessment, evaluation, treatment, and monitoring services to sexual offenders who are motivated to eliminate sexual abuse behaviors. SOTMP staff is responsible for assessing the offender's progress when recommending specific SOTMP phases for participation. To the extent resources permit, SOTMP offers the following services.

PHASE I: Phase I is a time-limited therapy group. The group includes an initial curriculum on criminal thinking errors, anger management, and stress management. Some of the sex offense specific issues and areas that are addressed include: the change process, characteristics of sex offenders, victim impact, cognitive restructuring, sex offense cycles, relapse prevention, healthy sexuality, social skills, and relationship skills. The program is offered at Fremont Correctional Facility, Arkansas Valley Correctional Facility, Colorado Territorial Correctional Facility, LaVista Women's Correctional Facility and the Youthful Offender System. Hearing impaired offenders are accommodated in the groups at Colorado Territorial Correctional Facility.

PHASE IB: This group addresses the same components as the regular Phase I group, but is adapted for inmates who have low intellectual functioning. This group is offered at Colorado Territorial Correctional Facility, San Carlos Correctional Facility, and LaVista Women's Correctional Facility.

PHASE IE: This group addresses the same components as the regular Phase I group, but is designed for sex offenders who are Spanish speaking. Phase IE is offered at Fremont Correctional Facility.

PHASE II: Phase II focuses on changing the inmate's distorted thinking and patterns of behavior as well as helping the inmate develop a comprehensive personal change contract. This phase is offered as a modified therapeutic community treatment program at Arrowhead Correctional Center; a Modified Phase II group format at Arkansas Valley Correctional Facility and Fremont Correctional Facility; and a regular group format at LaVista Correctional Facility, Colorado Territorial Correctional Facility, and the Youthful Offender System.

**Specialized Treatment Formats for Lifetime Supervision of Sex Offenders**

The 1998 passage of the Colorado Lifetime Supervision Act requires that offenders must serve the term of their minimum sentence in prison and participate and progress in treatment in order to be considered a candidate for parole. CDOC has designed treatment formats that provide offenders the opportunity to progress

in treatment and be considered a candidate for parole based on their minimum sentence. The new treatment formats were designed with the following assumptions:

- Sex offenders will continue in treatment and supervision if placed in community corrections or on parole;
- Specialized formats do not ensure sex offender cooperation with or progress in treatment. Offenders need to be willing to work on problems and be motivated to change; and
- The Parole Board will be informed when offenders meet the Sex Offender Management Board criteria for successful progress in prison treatment.

**Modified Format:** Offenders with 2 to 5 years minimum sentence

The SOTMP does not make parole or community recommendations until an inmate:

- Is actively participating in treatment and applying what he or she is learning.
- Completes a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
- Practices relapse prevention with no incidents of institutional acting out within the past year.
- Defines and documents his or her sexual offense cycle.
- Identifies at least one approved support person who has attended support education and has reviewed and received a copy of the sexual offense cycle.
- Stays compliant with any CDOC psychiatric recommendations for medication which may enhance his or her ability to benefit from treatment and or reduce his/her risk of re-offense.
- Demonstrates the ability to be supervised in the community without presenting an undue threat.

As of June 2011, CDOC had 585 minimum to lifetime sentenced offenders requiring the Modified Format. Three of the 585 offenders received only 1 year minimum to lifetime sentence.

**Standard Format:** Offenders with 6 years or more minimum sentences and all non-lifetime supervision offenders.

The SOTMP does not make parole or community recommendations until an inmate:

- Is actively participating in treatment and applying what he/she is learning.
- Completes a non-deceptive polygraph assessment of his/her deviant sexual history. In addition, any recent monitoring polygraph exams must also be non-deceptive.
- Completes a comprehensive personal change contract (relapse prevention plan) that is approved by the SOTMP team.
- Identifies, at a minimum, one approved support person who has attended support education and has reviewed and received a copy of the offender's personal change contract.
- Practices relapse prevention with no institutional acting-out behaviors within the past 12 months.
- Stays compliant with any CDOC psychiatric recommendations for medication that may enhance his/her ability to benefit from treatment and/or reduce his/her risk of re-offense.
- Demonstrates the ability to be supervised in the community without presenting an undue threat.

As of June 2011, CDOC had 976 minimum to lifetime sentenced offenders requiring the Standard Format.

In an effort to meet the growing treatment needs of lifetime supervision offenders with CDOC's limited treatment resources, the following changes were implemented to increase treatment opportunities for offenders:

- Developed a Modified Phase II program at Arrowhead Correctional Center, Fremont Correctional Facility and Arkansas Valley Correctional Facility for lifetime supervision offenders with short minimum sentences to help them progress through the program more quickly.
- Developed a Phase II outpatient program at Colorado Territorial Correctional Facility for offenders who cannot progress to Arrowhead Correctional Center.
- Moved the Phase I program at Sterling Correctional Facility to Arkansas Valley Correctional Facility. This new location improves the CDOC's ability to recruit and retain therapists.
- Established a priority list to assign sex offenders to treatment openings. Since lifetime supervision offenders must progress in treatment to be considered a candidate for parole they will be given first priority for the limited treatment openings.
  - ❖ **First Priority** – Lifetime supervision offenders who are within 4 years of their PED will be the highest treatment priority.
  - ❖ **Second Priority** – Convicted sex offenders with traditional sentences who are within 4 years of their PED.
  - ❖ **Third Priority** – Inactive offenders who are determined to be sex offenders through administrative review procedures.
- Active communication with the Parole Board, the Colorado Association of Community Corrections Boards, and the Colorado Community Corrections Coalition regarding community transition for lifetime supervision offenders.
- Obtained a Bureau of Justice grant to increase sex offender community transition options and resources.

## COMMUNITY CORRECTIONS AND PAROLE SUPERVISION

The CDOC Division of Adult Parole, Community Corrections and YOS have specially trained officers who supervise sex offenders in the community and under parole supervision through the Community Parole Sex Offenders Program (CPSOP). The program is designed to have a caseload ratio of ten parolees to one community parole officer (CPO).

The offenders are supervised on a five tier system of supervision, as outlined in Table 4.

**Table 4**  
**Five Tier System of CPSOP**

<b>LEVEL</b>	<b>COMMUNITY PAROLE OFFICE CONTACT</b>
5	Eight face to face contacts per month
4	Seven face to face contacts per month
3	Six face to face contacts per month
2	Four face to face contacts per month
1	Two face to face contacts per month

At all levels, at least half of these contacts must be made directly by the CPO. On each of the levels the contacts can consist of any of the following combinations:

- a) Daily telephone contact.
- b) Two mandatory personal home contacts (only one for levels 1 and 2).
- c) Employment visitation or verification two times per month, which may be a personal visitation, verification by pay stub, or telephonic verification.
- d) Treatment visitation, once per month, to verify participation and progress.
- e) Treatment staffing, as needed to be scheduled by the CPO, at least quarterly.
- f) Collateral contacts, as needed.
- g) Surveillance activities, as needed, to be staffed with the team leader and approved by the supervisor.
- h) Office visits, as needed.
- i) Curfew monitoring (optional for level 1).

