

MINNESOTA SEX OFFENDER MANAGEMENT

FINAL REPORT

February 15, 2007

This report is available online at
<http://www.doc.state.mn.us/publications/legislative-reports/default.htm>.

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EXECUTIVE SUMMARY

From 1988 through 2005, there were 12,038 convictions for felony-level sex offenses. Of these, 4,016 offenders were sent to prison and the remaining 8,022 were managed in the community. Throughout this period there have also been numerous policy changes, such as increased sentences and supervision requirements, which bring to the forefront a need for continued discussion on how best to manage this sex offender population.

This is not the first time that Minnesota has studied and worked on the issue of enhancing management of the sex offender population. Studies since the mid-eighties have covered topics such as recommendations on increased sentencing, risk assessment and release procedures, creation of a civil commitment process for the highest-risk offenders, and enhancements to supervision, to name a few. With each effort, the criminal justice community gains knowledge and implements better management practices. While the Legislature was dealing with civil commitment of sex offenders in the mid-nineties, the issue of sex offender management through enhancements to supervision and treatment really started coming to the forefront in the late-nineties. One example of this was the passage of a pilot program in Dodge/Fillmore/Olmsted Community Corrections to increase supervision of sex offenders by reducing agent caseloads.

At this same time, the Minnesota Department of Corrections (DOC) was directed to study sex offender supervision issues focusing on ways to improve supervision, increase public safety, reduce recidivism and report back to the Legislature by February of 2000. When Katie's law passed in 2000, specific funding was allocated to enhance sex offender supervision statewide. Since then, public concern over sex offender issues has increased due to several high-profile sex offender cases. In 2004, Governor Pawlenty appointed a cabinet-level position responsible for heading up the coordination of sex offender management activities across agencies.

At the same time, the DOC enhanced the process used for referring sex offenders for civil commitment and reviewed all management policies and procedures, making significant revisions. To help guide these efforts, the department partnered with the U.S. Department of Justice's Center for Sex Offender Management (CSOM); receiving both technical assistance and information on national best practices for sex offender management.

In January of 2005, the Legislative Auditor completed a report reviewing the current state of sex offender management in Minnesota and made recommendations for change. At the time the report came out, the Legislature was already in the process of passing significant changes to sex offender sentencing and supervision laws. When the final bill passed in May of 2005, it included the directive to form a work group to study and report on many of the issues raised by the auditor (2005 Laws of Minnesota, Chapter 136, Article 3, Section 28).

The Legislature directed the commissioner of corrections to establish a Working Group on Sex Offender Management to develop statewide sex offender management standards and best practices. The commissioner was directed to:

- Convene a working group of individuals knowledgeable in the supervision and treatment of sex offenders;
- Include individuals from both inside and outside of the DOC; and
- Ensure broad representation in the group, including representatives from all three probation delivery systems and from diverse parts of the state.

Under the 2005 legislation, the working group was charged with assessing 12 legislative directives, which included 11 policy issues regarding supervision and management of sex offenders and one that asked for comments on sex offender management issues they deemed appropriate. Moreover, the working group was directed to make recommendations to the Legislature by February 15, 2007, on the development of statewide minimum standards in the supervision and management of sex offenders. In particular, the Legislature asked the working group to recommend standards in the following areas:

1. The minimum frequency of in-person contacts between sex offenders and their correctional agents, including but not limited to home visits;
2. A model set of special conditions of sex offender supervision that can be used by courts and agents throughout Minnesota;
3. Statewide standards regarding agent documentation of supervision activities;
4. Standards regarding sex offender assessment practices;
5. Policies encouraging sentencing conditions and prison release plans to clearly distinguish between sex offender treatment programs and other programs and to clearly specify which program(s) the offender is required to complete;
6. Ways to improve the DOC's prison sex offender release plans;
7. Methods and timetables for periodic external reviews of sex offender supervision practices;
8. Statewide standards for the use of polygraphs by corrections agencies and treatment programs;
9. Statewide standards specifying basic program elements for community-based sex offender treatment programs, including but not limited to staff qualifications, case planning, use of polygraphs, and progress reports for supervising agencies;
10. A statewide protocol on sharing sex offender information between corrections agencies and child protection agencies when offenders are placed in households where children reside;
11. Best practices for supervising sex offenders such as intensive supervised release, specialized caseloads in high-density areas and other innovative methods, ideal caseload sizes for supervising agents, and methods to implement this in a manner that does not compromise the supervision of other types of offenders; and
12. Any other issues related to sex offender supervision deemed appropriate.

Given the breadth of the 12 legislative directives, the commissioner decided early on to create four separate work groups that would address the following areas:

- Adult supervision practices;
- Juvenile supervision practices;
- Assessment and treatment practices; and
- Polygraph practices.

By routing the 12 legislative directives through four groups, the commissioner was able to have work progress simultaneously on several different sets of standards and was also able to recruit a broader range of participation and expertise. Overall, there were more than 60 professionals with extensive experience in the field of sex offender management who participated in the work groups.

The full membership convened periodically in general sessions to coordinate the efforts of the four smaller groups. At these all-day general sessions, the members reviewed the work of their peers and submitted recommendations and requests for further study.

In this final report to the Legislature, the work groups have created two documents. The first includes a detailed history of sex offender initiatives, information on supervision, treatment, polygraph efforts, and resources for sex offender management in Minnesota. The second, Appendix H, highlights the efforts to establish standards and guidelines for providing the best services available to manage sex offenders. The following provides an overview of the 12 legislative directives, which is compiled from the full report and Appendix H.

LEGISLATIVE DIRECTIVES OVERVIEW

A central focus of this project was the development of standards and/or guidelines for managing the sex offender population. Since these standards can primarily be found in Appendix H, the next few pages provide a brief overview of those standards and page references of where to find additional information. The work groups felt it important to provide best practice standards for effective management. In order to achieve these standards, local jurisdictions and the DOC will require additional funding in the way of both personnel and implementation resources.

1. Statewide standards regarding the minimum frequency of in-person contacts between sex offenders and their correctional agents;

The Adult and Juvenile Work Groups, recognizing that limitations on resources exist, developed both minimum and best practice standards for in-person correctional agent contacts. The adult standards were developed by reviewing the levels of offender contact currently in practice in Minnesota, Arizona, and Colorado, as well as information provided by CSOM. The adult minimum and best practice standards are written to provide contact levels that correspond with sex offenders who are designated to require low, medium, or high supervision. These designations were chosen to correspond to terms that are commonly used in field supervision and related well to the Adult Work Group's three-prong definition of sex offender and the goal of reducing re-offense. The group's sex offender definition is important in that it impacts both the level of contact with supervising agents and the resources necessary for

each agency in determining caseload size. The primary and secondary definitions of sex offender, used to develop these standards, are limited by emphasizing that an individual needs to be convicted of an offense requiring predatory offender registration to be defined as a sex offender. However, the tertiary definition of a sex offender impacts agent supervision and local resource needs beyond the primary and secondary definitions. This is due to the fact that agents will be supervising offenders who are not required to register, but have prior felony-level sex offense convictions. Caseload size becomes particularly important in determining offender-to-agent contact for intensive supervised release. More information on caseloads follows under legislative directive number 11.

Both the adult minimum and best practice contact standards focus on face-to-face contact between the offender and agent that occurs outside of the supervising agent's office. The standards call for both residential contact and out-of-the-office visits at other sites frequented by the offender. The adult minimum standards set by the work group suggest that offenders requiring a high level of supervision need two monthly face-to-face contacts with their supervising agent. Offenders requiring a medium level of supervision need one monthly face-to-face contact, and offenders requiring a low level of supervision should receive face-to-face contact once a year. Face-to-face contact does not stop with the offender. Under both the adult minimum and best practice standards, the work group urges agents to identify and collaborate with a wide range of individuals and agencies that have direct impact on offenders.

The adult best practices standards call for high supervision offenders to receive face-to-face contact once a week, medium supervision offenders to receive face-to-face contact twice a month, and low supervision offenders to receive face-to-face contact once a month. In addition, the adult best practice standards call for face-to-face maintenance and monitoring contact four times a year. Currently there are some agencies that are meeting the minimum standards called for by the work group and additional agencies that are meeting the best practice standards. However, to ensure that all agencies are meeting even the minimum standards, additional resources are necessary. More detailed information on the adult minimum and best practice standards as well as the work group's definition of sex offender can be found in Appendix H on pages H3 and H9-11.

While the juvenile minimum and best practice contact standards are similar to the adult standards, there are several noteworthy differences. The juvenile contact standards require higher levels of contact and focus not only on the offender, but include specific recommendations for contact with the offender's treatment provider and family. The levels of contact are based on a four-tier system of very high, high, moderate, and low supervision. For example, the work group suggests that juvenile offenders requiring very high levels of supervision receive a weekly face-to-face contact with at least one field visit per month. This minimum level of contact would also include a visit with the treatment provider per the offender's case plan, as well as school, foster care, and family visits once a month where necessary. In addition to providing higher minimum contact standards in the community, the Juvenile Work Group also provided minimum and best practices contact levels for juveniles who are in residential placements. Detailed information on the juvenile minimum and best practices contact standards can be found in Appendix H on pages H19-22.

2. A model set of special conditions of sex offender supervision;

The Adult and Juvenile Work Groups both focused on providing special conditions of supervision for sex offenders. In addressing the adult special conditions, these work groups reviewed standard sets of conditions from various jurisdictions and Minnesota. These reviews were used by the group to develop not only mandatory special conditions as requested by the Legislature, but an additional set of optional conditions that can be utilized in managing the sex offender population. In addressing the mandatory special conditions on supervision, the Adult Work Group also provided specific recommendations for modifications to the intensive supervised release (ISR) system including lower caseloads, additional training, and programming changes.

Some of the mandatory adult special conditions include successful completion of sex offender treatment and aftercare in addition to other treatment and restricting contact with victims, minors, or vulnerable adults unless approved by the supervising agent. In addition, offenders would be prohibited from possessing sexually explicit, orientated, or stimulating materials and from loitering or accessing areas frequented by minors without the approval of the supervising agent. They would also be required to receive advance approval for changing their living situation. Detail on all of the mandatory and optional-specific conditions to supervision and modifications to the ISR system can be found in Appendix H on pages H14-18. It should be noted that many of these conditions mentioned in Appendix H have been standard and/or special conditions applied by the DOC to sex offenders on supervised release, per DOC policy 106.112.

The Juvenile Work Group focused on special conditions that would adequately address public safety, competency development, accountability, and reparation/restoration. They outlined specific conditions within each of these categories that to a large extent track the ideas proposed as part of the mandatory adult special conditions laid out above, with the addition of certain family/parenting requirements. The Juvenile Work Group made no distinction in relation to mandatory and optional conditions. Full details on these conditions can be found in Appendix H on pages H22-23.

3. Statewide standards regarding documentation by agents of supervision activities;

The Juvenile and Adult Work Groups' standard on documentation focus on ensuring that offender files and automated case management systems provide consistent, detailed, clear, and timely documentation of a particular sex offender's activities. This will help to ensure accurate decision-making on the part of professionals dealing with sex offenders. The work group recommends that detailed case notes be maintained in an automated system regarding each offender. The Adult Work Group defines case notes to include such items as: contacts, phone calls, messages, accidental encounters, missed meetings, and the content of meetings. The standards provide practitioners with eight basic elements that need to be included in operational system case notes and encourage the use of standard abbreviations to help ensure consistency.

In addition to the recommendations on automated case notes, the Adult Work Group standards require that relevant records also be maintained in offender files. These documents would include items like presentence investigations (PSI), probation agreements, assessments, court documents, victim statements, registration requirements, and corrections documents such as End-of-Confinement Review Committee (ECRC) reports. In addition to maintaining this information, the Adult Work Group recommends that critical decisions regarding changes to a sex offender's supervision conditions be based on a written report and detailed in the offender's file and automated case notes. The adult standards on documentation require that sex offender conditions from closed adult and juvenile probation files also be included in the offender file and accessible to the supervising agency, unless they are available in an automated retrieval system within the agent's agency. The full list of adult documentation standards begins in Appendix H on page H11. While the Juvenile Work Group does not list specific documentation that needs to be retained, their documentation standards recommend that case files, including chronological reports and treatment progress, be documented in a timely manner and that an annual caseload review occur. The juvenile documentation standards can be found in Appendix H on page H22.

4. Standards to provide corrections agencies with guidance regarding sex offender assessment practices;

The Treatment/Assessment Work Group used Minnesota Rules Chapters 2955 and 2965 as a foundation for adult and juvenile outpatient assessment standards. This is important due to the fact that these rules were developed and implemented over an eight-year period of time starting with a legislative directive for rulemaking in the area of sex offender treatment in 1991 and 1992. The original legislation required establishment of sex offender treatment and assessment standards for programs in state and local correctional facilities, as well as outpatient/community-based services. Given the breadth of this endeavor, that legislation was modified a year later to require only the development of standards for programs in state and local facilities. For the full history on how these rules came into effect, see Appendix H pages H24-26. What came out of the first rulemaking process was a thoroughly-vetted set of standards that were used by this work group to develop first steps towards establishing juvenile and adult outpatient assessment standards.

Both the juvenile and adult assessment standards provide specific elements for the evaluation, including requirements that they be conducted by a qualified professional, take into consideration cultural context, and use wide ranges of evaluation data. In addition, the standards provide guidance for practitioners on administration and interpretation of the assessment instruments, presentation of the evaluation conclusions and recommendations, and evaluation report requirements. These standards can be found in detail in Appendix H on pages H28-38.

5. Policies that encourage sentencing conditions and prison release plans to clearly distinguish between treatment programs and other programs and services and to clearly specify which type of program the offender is required to complete;

The Treatment and Assessment Working Group made a conscious effort to define sex offender treatment as part of the treatment standards. The hope was that these types of definitions would distinguish sex offender treatment from other programs/treatment available to sex offenders. For example, the definition of sex offender treatment specifies that it does not include treatment addressing sexually abusive or criminal sexual behavior that is provided as secondary to treatment for another condition (e.g., mental illness). These standards make it clear to both courts and supervising agents involved in release planning that sex offender treatment is required above and beyond other treatment needs. For full details on the treatment guidelines and the definition of sex offender treatment see Appendix H at H39. With detailed standards that define sex offender treatment, case managers and release planners working with local supervision agents will have a better idea as to what types of treatment/program conditions exist for sex offenders in the community. In addition to this concept, the work group feels that enhancements can be made to the DOC treatment grant-making process. This process is detailed in legislative directive 12.

6. Ways to improve the DOC's prison release planning practices for sex offenders;

The Adult Work Group in reviewing prison release planning efforts anticipates that the DOC's new Minnesota Comprehensive Offender Reentry Plan (MCORP) initiative will be implemented statewide. Release efforts in Minnesota should be coordinated statewide to reduce recidivism. This can be done by identifying and eliminating reentry problems and barriers and providing ongoing oversight, monitoring, and evaluation of reentry processes. Some of the barriers include locating appropriate housing and employment, obtaining community supports for the offender, and ensuring proper communication of relevant sex offender information to the supervising agent.

With these barriers in mind, one of the focuses of the work group was to define ways to improve the contents of the initial pre-release packet to provide supervising agents with necessary information. The work group came up with a list of 24 items that should be included in the pre-release packet to help ensure successful sex offender transitions. Transition information such as the ECRC report and a full PSI should be included if one was completed. When release planning initiatives are fully implemented, the Adult Work Group recommends that they incorporate the key information pieces to aid agents in their supervision of sex offenders. This recommendation is supported by the Juvenile Work Group, as the information needs of supervising agents for juveniles are similar. In addition, both work groups recommend that in cases where the offender does not return to the same agent, the institution case manager submit a new request for agent assignment and provide a full release plan each time a sex offender returns to prison or Red Wing. The detailed listing of key information and recommendations on release planning can be found in the full report on pages 37-39.

Another barrier to both reentry and supervision is lack of proper sex offender housing. Safe, stable housing provides offenders the opportunity to keep and maintain employment and par-

ticipate in other programs like community-based treatment. The work group recommends that additional funding be allocated to housing alternatives for adult sex offenders in the community and in short- and long-term health care facilities, as well as for those juvenile offenders adjudicated as Extended Jurisdiction Juveniles (EJJs) and emancipated. In addition, housing funds need to be made available to support foster care options for juvenile sex offenders who cannot return home until treatment is in progress or completed. Restrictions on concentration of sex offenders pose an additional barrier to housing and were not supported by the work group. Concentration can actually make it easier for agents to supervise this high-risk population and ensure predatory offenders continue to register. The work group recommends, instead of concentration restrictions, that institutional pre-release plans and intrastate transfers follow standard investigative practices, including supervising agent consideration of residence location, occupants, and visitation to the proposed residence. Detailed information on housing needs and offender concentration levels can be found in the full report on pages 27-30 and 39.

7. Methods and timetables for periodic external reviews of sex offender supervision practices;

All of the work groups identified the need for ongoing statewide coordination of sex offender management issues to ensure that nothing falls through the cracks. In order to achieve the goal of external review and ongoing coordination, the work groups recommend an entity/organization be charged with coordinating sex offender services and standards statewide. In addition, an entity/organization should be charged with conducting independent operation and policy research on sex offender management.

The work groups envision the first entity as being limited in scale with the goal of identifying emerging management issues, bringing together stakeholders, and creating and implementing action plans. Three options for the creation of the first entity were proposed by the Adult Work Group: the first being continuation of the Governor's appointment of a sex offender coordinator full-time; the second would be an entity similar to that of the Sentencing Guidelines Commission; and the third would be a unit within the DOC to coordinate these activities. In conjunction with the creation of this entity, the groups recommend that funding be allocated to staff and maintain the ongoing sex offender management entity, which would include all three correctional delivery systems.

The work groups also envision an independent sex offender management research and information entity/organization that would have connections with a university to ensure that methodologies and results are held to the highest academic levels. The mission of this entity/organization would be to carry out continuing, non-partisan research on issues related to management, such as national and international best practices and emerging trends, and ultimately provide policy-makers with evidence-based recommendations for improving management activities. Details on the oversight entities being proposed by the groups can be found on pages 52-56.

8. Statewide standards for the use of polygraphs by corrections agencies and treatment programs;

The Polygraph Work Group was created to focus specifically on the important role that the polygraph plays in the supervision and treatment of sex offenders. In developing the polygraph standards, the work group reviewed current practices statewide as well as state and national best practices. The goal of the polygraph examination is to help the offender accept full responsibility and make progress in treatment and supervision. Full disclosure by the sex offender is an important part of identifying and addressing all individual risk areas. Therefore, the Polygraph Work Group not only developed standards for polygraph examiners and use of the polygraph in supervision and treatment, but also developed offender informed consent standards and addressed the ethical and legal concerns for practitioners using polygraph examinations. Additional information on these concerns can be found starting on page H76.

The Polygraph Work Group determined that examiners conducting Post-Conviction Sex Offender Testing (PCSOT) in Minnesota must meet the criteria established by the American Society for Testing and Materials and the American Polygraph Association (APA). In addition to meeting these criteria, the examiner must be a member of the APA and meet qualification, documentation, examination techniques and procedures, instrumentation, and quality control standards. These recommendations can be found in Appendix H starting on page H71. In order to track qualified polygraph examiners in Minnesota, the work group recommends that the DOC start and maintain a registry of APA approved examiners. The work group also recommends that examiners be included in a collaborative case management team with agents and treatment providers.

The Polygraph Work Group received suggestions from members of the group who worked in both supervision and treatment in order to develop examination standards in these two contexts. The group generally recommends that a full sexual history polygraph exam be completed by the treatment program within the first six months for both offenders who are under supervision in the community and institutional-based sex offender treatment programs. In addition, monitoring-maintenance polygraph exams should be completed regularly in most cases. The Polygraph Group recommends that polygraph testing be a special condition for sex offenders on probation or supervised/conditional release and who are assessed as appropriate for the procedure. In order to accomplish this goal, the group recommends that additional funding be allocated for polygraph examinations for sex offenders on supervision, which may in part be leveraged through offender co-pays. Detailed discussion of the polygraph standards developed by the group may be found in the full report on pages 48-50 and in Appendix H starting on page H70.

9. Statewide standards specifying basic program elements for community-based sex offender treatment;

As was done with the assessment standards, the Treatment/Assessment Work Group used Minnesota Rules Chapters 2955 and 2965 as a foundation for adult and juvenile outpatient treatment standards. For a discussion on how these rules came into effect, see Legislative directive 4 above and the full history in Appendix H on pages H24-26. What came out of the

first rulemaking process was a thoroughly vetted set of standards that were used by this work group to develop first steps toward establishing juvenile and adult community-based sex offender treatment standards.

The treatment standards established by the work groups provide for detailed position-specific staff qualifications including training and documentation requirements, admission and assessment requirements, a process for detailing individual treatment plans that include specific minimum requirements, and quarterly progress reviews with review sessions that include the supervising agent. In addition, the treatment standards include requirements for development and distribution of a treatment policy and procedures manual. The guidelines on the delivery of services are flexible in that they allow treatment plans to dictate the amount of services. However, they do provide a general guideline of 8-15 hours of treatment per month for adults and a minimum of 4 hours per month for juveniles. The detailed standards can be found in Appendix H starting on page H39.

10. A statewide protocol on the sharing of sex offender information between corrections and child protection when offenders are placed in households where children reside;

In 2005, the Legislature required supervising agents to make a report to before placing an individual required to register as a sex offender into a home with children. While Minnesota social services experts agree that sex offenders should be assessed for treatment before living in a home with children, state law does not mandate this. Since this is the case, protection agencies need information to conduct an adequate investigation to determine whether children are at risk. The Adult Work Group suggests that needs certain minimum information like the PSI and sex offender assessment, probation conditions, offense history, and information as to whether the children's parent/guardian is aware of the offender issues to make an assessment. In addition, giving agencies full access to the Bureau of Criminal Apprehension's (BCA) Predatory Offender Registry would be useful to allow them to thoroughly investigate child protection matters and would require legislation.

Other legislative issues the work group touched upon included whether the Legislature should specifically exempt protection agencies from having to pay for assessments or treatment when a sex offender is seeking to reside with children. Since county resources have been strained, the work group recommends that additional funding be allocated to allow for adequate investigation by counties into protection matters involving sex offenders.

Juvenile offenders face greater obstacles when dealing with child protection. The 2005 legislation requiring notifications to protection agencies provides no guidance on cases where there are stays of adjudications for juveniles where juveniles are not under supervision or were in placement before the offense. There is a lack of reciprocal sharing between agents and . Therefore, the Juvenile Work Group recommends that data practice language be updated to allow reciprocal sharing of information, the BCA establish a Human Services notification process and include this process on predatory registration forms, and that Human Services maintain open case files on juvenile sex offenders while under supervision. Details on information sharing can be found in the full report starting on page 34.

11. Best practices for supervising sex offenders;

ISR agents provide services to sex offenders and non-sex offenders. Currently these agents have a 15-1 caseload ratio. The Adult Work Group recommends that this offender-to-agent ratio be reduced to 12-1 and that ISR agents who supervise sex offenders be provided specialized training on how to deal with this population. However, the work group recognizes that specialization, especially in terms of ISR agents, would be impractical in many areas of the state. The Adult Work Group recommends instead that five specific changes be made to ISR including eliminating the fourth phase; providing ECRC risk-level specific, minimum lengths of stay on ISR and house arrest for sex offenders; designating a specific curfew of 7.5 hours to be set by agents; and selective and limited use of GPS to adequately monitor sex offenders.

The work group's focus on **caseloads** centered on the idea of whether specialization in sex offender supervision is possible and providing a maximum caseload size for sex offender populations based on the risk posed by the offender. While specialization permits the use of standard interaction among supervising agents, treatment professionals, and others involved in the management of this population, it can be impractical in rural areas and larger agencies where resources are limited. Therefore, the work group recommends that specialized caseloads and units dedicated to sex offender supervision be created whenever feasible. While there are generally no recognized maximum caseload standards for agents supervising sex offenders, there have been significant increases in the duration of supervision required in statute and the amount of supervision activities required of agents. Given these facts, the following maximum sex offender caseload sizes are also proposed by the group:

- 12 clients for ISR;
- 30-35 clients for high-contact supervision;
- 50-55 clients for medium-contact supervision; and
- 90 clients for low-contact supervision.

Implementation of a more comprehensive approach to sex offender management should center on proper training and technology. If a collaborative approach to management is to occur, more individuals than just agents supervising sex offenders need sex offender training. Training will also need to be provided to: non-ISR supervising agents; corrections, mental illness, and developmentally-disabled case managers; child protections workers; law enforcement; and court personnel. For agents specifically, the work group recommends that in addition to the standard 40 hours of training required per year, agents supervising sex offenders receive an additional 8-16 hours of advanced topics on sex offenders. This training should also include knowledge of what collateral consequences this specific population faces, and these sex offender-specific consequences should be incorporated into future supervision standards. In order to achieve these goals, the work group recommends that funding be provided to increase sex offender management training.

In addition to training, technology plays an important role in sex offender management. In order to achieve the documentation standards detailed under legislative directive 3, the work group recommends that local operational systems be upgraded to allow for efficiency and

that both the local systems and the DOC's Statewide Supervision System (S3) clearly list an offender's ECRC level, registration, and community notification status. In addition, technological advances in GPS (which currently has serious limitations), monitoring of internet activity, and drug and alcohol testing will be important to comprehensive sex offender management. Therefore, the work group recommends that additional funding be allocated to study and incorporate these new technological advances in sex offender management activities. Detailed discussion of ISR, caseloads, and implementation methods can be found in the full report starting on page 40.

12. Other issues related to sex offender supervision.

One of the major themes discussed in relation to supervising and treating sex offenders is the need for coordinated efforts among all of the individuals and entities that handle sex offender management in Minnesota. Some examples of this include: the formation of an oversight entity to provide statewide monitoring and implementation assistance on sex offender management policies; the recommendation that supervising agents and child protection services be allowed to share information; and the request that polygraph examiners be included in a collaborative case management team.

Another example of the level of coordination request by the work groups comes from the Treatment Work Group. They recommend not only that the standards be used by treatment providers in administering their programs, but that these standards be utilized by the DOC when they make grant decisions for the treatment programs receiving state funding. In addition, the Treatment Work Group would then like to see the DOC receive funding for a position within the department that would be able to provide sex offender treatment knowledge to the department when they are making grant decisions and monitoring the programs in the state. Detailed information on the grant-making process can be found in the full report starting on page 46.

KEY RECOMMENDATIONS

Based on the directive from the Legislature, the work groups make detailed recommendations for change in the major areas of supervision, programming, and oversight and standards. The key recommendations from the groups include:

SUPERVISION

- Additional funding should be allocated for a range of housing alternatives for sex offenders in the community as well as for those who are in need of short- and long-term health care.
- EJJ offenders should have access to the same funding streams for housing as adult supervised release offenders.
- Agents should have higher levels of face-to-face contact with sex offenders they are supervising, as well as collaboration with individuals and agencies in the community where the offender is being supervised.
- Agents supervising sex offenders should receive more specialized training and awareness of current best practices in sex offender management.

- Funding is necessary to increase training to corrections professionals on sex offender issues, including best practices and future enhancements.
- A new protocol should be followed when assessing juvenile risk to determine the level of supervision.
- The DOC should endorse a validated juvenile risk assessment tool when one becomes available that would then be implemented as standard practice statewide.
- Additional funding for investigations by counties in child protection matters.
- Data practice language should be updated to allow sharing of information between child protection and probation staff on juvenile sex offenders.
- The BCA should establish a Human Services notification process and include this process on BCA predatory registration forms.
- Human Services should maintain open case files on juvenile sex offenders while under probation supervision.
- Institution case managers should submit a new request for agent assignment and provide a full release plan packet each time an adult or juvenile offender returns to prison.
- All institutional pre-releases and intrastate transfers should follow a standard set of investigation practices.
- Sex offender supervision should be specialized wherever possible.
- ISR standards and phase system should be revised.
- Specialized caseloads and units dedicated to the supervision of sex offenders should be created whenever feasible.
- Additional funding should be allocated to incorporate new technology in sex offender management and upgrade local operational systems.
- S3 should clearly list the offender's rank, predatory offender registration, end-of-confinement review, and community notification status.

PROGRAMMING

- Additional funding should be allocated for community-based treatment.
- The DOC should receive funding to create a communication process among programs.
- The proposed guidelines for assessment and treatment should be used by the DOC in its grant-making process, and treatment programs that receive state funding should be required to comply with the guidelines.
- Additional funding should be allocated to the DOC to provide sex offender treatment expertise in the grant-making decisions and to monitor treatment program compliance with the guidelines.
- Additional funding should be allocated for polygraph examinations in sex offender supervision cases (offenders would still pay a portion of the costs).
- The DOC should create and maintain a registry of qualified polygraph examiners.

OVERSIGHT AND STANDARDS/GUIDELINES

- Additional funding should be allocated to implement and monitor the proposed standards for adult and juvenile supervision and treatment, including determining what resources will be necessary by jurisdictions to meet these standards.
- Create and fund an ongoing small-scale entity to coordinate, assess, and improve statewide responses to sex offender management, including identifying new and emerging is-

sues; providing training, technical assistance, and oversight to agencies allowing them to meet the standards; and working closely with researchers.

- Create an independent, statewide operational and policy research entity to review national and international best practices, identify emerging trends, conduct research, and provide local, state, and national policy-makers with evidence-based recommendations for improving sex offender management.

SECTION 1: INTRODUCTION

A. Work Group Process

In the summer of 2005, the commissioner of corrections formed a work group to address the sex offender issues assigned by the Legislature. Given the breadth of topics that needed to be covered, the commissioner established four work groups covering the following areas:

- Adult Supervision Practices;
- Juvenile Supervision Practices;
- Treatment and Assessment Practices; and
- Polygraph Practice.

By routing the majority of the investigation and analysis to one of four work groups, work was able to progress on a number of different sets of standards/guidelines simultaneously. Likewise, by developing smaller groups, a wide representation of practitioners and experts from around the state could participate.

The work groups met on a regular basis for 18 months (Appendix C provides a summary of meeting dates for each group). Over 60 dedicated professionals, with extensive years of sex offender management experience, participated regularly in the discussions. These representatives came from all three supervision delivery systems, academia, treatment providers, and from Minnesota's partners in the non-profit community.

The work group members convened periodically in general sessions to coordinate the work from all four work groups. At these general sessions, members reviewed the work of all work groups and submitted recommendations and requests for further study.

Each work group compiled a document containing their discussions and recommendations. This report is a compilation of all four work groups as it relates to the issues surrounding standards and guidelines for sex offender adult and juvenile supervision, treatment programs, and polygraph examinations.

B. History of Sex Offender Management in Minnesota

Sex offender management issues have existed in Minnesota for numerous years. There have been a number of policy changes, such as increased sentences and supervision requirements, which bring to the forefront a need for continued discussion on how best to manage this sex offender population.

Studies have been completed to cover such topics as recommendations on increased sentencing, risk assessment and release procedures, creation of a civil commitment process for the highest-risk offenders, and enhancements to supervision to name a few. Each study provides the criminal justice community knowledge of how to better implement sex offender management practices.

The issue of sex offender management started coming to the legislative forefront in 1999, with the passage of a pilot program in Dodge/Fillmore/Olmsted Community Corrections to increase supervision of sex offenders by reducing agent caseloads. The DOC was also directed at this time to study sex offender supervision issues focusing on ways to improve supervision, increase public safety, and reduce recidivism. The DOC was to report back to the Legislature by February of 2000. When Katie's law passed in 2000, specific funding was allocated to enhance sex offender supervision statewide. Since then, public concern over sex offender issues has increased due to several high-profile sex offender cases occurring in 2003 and 2004. To increase public safety, Minnesota's executive branch took several steps to provide additional coordination across agencies, as well as to change sex offender management practices.

In 2004, the Governor appointed a cabinet-level position responsible for the coordination of sex offender management between all state agencies. Through coordination with state agencies having major sex offender management roles (Human Services, Health, Public Safety, and Corrections), significant changes to the management of sex offenders took place.

In January 2004, the DOC changed the process of referring sex offenders for civil commitments by creating a three-member committee of corrections and treatment professionals to review sex offender commitment referrals. This committee was charged with assessing the file of each moderate- and high-risk offender at least 12 months prior to release. This enabled identified offenders to be referred to the county attorney of the county of conviction who has the responsibility to review cases for consideration of a petition for civil commitment as a Sexual Psychopathic Personality or Sexually Dangerous Person (SPP/SDP).

The DOC also reviewed all sex offender management policies and procedures. Significant changes were made in these policies and practices covering the supervision of sex offenders; review of sex offenders who violate their supervised release plans; placement of sex offenders in long-term hospitals or nursing homes; and how sex offender release plans were established, reviewed, and implemented.

The DOC also partnered with the U.S. Department of Justice's Center for Sex Offender Management (CSOM) organization. CSOM was created in response to recommendations coming out of the 1996 U.S. Department of Justice national summit on sex offender management in the community. Three divisions were responsible for CSOM's creation, the Office of Justice Programs, the National Institute of Corrections, and the State Justice Institute. CSOM provides states with technical assistance to review how sex offender management practices are completed. CSOM works with states to identify national best practices surrounding sex offender management. As a result, Minnesota incorporated a number of stakeholders in these discussions which provided guidance for some of the changes that the DOC, the correctional community, and the Legislature implemented.

In 2005, the Legislative Auditor completed a report that provided a thorough review of sex offender management in Minnesota. The report recommended changes in the following areas:

- Consistent statewide policies for sex offender supervision;
- External reviews of supervision practices;
- Additional funding for community-based treatment, housing, and supervision;
- Statewide rules for sex offender treatment and use of polygraph;
- Requirements of sex offenders disclosing temporary changes to living arrangements;
- Requiring corrections agencies to inform child protection agencies before authorizing sex offenders to live with children; and
- Requiring the DOC to collect additional information on sex offender treatment participation and outcomes.

The Legislature made significant changes to the sentencing laws surrounding sex offender crimes. In 2005, the Legislature departed from the traditional sentencing guidelines grid and created indeterminate sentencing for certain sex offenses. As a part of the sentence, offenders convicted of these sex offenses will serve a specific amount of time in prison before they are reviewed for possible release. This review process is similar to the current review process for life sentences for first-degree murder.

An additional change in the civil commitment referral process occurred in December 2005 when the DOC implemented a new policy in response to a directive by the 2005 Legislature (M.S. 244.05, Subd. 7). This statute created a screening committee composed of three corrections and treatment professionals. This committee makes recommendations to the commissioner regarding referrals to the county attorney for civil commitments. Additionally, the statute requires a legal review and recommendation from independent legal counsel. The department was authorized to contract with an attorney or retired judge who is knowledgeable in the legal requirements of the civil commitment process to serve as the independent legal counsel.

In the area of sentencing, the Legislature adopted a new sex offender sentencing guidelines grid as recommended by the Minnesota Sentencing Guidelines (MSG) Commission. This new grid increased the sentences for sex offenders with long criminal histories. Effective August 1, 2006, the MSG Commission, as approved by the Legislature, established a separate grid and sentencing rules relative to those convicted of sexual offenses. Not only did this revision enhance sentence durations, it developed broader presumptive durations giving judges more latitude for modifications within the structure of these new guidelines. Ultimately the adopted changes enhance the sentences of the sex offenders that continue to commit repeat crimes.

The Legislature implemented several other laws and allocated funding to improve Minnesota's sex offender management activities. Some of these changes are:

- Additional funding for sex offender treatment in prisons;
- Changes to sex offender registration;
- Increased conditional release time from 5/10 years to 10 years/life;
- Expanding who is eligible for conditional release time;
- Legal representation added to civil commitment process;
- Nursing home changes that affects all licensed facilities; and
- Increased use of electronic monitoring.

The 2005 Minnesota Legislature also directed the commissioner of corrections to establish a working group on sex offender management. This work group was charged with assessing a set of complicated policy issues related to the supervision of sex offenders and providing recommendations to the Legislature by February 15, 2007.

Specifically, the commissioner of corrections was directed to convene a group of individuals knowledgeable in the supervision and treatment of sex offenders, with broad representation of all three Minnesota supervision delivery systems. As mentioned above, the commissioner established four separate work groups to concentrate efforts on specific topical areas of expertise in order to make recommendations for the full report. Appendix A details the specific language of the 2005 legislative directive.

One key section of this legislation specified that the work group develop standards and/or guidelines for managing sex offenders by developing recommendations on 12 different topical areas surrounding sex offender supervision and treatment. The proposed standards and guidelines for sex offender management developed by the work group can be found in Appendix H. Appendix H is meant to serve as a guide to the standards and guidelines to be followed by supervision and treatment professionals statewide. The following report, including Appendix H, provides a description of the process used to discuss these issues and the recommendations of the work group.

C. Current Research on Sex Offender Supervision and Treatment Practices

Throughout the process, all four work groups obtained, reviewed, and discussed best practice research from around the county, as well as internationally.

The work groups reviewed a wide variety of literature specific to sex offender management practices related to supervision, treatment, and polygraph of sex offenders. Information about research or implementation of standards developed in other states, such as Colorado, Illinois, Texas, and California, was often used as a background with which each of the work groups made further decisions of the standards to be set in Minnesota. This information was compiled to better understand what others nationally have been implementing and how to move Minnesota in the direction of best practices of sex offender management. Based on this review, the work groups then designed standards and guidelines that matched the principles of supervision agencies and treatment providers across the state.

The work groups also reviewed a report developed by CSOM. This report provided useful information as to techniques in the supervision and treatment of sex offenders and served as a guide to best practices of supervision and treatment of sex offenders. The work group also referenced the DOC's Model for Enhanced Supervision of Sex Offenders in the Community (Appendix D). In addition, the sex offender management model developed in Colorado was extensively reviewed, and research from their final report was utilized to develop the standards and best practice guidelines (Appendix E). Finally, a listing of sex offenses which require registration with the BCA can be found in Appendix F.

Furthermore, the work groups each received copies of the 2005 Legislative Auditor's report that outlined specific areas of focus in the fields of sex offender supervision, treatment, and polygraph. The Legislature used this report as the basis for the 12 points for which the work group was to study and make recommendations. The report provided information of what needed specific attention and ways to improve sex offender supervision and treatment in the community.

In addition to the research and best practice materials, each work group also interviewed local, state, and national experts in the area of sex offender management. This professional expertise covered areas such as conducting polygraphs, current treatment program components, current supervision activities, and national policies.

These documents and presentations played a crucial role in the development of all work group findings and recommendations and are identified in the reference section of this report.

The research of the work groups revealed several key findings:

- Sexual victimization is a significant public health problem within the United States. Annual estimates include approximately 876,000 cases of sexual assault against women, approximately 111,000 cases of sexual assault against men, and approximately 100,000 cases of sexual assault against children;
- Most victims of sex offenses are targeted by someone known to them. Approximately 83 percent of adult women, 86 percent of minor females, and 81 percent of minor males were victimized by an offender known to them;
- Much like the general population, sex offenders are a heterogeneous group. There is no profile;
- The etiology of sex offending is complex and multi-determined;
- When individuals commit sex offenses, there is often a profound effect on victims, families, and communities; and
- Sex offenders have been and will be residing in our communities.
(Carter, M., 2005)

Discussions in the regarding supervision strategies for those who commit sexual offenses identified that the factors that predict sexual recidivism are different than those that predict general recidivism. Several studies (Gendreau, et al, 1996; Hanson and Bussiere, 1998; Hanson and Morton-Bourgon, 2004) revealed such factors. This reality suggests the need for specialized knowledge by those supervising sex offenders, specialized tools for the monitoring and assessment of such offenders, specialized conditions for the management of such offenders, and specialized interventions for the treatment of such offenders.

Research in the field of sex offender management suggests that surveillance-driven and punishment-oriented approaches to supervision exclusively are largely ineffective in terms of reducing recidivism. Used in isolation, these strategies and approaches increase negative outcomes with offenders. Creating incentives and positive rewards is significantly more effective than using sanctions alone to change offender behavior. Pairing accountability with rehabilitation to promote offender success and community safety requires collaboration and specialization. Multiple agencies will need to work closely with each other including supervision agencies, law enforcement, treatment programs, and child protective services.

