

# Introduction

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In 2011 the legislature declared that, “to protect the public and to work toward the elimination of sexual offenses, it is necessary to comprehensively evaluate, identify, treat, manage, and monitor adult sex offenders who are subject to the supervision of the criminal justice system and juveniles who have committed sexual offenses who are subject to the supervision of the juvenile justice system. Therefore, the general assembly declares that it is necessary to create a program that establishes evidence-based standards for the evaluation, identification, treatment, management, and monitoring of adult sex offenders and juveniles who have committed sexual offenses at each stage of the criminal or juvenile justice system to prevent offenders from reoffending and enhance the protection of victims and potential victims. The general assembly does not intend to imply that all offenders can or will positively respond to treatment (§16-11.7-101).” In 1992, the Colorado General Assembly passed legislation<sup>1</sup> 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* (hereafter *Standards and Guidelines*) were originally drafted by the SOMB over a period of two years and were first published in January 1996. The *Standards and Guidelines* were revised in 1998, 1999, 2004, 2008 and 2011 for two reasons: To address omissions in the original *Standards and Guidelines* that were identified during implementation, and to keep the *Standards and Guidelines* current with the developing literature in the field of sex offender management.<sup>2</sup> The *Standards and Guidelines* apply to adult sexual offenders<sup>3</sup> under the jurisdiction of the criminal justice system. Pursuant to statutory purview (§16-11.7-102), a guilty plea, *nolo contendere*, conviction by trial, deferred sentences, and stipulation/finding of sexual factual basis fall under this statute. **There may be others in need of evaluation, treatment, and supervision who do not meet the definition of a sex offender or are not under the jurisdiction of the Colorado criminal justice system. The SOMB recognizes that the *Standards and Guidelines* can be utilized as guidance in these instances. For more information, please see Appendix x.**

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<sup>1</sup> Section §16-11.7-101 through Section §16-11.7-107, C. R. S.

<sup>2</sup> Center for Sex Offender Management. (2008). *The Comprehensive Approach to Sex Offender Management*. Washington, DC: U.S. Department of Justice, Office of Justice Programs; Yates, P. (2013). *Treatment of Sexual Offenders: Research, Best Practices, and Emerging Models*. *International Journal of Behavioral Consultation and Therapy*, 8(3-4): 89-94.

<sup>3</sup> Pursuant to C.R.S. §16-11.7-102



These Standards govern the practice of treatment providers, evaluators and polygraph examiners approved by the SOMB. Standards are mandatory and designated by “shall”, while guidelines are distinguished by the use of the term “should.” Although the SOMB does not have purview over other entities involved in the supervision of defendants convicted of a sexual offense (for example, probation, parole, and the judiciary), it offers these guidelines as a tool to assist in the management of offenders and to enhance collaboration<sup>4</sup> among stakeholders and to provide guidance on best practices.

The SOMB is required to maintain the *Standards and Guidelines* for the evaluation and treatment of criminal defendants with a current or past sex offense conviction.<sup>5</sup> The evaluation shall make recommendations for the management, monitoring, and treatment of the defendant based upon his or her individual risk factors. Recommended interventions shall prioritize the physical and psychological safety of victims and potential victims, and meet the assessed needs of the particular defendant.<sup>6</sup> The *Standards and Guidelines* apply to treatment provided both in the community and during imprisonment.<sup>7</sup> Treatment providers shall be as flexible as possible and shall include a continuum of options which may include, but are not limited to, group counseling. To the extent possible, programs shall be accessible to all defendants, including those with mental illness and co-occurring disorders. The SOMB is required to revise the *Standards and Guidelines* based upon comprehensive research and analysis of evidence-based practices and the effectiveness of its policies and procedures.<sup>8</sup> It is not the intention of the legislation, or the SOMB, that these standards and guidelines be applied to the treatment of juveniles who have sexually offended. Despite many similarities in the behavior and treatment of juveniles and adults, important differences exist in their developmental stages,<sup>9</sup> the process of their offending behaviors,<sup>10</sup> and the context for juveniles who must be addressed differently in their diagnosis and treatment. Please see the current publication of the *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses*.

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<sup>4</sup> McGrath, R.J., Cumming, G.F., Burchard, B.L., Zeoli, S., & Ellerby, L. (2010). Current Practices and Emerging Trends in Sexual Abuser

Management: The Safer Society 2009 North American Survey. Brandon, VT: Safer Society Press; Shingler, J. & Mann, R. E. (2006). Collaboration in clinical work with sexual offenders: Treatment and risk assessment. In W. L. Marshall, Y. M. Fernandez, L. E. Marshall, & G. A. Serran (Eds.), *Sexual Offender Treatment: Controversial Issues* (pp. 173-185). Hoboken, NJ: Wiley.

<sup>5</sup> §16-11.7-103(4) (a, b); see also §§16-11.7-102, - 104, C.R.S.