The level of supervision shall be measured by behavior that indicates lessened risk, not by the passage of time. At a minimum, the following must occur:

- 1) Community supervision team staffing and concurrence.
- 2) Compliance with all conditions of supervision.
- 3) Parole Board notification and concurrence.
- 4) Two consecutive non-deceptive monitoring polygraphs.

As part of the CDOC approved treatment provider (ATP) process, the department periodically audits the program.

## **COST OF SEX OFFENDER TREATMENT**

The FY 2011 CDOC budget included \$3,385,362 for assessment, treatment, testing (including polygraphs), program evaluation, and registration coordination of sex offenders. Of the total, approximately \$99,500 was allocated for polygraph testing. Due to the increase of the sex offender population and the decrease of staff, the ratio of SOTMP staff to sex offender population shows major fluctuation. For the purpose of updating this calculation, the complete sex offender population including the private prison population was added in the ratios. In fiscal year 2002, the staff (70.3 FTE) to offender ratio for sex offender treatment was 1 staff to 55 sex offenders (3,887 sex offenders S3-S5 in prison). The staff (49.1 FTE) to offender ratio shows a higher workload of 1 staff to 107 sex offenders (5,267 sex offenders S3-S5 in prison) for FY 2011. In addition, the Lifetime Supervision Act has increased the percentage of offenders who are motivated to participate in treatment. As seen on throughout this report, the department continues to organize resources to maximize opportunities for lifetime supervision sex offenders to participate in treatment.

## **REFERRAL TO SEX OFFENDER TREATMENT**

A new statewide referral process was recently created for CDOC behavioral health treatment. One of the goals of the new referral system was to establish a referral list for all sex offenders who meet the requirements for sex offender treatment. Both lifetime supervision and determinate sentenced sex offenders who meet the requirements will be placed on a statewide priority referral list for treatment. Offenders must be within 4 years or less of his or her PED to be placed on the list. The statewide list ensures offenders are moved to a facility with SOTMP when they are prioritized to start treatment.

As of June 30, 2011, a total of 1,433 sex offenders were on the priority referral list for treatment with 305 of these being lifetime supervision offenders. Of the 1,433 sex offenders, 3 were referred to YOS, 1,137 were referred to Phase I, and 208 were referred to Phase II (154 to TC and 54 to Modified). The remaining 85 offenders did not have a specific program referral. Of these 85 offenders who did not have a specific referral, 63 have never had previous treatment, so they will need Phase I and the remaining 22 offenders will need to be assessed by a clinician who will recommend a level of treatment based on treatment history.

## **DENIED ADMISSION OR READMISSION TO PHASE I AND PHASE II**

Offenders must meet basic eligibility criteria in order to be placed in treatment. The requirements for admission into sex offender treatment are listed below:

- Must have eight years or less to parole eligibility date.
- Must admit to sexually abusive behavior and be willing to discuss the details of their behavior.
- Must be willing to admit to problems related to sexually abusive behavior and work on them in treatment.
- Must demonstrate a willingness to participate in group treatment at the level recommended by the program.
- Must sign and comply with the conditions of all SOTMP treatment contracts.

Offenders are interviewed and screened prior to participation in treatment using these criteria. Even if the offender does not initially meet participation requirements, the requirements and the specific reasons for the requirements are explained, and the offender is encouraged to reapply when he or she meets the criteria in the future. Typically, offenders are able to meet the criteria and become amenable to treatment over time. The cumulative number of inmates who do not meet treatment criteria is difficult to measure due to the dynamic

nature of their status. Offenders are re-interviewed and screened upon request for reconsideration and may change from not meeting criteria to meeting criteria within the course of the year.

The treatment admission and participation status of all incarcerated lifetime supervision offenders on June 30, 2011 (N = 1,561), was reviewed. Thirty percent (472 lifetime supervision offenders) did not meet the admission criteria based on sentence length and time to parole eligibility. Of the remaining 1,089 offenders, 346 offenders were assigned to treatment, 305 offenders were on the global referral list, and 81 were ready for treatment, but did not meet the time criteria. Twenty percent (306 lifetime supervision offenders) denied their sex offense or refused treatment, 1 offender was previously in denial and is now amenable to treatment, 47 needed assessments by SOTMP. Finally, three offenders are intensive supervision inmates who are in the community.

Most of the CDOC sentenced sex offenders failed other treatment and supervision opportunities (e.g., probation or community corrections) prior to CDOC sentencing. This pattern continues while in CDOC. Sex offenders may initially refuse to participate in treatment, may not progress in treatment, may cease complying with treatment requirements, or may drop out of treatment. These offenders are encouraged to reapply for treatment as soon as they are willing to comply with the requirements.

Offenders who drop out of Phase I treatment or are terminated due to lack of progress or failing to comply with treatment requirements can be placed back on the program referral list upon completion of assignments regarding their treatment issues. Although the reasons for denial of readmission are not stored in the Department of Corrections Information System (DCIS), a manual review of the information indicates that failure to complete assignments was the most common reason for non-readmission.

Satisfactory completion of Phase I is an automatic acceptance into Phase II. Only those offenders who refuse Phase II treatment are not placed on the waitlist for Phase II; therefore, no offenders are denied Phase II admission. Sixty lifetime supervision offenders were reviewed for readmission to Phase II treatment in FY 2011. Twenty offenders were accepted and have been placed on the referral list to return to the therapeutic community (TC), 14 were placed on the referral list for Modified Phase II at Fremont and Arkansas Valley Correctional Facilities; and 25 were not accepted due to the fact that they had not completed the required assignments to be readmitted to the program. Offenders may request to be reconsidered at any time. One offender was not put on the referral list due to the fact that he was regressed from the community on a 180 day turn around and would not have enough time to participate in treatment.

## **PARTICIPATION IN PHASE I AND PHASE II**

During FY 2011, 471 lifetime supervision offenders participated in treatment. Their participation in treatment may not be continuous for various reasons, including successfully completing a phase of treatment and waiting for the next phase. The number of lifetime supervision sex offenders participating in sex offender treatment is provided in Table 5. Length of participation during the fiscal year for lifetime supervision offenders in Phase I and Phase II was compiled using the most recent program participation admission and termination dates, or June 30, 2011, if the offender was still in the program on that date, as the end date. For lifetime supervision offenders who participated in treatment at any point during FY 2011, the average length of stay in treatment within the fiscal year was 5.7 months in Phase I, 6.8 months in Phase II-therapeutic community and 6.5 months in Phase II-modified treatment through June 30 or to date of termination or progression to community corrections or parole.