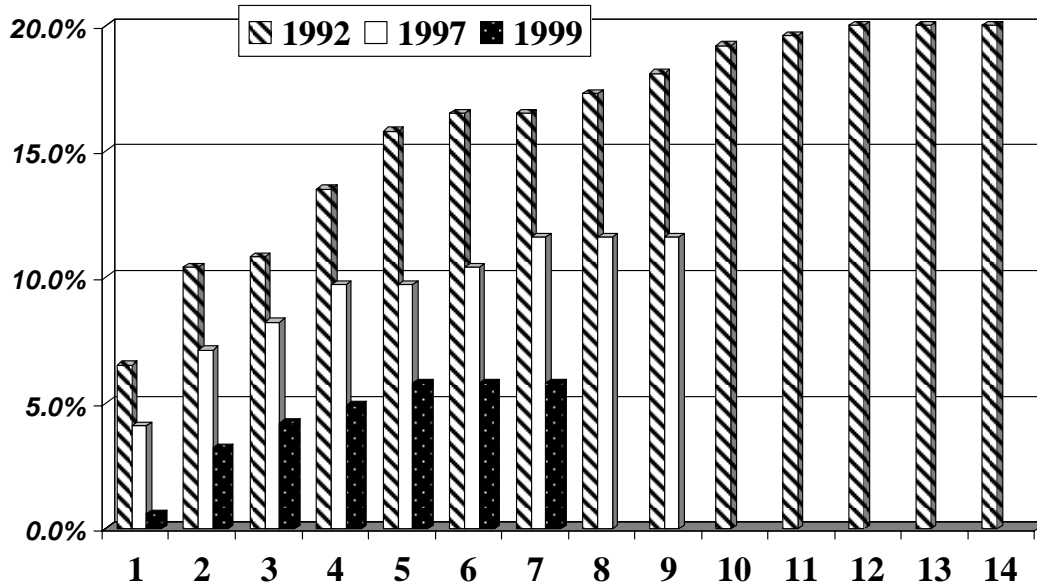
In managing the community supervision of individuals convicted of sex offenses, it is critical to understand that official crime records are incomplete and that risk assessment instruments rely heavily on official recorded data, as do studies of recidivism and treatment efficacy.

The work groups also reviewed an analysis of sex offenders released from prison. This analysis completed a recidivism follow-up on sex offenders released from a Minnesota correctional facility between 1990 and 2002. The study involved a total of 3,166 offenders who were released from a Minnesota correctional facility between 1990 and 2002. The sex offense reoffense rates for those released in 1992, 1997, and 1999 were followed to determine reconviction rates after release. It was seen that sexual recidivism in Minnesota has dropped precipitously, as the three-year sexual reconviction rate for 2002 releasees was three percent compared to 17 percent for the 1990 releasees.

Based on this information, the work groups concluded that management of sex offenders in Minnesota is working. Progress is being made; however, it is not clear what aspects of the management system are most effective. During the time frame of this study, many enhancements to the sex offender management system have been implemented. Among these are DNA collection, registration, community notification, increased civil commitment, ISR programs, increased availability of sex offender-specific treatment and polygraph, and increased sentence lengths and conditional release. Although the work groups were pleased with the progress in the system, they also recognized that further improvement is necessary. Also, caution must be exercised to avoid system changes that will decrease effectiveness of current practices. Research is necessary to advance the next step toward lower recidivism. Research is necessary to determine what is working and what is not working. Future changes to the system need to be focused on effectiveness as determined by empirical data and thorough analysis.

Figure 1 illustrates the differences in recidivism rates for those three groups.

Figure 1: Recidivism Rates for Sex Offenders Released from Minnesota Prisons 1992, 1997, 1999



Percent of entire sample rearrested for any new sex offense; Year 1 = year of offender's release. Percents are cumulative. Released with CSC as governing offense. 1992 thru 2005.

While research has not been able to determine what causes individuals to commit sex offenses, a number of factors are known to be associated with sex offending. These include cognitive/behavioral, biological, socio-cultural, and family/environmental factors. This research as well as the sex offender management practices already underway in Minnesota and other states clearly identified what makes sense from a correctional standpoint.

D. Guiding Principles for Sex Offender Supervision

In order to guide the discussion in developing supervision standards, both the Adult and Juvenile Sex Offender Supervision work groups developed overarching guidelines when managing both the juvenile and adult sex offenders. Each of these work groups reviewed supervision principles from other states such as Colorado and Illinois and have made these principles a standard operating guide for supervising agents in the field of sex offender management. These materials were used as background to developing the guiding principles of supervision followed here in Minnesota. The Minnesota guiding principles were based on the work groups' professional experience in the supervision and management of sex offenders in Minnesota, as well by considering principles used by other states.

The work groups always viewed public safety as the primary goal and built the remaining principles upon their professional judgment and review of material mentioned above.

Table 1 provides a summary of the guiding principles (Appendix C contains these principles in greater detail).

Table 1: Adult and Juvenile Sex Offender Work Group Guiding Principles

Adult Work Group Principles

1. Public safety is paramount;
2. Victims have a right to safety and self-determination;
3. Sexual offending is a behavior disorder;
4. Individuals convicted of sexual offenses pose a significant risk to the community;
5. Safety and protection of minors living with sex offenders is primary;
6. Access to all information is vital to individuals supervising sex offenders;
7. Assessment and evaluations are ongoing processes;
8. Coordinated multi-disciplinary response is a requirement to success;
9. Treatment and aftercare are critical components of sex offender management;
10. Cooperation of individuals who influence sex offenders enhances successful treatment and management;
11. Continuum of options should be available in each Minnesota community; and
12. Developing technologies should be used in the supervision of sex offenders.

Juvenile Work Group Principles

1. Public safety is paramount;
2. Complex set of personal and environmental factors contributes to sex offender behavior;
3. Balanced-approach model should be used when supervising juvenile sex offenders;
4. Risk/needs assessments are ongoing processes;
5. Continuum of options should be available in each Minnesota community; and
6. A collaborative approach is required for success.

In addition to the guiding principles, the Adult Work Group developed definitions of a sex offender to allow them to create the standards on supervision.¹ These definitions were based on a review of current practices in Minnesota correctional systems as well as other states. Information was gathered and distributed by the DOC, citing two policies related to the definition of a sex offender (Policy 203.013 and 203.014). These definitions impact the level of contact that must be maintained by supervising agents and the resources that are divided by each correctional agency in determining caseload size.

The work group determined that the focus of the standards and guidelines would be on the primary and secondary portion of the definition due to their requirement to register as a predatory offender.

However, the tertiary definition is important in identifying offenders who may still be supervised by an agent who must meet the appropriate level of contact with that offender. The work group developed a definition based on three criteria of an adult sex offender that can be used in determining resources and levels of contact for supervision.

¹ The exceptions for non-sex related False Imprisonment and Kidnapping offenses also apply to the secondary and tertiary definitions.

The Adult Work Group's primary, secondary, and tertiary definitions are:

Primary definition of a sex offender:

Any offender who is under supervision and required to register under the Predatory Offender Registration Statutes M.S. 243.166 and/or M.S. 243.167, with the exception of those convicted of non-sexual related False Imprisonment and Kidnapping offenses. This definition includes those individuals who are not required to register but have been convicted of Criminal Sexual Conduct 5th Degree, Indecent Conduct, Indecent Exposure, and other non-felony charges related to sexual offending with the exception of those convicted for misdemeanor and gross misdemeanor customer/patron prostitution offenses. Offenders who are convicted of Violating Predatory Offender Registration laws are included in this definition.

Secondary definition of a sex offender:

Any offender who is under supervision for a criminal offense and is required to register as a predatory offender under M.S. 243.166 and/or M.S. 243.167 due to a previous eligible conviction.

Tertiary definition:

Any offender who is under supervision for a criminal offense and is not required to register as a predatory offender but has a prior felony sex offending conviction that is well documented.

SECTION 2: PROPOSED STANDARDS/GUIDELINES

Each of the four work groups identified several standards or guidelines for managing sex offenders. These recommendations cover supervision, assessment and treatment, and polygraph standards/guidelines that deal with the following areas:

Standards for Adult and Juvenile Sex Offender Contact;
Standards for Adult and Juvenile Sex Offender Process;
Standards for Adult and Juvenile Sex Offender Documentation;
Standards for Adult and Juvenile Sex Offender Special Conditions;
Guidelines for Conducting Adult and Juvenile Sex Offender Assessment and Treatment; and
Standards for Conducting Adult and Juvenile Sex Offender Polygraphs.

The recommendations are fully outlined in Appendix H (Sex Offender Management: Proposed Standards and Guidelines for the Supervision, Treatment, and Polygraph Examination of Minnesota Sex Offenders 2006).

All sex offender programs should be encouraged to operate in conformance with the standards and guidelines outlined in this working document. Courts and corrections agencies should be encouraged to utilize only programs that report conformance to the minimum standards and guidelines. Programs that receive state funds should be required to conform as a condition of funding.

In developing these standards and guidelines, the work groups reviewed numerous different issues that impact implementation statewide. The following provides a summary of these issues and recommends possible solutions.

- **Create an organization to assist jurisdictions in meeting minimum supervision standards:** In many jurisdictions, sex offender management practices do not meet the minimum standard being proposed by the work group. In order to meet these minimum standards statewide, millions of dollars would be needed to bring every jurisdiction up to the minimum standards. To coordinate this effort, an organization would need to be charged with providing assistance to jurisdictions to help implement minimum standards as well as monitoring statewide efforts to ensure minimum standards are maintained.
- **Conduct a survey to identify resource needs:** No jurisdiction today meets all the best practices standards/guidelines being proposed by the working group. As such, the work group is recommending that the DOC conduct a survey of all jurisdictions to identify what resources will be needed to meet both minimum and best practice standards/guidelines. Results of this survey will provide a cost estimate for bringing all jurisdictions up to these minimum standards.

- **Establish an organization to review local, state, and national sex offender practices:** All jurisdictions complete sex offender management activities in different ways. As such, it is difficult to identify whether sex offender management practices are achieving positive results and, if they are, how to share these successes with other jurisdictions. The work group recommends that an organization be established to review local, state, and national sex offender management practices and assist counties in training, implementing, and reviewing best practice activities.
- **Vet standards with all stakeholders:** It is critical that the proposed standards are vetted with all the stakeholders in Minnesota. As such, the work group completed an extensive review process for this report including the proposed standards and guidelines. All affected jurisdictions were asked to provide comments on these standards, guidelines, and report recommendations.
- **Create a process for ongoing review and update of standards:** As these standards/guidelines will need to be reviewed and updated on a regular basis, the work group is recommending that an organization be charged with accomplishing this task. This organization would assist jurisdictions in achieving these standards and provide resources on what works nationally. In addition, this group can coordinate statewide review of the standards and guidelines. As these enhancements will need to again be vetted by all stakeholders and communicated with all jurisdictions, the group would be charged with that statewide coordination.
- **Create a process for incorporating best practice into standards:** The standards and guidelines being recommended are based on current best practices at the local, state, national, and international levels. New and exciting changes are occurring every day with regard to sex offender management, in Minnesota as well as nationally and internationally. These new efforts need to be sought out and included in subsequent changes to the working standards/guidelines document. The work groups recommend that an organization be charged with seeking out these new enhancements and including them in subsequent versions of Minnesota's sex offender management standards and guidelines.
- **Allocate funding for research:** Finally, the body of knowledge of sex offender management practices based on empirical research is limited. Data regarding the effect of treatment, polygraph examinations, supervision, and other sex offender management activities on recidivism is limited, especially for follow-up time of any length. In order to determine the effects of such activities, the work group is recommending that significant funding be allocated to an entity/organization to establish, conduct, and present empirical research on both policy and practices. The results from this entity/organization need to be neutral and have ties to the academic community. In addition, the working group is recommending that this entity/organization not have direct ties to any operational component of sex offender management, as this can also impact on the neutrality of the results being provided.

Many of the above recommendations include the assignment of tasks to an organization. The work group discussed different options on how this type of organization(s) may be established or tasks assigned to existing organizations. Section 5: Oversight Recommendations provides a more in-depth discussion of the need and options for a coordination, research, and oversight organization.

SECTION 3: SUPERVISION ISSUES

In addition to the standards/guidelines, the work groups addressed a wide variety of issues that arise when supervising sex offenders. The topics were either identified in legislation, through CSOM technical assistance, or through work group discussions. The following summarizes these issues and provides recommendations.

A. Lack of Proper Housing

1. Housing Issues for Adult Sex Offenders

A variety of reasons makes it difficult for any level sex offender returning to the community to obtain safe and stable housing. Reasons range from landlords being unwilling to rent to a sex offender, to lack of affordable housing. The lack of such housing is a significant risk factor for offenders returning to the community, whether from state prison or local correctional facilities, and impacts public safety.

Beyond providing a safe place to live, stable housing permits offenders the opportunity to obtain and maintain employment and participate in community-based, sex offender-specific treatment. Just as importantly, it provides both law enforcement and the supervising agent a known point of contact with the offender in the community.

The Adult Work Group recommends additional funding be allocated to housing alternatives.

The Adult Work Group discussed the following options that could be utilized if additional funding is allocated by the Legislature:

- a) Increase the availability of reentry housing state-wide. The availability of such subsidized release housing is critical in all areas of the state; and
- b) Create a state-wide and state-sponsored supervised housing initiative that would be specifically designed to accept sex offenders released from state and local correctional facilities. This would be an alternative to the creation of more halfway house beds throughout the state. Offenders would ultimately be expected to pay their own rent at such facilities.

2. Housing Issues for Juvenile Sex Offenders

Although lack of proper housing is not a significant issue for juveniles, some juveniles with EJJ sentences are emancipated and face similar issues to adult offenders. These juveniles face the same limited housing opportunities as adults, as well as additional obstacles to finding adequate

housing. A primary obstacle is that juveniles are not eligible to utilize the same funding streams for housing as adult supervised release offenders.

The Juvenile Work Group recommends that EJJ offenders have access to the same funding streams for housing of adult supervised release offenders.

In addition, many juveniles who do not need to be in an inpatient facility cannot go home until treatment is underway or completed. Finding appropriate foster care for these offenders that will support outpatient treatment is a difficult and sometimes impossible task. As a result, some juvenile sex offenders are inappropriately referred to residential programming because there are no alternatives.

The Juvenile Work Group recommends that housing funds be made available to support community-based foster care for juvenile sex offenders in the form of training for foster home parents and subsidies to counties similar to the EJJ funds of the past.

3. Lack of Proper Medical Care/Nursing Care for Sex Offenders

In recent years, the Minnesota Legislature has made changes to M.S. 243.166, which requires written notification to various licensed health care facilities for the care of vulnerable adults, including nursing homes. This law was written broadly to include all licensed facilities, not just nursing homes. The expansiveness of the law has led to situations in which sex offenders requiring medical care post-hospitalization are not able to find placement in nursing homes near their residence or families.

In addition, offenders with legitimate medical needs are being denied entry into nursing homes for continued care regardless of their risk level and/or risk to other facility patients. This incurs a great cost to the health care system, as hospital stays can often lead to larger medical bills compared to that of the cost to stay at a nursing home.

Minnesota has long relied on local community facilities and programming to meet the needs of all offender populations. Recently, increased attention to and fear of offenders convicted of sexual offenses has led to exclusion from such facilities and programming. These same issues exist to a lesser extent for those offenders requiring residential services for developmental disabilities, serious and persistent mental illness, traumatic brain injury, and residential services for chemical dependency.

Unless existing health care facilities throughout the state can be persuaded to make their programs available to registered offenders, the state will need to develop special nursing home programs to address the ongoing medical needs of registered offenders from post-hospital medical care to aging issues to dementia.

The Adult Work Group recommends that the Legislature fund a range of options for housing sex offenders that are in need of short- and long-term health care facilities.

The work group discussed several options for making available health care facilities to registered sex offenders. The following provides a summary of some of these options:

- a. Build a state-operated nursing home facility that would allow for sexual offenders of any level (supervised release or probation) to reside and receive the proper nursing care. This facility would then train staff specifically in the areas of: risk management of sex offenders, sex offender-specific issues, and awareness of the types of offenses committed, in addition to their medical and mental health expertise;
- b. Allow for sex offenders to be placed in nursing homes throughout the state, but increase the level of training of nursing home personnel to be made aware of the risks/needs of sex offenders residing in their care; or
- c. If neither A nor B, appropriate funding for those offenders who have to stay in hospitals.

4. Concentration of Sex Offenders for Supervision Purposes

The Adult Work Group specifically addressed the issue of establishing distance requirements regarding where offenders may live. This refers to local ordinances or statewide legislation which would require those convicted of a sexual offense to live a certain number of feet from schools, licensed daycares, or from each other. Such restrictions have been established in other states.

Prior research suggests that residency restrictions make it more difficult for sex offenders to successfully re-enter society by limiting employment prospects, reducing suitable housing opportunities, and increasing emotional and financial stress, thereby increasing their risk to the community. Further, there are strong indications that such legislation negatively impacts the accuracy of predatory offender registration information maintained by law enforcement and corrections, also contributing to increased risk to the community.

Previous reports on concentration and housing in Minnesota suggest that in urban areas there would not be adequate housing for sex offenders where proximity restrictions to schools, daycares, and/or other offenders are enacted.

A report prepared by the Colorado Public Safety Sex Offender Management Board looked into issues related to the concentration of sex offender housing. The report indicated that high-risk sex offenders living in Shared Living Arrangements (SLAs) had significantly fewer violations than those living in other arrangements, had shorter amounts of time elapsed between the offender committing a violation and discovery of the violation by supervising authorities, and roommates in SLAs reported violations more frequently than roommates in other living arrangements.

The report also suggested that offenders living with their families were more likely to have criminal and technical violations than those living in other types of residences. The findings suggest that although offenders may be living with family or friends, it does not necessarily mean they are living in a supportive or healthy environment that requires them to be accountable.

The study did not specifically analyze proximity to schools and child care centers. However, it noted that in urban areas, the large number of schools and child care centers where proximity restrictions were in place would result in “extremely limited” areas for sex offenders to reside. It further notes that of the offenders who re-offended (either sexually or other crimes) while under supervision, their residences were “randomly scattered throughout the study areas.” There did not seem to be greater numbers of these offenders living within proximity to schools or child care centers than other offenders.

B. Determining Appropriate Level of Supervision for Offenders to Meet Contact Standards

1. Adult Sex Offenders

Assessing the level of community supervision is extremely complicated and difficult given the overall goal of reducing re-offense and future victimization. It is particularly difficult when research suggests that the incidence of sexual assault is much higher than the known conviction rate for sexual assault. As such, the Adult Work Group reviewed best practices in this area and recommends the following assessment categories as promoted by CSOM.

Current best practice in the area of assessment for supervision falls into four categories:

- Risk assessment;
- Criminal justice assessments including PSI, intake/classification, assessments to guide supervision case planning and/or release planning;
- Clinical assessment, including psychosexual, psychophysiological, and psychiatric; and
- Ongoing, multi-disciplinary assessment.

Research suggests that two good indicators of future risk to reoffend are prior sex offenses and sexual deviancy. Knowledge of the offender's history in those two areas tends to increase over time and is often dependent on the development of a full sexual history in treatment verified by polygraph and the administration of one or more tools designed to measure deviant sexual attraction or arousal. Hence, many jurisdictions commence community supervision of a felony-level sex offender at the highest contact standards until more is known about an individual offender's range of prior victims, extent of deviant sexual arousals and paraphilias, and the presence of dynamic risk and protective factors.

Movement from high- to medium-contact levels, therefore, frequently depends on successful completion of a structured sex offender-specific treatment program and indicators of offender internalization of risk management strategies.

While evidence-based practices for offender supervision have moved toward primary reliance on actuarial assessment tools, sex offender supervision uses those tools as part of a broader assessment. Variables relating to recidivism risk are significantly different for adult sex offenders as they relate to risk of sexual recidivism.

Variables relevant to risk assessment for adult sex offenders include:

- Age;
- Never married;
- Conflicts in intimate relationships;
- General self-regulation problems (lifestyle instability/impulsivity/employment instability);
- Antisocial orientation/psychopathy;

- Pro-offending attitudes;
- Prior sex offenses;
- Diverse sex crimes;
- Deviant sexual interests;
- Emotional identification with children;
- Sexual preoccupation;
- Victim characteristics (male, stranger, unrelated);
- Intimacy deficits;
- Hostility;
- Violation of community release;
- Failure to complete treatment; and
- Supervision non-compliance.

The Adult Work Group recommends that agents have face-to-face contact with offenders. The group also recommends that the supervising agent identify and collaborate with a wide range of individuals and agencies in the community where the offender is being supervised.

The supervising agent needs to have contact with individuals that are a part of the offender's day-to-day activities. These individuals should include but are not limited to victim; co-residents of the offender's residence; landlord; employer; significant family members; supervisors of minor visitation (where appropriate); sex offender-specific treatment provider; other treatment providers; sponsors; local law enforcement; and child/adult protection.

Establishing and maintaining a network of collaborative relationships with those involved in the offender's life provide additional sources of data regarding the offender's adjustment in the community. It also provides a network of informed individuals aware of the individual offender's offense, criminal history, and conditions of supervision, thereby negating much of the secrecy in which sexually-assaultive behaviors may flourish.

It is desirable for all offenders to have a relatively sober, crime-free residence with employment that provides a decent wage and willingness to employ an offender. With a sex offender, the co-residents' knowledge of the offender's offense(s) and their attitude about his/her risk assume greater importance.

Where, with whom, and with what access become critical variables to offender employment. The employer needs more information regarding offense and risk. While it may be obvious that a sex offender should not be employed in a daycare center or elementary school, it can be less obvious when it comes to other occupations such as construction/painting/cable installation (access to occupied residences), service positions (access to rented rooms/properties), etc.

Even socially, the dynamics and assessed risk change. For the sexual offender, the community support provided by such communities can be a positive, but it also represents an opportunity for access to vulnerable populations (youth activities, invitations to fellow worshipper's homes, etc.).

Based on the above issues and difficulties in assessing and determining appropriate levels of supervision, supervising agents need specialized training. To accomplish this training, a supervising agent needs adequate time be allocated for this training given the significant time demands needed for the daily assessing and supervising of sex offender caseloads.

The Adult Work Group recommends that agents supervising sex offenders are provided specialized training and awareness of current and best practice sex offender management activities.

2. Juvenile Sex Offenders

In the standards and guidelines report, the Juvenile Work Group identified various levels that an offender may be placed under with the appropriate level of contact standards needed for an offender in that classification. In addition, the group identified ways to categorize an offender in order to determine the level of supervision and contact required.

The Juvenile Work Group noted that there are many other factors that go into determining a juvenile's level of risk and would not exclusively use this protocol in determining risk. Sex offender-specific risk assessment tools for juveniles have not been validated (with the exception of the Youth Level of Service Inventory, or YLS), but do offer agents useful information in determining the risk/need areas that should be addressed in the juvenile's supervision.

The Juvenile Work Group recommends a new protocol be followed when assessing juvenile risk to determine the level of supervision.

The Juvenile Work Group proposes the following new protocol be used when assessing juvenile risk to determine the level of supervision:

- a. Complete a PSI interview;
- b. Determination of a risk/needs assessment (such an assessment must include the juvenile's strengths); and
- c. Do a clinical assessment (the treatment work group will decide what assessment would be best practice and it may include risk assessments).

It should be noted that there a number of risk assessment tools that are currently used in the field. As these tools have not been validated, the work group recommends further review of these tools if and when the tools become validated at a later date.

The Juvenile Work Group recommends that the DOC endorse and implement a juvenile sex offender-specific risk assessment tool once such a tool becomes validated.

C. Improved Information-Sharing with Child Protection

The Minnesota Association of County Social Services Administrators (MACSSA) provided two experts in the field of child protection (Susan Ault from Ramsey County and Pam Selvig from Scott County) to participate in the discussion of information sharing with child protection/social services. Both experts stated that it is appropriate for child protection to assess the safety of children when sex offenders who have not successfully completed structured sex offender specific treatment intend to reside in a house with children.

MACSSA participants also strongly voiced that it is the offender who needs to leave the home or find a new residence, not the victim or potential victim. Untreated offenders should be evaluated to give the Court the option of ordering them to treatment before they have an opportunity to reside in a home with children.

As a result of the Legislative Auditor's 2005 report to the Legislature on community supervision of sex offenders, the Legislature made changes to state laws defining corrections personnel as mandated reporters (M.S. 626.556). This law change requires supervising agents to make a report to child protection before placing an individual required to register as a predatory offender into a home with children (M.S. 244.057).

Based on information provided by the MACSSA experts, at a minimum, the child protection agency needs the following information in order to appropriately assess whether children are safe to live with an offender:

1. The PSI report and sex offender assessment;
2. The offender's conditions of probation or release;
3. The offender's sexual offending history, including known or admitted victims by age, gender, relationship, and use of force or weapon;
4. Whether that information was verified by polygraph;
5. Whether attraction testing was done, and any indications of sexually deviant attractions;
6. Whether the offender participated in any structured sex offender treatment, the outcomes and recommendations of that treatment, and any written reports from that treatment;
7. The name, address, and phone number of the children the offender proposes to live with and the children's other parent/guardian; and
8. Whether the children's parent/guardian is aware of the offender's offense and conditions of supervision, and their perception of the offender's risk to their children.

Both experts agreed that the treatment of the offender plays a major role in determining whether an offender can safely reside in a home with children. This includes cases where the offender is a biological parent and wants to return home with his/her children.

They also noted that child protection services in Minnesota counties have experienced significant resource issues. The resource strain includes personnel costs in conducting the investigation,

potential placement costs of children if the offender refuses to leave the residence and child protection services determines the children are at risk, or the obligation on counties to fully fund further assessments or treatment of the offender in order to permit him/her to remain in the home pursuant to child protection action.

It was also noted that, unfortunately, under Minnesota law both the reports of maltreatment in these circumstances and any negative collateral consequences stemming from a finding of maltreatment in these circumstances accrues against the non-offending parent who permitted the offender to reside with children.

The experts indicated that it would be extremely useful for child protection agencies to have full access to the Minnesota Predatory Offender Registry maintained by the BCA. This would require a change to M.S. 243.166, subdivision. 7a. Additionally, the experts noted that child protection agencies receive maltreatment referrals regarding offenders who are no longer under supervision.

Further issues that need legislative consideration include:

1. Whether the definition in M.S. 260C.007, subdivision 6, should be expanded to include perpetrators of any felony-level sexual offense regardless of whether the known victim was an adult or a child (the current definition of a child in need of protective services is “resides with or would reside with a perpetrator of domestic child abuse or child abuse”). Further, whether M.S. 626.556 should be amended similarly to provide the same direction to child protection agencies and to promote the state policy “to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse.” (Expand M.S. 626.556 to explicitly include as risk to children any perpetrators of a felony-level sex offense);
2. Whether the Legislature should specifically exempt child protection agencies in counties from having to pay for the assessment or treatment of individuals convicted of sexual offenses seeking to reside with children;
3. Whether the Legislature intends that anyone convicted of a felony sex offense should be eligible to become the sole caretaker of any child; and
4. Whether certain high-risk offenders should be allowed to reside with any minor.²

The Adult Work Group recommends that additional funding be allocated for adequate investigations, assessment, and treatment by counties in child protection matters.

Juvenile sex offenders face even greater obstacles and increased issues when dealing with child protection. Adult offenders can be forced to live elsewhere, but when a juvenile is involved it is more difficult to set up alternative housing.

² For example, those offenders assigned community notification levels 2 and 3.

Chapter 136, Article 3, Section 17 states; “A corrections agency supervising an offender required to register as a predatory offender under M.S. 243.166 shall notify the appropriate child protection agency before authorizing the offender to live in a household where children are residing.” There are limitations to M.S. 243.166, such as stays of adjudication for juveniles not covered by the statute and juveniles not under supervision. Furthermore, it does not include offenders who were in placement before the offense and maintain the same placement.

There is no reciprocal sharing between agent and child protection, so agents seldom receive feedback on reports that are filed. Offenders no longer under supervision, but still required to register, present a serious risk, but there is no process for notification.

The Juvenile Work Group recommends that data practices language be updated to allow reciprocal sharing of information between child protection and probation staff regarding juvenile sex offenders.

The Juvenile Work Group also recommends that the BCA establish a Human Services notification process and include this process on BCA predatory registration forms.

Once a juvenile offender is discharged from supervision, there is no follow-up if and when that offender moves into a home with children. In many cases, the juvenile will have become an adult but would still be registering for a period of time. It is the intent of this recommendation that the BCA will be tasked with the responsibility of notifying Human Services on offenders that are not under supervision as part of the registration process. Currently, Human Services typically closes cases of juveniles once they are placed under supervision. In addition, it would appear to be best practice to have Human Services maintain an open file on all juvenile sex offender cases.

The Juvenile Work Group recommends that Human Services maintain open case files on juvenile sex offenders while under probation supervision.

D. Improved Release Planning Process for Sex Offenders

1. Adults Released From State Prisons

In reviewing recommendations for improving the release planning process of offenders exiting Minnesota correctional facilities, the Adult Work Group anticipates that the DOC's new reentry initiatives will be implemented statewide. This is based on the work of the statewide Minnesota Comprehensive Offender Reentry Plan (MCORP) initiative.

One of the key components of the MCORP initiative is to improve both the release planning process in the facilities that is reviewed, enhanced, and updated by community supervision agencies as a part of the transition process. The end result of this coordinated effort is intended to provide general improvements in release readiness across all offender categories. After discussions of the current release process, the discussed options for improving the contents of the initial pre-release packet.

The work group is requesting that any MCORP release planning initiatives incorporate key information needed by community supervision agencies. The initial pre-release packet should contain information regarding the most recent violation report and hearing summary, updated institution programming, and new ECRC hearing reports (or an indication if such a report was not done).

The following information should be obtained and included in the initial pre-release packet:

- a) Correctional Operations Management System (COMS) packet;
- b) Institution sex offender treatment information (all reports to date);
- c) A copy of the full packet provided to the ECRC, which may include some of the items contained on this list, and contains other items not typically part of the pre-release packet;
- d) ECRC report (the work group strongly suggests that the timelines for ECRC be advanced so that they occur and their reports are written, whenever possible, prior to the initiation of the request for agent assignment and submission of the pre-release packet);
- e) Full PSI³;
- f) Full sex offender assessment (and others if there is more than one);
- g) Rule 20 evaluation;
- h) Mental health assessments;

³ This should also include providing victim information to the supervising agent

- i) Current medications (medical history, or if the offender has refused meds, which meds were recommended);
- j) Victim information and whether the victim has requested notification;
- k) Offender visiting lists (regardless of whether the offender is designated Public Risk Monitoring);
- l) Prior records regarding previous sex offenses with victim identification (if available);
- m) Discipline history;
- n) Institution work history;
- o) Level-of-Service Inventory Risk Assessment(LSI-R);
- p) Copy of the Minnesota Sex Offender Screening Tool (Mn-SOST-R);
- q) Copies of any other assessments (including chemical dependency and mental health);
- r) List of community treatment history and reports;
- s) Mandated treatment by the program review team (such as cognitive skill-building, social skills, and their outcomes);
- t) Reentry staff identified;
- u) Applications for social security, county case management, medical assistance, mental health, developmental disability, traumatic brain injury, and any other requests for county social services or social security assistance;
- v) Violation reports from prior releases;
- w) List of prior addresses rejected for this release and the reasons for the rejection; and
- x) Timely notification of all agents who received the plans (primary and backup).

The Juvenile Work Group reviewed the Adult Work Group's recommendations on release planning, as well as the DOC policy on releasing juveniles from the Red Wing facility. While the DOC policies mainly apply to adult offenders, the information needs of the supervising agent for juveniles are similar.

The Adult and Juvenile Work Groups recommend that the institution case manager submit a new request for agent assignment and provide a full release plan packet each time an adult or juvenile offender returns to prison.

2. Transfer Investigations

In order to improve practice in the areas of institutional pre-release and intrastate transfer investigations, the Adult Work Group agrees that the following supervision practices need to be completed:

- a. Agent physically visits the proposed residence;
- b. Agent speaks with other inhabitants of the proposed residence;
- c. Agent speaks with the landlord/caretaker/owner of the residence;
- d. Agent considers location factors of the residence including, but not limited to, its proximity to schools, licensed daycares, playgrounds, etc.;
- e. Agents from one jurisdiction should not accept release plans for residence in other jurisdictions (with the exception of short-term temporary residence in a licensed halfway house or treatment program); and
- f. The case manager should verify the placement and that the place is willing to take the offender prior to submission of the PSI.

In addition to the above supervision practices, the Adult Work Group also suggests that the intrastate transfer investigations include:

- g. Case summary of supervision to date;
- h. Verify the proposed residence and employment plans and clearly explain the reasons for transfer;
- i. Home visit (by the receiving jurisdiction); and
- j. Current treatment participation and financial arrangements for payments explained in the transfer investigation (and must be established prior to transfer acceptance, except in the case of public risk monitoring designees who should not be permitted to move prior to transfer acceptance).

The Adult Work Group recommends that all institutional pre-releases and intrastate transfers follow a standard set of investigation practices.

E. Developing Standards for Offenders on Intensive Supervised Release (ISR)

ISR is a specialized state program that provides for a mandated agent-to-offender ratio of one agent to 15 offenders on release from prison. Currently, ISR agents provide services to both sex offenders and non-sex offenders.

The Adult Work Group recommends that specialized training on supervision of sex offenders be provided to ISR agents. This training is particularly important given the specialized nature of supervising sex offenders, particularly higher-risk offenders initially released to ISR.

Further, any agent managing sex offenders must receive some level of training on working with sex offenders as directed in Minnesota Statute 241.67 Sub. 6. Agents who have a primary caseload of sex offenders should receive advanced training (more advanced training needs to be made available as well). However, the work group recognizes that specialization, particularly in terms of ISR, would be impractical in many areas of the state.

The Adult Work Group also recommends that the offender-to-agent ratio for ISR be reduced to no more than 12-to-1. The nature and extra requirements involved in supervising those convicted of sex offenses result in extra obligations for this supervision including but not limited to community notification hearings, registration, thorough PSI reports, polygraphs, treatment attendance, collateral contacts, locating housing, and use of GPS.

The Adult Work Group recommends the following changes in the structure and conditions of ISR:

- a) Eliminate Phase Four of ISR;
- b) Change the minimum length of stay on ISR requirements as follows:
 - 1) Level One offenders: Minimum of 12 months on ISR and must be successfully participating in sex offender-specific treatment in order to move to regular supervised release;
 - 2) Level Two offenders: Minimum length of stay on ISR is 18 months and must be successfully participating in sex offender-specific treatment to move to regular supervised release; and
 - 3) Level Three offenders: Minimum length of stay is 24 months and must successfully complete sex offender-specific treatment.
- c) Curfew should be a specific 7.5 hour period as set by the agent rather than any designated times set in policy;
- d) GPS monitoring should be used selectively and sparingly as needed by the agent to adequately monitor an offender's whereabouts; and
- e) Maintain offenders on house arrest as follows:
 - 1) Level One offenders: minimum of 8 months;
 - 2) Level Two offenders: minimum of 1 year; and
 - 3) Level Three offenders: minimum of 18 months and completion of a community-based sex offender treatment program.

F. Determining the Appropriateness of Specialized Caseloads

The dynamics involved in sex offenses pose many challenges to supervising agents. Specialization permits common language for supervising agents to communicate with both treatment providers and others involved in sex offender management. Without specialized training and knowledge, supervising agents may be ill equipped to detect high-risk behaviors and develop timely and effective interventions. Research does indicate that factors associated with sexual recidivism are not identical to those that predict general recidivism.

Many jurisdictions have established specialized caseloads and units for supervising sex offenders. Specialization can promote efficient and rational deployment of dedicated resources and positions; smaller, more manageable caseloads; and consistency in specialized case planning and management. However, such specialization in rural areas can be impractical, and resources even within larger agencies may be limited.

There seems little question that it is important to create specialized supervision agent positions, whenever possible, to supervise convicted sex offenders.

The Adult Work Group recommends that specialized caseloads and units dedicated to the supervision of sex offenders be created, whenever feasible.

There is no generally recognized maximum caseload standard to supervise those convicted of sexual offenses. However, it is clear that in order to implement the recommended best practice standards for supervision recommended additional funding will need to be allocated to agencies. In light of the additional duties and expectations expected of supervising agents, the following caseload maximums are recommended:

Table 2. Recommended Maximum Caseload Size for Sex Offenders

Sex Offender Risk Level	Caseload Size
Intensive Supervised Release	12 clients/agent
High Contact Supervision	30-35 clients/agent
Regular Contact Supervision	50-55 clients/agent
Low Contact Supervision	90 clients/agent

As noted previously, due to the increasing duration of supervision written into Minnesota statutes, resource demands will require a lower level of supervision be added to the preferred model.

Where there is critical mass, specialized caseloads with highly trained agents would enhance supervision. Small caseloads allow agents to meet supervision standards, and specialized training provides knowledge and skills in the most effective practices and trends.

G. Requiring Sex Offender Management Professionals to Receive Proper Training On Sex Offender Issues

The activity of supervising sex offenders is a relatively new and rapidly developing area. Research related to supervision and treatment of this population is also developing and needs to focus on the developing practices. Laws, required procedures, and collateral consequences change frequently.

While Minnesota Statute 241.67, Subd. 6, requires introductory training in the supervision of sex offenders, ongoing advanced training focused on supervision issues has not been consistently available or required. If a multi-systemic, collaborative approach in this area is to be developed, such training on the community management of sex offenders needs to be available to and required of the various system personnel. This training would be for supervising agents, corrections case managers, child protection workers, Mental Illness (MI) and Developmentally Disabled (DD) case managers, and law enforcement. It seems equally important that the Courts and prosecutors also receive continuing education in this area.

Generally, agents are required to have 40 hours of training per year. It is recommended that 8-16 hours of advanced topics on sex offender supervision be required for those agents with responsibility for sex offender supervision. In addition, juvenile agents need training in the use of sex offender risk assessment tools or similar instruments designed to assess risk. This includes initial training as well as annual boosters.

In some jurisdictions, agents are assigned to specialized sex offender supervision caseloads. An advantage to a specialized caseload is that an agent can stay current with all the latest advances in the supervision and treatment of sex offenders. Where specialized caseloads are not possible, there needs to be a focus on adding to the skill set of all agents who work with sex offenders. In both cases, increasing the knowledge of agents through training greatly helps agents maintain contact with all the various professionals and organizations that work with this population. New ideas and best practice supervision activities are shared and implemented in different jurisdictions and all learn from what others are doing successfully.

The work groups recommend that funding be provided to increase sex offender training to corrections professionals on sex offender issues, current best practices, and future enhancements.

H. Collateral Consequences for Sex Offenders

Individuals convicted of a sex offense, particularly a felony-level offense, encounter multiple collateral and direct consequences. Collateral consequences occur when an offender is impacted by factors beyond a sentence of supervision and/or imprisonment. Examples of collateral consequences that affect sex offenders include, but are not limited to:

- Inability to find housing;
- Requirement to give DNA samples;
- Requirement to register as a sex offender on the Predatory Offender Registry;
- Various restrictions on professional licensure and employment;
- Ability to gain admission to various facilities providing mental health and medical care; and
- Involvement in Family Court and/or Child Protective Services regarding certain living situations/access to minors.

It is important that these collateral consequences are defined, and current limitations on employment as well as child and vulnerable adult access opportunities are provided. This will ensure that practitioners are aware of current law and further define the needs for policy in the area of sex offender management.

Collateral consequences for sex offenders, as well as all offenders, are a significant concern for professionals in the criminal justice system. The Revisor of Statutes has made an effort to compile a list of collateral consequences into one location; however, not all specific collateral consequences for sex offenders are known to the agents or other criminal justice professionals.

In addition to assigning the work group to examine and report on collateral consequences, the 2006 Legislature had already established a separate group to specifically report on collateral consequences. Given the work already done by that group, this work group elected to defer any recommendation to that group. Instead, this work group would assign an oversight authority over sex offender management, outlined in section 5 of this report, who should study the recommendation of the collateral consequences group and incorporate their work into future standards/guidelines.