<sup>6</sup> §16-11.7-103(4)(a), C.R.S.

<sup>7</sup> §16-11.7-103(4)(b), - 105, C.R.S.

<sup>8</sup> §16-11.7-103(4)(e), C.R.S.

<sup>9</sup> Center for Sex Offender Management. (2013). *Transition-Aged Individuals Have Committed Sex Offenses: Considerations for the Emerging Adult Population*. Silver Spring, MD: Author; Riser, D., Pegram, S., & Farley, J. (2013). Adolescent and Young Adult Male Sex Offenders: Understanding the Role of Recidivism. *Journal of Child Sexual Abuse*, 22(1): 9-31.

<sup>10</sup> Huang, D., Murphy, D., & Hser, Y. (2012). Developmental Trajectory of Sexual Risk Behaviors From Adolescence to Young Adulthood. *Youth & Society*, 44(4) 479-499; Keelan, C., & Fremouw, W. (2013). Child versus peer-adult offenders: A critical review of the juvenile sex offender literature. *Aggression and Violent Behavior*, 18(6):732-744; Piquero, A., Farrington, D., Jennings, W., Diamond, B. & Craig, J. (2012). Sex Offenders and Sex Offending in the Cambridge Study in Delinquent Development - Prevalence, Frequency, Specialization, Recidivism, and (Dis)Continuity Over the Life-Course. *Journal of Crime and Justice*, 35(3):412-426; Pullman, L., Leroux, E., Motayne, G., & Seto, M. (2014). Examining the developmental trajectories of adolescent sexual offenders. *Child Abuse & Neglect* 38(7):1249-1258; Seto, M., & Lalumière, M. (2010). What Is So Special About Male Adolescent Sexual Offending? A Review and Test of Explanations Using Meta-Analysis. *Psychological Bulletin*. 136(4), 526-575.



In 1998, the Colorado General Assembly passed legislation directing the SOMB, in collaboration with the Department of Corrections, the Judicial Branch and the Parole Board, to also develop standards for community entities that provide supervision and treatment specifically designed for sex offenders who have developmental or intellectual disabilities.<sup>11</sup> At a minimum, the Legislature mandates that these standards shall determine whether an entity would provide adequate support and supervision to minimize any threat that the sex offender may pose to the community.<sup>12</sup> The treatment and management of sex offenders with developmental or intellectual disabilities (DD/ID) is a highly specialized field.<sup>13</sup> The intent of the *DD/ID Standards and Guidelines* is to better address the specific needs presented by sex offenders with developmental or intellectual disabilities. They are based on best practices known today for managing and treating sex offenders with developmental or intellectual disabilities. To the extent possible, the SOMB has based these Standards on current research in the field. Materials from knowledgeable professional organizations have also been used to direct the *Standards and Guidelines*. The *Standards and Guidelines* that are designated with the letters “DD/ID” after the Standard number are not intended to stand alone, but must be used in conjunction with the other *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*.

Sex offender treatment and management is a developing specialized field.<sup>14</sup> The Colorado Legislature has directed, in the SOMB’s enabling statute, that: “The board shall revise the guidelines and standards for evaluation, identification, and treatment, as appropriate, based upon the results of the board’s research and analysis.” The SOMB is committed to remaining current on the emerging literature and research and periodically modifying the *Standards and Guidelines* on the basis of new findings. The previous revisions to the *Standards and Guidelines* were undertaken with that goal in mind. The current revisions of the *Standards and Guidelines* are continuing evidence of this commitment. In 2013 the Colorado Legislature additionally appropriated funding for an independent external evaluation of the *Standards and Guidelines*. The results of this evaluation were published in January 2014.<sup>15</sup> The current revision of the *Standards and Guidelines* has been partially based in response to the external evaluation and, in addition, on research and analysis conducted by the SOMB independent of the external evaluation. It is the commitment of the SOMB to incorporate best practices and evidence based practices for sex offender management in Colorado.

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<sup>11</sup> Lindsay, W., Hastings, R., Griffiths, D., & Hayes, S. (2007). Trends and challenges in forensic research on offenders with intellectual disability. *Journal of Intellectual & Developmental Disability*, 32(2): 55-61; Lindsay, W., & Michie, A. (2013). Individuals With Developmental Delay and Problematic Sexual Behaviors. *Current Psychiatry Reports*, 15(4):1-6.

<sup>12</sup> Section §18-1.3-1009 (1)(c), C.R.S.

<sup>13</sup> Heaton, K., & Murphy, G. (2013). Men with Intellectual Disabilities who have Attended Sex Offender Treatment Groups: A Follow-Up. *Journal of Applied Research in Intellectual Disabilities*, 26(5): 489-500.