**Table 5**  
**End of Month Treatment Participation of Lifetime Supervision Offenders**  
**Fiscal Year 2011**

<b>Program</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>Average</b>
Phase I	101	117	132	91	106	98	90	91	118	119	100	99	104
Phase II TC	80	76	75	75	84	82	82	85	83	83	81	80	80
Phase II Mod	89	89	86	104	105	105	102	103	82	93	93	92	95
Phase II YOS	0	0	0	0	1	1	1	1	1	1	1	1	1
Maintenance	0	0	4	4	14	14	13	13	36	34	33	32	18
<b>Total</b>	<b>270</b>	<b>282</b>	<b>297</b>	<b>274</b>	<b>310</b>	<b>300</b>	<b>288</b>	<b>293</b>	<b>320</b>	<b>330</b>	<b>308</b>	<b>304</b>	<b>298</b>

NOTE: 24 Offenders were assigned during the fiscal year, but were not assigned on the last day of the month, so they did not show up on end-of-month reporting. 86 offenders participated in multiple levels of treatment during the fiscal year.

### TERMINATIONS FROM PHASE I AND PHASE II

Standardized program termination types are used for all program and work assignments throughout the department. Terminations from Phase I and Phase II have been grouped into the following categories for this report:

- **Dropped Out/Self Terminated:** offender decides to discontinue treatment or stops attending groups and informs the treatment staff that they are no longer interested in participating in treatment.
- **Expelled or Lack of Progress:** offender is terminated from treatment for a group contract violation. In the majority of cases, the offender is terminated after being placed on probation and given an opportunity to improve his/her participation. If the offender is terminated, completion of assignments is required before readmission to treatment is allowed. This category includes offender behaviors that threaten the safety and security of other treatment participants. Termination from treatment without a period of probation may result based on the seriousness of the behaviors.
- **Finished Program:** offender completes a time limited group. If the offender completes the group goals, he/she satisfactorily completes the group. If the offender needs more time to understand the material or achieve the group goals, he/she unsatisfactorily completes and may be recommended to repeat the group.
- **Progressed to Parole or Community:** offender progresses to a community corrections placement or parole. This category also includes offenders who complete their sentence and are discharged.

As of April 2007, CDOC instituted a new due process system for sex offender treatment terminations due to treatment noncompliance or lack of progress. Under this system, the therapist recommends offenders for termination. The facility sex offender treatment team reviews the therapist's recommendation. If the team supports the termination recommendation, the offender is served with a Notice of Right to Termination Review. The offender can request a termination review where a three member panel evaluates all information presented by the offender and his or her therapist. A disposition is issued regarding the termination. Table 6 shows SOTMP terminations for noncompliance/lack of progress or community progression.

**Table 6**  
**Lifetime Supervision SOTMP Terminations<sup>a</sup> by Program**  
**FY 2011**

Termination Type	Phase I		Phase II				Maintenance		YOS		Total	
	n	%	Modified		TC		n	%	n	%	N	%
			n	%	n	%						
Self-terminated <sup>b</sup>	2	9%	3	13%	2	10%	0	0%	0	0%	7	9%
Lack of progress <sup>c</sup>	21	91%	12	50%	12	57%	0	0%	0	0%	45	57%
Community Corrections	0	0%	4	17%	3	14%	6	55%	0	0%	13	16%
Paroled	0	0%	5	21%	4	19%	5	45%	0	0%	14	18%
<b>Total</b>	<b>23</b>	<b>100%</b>	<b>24</b>	<b>100%</b>	<b>21</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>0</b>	<b>0%</b>	<b>79</b>	<b>100%</b>

<sup>a</sup>Terminations do not include successful completions

<sup>b</sup> Includes two offenders who left the facility because of an ongoing medical issue and three offenders who transferred out of the facility for unknown reasons.

<sup>c</sup>Includes one offender who left the facility due to mental health issues.

### **MET CRITERIA FOR COMMUNITY OR RELEASE TO PAROLE**

All lifetime supervision offenders meeting the statutory and departmental criteria are referred to community corrections programs unless the offender chooses to waive his rights. Lifetime supervision offenders actively participating in treatment are individually staffed to determine whether they meet the SOMB criteria for successful progress in prison treatment. Sex offender program therapists work closely with community parole officers and community program providers that accept sex offenders in transitional programs. SOTMP implemented a new tracking system for offenders who have met the SOMB criteria in January 2009.

During FY 2011, 71 lifetime supervision sex offenders met criteria for successful progress in prison treatment. Eight of these were placed into community correction centers and 16 were released to parole during FY 2011.<sup>1</sup> The remainder was still incarcerated at the end of the fiscal year; however, 3 offenders received a granted decision from the Parole Board to release in FY 2012, 3 were waiting for approval from the Community Corrections Board, and 16 were waiting on a full board decision.

<sup>1</sup> A total of 21 offenders were granted parole in FY11; however, 2 offenders that were granted did not meet criteria for successful progress in prison treatment and 3 offenders will not release until fiscal year 2012. In addition, six offenders were placed in community corrections that did not meet criteria.

**PROBATION POPULATION IMPACT**

The sex offender intensive supervision program (SOISP) is designed to provide the highest level of supervision to adult sex offenders who are placed on probation. Although initially created in statute in 1998 to address the risk posed by lifetime supervision cases, the legislature made a significant change to the statute in 2001. Pursuant to HB01-1229, all felony sex offenders convicted on or after July 1, 2001, are statutorily mandated to be supervised by the SOISP program.

Any adult convicted of a felony sex offense and receives a sentence to probation is required to be supervised by the sex offender intensive supervision program (SOISP). The goal of intensive supervision probation for sex offenders is to minimize the risk to the public to the greatest extent possible with supervision and treatment. The State of Colorado has adopted an evidenced-based model of containment in the supervision and management of sex offenders. Probation Officers employ this model and recognize that some sex offenders cannot or will not respond to treatment and there is no implication that all sex offenders can be successful in treatment. Depending on the offender, elements of containment may include severely restricted activities, daily contact with an offender, curfew checks, home visitation, employment visitation and monitoring, drug and alcohol screening, and/or sex offense specific treatment to include the use of polygraph testing. SOISP consists of three phases, each with specific criteria that must be met prior to a reduction in the level of supervision. The program design anticipated a two-year period of supervision in the SOISP program but due to additional requirements developed since program inception, the average length of time for completion has increased to 4 years. There were 46 FTE appropriated for the program. Caseload sizes were capped at 25 offenders, for a program capacity of 1,150. The standing caseload now exceeds that capacity. Those offenders that satisfactorily meet the requirements of the program are then transferred to regular sex offender probation for supervision of the remainder of their sentence.