I. Use of Technology in Sex Offender Management

All work groups discussed technology and its applicability for enhancing the supervision and management of sex offenders. The groups identified areas where technology should be utilized in the management of sex offenders.

While GPS shows potential for the future, the current state of this technology has demonstrated serious limitations. GPS has been found to be helpful in tracking a specific offender location; however, the expenses associated with staff resources along with connectivity and reliability issues make it a lower priority at this time. The felt that advances in technology may make future use of the technology possible but that use of GPS in this area should proceed with caution.

Additional technology tools considered included internet monitoring of drug and alcohol testing. These technological advances should be a key component of the oversight committee's responsibility, as the current cutting edge technology will be soon outdated.

The work groups recommend that additional funding be allocated to adequately study and incorporate new technological advances in sex offender management activities.

Consistent, clear documentation of activities regarding an individual offender is critical to accurate decision-making. The Adult Work Group made recommendations regarding documentation to be maintained by all supervision agencies in the offender's file⁴ as well as the agency's automated case management system.⁵ The Adult Work Group also reviewed the use of S3 as a helpful tool in the field of supervision. S3 is a secure, web-based data repository that provides a consolidation of key pieces of data on every offender under supervision in Minnesota (probation, jail, prison, sentencing guidelines worksheet history) and is accessible only to criminal justice agencies.

The Adult Work Group also recommends that the local operational system and S3 clearly list offender's ECRC level and status of predatory offender registration and community notification.

Both the Adult and Juvenile Work Groups recommended upgrades to local operational data systems that allow agents to document their work in a more efficient and time-saving manner. This would include allowing multiple chronological headings and expanding the list of types of contacts made by agents. By upgrading these automated case management systems, agents can make better use of their resources and thus increase the effectiveness of their supervision of adult and juvenile sex offenders.

⁴ Recommendations identified in Appendix H.

⁵ The most commonly used probation management system is the Court Services Tracking System (CSTS). Recommendations were made regarding ongoing case notes to be kept in CSTS; however, these recommendations could also be fulfilled in other case management systems.

SECTION 4: PROGRAMMING ISSUES

This section summarizes the Treatment and Assessment and Polygraph Work Groups' discussions on sex offender assessments and non-residential sex offender treatment. In addition, the groups provided recommendations on specific issues that were identified in the DOC's 2006 progress report to the Legislature.

A. Treatment of Adult Sex Offenders and Juveniles Under Judicial Jurisdiction for Sexual Behavior⁶

1. Roles and Function of Supervision Agents in Relation to Offender Treatment

The degree of agent direct involvement in treatment programs varies among the different jurisdictions in the state.⁷ Agent involvement in treatment begins with a model of involvement in which the agent receives progress reports from the treatment program regarding the progress of offenders under the agent's supervision. In most cases, the agent is invited by the program and usually encouraged to attend treatment team progress meetings conducted by the program. On the other end of the continuum, the agent is significantly involved in the program and is present and participates in the treatment group. This model is often referred to as the agent participation model. When the agent attends a group meeting, the degree of agent participation in the group process varies in accord with preferences of the program staff, the agent, and/or agent supervisor.

The treatment work group does not recommend either endorsement or prohibition of the agent participation model. The work group noted positive aspects of agent involvement in groups as well as concerns that should be addressed by a treatment program when this model is used. Some of those concerns include professional liability, program integrity, confidentiality, dual relationship, informed consent, offender trust, and disclosure issues. Also noted were positive aspects of the agent participation model, such as enhancement of communication between agent, program, and offender.

At present there is no empirical research regarding the effectiveness of the agent participation model. Future efforts to establish treatment program standards may revisit this issue when relevant empirical data becomes available.

The Treatment and Assessment Work Group recommends that additional funding be allocated for community-based treatment to address the gaps and deficiencies in the system.

The Treatment and Assessment Work Group recommends that funding be provided to the DOC to create additional positions to create a communication process among programs

⁶ Terminology for juveniles in the treatment setting identifies juvenile sex offenders as "juveniles under judicial jurisdiction for sexual behavior."

⁷ Communication between supervision agents and treatment staff is critical and needs to include treatment goals, detailed case plans, progress reports, coordination of housing and employment, etc.

that will lead to more efficiency and effectiveness while providing a continuum of programming options throughout the state.

2. Improvements in the Grant-Making Process to Sex Offender Treatment

For several years, individual treatment programs have been providing effective programming for sex offenders in the community at a very reasonable cost to the state. The DOC has been successful in distributing funding in a manner that provides treatment availability in most geographical areas. The result of the joint efforts between the providers and the department is the current grant program that funds 15 programs that provide treatment at 34 sites. These sites provide most of the essential treatment needs for their particular geographical area. The gaps and deficiencies in treatment provision include:

- a. There is a lack of treatment programming in some geographical areas. This necessitates unreasonable, expensive travel requirements for program staff or offenders;
- b. There is very limited treatment for special populations such as developmentally delayed, cognitively impaired, female sex offenders, and non-English speaking;
- c. Programs for juvenile offenders are also limited or non-existent in some areas;
- d. In some cases, an over-reliance on offender co-pay as a funding source may result in unsuccessful outcomes;
- e. With current funding, most programs are not able to utilize physiological assessment technology such as Penile Plethysmograph and Abel Screen. In some instances, the use of polygraph is also limited due to lack of funding. Although not all treatment group members endorse the use of these instruments, the ability for a program to decide to use them should not be eliminated due to funding issues. Sometimes the use of polygraph is limited due to lack of funding;
- f. Many programs report a need for additional funding to provide services such as family re-unification assessment and planning, family counseling, additional individual counseling for the offenders, or other services that are identified to be needed as during the offender progress in treatment; and
- g. A systemic deficiency exists in the existence of the programs as individual “silos” with a lack of coordination and communication between programs. All programs in the state, including those in DOC facilities (and perhaps someday DHS facilities), should be networked in a cohesive web of communication with common goals and expectations. This connectivity within the system will increase the quality of services provided as well as produce more efficiency and cost-effectiveness by reducing duplication of treatment with certain offenders and sharing of effective policies and practices. In conjunction with increased communication and interconnectivity, more focus must be placed on establishing a true continuum of services across the state.

This continuum will provide the most appropriate services to offenders at the most appropriate time. This will enhance program effectiveness, decrease overall system costs, and increase public safety.

The Treatment and Assessment Work Group recommends that the proposed guidelines for assessment and treatment should be utilized by the DOC in their grant-making process and that all treatment programs receiving this state funding be required to comply with proposed guidelines.

The Treatment and Assessment Work Group recommends that additional funding be provided to the DOC to create additional positions to provide sex offender treatment expertise to grant-making decisions and monitoring of treatment programs in regard to compliance with the proposed guidelines.

3. Effectively Share Information Across Programs and Agencies

The proposed guidelines for assessment and treatment that have been produced by the work group require that treatment programs gather requisite information as part of the assessment and treatment process. This includes gathering information from previous treatment, supervision, and criminal justice agencies that have provided services to an offender.

These guidelines also require that treatment programs involve all relevant agencies and decision-makers in the development and ongoing process of current treatment. This ensures the sharing of information among all agencies involved in the management plan active at the time.

When implemented, these proposed guidelines will increase data sharing on individual cases. It is not likely these guidelines alone will create an effective communication system among the programs. In order to create an actual network of programs that provide a continuum of services throughout the state of Minnesota, a process of support, advising, and monitoring by the state is required.

4. Use of Incentives and Sanctions to Encourage Progress

Sex offenders in treatment in Minnesota are subject to significant sanctions for treatment non-completion. Incarcerated offenders face disciplinary action and possible extension of their incarceration period. Offenders in community-based treatment are subject to violation of conditions of supervision with consequences ranging from a more restrictive supervision plan to incarceration.

Offenders receive minimal incentives to engage in treatment and face obstacles in their effort to obtain treatment. In some cases, an incentive for treatment is successful completion that may result in the offender's reunification with his/her family, although treatment is not a guarantee of reunification. In fact, sometimes an offender's participation decreases the probability of family

reunification. This may be the best outcome for public safety, but it acts as another disincentive for the offender.

The requirement for treatment and polygraph co-pays exacerbates the financial stressors and acts as a treatment disincentive. Co-pay requirements need to be carefully considered. Many studies have shown that sex offender treatment reduces recidivism and therefore increases public safety. As such, sex offenders should not avoid or leave treatment programs due to inability to co-pay.

Additionally, offenders should not be required to choose between paying for treatment or other financial responsibilities such as child support or family health care, housing, transportation, and other necessities for stability and productivity. Most offenders already struggle to survive financially. Employment options and income for these offenders are limited. In addition, employment opportunities are also tied to stable housing, which is a major challenge for many sex offenders to find and keep. And frequently, when they are able to find housing, it is marginally livable and often overpriced.

The requirement of co-pays from some offenders is sometimes a reasonable expectation due to their successful financial status. In addition, some treatment providers believe the co-pay requirement can be therapeutic in some cases. The decision to require offender co-pay should be determined by clinical needs and based on a comprehensive evaluation of the offender's ability to pay. Treatment programs should not be dependent upon offender co-pays to meet their budget. This places secondary pressures on the treatment programs and is often counter-productive to offenders.

B. Polygraph Examinations for Adult and Juvenile Sex Offenders

The Adult, Juvenile, and Treatment/Assessment Work Groups identified that polygraph examinations are an important tool in supervising and treating sex offenders. As such, a separate work group was formed to deal with polygraph examination standards and issues.

The Polygraph Work Group reviewed the current statewide practices for the use of polygraph examination in sex offender supervision and treatment. Through that examination and discussion of statewide and national best practice standards, the work group developed standards to be followed when conducting polygraph examinations in Minnesota, which are fully outlined in the Appendix H.

In most cases, the Polygraph Work Group would recommend that polygraph testing be added as a special condition for supervised and conditional release sex offenders who are assessed as appropriate for the procedure. In order to achieve this recommendation, additional funding will be needed to enhance the use of polygraph examinations in supervision and treatment of sex offenders.

The Polygraph Work Group recommends that additional funding be allocated for polygraph examinations for sex offender supervision cases and that this funding be leveraged by having offenders pay a portion of the costs, based on a comprehensive evaluation of the offender's ability to pay.

In addition, the Polygraph Work Group reviewed how polygraph examiners should be involved with the management of sex offenders. Based on this review, the polygraph examiners may be included in a collaborative case management team. In addition, the polygraph referral source of the polygraph shall inform the client and case management team of the results of the examination.

Based on current polygraph use in Minnesota, as well as review of national best practices, the Polygraph Work Group developed standards that all polygraph examiners need to follow. These standards included qualification, frequency of polygraph examination, and validity of polygraph examination, which are outlined in the following sections:

1. Qualifications of Polygraph Examiners

Polygraph Examiners conducting post-conviction sex offender testing (PCSOT) in the State of Minnesota must meet standards as outlined by the American Society for Testing and Materials (ASTM) and the American Polygraph Association (APA).

As a member of the APA the following standards need to be met:

3.3 Polygraph Examiner

- 3.3.1 A polygraph examiner shall meet the training and educational requirements of his or her category of membership as set forth in Division V of the By-Laws.

- 3.3.2 Evidentiary examinations shall be conducted only by Full or Associate members. Intern members shall conduct evidentiary examinations only by stipulation of the parties, or under the supervision of a full or associate member.
- 3.3.3 Polygraph examinations for clinical polygraph examination of sex offenders shall be conducted by members who have completed specialized training for sex offender polygraphs consistent with guidelines issued by the APA.
- 3.3.4 A polygraph examiner shall, where applicable, be licensed (or certified) by the regulatory organization of his or her jurisdiction.
- 3.3.5 A polygraph examiner shall, where applicable, comply with all state continuing education requirements. A polygraph examiner conducting evidentiary examinations or post conviction sex offender testing shall have completed a minimum of thirty (30) Continuing Education hours every two years.

In addition to the above qualification, polygraph examiners must meet all the qualification of the American Society for Testing and Materials. All ASTM standards are revised/updated every five years or earlier. These standards can be obtained from ASTM when the polygraph examiner becomes a member of that organization.

To qualify under the proposed standards, a polygraph examiner must provide the following documentation:

- The polygraph examiner will provide a copy of certification of graduation from an APA approved polygraph school to the service requestor or contractor upon request;
- The polygraph examiner will provide documentation of membership in the APA to the service requestor or contractor upon request; and
- The polygraph examiner will provide documentation of membership in related professional organization to the service requestor or contractor upon request.

The Polygraph Work Group recommends that the DOC start and maintain a registry for qualified polygraph examiners in the state of Minnesota.

2. Frequency of Polygraph Testing

The Polygraph Work Group suggested as a standard that a polygraph test or testing be completed while the offender is under supervision. In addition, the proposed standards identify when a polygraph test should be performed throughout an offender's time under supervision and while in treatment. It should be noted that there is no research to specifically identify this as a recognized best practice, and further research is needed before implementing this as a standard in the supervision and treatment of all sex offenders.

The Polygraph Work Group believes that a minimum standard includes polygraph testing as a condition of the offender's supervision to be completed at the discretion of the treatment program and supervising agency. Also, all reports generated from the polygraph test should be distributed to all parties involved in the supervision and treatment of the offender.

For the best practice standards for polygraph examination, the group would include completion of a full disclosure and a maintenance exam while progressing through treatment and one prior to completing treatment. Also, decisions about polygraph testing should be made as a whole by the multi-disciplinary team.

3. Validity of Polygraph Testing

In spite of the concerns of the validity of polygraph testing, the use of polygraph testing in supervision and treatment has resulted in the disclosure of more sexual offending behaviors of an offender and has had a deterrent effect. This information is beneficial to the supervising agent and treatment provider in designing the best case management plan for an offender living in the community. However, results from polygraph testing should only be for such a purpose and can not stand alone as a release violation.

Further research is needed in the area of polygraph testing to better determine its value added to supervision and treatment practices. The point of evaluative research would be to understand whether the polygraph program has utility as a “truth facilitator,” making treatment more efficacious. It is not recommended that research address the accuracy of polygraph testing with sex offenders because accuracy research is very difficult to do well and is not as important as addressing the utility notion when used as a treatment tool. Reliability of testing could be examined but is also of limited interest in this context.

SECTION 5: OVERSIGHT RECOMMENDATIONS

All work groups identified the need for statewide coordination of sex offender management issues crossing all disciplines (i.e., health, human services, public safety, corrections, etc). The key to success with sex offenders is coordinating the system response and ensuring that nothing falls through the cracks of the system.

To that end, the work groups have identified two different types of activities that need to be assigned to an entity, or an entity needs to be created to accomplish the activity. The first entities will need to coordinate sex offender services and standards, while the second entity should design, implement, and present findings from both operational and policy research on sex offender management.

A. Coordination of Sex Offender Services and Standards

The Legislative Auditor's 2005 report to the Legislature recommended that the Legislature direct the DOC or alternatively a state sex offender policy board to develop state standards and guidelines regarding sex offender management, with input from a working group of state and local corrections officials. The Legislature has further asked this group for the same oversight recommendations.

As is evident from the makeup of all the work groups, multiple delivery systems of correctional services exist in this state. There does appear to be a need to coordinate practices among those agencies in the delivery of supervision services for sex offenders.

However, there is also a need for coordination among multiple departments to ensure the best quality community management services of the sex offender population. These departments include corrections, public safety, human services, and health. The management of sex offenders in the community is a developing field, with the need to implement new practices based on new evidence. The work groups do not recommend the development of a large new organization akin to the Sex Offender Management Board implemented in Colorado.

The sex offender management issues and response to these issues crosses multi-disciplines and different levels of government. As a result, to identify and implement the most efficient solution, a large number of agencies will need to be brought to the table and agree on steps to move forward. The goal of this group would be to identify emerging issues in the area of sex offender management, bring together the appropriate stakeholders, identify action plans, and implement solutions.

A key to establishing an effective and efficient process may be to continue a statewide coordinator of sex offender management issues. Governor Pawlenty had appointed a cabinet-level position to help sex offenders reintegrate into society. This position coordinated state and local sex offender issues, responses to these issues, and removed obstacles.

The work groups recommend that an entity be created or assigned to develop an ongoing process for ensuring statewide coordination of sex offender management activities is sustained in the future.

The work group is proposing that an entity be created or assigned the role of statewide coordinated responses to sex offender management issues, identify new and emerging issues facing government, provide training to enhance system response, provide oversight to work with agencies to achieve standards/guidelines, and work closely with a research entity to identify “what works.”

While the work groups did not come to consensus of where the entity should be housed, they did provide the following three options to coordinate sex offender management efforts on an ongoing basis:

1. As a part of the Governor’s Office, continue the sex offender coordinator position to work with local, state, and national professionals to identify issues, resolve barriers, and implement solutions. The responsibilities of this position should be made permanent and filled by an individual who has a vested interest in working with supervision and treatment to best serve public safety. The position should have a small staff to assist with system-wide training on best practices, assisting with oversight of agreed upon standards and coordination efforts.

The position would continue to coordinate sex offender policy among the Departments of Health, Human Services, Corrections, and Public Safety. In addition, the position would be responsible for developing small volunteer committees in each of those areas, similar to the committee writing this report and representative of the systems involved, to advise it on sex offender supervision policy.

Lastly, this position would be responsible for developing a process of external review to assist agencies in complying with the recommended sex offender supervision and treatment standards. It is strongly recommended that the model for such reviews be similar to the Minnesota Department of Human Services’ reviews of local child protection agency practices. These reviews are conducted by knowledgeable, trained staff who work in the child protection field. Each review involves an agency self-assessment, interviews with agency staff, and case reviews.

It is further recommended that this position be a part of a small organization that would provide statewide coordination of efforts relating to sex offenders in all state organizations. A small staff knowledgeable in sex offender issues should also be funded to help support the coordination efforts in Minnesota.

2. Similar to the Minnesota Sentencing Guidelines Commission, the Legislature could establish a small, independent organization to coordinate issues, resolve barriers, and implement solutions. The same responsibilities and functions as described in option 1 would still be applicable.

3. The DOC could establish a small unit that would coordinate issues, resolve barriers, and implement solutions in the corrections area. The same responsibilities and functions as described in option 1 would still be applicable. This position could assist with statewide coordination but would be limited by the scope of authority being in an operational agency.

The work groups emphasize a continuing oversight is needed to help ensure that jurisdictions receive assistance in meeting both minimum and best practice standards. Regardless of the form of the oversight group as outlined above in the three options, the work groups recommend that an ongoing review group be institutionalized, similar to the current work groups. Having key stakeholders from all correctional delivery systems, treatment programs, and polygraph examiners ensures that practices in the management of the sex offender population reflect the developing evidence in this area.

The work groups recommend that funding be allocated to adequately staff and maintain an ongoing work group for sex offender management in the corrections field, which includes all three correctional delivery systems.

B. Independent Operational and Policy Research Entity

Given the complexity of sex offender issues, the work groups recommend that an independent sex offender management research, information, and policy group be formed. In the ideal situation, this independent research entity would not be connected with any organization that has an operational component of any sex offender management activity (i.e., supervision, treatment, case planning, etc). Further, this entity should have connections with a university to ensure that the methodologies and results are held to the highest academic levels.

The work groups recommend the establishment of an independent, statewide operational and policy research entity that would review national and international best practices, identify emerging trends, conduct major research initiatives, and provide local, state, and national policy-makers with evidence-based recommendations for improving sex offender management activities as well as policy changes.

This entity would include activities such as serving as a clearinghouse for sex offender management best practice literature, providing state and national information regarding what works with sex offender management, and conducting comprehensive, longitudinal research projects. In addition, all information and research would be inclusive of and presented to all three supervision delivery systems in Minnesota, as well as all other Minnesota disciplines dealing with sex offenders.

The mission of this entity should be to carry out continuing practical, non-partisan research (at legislative direction) on issues related to sex offender management in Minnesota. The staff of this entity will work with legislators, legislative and state agency staff, university staff, and professionals in the field to produce empirical information to assist in development of public policy and guide efforts in treatment and supervision. This recommendation is modeled after the Washington State Institute for Public Policy and CSOM on the national level.

The work of this type of entity would include both operational and policy research that enhances the field of sex offender management. On the policy research side, this type of organization should be reviewing local, state, national, and international sex offender policies and procedures for quality, impact, and results and recommending statewide changes to sex offender management policy in all disciplines.

On the operational research side, there is a glaring need in the field to have better, more definitive results to assist practitioners in developing new and improved processes, procedures, and tools to deal with sex offenders. This organization needs to identify the most critical areas in the operations surrounding sex offender management and develop long-term research efforts, focusing on Minnesota, that continually provide results of what is working and how to improve the system.

To illustrate the point of operational, evaluative research, the polygraph group summarized the following types of activities:

Descriptive: This would involve understanding how often and under what circumstances polygraphs are used. Although this would provide background information of interest, it has no intrinsic scientific research value because it does not involve formal hypothesis testing. It could help to have such data when planning research strategies outlined in the next two sections.

Evaluative using existing data: This would involve comparing those who take polygraph tests to those who do not on various outcome variables. To get around volunteer biases, this work could be carried out initially by comparing offenders who go before judges who routinely order polygraphs to those who go before judges who do not. The idea would be that assignment to judges who differ in their likelihood of assigning polygraphs is fairly random. These groups could be matched on key demographic and sex offending characteristics to see which show greater treatment success (e.g., shorter duration, less recidivism, etc.).

If data were available, it would also be possible to compare offenders in different types of programs (e.g., inpatient, outpatient, pre- vs. post-conviction, investigative, disclosure, maintenance, etc.). It would also be possible to determine how polygraph testing assists with making accurate assessments of risk for re-offending and enables uncovering of specific information related to risk assessment like number of victims, types of victims, types of offenses, types of fantasies, etc.

Evaluative collecting new data: This would be the most appealing type of research because it would involve designing instruments and collecting data that target specific research questions and build on (by adding to) existing data. For instance, standardized forms could be completed by everyone in such a study. These could include questionnaires designed to determine perceptions about the effectiveness of polygraph testing. For instance, do those taking the tests, their family members, and their therapists find the tests helpful? Are there characteristics of offenders that make polygraph testing more effective (e.g., those who show more trait anxiety, those who were abused as children, those with psychopathology, and those without psychopathic or violent traits)? In ideal circumstances, research could be launched in which offenders were randomly assigned to groups, one of which received polygraphs while the other did not.

While these activities focused on the work that the Polygraph Work Group completed, this type of operational research was requested by the work groups. These three levels of research are relevant for research to be carried in the areas of adult and juvenile supervision, as well as for sex offender treatment.

SECTION 6: FUNDING RECOMMENDATIONS SUMMARY

In order to implement all the recommendations of this report, the work groups recommend specific line item allocations by the legislature in each of the following priority areas. In the implementation of standards and guidelines, correctional agencies and associated communities partners, including community human services, should not be required to divert funds from other important operational areas.

All the work groups recommend additional funding to support the development and implementation of standards for adult and juvenile supervision, treatment programming, and polygraph examinations.

- 1) Additional funding is needed to increase the number of supervising agents to meet the new minimum and best practice standards being proposed by the work group. These increases need to account for agents supervising sex offenders that are on ISR caseloads as well as regular community probation and supervised release caseloads.
- 2) All the work groups identified the need for additional funding for sex offender treatment. The Adult Work Group suggests that this could be handled by establishing a state-wide fund specifically designated to subsidize offender participation in structured, sex offender-specific treatment. The funding should be open to all offenders currently ordered to participate in such treatment.
- 3) Offender housing on release from both Minnesota correctional facilities and local correctional facilities. This should include substantial increases in halfway house funding, expansion of reentry housing, and long-term establishment of subsidized, supervised apartment facilities throughout the state.
- 4) Additional testing will be needed to meet the standards being proposed. A statewide fund should be established to subsidize polygraph testing. Offenders, adults and juveniles, should be obligated to pay for a portion of polygraph costs based on a sliding fee based on a comprehensive evaluation of the offender's ability to pay. This funding may be available for polygraph examinations in situations where an offender's situation has changed quickly and a polygraph examination is needed to ensure public safety.
- 5) An increased appropriation to the DOC in cooperation with the Department of Human Services to provide basic and advanced training for all agents supervising sex offenders regardless of the delivery system employing the agent, treatment provider, polygraph examiner, child protection service workers, and case managers who work with mentally ill and developmentally disabled people.
- 6) A fund to establish and staff an oversight committee, sufficient to continue the process of policy and standard development in the area of sex offender supervision.

- 7) Increased funding to Services to provide the necessary level of investigation and services to those minors who may reside with someone convicted of a sexual offense.
- 8) An appropriation to conduct both operational and policy research. This funding would carry out any of these research efforts and should include both full-time research staff as well as support to hire university undergraduate and graduate students on specific research efforts. These research efforts need to be conducted in an unbiased manner and coordinated with Minnesota Community Corrections Act Counties (MACCAC), Minnesota Association of County Probation Officers (MACPO) and the DOC, as well as other local, state, and national organizations. This will allow for continued research into the best practices relevant to sex offenders and their supervision, treatment, and polygraph examinations.
- 9) The establishment of an appropriation to fund state-wide use of various technologies to enhance the supervision of those convicted of sexual offenses. Those technologies should include but not be limited to computer and internet monitoring equipment, GPS electronic monitoring equipment, and drug and alcohol testing equipment and services.
- 10) Appropriation for the development of special residential and nonresidential programs for those individuals convicted of sexual offenses requiring special care, including but not limited to those requiring nursing homes, long-term residential facilities for the developmentally disabled, specialty sex offender treatment programs for the above population; long-term residential services for the Seriously and Persistently Mentally Ill, (SPMI) and specialty sex offender treatment services for that population; and specialty residential services for the chemically dependent, both primary treatment and three-quarter way residences.
- 11) Additional funds should be appropriated to address deficiencies and gaps in the sex offender treatment system. This includes additional positions to provide sex offender treatment expertise to grant-making decisions and monitoring of treatment programs in regard to compliance with proposed guidelines. Additionally, positions will need to be created to communicate between treatment programs. This funding will lead to a more efficient and effective continuum of treatment programming options throughout the state.

References

- Ahlmeyer, S., Heil, P., McKee, B., & English, K. (2000). The impact of polygraphy on admissions of victims and offenses in adult sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 12(2), 123-138.
- American Polygraph Association (2005) Retrieved October 18, 2005, from <http://www.polygraph.org/>
- American Psychological Association, Retrieved August 23, 2005, from <http://www.apa.org/>
- Andrews, D. A., & Bonta, J. L. (2002). *LSI-R: Level of Service Inventory - Revised. User's manual*. Toronto, ON: Multi-Health Systems, Inc.
- Association for the Treatment of Sexual Abusers (ATSA) (2005). *Practice standards and guidelines for members of the Association for the Treatment of Sexual Abusers*. Beaverton, OR.
- ASTM Standards (2005) "General Test Methods; Forensic Psychophysiology; Terminology; Conformity Assessment; Statistical Methods" Vol. 14.02
- Blasingame, G. D. (1998). Suggested clinical uses of polygraphy in community-based sexual offender treatment programs. *Sexual Abuse: A Journal of Research and Treatment*, 10(1), 37-45.
- Brennan, P. (2001). *Sex Offender Supervision in the Nation's Capitol Numbers on Satellite Tracking Will Grow to 100 Per Day GPS Locations Now Being Linked with Crime Reports*. Washington, DC: Retrieved March 13, 2006, from http://www.csosa.gov/Olipa/pubs/sex_offender_supervision_in_nations_capitol.pdf.
- Carter, M. (2005). *Adult and juvenile sex offender management, building a comprehensive approach*. Powerpoint presentation made to the Minnesota Department of Corrections in June 2005.
- Center for Sex Offender Management. (2000). *Community supervision of the sex offender: An overview of current and promising practices (CSOM)*. Retrieved October 31, 2006, from <http://www.csom.org/pubs/supervision2.html>.
- Center for Sex Offender Management. (2002). *Managing sex offenders in the community: a handbook to guide policymakers and practitioners through a planning and implementation process*. Center for Sex Offender Management. Retrieved from Center for Sex Offender Management: <http://www.csom.org/pubs/managehandbook.pdf>.
- Colorado Sex Offender Management Board. (2003). *Report to the judiciary committees senate and house of representatives*. Denver, CO: Division of Criminal Justice, Colorado

- Department of Public Safety. Retrieved September 26, 2005, from http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/JUVEVALREPORT.pdf.
- Colorado Sex Offender Management Board. (2003). *Standards and guidelines for the evaluation, assessment, treatment and supervision of juveniles who have committed sexual offenses*. Denver, CO: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. Retrieved September 26, 2005, from http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/2003JUVENILESTANDARDS.pdf
- Colorado Sex Offender Management Board. (2004). *Standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of adult sex offenders (Revised)*. Denver, CO: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. Retrieved December 14, 2005, from http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/ADULTSDJUNE2004.pdf.
- Elements of Change (2000) *The Polygraph Plays a Key Role as a Containment Tool for Convicted Sex Offenders in the Community*, Vol 5, No. 4
- English, K., Jones, L., Pasini-Hill, D., Patrick, D., & Cooley-Towell, S. (2000). *The value of polygraph testing in sex offender management* (Research Report Submitted to the National Institute of Justice). Denver, CO: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. Retrieved October 31, 2006, from <http://dcj.state.co.us/ors/pdf/docs/revisedpolyrpt6.pdf>.
- English, K., Jones, L., Patrick, D., & Pasini-Hill, D. (2003). Sexual offender containment: Use of the post-conviction polygraph. *Annals of the New York Academy of Sciences*, 989, 411-427.
- English, K. (2005). Some thoughts about treatment efficacy and the polygraph. *Perspectives: California Coalition on Sex Offending (CCOSO) Quarterly* (Spring). Retrieved October 31, 2006, from <http://ccoso.org/newsletter/treatmentefficacy.pdf>.
- Faigman, D. L., Fienberg, S. E., & Stern, P. C. (2003). The limits of the polygraph: The time has come to be truthful about its reliability and usefulness. *Issues in Science and Technology* (Fall). Retrieved September 13, 2005, from <http://www.issues.org/issues/20.1/faigman.html>.
- Florida Statutes, Chapter 948 Probation and Community Control. Retrieved October 31, 2006, from http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0948/titl0948.htm&StatuteYear=2006&Title=%2D%3E2006%2D%3EChapter%20948.
- Fox, E. L. (2006). Clinician's corner - did Antelope kill the polygraph? *The Forum (ATSA)*, 17(4 Fall), 1-11.

- Gendreau, P., Little, T., & Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: What works! *Criminology*, 34, 575-607.
- Gendreau, P., Goggin, C., & Fulton, B. (2001). Intensive supervision in probation and parole settings. In C. R. Hollin (Ed.), *Handbook of offender assessment and treatment* (pp. 195-204). New York: John Wiley & Sons.
- Governor's Commission on Sex Offender Policy (2005). Final report. St. Paul, MN: Minnesota Department of Corrections. Retrieved August 23, 2005, from <http://www.corr.state.mn.us/commissionsexoffenderpolicy/commissionfinalreport.pdf>.
- Grubin, D., Madsen, L., Parsons, S., Sosnowski, D., & Warberg, B. (2004). A prospective study of the impact of polygraphy on high-risk behaviors in adult sex offenders. *Sexual Abuse: A Journal of Research and Treatment*, 16(3), 209-222.
- Grubin, D., & Madsen, L. (2006). Accuracy and utility of post-conviction polygraph testing of sex offenders. *British Journal of Psychiatry*, 188(5), 479-483.
- Hagler, H. L. (1995). Polygraph as a measure of progress in the assessment, treatment, and surveillance of sex offenders. *Sexual Addiction & Compulsivity: The Journal of Treatment and Prevention*, 2 (2), 98-111.
- Hanson, R. K., & Bussiere, M. T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology*, 66(2), 348-362. Retrieved from http://home.wanadoo.nl/ipce/library_two/han/hanson_98_frame.htm.
- Hanson, R. K., & Thornton, D. (1999). *Static 99: Improving actuarial risk assessments for sex offenders (User Report No. 1999-02)*. Ottawa, ON: Department of the Solicitor General of Canada. Retrieved August 22, 2005, from http://ww2.psepc-sppcc.gc.ca/publications/corrections/199902_e.pdf.
- Hanson, R. K., & Harris, A. J. R. (2000). Where should we intervene? Dynamic predictors of sexual assault recidivism. *Criminal Justice and Behavior*, 27(1), 6-35.
- Hanson, R. K., & Harris, A. J. (2001, April). A structured approach to evaluating change among sexual offenders. *Sex Abuse*, 13(2), 105-122.
- Hanson, R. K., & Harris, A. (2000). *The sex offender need assessment rating (SONAR): a method for measuring change in risk levels (User Report No. 2000-1)*. Ottawa, ON: Department of the Solicitor General of Canada. Retrieved August 22, 2005, from http://ww2.psepc-sppcc.gc.ca/publications/corrections/200001b_e.asp and http://ww2.psepc-sppcc.gc.ca/publications/corrections/pdf/200001b_e.pdf.
- Harris, A. J. R., Phenix, A., Hanson, R. K., & Thornton, D. (2003). *STATIC-99 coding rules revised - 2003*. Retrieved August 22, 2005, from http://www.psepc-sppcc.gc.ca/publications/corrections/pdf/Static-99-coding-Rules_e.pdf.

- Harrison, J. S., & Kirkpatrick, B. (2000). Polygraph testing and behavioral change with sex offenders in an outpatient setting: An exploratory study. *Polygraph*, 29(1), 20-26.
- Harrison, J. S., & Eliot, R. S. (1999). Polygraphing the adolescent sex offender in the residential setting. *Polygraph*, 28(2), 176-181.
- Heil, P., Ahlmeye, S., & Simons, D. (2003). Crossover sexual offenses. *Sexual Abuse: A Journal of Research and Treatment*, 15(4), 221-236.
- Hindman, J., & Peters, J. M. (2001). Polygraph testing leads to better understanding adult and juvenile sex offenders. *Federal Probation*, 65(3), 8-15.
- Hunter, J. A. (2002). *The effective management of juvenile sex offenders in the community: case management protocols*. Richmond, VA: Virginia Department of Juvenile Justice. Retrieved September 26, 2005, from <http://www.csom.org/pubs/JuvProtocols.pdf>.
- Illinois Administrative Code 1905. *Title 20: Corrections, criminal justice and law enforcement, Chapter VII: sex offender management board, Part 1905: sex offender evaluation and treatment*. Retrieved October 31, 2006, from http://www.ag.state.il.us/communities/somb/sex_offender_evaluation_and_treatment_1905.pdf.
- Iowa Department of Corrections (2004). Polygraph program policy and procedures manual. Des Moines, IA: Author.
- Juvenile Justice Services Division. (2004). *Service specification: Clinical polygraph examination of juvenile sex offenders (Contract year 2004-2005)*. Juvenile Justice Services Division, Administrative Office of the Courts, Arizona Supreme Court. Retrieved October 31, 2006, from <http://www.supreme.state.az.us/jjssd/Treatment/Contracts/Materials/Service%20Specs/ClinicalPolyExamJuvSexOffen.pdf>.
- Kokish, R., Levenson, J. S., & Blasingame, G. D. (2005). Post-conviction sex offender polygraph examination: Client-reported perceptions of utility and accuracy. *Sexual Abuse: A Journal of Research and Treatment*, 17(2), 211-221.
- Lane Council of Governments (2003). *Managing Sex Offenders In the Community: A National Overview*. Eugene, OR: Lane Council of Governments. Retrieved November 22, 2005, from <http://www.atsa.com/pdfs/Managing%20Sex%20Offenders%20in%20the%20Community-A%20National%20Overview-2003.pdf>.
- Lieb, David A. (April 7, 2006). Missouri starts using GPS to track offenders. *Belleville News Democrat*.

- Lundell, R., & Holmes, S. (1993). *Polygraph handbook for probation/parole officers and treatment providers*. Medford, OR: Polygraph Associates of Oregon.
- Madsen, L. (2005). *The utility and accuracy of post-conviction polygraph testing with sex offenders*. Retrieved January 11, 2007, from <http://www.nfmhp.org.uk/MADSEN%20FINAL%20REPORT%20MARCH%2005.doc>
- Madsen, L., Parson, S., & Grubin, D. (2004). A preliminary study of the contribution of periodic polygraph testing to the treatment and supervision of sex offenders. *Journal of Forensic Psychiatry and Psychology*, 15(4), 682-695.
- McKay, B. (2000). State of polygraph testing on sex offenders under community supervision in Texas. *Polygraph*, 29(1), 36-39.
- Minnesota Bureau of Criminal Apprehension (2006) *Minnesota Predatory Offender Registry: Who is Required to Register?* Retrieved December 29, 2006, from <https://por.state.mn.us/PredatorFAQ.aspx#A2>
- Minnesota Department of Corrections (2000) *Community-Based Sex Offender Program Evaluation Project*. Retrieved December 29, 2006, from <http://www.corr.state.mn.us/publications/pdf/1999%20CBSOPEP%20Report%20to%20the%20Legislature.PDF>
- Minnesota Department of Corrections (2000) *Enhanced Supervision of Sex Offenders in the Community*.
- Minnesota Department of Corrections (2000) *Sex Offender Supervision*. Retrieved December 29, 2006, from <http://www.doc.state.mn.us/publications/pdf/sosupreport.PDF>
- Minnesota Department of Corrections (2005) *Policy 107.030 Psychophysiological Detection of Deception*. Retrieved September 13, 2005, from http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=107.030.htm
- Minnesota Department of Corrections (2005) *Policy 201.022 Adult Probation and Supervised Release Supervision Standards*. Retrieved November 30, 2006, from http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=201.022.htm
- Minnesota Department of Corrections (2006) *Policy 203.013 Sex Offender and Chemical Dependency Treatment Directives-Adult Facilities*. Retrieved November 30, 2006, from http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=203.013.htm
- Minnesota Department of Corrections (2006) *Policy 203.014 MN Sex Offender Program (MSOP) Referral*. Retrieved November 30, 2006, from http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=203.014.htm

- Minnesota Department of Corrections (2006), *Policy 106.112 Release Reviews*, Retrieved November 30, 2006, from http://www.doc.state.mn.us/DOcpolicy2/html/DPW_Display.asp?Opt=106.112.htm
- Minnesota Office of the Revisor of Statutes (2005). Article 3 Sex Offenders: predatory offender registration; community notification; miscellaneous provisions Retrieved February 10, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=SLAW_CHAP&year=2005&session_number=0&keyword_type=any&keyword=supervision+agents+notifying+child+protection&chapter=136#a3
- Minnesota Office of the Revisor of Statutes (2006). Definitions, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=260C.007
- Minnesota Office of the Revisor of Statutes (2006). Sex Offender Treatment; Programs; Standards; Data Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=241.67
- Minnesota Office of the Revisor of Statutes (2006). Placement of predatory offender in household with children, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=244.057
- Minnesota Office of the Revisor of Statutes (2006). Registration of predatory offenders, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=243.166&image.x=20&image.y=1
- Minnesota Office of the Revisor of Statutes (2006). Registration under the predatory offender registration law for other offenses, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=243.167
- Minnesota Office of the Revisor of Statutes (2006). Reporting maltreatment of minors, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=626.556
- Minnesota Office of the Revisor of Statutes (2006). Sex offender treatment; programs; standards; data, Retrieved December 1, 2006, from http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=241.67

- Minnesota Rules, Chapter 2965 Adult Sex Offender Treatment. Retrieved October 10, 2005, from <http://www.revisor.leg.state.mn.us/arule/2965/>
- Minnesota Rules, Chapter 2955 Juvenile Sex Offender Treatment. Retrieved October 10, 2005, from <http://www.revisor.leg.state.mn.us/arule/2955/>
- Minnesota Sentencing Guidelines Commission (2005). *Proposed Modifications to the Sentencing Guidelines, November 7, 2005*. St Paul, MN
- O'Brien, M. (1985). Adolescent sexual offenders: An outpatient program's perspective on research directions [Publication No. ADM-85-1396]. In E. M. Otey & G. D. Ryan (Eds.), *Adolescent sex offenders: Issues in research and treatment* (pp. 147-163). Rockville, MD: National Institute of Mental Health, US Department of Health and Human Services.
- O'Brien, M., & Bera, W. W. (1986). Adolescent sexual offenders: A descriptive typology. *Preventing Sexual Abuse: A Newsletter of the National Family Life Education Network*, 1(3), 1-4.
- O'Connell, M. A. (1998). *Using polygraph testing to assess deviant sexual history of sex offenders* Unpublished doctoral dissertation, University of Washington. Dissertation Abstracts International Section A: Humanities and Social Sciences, 58(8-a), 3023.
- Office of the Legislative Auditor. (2005). *Community supervision of sex offenders* (Report 05-03). St. Paul, MN: Program Evaluation Division, Office of the Legislative Auditor, State of Minnesota. Retrieved October 31, 2006, from executive summary at <http://www.auditor.leg.state.mn.us/Ped/pedrep/0503a.pdf>; Full report at <http://www.auditor.leg.state.mn.us/Ped/pedrep/0503all.pdf>.
- Patrick, D., Pasini-Hill, D., Jones, L., Cooley-Towell, S., & English, K. (2000). *How is the post-conviction polygraph examination used in adult sex offender management* (The second national telephone survey of probation and parole supervisors). *Office of Research & Statistics, Division of Criminal Justice, Colorado Department of Public Safety*. Retrieved from <http://antipolygraph.org/documents/co-dps-12-2000-app.pdf>.
- Phillips, S.C. (2004). *Research overview: post conviction sex offender polygraph testing*. *New Mexico Sentencing Commission*. Retrieved January 11, 2007, from <http://nmsc.state.nm.us/download/sexOffdrPolytest.pdf>
- Prentky, R., & Righthand, S. (2003). *Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II) Manual*. Retrieved August 22, 2005, from <http://www.forensicexaminers.com/jsoap.pdf> and <http://ncsby.org/pages/publications/J-SOAPManual.pdf>.
- Rich, P. (2001). *Juvenile (clinical) Risk Assessment Tool Assessment of Risk for Sexual Re-Offending (J-Rat: v.2)*. Barre, MA: Stetson School. Retrieved on August 22, 2005 from http://www.stetsonschoool.org/Clinical_Materials/Assessment_Tools/J-RAT-V2.pdf.