<sup>14</sup> Gallo, A., Belanger, M., Abracen, J., Looman, J., Picheca, J., & Stirpe, T. (2014). Treatment of High-Risk High-Need Sexual Offenders - The Integrated Risk Need Responsivity Model (RNR-I). *Annals of Psychiatry and Mental Health* 3(1): 1018.

<sup>15</sup> D’Orazio, D., Thornton, D., & Beech, A. (2014). An External Evaluation of Colorado Sex Offender Management Board Standards and Guidelines. *Central Coast Clinical & Forensic Psychology Services, Inc.*

<sup>17</sup> See C.R.S. §16-11.7-102.

<sup>18</sup> Denver, M., Pickett, J. T., & Bushway, S. D. (2017). The Language Of Stigmatization And The Mark Of Violence: Experimental Evidence On The Social Construction And Use Of Criminal Record Stigma. *Criminology*, 55(3), 664-690. doi: 10.1111/1745-9125.12145; Willis, G. M., & Letourneau, E. J. (2018). Promoting Accurate and Respectful Language to Describe Individuals and Groups. *Sexual Abuse*, 30(5), 480-483. doi: 10.1177/1079063218783799.

These Standards and Guidelines use a variety of terms referencing persons convicted as adults of a sexual offense.<sup>16</sup> The terms that are frequently used in the Standards and Guidelines include sex offender, offender and client. Based on the guidance of the SOMB, the terms of reference utilized in different sections are determined by the SOMB committee convened to revise a particular section of these Standards and Guidelines. The SOMB committee decisions related to the terms of reference were influenced by the intervention focus of a given section (e.g., treatment, supervision, etc.), as well as the by professional stakeholders providing the intervention. The SOMB notes that the use of the term 'sex offender' is consistent with the statutory definition identifying a person convicted of a sexual offense. However, the SOMB wishes to convey that the use of the term is in no way intended to label individuals by their behavior, or suggest that an adult convicted of a sex offense who is participating in and benefiting from sex offense-specific treatment cannot live a sex offense free life-style.<sup>17</sup>

# 10.000 Recommendations for Management and Information Sharing on Alleged Sex Offenders Prior to Conviction

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*Discussion: Following are recommendations for the management of alleged sex offenders prior to conviction. Although the Sex Offender Management Board has no authority to set standards for alleged sex offenders prior to conviction, the SOMB strongly recommends that these guidelines be followed in order to establish both the data and practices to support the later assessment, treatment, and behavioral monitoring of convicted sex offenders.*

## **1. Investigation of reports to law enforcement and child protection services.**

Information that will contribute to the future assessment of an alleged sexual offender and preserve evidence is best obtained through a thorough and objective investigation in which the well-being of the alleged victim is of primary importance.

Investigations that preserve the well-being of the alleged victim include such approaches as:

- A. Providing immediate medical referral
- B. Minimizing the number of interviews of children
- C. Using a child advocacy center to interview children; increasing the comfort level of the adult alleged sexual assault victim being interviewed as much as possible
- D. Removing the alleged perpetrator, rather than the child alleged to be a victim of sexual abuse from the home
- E. Using forensic medical examinations that meet the standards set by the Colorado Coalition Against Sexual Assault<sup>1</sup>
- F. Providing emotional support (and victim advocacy services) to the alleged victim

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<sup>1</sup> For copies of the *Colorado Sexual Assault Forensic Examination Protocol*, which also includes valuable appendices such as the numbers of rape crisis hotlines in Colorado, contact the Colorado Coalition Against Sexual Assault, P.O. Box 18633, Denver, CO 80218.

- G. Using community-based protocols for the response to alleged victims of sexual abuse<sup>2</sup>

## **2. *Documentation of sexual abuse.***

Complete documentation will assist in developing future treatment and supervision plans and in protecting the alleged victim and the community. Both child protection and law enforcement investigative reports should provide detailed information on the behavior of the alleged perpetrator related to and including the sexual offending behavior.

Investigative reports should include information that describes:

- A. The dynamics of the alleged abuse
- B. Alleged offender patterns of grooming (preparing) the victim
- C. The ways in which the alleged offender discouraged disclosure
- D. Presence of child pornography
- E. Amount of violence and/or coercion
- F. Any direct or indirect corroboration of the offense
- G. Evidence of other sexual misconduct

Such information will not only assist in the prosecution of the case but will also contribute to assessment by the pre-sentence investigator, the judge, and the treatment provider/evaluator who will conduct a sex offense-specific evaluation. Such documentation can also assist in confronting offender denial and can establish *modus operandi* in the event of future crimes by the offender.

## **3. *Specialized job duties and training.***

Whenever possible, investigation and prosecution of sexual assault cases should be assigned to individuals specifically trained to work in this area. Trained individuals are least likely to cause additional trauma to the alleged victim and their investigations are most likely to result in a prosecutable case.