Between July 1, 2010 and June 30, 2011, 390 adults were charged in district court with one of the 12 mandatory lifetime eligible sex offenses identified in statute and were sentenced to probation. Of these, 150 offenders (38%) received an indeterminate sentence to probation of at least 10 or 20 years to a maximum of the offender's natural life and, in addition, were sentenced to Sex Offender Intensive Supervision Probation (SOISP). Fifteen of these offenders were sentenced to community corrections as a condition of probation and 16 offenders were ordered to serve a Department of Corrections sentence prior to being supervised by probation. Of the remaining 240, 231 (59.2%) were convicted of lesser or amended charges and also sentenced to SOISP. Of the remaining 9 offenders, 7 offenders received a sentence to regular probation with special terms and conditions for sex offenders and 2 were ordered into a non-sex offender specific intensive supervision caseload.

There were 70 offenders charged in district court with non-mandatory lifetime eligible offenses. Of these, 4 offenders (5.7%) received non-mandatory indeterminate sentences to probation.

Using E-Clipse/ICON, the State Judicial Department's case management information system, staff at the Division of Probation Services selected all sex offender cases eligible for mandatory and non-mandatory indeterminate sentences, as well as all applicable sex offender cases which terminated probation supervision, during Fiscal Year 2010 – 2011. The following statutory charges were reviewed and included in this analysis:

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

18-3-402 C.R.S. Sexual Assault; or Sexual Assault in the First Degree, as it existed prior to July 1, 2000

18-3-403 C.R.S. Sexual Assault in the Second Degree, as it existed prior to July 1, 2000

18-3-404(2) C.R.S. Felony Unlawful Sexual Contact; or Felony Sexual Assault in the Third Degree, as it existed prior to July 1, 2000

18-3-405 C.R.S. Sexual Assault on a Child

18-3-405.3 C.R.S. Sexual Assault on a Child by One in a Position of Trust

18-3-405.5(1) C.R.S. Aggravated Sexual Assault on a Client by a Psychotherapist

18-3-305 C.R.S. Enticement of a Child

18-6-301 C.R.S. Incest

18-6-302 C.R.S. Aggravated Incest

18-7-406 C.R.S. Patronizing a Prostituted Child

18-3-306(3) C.R.S. Class 4 Felony Internet Luring of a Child

18-3-405.4 C.R.S. Internet Sexual Exploitation of a Child

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

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

Criminal attempts, conspiracies and solicitations of the above offenses, when the original charges were class 2, 3 or 4 felonies, were also included in the selection.

An effort was made in 2002 to install coding in E-Clipse/ ICON that would differentiate between lifetime and non-lifetime cases. As an ongoing check to determine that the coding changes provide the necessary level of detail required for this report a manual review of the dispositions of 765 active cases was completed. This report also required the review of an additional 357 cases terminated from probation supervision for lifetime eligible offenses during Fiscal Year 2010-2011.

The following table reflects an analysis comparison of sentences to probation for lifetime eligible offenses for Fiscal Years 2008-2009 through 2010-2011:

**Table 7: Placement of New Cases Eligible for Indeterminate Lifetime Term Sentences to Probation for Fiscal Years 2008-09 through 2010-11:**

Type of Supervision	Number of Cases (Percent) FY 2008-09	Number of Cases (Percent) FY 2009-10	Number of Cases (Percent) FY2010-2011
Lifetime Probation with SOISP	180* (30.20%)	107*(28.3%)	123* (33.9%)
SOISP (Non-lifetime Probation for felony sex offenses with SOISP)	308(51.68%)	138 (36.5%)	231 (63.6%)
Intensive Supervision Program (ISP) or Domestic Violence Programs (DV)	2 (.33%)	5 (1.3%)	2 (1.4%)
Regular Probation (Cases Ineligible for Lifetime or SOISP and/or sex offense reduced to misdemeanors)*	106 (17.79%)	128 (33.9%)	7 (1.9%)
<b>TOTAL CASES</b>	<b>596</b>	<b>378</b>	<b>363</b>

\*Includes 4 cases which were non-mandatory indeterminate sentence offenses.

\*\*Offenders whose offense date is prior to November 1, 1998 are ineligible for indeterminate sentences and not eligible for SOISP as created in 16-13-807 C.R.S.

A comparison of data for Fiscal Year 2009-2010 to 2010-2011 reflects a 13.0% increase in the number of offenders (16) eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

As of June 30, 2011, there were approximately 1,416 offenders under SOISP probation supervision. Of these, approximately 745 (52.6%) offenders were under lifetime supervision.

**PROBATION DISCHARGE HEARINGS AND DISCHARGES**

For Fiscal Year 2010-2011, 3 offenders under a lifetime supervision sentence completed SOISP and were transferred to regular probation and are currently actively under supervision.

## **PROBATION REVOCATION HEARINGS AND REVOCATIONS**

During Fiscal Year 2010-2011, forty-five (45) sex offenders sentenced between November 1, 1998 to June 30, 2011, had their lifetime supervision sentences terminated. The following represents the termination status for these offenders:

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

The offender whose probation was revoked for a new felony (1) was charged with a new felony sex offense. All offenders revoked were subsequently sentenced to the Colorado Department of Corrections.

## COST OF SERVICES

In July 1998, the SOISP program was created with a General Fund appropriation for 46.0 FTE probation officers and funding to provide treatment services. In FY 2000-01 all expenses associated with SOISP were transferred from General Fund to the Offender Services Cash Fund. Section 18-21-103 C.R.S. requires that sex offenders pay a surcharge, with collected revenue deposited in the Sex Offender Surcharge Fund. A portion of the funds are appropriated to Judicial and partially meet expenses associated with completion of the offense specific evaluations required by statute and case law.