- Robinson, A. E. (2003). Treating the sex offender at any cost: Fifth amendment privilege against compelled self-incrimination in the prison context [McKune v. Lile, 122 S. Ct. 2017 (2002)]. *Washburn Law Journal*, 42(3), 725-754. Retrieved from <http://washburnlaw.edu/wlj/42-3/> and <http://washburnlaw.edu/wlj/42-3/articles/robinson-abigail.pdf>.
- Scheela, R. A. (2005). *Sex offender treatment: Outcome study on polygraphy*. Presented at the Psychiatric-Mental Health Nursing in Primary Care Settings, Indianapolis, IN.
- Sex offender residency restriction. *Minnesota Lawyer* citing 04-1568 Doe v. Miller, appealed from the Southern District of Iowa.
- State of Minnesota vs. Chester Lee Grauberger. Case No. A05-764 (May 2, 2006). Retrieved October 31, 2006, from *Minnesota Lawyer* at <http://www.minnlawyer.com/decisions.cfm?casenum=A05-764>.
- Steele, K. (no date). A model of progressive supervision for the juvenile sex offender: The Ohio Justice System. Unpublished manuscript provided to the Minnesota Department of Corrections by the author.
- Stevenson, J. (2006). Sex Offender Residence Restrictions, Part 1. *Sex Offender Law Report*, Vol. 7, No. 3
- The Joint Polygraph Committee on Offender Testing. (1998). *Recommended guidelines for the clinical polygraph examination of sex offenders*. Texas Association of Law Enforcement Polygraph Investigators and Texas Association of Polygraph Examiners. Retrieved September 13, 2005, from <http://antipolygraph.org/documents/csotpoly.pdf>.
- US vs. Johnson. United States Court of Appeals for the Second Circuit, August Term 2005. Retrieved October 31, 2006, from <http://caselaw.lp.findlaw.com/data2/circs/2nd/044992p.pdf>
- Utah Network on Juveniles Offending Sexually. (2002). *Polygraphy examination protocol*. Salt Lake City, UT: Utah Network on Juveniles Offending Sexually. Retrieved September 13, 2005, from <http://antipolygraph.org/documents/nojos-polygraphy-policy.pdf>.
- Virginia Commission on Youth (2005). *Collection of Evidence-Based Treatment Modalities for children and adolescents with mental health treatment needs*. Retrieved September 26, 2005, from <http://coy.state.va.us/Modalities/contents.htm>
- Wisconsin Statutes 51.375. Honesty testing of sex offenders. Retrieved September 13, 2005,

from

<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=WI:Default&d=stats&jd=51.375>

Wilcox, D. T. (2000). Application of the clinical polygraph examination to the assessment, treatment and monitoring of sex offenders. *Journal of Sexual Aggression, 5* (2), 134-152.

Wilcox, D. T., & Sosnowski, D. E. (2005). Polygraph examination of British sexual offenders: A pilot study on sexual history disclosure testing. *Journal of Sexual Aggression, 11*(1), 3-25.

Worling, J. R., & Curwen, T. (2001). *The ERASOR: Estimate of risk of adolescent sexual offense recidivism*. Toronto, ON: SAFE-T Program, Thistletown Regional Centre.

APPENDICES

Appendix A: 2005 Legislation

Chapter 136, Article 3; Section 28

(Effective Date.) This section is effective the day following final Enactment.

Sec. 28 (WORKING GROUP ON SEX OFFENDER MANAGEMENT.)

Subdivision 1. (WORKING GROUP ESTABLISHED.) The commissioner of corrections shall convene a working group of individuals knowledgeable in the supervision and treatment of sex offenders. The group must include individuals from both inside and outside of the Department of Corrections. The commissioner shall ensure broad representation in the group, including representatives from all three probation systems and from diverse parts of the state. The working group shall study and make recommendations on the issues listed in this section. To the degree feasible, the group shall consider how these issues are addressed in other states.

Subd. 2. (ISSUES TO BE STUDIED.) The working group shall review and make recommendations on:

1. statewide standards regarding the minimum frequency of in-person contacts between sex offenders and their correctional agents, including but not limited to, home visits;
2. a model set of special conditions of sex offender supervision that can be used by courts and agents throughout Minnesota;
3. statewide standards regarding the documentation by agents of the supervision activities;
4. standards to provide corrections agencies with guidance regarding sex offender assessment practices;
5. policies that encourage sentencing conditions and prison release plans to clearly distinguish between sex offender treatment programs and other types of programs and services and to clearly specify which type of program the offender is required to complete;
6. ways to improve the Department of Corrections' prison release planning practices for sex offenders, including sex offenders with chemical dependency needs or mental health needs;
7. methods and timetables for periodic external reviews of sex offender supervision practices;
8. statewide standards for the use of polygraphs by corrections agencies and treatment programs;

9. statewide standards specifying basic program elements for community-based sex offender treatment programs, including, but not limited to, staff qualifications, case planning, use of polygraphs, and progress reports prepared for supervising agencies.
10. a statewide protocol on the sharing of sex offender information between corrections agencies and child protection agencies in situations where offenders are placed in households where children reside;
11. best practices for supervising sex offenders such as intensive supervised release, specialized caseloads in high density areas, and other innovative methods, ideal caseload sizes for supervising agents, and methods to implement this in a manner that does not negatively impact the supervision of other types of offenders;
12. any other issues related to sex offender supervision that the group deems appropriate.

Subd. 3. (REVIEW OF NEW LAWS.) The working group shall also review the provisions of any laws enacted in 2005 relating to sex offender supervision and treatment. The group shall make recommendations on whether any changes to these provisions should be considered by the legislature.

Subd. 4. (REPORTS.) By February 15, 2006, the working group shall submit a progress report and by February 15, 2007, the working group shall submit its recommendations to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy.

Subd. 5. (POLICIES REQUIRED.) After considering the recommendations of the working group, the commissioner of corrections may implement policies and standards relating to the issues described in subdivision 2 over which the commissioner has jurisdiction.

Appendix B: Work Group Membership

Adult Sex Offender Supervision Work Group

Chair John Menke, Supervisor, Ramsey County Community Corrections
Chris Bray, former Assistant Commissioner, Minnesota Department of Corrections (DOC)
Dayna Burmeister, DOC Field Services Supervisor
Phyllis Grubb, Supervisor, Dakota County Community Corrections
Neil Johnson, DOC Agent
Rick Lind, DOC Agent
Eric Lipman, former State of Minnesota Sex Offender Policy Coordinator
Kelly Mitchell, State Courts Administration
Dave Murray, Agent, Ramsey County Community Corrections
Mike Nichols, Supervisor, Hennepin County Community Corrections
Patricia Peterson, Agent, Dodge/Fillmore/Olmsted Community Corrections
Anne Riley, Chisago County Probation Officer
Patrick Schorn, Agent, Todd/Wadena Community Corrections
Russ Stricker, Supervisor, Hennepin County Corrections
Rick Thomson, DOC Field Services Supervisor

Treatment and Assessment Work Group

Chair Bill Donnay, Director, DOC Risk Assessment & Community Notification Unit
Chris Bray, former DOC Assistant Commissioner
Janis Bremer-Reuter, Ph.D., Director, Adolescent Services, Project Pathfinder Inc., St. Paul
Charles Dawley, MA, LP, Director, Riverside Psychological Services, Rochester
Robin Goldman, MS, LP, Director, Sex Offender Treatment Program, Minnesota
Correctional Facility (MCF)-Lino Lakes
Eric Lipman, former State of Minnesota Sex Offender Policy Coordinator
Alan Listiak, Ph.D., Coordinator, DOC Sex Offender Program Certification
Warren Maus, MA, LP, Clinical Director, Adult Services, Project Pathfinder Inc., St. Paul
Michael Miner, Ph.D., LP, Associate Professor, Program in Human Sexuality, Department of
Family Medicine & Community Health, University of Minnesota

Patricia Orud, MA, LP, former DOC Behavioral Health Services Director
Leah Osborne-Redington, Ph.D., Clinical Director, Special Needs Services, Minnesota
Department of Human Services
Lawrence Panciera, Ph.D., Chief of Forensic Psychological Services, Hennepin County
District Court Services
Skye V Payne, Ph.D., Outpatient Therapist, Alpha Services Inc., Minneapolis
Sheryl Ristvedt, Sexual Abuse Treatment Program Coordinator, Upper Mississippi Mental
Health Center, Bemidji
Steve Sawyer, LICSW, CGP, Executive Director, Project Pathfinder, Inc., St. Paul
Frank Weber, MS, LP, Clinical Director, CORE Professional Services P.A., Brainerd
Doug Williams, MS, LP, Outpatient Clinical Director, Alpha Services Inc., Minneapolis

Juvenile Sex Offender Supervision Work Group

Chair Greg Potvin, DOC Field Services Supervisor
Chris Bray, former DOC Assistant Commissioner
Cara Fosteson, Mille Lacs County Probation Officer
Dennis Franckowick, Supervisor, Hennepin County Corrections
Trisha Hansen, DOC Agent
Debbie Lawrence, Isanti County Probation Officer
Eric Lipman, former State of Minnesota Sex Offender Policy Coordinator
John Marsolek, Nicollet County Probation Officer
Shelley McBride, Program Manager, Dodge/Fillmore/Olmsted Community Corrections
Jim Scovil, Senior Agent, Dakota County Community Corrections
Jim Sop, DOC Field Services Supervisor

Polygraph Standards Work Group

Chair Alan Listiak, Coordinator, DOC Sex Offender Program Certification
Abe Abrahamson, Wright County Probation Officer
Dave Belz, Polygraph Examiner, Hennepin County Corrections
Robert Berg, former Polygraph Examiner with the Bureau of Criminal Apprehension
Harry Holdan, Independent Polygraph Examiner,

William Iacono, Professor, University of Minnesota
David Kneffelkamp, Independent Polygraph Examiner
Corey Kohan, Agent, Anoka County Community Corrections
Barbara Kramer, Independent Treatment Provider
Brian Leck, Agent, Dakota County Community Corrections
Eric Lipman, former State of Minnesota Sex Offender Policy Coordinator
Lydia Newlin, DOC Victim Services Coordinator
Brad Odegard, DOC Agent
Roberta Opheim, Ombudsman for Mental Health
Dave Stewart, former Treatment Provider, Ramsey County Corrections
Rick Weinberger, Treatment Provider, ALPHA Human Services
Barry Woodgate, Independent Polygraph Examiner

Appendix C: Working Group Guiding Principles for Sex Offender Supervision

The following guiding principles were based on the Adult and Juvenile Supervision Work Groups' professional experience in the supervision and management of sex offenders in Minnesota. The work groups viewed materials from other states, which helped guide their development of these principles. Both work groups concurred that public safety was the top priority and based the remaining guiding principles on professional judgment and experience in the supervision of sex offenders in the community.

Adult Work Group Guidelines:

1. Public safety is paramount.

Sex offenders reside in the community. Thus, the best means of protecting public safety is to provide these offenders with skills that are necessary to live in the community. It is also imperative that the most vulnerable members of society, those under 18 and vulnerable adults, be protected. Supervision professionals are also aware that some offenders may be too dangerous to be placed in the community and other offenders may pose enough risk to the community to require lifetime monitoring to minimize risk.

2. Victims have a right to safety and self-determination.

Victims should be informed and involved in the process from plea to discharge. When a sexual assault occurs, there is always a victim. Both the research and clinical experience suggest that sexual assault can have the devastating effects on the lives of victims and their families. There are many forms of sexual offending. Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The propensity for such behavior is often present long before it is detected. It is the nature of the disorder that sex offender's behaviors are inherently covert, deceptive, and secretive. Untreated sex offenders also commonly exhibit varying degrees of denial about the facts, severity, and/or frequency of their offenses.

3. Sexual offending is a behavioral disorder.

Many offenders can learn through structured, sex offender-specific treatment to manage their offending behaviors and reduce their risk of re-offense. Such behavioral management cannot permanently eliminate the risk of re-offense.

4. Individuals convicted of sexual offenses pose a significant risk to the community.

Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The etiology of sexual offending is complex and multi-determined. Sexual assault is perhaps the most significantly under-reported crime. Even when sexual assaults are detected and reported, that offense may not be the offender's first or only of-

fense. The offense of conviction is not a reliable predictor of the offender's history or risk to others.

- 5. When a person convicted of a sex offense wishes to reside with a minor, including his/her own children, the minor's need for safety, protection, developmental growth, and psychological well-being should be primary.**

The community response and intervention system should be designed to promote the safety and best interests of children rather than the interests of adults. Offenders should be required to demonstrate that they are safe to be with minors before such contact is considered or approved.

- 6. Individuals having responsibility for the supervision of sex offenders must have access to all relevant information about that sex offender. These individuals must also be able to disseminate information appropriately.**

Sex offenses tend to flourish in secrecy, and all forms of secrecy potentially undermine the supervision and rehabilitation process.

- 7. Assessment and evaluation of individuals convicted of a sex offense is an ongoing process.**

Progress, treatment, and level of risk are not constant over time. Assessment is most valuable through multiple data sources including but not limited to: risk assessments (both static and dynamic), criminal justice assessments, clinical assessments, and on-going multi-disciplinary assessments.

- 8. The supervision and management of individuals convicted of a sex offense require a coordinated, multi-disciplinary response among public safety, corrections, social services, and treatment personnel.**

- 9. Structured, sex offender-specific treatment and aftercare are a critical component of community management of any individual convicted of a sex offense.**

- 10. Successful treatment and management of individuals convicted of a sex offense are enhanced by the cooperation of family, friends, employers, faith communities, and members of the community who have influence in the offender's life.**

- 11. A continuum of adult sex offender management and treatment options should be available in each community in the state.**

It is in the best interests of public safety that each community has a continuum of sex offender management and treatment options for adults. Many adult sex offenders can be managed in the community on probation or supervised release. A continuum should provide for an increase or decrease in the intensity of treatment and monitoring based on the history of offending, changing risk factors, treatment needs, and compliance with the

conditions of supervision. A continuum of responses assures most effective use of resources by providing the highest-risk adults with intensive treatment in a residential setting that restricts access to victims or potential victims.

12. Individuals supervising sex offenders in the community should have access to all the developing technologies.

These developing technologies include medically approved medications, DNA, polygraph, drug testing, electronic surveillance, computer monitoring software, and scientifically approved assessment tools used for determining risk level of sexual deviancy and inappropriate sexual arousal.

Juvenile Work Group Principles:

1. Community safety is paramount.

The highest priority of these guiding principles is community safety. Community safety means that juvenile sexual offenders are held accountable for their behavior and, depending on level of risk, may be incarcerated, placed in a residential treatment facility, or supervised on probation in the home. Juvenile sex offenders commit sexual offenses that are harmful to the victim, offender, families, and the broader community. All components of the system (the court, law enforcement, parole, probation, corrections, child welfare, and treatment providers) must be trained and equipped to promote community safety.

2. Effective juvenile sex offender management practices recognize the complex set of personal and environmental factors which contribute to sex-offending behaviors.

These factors might include but are not limited to:

Personal factors: mental disorder, organic disorders, cognitive ability, substance abuse, developmental stage, social skills;

Environmental factors: family dynamics, school, peers.

3. Decisions made during the supervision of juvenile sex offenders should be based on a balanced-approach model.

A balanced-approach model encompasses community safety, accountability to crime victims, and competency development of offenders.

4. Risk/needs assessment of juvenile sex offenders is an ongoing process that drives supervision standards.

Assessments should be an ongoing practice in the treatment and supervision of juvenile sex offenders since progress in treatment and level of risk are not constant over time. Be-

cause juvenile behavior is subject to constant change, supervision best practice would suggest the juveniles be reassessed at least every six months and that supervision standards reflect changes in risk/need scores.

5. A continuum of juvenile sex offender management and treatment options should be available in each community in the state.

It is in the best interest of public safety that each community has a continuum of sex offender management and treatment options for juveniles. Many adolescent sex offenders can be managed in the community on probation or parole. A continuum should provide for an increase or a decrease in the intensity of treatment and monitoring based on the history of offending, changing risk factors, treatment needs, and compliance with the conditions of supervision. A continuum of responses assures the most effective use of resources by providing the highest-risk juveniles with intensive treatment in a residential setting that restricts access to victims or potential victims.

6. The successful management of juvenile sex offenders requires a collaborative approach.

Information from a collaborative team contributes to a more thorough understanding of the juvenile offender's risk factors and needs, and to the development of a comprehensive approach to treating and managing the juvenile sex offender.

Appendix D: Minnesota Department of Corrections’ Model for the Enhanced Supervision of Sex Offenders in the Community

The following is a summary of a supervision model and enhanced sex offender supervision standards and recommendations produced in a report for the Minnesota Department of Corrections in 2000. A full copy of the report may be obtained by contacting the Minnesota Department of Corrections Field Services Unit at 1450 Energy Park Drive, St. Paul, Minnesota 55108.

Minnesota Department of Corrections Model for the Enhanced Supervision of Sex Offenders in the Community

The Supervision Model

The Minnesota Department of Corrections (DOC) has developed a model for the enhanced supervision of sex offenders in the community. These standards enhance or are in addition to current DOC policy. This focuses on a programmatic approach that emphasizes both treatment and supervision. Under this model, sex offender treatment becomes an integral part of community supervision and community supervision becomes an integral part of the treatment process. Where possible, corrections agents participate with therapists and offenders in treatment groups. The agent does not provide therapy but is involved as a co-facilitator bringing a unique perspective to the group that relates to the realities of the community and correctional supervision. Involvement in sex offender treatment is an integral part of holding an offender accountable for their crime. In treatment the offenders are required to address the behaviors that brought them into the criminal justice system. Participation in treatment and other sex offender programming is usually mandated as a condition of probation or supervised release. This model partners the agent and the treatment provider in an integrated collaboration of treatment and supervision that is preventative and works against further victimization.

In order to apply this model effectively a number of principles, factors, and practices are desirable if not essential. Some of these are as follows:

- ❑ The agent needs to be highly trained in all aspects of sex offender supervision. In addition to this training, the agent must be skilled in the use and application of assessment tools that measure an offender’s risk to reoffend as well as assessing the offender’s needs. The agent works closely with the treatment provider in order to adequately assess and evaluate an offender’s progress at key junctures during the court process, and throughout community supervision.
- ❑ Treatment and supervision are group based and involve a shared approach. Information shared in groups receives needed scrutiny and works against secrecy,

deception, and manipulation. The model requires limited confidentiality; releases are signed prior to entering treatment so all information remains open to be shared. Key community members are included in the sharing of information and assume vital roles in the establishment of a support system for the offender as well as a meaningful system to monitor the offender's behavior in the community. Victim advocates, clergy, law enforcement, judiciary, family, friends, and employers are often invited to participate in this process. Victims are apprised of information at their request. Open information sharing allows for ongoing full disclosure that works against the offender's cycle of abuse/aggression and against further victimization.

- Under this model, supervision of the sex offender is nontraditional. It needs to occur in the community, in offender's homes, and in places of employment at varying hours, not always in the agent's office during routine office hours. Ideally, this requires enhanced sex offender agents to be within 45 minutes to an hour's drive, or a sixty-mile radius of those offenders for whom they assume primary supervision. This maximizes effective use of the agent's time. A majority of supervision is done through the treatment group process where the agent co-facilitates with the treatment provider. Polygraphs and other technologies are utilized to assist with disclosure and monitoring. The model looks to utilize technological advances.
- Caseloads are nontraditional and assigned to maximize specialization of sex offender specific supervision. Wherever possible, teams of agents share joint caseloads to increase treatment and supervision options. This allows agents to fill in during each other's absences from work, work in tandem sharing information, caseload responsibilities, and co-facilitation duties. Teams of agents act as sounding boards to each other, allow for peer review, back each other up during absences, and work against "burn-out" that may occur with enhanced supervision caseloads. Where caseloads do not allow for the assignment of more than one agent, other alternatives must be explored and may include the use of paraprofessionals and regular supervision agents.
- An important and useful supervision tool for offenders is a case plan. An agent will complete a case plan with each offender utilizing the approved format provided by the DOC. Successful participation and positive progress with the case plan will be a key component to an offender's ability to move through the phases of supervision as outlined below.
- Agents assume the central role of collaborating with community members, family, and treatment providers. Specialized training for agents, community members, and offenders is key. Agents assist in offering training and support to each other as well as offering training experiences to community members and offenders so community support systems are knowledge based. Agents are actively involved in communication with persons and agencies interested in the offender's ongoing adjustment to the community.

Enhanced Sex Offender Supervision Standards

The legislation that appropriated the funding to hire specialized sex offender agents envisioned drastically reduced caseload sizes. While the optimum caseload size has yet to be determined, it is expected that caseloads will not exceed 40 offenders, and depending on the geographic location as well as other supervision factors the actual caseload size may be closer to 25 to 30 offenders. One of the principles that guided the development of this model was that the agent should provide enhanced supervision to a limited number of offenders, as opposed to less intensive supervision to a large number of offenders. When an agent's workload exceeds the level that can be managed within the time available, the agent and the district supervisor may review an agent's caseload and reduce the phase at which a case is monitored, or transfer cases to regular supervision. It should also be noted that in addition to supervising offenders and participating in treatment groups, it is expected that these specialized agents will also offer the courts pre-sentence investigations on offenders convicted in their area to the extent possible.

Contact Standards

The following supervision phases are established and minimum contact standards are set and shall be adhered to unless unusual circumstances exist. Movement to a phase outside these standards requires supervisory approval. Each offender has their own unique set of circumstances that require agents to adjust the level of supervision necessary to assure the greatest level of public safety. The contact standards are set as a minimum and agents are expected to maximize contacts in all phases as time and circumstances allow.

- Phase I - A minimum of one face-to-face contact per week shall occur; two of these contacts per month shall occur at the offender's residence. Contacts while co-facilitating groups will count towards these standards. Phase I will continue until the offender is successfully participating in treatment and making positive progress towards completion of their case plan. Offenders not participating in treatment groups will remain in Phase I for the duration of their supervision unless the agent recommends and the supervisor approves advancement to the next phase. Offenders may be required to provide daily schedules. Electronic home monitoring and curfews can be included as an additional structure during this phase.
- Phase II – A minimum of two face-to-face contacts per month shall occur; of these contacts one will occur in the home. Offender must be making positive progress in treatment and on their case plan. Phase II will continue until primary group treatment is completed and positive progress with the case plan has occurred.

- **Phase III** - A minimum of one face-to-face contact per month shall occur. One of these face-to-face contacts each quarter will be a home visit. Offender must be making positive progress in aftercare and with the case plan. Phase III will continue until aftercare is completed. Upon completion of Phase III the offender will be transferred to a regular supervision caseload. In no case will an offender be transferred from the enhanced supervision caseload if they have had a major violation within the past six months. Transfer to regular supervision will require supervisory approval.
- Return to probation or supervised release after a revocation will result in the offender starting over in Phase I.

Process Standards

Agents will assure that the following procedures take place at the beginning of supervision and throughout the term of probation and supervised release. A checklist is provided to assist the agent with many of these tasks.

- **Residence, Employment, and Access to Community**
 - Investigate and approve residence prior to release from a Minnesota Corrections Facility (MCF) in accordance with DOC policy.
 - Direct offenders to contact the agent within 24 hours of offender's release from a MCF.
 - Within 72 hours of release from a MCF the agent will meet with the offender at the offender's residence.
 - Within 72 hours of placement on probation, release from jail, or transfer the agent will meet with the offender at their residence.
 - Review Probation Agreement, Sex Offender Case Plan, treatment releases, and additional restrictions/expectations plus secure necessary signatures during initial face-to-face visit or as soon as possible thereafter.
 - Within 72 hours of placement on probation, release from jail or transfer the agent will verify the offender's employment, receiving case assignment by the courts upon transfer.
 - When possible verify offender's employment prior to release from a MCF.
 - As part of job verification agent will directly speak with an offender's supervisor.
 - Evaluate the potential for victimization at the job sight.
 - Make a physical visit to the job sight within one week of assuming supervision or receiving notification of employment or change of employment.
- **Treatment, Program Involvement, Assessment, and Case Planning**
 - Review and approve treatment/program involvement.

- Secure necessary releases prior to offender entering treatment so all information remains open and shared.
 - Maintain regular contact with the offender's therapist.
 - Co-facilitate treatment groups as available.
 - Participate in and document quarterly collaborative case reviews; case reviews should include treatment staff plus members of offender and community's support system where available.
 - Utilize polygraphs and other technology for disclosure and monitoring of offenders as available.
 - Make necessary referrals to appropriate programs to address other psychosocial needs, i.e. chemical dependency, mental health, anger management, domestic abuse.
 - Within 30 days of receiving the case, the agent will conduct a risk/needs assessment using the DOC approved tool if an assessment was not already completed within the past 6 months.
 - Reassess each offender within 6 months of the initial assessment and annually thereafter.
 - Within 30 days develop a case plan using the approved DOC format.
- **Notify Victim/Victim Advocate**
- Apprise victims of information at their request in accordance with Data Privacy Act.
 - Participate in Community Notification Process.
- **Assist and Monitor Offender in Establishing an Effective Community Support System**
- Establish, maintain and chronicle necessary collateral contacts with appropriate law enforcement agencies.
 - Invite and utilize key community members plus offender's support system to participate in sharing of information and monitoring offender's behaviors and growth.
 - Educate plus offer support to community members and offender's support system as needed.
 - Establish and maintain contact with an offender's associates, significant others, employers, sponsors, and other community members to assure that they are aware of an offender's history, needs, progress, and risk factors.
- **Maintain Routine and Regular Contact with Offender**
- Monitor offender's adherence to conditions/directives of supervision.
 - Make routine visits to monitor offender's behavior in community in accordance with established contact standards.
 - Community contacts will include random and unpredictable visits; evening and weekend contacts are considered vital and necessary.
 - Monitor and work to minimize access to potential victims.

- Assess, evaluate and document offender’s risks and needs at key junctures during court process and throughout community supervision, i.e. Pre/Post Sentence Evaluations, Progress Reports, Violations, etc.
 - Utilize casework, crisis intervention, problem identification, and problem solving techniques.
 - Obtain a current offender criminal history from local law enforcement agency on a quarterly basis at a minimum.
 - Make collateral phone contacts with offender and other needed parties. Phone contacts will be logged.
 - Request warrants and issue Apprehension and Detention orders as needed.
 - Conduct searches of offender’s residence, employment areas, and other areas of access in accordance with DOC policy.
 - Verify that their address and registration with BCA is current including DNA sample.
 - Perform random urinalysis and alcohol testing as needed.
 - Initiate electronic monitoring where required/ordered.
 - Establish/specify curfews when needed.
- **Pre-sentence Investigation/Special Conditions**
- Where possible enhanced sex offender agents will provide court ordered reports including pre-sentence investigations (PSI) on sex offenders.
 - As part of the recommendation section of the PSI agents will include recommendations on special conditions.
 - Special conditions must relate to the criminal behavior, risk factors, and needs of the offender, generalized conditions will not be used.
 - All conditions of probation must be contained in probation agreement, “Supervision Contracts” will not be used.
 - “Standard” special conditions that relate to supervision strategies should be considered for the sex offender population. These may include but aren’t limited to the following:
 - Electronic home monitoring at the agents discretions
 - Follow the agents directions with regards to schedules and curfews
 - Submit to polygraph testing as prescribed by the agent
 - Refer to DOC Policy Number 106.112, Issue date 9/1/00, Effective Date 10/1/00, page 5 of 14, section 3. This Policy covers special conditions for Supervised Releasees. It is important to note that special conditions need to be applied individually to sex offenders depending upon their offense and victim pool, each condition is not mandatory or appropriate in every case.
- **Risk/Needs Assessment**
- LSI/Wisconsin Tool
 - MN SOST-R (future)

- A risk assessment will be completed per DOC policy on all offenders using the LSI and/or the Wisconsin model. Agents trained in the use of the LSI will use the LSI.
 - Factors identified in the risk/needs tool will be addressed in the case plan.
 - Reassessment
- **Co-facilitation of treatment groups**
 - Agents will participate in groups where available
 - This type of weekly contact will be considered as one of the required face-to-face visits.
- **Case Plans**
 - Case plans utilizing DOC format will be completed on sex offenders and will include LSI domains considered to be high-risk areas.
 - The offender will participate in the case planning process.
 - Progress reports will include an evaluation on the progress the offender is making towards the case plan.

Recommendations/Future Plans –

1. Although this committee was initially developed with the purpose to establish a working proposal for enhanced sex offender supervision, it has developed into a forum for Enhanced Sex Offender Agents to share and learn. It would be the recommendation of the committee that Enhanced Sex Offender Agents continue to be brought together on a quarterly basis for training, assistance in focusing their concerns and issues and allowing them a forum for developing a common voice.
2. Specialized training needs to be sought out and developed. Mary Popp, DOC Sex Offender/CD Unit has begun working with the committee and she has pledged to establish a training every three to four months; the committee has furnished her with a listing of potential training topics.
3. It is recommended that the DOC take a leadership role encouraging routine communication with CCA counties about supervision of sex offenders. This should include making advanced training available to CCA county supervision specialists as well as ESO agents.
4. Work needs to be coordinated with the DOC SO/CD Unit to pilot the MN-SOST-R on probationary population or an alternative tool needs to be sought out for use.
5. The DOC Research Unit's assistance in conjuncture with the SO/CD Unit's needs to be sought in order to see that meaningful outcome measures are developed.

Appendix E: Colorado Sex Offender Management Board: Research Supporting Restricted Contact with Children: June 2004

The following is a summary of the research that supports the statements listed below, which are found in 5.700 of these Standards.

“The offense for which a person is convicted is not necessarily a reliable indicator of the offender’s risk to children or victims.”

1. Knopp, F.H. (1984). *Retraining Adult Sex Offenders: Methods and Models*, Brandon, VT: Safer Society Press.

Gene Abel et. al. conducted a breakthrough study in 1983 which gave us information on the frequency and variety of sexual offending behaviors sex offenders have committed. He received a federal certificate of confidentiality to study sex offenders. Individuals in this study could admit to current offending behaviors without fear that the information would be reported to law enforcement. He studied 411 sex offenders and found that on average over a twelve year period each offender had attempted 581 crimes, completed 533 crimes, had 336 victims, and committed an average of 44 crimes a year. These crimes included hands off sex offenses such as exposing, peeping and obscene phone calls. Additionally, he found that 50.6% of the rapists involved in the study had also molested children.

2. Freeman-Longo, R., Blanchard, G. (1998). *Sexual Abuse in America: Epidemic of the 21st Century*. Brandon, VT: Safer Society Press.

In 1985, Rob Freeman-Longo reported on a group of 23 rapists and 30 child molesters involved in an institutional forensic mental health sex offender program. Arrest records indicated rapists had an average of 1.9 offenses each for a group total of 43 arrests for sex offenses. The 23 rapists as a group admitted committing a total of 5090 various incidents of sex offending behaviors, which included 319 child molestations and 178 rapes. Arrest records indicated child molesters had an average of 1.5 arrests each. While in treatment, the 30 child molesters as a group admitted 20,667 offenses which included 5891 sexual assaults on children and 213 rapes on adult women.

3. Ahlmeyer, S., Heil, P., McKee, B., and English, K. (2000). The Impact of Polygraphy on Admissions of Victims and Offenses of Adult Sex Offenders, *Sex Abuse: A Journal of Research and Treatment*, Vol. 12 (2).

The Colorado Department of Corrections Sex Offender Treatment Program has found similar patterns to those reported by Gene Abel with the sex offenders participating in treatment and polygraph assessment. The program collected data in 1998 on the number of known victims of the first 36 sex offenders to participate in two polygraph evaluations. On average, for each offender there were 2 known victims documented in official records. After the first polygraph exam inmates disclosed on average 165 victims per offender. By the second polygraph exam the same inmates, on average, disclosed 184 victims per offender. These crimes included hands-on sex offenses such as rape and pedophilia as well as hands-off sex offenses such as exhibitionism, voyeurism and obscene phone calls. Approximately 80% of these offenders were still deceptive on their polygraph examinations, suggesting that even more offenses were committed.

4. English, K. (1998). Maximizing the Use of the Polygraph with Sex Offenders: Policy Development and Research Findings, Presentation at the Association for the Treatment of Sexual Abusers 17th Annual Research and Treatment Conference, Vancouver.
In 1998, Kim English analyzed a sample of 83 sex offenders who had participated in polygraph evaluations at the Colorado Department of Corrections. This sample included inmates and parolees. She determined that 48% of the offenders had crossed over in either age (36%) or the gender (25%) of the victims they offended against-- they had committed offenses with either victims of different ages (adults and children) or victims of different sexes (males and females). Again, 80% of this sample were still scoring deceptive on their polygraph evaluations.

5. Heil, P., Ahlmeyer, S., Simons, D. (2003). Crossover Sexual Offenses, *Sex Abuse* 15(4).
Between 1995 and 2001, crossover sexual offenses were analyzed in a larger sample of 223 incarcerated and 266 paroled sexual offenders who participated in polygraph evaluations at the Colorado Department of Corrections. *The majority of incarcerated offenders admitted to sexually assaulting both children and adults from multiple relationship types. In addition, there was a substantial increase in offenders admitting to sexually assaulting victims from both genders. In a group of incarcerated offenders who sexually assaulted children, the majority of offenders admitted to sexually assaulting both relatives and nonrelatives, and there was a substantial increase in the offenders admitting to assaulting both male and female children* (Heil, et al., 2003).
 - A) Ahlmeyer, S. (1999). Poster Presentation at the Association for the Treatment of Sexual Abusers 18th Annual Research and Treatment Conference, Lake Buena Vista, Florida 1999.
In 1999, Sean Ahlmeyer analyzed a larger sample of 143 inmates who participated in polygraph evaluations at the Colorado Department of Corrections. In this sample, 89 % of the inmates self reported that they had crossed over in the type of the offenses they committed by either: committing offenses with either victims of different ages (adults and children) and/or victims of different sexes (males and females) and/or victims from different types of relationships.
 - It was determined that 71% of the total sample acknowledged crossing over in the age of the victims they assaulted.
 - Of the offenders who were only known to have child victims in official records, 82% later admitted to also having adult victims.
 - Of the offenders who were only known in official records to have adult victims, 50% later admitted to having child victims during the process of polygraph examination.
 - It was determined that 51% of the sample acknowledged crossing over in the sex of the victims they assaulted.
 - Of the offenders who were only known to have male victims in official records, 58% later admitted to having female victims.
 - Of the offenders who were only known to have female victims, 22% later admitted to having male victims.
 - It was determined that 86% of the sample acknowledged having victims in two or more of the following categories: relative, stranger, acquaintance, or position of trust.
 - Of those offenders who were only known to have offended against non-relative victims, 62% admitted to also having victims who were relatives.
 Again the majority of the individuals in this sample (82%) were still scoring deceptive on some areas of their polygraph evaluations, indicating that the percent of cross over may be higher than the numbers self reported by these offenders.

6. Becker, J., and Coleman, E. (1987). "Incest". In *Handbook of Family Violence*, Van Hasselt, ed. New York, NY: Plenum Publishing.
 In 1983, Abel et al. studied incest offenders who had involved themselves sexually with female children. He found that 44% of these offenders had offended against unrelated female children, 11% had offended against unrelated male children, 18% had committed rapes, 18% had committed exhibitionism, 9% had engaged in voyeurism, 5% had engaged in frottage, 4% had engaged in sadism, and 21% had other paraphilias. In this study it was determined that 59% of the child molesters developed deviant sexual interest during adolescence.
7. Abel, G., Rouleau, J. (1990). "The Nature and Extent of Sexual Assault". In *Handbook of Sexual Assault*, Marshall, W., Laws, D., Barbaree, H., ed. New York, NY: Plenum Publishing.
 In 1988, Abel et al. conducted an eight year longitudinal study of 561 male sexual assaulters who sought voluntary assessment and/or treatment at the University of Tennessee Center for the Health Sciences in Memphis and at the New York State Psychiatric Institute in New York City. The study collected information on the offenders self reported patterns of deviant sexual behavior under a guarantee of confidentiality which was obtained under Federal Regulation 4110-88-M. After an extensive interview they diagnosed each offender and looked at the percentage of paraphiliacs (individual with a deviant sexual interest) who had multiple paraphilias (more than one type of deviant interest).

Number Diagnosis	Number of Subjects	Number of Paraphilias				
		1	2	3	4	5+
Pedophilia (non incest) female	224	15.2%	23.7%	19.2%	14.7%	27.2%
Pedophilia (non incest) male	153	19.0%	26.8%	19.6%	12.4%	22.2%
Pedophilia (incest) female	159	28.3%	25.8%	17.0%	5.7%	23.3%
Pedophilia (incest) male	44	4.5%	15.9%	20.5%	18.2%	40.9%
Rape	126	27.0%	17.5%	19.0%	12.7%	23.8%
Exhibitionism	142	7.0%	20.4%	22.5%	15.5%	34.4%
Voyeurism	62	1.6%	9.7%	27.4%	14.5%	46.8%
Obscene phone calling	19	5.3%	5.3%	21.1%	21.1%	47.5%
Public Masturbations	17	5.9%	17.6%	0.0%	17.6%	58.8%

8. Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety, March 2000.
 The Colorado Division of Criminal Justice (2000), under a National Institute of Justice research grant, analyzed data from 180 sex offender case files in three states that had implemented the post-conviction polygraph to varying degrees (Texas, Oregon, and Wisconsin). The sample included both probation and parole cases. Their research found that polygraph combined with treatment significantly increases the known rate of offending and crossover in sex offenders. After treatment and polygraph, nearly 9 out of 10 sex offenders who were identified as having sex offenses against adults also admitted committing sex offenses against children. Based on a file review, 35 offenders were initially identified as having victims over

the age of 18. Prior to treatment and polygraph only 18 (48.6%) of these offenders were identified as having victims under the age of 18. After treatment and polygraph 80 offenders admitted to victims over the age of 18. Seventy of these 80 offenders (87.5%) also admitted to committing a sex offense against someone under the age of 18. Sixty one (76.3%) of the 80 offenders admitted to having victims age thirteen and under.