## **4. *Teamwork among law enforcement, child protection services and prosecution.***

A team approach to the investigation, review, and case management of sexual abuse reports is vital to the successful prosecution of alleged sexual offenders. Regular meetings of the team enhance community safety and increase the effectiveness of the

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<sup>2</sup> For a victim-center protocol for responding to sexual assault, please see *Looking Back, Moving Forward: A Guidebook for Communities Responding to Sexual Assault*, published by the National Victim Center, 2111 Wilson Boulevard, Suite 300, Arlington, VA 22201, (703) 276-2880.

team. Information should be routinely updated on the status of dependency/neglect petitions, which cases are being criminally filed, and the status of placement decisions.

**5. *Removal of the perpetrator from the home in intra-familial sexual abuse cases.***

Whenever possible, the perpetrator, not the alleged victim should be removed from the home.

**6. *Family Reunification is dangerous.***

In child sexual abuse cases, family reunification is dangerous. When family reunification is a goal of the child protection agency, family reunification should be avoided until after disposition of the criminal case. Before recommending contact with a child victim or any potential victims, responsible parties shall assess the offender's readiness and ability to refrain from re-victimizing, i.e. to avoid coercive and grooming statements and behaviors, to respect the child's personal space, and to recognize and respect the child's indication of comfort or discomfort.

A. In addition, the following criteria should be met before visitation can be initiated:

1. Risk-related sexual impulses are at a manageable level and the offender can utilize cognitive and behavioral interventions to interrupt risk-related fantasies;
2. The offender is willing to plan for visits, to develop and utilize a safety plan for all visits and to accept supervision during visits;
3. The offender accepts responsibility for the abuse;
4. Any significant differences between the offender's statements, the victim's statements and corroborating information about the abuse have been resolved;
5. The offender has a cognitive understanding of the impact of the abuse on the victim and the family;
6. The offender is willing to accept limits on visits by family members and the victim and puts the victim's needs first;
7. The offender has willingly disclosed all relevant information related to risk to all necessary others;
8. The clarification process is complete;
9. Both the offender and the potential visitation supervisor have completed training addressing sexual offending and how to participate in visitation safely;
10. The offender and the potential supervisor understand the sexual assault cycle and accept the possibility of re-offense. The offender should also be able to recognize thinking errors;



11. The offender has completed a non-deceptive sexual history disclosure polygraph and at least one non-deceptive maintenance polygraph. Any exception to the requirement for a non-deceptive sexual history disclosure polygraph must be made by a consensus of the community supervision team. For offenders who refuse to answer incriminating sexual offense history questions, including incriminating sexual offense history polygraph questions, providers shall refer to Standard 3.160 I. 2;
  12. The offender understands and is willing to respect the victim's verbal and non-verbal boundaries and need for privacy; and
  13. The offender accepts that others will decide about visitation, including the victim, the spouse and the community supervision team.
- B. If contact is approved, the treatment provider and the supervising officer shall closely supervise and monitor the process:
1. There must be provisions for monitoring behavior and reporting rule violations to the supervising officer;
  2. Victims' and potential victims' emotional and physical safety shall be assessed on a continuing basis and visits shall be terminated immediately if any aspect of safety is jeopardized;
  3. Supervision is critical when any sex offender visits with any child; supervision is especially critical for those whose crimes are known to have been against children, and most of all during visitation with any child previously victimized by the offender. Any behavior indicating risk shall result in visits being terminated immediately; and
  4. Special consideration should be given when selecting visitation supervisors. The visitation supervisor shall have some relationship with the child, be fully aware of the offense history including patterns associated with grooming, coercion, and sexual behaviors and be capable and willing to report any infractions and risk behaviors to the community supervision team members. If the supervisor is not known to the child, then the child's current caregiver should be available. The potential supervisor must complete training addressing sexual offending and safe and effective visitation supervision.

## **7. Referrals for sex offense-specific evaluations.**

When an alleged sexual offender is referred for evaluation and assessment, the referral should be to an evaluator/provider who meets the *Standards and Guidelines* for the evaluation of sex offenders. (Section 16-11.7-106 C.R.S requires the Department of Human Services to refer *convicted* sex offenders to evaluators who meet these Standards.) However, such an evaluation often will not take the place of the sex offense-specific evaluation required at the pre-sentence investigation, if the individual is convicted in a criminal case.



**8. *Forwarding of child protection services reports to the pre-sentence investigator.***

In cases where the report of an intra-familial sexual assault results in a conviction, the child protection agency should provide the probation department, upon request and with a signed release of information by the offender, with copies of the intake report and the sex offense-specific evaluation in time for the court date.

**9. *Pre-trial conditions.***

With the exception of offense-specific treatment requirements, bond supervision conditions should be similar to the specialized conditions of probation or parole, particularly the prohibition of contact with the alleged victim and, if the victim is a child, with the alleged victim and all other children.