**Table 8: Treatment and Evaluation Costs by Fund**

YEAR	PURPOSE	CF - SEX OFFENDER SURCHARGE	CF - OFFENDER SERVICES FUND	TOTAL
FY 04	SOISP Treatment	\$0	\$383,207	\$720,667
	Evaluation	\$202,933	\$134,527	
FY 05	SOISP Treatment	\$0	\$454,547	\$850,847
	Evaluation	\$200,400	\$195,900	
FY 06	SOISP Treatment	\$0	\$524,608	\$873,625
	Evaluation	\$172,245	\$176,772	
FY07	SOISP Treatment	\$0	\$434,416	\$1,119,894
	Evaluation	\$275,029	\$410,449	
FY08	SOISP Treatment	\$0	\$771,186	\$1,659,578
	Evaluation	\$253,704	\$634,688	
FY09	SOISP Treatment	\$0	\$974,996	\$2,014,100
	Evaluation	\$247,664	\$791,440	
FY10	SOISP Treatment	\$0	\$960,239	\$2,259,704
	Evaluation	\$226,522	\$1,072,943	
FY11	SOISP Treatment	\$0	\$988,809	\$2,327,071
	Evaluation	\$226,522	\$1,111,740	

The costs expended for adult polygraphs for FY10-11 were \$369,410. The expenses associated with the sex offender offense specific evaluations, the sexually violent predator assessments and the parental risk assessments are increasing annually. Probation funds have been required to pay for these evaluations and assessments to avoid any delays in case processing for the courts and to ensure that offenders who are unable to pay all of the costs associated with court ordered evaluation and treatment are not returned to court for revocation based on non-payment. Revocations generally result in sentences to DOC, a significantly higher cost option for the state. The expenditure of \$2.3 million for adult sex offender related evaluation and treatment costs represents approximately twenty-four percent of the total dollars (\$9.5 million) expended in FY2011 for treatment and service support for all offenders on probation. The adult sex offender population represents approximately 5.5 percent of the adult offender population. The Judicial Department is seeking options for the containment of these costs.

## SUMMARY OF EVALUATION INSTRUMENTS

The Sex Offender Management Board (SOMB) has participated in the development of two distinct evaluation processes for convicted sex offenders. The first is the sex offense-specific evaluation process outlined in the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, referred to in this document as the Standards (**ATTACHMENT A**). The second is the Sexual Predator Risk Assessment Screening Instrument (**ATTACHMENT B**), developed in collaboration with the Office of Research and Statistics in the Division of Criminal Justice, Department of Public Safety. Each type of evaluation is described below:

### Sex Offense-Specific Evaluation

The sex offense-specific evaluation is to be completed as a part of the pre-sentence investigation, which occurs post-conviction and prior to sentencing. It is intended to provide the court with information that will assist in identifying risk and making appropriate sentencing decisions. All offenders sentenced under the Lifetime Supervision Act would have received a sex offense-specific evaluation as a part of their Pre-Sentence Investigation Report (PSIR).

The process requires that certain areas or components be evaluated for each offender, and identifies a number of instruments or methods that may be utilized to accomplish each task. This allows each evaluator to design the most effective evaluation for each offender, based on the individual behaviors and needs of the offender. It also ensures that each evaluation performed under the Standards will encompass the appropriate areas necessary to assess risk and recommend appropriate interventions.

According to the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, Standard 2.020, each sex offender shall receive a **sex offense-specific evaluation** at the time of the pre-sentence investigation. The sex offense-specific evaluation has the following purposes:

- To document the treatment needs identified by the evaluation (even if resources are not available to adequately address the treatment needs of the sexually abusive offender);
- To provide a written clinical evaluation of an offender's risk for re-offending and current amenability for treatment;
- To guide and direct specific recommendations for the conditions of treatment and supervision of an offender;
- To provide information that will help to identify the optimal setting, intensity of intervention, and level of supervision, and;
- To provide information that will help to identify offenders who should not be referred for community-based treatment.

Please refer to **ATTACHMENT A** for additional information on mental health sex offense-specific evaluations located in Section 2.000 of the Standards. For information that outlines criteria and methods for determining a sex offender's progress through treatment and for successful completion under Lifetime Supervision, please see the Lifetime Supervision Criteria also in **ATTACHMENT A**.

**ATTACHMENT A:** *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, Standards 2.000 Sex Offense-Specific Evaluation;*

*Lifetime Supervision Criteria*



## **Sexual Predator Risk Assessment Screening Instrument**

In response to federal legislation, the Colorado General Assembly passed legislation regarding the identification and registration of Sexually Violent Predators (Section 16-11.7-103 (4) (c.5), C.R.S.). A person who is found to be a Sexually Violent Predator by the courts or Parole Board is required to register quarterly rather than annually (Section 16-22-108 (1) (d), C.R.S.), be posted on the internet by the Colorado Bureau of Investigation (Section 16-22-111 (1) (a), C.R.S.), and, as of May 30, 2006, subject to community notification (Section 16-13-903, C.R.S.).

### **INSTRUMENT**

Pursuant to Section 16-11.7-103 (4) (c.5), C.R.S., the Sex Offender Management Board collaborated with the Office of Research and Statistics in the Division of Criminal Justice, to develop criteria and an empirical risk assessment scale for use in the identification of Sexually Violent Predators. The criteria were developed between July 1, 1998 and December 1, 1998 by representatives from the Sex Offender Management Board, the Parole Board, the Division of Adult Parole, the private treatment community and victim services agencies. The actuarial scale was developed by the Office of Research and Statistics in consultation with the SOMB over a three-year period and will require periodic updating. An update occurred in June 2006 that included a smaller actuarial risk scale required for offenders who decline to be interviewed, insuring that all offenders will be assessed per the intent of the legislation. In May 2007, the SOMB approved some language changes in the description of items in the SOMB Sex Offender Risk Scale (SORS) ten-point scale.

In August of 2010, the Office of Research and Statistics, on behalf of the Sex Offender Management Board, developed a new, updated instrument (**ATTACHMENT B**) and handbook (**ATTACHMENT C**).

The Sexual Predator Risk Assessment Screening Instrument was designed to predict supervision and treatment failure. Follow-up analyses, conducted by the Office of Research and Statistics in the spring of 2007, concluded that the instrument reliably predicts new violent crime arrests within five years.

### **IMPLEMENTATION**

Currently, when an offender commits one of five specific crime types or associated inchoate offenses, the Sexual Predator Risk Assessment Screening Instrument is to be administered by either Probation Services or the Department of Corrections and an SOMB Approved Sex Offender Evaluator. Effective May 30, 2006, all offenders convicted of attempt, conspiracy, and/or solicitation to commit one of the five specific crime types is referred for a Sexual Predator Risk Assessment (Section 18-3-414.5, C.R.S.). If the offender meets the criteria outlined in the instrument, he or she is deemed to qualify as a Sexually Violent Predator. The authority to designate an offender an SVP rests with the sentencing judge and the parole board.

### **TRAINING**

Numerous trainings have been conducted on the instrument, process, and research supporting the instrument statewide, since the implementation of the instrument. In the summer of 2010, five trainings were conducted throughout the state on the new, updated instrument. Additionally, updates regarding the Sexual Predator Risk Assessment Screening Instrument are presented at the various Sexually Violent Predator Community Notification meetings held throughout the state.