9. Tanner, J. (1999). *Incidence of Sex Offender Risk Behavior During Treatment*, Research Project Final Report.

In 1998, Jim Tanner conducted a research study on the polygraph results of 128 sex offenders who were under supervision and participating in offense specific treatment in the community. The sample consisted of 99 offenders with a current charge for a crime against a child and 29 offenders with a current charge for a crime against an adult. Each of the offenders had participated in one baseline and at least one maintenance polygraph examination. The study looked at the offender's behavior between the time period of the baseline polygraph and maintenance polygraph. Based on the polygraph examination results, 31% of the offenders had sexual contact with a minor during the maintenance polygraph time period. The percent of sex offenders with a current charge for a crime against a child who admitted to or was deceptive to sexual contact with a child was 35%. The percent of sex offenders with a current charge for a crime against an adult who admitted to or were deceptive to sexual contact with a child was 17%. Since the majority of the offenders with crimes against adults were not asked on the polygraph exam whether they had sexual contact with a child, the percent who had sexual contact with a child may be under represented.

In addition, 25% of the offenders in this study had unauthorized contact with a minor. Twelve percent of the offenders had forced someone to have sex since the baseline examination. Forty one percent were engaging in new sex offense behaviors. Overall, 86% of this sample were engaging in new high risk behaviors and/or new crimes at least 18 months into treatment. On average, each offender was engaging in 2.5 different high risk behaviors.

10. Hanson, R., Harris, A. (1998). *Dynamic Predictors of Sexual Recidivism*, Department of the Solicitor General Canada.

In 1997, Karl Hanson and Andrew Harris conducted research on dynamic predictors of sexual reoffense. The following factors were significantly associated with reoffense: General excuses/justifications/low victim empathy, sexual entitlement, attitudes tolerant of rape, attitudes tolerant of child molesting, sees self as no risk, sexual risk factors (pornography, excessive masturbation, deviant sexual fantasies, preoccupation with sex), access to victims, and negative social influences.

11. Hindman, J. (1989). *Just Before Dawn*, Alexandria Association.

In her book, *Just Before Dawn* (1989), Jan Hindman cites research she conducted over 15 years involving 543 victims of child sexual abuse. She found that even in the most severe cases of sexual abuse, child victims frequently are asymptomatic. It may be years before symptoms are triggered in future developmental stages. Hindman's findings also indicate that ongoing demands for a relationship with the offender or his support system, without the benefit of significant intervention, contribute to severe and ongoing traumatic impact as the victim matures. "Sex offenders typically want to create certain elements in the sexually abusive scenario that will reduce their guilt and responsibility. Effort may be exerted to have the victim feel as though he/she has caused the offender to act inappropriately. While this attitude may help the offender rationalize the deed, it has a profound effect on the trauma bonding (continued demands for a relationship with the perpetrator or those significant to the perpetrator, interfering with the victim's capacity to resolve the abuse and feelings about the perpetrator)

felt by the victim.” “Even if the perpetrator was incapacitated, incarcerated or absent, the victim remained connected and in a trauma bond.”

“An important aspect of ongoing risk assessment is measuring an offender’s ability to comply with the requirements of treatment and supervision.”

1. Hanson, R.K., Harris, A. (1998). Dynamic Predictors of Sexual Recidivism. Department of the Solicitor General Canada. <http://www.sgc.gc.ca>

Karl Hanson and Andrew Harris (1998) conducted research on dynamic predictors of sexual recidivism. Data were collected for this study through interviews with supervising officers of approximately four hundred sex offenders and a review of the officers’ case notes. The results indicated that both recidivists and non-recidivists were equally likely to attend sex offense specific treatment programs; however, recidivists were more likely to have dropped-out of the treatment program. In addition, officers described the non-recidivists as more cooperative with supervision than the recidivists. Recidivists were also more often disengaged from treatment and community supervision and missed more scheduled appointments than the non-recidivists.

“A growing body of research indicates most sex offenders supervised by the criminal justice system have more extensive sex offending histories, including multiple victim and offense types, than is generally identified in their criminal justice records.”

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8. Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety, March 2000.
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9. Weinrott, M. & Saylor, M. (1991). Self-Report of Crimes Committed by Sex Offenders, *Journal of Interpersonal Violence*, 6 (3) 286-300.

Data from a self-report survey regarding past criminal behavior was analyzed from over 90 institutionalized sex offenders. Included in this sample were both rapists and child molesters who had been mandated to receive specialized treatment. Results from this study showed both high rates and varieties of non-sexual offenses, and, high rates of previously undetected sexual aggression. In addition, the 99 sex offenders who completed the survey reported that nearly 20,000 non-sexual crimes were committed during the year prior to being institutionalized (rapists contributed to a disproportionate share).

Diagnosis	Number of Subjects	Number of Paraphilias				
		1	2	3	4	5+
Pedophilia (non incest) female	224	15.2%	23.7%	19.2%	14.7%	27.2%
Pedophilia (non incest) male	153	19.0%	26.8%	19.6%	12.4%	22.2%
Pedophilia (incest) female	159	28.3%	25.8%	17.0%	5.7%	23.3%
Pedophilia (incest) male	44	4.5%	15.9%	20.5%	18.2%	40.9%
Rape	126	27.0%	17.5%	19.0%	12.7%	23.8%
Exhibitionism	142	7.0%	20.4%	22.5%	15.5%	34.4%
Voyeurism	62	1.6%	9.7%	27.4%	14.5%	46.8%
Obscene phone calling	19	5.3%	5.3%	21.1%	21.1%	47.5%
Public Masturbations	17	5.9%	17.6%	0.0%	17.6%	58.8%

“Research also indicates that children and victims are particularly vulnerable and are unlikely to report or re-report abuse.”

1. William Marshall has reported findings from an unpublished project conducted within child protective agencies in Ontario in the mid-1970's. The project was unsystematic in the sense that some, but not all, victims of incest over approximately a three year period were contacted. A child protective services caseworker located a number of children who had reported molestation by a relative. She found that many cases were recanted when the family did not believe the victim, or when the victim was believed but was poorly treated by family members. Once the children had been located, the caseworker asked the children if they would report the incident if they were molested again. Almost 100% answered “no”. The reasons they gave included the following: Practically no one believes them when they tell or, if they do believe, they become hostile to the victim for getting the perpetrator in trouble and removing him from where he was needed; the child held him/herself responsible for the father's absence from the family; or the outcome almost always ended up being more devastating to the child than to the perpetrator. (Information presented at the Association for the Treatment of Sexual Abusers Annual Research and Treatment Conference; personal communication with William Marshall 11/6/98)
2. In 1995, Marshall reported that family reunification provides the following risks: Victims may not want the family to reunify, but may feel pressured into it; even after treatment, 80% of families separate within 5 years; there is an increased chance the victim will not report if victimized again; or the victim may get the impression that the family is important and that he/she is not. (Wisconsin Sex Offender Treatment Network, Inc. training tapes; personal communication with William Marshall 11/6/98)
3. Hanson, R.F., et al. (1999). Factors Related to the Reporting of Childhood Rape, *Child Abuse & Neglect*, 23 (6).
The National Women's Study surveyed a representative sample of 4009 adult women in the United States in 1990. They re-interviewed the women in 1991 and in 1992. During the survey 341 women identified that they had been the victim of a childhood rape prior to the age of 18. Rape was defined as any non-consensual sexual penetration of the victim's vagina, anus, or mouth by a perpetrator's penis, finger, tongue, or an object, that involved the use of force, the threat of force, or coercion. Only 44 (13%) of the women ever reported a childhood rape to authorities. Two hundred ninety seven (87%) of the women did not report any of their childhood rapes to authorities. In looking at the victims who did report the rape, a higher percent involved physical injury or life threat. In addition, reported cases were twice as likely to involve an offender who was a stranger to the victim. Unreported cases were more likely to involve an offender who was a relative or an acquaintance of the victim. This is similar to previous research which has found that victims are less likely to report the abuse when the offender is a relative or acquaintance. (Arata, 1998; Ruback, 1993; Williams, 1984; Wyatt & Newcomb, 1990). Whether or not the rape was reported, one third of the victims of childhood rape met the criteria for PTSD-lifetime and one half met the criteria for Major Depression-lifetime.
4. (1992). Rape in America: A Report to the Nation, National Victim Center and Crime Victims Research and Treatment Center, Dept. of Psychiatry and Behavioral Sciences, Medical University of South Carolina. Rape in America: a Report to the Nation, in

1992 reports findings of a phone survey of 4009 women across the United States. Based on the results of this survey, 1 out of 8 women are estimated to have been the victim of forcible rape sometime in their lifetime. It was determined that 78% of the rapes were committed by someone known to the victim. Only 16% of these rapes were ever reported to the police. Only 30% of the rapes resulted in the victim being physically injured. But, when compared to women who were never sexually assaulted, female sexual assault victims were 3.4 times more likely to have used marijuana; 5.3 times more likely to have used prescription drugs non-medically; 6.4 times more likely to have used hard drugs; 3 times more likely to have had a major episode of depression; 6.2 times more likely to have developed PTSD; 5.5 times more likely to have current PTSD; 4.1 times more likely to have contemplated suicide; and 13 times more likely to have attempted suicide. The majority of these women had not abused alcohol or drugs prior to their sexual assault.

5. Underwood, R., Patch, P., Cappelletty, G., Wolfe, R. (1999). Do Sexual Offenders Molest When Other Persons Are Present? A Preliminary Investigation, *Sexual Abuse: A Journal of Research and Treatment*, Vol. 11(3).

In 1999, Underwood, Patch, Cappelletty, and Wolfe reported on a sample of 113 child molesters. On average, each offender committed 88.6 offenses. Many of the offenders in the sample acknowledged molesting a child while a non-collaborating person was present. The following percentage of the sample engaged in the listed behaviors:

- Molested one child when another child was present - 54%; another adult was present - 23.9%; a child & adult were present - 14.2%
- Molested a child when they knew the other person was awake - 44.3%
- Molested a child when another child was in the same bed - 25.7%; when another adult was in the same bed - 12.4%; when another adult and child were in the same bed - 3.5%
- The child molesters listed the following reasons for molesting a child while a non-collaborating person is present: increased excitement - 77%; sense of mastery - 77%; compulsive sexual behavior - 75.2%; and stupidity -38.9%.

6. Hindman, J. (1989). *Just Before Dawn*, Alexandria Association.

In her book, *Just Before Dawn* (1989), Jan Hindman cites research she conducted over 15 years involving 543 victims of child sexual abuse. She found that even in the most severe cases of sexual abuse, child victims frequently are asymptomatic. It may be years before symptoms are triggered in future developmental stages. Hindman's findings also indicate that ongoing demands for a relationship with the offender or his support system, without the benefit of significant intervention, contribute to severe and ongoing traumatic impact as the victim matures. "Sex offenders typically want to create certain elements in the sexually abusive scenario that will reduce their guilt and responsibility. Effort may be exerted to have the victim feel as though he/she has caused the offender to act inappropriately. While this attitude may help the offender rationalize the deed, it has a profound effect on the trauma bonding (continued demands for a relationship with the perpetrator or those significant to the perpetrator, interfering with the victim's capacity to resolve the abuse and feelings about the perpetrator) felt by the victim." "Even if the perpetrator was incapacitated, incarcerated or absent, the victim remained connected and in a trauma bond."

7. Colorado Coalition Against Sexual Assault, <http://www.ccasa.org/statistics.cfm>
"Twenty-four percent (1 in 4) of Colorado women and 6% (1 in 17) Colorado men have experienced a completed or attempted sexual assault in their lifetime. This equates to over 11,000 women and men each year experiencing a sexual assault in Colorado (*Sexual Assault in Colorado: Results of a 1998 Statewide Survey*. 1998. Colorado Department of Public Health and Environment and Colorado Coalition Against Sexual Assault). One thousand

seven hundred ninety-four (1,794) rapes were reported to Colorado law enforcement in 1997. If compared to the 1998 Statewide Survey, these reports constitute only 16% of sexual assaults.”

8. Cardarelli, A. (1998). Child Sexual Abuse: Factors in Family Reporting, NIJ Reports, No. 209, May/June.

Data involving 156 sexually abused children who were treated at a Family Crisis program associated with Tuft’s New England Medical Center in Boston were analyzed. Sixty-two percent of the sample chose not to report the abuse to the police. Of the individuals who did report the abuse, very few were the victims (they were mostly parents or primary caretakers).

“It is important to recognize that treatment under unsafe conditions is not beneficial to the offender or others in the treatment program and undermines treatment program integrity.”

1. Quinsey, V.L., Harris, G.T., Rice, M.E., Cormier, C.A. (1998). Violent Offenders: Appraising and Managing Risk. *American Psychological Association*, 55-72.

Quinsey, Harris, Rice, and Cormier (1998) reported on numerous studies on clinical judgment in regard to prediction of violence. His overall conclusion to these studies was that “clinical intuition, experience, and training at least as traditionally conceived are not helpful in either prediction or treatment delivery. Although discouraging, this conclusion is not nihilistic. Training, in the sense of knowing the empirical literature and relevant scientific and statistical techniques, must improve the selection of appropriate treatments, treatment program planning, and evaluation.”

Articles/Professional Opinions that support this statement:

1. O’Connell, M.A., E. Leberg, Donaldson, C.R. (1990). Working with Sex Offenders: Guidelines for Therapist Selection. *Newbury Park, CA: Sage Publications*, pp 13-16, 52-53, 94-96, 101-103.
2. (2000). *Community Supervision of the Sex Offender: An Overview of Current and Promising Practices*. Center for Sex Offender Management, January, 2000.
3. Salter, A. (1988). *Treating Child Sex Offenders & Victims*, Newbury Park, CA: Sage Publications, pp.84 – 86.
4. Scott, L. (1997). “Community Management of Sex Offenders”. In *The Sex Offender*, Vol II, Schwartz, B., Cellini, H., eds., Kingston, NJ: Civic Research Institute, p.16-2 through 16-5.
5. Freeman-Longo, R., Knopp, F. (1992). *State of the Art Sex Offender Treatment: Outcome and Issues*, *Annals of Sex Research*, Vol. 5 (3).
6. (1997). “Ethical Standards & Principles for the Management of Sexual Abusers” *ATSA*, p.11, 2.02
7. Kercher, G., Long, L. (1998) *Supervision & Treatment of Sex Offenders*, *Huntsville, TX: Sam Houston Press*, pp47-49, & 123-126.
8. Cumming, G., Buell, M. (1997). *Supervision of the Sex Offender*, *Brandon, VT: Safer Society Press*, pp 91-92.

“Some offenders have a history of persistent arousal to minors. Although they may be able to meet 5.742 criteria, because of the likelihood that proximity to children will trigger or increase this arousal, the team shall frequently reassess the offender’s ability to maintain a reduced level of arousal. The team shall terminate an offender’s approval for contact with minors if there is behavior or other evidence to indicate arousal to minors cannot be managed.”

1. Davis, G., Williams, L., Yokley, J. (1996). An Evaluation of Court-Ordered Contact Between Child Molesters and Children: Polygraph Examination as a Child Protective Service. Paper presented at 15th Annual ATSA Conference, November, 1996.

In a 1996 study by Gary Davis, Laura Williams and James Yokley, 142 child molesters were polygraphed to determine if they were having deviant fantasies and masturbating while thinking about a known minor. Only 3% of offenders who were not permitted contact with children were having deviant fantasies and masturbating while thinking about a known minor. Of the child sex offenders who were permitted supervised contact with children, 59.5% were having deviant fantasies and masturbating while thinking about a known minor.

2. In 1999, the Sex Offender Treatment and Monitoring Program at the Colorado Department of Corrections compiled polygraph testing responses to questions regarding contact with children in the prison visiting room. The study involved a sample of 36 offenders who were polygraphed while participating in the second phase of the Sex Offender Treatment and Monitoring Program. The sex offenders were asked whether they had ever masturbated to thoughts of a known child they had seen in the prison visiting room. Eight offenders (22%) denied masturbating to thoughts of a known child and were nondeceptive on the polygraph exam. Sixteen offenders (44%) admitted to or were deceptive to questions on the polygraph exam which would indicate the offender had masturbated to thoughts of known child they had seen in the visiting room. Twelve offenders (33%) were deceptive to other questions on the polygraph test and as a result it could not be determined whether they had masturbated to thoughts of a child seen in the visiting room.

Appendix F: Minnesota BCA Predatory Offender Registry



WHO IS REQUIRED TO REGISTER?

Pursuant to M.S. § 243.166, Subd. 1b, any person charged with, petitioned for, or Court Martialed for a violation of, or attempt to violate, or aiding, abetting or conspiracy to commit any of the following crimes and convicted of, or adjudicated delinquent for that offense or for an offense arising out of the same set of circumstances is required to register.

LIST #1

First Degree Murder 609.185 *Clause 2 only*

Kidnapping 609.25

Criminal Sexual Conduct in the First Degree 609.342

Criminal Sexual Conduct in the Second Degree 609.343

Criminal Sexual Conduct in the Third Degree 609.344

Criminal Sexual Conduct in the Fourth Degree 609.345

Criminal Sexual Conduct in the Fifth Degree 609.3451 *Subd. 3 only*

Criminal Sexual Conduct in the Sixth Degree 609.3453

Indecent Exposure 617.23 *Subd. 3 only*

False Imprisonment 609.255 *Subd. 2 only*

Soliciting a minor to engage in prostitution 609.322 or 609.324

Soliciting a minor to engage in sexual conduct 609.352

Using a minor in a sexual performance 617.246

Possession of pictorial representations of minors 617.247

Predatory Crime and sentenced as a Patterned Sex Offender 609.108

Comparable violations of the Uniform Code of Military Justice

Comparable Federal Offenses

Comparable Offenses from other states

Offenders from other states who enter Minnesota to work or attend school

Civil Commitments 253B.185 or 526.10

(or a similar law in another state)

WHO IS REQUIRED TO REGISTER UNDER THE CRIMES AGAINST A PERSON STATUTE?

Pursuant to M.S. § 243.167, anyone previously *convicted of or adjudicated delinquent for an offense listed on List #1*, but who was not required to register at the time of conviction or release from imprisonment because the registration law did not apply to them at that time, is required to register if they commit a "Crime Against a Person" on or after July 1, 2000, and are *convicted of an offense listed below (List #2)*. This section also applies to offenders who were previously registered, but whose registration period has expired, if the offender commits a "Crime Against a Person" after July 1, 2000.

Conviction Conviction

From List #1 + From List #2 = Required to Register

-Or-

Finished Initial

Registration + *Conviction* = Required to Register Again Period From List #2

LIST #2

Unlawful Possession of a Firearm 609.165

Murder in the First Degree 609.185

Murder in the Second Degree 609.19

Murder in the Third Degree 609.195

Manslaughter in the First Degree 609.20

Manslaughter in the Second Degree 609.205

Assault in the First Degree 609.221

Assault in the Second Degree 609.222

Assault in the Third Degree 609.223

Assault in the Fourth Degree (*committed on or after 08/01/05 only*) 609.2231

Assault in the Fifth Degree 609.224 *Subd. 2 or 4 only*

Domestic Assault 609.2242 *Subd. 2 or 4 only*

Use of Drugs to Injure or Facilitate a Crime 609.235

Aggravated Robbery 609.245 *Subd. 1 only*

Kidnapping 609.25

False Imprisonment 609.255

Criminal Sexual Conduct in the Fifth Degree 609.3451 *Subd. 2 only*

Tampering With a Witness 609.498 *Subd. 1 only*

Burglary in the First Degree 609.582 *Subd. 1 only*

Indecent Exposure 617.23 *Subd. 2 only*

Crime Committed For Benefit of a Gang 609.229 *Felony Level Only*

Malicious Punishment of a Child 609.377 *Felony Level Only*

Harassment; Stalking 609.749 *Felony Level Only*

Unlawful possession of a pistol or semiautomatic 624.713 *Felony Level Only*
military-style assault weapon

***Appendix G: Minnesota Correctional Delivery System
Responses to the Standards Report***

Minnesota Association of Community Corrections Act Counties (MACCCAC)
Response

Minnesota Association of County Probation Officer (MACPO) Response

Minnesota Department of Corrections (DOC) Response

Minnesota Association of Community Corrections Act Counties (MACCAC) Response



January 26, 2007

Joan Fabian
Commissioner
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
Saint Paul, MN 55108

Dear Commissioner Fabian:

The Minnesota Association of Community Corrections Act Counties (MACCAC) thanks you for the opportunity to respond to the draft document Preliminary Final Report Proposed Standards and Guidelines for the Supervision, Treatment and Polygraph Examinations of Minnesota Sex Offenders dated January 18, 2007. We applaud the work of the many talented men and women from around the state who devoted much time in producing this comprehensive, well thought out report.

As a general principle, the Minnesota Association of Corrections Act Counties endorses implementation of supervision practices well grounded in science, which is implicitly recommended in the Task Force report. The Task Force recognized and addressed important issues such as barriers to the effective sharing of information by those with a need to know; the necessity for institutional support to the Department of Corrections to make policymakers and practitioners aware of emerging trends and the state of the research pertaining to sex offenders and the need to set standards for supervision and treatment, as well as required training for practitioners. We offer to you the following suggestions for consideration:

- Designate a specific range of assessment tools, which would be acceptable for use as primary and secondary instruments.
- The report indicates that sex offender treatment is required above and beyond other treatment needs. We ask you to consider that either 1) programs be encouraged to develop multi-modal approaches to offender characteristics which, if left unaddressed, may make successful participation in a sex offender treatment program impossible, or 2) there is recognition that triaging the multiplicity of issues that an offender presents may be appropriate. Neither of these approaches negates the requirement or importance of sex offender treatment.

- The report suggests that concentration of offenders in areas can be appropriate. The benefits to supervision officers and police are of course readily apparent. In larger cities, however, in depressed areas where landlords are more likely to accept sexual predators, this creates a negative impact in neighborhoods that are struggling to maintain their viability. While there are no easy solutions to this problem, it is one that must meet ongoing serious study and development of alternative housing strategies.
- A recommendation is made for the creation of an entity/organization to be charged with coordinating sex offender services and standards statewide. While we believe this is appropriate, auditing of sample supervision cases should be part of the overall protocol to ensure and enhance the credibility of the system of sex offender supervision throughout the state.
- Considerable attention is made regarding caseload standards with not enough detail as to what is required of the officer. Contact standards are suggested with negligible attention given to the development of a case management plan and its relationship to supervision, movement between levels of supervision and response to offender misconduct (probation cases).
- The report recommends a requirement for centralization of cases, where practicable, understanding for instance that some rural areas lack the critical mass to dedicate agent positions exclusively to sex offender supervision. This we can support with the caveat already indicated that centralization might not be possible.
- The report highlights the importance of training for practitioners. MACCAC enthusiastically supports this requirement but notes that the state must be serious in providing the training resources. Efforts should be targeted to ensure that all practitioners supervising sex offenders understand the basics and that further training beyond that is well planned and developmental in nature.
- The Task Force makes no distinction between supervision and surveillance activities. This might have an effect on caseload/workload and requires further elucidation in describing the nature and uses of both.

Lastly, the Task Force report contains many fine elements, which we can theoretically endorse in an ideal world. Unless the State is willing to fund the various activities and practices fully over time, the enormous good faith investment that practitioners have made to produce the report will be little more than a compendium of what should be done. In the worst case, we will have yet another set of unfunded mandates.

Please let us know how MACCAC might continue to be of assistance during the course of the legislative session.

Sincerely,

/s/

Fred La Fleur
President

***Minnesota Association of County Probation Officer (MACPO)
Response***

MACPO

Minnesota Association of County Probation Officers

January 31, 2007

Commissioner Joan Fabian
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108-5219

Dear Commissioner Fabian:

MACPO applauds the Legislature for recognizing a need for statewide minimum standards “Best Practices” in the supervision and management of sex offenders. We also want to thank you and Department of Corrections for coordinating this very important project.

The report is very well done. It is evident that a lot of time and effort was put into the document by a wide range of corrections professionals.

As noted in our initial December 26, 2006 review, MACPO would like to emphasize that juvenile sex offenders also pose a very serious risk and create the same and similar sex offender management issues as adult sex offenders.

Thank you for including MACPO in this statewide initiative.

Sincerely,

/s/

J. Hancuch, Director
Isanti County Probation Department

Cc Michael MacMillan, Chair CPO Director's
Traci Green, MACPO President
Daniel Storkamp, IT Director

Minnesota Department of Corrections (DOC) Response



CENTRAL OFFICE
Contributing to a Safer Minnesota

January 31, 2007

The Minnesota Department of Corrections (DOC) would like to thank the work group members, especially the committee chairs, for their hard work and committed participation to this project. It is the dedication of sex offender management professionals around Minnesota that contributes to the high quality service provided by Minnesota's justice system.

We commend the work group members on beginning the process of setting statewide standards for sex offender supervision, treatment and assessment, and polygraph examinations. Setting these statewide standards is complex given Minnesota has three different delivery systems that cover 42 different jurisdictions within all 87 counties. Additionally, each county brings its unique situation/circumstances to the discussion, making setting statewide standards extremely difficult.

The jurisdictions in which the DOC provides sex offender management are no different than the other delivery system jurisdictions, given we provide felony supervision in 55 counties and juvenile and misdemeanor supervision in 27 counties. As such, in 2001, the department established consistent supervision standards for these jurisdictions. The department standards meet and exceed many of the statewide standards being proposed by the work groups. The department's commitment is to continue to improve these standards and encourage and assist other jurisdictions to do the same.

Many DOC staff have extensively reviewed and made comments on the work group report, which are outlined in the following paragraphs:

- The DOC agrees with the report's premise that public safety is the top priority when managing sex offenders, and this must be balanced with giving the offender the opportunity to change his/her behavior.
- It will be critical that additional resources be allocated to all delivery systems in order to achieve and/or improve the standards set forth by the work group. It will be vital that sex offender management professionals continue the efforts of the work group to ensure that statewide standards are maintained and enhanced for sex offender supervision, treatment, and polygraph examinations today and into the future.



www.doc.state.mn.us

1450 Energy Park Drive, Suite 200 St. Paul, Minnesota 55108 PH 651.361.7200 FAX 651.642.0223 TTY 651.643.3589
EQUAL OPPORTUNITY EMPLOYER

- It is important that release conditions provided to all sex offenders be tailored specifically to each individual so they not only address risks and needs, but are also legally valid and enforceable.
- Legislative appropriations in 2000 and 2001 were provided for specialized sex offender caseloads, which were intended to bring supervision agencies to a minimum standard as defined in this report. With wide variation statewide of how these funds were used, all agencies must focus on meeting the minimum standards proposed in this report. Further funding should be directed toward ultimately achieving the best practice standards. The report falls short of providing information on what currently is being funded by entities statewide, given these efforts have been significant.
- In addition to more agents to reduce sex offender caseloads, supplemental funding will be needed to provide additional grants for community sex offender treatment, increased use of polygraph examinations, and statewide resources for technical assistance, training, coordination, and support for jurisdictions attempting to achieve sex offender management best practices. Future funding may be needed for additional staff to support increased agents, such as hearings officers to conduct increased numbers of revocation hearings. These best practice standards need to be based on sex offender management activities that are successfully being implemented in Minnesota, nationally, and internationally.
- The report indicates that many issues need to be addressed to better reintegrate offenders back into the community, such as housing and employment. The department is in full agreement that these areas need to be addressed, and an initiative has been established to focus on all reentry efforts (MCORP). This effort continues to identify the issues and barriers of reintegrating offenders back into the community. To accomplish this effort, the department has enlisted the help and support of many state and local entities, and the department's sex offender programs have hired release and integration specialists. Additional funding will be needed to implement this effort.
- The department continues to strive toward the goal of ensuring public safety when dealing with sex offenders. One of the key public safety elements of supervising sex offenders is the involvement of the agent with sex offenders in treatment. The "Agent Participation Model" allows an agent to sit in on treatment groups along with a sex offender therapist. This model is used in all counties where the DOC, as well as numerous non-DOC counties, provides supervision of sex offenders. It is endorsed by a number of sex offender treatment programs and is a key component to DOC supervision standards. It has enhanced public safety by making the agents more aware of issues that trigger aberrant behavior in sex offenders. In addition, it greatly increases communication, as well as allows swift action to be taken by the supervising agent when serious public safety issues arise.
- One area that requires further discussion and development is defining statewide supervision levels. The report lacks no standard definition for how these levels are determined. It appears that the intent would be to allow individual corrections agencies to define what constitutes high, medium, and low supervision levels. This will lead to wide variation statewide. In addition, the report does not recommend how the level of supervision is to be determined. In the absence of these definitions, the department will continue to use levels and definitions developed by the department in 2000 and would encourage other corrections entities to use them as well.

- The report suggests that the DOC community notification level be used as a risk level of the offender. However, the DOC does not support linking community notification levels to the risk levels of sex offenders. The community notification levels are intended to provide the community with the appropriate information about offenders being released from prison. The intent of the risk level is to be used in effectively managing sex offenders on supervision in the community, as well as developing alternative treatment programs to address the risks they pose to public safety.
- The treatment and assessment guidelines mentioned in this report provide a good foundation for community-based sex offender treatment services. In addition, the polygraph standards contain a framework that can be used to enhance polygraph practices in Minnesota.
- Many sex offender management practices implemented throughout Minnesota are having a positive impact on sex offenders and ultimately increasing public safety. As such, the department agrees that additional research and evaluation efforts are needed to continue to identify best practices and that this information should be shared with all entities involved in sex offender management activities (treatment, polygraph examination, and supervision).

Again, the department thanks all those involved in this effort. Our commitment is to continue to identify best practices, seek funding to support these efforts, strive to achieve best practice standards statewide, and encourage all entities involved to meet and/or exceed these standards.

Sincerely,

/s/

Harley Nelson, Deputy Commissioner
Community Services Division

**Appendix H: *Proposed Standards and Guidelines for the
Supervision, Treatment, and Polygraph
Examinations of Minnesota Sex Offenders***

Sex Offender Work Group Proposal
February 2007

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SECTION 1: INTRODUCTION

The 2005 Minnesota Legislature directed the commissioner of corrections to establish a working group on sex offender management. This working group was charged with assessing a set of complicated policy issues related to the supervision of sex offenders and providing recommendations to the Legislature by February 15, 2007.

Specifically, the commissioner of corrections was directed to convene a working group of individuals knowledgeable in the supervision and treatment of sex offenders, with a broad representation of all three Minnesota supervision delivery systems.

One key section of this legislation specified that the working group was to develop standards and/or guidelines including both statewide minimum standards/guidelines and the “best practices” standards/guidelines. The focus of this document is on the recommendations of the working group surrounding the minimum and best practice standards/guidelines for supervision, treatment programs, and polygraph examinations of sex offenders.

In addition to the standard/guidelines requirements, the legislation directed the working group to develop recommendations on 12 different topical areas surrounding sex offender supervision. The working group completed this effort and the results are contained in the final report, entitled “Minnesota Sex Offender Management: Final Report.”

Working Group Process

In the summer of 2005, the commissioner of corrections formed a working group to address the sex offender issues assigned by the Legislature. Given the breadth of topics that needed to be covered, the commissioner established four work groups that would address related topics. These work groups covered the following four special topical areas:

- Adult Supervision Practices;
- Juvenile Supervision Practices;
- Treatment/Assessment Practices; and
- Polygraph Practice.

The work groups met on a regular basis for 18 months. Over 60 dedicated professionals with extensive experience in the field of sex offender management participated regularly in the discussions. These representatives came from all three supervision delivery systems, academia, treatment providers, and from Minnesota’s partners in the non-profit community.

By routing the majority of the investigation and analysis to one of four work groups, the commissioner was able to have work progress on a number of different sets of standards/guidelines simultaneously. Likewise, by developing smaller groups, the commissioner was able to recruit a broad representation of practitioners and experts from around the state.

Each work group compiled a document containing their discussions and recommendations. This standards report is a compilation of the standards and guidelines that are proposed by the four work groups and covers sex offender adult and juvenile supervision, treatment programs, and polygraph examinations.

This standards document is intended to be a stand-alone reference document used in the development and implementation of standards for the supervision and management of sex offenders in Minnesota.

SECTION 2: SUPERVISION STANDARDS

The Adult and Juvenile Sex Offender Work Groups developed both minimum and best practice standards for supervision of sex offenders. These standards are based on their review of both current practices in Minnesota, as well as best practices from around the county. The best practices were derived from reviewing reports, hearing from experts, and conducting open forum discussions. Best practices and guidelines developed by the Colorado Sex Offender Management Board, Arizona Standards and Guidelines, and Center for Sex Offender Management (CSOM) best practice standards and guidelines were reviewed by each group.

The Adult Work Group developed a definition of sex offenders as they began their discussions on proposed supervision standards. In addition, the Adult and Juvenile Work Groups developed guiding principles that overarched their discussions on proposed standards. Both the definition and guiding principles are outlined in the following sections.

Sex Offender Definition

The Adult Work Group developed definitions of who is a sex offender.⁸ These definitions were based on a review of current practices in Minnesota correctional systems as well as other states. Information was gathered and distributed by the DOC, citing two policies related to the definition of a sex offender (Policy 203.013 and 203.014). These definitions impact the level of contact that must be maintained by supervising agents and the resources that are divided by each correctional agency in determining caseload size.

The work group determined that the focus of the standards and guidelines would be on the primary and secondary portion of the definition due to their requirement to register as a predator offender.

However, the tertiary definition is important in identifying offenders who may still be supervised by an agent who must meet the appropriate level of contact with that offender. The work group developed a definition based on three criteria of an adult sex offender that can be used in determining resources and levels of contact for supervision.

The primary, secondary, and tertiary definitions are outlined as follows:

Primary definition of a sex offender:

Any offender who is under supervision and is required to register under the Predatory Offender Registration Statutes M.S. 243.166 and/or M.S. 243.167, with the exception of those convicted of non-sexual related False Imprisonment and Kidnapping offenses. This definition includes those individuals who are not required to register, but have been convicted of Criminal Sexual Conduct 5th Degree, Indecent Conduct, Indecent Exposure, and other non-felony charges related to sexual offending with the exception of those con-

⁸ The exceptions for non-sex related False Imprisonment and Kidnapping offenses also apply to the secondary and tertiary definitions.

victed for misdemeanor and gross misdemeanor customer/patron prostitution offenses. Offenders who are convicted of Violating Predatory Offender Registration laws are included in this definition.

Secondary definition of a sex offender:

Any offender who is under supervision for a criminal offense and is required to register as a predatory offender under M.S. 243.166 and/or M.S. 243.167 due to a previous eligible conviction.

Tertiary definition:

Any offender who is under supervision for a criminal offense and is not required to register as a predatory offender but has a prior felony sex offending conviction that is well documented.

A. Sex Offender Management Guiding Principles

In order to guide their discussion in developing supervision standards, both the Adult and Juvenile Supervision Work Groups developed overarching guidelines when managing both juvenile and adult sex offenders. Table 1 provides a summary of their guiding principles, and full description of the Adult and Juvenile Work Groups' guiding principles follows table 1.

Table H1: Adult and Juvenile Sex Offender Work Group Guiding Principles

Adult Work Group Principles

1. Public safety is paramount;
2. Victims have a right to safety and self-determination;
3. Sexual offending is a behavior disorder;
4. Individuals convicted of sexual offenses pose a significant risk to the community;
5. Safety and protection of minors living with sex offenders is primary;
6. Access to all information related to risk for reoffense is vital to individuals supervising sex offenders;
7. Assessment and evaluations are ongoing processes;
8. Coordinated multi-disciplinary response is a requirement to success;
9. Treatment and aftercare are critical components of sex offender management;
10. Cooperation of individuals who influence sex offenders enhances successful treatment and management;
11. Continuum of options should be available in each Minnesota community; and
12. Developing technologies should be available in the supervision of sex offenders.

Juvenile Work Group Principles

1. Public safety is paramount;
2. A complex set of personal and environmental factors contributes to sex offender behavior;
3. Balanced-approach model should be used when supervising juvenile sex offenders;
4. Risk/needs assessments are ongoing processes;
5. A continuum of options should be available in each Minnesota community; and
6. A collaborative approach is required for success.

Adult and Juvenile Work Group's Guiding Principles for Sex Offender Supervision

Adult Work Group Guidelines:

1. Public safety is paramount.

Sex offenders reside in the community. Thus, the best means of protecting public safety is to provide these offenders with skills that are necessary to live in the community. It is also imperative that the most vulnerable members of society, those under 18 and vulnerable adults, be protected. Supervision professionals are also aware that some offenders may be too dangerous to be placed in the community, and other offenders may pose enough risk to the community to require lifetime monitoring to minimize risk.

2. Victims have a right to safety and self-determination.

Victims have a right to be informed and involved in the process from plea to discharge. When a sexual assault occurs, there is always a victim. Both the research and clinical experience suggest that sexual assault can have devastating effects on the lives of victims and their families. There are many forms of sexual offending. Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The propensity for such behavior is often present long before it is detected. It is the nature of the disorder that sex offender behaviors are inherently covert, deceptive, and secretive. Untreated sex offenders also commonly exhibit varying degrees of denial about the facts, severity, and/or frequency of their offenses.

3. Sexual offending is a behavioral disorder.

Many offenders can learn through structured, sex offender-specific treatment to manage their offending behaviors and reduce their risk of re-offense. Such behavioral management cannot permanently eliminate the risk of re-offense.

4. Individuals convicted of sexual offenses pose a significant risk to the community.

Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The etiology of sexual offending is complex and multi-determined. Sexual assault is perhaps the most significantly under-reported crime. Even when sexual assaults are detected and reported, that offense may not be the offender's first or only offense. The offense of conviction is not a reliable predictor of the offender's history or risk to others.

5. When a person convicted of a sex offense wishes to reside with a minor, including his/her own children, the minor's need for safety, protection, developmental growth, and psychological well-being should be primary.

The community response and intervention system should be designed to promote the safety and best interests of children rather than the interests of adults. Offenders should

be required to demonstrate that they are safe to be with minors before such contact is considered or approved.

- 6. Individuals having responsibility for the supervision of a sex offender must have access to all relevant information about that sex offender. These individuals must also be able to disseminate information appropriately.**

Sex offenses tend to flourish in secrecy, and all forms of secrecy potentially undermine the supervision and rehabilitation process.

- 7. Assessment and evaluation of individuals convicted of a sex offense is an ongoing process.**

Progress, treatment, and level of risk are not constant over time. Assessment is most valuable through multiple data sources including but not limited to: risk assessments (both static and dynamic); criminal justice assessments; clinical assessments; and on-going multi-disciplinary assessments.

- 8. The supervision and management of individuals convicted of a sex offense require a coordinated multi-disciplinary response among public safety, corrections, social services, and treatment personnel.**

- 9. Structured, sex offender-specific treatment and aftercare is a critical component of community management of any individual convicted of a sex offense.**

- 10. Successful treatment and management of individuals convicted of a sex offense are enhanced by the cooperation of family, friends, employers, faith communities, and members of the community who have influence in the offender's life.**

- 11. A continuum of adult sex offender management and treatment options should be available in each community in the state.**

It is in the best interests of public safety that each community has a continuum of sex offender management and treatment options for adults. Many adult sex offenders can be managed in the community on probation or supervised release. A continuum should provide for an increase or decrease in the intensity of treatment and monitoring based on the history of offending, changing risk factors, treatment needs, and compliance with the conditions of supervision. A continuum of responses assures most effective use of resources by providing the highest risk adults with intensive treatment in a residential setting that restricts access to victims or potential victims.

- 12. Individuals supervising sex offenders in the community should have access to all the developing technologies.**

These developing technologies include medically approved medications, DNA, polygraph, drug testing, electronic surveillance, computer monitoring software, and scientifically approved assessment tools used for determining risk level of sexual deviancy and inappropriate sexual arousal.

Juvenile Work Group Principles:

1. Community safety is paramount.

The highest priority of these guiding principles is community safety. Community safety means that juvenile sexual offenders are held accountable for their behavior and, depending on level of risk, may be incarcerated, placed in a residential treatment facility, or supervised on probation in the home. Juvenile sex offenders commit sexual offenses that are harmful to the victim, offender, families, and the broader community. All components of the system (the court, law enforcement, parole, probation, corrections, child welfare, and treatment providers) must be trained and equipped to promote community safety.

2. Effective juvenile sex offender management practices recognize the complex set of personal and environmental factors that contribute to sex-offending behaviors.

These factors might include but are not limited to:

Personal factors: mental disorder, organic disorders, cognitive ability, substance abuse, developmental stage, and social skills; and

Environmental factors: family dynamics, school, and peers.

3. Decisions made during the supervision of juvenile sex offenders should be based on a balanced-approach model.

A balanced-approach model encompasses community safety, accountability to crime victims, and competency development of offenders.

4. Risk/needs assessment of juvenile sex offenders is an ongoing process that drives supervision standards.

Assessments should be an ongoing practice in the treatment and supervision of juvenile sex offenders since progress in treatment and level of risk are not constant over time. Because juvenile behavior is subject to constant change, supervision best practice would suggest the juvenile be reassessed at least every six months and that supervision standards reflect changes in risk/need scores.

5. A continuum of juvenile sex offender management and treatment options should be available in each community in the state.

It is in the best interest of public safety that each community has a continuum of sex offender management and treatment options for juveniles. Many adolescent sex offenders can be managed in the community on probation or parole. A continuum should provide for an in-

crease or decrease in the intensity of treatment and monitoring based on the history of offending, changing risk factors, treatment needs, and compliance with the conditions of supervision. A continuum of responses assures the most effective use of resources by providing the highest-risk juveniles with intensive treatment in a residential setting that restricts access to victims or potential victims.

6. The successful management of juvenile sex offenders requires a collaborative approach.

Information from a collaborative team contributes to a more thorough understanding of the juvenile offender's risk factors and needs, and to the development of a comprehensive approach to treating and managing the juvenile sex offender.

B. Proposed Adult Supervision Standards

1. Contact Standards

The Adult Sex Offender Work Group reviewed contact standards currently in operation throughout Minnesota, Arizona, and Colorado, as well as information received from CSOM. There currently exists a wide range of options in this area, often driven by available resources. CSOM advocates, as best practice, specialized caseloads; differential supervision based on risk assessment; and contacts outside the agent’s office, both planned and unplanned.

Table H2 describes the Adult Work Group’s recommended minimum levels of contact for adult supervision. These standards, given the definition of a “sex offender” earlier in this report, would require an increase in funding for many agencies throughout the state.

The titles low, medium, and high reflect terms commonly used in field supervision to denote minimum contact standards for the offenders so classified. This terminology is not to be confused with risk levels assigned to sex offenders. The desired level of contact is most often set through the use of various actuarial assessment tools. However, in some areas of supervision, such as sex offender and domestic violence, the desired level of contact is often set by agency policy to reflect a higher level of supervision for these offense types. It is worth noting that, in the absence of adequate resources, the level of contact required may be reduced from preferred standards.

Table H2: Adult Face-to-Face Contacts – Recommended Minimum Standards

	High	Medium	Low
Out of Office	1 x month	2 x year	1 x year
Residence	4 x year	2 x year	1 x year
Total Contacts (Face-to-Face)	2 x month	1 x month	1 x year

Table H3 describes the Adult Work Group’s recommendation for best “promising” practices for contact levels between agent and offender. This would require a significant increase in resources dedicated to field supervision in most jurisdictions.

Table H3: Adult Face-to-Face Contacts – Recommended Best Practice Standards

	High	Medium	Low	Maintenance and Monitoring
Out of Office	2 x month	1 x month	4 x year	1 x year
Residence	1 x month	4 x year	2 x year	1 x year
Total Contacts (Face-to-Face)	1 x week	2 x month	1 x month	4 x year

Both the minimum and best practice tables provide for a significant emphasis on out-of-the-office, face-to-face contact between the offender and the supervising agent. A significant increase in out-of-the-office expectations provides for better opportunity for verification of offender activity, both positive and negative, by the supervising agent.

Not all of the out-of-the-office visits would be limited to the offender’s residence as other sites can be equally as important for observing the offender. Given the increasing lengths of community supervision described in Minnesota law, including life-time conditional release, the Adult Work Group identified a need to have an administrative contact standard. This will allow for supervising agencies to appropriately regulate the allocation of personnel resources in this area.

While many agencies are meeting the minimum standards, currently no agencies are meeting all the above best practice standards. It is important to note that additional funding for supervision will be needed by all jurisdictions to meet and maintain the minimum standards and strive for further excellence in the field of supervision.

2. Process Standards

Assessing offenders for an appropriate level of community supervision is complicated. Reaching an overall goal of reducing re-offense and future victimization is difficult when research suggests that the incidence of sexual assault is much higher than the known conviction rate for sexual assault. Current best practice in this area, as promoted by CSOM, advocates assessment for supervision in four categories:

- Risk assessment;
- Criminal justice assessments including PSI, intake/classification, assessments to guide supervision case planning, and/or release planning;
- Clinical assessment including psychosexual, psycho-physiological, and psychiatric; and
- Ongoing, multi-disciplinary assessment.

The two best indicators of future risk to reoffend are prior sex offenses and sexual deviancy. Knowledge of the offender's history in those two areas tends to increase over time and is often dependent on the development of a full sexual history in treatment verified by polygraph and the administration of one or more tools designed to measure deviant sexual attraction or arousal.

As a result, many jurisdictions commence community supervision of a felony-level sex offender at the highest contact standards until more is known about an individual offender's range of prior victims, extent of deviant sexual arousals and paraphilias, and the presence of dynamic risk and protective factors. Movement from high contact levels to medium contact levels frequently depends on successful completion of a structured, sex offender-specific treatment program and indicators of offender internalization of risk management strategies.

In addition to face-to-face contact with the offender, the supervising agent needs to identify and collaborate with a wide range of individuals and agencies in the supervision of a given offender in the community. These include, but are not limited to victim, co-residents of the offender's residence, landlord, employer, significant family members, supervisors of minor visitation (where appropriate), sex offender-specific treatment provider, other treatment providers, sponsors, local law enforcement, and child/adult protection workers.

Not only does establishing and maintaining a web of collaborative relationships with those involved in the offender's life provide additional sources of data regarding the offender's adjustment in the community, they also provide a network of informed individuals aware of the individual offender's offense, criminal history, and conditions of supervision thereby negating much of the secrecy in which sexual assault behaviors may flourish.

3. Documentation Standards

Consistent, clear documentation of activities regarding an individual offender is critical to inform decision-making.⁹ The Adult Work Group recommends the following standards regarding docu-

⁹ The work group also identified the type of materials that need to be retained in a case file to ensure appropriate information is available for assessment and supervision of sex offenders. Included are court reports, probation agreements, etc.

mentation to be maintained by all supervision agencies in the offender's file as well as the agency's automated case management system.¹⁰

Case notes are intended to document all contacts relative to an individual case, including phone calls, messages, accidental encounters, missed meetings, and the content of meetings. These notes are meant to be brief, descriptive summaries of an agent's contact with offenders under supervision or collateral contacts related to that supervision.

There is no determination or limits on the length of a case note. However, entries such as "all the same" or "nothing new" provide no useful information and are discouraged (exceptions would be made when an agent has just seen the offender within the last 24 hours). The following types of entries would be more useful and are encouraged:

- Walked through the entire residence – no new furnishings/computers noted;
- No indication of change in current number of additional residents (none);
- Made all treatment meetings since last contact;
- B/A negative; and
- No neighbors outside at time of visit.

The use of standard abbreviations, such as BA, UA, POR, etc., is encouraged. If nonstandard abbreviations are used, the initial reference should be made in full, followed by the abbreviation.

The Adult Work Group recommends that case notes in probation operational systems contain the following information:

- a) Type of contact (face-to-face, phone, mail, etc.) and date and time of the contact;
- b) Location of contact (offender's residence, employment, agent's office, etc.);
- c) Description of offender's residence (number of rooms, number and identity of other occupants, location, neighborhood activity, etc.);
- d) Description of offender's employment, employer's name/contact information;
- e) Same for school;
- f) Treatment provider, therapist, contact information;
- g) Collateral contacts – name, contact information, description; and
- h) Content of interactions – issues discussed, directives given, progress on case plan, observations of offender and surroundings (out of office). Note time of day.

The Adult Work Group recommends the offender's file contain, at a minimum, the following information in addition to the above recommendations for automated case notes:

- a) Complete and current pre-sentence investigation (PSI);
- b) Probation agreement/supervised release agreement;
- c) Complete and most recent sex offender assessments;

¹⁰ The most commonly used probation management system is the Court Services Tracking System (CSTS). Recommendations were made regarding ongoing case notes that should be kept in CSTS; however, this recommendation could also be fulfilled in other case management systems.

- d) Sex offender treatment records including: intake, progress, sexual offending history, polygraph, attraction test, termination, aftercare, relapse prevention/maintenance plan, and documentation of family/couples/supervision training sessions;
- e) Chemical dependency (CD) assessment and treatment records;
- f) Restructure reports;
- g) Memos to court;
- h) Violation reports and orders;
- i) Court records – referrals, TCIS/MNCIS printout, transcripts;
- j) Complaint and associated investigative reports;
- k) Victim impact/letters;
- l) Victim contact information;
- m) Restitution information;
- n) PSIs on prior convictions for sex offenses and associated treatment records and assessments;
- o) All End-of-Confinement Review Committee (ECRC) reports;
- p) Copies of Bureau of Criminal Apprehension (BCA)-Predatory Offender Registry (POR) initial and change forms;
- q) Executed release of information forms – preferably two-way for sex offender-specific treatment, other treatment providers, sponsors, relevant family members, co-residents, etc.;
- r) Institution discipline records; and
- s) Institution visiting records.

The Adult Work Group recommends that critical decisions regarding all changes to supervision conditions be based on written, not verbal, reports. This is due to the critical need to understand any changes in sex offender conditions. In addition, all changes to supervision conditions should be reflected in appropriate written documents in the file as well as in the automated case notes. It is also critical that all documents of sex offender conditions from closed adult and juvenile probation files be preserved and accessible to supervising agencies of the future. The following materials should be retained unless they are already available in an adult document retrieval system in the agency:

- b) Complete and current PSI;
- c) Probation agreement/supervised release agreement;
- d) Complete sex offender (SO) assessments (all);
- e) SO treatment records (all);
- f) CD assessment and treatment records (all);
- g) Restructure reports;
- h) Memos to court;
- i) Violation reports and orders;
- j) Discharge reports and orders (DOC letter on supervised/release)(if applicable);
- k) Court records—referrals, TCIS/MNCIS printout, transcripts;
- l) Complaint and associated investigative report;
- m) Victim impact/letters;
- n) Victim contact information;
- o) Restitution information;
- p) ECRC reports;
- q) BCA-POR initial and change forms;

- r) Request for agent assignment materials;
- s) Institution adjustment reports;
- t) PSIs on prior convictions/juvenile adjudications for sex offense and associated treatment records and assessments; and
- t) Chronos that are not maintained in an ongoing computer system.

4. Special Conditions of Supervision Standards

Within the criminal justice system, “standard” conditions of supervision are applied to most general offenders in order to establish structure and reduce the likelihood of engaging in problematic behaviors. However, CSOM has noted that in the best practices with the sex offender population, these standard conditions are often not sufficient due to the nature and complex dynamics of sex offending and the different types of risk factors that may relate to sexual recidivism. As a result, CSOM emphasizes that specialized conditions for sex offenders are vital.

Standard sets of specialized conditions relating to sex offender supervision from Arizona, Colorado, Texas, CSOM, and various jurisdictions in Minnesota were reviewed by the Adult Work Group. As a result, the Adult Work Group is making the following initial set of standards for required special conditions. In addition, the group has provided optional conditions.

The intent of the work group having both required and optional conditions is to reflect containment of the offender based on best current knowledge in the field, provide for rehabilitative services, and permit relaxation of certain limitations using a standard set of criteria. These criteria include: a comprehensive risk assessment; current risk level; offender’s criminal history; offender’s level of cooperation with the supervising agent; offender’s progress in sex offender-specific treatment; and recommendations from the treatment provider.

The Adult Work Group recommends the following mandatory and optional special conditions for supervision of sex offenders:¹¹

Sex Offender Standards Supervision Conditions (Mandatory)

- a) *Must enter, actively participate in and successfully complete a structured sex offender-specific treatment program and aftercare as directed by the supervising agent.¹² This in-*

¹¹ The DOC, as well as many other Minnesota jurisdictions, has established and implemented a set of standard and special sex offender conditions. The intent of the work group’s recommendation is that all supervising jurisdictions impose conditions that are referenced in this report that reflect the substance, if not the recommended language, in each of the recommended conditions. While the work group acknowledges, especially in the area of supervised release under the authority of the DOC, existing condition language is appropriate, the work group emphasizes that the topic areas are critical to each released offender to establish initial and appropriate containment and rehabilitation.

¹² The Adult Supervision Work Group recommended that if an offender is convicted of a felony-level sex offense, the offender should go to treatment; if convicted of a non-felony, the offender must at least go to some treatment or form of sex offender programming. Regular participation in structured sex offender-specific treatment is seen as critical in community supervision of an offender because it provides yet another trained professional observing the offender and his/her behavior and attitude in the community. The Adult Work Group agreed that the key issue is the quality of the communication between supervising agents and treatment providers.

In order to achieve some consistency of expectations, the Adult Work Group recommended the following components to community-based, structured, sex offender-specific treatment:

cludes complying with all required plethysmograph, ABEL screen, and/or polygraph testing during the course of treatment and aftercare.

- b) *No contact with the victim(s) except as specifically approved by supervising agent.* This means no contact by any means including in person; mail; telephone; email; internet; text messaging; or communication through third parties. It also means that an offender may not enter onto premises, travel past, or loiter near a victim's residence, place of employment, or other places frequented by the victim. The offender must immediately report any contact with the victim or the victim's family members to his/her supervising agent.
- c) *No contact with minors except as specifically approved by the supervising agent.* This means that the offender shall have no contact with any minors under the age of 18 years old, including his/her own children. No contact means no contact by any means including in person, mail, telephone, email, internet, chat rooms, text messaging, or communication through third parties.
- d) *No contact with vulnerable adults except as approved by the offender's supervising agent.* This means the offender shall have no contact with anyone who is considered a vulnerable adult by any means including in person, mail, telephone, email, internet, chat rooms, text messaging, or communication through third parties.
- e) *May not possess any sexually explicit, sexually oriented, or sexually stimulating materials, including visual, auditory, telephonic, electronic media, computer programs or services, may not patronize any place where such material or entertainment is available, and may not utilize any sex-related telephone numbers except as specifically approved by the supervising agent.* Both the offender's supervising agent and treatment provider, if

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- 1) Clear plans for aftercare/maintenance groups run by therapists. The ASOSS group strongly recommends that aftercare be extended to an indefinite period of time to provide for easier access to treatment for those offenders who experience changes in life circumstances and/or difficulties in regulating their behavior;
 - 2) Solid communication with written documentation prepared and signed by the treatment provider and provided to the supervising agent in a timely fashion:
 - a. Intake reports, detailed case plans, quarterly progress reports, polygraph reports (full disclosure and maintenance), and attraction testing reports;
 - b. Termination report with re-offense prevention plan;
 - c. Recommendations for contact with minors and/or vulnerable adults;
 - d. Report on discovery of past victims and descriptions of those victims by age, gender, relationship to the offender, and use of force or coercion;
 - e. Clear criteria for termination from treatment based on lack of progress;
 - f. Clear criteria regarding how new discoveries from polygraph and attraction testing are integrated into the treatment plan;
 - g. Timely incident reports; and
 - h. Signed waivers of confidentiality and agreements to report new discoveries on victim types, new risk behaviors, etc.;
 - 3) Treatment should have modules to address life changes not previously addressed in treatment (new families with children; new partners; etc.); and
 - 4) Provider should have a continuum of treatment services to transition offenders from institution to community-based treatment.

appropriate, may grant permission for the use of sexually oriented material for treatment purposes only.

- f) *May not access or loiter in areas frequented by minors except as specifically approved by the supervising agent, including but not limited to schools and day care establishments including those at private homes, parks, playgrounds, swimming pools/water parks/public beaches, schoolyards, amusement parks/arcades, and toy stores. This means the offender may not attend any public sporting events or public performances in which the athletes who are performing are minors or where the performances themselves are directed primarily at minors (Disney-type movies, cartoon festivals, puppet shows, etc.).*
- g) *Must obtain advance approval of supervising agent for any change in living situation. This includes registering any overnight stays away from the offender's primary residence with his/her agent and immediately notifying the offender's agent of any change in who is staying with him/her regardless of whether the change is permanent or temporary.*
- h) *Must obtain the supervising agent's consent prior to starting or maintaining employment and follow the supervising agent's directions regarding disclosures to the employer.*
- i) *Must notify the supervising agent of all volunteer activities, social memberships, and religious memberships. May not hold any position of authority, paid or volunteer, over minors or vulnerable adults.*
- j) *If ownership or use of computer technology is permitted by the supervising agent, the offender understands that any computer, software, hard drives, or storage disks in the offender's possession may be subject to random inspection and search by the supervising agent. The offender also agrees to install any computer technology monitoring software as directed by the supervising agent.*
- k) *Must sign a release of information to permit all professionals involved in the offender's case to communicate with each other and share documentation with each other.*
- l) *May not enter into a personal relationship with anyone who has children under the age of 18 without the prior knowledge and approval of the supervising agent.*
- m) *Must submit to and cooperate with polygraph testing as directed by the offender's supervising agent.*
- n) *Must submit at any time to an unannounced visit and/or search of the offender's person, vehicle, or premises by the supervising agent and the agent's designee.*

Sex Offender Standards Supervision Conditions (Optional)

- a) May not own or operate a computer that has any form of modem that allows for internet capabilities or access the internet through any technology or third party, chat lines, chat rooms, or call “900” numbers or other sex lines without documented approval of the agent.
- b) Must not obtain a prescription for or use drugs designed to improve sexual function without prior notice to the supervising agent and provision of the prescribing provider’s name and contact information.
- c) May not possess children’s clothing, toys, games, or child-oriented materials without prior approval from the supervising agent.
- d) Must comply with any electronic monitoring, curfews, and/or surveillance requirements as required by the supervising agent.

In the above list of conditions, the phrase “except as specifically approved by supervising agent” is expressly intended to mean that an agent will not unilaterally grant exceptions or changes to the conditions, but instead will solicit the input of the treatment provider, polygraph examiner, child protection agent, and any other relevant professionals. After a decision is made to recommend approval, the court or releasing authority will be consulted about and informed of any modification. Significant changes in these conditions should always be supported by specific written documents from the parties consulted.

In addition to the above conditions, the Adult Work Group developed a set of recommended changes to the phase system for all sex offenders who are supervised under Intensive Supervised Release (ISR).

ISR is a special state program that provides for agent-to-offender ratios of one agent to 15 offenders. Currently, ISR agents provide services to both sex offenders and non-sex offenders.

The Adult Work Group recommends that specialized training on supervision of sex offenders be provided to ISR agents. This training is particularly important given the specialized nature of supervising sex offenders, particularly higher-risk offenders initially released to ISR.

Further, all agents who supervise sex offenders should receive some level of training on working with sex offenders. Agents who have a primary caseload of sex offenders should receive advanced training (more advanced training needs to be made available as well). However, the work group recognizes that specialization, particularly in terms of ISR, would be impractical in many areas of the state.

The Adult Work Group also recommends that the offender-to-agent ratio for ISR be reduced to no more than 12-to-1. The nature and extra requirements involved in supervising those convicted of sex offenses result in extra obligations for this supervision including but not limited to community notification hearings, registration, thorough PSI reports, polygraphs, treatment attendance, collateral contacts, locating housing, and use of GPS.

The Adult Work Group recommends the following changes in the structure and conditions of ISR:

- a) Eliminate Phase Four of ISR;
- b) Change the minimum length of stay on ISR requirements as follows:
 - 1) Level one offenders: Minimum of 12 months on ISR and must be successfully participating in sex offender-specific treatment in order to move to regular supervised release;
 - 2) Level two offenders: Minimum length of stay on ISR is 18 months and must be successfully participating in sex offender-specific treatment to move to regular supervised release; and
 - 3) Level three offenders: Minimum length of stay is 24 months and must successfully complete sex offender-specific treatment.
- c) Curfew should be a specific 7.5 hour period as set by the agent rather than any designated times set in policy;
- d) GPS monitoring should be used selectively and sparingly as needed by the agent to adequately monitor an offender's whereabouts; and
- e) Maintain offenders on house arrest as follows:
 - 1) Level one offenders: minimum of 8 months;
 - 2) Level two offenders: minimum of 1 year; and
 - 3) Level three offenders: minimum of 18 months and completion of a community-based sex offender treatment program.

C. Proposed Juvenile Supervision Standards

1. Juvenile Contact Standards: Face-to-Face

The Juvenile Work Group provides both minimum and best practice standards for face-to-face contacts, which are outlined in Tables H4 and H5 below. The Juvenile Work Group believes that it is in Minnesota’s best interest to increase contacts made by agents supervising juveniles as it will increase public safety and provide greater management of juvenile sex offenders.

The titles low, medium, high, and very high reflect terms commonly used in field supervision to denote minimum contact standards for the offenders so classified. The desired level of contact is most commonly set through the use of various assessment tools. In areas such as juvenile sex offender supervision, the desired level of contact is often set by agency policy variant to a juvenile offender’s risk/needs.

Table H4: Juvenile Face-to-Face Contacts: Recommended Minimum Standards

Contact Type	Very High	High	Moderate	Low
Juvenile	1 time per week face-to-face (1 field visit* per month)	2 times per month face-to-face (1 field visit every other month)	1 time per month face-to-face (1 field visit every 90 days)	1 time every 60 days face-to-face (field visit per case plan)
Treatment Provider	Per case plan	1 time per month	1 time per month	Once every other month
Family	1 time per month	1 time per month	1 time per month	Once every other month

* Field visit may include home visit, school visit, employment, etc.

Table H5: Juvenile Face-to-Face Contacts: Recommended Best Practice Standards

Contact Type	Very High	High	Moderate	Low
Juveniles	1 time per week face-to-face (3 field* visits per month)	2 times per month face-to-face (1 field visit per month)	1 time per month face-to-face (1 field visit every other month)	1 time every 60 days face-to-face (quarterly field visit)
Treatment Provider	4 times per month	4 times per month	2 times per month	1 time per month
Family	1 time per week	2 times per month	1 time per month	Every other month

* Field visit may include home visit, school visit, employment, etc.

2. Juvenile Contact Standards: Juveniles in Residential Placements

In addition to increasing the number of face-to-face contacts in the community, the Juvenile Work Group also provides increases in the number of contacts made at the juvenile’s residential placement standards. Tables H6 and H7 describe both minimum and best practice standards for juvenile residential placements:

Table H6: Juveniles in Residential Placements - Minimum Standards

Contact Type	Number
Juvenile	Per case plan (no less than 1 face-to-face per quarter)
Home Contact	1 home contact within 60 days of being placed; 1 home contact within 60 days of being released
Placement Facility/Treatment Provider	Monthly contact, with a minimum of once quarterly on-site
Family	Per case plan

Note: The above does not apply to juveniles in out-of-state placements, which are made at the discretion of the agent and supervisor.

Table H7: Juveniles in Residential Placements - Best Practice Standards

Contact Type	Number
Face-to-Face	1 time per month
Home Contact	Initial home contact within 60 days and a home contact every 60 days after that
Placement Facility/Treatment Provider	Monthly on-site contact *
Family	Per case plan

* Agent attends a multidisciplinary team meeting.

The Juvenile Work Group acknowledged that juveniles need a different level of supervision than adults due to increased issues often unique to juveniles, such as school information, family therapy, guardian issues, foster care issues, and length of time on supervision.

These standards are vital to a young offender's success given the ever-changing dynamics of juveniles. As an example, a juvenile sex offender may often move back home where the victim resides. A juvenile is also more likely to be placed in an environment (e.g., school) where he or she has a large victim pool. Thus it is essential that agents have the ability to maintain appropriate levels of contact in the field to deal with the changing risk factors that a juvenile might face.

3. Process Standards

While the primary purpose of supervision is to ensure public safety statewide, the goals are also to rehabilitate the juvenile, reintegrate the juvenile back into society, and reduce recidivism. Supervision is provided to ensure that the juvenile complies with the court order and release conditions.

There are a variety of ways of supervising a juvenile who has committed an act of criminal sexual conduct; however, it is most effective when an agent can utilize all the tools that go into evaluating and assessing the juvenile's level of risk and need of supervision. Supervision agents best benefit from proper assessment tools that evaluate what level of supervision is needed and are then able to determine what conditions that juvenile must follow in order to comply with his/her court order.

Case plans should be utilized to address specific criminogenic needs, and the plan needs to identify specific goals, timelines and the person(s) responsible for ensuring that these goals are completed.

Supervision of juveniles requires a multidisciplinary approach which includes agent, treatment providers, family, school personnel, human services, and any other identified individuals deemed appropriate in the management of the offender. The role of the team includes developing the case plan, assigning responsibilities, assisting with supervision, timely communication of the juvenile's progress, and identifying the potential risks that may interfere with the juvenile's success in the community.

Supervision is highly improved when agents work in a collaborative effort with the juvenile's treatment provider to increase levels of communication. The importance of such increased communication is so that progress can be monitored more closely and increased risks can be addressed by the courts.

Furthermore, the use of a polygraph is an integral part of the supervision and treatment process as it can provide verification of a juvenile offender's compliance with treatment expectations and progress toward his/her supervision goals.

4. Documentation Standards

The most updated and definitive documentation of all aspects of a juvenile's supervision and treatment is needed by the supervising agent to appropriately address the needs of the juvenile while protecting society. As such, it is crucial that the most important components of the juvenile's official record are documented in a timely and efficient manner so that access to these records can be made by other professionals who may be responsible for some segment of the juvenile's supervision. Chronological reports must reflect progress in treatment and goals, risk factors, victim pool issues, and multidisciplinary team involvement (including the level of structure and supervision in the home).

The Juvenile Work Group recommends that case files, including chronological reports and treatment progress, be documented in a timely manner.

The Juvenile Work Group also recommends that an annual caseload review occur. This would include an audit of chronological reports to ensure that supervision standards are being met.

5. Special Conditions of Supervision

The Juvenile Work Group recognizes the need to incorporate special conditions into the juvenile's release plan that address public safety, competency development, accountability, and reparation/restoration. Specific conditions within these categories are outlined in the following four categories: Public Safety, Competency/ Development, Accountability, and Repair and Restoration.

The Juvenile Work Group recommends the following special conditions of supervision for juvenile sex offenders:

Public Safety:

- No unsupervised contact with minors, victim pool, vulnerable persons, or individuals over 24 months younger;
- No contact with the victim (without prior approval of the agent, as some juveniles might return to the residence in which the victim resides);
- Limited use of internet/computers;
- No possession of sexually-implicit/explicit materials;
- Restricted from going to adult entertainment, swimming pools, water parks, playgrounds, schools, etc., without prior approval from agent;
- Juvenile must get prior approval before taking employment;
- Juvenile must notify his/her agent of all volunteer activities and/or social and religious memberships. Also, the offender cannot hold any position of authority, paid or volunteer, over minors and vulnerable persons; and
- Juvenile and/or family must report changes of living conditions to the agent (i.e., offender moves out or back in, victim moves out or back in, etc.).

Competency/Development:

- Enter and successfully complete sex offender treatment/aftercare (follow all recommendations of supervision and treatment);
- Parent/guardian should attend a supervision class if recommended by agent or therapist;
- Juvenile and family should participate in family therapy as recommended;
- Comply with all treatment recommendations for victim meeting and amends sessions; and
- Comply with all treatment/assessment programming that addresses specific risk need areas (i.e., chemical dependency, grief and loss, anger management, mental health, etc.).

Accountability:

- Offender and offender's property should be subject to search;
- Offender should submit to a polygraph;
- Offender and guardian should sign appropriate release forms;
- Offender's computer/electronic devices are subject to search;
- Juvenile must obtain advanced approval prior to any changes in living condition (including registering overnight stays or a temporary relocation); and
- Comply with all EHM/GPS/curfews and/or surveillance requirements as deemed appropriate by supervising agent.

Reparation/Restoration:

- Victim/offender meeting when appropriate; and
- Participate in any reparation/restoration process that may make amends to the victim(s) (i.e., apology letters, restitution, etc.) when appropriate.

SECTION 3: TREATMENT GUIDELINES

The Treatment and Assessment Work Group met monthly to review, address, and propose statewide treatment guidelines. The following sections provide a history of sex offender treatment standards, outline treatment certifications in other states, and the proposed statewide guidelines.

A. History of Sex Offender Treatment Standards

Minnesota Rule Chapters 2955 and 2965 establish standards for Minnesota residential sex offender treatment programs (adult and juvenile). They were implemented in April 1999 after a lengthy developmental and promulgation process described below. Outpatient programs, otherwise known as community-based programs, are not subject to Chapters 2955 and 2965.

Chapters 2955 and 2965 originated in a concerted effort by the Minnesota Legislature to control, manage, and provide appropriate treatment for persons perpetrating sexual crimes. Subdivision 2 of Minnesota Statutes 1989, section 241.67, authorized the adoption of rules for program standards to certify adult and juvenile sex offender treatment programs in state and local correctional facilities by July 1, 1991. The need for the proposed rule was based on the Legislature's concern that sex offender treatment in Minnesota was characterized by providers from a variety of professional disciplines who had differing degrees of training in sex offender treatment and who utilized a variety of methods and techniques in the delivery of treatment services. The Legislature authorized the proposed rule to ensure that the residential treatment of adult sex offenders in Minnesota would meet well defined, consistent standards to promote the most effective treatment of this highly visible and potentially dangerous population and that programs would be monitored for compliance with those standards.

1991: In January 1991, the commissioner established an Advisory Task Force on Sex Offender Treatment Program Standards. The membership of this task force included sex offender treatment professionals from all areas of the state treating juvenile and adult clients in outpatient, community-based residential, and corrections institutional programs. Also included on the task force was representation from services to victims of sexual assault. The goal was to develop this rule and promulgate it by the July 1, 1991, date set by statute. The task force met five times between February and June 1991. However, the development of standards for sex offender treatment proved to be complex, and the advisory task force found many issues that had wide variation in opinion and required in-depth consideration. There was little basis to resolve the variation in opinion because the scientific research literature on sex offender treatment was not well developed and was characterized by some disagreement about treatment strategies and effectiveness. Moreover, there were no national standards to use for guidance. It was apparent that the process required more time. In addition, the Legislature was planning to add a new set of programs to the statutory requirement.

1992: This legislative change was reflected in the modification made in 1992 to Minnesota Statutes, section 241.67, subdivision 2. Paragraph (b) was added to include the requirement to set program standards for the certification of community-based adult and juvenile sex offender treatment programs not operated in state or local correctional facilities by July 1, 1994. The deadline of July 1, 1991, to adopt rules for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities was removed, and no final date was set for the adoption of these rules.

The commissioner was now required to adopt rules to certify four types of sex offender treatment programs: adult and juvenile sex offender treatment programs in state and local correctional facilities; and community-based adult and juvenile sex offender treatment programs not operated in state and local correctional facilities. New public advisory committees were established to assist the commissioner in developing these rules. The composition of these public advisory committees was similar to the original advisory task force. Each committee met seven times between September 1992 and April 1993. Each committee was characterized by substantial disagreements about the components and length of an effective sex offender treatment program, especially among the directors of programs to be regulated by the rules. Moreover, as the rulemaking continued, it became apparent the development of four sets of rules outstripped available resources.

1993: Minnesota Statutes, section 241.67, subdivision 2, was revised. The requirement to certify adult and juvenile community-based sex offender treatment programs not operated in state and local correctional facilities was repealed. The statutory requirement for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities remained. To this was added the requirement to certify state-operated adult and juvenile sex offender treatment programs not operated in state or local correctional facilities.

In the fall of 1993, a core group of all providers of juvenile sex offender treatment to be regulated under the rule was established. The purpose of the core group was to conduct an in-depth examination of the issues involved in developing treatment standards. When the core group completed this examination, new public advisory committees would be established to complete the rule development. The core group met twice in 1993 and through 1994 and 1995.

1994-

1995: The Legislative Auditor conducted an extensive statewide review of the number and types of sex offenses committed, legal processing of sex offenders, sex offender treatment, and the commissioner's compliance with statutory requirements. The auditor's report, released in February 1994, noted the slow progress in the development of the rulemaking. The report cited the complexity of the sex offender delivery system, the lack of adequate staff, and the lack of detailed national standards to use as a guide as factors that impeded progress on the rulemaking (Office of the Legislative Auditor, 1994). The core group of juvenile sex offender treatment providers to be regulated under the rule met nine times in 1994 and four times in 1995. A working draft of the rule was completed.

In early 1995, the commissioner purchased the services of a consultant from the DHS with expertise in writing complex rules. The department staff assigned to the rule

worked with the consultant to examine the issues, research the scientific and clinical literature, obtain information and opinion from other professionals in the sex offender treatment field, and refine the working draft of the rule. During this time, the staff learned that several states and other agencies were also developing standards for sex offender treatment. The staff established contact with the persons responsible for developing those standards. Much information was shared, and there were many discussions of significant issues regarding standard setting that were very valuable in focusing the rule-making process. The staff and DHS consultant met 40 times between July 1995 and July 1996. It was decided to develop two separate rules, one for residential adult sex offender programs and one for residential juvenile sex offender treatment programs.

1996: In July 1996, a revised draft of the rule was available for both adult and juvenile sex offender treatment programs. A Request for Comments for each of the proposed rules was published in the State Register July 15, 1996. No responses were received to this solicitation. A public advisory committee was created for both the adult and juvenile versions of the rules. The membership of each committee included representatives from the DOC, DHS, Department of Health, county social services, legal advocates, several ombudsman offices, and treatment providers. The department requested representation from sexual crime victim services and advocates and received assistance in this endeavor from the department's Victim Services Unit. Despite this effort, no persons advocating for victims or representing victim services were forthcoming to serve on either advisory committee. Meetings with each committee started in September 1996.

1997-

1998: Each advisory committee examined the relevant rule draft in detail, and numerous suggested changes and modifications were made over the course of the process. Following the final promulgation steps, chapters 2955 and 2965 were implemented in June 1999.

As mentioned the non-residential programs are not subject to these standards. However, chapters 2955 and 2965 served as the foundation for establishing the guidelines that are recommended in this report. The efforts of this subcommittee are intended as first steps toward establishing those standards.

B. Treatment Certification Standards in Other States

A survey of treatment providers in other states was conducted by the Risk Assessment / Community Notification Unit at the DOC. The responses from other states show that well over half have implemented some type of standards or guidelines for sex offender treatment or are currently engaged in a process of developing statewide standards. Approximately 18 states reported no treatment standards in effect with no known effort or plan to establish standards at this time.

Colorado is well known for the implementation of a Sex Offender Management Board. This board was originally created by the Colorado Assembly in 1992 and was called the Sex Offender Treatment Board. In 1998 it was renamed the Sex Offender Management Board (SOMB). This board of 19 members and a chairperson creates standards and guidelines for assessment, treatment, and supervision of adult and juvenile sex offenders in Colorado. The office of the SOMB is staffed by a director and 3.5 staff with an annual budget of approximately \$550,000. The half-time staff position is funded by a time-limited federal grant for research. The SOMB office processes applications from individual providers to be placed on the approved provider list. The courts and corrections are required by statute to refer to only those providers on the approved list. The SOMB does not perform program audits, inspections, or quality control functions. It does perform the function of investigating and addressing complaints against providers through a committee process. The SOMB office also provides support to the board and manages the process of publishing and updating the standards for treatment and supervision.

Additional states that have created a similar board include California (2006) and Illinois. Kentucky has a board that certifies all assessment and treatment providers. A few states are working toward some type of management board including Hawaii, New Mexico, and South Dakota. Iowa has a Board for Treatment of Sex Offenders. Florida recently created the Specialized Licensing Board to ensure qualified practitioners in sex offender treatment.

Approximately 12 states have established state standards and a state agency as responsible for some level of regulation in regard to provider compliance with the standards. A few states utilize the standards published by the Association for the Treatment of Sexual Abusers (ATSA). Some states require adherence to ATSA standards to qualify for state funding, whereas other states require adherence to ATSA standards to qualify to be placed on a list of approved programs. Approximately 12 states have established state standards and established a state agency as responsible for some level of monitoring in regard to provider compliance with the standards.

C. Minnesota Guidelines for Adult Sex Offender Psychosexual Evaluations

The Treatment/Assessment Work Group reviewed Minnesota Rules 2955 and 2965 that govern residential sex offender treatment and developed recommendations applicable to the non-residential setting.

Based on the existing rules in residential settings, the following is recommended for adult outpatient psychosexual evaluations:

0010 STATUTORY AUTHORITY

Subp. 1. Legislative Directive. The Minnesota Legislature in Chapter 136 of the 2005 Laws of Minnesota, Article 3, Section 28, directed the commissioner of corrections to form a work group to address several issues related to the most effective practices in the management of sex offenders. The legislation included a directive to provide statewide standards regarding sex offender assessment and community-based sex offender treatment programs. The work group created four documents to provide standards for juvenile assessment, adult assessment, juvenile community-based outpatient treatment, and adult community-based outpatient treatment.

Subp. 2. Rationale Minnesota Statute 609.3457 requires when a person is convicted of a sex offense the court shall order an independent professional assessment of the offender's need for sex offender treatment prior to sentencing. The court may waive the assessment in certain cases. Psychosexual evaluations are completed to assist the court with sentencing dispositional planning. They may ultimately assist mental health professionals in development of appropriate treatment intervention.

0020 EVALUATION ELEMENTS

Subp. 1. Evaluations conducted by qualified professionals. Individuals who conduct presentence sex offender psychosexual evaluations must be licensed in their discipline and trained and experienced in the administration and interpretation of sex offender evaluations. Evaluators must at all times practice within the ethical standards of their respective profession or regulatory board.

Subp. 2. Cultural Sensitivity. Evaluations must take into consideration cultural context, ethnicity, race, social class, and geographic location in making conclusions about a subject and the subject's sexual behavior.

Subp. 3. Sources of Evaluation Data. Evaluations must be based upon as wide a range of sources of information as possible in order to ensure that the resulting analysis, conclusions, and recommendations are as reliable and valid as possible. Evaluators should weigh the credibility of sources of information and make note of conflicts between sources.

Sources of data **shall** include (unless circumstances of the case prohibit):

- A. Collateral documents, such as police reports, victim statements, child protection records, prior pre-sentence sex offender evaluations, pre-sentence investigations, juvenile and adult criminal records;

- B. At least one validated risk assessment instrument that was normed on a population of individuals with characteristics sufficiently similar to the subject being evaluated;
- C. Appropriate and valid psychological tests and assessment instruments;
- D. Relevant medical documents and mental health history;
- E. Structured interview(s) with and observations of the subject; and
- F. Previous and concurrent reports of evaluations of the subject, including chemical dependency, psychological, educational, and vocational.

Sources of data **may** include (as appropriate to the evaluation questions and relevant to the individual case):

- A. Psychophysiological measures of deception;
- B. Psychophysiological measures of sexual response or sexual interest; and
- C. Interviews, phone conversations, or other communication with individuals such as the subject's family members, friends, victims, witnesses, probation officers, and police.

Subp. 4. Data to be included in the evaluation. The analysis and conclusions of the evaluation (unless circumstances of the case prohibit) shall be based on but are not limited to the following information: (Specific cases may make it necessary to gather information not explicitly detailed in items A through K.)