**ATTACHMENT B:** Sexual Predator Risk Assessment Screening Instrument

**ATTACHMENT C:** Sexual Predator Risk Assessment Screening Instrument Handbook

## **Background of the Sex Offender Management Board**

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107, C.R.S.) that created a Sex Offender Treatment Board to develop standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of sex offenders. The General Assembly changed the name to the Sex Offender Management Board (SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (Standards) were originally drafted by the SOMB over a period of two years and were first published in January 1996. The Standards were revised in 1998, 1999, and 2008. In addition, the SOMB approved a modification to Appendix C-4 in the summer of 2001. In 2002, and again in 2004, the revision of Appendix F was approved. In 2004, Appendix E was updated. These revised appendices were included in the printing of the Standards in 2004. The latest revisions, in 2008, include changes to the Developmentally Disabled standards, polygraph standards, treatment standards, and provider qualifications standards. In addition, revisions were made in sections 2.10 and 1.00. These revisions were presented at a public hearing and were published.

Currently, the SOMB is working on revisions in Sections 5.00 – specifically, the way in which the community supervision team functions, contact with children provisions and the Parental Risk Assessment. Additionally, the SOMB is working on ways to identify low risk offenders and how low risk offenders may be supervised and treated based on their risk; amendments to the standards related to female sexual offenders; and the creation of standards and guidelines regarding the use of shared living arrangements of sexual offenders. The Board has approved these changes and a public hearing will be held in October of 2011. The Standards are revised for two reasons: to address omissions in the original Standards that were identified during implementation, and, to keep the Standards current with the developing literature in the field of sex offender management. The Standards apply to convicted adult sexual offenders under the jurisdiction of the criminal justice system. The Standards are designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate of the SOMB and the primary goals of the Standards are to improve community safety and protect victims.

The legislation acknowledges that sexually offending behavior is often repetitive and that there is currently no way to ensure that adult sex offenders with the propensity to commit sexual offenses will not reoffend. However, it does emphasize that the combination of comprehensive sex offender treatment and carefully structured and monitored behavioral supervision conditions can assist many sex offenders to develop internal controls for their behaviors.

A coordinated system for the management and treatment of sex offenders provides containment for the offender and enhances the safety of the community and the protection of victims. To be effective, a containment approach to managing sex offenders must include interagency and interdisciplinary teamwork. The system developed by the SOMB requires the use of community supervision teams, which must include a treatment component, a criminal justice supervision component and a post-conviction polygraph component to monitor behavior and risk.

These Standards are based on the research and the best practices known today for managing and treating sex offenders. To the extent possible, the SOMB has based the Standards on current research in the field. Materials from knowledgeable professional organizations have also been used to direct the Standards. Sex offender management and treatment is a developing specialized field. The SOMB will remain current on the emerging literature and research and will continue to modify the Standards periodically on the basis of new findings. Part of the way the SOMB stays current on research is through the use of working committees. Currently, there are 17 committees that meet on a regular basis and report back to the SOMB: Adult Standards

Revision Committee, Juvenile Standards Revision Committee, Best Practices Committee, Defense Bar Committee, Sex Offender Registration Legislative Work Group, Victim Advocacy Committee, Risk Discrimination Committee, Juvenile Developmental Disability Committee, Application Review Committee, Domestic Violence/Sex Offender Crossover Committee, Training Committee, Community Notification Technical Assistance Team, Adult Standards Effectiveness Work Group, Juvenile Standards Outcome Study Work Group, Housing Committee, Shared Living Arrangements, and the Disaster Management Committee.

In July 2006, President Bush signed the Adam Walsh Child Protection and Safety Act into law, establishing a national system for the registration of sex offenders. The Adam Walsh Act (AWA) requires individual state compliance by July 2009 or face a 10% loss of justice assistance grants for their state. The Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) office was established to administer implementation of AWA, and determines the level of compliance for each state. A Multi-Agency Implementation Committee was developed by the state of Colorado to review the fiscal and practical impact on the state should the AWA be ratified. Based upon significant changes by the SMART Office on the requirements for implementation, the Multi-Agency Implementation Committee recommended Colorado submit for substantial implementation based upon existing registration and notification practices in Colorado. Based on this submission, Colorado was found to have substantially implemented all areas of the AWA with the exception of public notification of offender employment addresses. The state has appealed this finding and is currently awaiting a response.

On October 15, 2009, the Department of Regulatory Agencies (DORA) published the *2009 Sunset Review: Sex Offender Management Board*. This report discusses the legislatively mandated evaluation of the SOMB (Section 24-34-104(8)(a) C.R.S.) conducted by DORA. The sunset review recommended that the Board be continued by the General Assembly, however, with these recommendations:

- The SOMB should report to the General Assembly on the effectiveness of sex offender treatment and Board policies by December 1, 2011.
- The Division of Criminal Justice should promulgate treatment standards, Lifetime Supervision criteria, and the requirements to be listed as an approved provider by rule.
- Complaints, investigations and discipline of treatment providers should be investigated by DORA.
- The SOMB should produce and present an annual report to the General Assembly beginning December 1, 2012 in order to provide evidence-based analysis and recommendations regarding existing laws, pending legislation, and legislation that may be needed to effectively treat offenders and protect the community.

House Bill 10-1364 was presented to the Legislation in 2010 to address these issues. This bill passed both the House and Senate, but was vetoed by Governor Ritter, necessitating another bill in 2011. The new SOMB reauthorization bill (HB11-1138) (**ATTACHMENT D**) was passed in 2011.

#### **ATTACHMENT D: HB11-1138 Concerning the Sex Offender Management Board**

State statute prohibits the Department of Corrections, the Judicial Department, the Division of Criminal Justice of the Department of Public Safety, or the Department of Human Services from employing or contracting with, or allowing a convicted sex offender to employ or contract with providers unless they meet these Standards (Section 16-11.7-106, C.R.S.).

## **AVAILABILITY AND LOCATION OF SEX OFFENDER SERVICE PROVIDERS THROUGHOUT THE STATE**

Currently, the SOMB Approved Service Providers are located in 21 of the 22 judicial districts in the state. The following is a list of the number of providers approved in each specialty area:

- 184 Treatment Providers
- 20 Treatment Providers with a Developmental Disability Specialty
- 81 Evaluators
- 11 Evaluators with a Developmental Disability Specialty
- 16 Polygraph Examiners
- 8 Polygraph Examiners with a Developmental Disability Specialty

The SOMB approved 14 new applicants and conducted 45 re-applications which are included in the numbers above. Ten applicants either moved up or over in status.