- A. The subject's history (including current offense/allegation) of perpetration of sexually abusive and criminal sexual behavior, including:
 - (1) The number and types of known and reported sexually abusive and criminal sexual behaviors committed by the subject;
 - (2) The type of sexual aggression used and any use of weapons;
 - (3) The number, age, sex, relationship to subject, and other relevant characteristics of the victim;
 - (4) The type of injury to the victim and the impact of the sexually abusive or criminal sexual behavior on the victim;
 - (5) The manner of victim selection;
 - (6) Chemical use prior to, during, and after any sexually abusive and criminal sexual behaviors;
 - (7) Evidence of impulsivity and compulsivity, including any attempts by the subject to control or eliminate offensive behaviors, including previous treatment;
 - (8) Subject's attitudes, thoughts, and beliefs about the subject's criminal sexual behavior;
 - (9) The reported degree of sexual arousal or response prior to, during, and after any sexually abusive and criminal sexual behaviors;
 - (10) Reliable and valid evidence of sexual arousal or response patterns, including any paraphilic or sexually abusive fantasies, desires, and behaviors;
 - (11) Statements of denial and minimization, and statements of concern for and understanding of impact on the victim expressed by the subject;
 - (12) Discrepancies between the subject's and the official or victim's description of the offense, and offender's explanation for any discrepancies, and
 - (13) Statements of empathy, remorse, and guilt regarding the offense.

- B. The subject's developmental sexual history that includes evidence concerning:
- (1) Family of origin or other caretaker attitudes about sexuality and the sexual atmosphere;
 - (2) Childhood and adolescent learning about sexuality, patterns of sexual interest, and sexual play;
 - (3) History of sexual victimization;
 - (4) Sexual history time line;
 - (5) Courtship behaviors and relationships, including marriage(s);
 - (6) Experience of puberty;
 - (7) Exposure to and use of sexually-explicit materials;
 - (8) Nature and use of sexual fantasies;
 - (9) Masturbation pattern and history;
 - (10) Expressed sense of gender identity and sex role behavior and attitude;
 - (11) Expressed sexual orientation; and
 - (12) Sexual attitudes and knowledge.
- C. The subject's history of any other aggressive or criminal behavior;
- D. The subject's personal history which includes such areas as:
- (1) Current living circumstances and relationships;
 - (2) Prior out-of-home placements and living arrangements;
 - (3) Medical history;
 - (4) Educational history;
 - (5) Chemical abuse history;
 - (6) Employment and vocational history; and
 - (7) Military history.
- E. A family history including:
- (1) Reported family composition and structure;
 - (2) Parental separation and loss;
 - (3) Family functioning;
 - (4) Criminal history;
 - (5) Chemical abuse history;
 - (6) Mental health history;
 - (7) Sexual, physical, and/or emotional maltreatment;
 - (8) Family response to the sexual criminality; and
 - (9) Other significant developmental experiences (e.g., spiritual practices).
- F. Results from risk assessment instruments;
- G. The views and perceptions of significant others, including their ability or willingness to support any treatment efforts;
- H. History of mental health which includes such information as:
- (1) Diagnoses and diagnostic impression from qualified mental health providers;
 - (2) Estimate of intellectual functioning;
 - (3) Evidence of coping abilities, adaptive styles, and physical/mental vulnerabilities;

- (4) Evidence of impulse control and ritualistic or obsessive behaviors;
- (5) Evidence of personality attributes and disorders and affective disorders;
- (6) Evidence of cognitive or learning disability and/or attention deficit disorder;
- (7) Evidence of posttraumatic stress behaviors, including any dissociative process that may be operative; and
- (8) Evidence of organicity and neuropsychological factors.

I. Mental status;

J. Data and conclusions from any previous and concurrent sex offender evaluations that pertain to the identification of factors that may inhibit as well as contribute to the commission of offense behavior and that may constitute significant aspects of the subject's offense cycle; and

K. Access to and self-reported or known use of internet for sexual purposes.

Subp. 5. Administration and interpretation of assessment instruments.

A. Psychological testing and assessments of adaptive behavior.

When possible, psychological tests and assessment instruments administered as a component of the evaluation should be standardized and normed for a population representative of the individual being assessed. The results obtained through the use of such tests must be interpreted by a qualified professional who is trained and experienced in the interpretation of these tests/instruments. The results may not be used as the only or the major source of risk assessment. Limitations in the inferences that can be drawn from instruments should be discussed in the report.

B. Actuarial instruments or risk assessment guides to assess recidivism potential.

Any actuarial instrument or risk guide should be used only if appropriate for age and gender. Any instrument should only be used by professionals trained and knowledgeable in the administration of the instrument. Limitations in the inferences that can be drawn from instruments should be discussed in the report.

Subp. 6. Analysis of the Case. Based on the information gathered, the evaluator shall develop a case formulation of the subject. The case formulation will include:

- A. A diagnosis and description of personality;
- B. Sexual interest and arousal patterns;
- C. An assessment of sexual deviancy;
- D. The dynamics and the process of victim selection;
- E. Patterns of sexual activity when offending;
- F. The role of mental illness, personality, and substance abuse in the commission of sexual offenses;
- G. Capacity for intimacy;

- H. Use of cognitive distortions, thinking errors, criminal thinking justifying, rationalizing, and supporting the sexually abusive and criminal sexual behaviors;
- I. Degree of minimization or denial; degree of empathy;
- J. Risk for sexual offending and/or violence;
- K. An assessment of the factors that both protect the subject from and place the subject at risk for reoffense; and
- L. Other factors that exist in the subject's functioning contributing to his/her sexual pattern.

Subp. 7. Presentation of evaluation conclusions and recommendations.

- A. The conclusions and recommendations of the evaluation must be based on the information obtained during the evaluation.
- B. The interpretations, conclusions, and recommendations described in the report must show consideration of the:
 - 1. Strengths and limitations of the procedures utilized in the evaluation;
 - 2. Strengths and limitations of self-reported information and demonstration of reasonable efforts to verify information provided by the subject;
 - 3. Discussion of any discrepancies in the information; and
 - 4. Subject's legal status and the relevant criminal and legal considerations.
- C. The interpretations, conclusions, and recommendations described in the report must:
 - 1. Be impartial and provide an objective and accurate base of data;
 - 2. Note any issues or questions that exceed the level of knowledge in the field or the expertise of the assessor; and
 - 3. Address the issues necessary for appropriate decision-making regarding intervention and risk management.
- D. The recommendation must contain specific opinions concerning:
 - 1. The nature and degree to which the subject has demonstrated a pattern of sex offending and poses a risk to sexually reoffend;
 - 2. The nature and degree to which the subject has demonstrated a pattern of general (nonsexual) aggression or criminal (nonsexual) offending and poses a risk to criminally reoffend;
 - 3. The degree and the manner in which the subject is amenable to treatment; and
 - 4. The type and level of security of intervention required, including strengths and weaknesses of each intervention, and if appropriate the need for and nature of additional evaluation.

Subp. 8. Evaluation report. The report shall reference the court order, if applicable, and the authorizing judicial authority and state the specific statutory basis for the evaluation and specific legal opinion required of the examiner. The signed and dated evaluation report must contain a clear and accurate representation of the components and conditions of the evaluation described above. The difference between the information obtained and the analysis provided by the evaluator should be clear to the reader at all times. The opinions offered to the court in the report must be easily identified by the reader.

D. Minnesota Guidelines for Psychosexual Assessments of Juveniles Under Judicial Jurisdiction for Sexual Behavior

Based on the existing rules in the residential setting, the following is recommended for juvenile outpatient psychosexual evaluations:

0010 STATUTORY AUTHORITY

Subpart. 1. Legislation. The Minnesota Legislature in Chapter 136 of the Laws of Minnesota 2005, Article 3, Section 28, directed the commissioner of corrections to form a work group to address several issues related to the most effective practices in the management of sex offenders. The legislation included a directive to provide state-wide standards regarding sex offender assessment and community-based sex offender treatment programs. The work group created four documents to provide standards for juvenile assessment, adult assessment, juvenile community-based out-patient treatment, and adult community-based out-patient treatment.

Subp. 2. Rationale. Psychosexual evaluations are completed to assist the court with dispositional planning, to assist supervising agents and/or social service agencies with case planning, and/or to assist mental health professionals in development of appropriate treatment plans for juveniles under judicial jurisdiction for sexual behavior.

0020 EVALUATION ELEMENTS

Subp. 1. Evaluations conducted by qualified professionals. Individuals who conduct juvenile psychosexual evaluations must be licensed in their discipline and trained and experienced in conducting juvenile psychosexual evaluations. Evaluators must at all times practice within the ethical standards of their respective profession or regulatory board.

Subp. 2. Cultural Sensitivity. Evaluations must take into consideration cultural context, ethnicity, race, social class, and geographic location in making conclusions about a subject and the subject's sexual behavior.

Subp. 3. Sources of Evaluation Data. The evaluation must be based upon as wide a range of sources of information as possible to ensure that the analysis, conclusions, and recommendations are as valid as possible. The sources of information must be evaluated for credibility, and conflicts between sources must be noted.

Sources of data **shall** include (unless circumstances of the case prohibit):

- A. Collateral documents, such as police reports, victim statements, child protection records, prior pre-sentence evaluations, pre-sentence investigations, and criminal records;
- B. Information from appropriate and valid psychological tests and assessment instruments;
- C. Relevant medical documents and mental health history;

- D. Structured interview(s) with and observations of the subject;
- E. Structured interview(s) with the parent(s) or legal guardian (s);
- F. Previous and concurrent reports of evaluations of the subject, including chemical dependency, psychological, and educational; and
- G. Collateral communication or review of relevant records from such sources as mental health professionals involved with the client or family, school officials, probation officers, child protection workers, foster parents, or other professionals providing services to the client.

Subp. 4. Data to be included in the evaluation. The analysis, conclusions, and recommendations of the evaluation (unless circumstances of the case prohibit) shall be based on but not limited to the information in items A through I. The information gathered should be germane to the purpose of the evaluation and the development of adequate conclusions and recommendations. Specific cases may make it necessary to gather information not explicitly detailed in items A through I.

- A. The subject's history of perpetration of sexually abusive and criminal sexual behavior, including:
 - (1) The number and types of known and reported sexually abusive and criminal sexual behaviors committed by the subject;
 - (2) The type of sexual aggression used, means of coercion, and any use of weapons;
 - (3) The number, age, sex, relationship to subject, and other relevant characteristics of the victim;
 - (4) The type of injury to the victim, if known;
 - (5) The manner of victim selection;
 - (6) Chemical use prior to, during, and after any sexually abusive and criminal sexual behaviors;
 - (7) Evidence of impulsivity and compulsivity, including any prior attempts by the subject to control or eliminate offensive behaviors, including previous treatment;
 - (8) Subject's attitudes, thoughts and beliefs about the subject's criminal sexual behavior;
 - (9) The reported degree of sexual arousal or response prior to, during, and after any sexually abusive and criminal sexual behaviors;
 - (10) Evidence of sexual arousal or response patterns, including any paraphilic or sexually abusive fantasies, desires, and behaviors;
 - (11) Statements of denial and minimization, of remorse and guilt regarding the offense;
 - (12) Statements of remorse and guilt regarding the offense suggesting taking responsibility for offending and other behavior; and
 - (13) Discrepancies between the subject's and the official or victim's description of the offense, and subject's or other relevant party's explanation for any discrepancies.
- B. The subject's developmental sexual history that includes evidence concerning:
 - (1) Family of origin or other caretaker attitudes about sexuality and the sexual atmosphere;

- (2) Childhood and adolescent learning about sexuality, patterns of sexual interest, and sexual play;
 - (3) History of sexual victimization;
 - (4) Any consenting sexual experiences;
 - (5) Any dating experience;
 - (6) Experience of puberty;
 - (7) Exposure to and use of sexually-explicit materials;
 - (8) Nature and use of sexual fantasies;
 - (9) Masturbation pattern;
 - (10) Expressed sense of gender identity and sex role behavior and attitude;
 - (11) Expressed sexual orientation; and
 - (12) Sexual attitudes and knowledge.
- C. The subject's history of any other aggressive or conduct disordered/anti-social behavior;
- D. The subject's developmental history which includes such areas as:
- (1) Current living circumstances;
 - (2) Prior out-of-home placements;
 - (3) Mental health and medical history health which includes such information as:
 - (a) Diagnoses and diagnostic impression from qualified mental health providers;
 - (b) Intellectual functioning;
 - (c) Evidence of coping abilities, adaptive styles, and physical/mental vulnerabilities;
 - (d) Evidence of impulse control and ritualistic or obsessive behaviors;
 - (e) Evidence of personality attributes, conduct disorder, and affective/mood disorders;
 - (f) Evidence of learning disability, attention deficit disorder;
 - (g) Evidence of posttraumatic stress behaviors, including any dissociative process that may be operative;
 - (h) Evidence of organicity and neuropsychological factors; and
 - (i) Evidence of vulnerability.
 - (4) Educational achievement, school functioning, involvement in special education;
 - (5) Substance use history;
 - (6) Current or past behavioral problems exhibited by subject and response to past interventions;
 - (7) Involvement with or isolation from peers, including prosocial or antisocial characteristics of peer group;
 - (8) Nature of the subject's environment, including school, neighborhood;
 - (9) Involvement in extra-curricular activities (e.g., religious groups, sports, music, theater, etc.); and
 - (10) Relative age of peer group (e.g., significantly older/younger subject).
- E. A family history including:
- (1) Reported family composition and structure;
 - (2) Parental separation and loss;
 - (3) Family functioning;
 - (4) Criminal history;
 - (5) Chemical abuse history;

- (6) Mental health history;
- (7) Sexual, physical, emotional maltreatment;
- (8) Family response to the sexual criminality;
- (9) Client's pattern of response to parental or legal guardian authority and control;
- (10) History of family or domestic violence;
- (11) Identification of individuals at potential risk from client; and
- 12) Identification of potential supports, including caregivers, extended family, other adults.

- F. The views and perceptions of caregivers, teachers or other significant adults, including their ability or willingness to support any treatment efforts;
- G. Conclusions from any previous and concurrent psychosexual and/or other evaluations that pertain to the identification of factors that may inhibit or contribute to the commission of offensive behavior;
- H. Access to and self-reported or known use of internet for sexual purposes; and
- I. Results from risk assessment instruments and psychological testing/assessment that include identification of risk and protective factors that may inhibit or contribute to the commission of further sexually inappropriate or delinquent behavior by the client.

Subp. 5. Administration and interpretation of assessment instruments. Where possible and appropriate, psychological tests and assessments conducted as a component of the evaluation must be standardized and normed for a population that is representative of the individual being assessed.

The results obtained through the use of such tests/assessments must be interpreted by a qualified professional who is trained and experienced in the interpretation of these tests/assessments.

The results may not be used as the only or the major source of assessment. Limitations in the inferences that can be drawn from instruments should be discussed in the report.

Subp. 6. Analysis of the Case. Based on the information gathered, the evaluator shall develop a case formulation of the subject. The case formulation will include:

- A. A diagnosis and description of developmental issues;
- B. Description of involvement with peers and characteristics of the peer group;
- C. An assessment of sexual development, including possible deviancy;
- D. The dynamics and the process of victim selection;
- E. Patterns of sexual activity when offending;
- F. The role of mental illness, personality, developmental delay, and substance abuse in the commission of sexual offenses;

- G. Experiences of intimacy and barriers to developing appropriate intimate relationships with peer and adults;
- H. Use of cognitive distortions, thinking errors, criminal thinking in justifying, rationalizing, and supporting the sexually abusive and delinquent behaviors;
- I. An assessment of the factors that both protect the subject from and place the subject at risk for reoffense; and
- J. Other factors that exist in this person's functioning contributing to his/her sexual behavior pattern.

Subp. 7. Presentation of evaluation conclusions and recommendations.

- A. The conclusions and recommendations of the evaluation must be based upon the information obtained during the evaluation;
- B. The interpretations, conclusions and recommendations described in the report must show consideration of the:
 - (1) Strengths and limitations of the procedures utilized in the evaluation;
 - (2) Strengths and limitations of self-reported information and demonstration of reasonable efforts to verify information provided by the subject;
 - (3) Discussion of any discrepancies in the information; and
 - (4) Subject's legal status and the relevant criminal and legal considerations.
- C. The interpretations, conclusions and recommendations described in the report must:
 - (1) Be impartial and provide an objective and accurate base of data;
 - (2) Note any issues or questions which exceed the level of knowledge in the field or the expertise of the assessor; and
 - (3) Address the issues necessary for appropriate decision-making regarding intervention and risk management.
- D. The conclusion must contain specific opinions concerning:
 - (1) The nature and degree to which the subject has demonstrated a pattern of delinquent behavior, including sex offending;
 - (2) Family structure and functioning;
 - (3) Environmental factors, such as neighborhood characteristics;
 - (4) Most appropriate home placement and that which is the least restrictive;
 - (5) The degree and the manner in which the subject is amenable to treatment;
 - (6) The type and level of security of intervention required, including strengths and weaknesses of each intervention, and
 - (7) If appropriate the need for and nature of additional evaluation.

Subp. 8. Evaluation report. The report shall reference the court order, if applicable, and the authorizing judicial authority and state the specific statutory basis for the evaluation and specific opinion requested of the examiner. The signed and dated evaluation report must contain a clear and accurate representation of the components and conditions of the evaluation described above.

The difference between the information obtained and the analysis provided by the evaluator should be clear to the reader at all times. The opinions offered to the court in the report must be easily identified by the reader.

E. Minnesota Guidelines for Outpatient Treatment for Adult Sex Offenders

The Treatment/Assessment Work Group also developed the following recommended guidelines for outpatient treatment of adult sex offenders:

0010 AUTHORITY

Subpart 1. Legislation. The Minnesota Legislature in Chapter 136 of the Laws of Minnesota 2005, Article 3, Section 28, directed the commissioner of corrections to form a work group to address several issues related to the most effective practices in the management of sex offenders. The legislation included a directive to provide statewide standards regarding sex offender assessment and community-based sex offender treatment programs. The work group created four documents to provide standards for juvenile assessment, adult assessment, juvenile community-based out-patient treatment, and adult community-based out-patient treatment.

0020 DEFINITIONS.

Subpart 1. Scope. As used in this chapter, the following terms have the meanings given them.

Subp. 2. Administrative director. "Administrative director" means the person designated to be responsible for administrative operations of a treatment program.

Subp. 3. Basic treatment protocol. "Basic treatment protocol" means the statement of the philosophy, goals, and model of sex offender treatment employed by the certificate holder. The basic treatment protocol also describes the sex offender population served; the theoretical principles and operating methods employed to treat clients; the scope of the services offered; and how all program components, such as clinical services, therapeutic milieu, security, medical and psychiatric care, social services, educational services, recreational services, and spirituality, as appropriate to the program, are coordinated and integrated to accomplish the goals and desired outcomes of the protocol.

Subp. 4. Case management. "Case management" means the use of a planned framework of action that coordinates services both within the program and with other agencies and providers involved with a client regarding the client's progress in treatment and plans for discharge and aftercare, as appropriate.

Subp. 5. Client. "Client" means a person who receives sex offender treatment in a program certified under this chapter.

Subd. 6. Clinical director. "Clinical director" means the person responsible for clinical direction and coordination of all clinical services.

Subp. 7. Clinical supervision. "Clinical supervision" means the documented oversight responsibility for the planning, development, implementation, and evaluation of clinical services such as admissions, intake assessment, individual treatment plans, delivery of sex offender treatment services, client progress in treatment, case management, discharge planning, and staff development and evaluation. Clinical supervision of staff means documented in-person consultation,

which may include interactive, visual electronic communication between either: (1) a primary supervisor and a licensed psychological practitioner; or (2) a primary or designated supervisor and an applicant for licensure as a licensed mental health professional. The supervision shall be adequate to assure the quality and competence of the activities supervised. Supervisory consultation shall include discussions on the nature and content of the practice of the supervisee, including but not limited to a review of a representative sample of psychological services in the supervisee's practice.

Subp. 8. Clinical supervisor. "Clinical supervisor" means the person designated to be responsible for the clinical supervision of an outpatient adult sex offender treatment program.

Subp. 9. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Corrections or the commissioner's designee.

Subp. 10. Criminal sexual behavior. "Criminal sexual behavior" means any criminal sexual behavior as identified in Minnesota Statutes, sections 609.293, 609.294, 609.322, 609.324, 609.3242, 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.3455, 609.352, 609.365, 609.79, 609.746, 617.23, 617.245, 617.246, 617.247, 617.293; or sections 609.185 subd. 2, or 609.25 when offense behavior is sexually motivated.

Subp. 11. Department. "Department" means the Minnesota Department of Corrections.

Subp. 12. Discharge summary. "Discharge summary" means written documentation prepared at the end of treatment by the program summarizing a client's involvement in treatment.

Subp. 13. Group-based interventions. "Group-based interventions" are defined as any interventions (educational, supportive, therapeutic, other) that are delivered in a group format. Surveys and anecdotal information suggest most sex offender treatment programs are offered via group-based interventions.

"Group-focused interventions" are any interventions that are focused specifically on the group itself. This would include interventions that utilize group structure and interpersonal relations among group members to further the therapeutic goals of the members.

"Educational groups" focus on providing information, generally in a didactic fashion, to a group of individuals for a limited period of time pertaining to a specific topic, typically as part of a more comprehensive therapeutic regimen.

"Psychoeducational groups" are educational groups that deal with psychological topics or apply psychological concepts.

"Group therapy" is the application of theory and therapeutic techniques pertaining to the group relationships to further the therapeutic goals of the individual members.

"Group psychotherapy" Group psychotherapy is a psychological intervention conducted by a mental health professional utilized as a method in a personal change process. Groups are generally made up of 8-10 members, last from 1.5 to three hours, and rely on the interpersonal process for change to occur.

Subp. 14. Individual treatment plan. "Individual treatment plan" means a written plan of intervention, treatment, and services for a client is based on the results of the client's intake assessment and is reviewed at scheduled intervals.

Subp. 15. Legal guardian. "Legal guardian" means a guardian as defined in Minnesota Statutes, section 525.539, subdivision 2, or a conservator as defined in Minnesota Statutes, section 525.539, subdivision 3.

Subp. 16. Paraphilia. "Paraphilia" means a psychosexual disorder as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, which is incorporated by reference and is available through the Minitex interlibrary loan system.

Subp. 17. Progress report. "Progress report" means a report that describes the status of a client in a program.

Subp. 18. Psychophysiological assessment of deception. "Psychophysiological assessment of deception" means a procedure used in a controlled setting to develop an approximation of the veracity of a client's answers to specific questions developed in conjunction with the program staff and the client by measuring and recording particular physiological responses to those questions.

Subp. 19. Psychophysiological assessment of sexual response. "Psychophysiological assessment of sexual response" means a procedure used in a controlled setting to develop an approximation of a client's sexual response profile and insight into the client's sexual motivation by measuring and recording particular physiological and subjective responses to a variety of sexual stimuli.

Subp. 20. Psychotherapy. "Psychotherapy" means the treatment of psychological, emotional, and behavioral disorders by psychological means. This may include a variety of modalities including individual, group, family, relationship, or biological therapies.

Subp. 21. Outpatient adult sex offender treatment program. "Outpatient adult sex offender treatment program" means a program that provides sex offender treatment to adult sex offenders who do not live in a residential program as defined in Rule 2965.0020 Subpart 23.

Subp. 22. Serious violations of policies and procedures. "Serious violations of policies and procedures" means a violation that threatens the quality and outcomes of the treatment services or the health, safety, security, detention, or well-being of clients or program staff; and the repeated nonadherence to program policies and procedures.

Subp. 23. Sex offender. "Sex offender" means a person who has engaged or attempted to engage in criminal sexual behavior as defined in subpart 10 or who is ordered to sex offender treatment incident to adjudication for any other crime.

Subp. 24. Sex offender intake assessment. "Sex offender intake assessment" means the comprehensive assessment of a sex offender for admission to an outpatient sex offender treatment program to determine the client's current cognitive, emotional, behavioral, and sexual functioning; amenability to treatment; risk level; and treatment needs in order to participate in the treatment program.

Subp. 25. Sex offender treatment. "Sex offender treatment" means a comprehensive set of planned and organized therapeutic experiences and interventions that are intended to improve the prognosis, function, or outcome of clients to reduce their risk of sexual reoffense or other sexually abusive and other aggressive behavior by assisting them to adjust to and deal more effectively with their life situations. The focus of sex offender treatment is on:

- A. The occurrence and dynamics of sexual behavior and provision of information, psychotherapeutic interventions, and support to clients to assist them to develop the motivation, skills, and behaviors that promote change and internal self-control; and
- B. The coordination of services with other agencies and providers involved with a client to promote external control of the client's behavior; and
- C. Sex offender treatment does not include treatment that addresses sexually abusive or criminal sexual behavior that is provided secondary to treatment for mental illness or disorder, mental retardation, or chemical dependency.

Subp. 26. Sexually abusive behavior. "Sexually abusive behavior" means any sexual behavior in which:

- A. The other person involved does not freely consent to participate;
- B. The relationship between the persons is unequal; or
- C. Verbal or physical intimidation, manipulation, exploitation, coercion, or force is used to gain participation.

Subp. 27. Special assessment and treatment procedures. "Special assessment and treatment procedures" means procedures used in sex offender assessment and treatment that are intrusive, intensive, or restrictive and present a potential physical or psychological risk when used without adequate care. A special assessment and treatment procedure that is intrusive impinges upon or invades a client's normal physical or psychological boundaries.

Subp. 28. Supervising agent. "Supervising agent" means the parole or probation agent working with a client as assigned by state or county authorities.

Subp. 29. Victim. "Victim" has the meaning given in Minnesota Statutes, section 611A.01, paragraph (b).

0080 STAFFING REQUIREMENTS.

Subp. 1. Highest requirement. If the staffing requirements of this part conflict with the staffing requirements of applicable rules governing a program's licensure or accreditation, the highest staffing requirement is the prevailing requirement.

Subp. 2. Clinical director required. The program must employ or have under contract an administrative director who is responsible for the coordination of clinical services.

Subp. 3. Clinical supervisor required. The program must employ or have under contract a clinical supervisor who meets the requirements under section 0090, subp.4, of these guidelines.

Subp. 4. One person occupying more than one position. One person may be simultaneously employed as the administrative director, clinical supervisor, or therapist if the individual meets the qualifications for those positions.

Subp. 5. Staff orientation, development, and training. The program must have a written staff orientation, development, and training plan for each sex offender treatment staff person. The program shall require that each sex offender treatment staff person complete the specified amount of course work or training. The education must augment job-related knowledge, understanding, and skills to update or enhance the treatment staff's ability to deliver clinical services for the treatment of sexual offending behavior and be documented in the staff person's orientation, development, and training plan.

- A. A staff member who works an average of half-time or more in a year must complete at least 40 hours of course work or training per biennium.
- B. A staff member who works less than full time in a year shall complete training on a pro-rated basis with a minimum of 12 hours per biennium.

Subp. 6. Examiners conducting psychophysiological assessments of deception. A program that uses psychophysiological assessments of deception as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under section 0090, subpart 7, of these guidelines.

Subp. 7. Examiners conducting psychophysiological assessments of sexual response. A program that uses psychophysiological assessments of sexual response as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under section 0090, subpart 8, of these guidelines.

0090 STAFF QUALIFICATIONS AND DOCUMENTATION.

Subp. 1. Qualifications for all employees working directly with clients. All persons working directly with clients must meet the following requirements:

- A. Meet any applicable certification, accreditation, or licensure requirements for their position;
- B. Be at least 18 years of age; and
- C. Complete a criminal records check before employment at the program.

Subp. 2. Criminal convictions. An applicant or certificate holder may choose to hire or retain an employee or prospective employee to work directly with a client who has a criminal conviction. The applicant shall thoroughly document the basis for the decision in the personnel file of the employee.

Subp. 3. Qualifications for clinical director. In addition to the requirements in subpart 1, a clinical director/supervisor must meet the criteria in items A to C.

- A. A clinical director must hold a postgraduate degree in the behavioral sciences or a field relevant to administering a sex offender program from an accredited college or university, with at least two years of work experience providing services in a correctional or human services program. Alternately, an administrative director must hold a bachelor's degree in the behavioral sciences or field relevant to administering a sex offender program from an accredited college or university, with a minimum of four years of work experience in providing services in a correctional or human services program;
- B. A clinical director must have 2,000 hours of experience in the administration or supervision of a correctional or human services program¹³; and
- C. A clinical director must have 40 hours of training in topics relating to sex offender treatment and management and human sexuality.

Subp. 4. Qualifications for clinical supervisor. In addition to the requirements in subpart 1, a clinical supervisor must meet the criteria in items A to C.

- A. A clinical supervisor must be licensed as a psychologist under Minnesota Statutes, section 148.907; an independent clinical social worker under Minnesota Statutes, section 148B.21; a marriage and family therapist under Minnesota Statutes, sections 148B.29 to 148B.39; a licensed professional counselor under 148B.53, a physician under Minnesota Statutes, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under Minnesota Statutes, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.
- B. A clinical supervisor must have experience and proficiency in the following areas:
 - (1) At least 4,000 hours of supervised experience in the provision of assessment, individual, and group psychotherapy to individuals in at least one of the following settings: sex offender treatment services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services, or sex offender services; and
 - (2) Case management, including treatment planning, general knowledge of social services and appropriate referrals, and record keeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to adult sex offender clients.

¹³ If these requirements would be promulgated as rules, a program would be able to utilize a variance procedure. Otherwise, for programs receiving DOC grant funding, an exception could be requested. In either instance, a grace period would be a viable provision.

C. Within one year of employment, a clinical supervisor must have or acquire a combined 60 hours of training in the following areas or subjects:

- (1) Child, adolescent, or adult development;
- (2) Clinical supervision;
- (3) The treatment of cognitive distortions, thinking errors, and criminal thinking;
- (4) Behavioral therapies for sex offenders;
- (5) Relapse prevention;
- (6) Human sexuality;
- (7) Family systems;
- (8) Crisis intervention;
- (9) The policies and procedures of the Minnesota criminal justice system; and
- (10) Substance abuse treatment.

Subp. 5. Qualifications for sex offender therapist. In addition to the requirements in subpart 1, a sex offender therapist must meet the criteria in items A to C.

A. A sex offender therapist must be licensed as a psychologist under Minnesota Statutes, section 148.907; a psychological practitioner under Minnesota Statutes, section 148.908; an independent clinical social worker under Minnesota Statutes, section 148B.21; a marriage and family therapist under Minnesota Statutes, sections 148B.29 to 148B.39; a licensed professional counselor under 148B.53, a physician under Minnesota Statutes, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under Minnesota Statutes, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.

B. A sex offender therapist must have experience and proficiency in the following areas:

- (1) 2,000 hours of supervised experience in the provision of assessment, individual, and group psychotherapy to individuals in one of the following settings: sex offender services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services; and
- (2) Case management, including treatment planning, general knowledge of social services and appropriate referrals, and record keeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to adult sex offender clients.

C. Within one year of employment, a sex offender therapist must have or acquire a combined 60 hours of training in the following areas or subjects:

- (1) Child, adolescent, or adult development;
- (2) The treatment of cognitive distortions, thinking errors, and criminal thinking;
- (3) Behavioral therapies for sex offenders;
- (4) Relapse prevention;
- (5) Human sexuality;
- (6) Family systems;
- (7) Crisis intervention;
- (8) The policies and procedures of the Minnesota criminal justice system; and
- (9) Substance abuse treatment.

Subp. 6. Qualifications for sex offender counselor. In addition to the requirements in subpart 1, a sex offender counselor must meet the criteria in items A to C.

A. A sex offender counselor must hold a postgraduate degree or bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university.

- (1) 1,000 hours of experience in the provision of direct counseling and case management services to clients in one of the following settings: sex offender treatment services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services.

B. Within one year of employment, a sex offender counselor must have or acquire a combined 60 hours of training in the following areas or subjects:

- (1) Child, adolescent, or adult development;
- (2) The treatment of cognitive distortions, thinking errors, and criminal thinking;
- (3) Behavioral therapies for sex offenders;
- (4) Relapse prevention;
- (5) Human sexuality;
- (6) Family systems;
- (7) Crisis intervention;
- (8) Policies and procedures of the Minnesota criminal justice system; and
- (9) Substance abuse.

Subp. 7. Qualifications for examiners conducting psychophysiological assessments of deception. The examiner conducting psychophysiological assessments of deception must: Polygraph examiners conducting post-conviction sex offender testing (PCSOT) in the State of Minnesota must be a member of APA and meet standards as outlined by the American Society for Testing and Materials (ASTM) and the American Polygraph Association (APA) for conducting PCSOT examinations.

Subp. 8. Qualifications for examiners conducting psychophysiological assessments of sexual response.

A. The clinical level examiner conducting psychophysiological assessments of sexual response must:

- (1) Be a doctor of medicine licensed under Minnesota Statutes, section 147.02; a psychologist licensed under Minnesota Statutes, section 148.907; or a social worker licensed under Minnesota Statutes, section 148B.21;
- (2) Have 40 hours of training in the clinical use of this procedure in the assessment and treatment of sex offenders; and
- (3) Have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

Persons who meet the qualifications in subitem (1) and have been conducting psychophysiological assessments of sexual response for three years or more on April 26, 1999, are exempt from the qualifications specified in subitems (2) and (3).

B. The technical level examiner conducting psychophysiological assessments of sexual response must:

- (1) Be under the direct supervision of a clinical level examiner;
- (2) Have eight hours of training in the clinical use of this procedure in the assessment, treatment, and supervision of sex offenders; and
- (3) Have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

Subp. 9. Documentation of qualifications.

A. Documentation shall include the following as adequate documentation that the staff described in subparts 3 to 8 have the required qualifications:

- (1) Copies of required professional licenses and other relevant certificates and memberships; and

(2) Copies of official transcripts, attendance certificates, syllabi, or other credible evidence documenting successful completion of required training.

B. All qualification documentation must be maintained by the facility in the employee's personnel file or other appropriate personnel record.

0100 ADMISSION AND ASSESSMENT.

Subpart. 1. Admission procedure and new client intake assessment required. A written admission procedure must be established that includes the determination of the appropriateness of the client for treatment. This procedure must be coordinated with the external, nonclinical conditions required by the legal, correctional, and administrative systems within which the program operates. An intake assessment procedure must also be established that determines the client's functioning and treatment needs, the treatment services offered by the program, and other available resources. All clients referred to an outpatient adult sex offender treatment program must have a written intake assessment completed within the first 30 days of admission to the program.

Subp. 2. Assessments conducted by qualified staff. The clinical supervisor must direct qualified staff to gather the requisite information during the intake assessment process and any subsequent reassessments. The staff conducting the intake assessment must be trained and experienced in the administration and interpretation of sex offender assessments.

Subp. 3. Intake assessment appropriate to basic treatment protocol of program. Assessments completed by a program shall conform to the Minnesota Guidelines for Adult Sex Offender Psychosexual Evaluation. A program may adapt the parameters specified in the assessment guidelines to conduct assessments that are appropriate to the program's basic treatment protocol as defined in section 0140, subpart 1A. The rationale for the particular adaptation must be provided in the program's policy and procedures manual.

Subp. 4. Reassessment. At the discretion of the clinical supervisor or treatment team, a full or partial reassessment may be conducted to formally document changes in the client's progress in treatment, movement within the structure of the program, receipt or loss of privileges, and discharge from the program.

0110 INDIVIDUAL TREATMENT PLANS.

Subpart. 1. Initial individual treatment plan. A written individual treatment plan for each client must be completed within 30 days of the client's entrance into the program. The individual treatment plan and the interventions designated to achieve its goals must be based on the initial treatment recommendations developed in the intake assessment with additional information from the client and, when possible, the client's family or legal guardian. Input may also be obtained from the program staff, appropriate representatives from outside social service and criminal justice agencies, and other appropriate resources. One qualified sex offender treatment staff person must be responsible for the integration and completion of the written plan, which is signed and dated and placed in the client's file.

Subp. 2. Explanation, signature, and copies required. The individual treatment plan must be explained and a copy provided to the client and, if appropriate, the client's family or legal guardian. The program must seek a written acknowledgment that the client and, if appropriate, the client's family or legal guardian have received and understand the individual treatment plan. The individual treatment plan and documentation related to it must be kept at the program in the client's case file. A copy of the client's individual treatment plan must be made available to the supervising agent, if requested, when it is completed.

Subp. 3. Plan contents. The individual treatment plan must include at least the following information:

- A. The sex offender treatment goals and specific time-limited objectives to be addressed by the client;
- B. Measurable outcomes for each time-limited treatment objective that specify the therapeutic experiences and interventions most necessary to assist the client to achieve the objectives;
- C. The impact of any concurrent psychological or psychiatric disorders on the client's ability to participate in treatment and to achieve treatment goals and objectives;
- D. Other problem areas to be resolved by the client;
- E. A list of the services required by the client and the entity who will provide the required services;
- F. The estimated length of time the client will be in the program; and
- G. Provisions for the protection of victims and potential victims, as appropriate.

0120 REVIEW OF CLIENT PROGRESS IN TREATMENT.

Subpart 1. Responsibility and documentation. Progress notes must be entered in client files indicating the types and amounts of services each client has received and whether the services have had the desired impact at each contact with the client. At least quarterly, the treatment provider must review and document each client's progress toward achieving individual treatment plan objectives, and review and modify treatment plans. Documentation of the review must be in each client's file.

Subp. 2. Review session. A progress review session must involve the client and, if necessary, the client's family or legal guardian and supervising agent. Where appropriate, the program must inform the client's supervising agent and family or legal guardian of the scheduling of each progress review, invite them to attend, and provide them with a summary of the review session. The names of the persons attending the review session who are not clients must be documented in the client's file.

0140 TREATMENT

Subpart 1. Program policy and procedures manual. Each program must develop and follow a written policy and procedures manual. The manual must be made available to clients and program staff. The manual must include but is not limited to:

- A. The basic treatment protocol used to provide services to clients, as defined by the philosophy, goals, and model of treatment employed, including the:
 - (1) Sex offender population served;
 - (2) Theoretical principles and operating methods used to deliver services to identified treatment needs of clients served;
 - (3) Scope of the services offered; and
 - (4) Program rules for behavior that include a range of consequences that may be imposed for violation of the rules.
- B. Admission and discharge criteria and procedures;
- C. Assessment content and procedures;
- D. Treatment planning and review of client progress in treatment;
- E. Policies and procedures for client communications and visiting with others both within and outside of the program;
- F. Policies and procedures for the use of special assessment and treatment methods;
- G. Policies and procedures that address data privacy and confidentiality standards, including reports by a client of previously unreported or undetected criminal behavior and the use of results from psychophysiological procedures; and
- H. Policies and procedures for reporting and investigating alleged unethical, illegal, or negligent acts against clients, and of serious violations of written policies and procedures.

Subp. 2. Standards of practice for sex offender-specific treatment programming. This subpart contains the minimal standards of practice for treatment programming provided in an adult sex offender treatment program. Treatment programming must:

- A. Safeguard the well-being of victims and their families, the community, and clients and their families;
- B. Encourage clients to be personally accountable through participation, self-disclosure, and self-monitoring;
- C. Address the individual treatment needs of each client;

- D. Be consistent with and supportable by the professional literature and clinical practice in the field;
- E. Use effective methods to assist the client to achieve treatment goals and objectives;
- F. Include and integrate the client's family or guardian/s into the treatment process when appropriate;
- G. Address, within the limits of available resources, the client's personality traits and deficits that are related to increased reoffense potential;
- H. Address any concurrent psychiatric disorders by providing treatment or referring the client for treatment; and
- I. Protect the legal and civil rights of clients, including the client's right to refuse treatment.

Subp. 3. Goals of sex offender treatment. The ultimate goal of adult sex offender treatment is to protect the community from criminal sexual behavior by facilitating behavior change necessary to reduce the client's risk of reoffense.

The goals of sex offender treatment include but are not limited to the outcomes in items A to E. The basic treatment protocol of the program shall determine the specific goals that shall be operationalized by the program and the methods used to achieve them. The applicability of those goals and methods to a client shall be determined by that client's intake assessment, individual treatment plan, and progress in treatment. The program must be designed to allow, assist, and encourage the client to develop the motivation and ability to achieve the goals in items A to E, as appropriate.