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

**ATTACHMENT E: SOMB Provider List**

## **COST OF SERVICES**

- Average costs of services in Table 9 (below) were determined by surveying SOMB listed providers throughout the state.
- Many providers offer services on a sliding scale, dependent on the offender's income.
- Some providers charge an additional fee for conducting an evaluation in jail.
- In community based programs, most sex offenders are expected to bear the costs of treatment and behavioral monitoring themselves. The Standards require weekly group treatment and polygraph examinations every six months at a minimum. Most programs require some additional services during the course of treatment.
- The average number of treatment sessions a typical adult offender receives, reported by therapists throughout the state, was 5 sessions per month (ranged from 4 – 10 sessions per month). This typically included four group treatment sessions and one individual treatment session per month. Some treatment providers vary the amount of treatment sessions by the level of containment needed/risk factor of the offender.
- The SOMB recommended that \$302,029 from the Sex Offender Surcharge Fund be allocated to the Judicial Department in Fiscal Year 2010-2011. These funds are used for sex offense-specific evaluations and assessments for pre-sentence investigation reports for indigent sex offenders and for assistance with polygraph examination costs post-conviction. These funds are made available to all indigent sex offenders through local probation departments. The SOMB recommended that \$302,029 from the Sex Offender Surcharge Fund be allocated to the Judicial Department for Fiscal Year 2011-2012 for the same purposes.

**TABLE 9**  
**Average Cost of Services (Figures were obtained in October 2011)**

	Average Cost of....			
	<b>Mental Health Sex Offense Specific Treatment Session</b>	<b>Mental Health Sex Offense Specific Individual or Other Adjunct (i.e., family or couples counseling) Treatment Session</b>	<b>Sex Offense Specific Evaluation, including a PPG or Abel Screening</b>	<b>Polygraph Examination</b>
1 <sup>st</sup> Judicial District	45	75	950	250
2 <sup>nd</sup> Judicial District	50	64	900	250
3 <sup>rd</sup> Judicial District	X	X	X	250
4 <sup>th</sup> Judicial District	54	65	958	250
5 <sup>th</sup> Judicial District	45	70	850	250
6 <sup>th</sup> Judicial District	X	X	X	250
7 <sup>th</sup> Judicial District	45	73	900	250
8 <sup>th</sup> Judicial District	55	55	925	250
9 <sup>th</sup> Judicial District	45	73	950	250
10 <sup>th</sup> Judicial District	40	100	950	250
11 <sup>th</sup> Judicial District	X	X	X	250
12 <sup>th</sup> Judicial District	X	X	X	250
13 <sup>th</sup> Judicial District	X	X	950	250
14 <sup>th</sup> Judicial District	X	X	X	250
15 <sup>th</sup> Judicial District	X	X	X	250
16 <sup>th</sup> Judicial District	60	60	X	250
17 <sup>th</sup> Judicial District	45	68	925	250
18 <sup>th</sup> Judicial District	45	68	950	250
19 <sup>th</sup> Judicial District	X	X	950	250
20 <sup>th</sup> Judicial District	50	75	925	250
21 <sup>st</sup> Judicial District	42	70	900	250
22 <sup>nd</sup> Judicial District	X	X	X	250
<b>Average</b>	<b>48</b>	<b>70</b>	<b>927</b>	<b>250</b>
<b>Range</b>	<b>42-60</b>	<b>55-100</b>	<b>850-958</b>	<b>250</b>

**NOTE:** ‘X’ denotes services that were not provided by the local providers contacted, no response from the service provider contacted, or there were no providers in that judicial district. Services to those areas may be available through other providers, traveling providers or by providers in adjoining areas.

\*Average cost of a Penile Plethysmograph (PPG) or Abel Screening alone, across the state, is \$250.

## **REGULATION AND REVIEW OF SERVICES PROVIDED BY SEX OFFENDER TREATMENT PROVIDERS**

### **Application Process**

The SOMB works to process the applications of treatment providers, evaluators, and clinical polygraph examiners to create a list of these providers who meet the criteria outlined in the Standards and whose programs are in compliance with the requirements in the Standards. These applications are reviewed through the SOMB Application Review Committee.

The Application Review Committee consists of Sex Offender Management Board Members and other appointed members who work with the staff to review the qualifications of applicants based on the Standards. The application is also forwarded to a private investigator (who is contracted by the Division of Criminal Justice) to conduct background investigations and personal interviews of references and referring criminal justice personnel. When the Application Review Committee deems an applicant approved, the applicant is placed on the SOMB Provider List. When a provider is listed in the Provider List, it means that he/she (1) has met the education and experience qualifications established in the Standards and (2) has provided sufficient information for the committee to make a determination that the services being provided appear to be in accordance with the Standards. In addition, each provider agrees in writing to provide services in compliance with the standards of practice outlined in the Standards.

Placement on the SOMB Provider List is neither licensure nor certification of the provider. The Provider List does not imply that all providers offer exactly the same services, nor does it create an entitlement for referrals from the criminal justice system. The criminal justice supervising officer is best qualified to select the most appropriate providers for each offender.

Approvals for placement on the SOMB Provider List are valid for a three-year period. At the end of the three-year period, each applicant must submit materials for a re-application process that indicates that he or she has met the requirements for continuing education, training and clinical experience and has demonstrated that their programs are operating in compliance with the Standards.

## **Sex Offender Service Providers**

The *general* requirements for service providers are as follows:

*Treatment Provider – Full Operating Level:* In addition to meeting all the other applicable Standards, a Treatment Provider at the Full Operating Level has accumulated at least 1000 hours of clinical experience working with sex offenders in the last five years (and in no less than one year), and may practice without supervision.

*Treatment Provider – Associate Level:* In addition to meeting all the other applicable Standards, a Treatment Provider at the Associate Level has accumulated at least 100 hours of co-facilitated clinical experience working with sex offenders in the last five year (and not less than one year), and must receive regular supervision from a Treatment Provider at the Full Operating Level.

*Evaluator – Full Operating Level:* In addition to meeting all the other applicable Standards, an evaluator has conducted at least 30 mental health sex offense-specific evaluations of sex offenders in the last five years.

*Evaluator – Associate Level:* In addition to meeting all the other applicable Standards, an evaluator at the Associate Level has conducted 10 adult sex offense specific evaluations in the past five years and is receiving supervision from an Evaluator at the Full Operating Level.

*Clinical Polygraph Examiner – Full Operating Level:* In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner has conducted at least 200 post-conviction sex offender polygraph tests and has received 100 hours of specialized clinical sex offender polygraph examiner training.

*Clinical Polygraph Examiner – Associate Level:* In addition to meeting all the other applicable Standards, a Clinical Polygraph Examiner at the Associate Level is working under the guidance of a qualified Clinical Polygraph Examiner listed at the Full Operating Level while completing 200 post-conviction sex offender polygraph tests as required for Clinical Polygraph Examiners at the Full Operating Level.

*Intent to Apply for Listing:* Non-listed providers working towards applying for listed provider status are able to provide services under the supervision of a full operating level provider. These non-listed providers are required to submit a letter of Intent to Apply to the SOMB within 30 days of beginning to provide services to sex offenders covered under the Standards, undergo a criminal history check, provide a signed supervision agreement, and agree to submit an application within one year from the date of Intent to Apply status.

For a comprehensive list of requirements, please refer section 4.00 of the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*.

**ATTACHMENT A:** *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders;*

*Lifetime Supervision Criteria;*

*Standards for Community Entities That Provide Supervision and Treatment for Adult Sex Offenders Who Have Developmental Disabilities*



## PROGRAM EVALUATION

The SOMB has a legislative mandate to evaluate the system of programs initially developed by the SOMB and to track offenders involved in the programming (Section 16-11.7-103 (4) (d), C.R.S.). This mandate was not originally funded by the state. The SOMB unsuccessfully requested funding through the state budget process in Fiscal Year 1999 to enable compliance with this mandate.

In Fiscal Year 2000, DCJ was awarded a Drug Control and System Improvement Program Grant (Federal dollars administered through the Division of Criminal Justice). This grant funded a process evaluation to evaluate compliance with the Standards throughout the state and the impact of established programs.

In December, 2003, this evaluation (**Attachment F**) was completed by the Office of Research and Statistics in the Division of Criminal Justice (Section 16-11.7-103(4)(d)(II), C.R.S.). The report was a first step in meeting this legislative mandate. Evaluating the effectiveness of any program or system first requires establishing whether the program/system is actually implemented as intended and the extent to which there may be gaps in full implementation. The second step in evaluating effectiveness requires a study of the behavior of those offenders who are managed according to the Standards.

Currently, the SOMB is undertaking this second portion of the evaluation. Specifically, we are studying the behavior of offenders subject to the *Adult Standards and Guidelines* by examining 1-and 3-year recidivism rates of a sample of sex offenders who have successfully discharged or completed parole or probation. This information will be compared to national recidivism rates and current literature concerning sex offender recidivism. The sample will include all adult sexual offenders\* who went to Parole or Probation status after June 30, 1996 and who discharged their parole or probation sentence between July 1, 2005 and June 30, 2007. Of that population, we will obtain recidivism information on those sexual offenders who *successfully* discharged from Parole or Probation.

The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (Adult Standards) was first published in January 1996. In order to ensure that all parolees and probationers in the sample would be subject to these Adult Standards, we would need to select only those who went to parole or probation status after this date.

\* Sex offender would be defined as any adult person convicted of a sex offense as defined in C.R.S. 16-11.7-102 (3) (a-w) or anyone assigned to "S3-S5" in the DOC needs level assessment.

It is anticipated that this study will be completed by December of 2011.

**ATTACHMENT F:** *Process Evaluation of the Colorado Sex Offender Management Board Standards and Guidelines*

## SUMMARY

This report is intended to provide the Colorado General Assembly with information on the twelfth year of implementation of the Lifetime Supervision Act in Colorado. The Department of Corrections, The Judicial Department, and the Department of Public Safety work collaboratively in implementing the comprehensive programs for managing sex offender risk in Colorado.

Through fiscal year (FY) 2010-2011, a total of 1,772 offenders have been sentenced to prison under the Lifetime Supervision provisions for sex offenses. One hundred twenty-one (121) of these offenders were sentenced in the last fiscal year (FY 2010 – 2011). Analyses conducted by the Department of Corrections found that 12 years after implementation of this legislation, there were virtually no changes to the sentence rate of sex offenders to prison and sex offenders with qualifying offenses representing the same proportion of the inmate population now than they did prior to this legislation. A total of 85 offenders under lifetime supervision have released to parole, with 20 offenders releasing in FY 2011. The Parole Board conducted 16 revocation hearings for lifetime supervision offenders in FY 2011 with an outcome of return to custody for all. And, no parole discharge hearings have occurred for offenders sentenced under the Lifetime Supervision Act, as offenders would need to complete 10 – 20 years on parole, dependent upon their conviction.

The Sex Offender Treatment and Monitoring Program (SOTMP) for DOC inmates is designed to utilize the most extensive resources with those inmates who have demonstrated a desire and motivation to change. Because the Lifetime Supervision legislation is not intended to increase the minimum sentence for sex offenders, the Department of Corrections has designed treatment formats that provide offenders the opportunity to progress in treatment and be considered a candidate for parole within the time period of their minimum sentence. Additionally, the Department of Corrections implemented some changes to increase treatment opportunities in an effort to meet the growing treatment needs of lifetime supervision offenders.

As of June 30, 2011, there were approximately 1,416 offenders under SOISP probation supervision. Of these, approximately 745 (52.6%) offenders were under lifetime supervision. A comparison of data for Fiscal Year 2009-2010 to 2010-2011 reflects a 13.0% increase in the number of offenders (16) eligible and sentenced to indeterminate lifetime sentences and under SOISP supervision.

The expenses associated with the sex offender offense specific evaluations, the sexually violent predator assessments and the parental risk assessments are increasing annually. Probation funds have been required to pay for these evaluations and assessments to avoid any delays in case processing for the courts and to ensure that offenders who are unable to pay all of the costs associated with court ordered evaluation and treatment are not returned to court for revocation based on non-payment. Revocations generally result in sentences to DOC, a significantly higher cost option for the state. The Judicial Department is seeking options for the containment of these costs.

The Sex Offender Management Board (SOMB) has created many committees to keep current with the research in the field of sex offender management and to update the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* accordingly. Of note, the SOMB has created a Research Working Group to conduct an evaluation of the effectiveness of the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*. The data collection effort has begun and it is anticipated that results of these analyses, including recidivism rates, will be available in December 2011.

In summary, sex offenders subject to Lifetime Supervision in prison and in the community are rising which has resulted in increased caseloads for those agencies responsible for the management of sex offenders.

Additionally, it appears likely that more sex offenders will be identified, including those subject to lifetime supervision, due to new legislation passed in 2006. In an effort to achieve community safety, accurate risk assessments must be an element of sex offense specific evaluations to insure the proper placement of sex offenders in an appropriate level of supervision, and thereby using available resources wisely. The expenses associated with sex offense specific evaluations, sexually violent predator assessments, and parental risk assessments are increasing annually. State Judicial and the SOMB are currently collaborating on an effort to contain these costs. However, as a result of those costs and the costs associated with increased numbers of sex offenders subject to Lifetime Supervision both in prison and in the community, the Department of Corrections, the State Judicial Department, and the Department of Public Safety will continue to evaluate current resources and needs to achieve the goals of the Lifetime Supervision Act.