- A. The client must acknowledge the criminal sexual behavior and admit or develop an increased sense of personal culpability and responsibility for the behavior. The program must provide activities and procedures that are designed to assist clients:
 - (1) Reduce their denial or minimization of their criminal sexual behavior and any blame placed on circumstantial factors;
 - (2) Disclose their history of sexually abusive and criminal sexual behavior and pattern of sexual response;
 - (3) Learn and understand the effects of sexual abuse upon victims and their families, the community, and the client and the client's family; and
 - (4) Develop and implement options for restitution and reparation to their victims and the community, in a direct or indirect manner, as appropriate.
- B. The client must choose to stop and to act to prevent the circumstances that lead to sexually abusive and criminal sexual behavior and other abusive or aggressive behaviors from

occurring. The program must provide activities and procedures that are designed to assist clients to:

- (1) Identify and assess the function and role of thinking errors, cognitive distortions, and maladaptive attitudes and beliefs in the commission of sexual offenses and other abusive or aggressive behavior;
- (2) Learn and use appropriate strategies and techniques for changing thinking patterns and modifying attitudes and beliefs regarding sexually abusive and criminal sexual behavior and other abusive or aggressive behavior;
- (3) Identify the function and role of paraphilic and aggressive sexual responses and urges, recurrent sexual fantasies, and patterns of reinforcement in the commission of sexual offenses;
- (4) Learn and use appropriate strategies and techniques to:
 - (a) Manage paraphilic and aggressive sexual responses, urges, fantasies, and interests; and
 - (b) Maintain or enhance sexual response to appropriate partners and situations and develop and reinforce positive, prosocial sexual interests.
- (5) Identify the function and role of any chemical abuse or other antisocial behavior in the commission of sexual offenses and remediate those factors;
- (6) Demonstrate an awareness and empathetic understanding of the effects of their sexually abusive and criminal sexual behaviors on their victims;
- (7) When appropriate, understand and address their own sense of victimization and its impact on their behavior;
- (8) Identify and address particular family issues or dysfunctions that precipitate or support the sexually offensive behavior;
- (9) Develop a positive sense of self-esteem and acceptance, and demonstrate positive behaviors to meet psychological and social needs;
- (10) Develop a detailed reoffense prevention plan that:
 - (a) Identifies the pattern or cycle of sexually abusive behavior that includes the background stressors and precipitating conditions and situations that indicate a risk to reoffend;
 - (b) Outlines specific alternative, positive social behaviors that will remove or decrease that risk and how to interrupt the cycle before a sexual offense occurs by using self-control methods; and

- (c) Identifies a network of persons who support the client in achieving the desired cognitive and behavioral change which includes the client's family or legal guardian, as appropriate.
 - (11) Practice the positive social behaviors developed in the reoffense prevention plan; and
 - (12) Build the network of persons identified in subitem (10), unit (c), who will support the implementation of the reoffense prevention plan and share the plan with those persons.
- C. The client must develop a positive, prosocial approach to the client's sexuality, sexual development, and sexual functioning, including realistic sexual expectations and establishment of appropriate sexual relationships. The program must provide activities and procedures that are designed to assist clients:
- (1) Learn and demonstrate an understanding of human sexuality that includes anatomy, sexual development, the motivations for sexual behavior, the nature of sexual dysfunctions, and how the healthy expression of sexual desire and behavior contrasts with the abusive expression of sexual desire and behavior;
 - (2) Learn and articulate an understanding of intimate and love relationships and how to develop and maintain them; and
 - (3) Explore and develop a positive sexual identity.
- D. The client must develop positive communication and relationship skills. The program must provide activities and procedures that are designed to assist clients:
- (1) Develop emotional awareness and demonstrate the appropriate expression of feelings;
 - (2) Develop and demonstrate appropriate levels of trust in relating to peers and other adults; and
 - (3) Develop and demonstrate appropriate communication, anger management, and stress management skills.
- E. The program must provide activities and procedures that are designed to assist clients:
- (1) Prepare a plan for aftercare that includes arrangements for continuing treatment or counseling, support groups, and socialization, cultural, religious, and recreational activities, as appropriate to the client's needs and consistent with available resources; and
 - (2) Where necessary, prepare a plan designed to enable the client to successfully prepare for and make the transition into the community.

0150 DELIVERY OF SERVICES.

Subpart 1. Amount of treatment. Programs typically provide 8 to 15 hours of treatment for each client per month. The amount, intensity, and frequency of service provided to each client is determined by individual treatment plans. The amount of services should vary depending upon client need.

A variable amount of sex offender treatment may be provided to each client in the aftercare phase of treatment.

Subp. 2. Type of services. For most programs the standard practice is individual and group therapy. Other services frequently provided are family therapy and couple therapy, as well as other occasional services as needed. The type of services provided to each client is determined by individual treatment plans.

Subp. 3. Quality of services. Services provided to the client must meet or exceed the quality standards for the type of service provided. Quality standards may be established by an accreditation standard or be based on the current norms for quality of a service in Minnesota.

Subp. 4. Size of group therapy and psycho-educational groups. Group therapy sessions must not exceed ten clients per group. Psycho-educational groups must not exceed 20 clients per group.

Subp. 5. Duty to monitor services provided by providers under contract to program. The program must monitor the amount, type, quality, and effectiveness of any service provided to a client by a provider under contract to provide services to a client. If the program has reason to believe the services provided to a client by a provider under contract are not provided according to the client's individual treatment plan, are not effective, or are not in compliance with this guideline, the program must inform the contractor and take action to correct the situation. If no satisfactory resolution can be achieved, the program must contract with an alternate provider as soon as possible.

Subp. 6. Length of treatment. The length of time a client is in sex offender treatment shall depend upon the program's basic treatment protocol, the client's treatment needs as identified in the client's individual treatment plan, and the client's progress in achieving treatment goals.

F. Minnesota Guidelines for Outpatient Treatment for Juveniles Under Judicial Jurisdiction for Sexual Behavior¹⁴

The Treatment/Assessment Work Group also developed the following recommended guidelines for outpatient treatment of juveniles under judicial jurisdiction for sexual behavior:

0010 STATUTORY AUTHORITY

Subpart. 1. Legislation. The Minnesota Legislature in Chapter 136 of the Laws of Minnesota 2005, Article 3, Section 28, directed the commissioner of corrections to form a work group to address several issues related to the most effective practices in the management of sex offenders. The legislation included a directive to provide statewide standards regarding sex offender assessment and community-based sex offender treatment programs. The work group created four documents to provide standards for juvenile assessment, adult assessment, juvenile community-based out-patient treatment, and adult community-based out-patient treatment.

0020 DEFINITIONS.

Subpart 1. Scope. As used in this chapter, the following terms have the meanings given them.

Subp. 2. Administrative director. "Administrative director" means the person designated to be responsible for administrative operations of a treatment program.

Subp. 3. Basic treatment protocol. "Basic treatment protocol" means the statement of the philosophy, goals, and model of treatment employed by the program. The basic treatment protocol also describes the population served; the theoretical principles and operating methods employed to treat clients; the scope of the services offered; and how all program components, such as clinical services, therapeutic milieu, security, medical and psychiatric care, social services, educational services, recreational services, and spirituality, as appropriate to the program, are coordinated and integrated to accomplish the goals and desired outcomes of the protocol.

Subp. 4. Case management. "Case management" means the use of a planned framework of action that coordinates services both within the program and with other agencies and providers involved with a client regarding the client's progress in treatment and plans for discharge and aftercare, as appropriate.

Subp. 5. Client. "Client" means a person who receives treatment in a program subject to these guidelines.

Subp. 6. Clinical director. "Clinical director" means the person responsible for clinical direction and coordination of all clinical services.

¹⁴ Terminology for juveniles in the treatment setting identifies juvenile sex offenders as "juveniles under judicial jurisdiction for sexual behavior."

Subp. 7. Clinical supervision. "Clinical supervision" means the documented oversight responsibility for the planning, development, implementation, and evaluation of clinical services such as admissions, intake assessment, individual treatment plans, delivery of sex offender treatment services, client progress in treatment, case management, discharge planning, and staff development and evaluation. Supervision of staff means documented in-person consultation, which may include interactive, visual electronic communication, between either: (1) a primary supervisor and a licensed psychological practitioner; or (2) a primary or designated supervisor and an applicant for licensure as a licensed mental health professional. The supervision shall be adequate to assure the quality and competence of the activities supervised. Supervisory consultation shall include discussions on the nature and content of the practice of the supervisee, including but not limited to a review of a representative sample of psychological services in the supervisee's practice.

Subp. 8. Clinical supervisor. "Clinical supervisor" means the person designated to be responsible for the clinical supervision of an outpatient sex offense-specific treatment program.

Subp. 9. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Corrections or the commissioner's designee.

Subp. 10. Juvenile Under Judicial Jurisdiction for Sexual Behavior Juvenile Under Judicial Jurisdiction for Sexual Behavior means a juvenile who has been adjudicated for an attempt to commit or commitment of any criminal sexual behavior as identified in Minnesota Statutes, sections 609.293, 609.294, 609.322, 609.324, 609.3242, 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.3455, 609.352, 609.365, 609.79, 609.746, 617.23, 617.245, 617.246, 617.247, 617.293 and sections 609.185 subd. 2, or 609.25 when offense behavior is sexually motivated.

Subp. 11. Department. "Department" means the Minnesota Department of Corrections.

Subp. 12. Discharge summary. "Discharge summary" means written documentation prepared at the end of treatment by the program summarizing a client's involvement in treatment.

Subp. 13. Family. "Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.

Subp. 14. "Group-based interventions" are defined as any interventions (educational, supportive, therapeutic, other) that are delivered in a group format. Surveys and anecdotal information suggest most sex offense-specific treatment programs are offered via group-based interventions.

"Group-focused interventions" are any interventions that are focused specifically on the group itself. This would include interventions that utilize group structure and interpersonal relations among group members to further the therapeutic goals of the members.

"Educational groups" focus on providing information, generally in a didactic fashion, to a group of individuals, for a limited period of time, pertaining to a specific topic, typically as part of a more comprehensive therapeutic regimen.

"Psychoeducational groups" are educational groups that deal with psychological topics or apply psychological concepts.

“Group therapy” is the application of theory and therapeutic techniques pertaining to the group relationships to further the therapeutic goals of the individual members.

“Group psychotherapy” is a psychological intervention conducted by a mental health professional utilized as a method in a personal change process. Groups are generally made up of 8-10 members, last from 1.5 to two hours, and rely on the interpersonal process for change to occur.

Subp. 15. Individual treatment plan. "Individual treatment plan" means a written plan of intervention, treatment, and services for a client in an outpatient sex offense-specific treatment program that is based on the results of the client's intake assessment and is reviewed at scheduled intervals.

Subp. 16. Legal guardian. "Legal guardian" means a guardian as defined in Minnesota Statutes, section 525.539, subdivision 2, or a conservator as defined in Minnesota Statutes, section 525.539, subdivision 3.

Subp. 17. Progress report. "Progress report" means a report which describes the status of a client in a sex offense-specific treatment program.

Subp. 18. Psychophysiological assessment of deception. "Psychophysiological assessment of deception" means a procedure used in a controlled setting to develop an approximation of the veracity of a client's answers to specific questions developed in conjunction with the program staff and the client by measuring and recording particular physiological responses to those questions.

Subp. 19. Psychophysiological assessment of sexual response. "Psychophysiological assessment of sexual response" means a procedure used in a controlled setting to develop an approximation of a client's sexual response profile and insight into the client's sexual motivation by measuring and recording particular physiological and subjective responses to a variety of sexual stimuli.

Subp. 20. Psychotherapy means the treatment of psychological, emotional, and behavioral disorders by psychological means. This may include a variety of modalities including individual, group, family, relationship, or biological therapies.

Subp. 21. Outpatient juvenile sex offense-specific treatment program. “Outpatient juvenile sex offense-specific treatment program” means a program that provides sex offense-specific treatment to juveniles under judicial jurisdiction for sexual behavior who do not live in a residential program as defined in Rule 2965.0020, subpart 23.

Subp. 22. Serious violations of policies and procedures. "Serious violations of policies and procedures" means a violation that threatens the quality and outcomes of the treatment services or the health, safety, security, detention, or well-being of clients or program staff and the repeated nonadherence to program policies and procedures.

Subp. 23. Sex offense-specific intake assessment. “Sex offense-specific intake assessment” means the comprehensive assessment of a juvenile under judicial jurisdiction for sexual behavior for admission to outpatient sex offense-specific treatment program. This will determine the cli-

ent's current cognitive, emotional, behavioral, and sexual functioning, amenability to treatment, and treatment needs in order to participate in the treatment program.

Subp. 24. Sex offense-specific treatment. "Sex offense-specific treatment" means a comprehensive set of planned and organized therapeutic experiences and interventions that are intended to improve the prognosis, function, or outcome of clients. The focus of treatment is on:

- A. The occurrence and dynamics of sexual behavior and provision of information, psychotherapeutic interventions, and support to clients to assist them to develop the motivation, skills, and behaviors that promote change and internal self-control;
- B. The coordination of services with other agencies and providers involved with a client to promote external control of the client's behavior; and
- C. Sex offense-specific treatment does not include treatment that addresses sexually abusive or criminal sexual behavior that is provided secondary to treatment for mental illness or disorder, mental retardation, or chemical dependency.

Subp. 25. Sexually abusive behavior. "Sexually abusive behavior" means any sexual behavior in which:

- A. The other person involved does not freely consent to participate;
- B. The relationship between the persons is unequal; or
- C. Verbal or physical intimidation, manipulation, exploitation, coercion, or force is used to gain participation.

Subp. 26. Special assessment and treatment procedures. "Special assessment and treatment procedures" means procedures used in sex offense-specific assessment and treatment that are intrusive, intensive, or restrictive and present a potential physical or psychological risk when used without adequate care. A special assessment and treatment procedure that is intrusive impinges upon or invades a client's normal physical or psychological boundaries.

Subp. 27. Victim. "Victim" has the meaning given in Minnesota Statutes, section 611A.01, paragraph (b).

0080 STAFFING REQUIREMENTS.

Subpart 1. Highest requirement. If the staffing requirements of this part conflict with the staffing requirements of applicable rules governing a program's licensure or accreditation, the highest staffing requirement is the prevailing requirement.

Subp. 2. Clinical director required. The program must employ or have under contract an administrative director who is responsible for the coordination of clinical services.

Subp. 3. Clinical supervisor required. The program must employ or have under contract a clinical supervisor who meets the requirements under section 0090, subp.4, of these guidelines.

Subp. 4. One person occupying more than one position. One person may be simultaneously employed as the administrative director, clinical supervisor, or therapist if the individual meets the qualifications for those positions.

Subp. 5. Staff orientation, development, and training. The program must have a written staff orientation, development, and training plan for each sex offender treatment staff person. The program shall require that each sex offender treatment staff person complete the specified amount of course work or training. The education must augment job-related knowledge, understanding, and skills to update or enhance the treatment staff's ability to deliver clinical services for the treatment of sexual offense-specific behavior and be documented in the staff person's orientation, development, and training plan.

- A. A staff member who works an average of half-time or more in a year must complete at least 40 hours of course work or training per biennium.
- B. A staff member who works less than full time in a year shall complete training on a prorated basis with a minimum of 12 hours per biennium.

Subp. 6. Examiners conducting psychophysiological assessments of deception. A program that uses psychophysiological assessments of deception as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under part.0090, subpart 7.

Subp. 7. Examiners conducting psychophysiological assessments of sexual response. A program that uses psychophysiological assessments of sexual response as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under part.0090, subpart 8.

0090 STAFF QUALIFICATIONS AND DOCUMENTATION.

Subpart 1. Qualifications for all employees working directly with clients. All persons working directly with clients must meet the following requirements:

- A. meet any applicable certification, accreditation, or licensure requirements;
- B. be at least 18 years of age; and
- C. complete a criminal records check before employment at the program.

Subp. 2. Criminal convictions. An applicant or certificate holder may choose to hire or retain an employee or prospective employee to work directly with a client who has a criminal conviction. The program shall thoroughly document the basis for the decision in the personnel file of the employee.¹⁵

¹⁵ Requirements promulgated as rules would be able to utilize a variance procedure. Otherwise, for programs receiving DOC grant funding, an exception could be requested. In either instance, a grace period would be a viable provision.

Subp. 3. Qualifications for clinical director. In addition to the requirements in subpart 1, a clinical director / supervisor must meet the criteria in items A to C.

- A. A clinical director must hold a postgraduate degree in the behavioral sciences or a field relevant to administering a sex offense-specific program from an accredited college or university, with at least two years of work experience providing services in a correctional or human services program. Alternately, an administrative director must hold a bachelor's degree in the behavioral sciences or field relevant to administering a sex offense-specific program from an accredited college or university, with a minimum of four years of work experience in providing services in a correctional or human services program.
- B. A clinical director must have 2,000 hours of experience in the administration or supervision of a correctional or human services program.
- C. A clinical director must have 40 hours of training in topics relating to sex offense-specific treatment and management and human sexuality.

Subp. 4. Qualifications for clinical supervisor. In addition to the requirements in subpart 1, a clinical supervisor must meet the criteria in items A to C.

- A. A clinical supervisor must be licensed as a psychologist under Minnesota Statutes, section 148.907; an independent clinical social worker under Minnesota Statutes, section 148B.21; a marriage and family therapist under Minnesota Statutes, sections 148B.29 to 148B.39; a licensed professional counselor under 148B.53; a physician under Minnesota Statutes, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under Minnesota Statutes, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.
- B. A clinical supervisor must have experience and proficiency in the following areas:
 - (1) At least 4,000 hours of supervised experience in the provision of assessment, individual, and group psychotherapy to individuals in at least one of the following settings: sex offense-specific treatment services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services; and
 - (2) Case management, including treatment planning, general knowledge of social services and appropriate referrals, and record keeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to juveniles under judicial jurisdiction for sexual behavior.
- C. Within one year of employment, a clinical supervisor must have or acquire a combined 60 hours of training in the following areas or subjects:
 - (1) Child, adolescent, or adult development;
 - (2) Clinical supervision;

- (3) The treatment of cognitive distortions, thinking errors, and criminal thinking;
- (4) Human sexuality;
- (5) Family systems;
- (6) Crisis intervention;
- (7) The policies and procedures of the Minnesota criminal justice system; and
- (8) Substance abuse treatment.

Subp. 5. Qualifications for sex offender therapist. In addition to the requirements in subpart 1, a sex offender therapist must meet the criteria in items A to C.

- A. A sex offender therapist must be licensed as a psychologist under Minnesota Statutes, section 148.907; a psychological practitioner under Minnesota Statutes, section 148.908; an independent clinical social worker under Minnesota Statutes, section 148B.21; a marriage and family therapist under Minnesota Statutes, sections 148B.29 to 148B.39; a licensed professional counselor under 148B.53; physician under Minnesota Statutes, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under Minnesota Statutes, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.
- B. A sex offender therapist must have experience and proficiency in the following areas:
 - (1) 2,000 hours of supervised experience in the provision of assessment, individual, and group psychotherapy to individuals in one of the following settings: sex offense-specific services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services; and
 - (2) Case management, including treatment planning, general knowledge of social services and appropriate referrals, and record keeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to juveniles under judicial jurisdiction for sexual behavior.
- C. Within one year of employment, a sex offender therapist must have or acquire a combined 60 hours of training in the following areas or subjects:
 - (1) Child, adolescent, or adult development;
 - (2) The treatment of cognitive distortions, thinking errors, and criminal thinking;
 - (3) Human sexuality;
 - (4) Family systems;

- (5) Crisis intervention;
- (6) The policies and procedures of the Minnesota criminal justice system; and
- (7) Substance abuse treatment.

Subp. 6. Qualifications for sex offender counselor. In addition to the requirements in subpart 1, a sex offender counselor must meet the criteria in items A to C.

- A. A sex offender counselor must hold a postgraduate degree or bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university.
 - (1) 1,000 hours of experience in the provision of direct counseling and case management services to clients in one of the following settings: sex offense-specific treatment services, corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services;
- B. Within one year of employment, a clinical supervisor must have or acquire a combined 60 hours of training in the following areas or subjects:
 - (1) Child, adolescent, or adult development;
 - (2) The treatment of cognitive distortions, thinking errors, and criminal thinking;
 - (3) Human sexuality;
 - (4) Family systems;
 - (5) Crisis intervention;
 - (6) Policies and procedures of the Minnesota criminal justice system; and
 - (7) Substance abuse.

Subp. 7. Qualifications for examiners conducting psychophysiological assessments of deception. Polygraph examiners conducting post-conviction sex offender testing (PCSOT) in the State of Minnesota must be a member of APA and meet standards as outlined by the American Society for Testing and Materials (ASTM) and the American Polygraph Association (APA) for conducting PCSOT examinations.

Subp. 8. Qualifications for examiners conducting psychophysiological assessments of sexual response.

- A. The clinical level examiner conducting psychophysiological assessments of sexual response must:
 - (1) Be a doctor of medicine licensed under Minnesota Statutes, section 147.02, a

psychologist licensed under Minnesota Statutes, section 148.907, or a social worker licensed under Minnesota Statutes, section 148B.21;

- (2) Have 40 hours of training in the clinical use of this procedure in the assessment and treatment of sex offenders; and
- (3) Have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

Persons who meet the qualifications in subitem (1) and have been conducting psychophysiological assessments of sexual response for three years or more on April 26, 1999, are exempt from the qualifications specified in subitems (2) and (3).

B. The technical level examiner conducting psychophysiological assessments of sexual response must:

- (1) Be under the direct supervision of a clinical level examiner;
- (2) Have eight hours of training in the clinical use of this procedure in the assessment, treatment, and supervision of sex offenders; and
- (3) Have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

Subp. 9. Documentation of qualifications.

A. Documentation shall include the following as adequate documentation that the staff described in subparts 3 to 8 have the required qualifications:

- (1) Copies of required professional licenses and other relevant certificates and memberships; and
- (2) Copies of official transcripts, attendance certificates, syllabi, or other credible evidence documenting successful completion of required training.

B. All qualification documentation must be maintained by the facility in the employee's personnel file or other appropriate personnel record.

0100 ADMISSION AND ASSESSMENT.

Subpart 1. Admission procedure and new client intake assessment required. A written admission procedure must be established that includes the determination of the appropriateness of the client for treatment resources. This procedure must be coordinated with the external, non-clinical conditions required by the legal, correctional, and administrative systems within which the program operates. An intake assessment procedure must also be established that determines the client's functioning and treatment needs, the treatment services offered by the program, and other available resources. All clients referred to an outpatient juvenile sex offense-specific

treatment program must have a written intake assessment completed within the first 30 days of admission to the program.

Subp. 2. Assessments conducted by qualified staff. The clinical supervisor must direct qualified staff to gather the requisite information during the intake assessment process and any subsequent reassessments. The staff conducting the intake assessment must be trained and experienced in the administration and interpretation of sex offender assessments.

Subp. 3. Intake assessment appropriate to basic treatment protocol of program. Assessments completed by a program shall conform to the Minnesota Guidelines For Psychosexual Assessment of Juveniles Under Judicial Jurisdiction for Sexual Behavior. A program may adapt the parameters specified in the assessment guidelines to conduct assessments that are appropriate to the program's basic treatment protocol as defined in section 0140, subpart 1A. The rationale for the particular adaptation must be provided in the program's policy and procedures manual.

Subp. 4. Reassessment. At the discretion of the clinical supervisor or treatment team, a full or partial reassessment may be conducted to formally document changes in the client's progress in treatment, movement within the structure of the program, receipt or loss of privileges, and discharge from the program.

0110 INDIVIDUAL TREATMENT PLANS.

Subpart 1. Initial individual treatment plan. A written individual treatment plan for each client must be completed within 30 days of the client's entrance into the program. The individual treatment plan and the interventions designated to achieve its goals must be based on the initial treatment recommendations developed in the intake assessment with additional information from the client and, when possible, the client's family or legal guardian. Input may also be obtained from the program staff, appropriate representatives from outside social service and criminal justice agencies, and other appropriate resources. One qualified sex offender treatment staff person must be responsible for the integration and completion of the written plan, which is signed and dated and placed in the client's file.

Subp. 2. Explanation, signature, and copies required. The individual treatment plan must be explained and a copy provided to the client and, if appropriate, the client's family or legal guardian. The program must seek a written acknowledgment that the client and, if appropriate, the client's family or legal guardian have received and understand the individual treatment plan. The individual treatment plan and documentation related to it must be kept at the program in the client's case file. A copy of the client's individual treatment plan must be made available to the supervising agent, if requested, when it is completed.

Subp. 3. Plan contents. The individual treatment plan must include at least the following information:

- A. The sex offense-specific treatment goals and specific time-limited objectives to be addressed by the client;
- B. Measurable outcomes for each time-limited treatment objective that specify the therapeutic experiences and interventions most necessary to assist the client to achieve the objectives;

- C. The impact of any concurrent psychological or psychiatric disorders on the client's ability to participate in treatment and to achieve treatment goals and objectives;
- D. Other problem areas to be resolved by the client;
- E. A list of the services required by the client and the entity who will provide the required services;
- F. The estimated length of time the client will be in the program; and
- G. Provisions for the protection of victims and potential victims, as appropriate.

0120 REVIEW OF CLIENT PROGRESS IN TREATMENT.

Subpart 1. Responsibility and documentation. Progress notes must be entered in client files indicating the types and amounts of services each client has received and whether the services have had the desired impact at each contact with the client. At least quarterly, the treatment provider must review and document each client's progress toward achieving individual treatment plan objectives, and review and modify treatment plans. Documentation of the review must be in each client's file.

Subp. 2. Review session. A progress review session must involve the client and, if appropriate, the client's family or legal guardian and supervising agent. Where appropriate, the program must inform the client's supervising agent and family or legal guardian of the scheduling of each progress review, invite them to attend, and provide them with a summary of the review session. The names of the persons attending the review session who are not clients must be documented in the client's file.

0140 TREATMENT

Subpart 1. Program policy and procedures manual. Each program must develop and follow a written policy and procedures manual. The manual must be made available to clients and program staff. The manual must include but is not limited to:

- A. The basic treatment protocol used to provide services to clients, as defined by the philosophy, goals, and model of treatment employed, including the:
 - (1) Population served;
 - (2) Theoretical principles and operating methods used to deliver services to identified treatment needs of clients served;
 - (3) Scope of the services offered;
 - (4) Program rules for behavior;
 - (5) Admission and discharge criteria and procedures;
 - (6) Assessment content and procedures;
 - (7) Treatment planning and review of client progress in treatment;

- (8) Policies and procedures for client communications and visiting with others both within and outside of the program;
- (9) Policies and procedures for the use of special assessment and treatment methods;
- (10) Policies and procedures that address data privacy and confidentiality standards, including reports by a client of previously unreported or undetected criminal behavior and the use of results from psychophysiological procedures; and
- (11) Policies and procedures for reporting and investigating alleged unethical, illegal, or negligent acts against clients and of serious violations of written policies and procedures.

Subp. 2. Standards of practice for sex offense-specific treatment programming. This subpart contains the minimal standards of practice for treatment programming provided in a juvenile sex offender treatment program. Treatment programming must:

- A. Safeguard the well-being of victims and their families, the community, and clients and their families;
- B. Encourage clients to be personally accountable through participation, self-disclosure, and self-monitoring;
- C. Address the individual treatment needs of each client;
- D. Be consistent with and supportable by the professional literature and clinical practice in the field;
- E. Use effective methods to assist the client to achieve treatment goals and objectives;
- F. Include and integrate the client's family or guardian/s into the treatment process;
- G. Address any concurrent psychiatric disorders by providing treatment or referring the client for treatment; and
- H. Protect the legal and civil rights of clients, including the client's right to refuse treatment.

Subp. 3. Goals of treatment. The goals of treatment include but are not limited to the outcomes in items A to D below. The basic treatment protocol of the program shall determine the specific goals that shall be operationalized by the program and the methods used to achieve them. The applicability of those goals and methods to a client shall be determined by that client's intake assessment, individual treatment plan, and progress in treatment. The program must be designed to allow, assist, and encourage the client to develop the motivation and ability to achieve the goals in items A to D, as appropriate.

- A. The client must acknowledge the criminal sexual behavior and admit or develop an increased sense of personal responsibility for the behavior. The program must provide

activities and procedures that are designed to assist clients to:

- (1) Disclose their history of sexually abusive and criminal sexual behavior and sexual response concerns;
 - (2) Learn and understand the effects of sexual abuse upon victims and their families, the community, and the client and the client's family; and
 - (3) Develop and implement options for restitution and reparation to their victims and the community, in a direct or indirect manner, as appropriate.
- B. The client must choose to stop and act to prevent the circumstances that lead to sexually abusive and criminal sexual behavior and other abusive or aggressive behaviors from occurring. The program must provide activities and procedures that are designed to assist clients:
- (1) To develop attitudes and beliefs that promote behavior that is not harmful to others;
 - (2) Identify the function and role of aggressive sexual responses and urges in the commission of sexual offenses;
 - (3) Learn and use appropriate strategies and techniques to develop positive peer relationships and a positive sexual identity;
 - (4) Identify the function and role of any chemical abuse or other antisocial behavior in the commission of sexual offenses and remediate those factors;
 - (5) Demonstrate an awareness and empathetic understanding of the effects of their sexually abusive and criminal sexual behaviors on their victims;
 - (6) When appropriate, understand and address their own sense of victimization and its impact on their behavior;
 - (7) Identify and address particular family issues or dysfunctions that precipitate or support the sexually offensive behavior;
 - (8) Develop a positive sense of self-esteem and acceptance and demonstrate positive behaviors to meet psychological and social needs;
 - (9) Practice positive social behaviors; and
 - (10) Build a positive network of peers and adults.
- C. The client must develop a positive, pro-social approach to the client's sexuality, sexual development, and sexual functioning, including realistic sexual expectations and establishment of appropriate sexual relationships, when appropriate. The program must provide activities and procedures that are designed to assist clients:

(1) In a developmentally appropriate manner learn and demonstrate an understanding of human sexuality that includes anatomy, sexual development, the motivations for sexual behavior, and how the healthy expression of sexual desire and behavior contrasts with the abusive expression of sexual desire and behavior; and

(2) Explore and develop a positive sexual identity.

D. The client must develop positive communication and relationship skills. The program must provide activities and procedures that are designed to assist clients:

(1) Develop emotional awareness and demonstrate the appropriate expression of feelings;

(2) Develop and demonstrate appropriate levels of trust in relating to peers and adults; and

(3) Develop and demonstrate appropriate communication and emotional self-regulation.

0150 DELIVERY OF SERVICE

Subpart 1. Amount of treatment. Each client must receive the amount and frequency of treatment specified in the client's individual treatment plan. Juveniles should receive a minimum of four hours of service per month, with length of treatment determined by the individual's need and specified in the individual treatment plan. Juveniles' needs vary greatly, and for some clients there may not be a sufficient need for the minimum of four hours of services. However, some clients will require much more than the four-hour minimum per month.

Subp. 2. Type of services. Each client must receive the types of services specified in the client's individual treatment plan. Services for juveniles are offered in a variety of modalities, ranging from family, educational, and other mental health needs. Coordination of these services across various professionals working with the juvenile is essential.

Subp. 3. Quality of services. Services provided to the client must meet or exceed the quality standards for the type of service provided. Quality standards may be established by an accreditation standard or be based on the current norms for quality of a service in Minnesota.

Subp. 4. Size of group therapy and psycho-educational groups. Group therapy sessions must not exceed eight clients per group. Psycho-educational groups must not exceed 15 clients per group.

Subp. 5. Duty to monitor services provided by providers under contract to program. The program must monitor the amount, type, quality, and effectiveness of any service provided to a client by a provider under contract to provide services to a client. If the program has reason to believe the services provided to a client by a provider under contract are not provided according to the client's individual treatment plan, are not effective, or are not in compliance with this guideline, the program must inform the contractor and take action to correct the situation. If no satisfactory resolution can be achieved, the program must safeguard the welfare of the community and the client and contract with an alternate provider as soon as possible.

Subp. 6. Length of treatment. The length of time a client is in sex offender treatment shall depend upon the client's treatment needs as identified in the client's individual treatment plan and the client's progress in achieving treatment goals.

SECTION 4: POLYGRAPH STANDARDS

As standards were being developed by the Adult, Juvenile, and Treatment/Assessment Work Groups, it became apparent that the use of polygraph examinations plays a significant role in sex offender supervision and treatment. As a result, an additional work group was created to focus specifically on an in-depth examination of the use of polygraph in the supervision and treatment of sex offenders as well as recommend standards of its use. Polygraph examiners, agents, and treatment providers were assembled from around the state for this work group and provided standards for the other work groups to review and make comments. The following provides a summary of the issues and standards that are the proposed polygraph examination standards that were reviewed by all groups.

For the purpose of these polygraph standards, the term “should” is a conditional term. In those standards where the term “should” is used, the application of the standard in individual cases is conditioned on a determination by the responsible supervision and clinical professionals that the application of the standard is appropriate in that particular case.

A. Purpose of Polygraphs

The polygraph plays an important role in the supervision and treatment of sex offenders. The goal of the polygraph is to help the offender accept full responsibility and make forward progress in treatment and supervision. This process involves full disclosure by sex offenders to ensure that all risk areas are known and addressed. As such, the Polygraph Work Group was charged with the task of proposing specific standards in relation to:

- Specific standards or guidelines to follow (APA, ATSA, etc.);
- Testing procedures;
- Training;
- Equipment/instrumentation standards;
- Ethics;
- Types of polygraphs (monitoring, maintenance, assessment);
- Frequency of use of polygraph testing;
- Best practices for conducting tests;
- Sets of standardized questions for offenders on supervision;
- Content that may be missing or should be added from already produced reports from Colorado, Texas, APA, ATSA;
- Video taping or tape recording issues for pre/post interviews;
- Legal aspects of administering a polygraph; and
- Reporting/documentation.

B. Proposed Polygraph Standards

The Polygraph Work Group held discussions that primarily focused on the issue of accreditation of polygraph examiners. Questions were raised about the current standards that polygraph examiners must meet. The DOC currently has a policy for polygraph examiners that served as the foundation for creating a policy on accreditation for all polygraph examiners throughout the state.

The Polygraph Work Group recommends the following standards for all polygraph examiners:

Polygraph examiners conducting post-conviction sex offender testing (PCSOT) in the State of Minnesota must meet standards as outlined by the American Society for Testing and Materials (ASTM) and the American Polygraph Association (APA) for conducting PCSOT examinations. A polygraph examiner must be a member of the APA and meet the following standards for qualifications, documentation, examination techniques and procedures, instrumentation, and quality controls.

Qualifications:

- Minimum basic education and training for polygraph examiners;
- Minimum specialized training for PCSOT examiners;
- Minimum continuing education for polygraph examiners; and
- Ethical requirements for polygraph examiners.

Providing Documentation of Polygraph Examiner's Qualifications:

- The polygraph examiner will provide a copy of certification of graduation from an APA approved polygraph school to the service requestor or contractor upon request;
- The polygraph examiner will provide documentation of membership in the APA to the service requestor or contractor upon request; and
- The polygraph examiner will provide documentation of membership in related professional organization to the service requestor or contractor upon request.

Examination Techniques and Procedures:

- Approved test formats;
- Examination length;
- Recording of examinations;
- Number of charts;
- Acquaintance tests;
- Chart evaluation and numerical scoring;
- Required chart components; and
- Use of time bars for comparison questions.

Instrumentation:

- Calibration and functionality checks;
- Minimum recording components; and
- Analog and computerized polygraph instruments.

Quality Control

- Record keeping; and
- Peer review.

C. Use of Polygraph Examinations in Supervision Standards

The Polygraph Work Group reviewed standards on polygraph use in supervision and treatment. Members of the Polygraph Work Group who work as supervision agents provided suggestions for the use of polygraph in the supervision of sex offenders. The work group then formulated these suggestions into the use of polygraph examination standards in supervision. These standards were also reviewed by members of the Adult Supervision and Juvenile Supervision Work Groups.

The Polygraph Work Group recommends the following polygraph examination standards:

1. Only APA/ASTM approved/accredited examiners who are on the DOC registry should be hired to complete supervision exams.
2. A full sexual history polygraph exam should be completed by adult treatment programs, preferably within the first six months based on risk and need. This would apply to adult offenders who are either under supervision in the community or in institution-based sex offender treatment.
3. Polygraph testing should be recommended as a special condition of probation on all sex offenders who meet the work group's definition.
4. Polygraph testing should be a special condition on all supervised/conditional release cases that meet the work group's "sex offender" definition.
5. Polygraph examiners must be regular and active members of collaborative supervision teams including the agents and treatment providers.
6. Monitoring-maintenance polygraph exams should be completed regularly. The group suggests that, in most cases, a polygraph be performed at least annually. There are some situations where this annual requirement would not be appropriate (e.g., lifetime supervision).

7. Delivery of a written report should occur within two weeks of the exam. The report should summarize pre-test disclosures, identify target questions, and provide an analysis of the results.

D. Use of Polygraph Examinations in Treatment Standards

The Polygraph Work Group also received suggestions on proposed polygraph standards by members who work as treatment providers in sex offender outpatient treatment. The treatment provider members of the work group developed a document outlining their thoughts, ideas and opinions of the role of polygraph use in treatment. This document was used for forming the standards for the use of polygraph in treatment. The polygraph standards were also reviewed by members of the Treatment and Assessment Work Group.

According to the 2005 Practice Standards and Guidelines for Members of ATSA, four types of post-conviction polygraph exams are commonly performed with sex offenders. These include a) sexual history disclosure tests, b) maintenance tests, c) monitoring tests, and d) specific issue tests.

The use of the polygraph in sex offender treatment should primarily be limited to a) verification of the offender's sexual history, including the current offense, (sexual history disclosure test) and b) compliance with treatment rules (maintenance and monitoring tests). In addition, the polygraph examination could be used in the following circumstances:

1. At times a treatment program may also use specific issue tests, not to investigate further crimes but to gain more information about a treatment or risk issue, such as whether a client is attracted to children.
2. The purpose of the full sexual history disclosure examination is for the therapist to gain enough information so an effective treatment plan can be written.
3. The purpose of the maintenance exam is to ensure compliance with treatment rules.
4. A sex history polygraph exam should be completed within the first six months and prior to completion of treatment.
5. The ideal practice would be to complete a maintenance polygraph somewhere in the middle of this time-frame as well.
6. Juvenile offenders in residential programming should receive a polygraph, but this should not be the general rule for outpatient services.
7. Polygraph testing for juveniles in outpatient treatment should be done in cases where the juvenile has to register. (However, treatment providers should also have the discretion to call for a polygraph exam in cases where information is brought forth about a juvenile that would signify an increased risk and thus warrant an exam.)

Best practice use of the polygraph mandates that clinical examinations shall be limited to assessing the veracity of a client's statements about specific behaviors. Use of investigative exams in treatment settings inhibits clients from engaging in the therapeutic process for fear of self-incrimination.

E. Informed Consent for Polygraph Examination Standards

It should be noted that some members of the Treatment and Assessment Work Group had concerns about the ethical and legal issues that pertain to the use of polygraph in treatment. In response to these concerns, the Polygraph Work Group as a whole addressed the issue of informed consent in the use of polygraph in both supervision and treatment of sex offenders.

The issue of informed consent is imperative to the process of polygraph testing. Offenders must be made aware of the intentions of the use of the polygraph as well as the potential consequences that may result from submitting to or refusing a polygraph exam. The following outlines the Polygraph Work Group standards as they relate to informed consent of the offender.

1. Elements of Informed Consent

- a) The offender/juvenile (and guardian where relevant) should be informed of the consequences or the range of consequences for producing deceptive or inconclusive results on the examination.
- b) The offender/juvenile (and guardian where relevant) should be informed of the consequences for refusing to submit to the examination and for attempting to employ counter-measures; i.e., using any techniques in an attempt to manipulate the results.
- c) The offender/juvenile (and guardian where relevant) should be advised that the intent of a full disclosure polygraph is to make known the age, gender, relationship, force or coercion, weapon used, and sexual behaviors of the offender for the purposes of supervision. Furthermore, if specific information that would constitute a mandated report (i.e., names, dates, etc.) is provided, it will be reported to the appropriate agencies.
- d) The offender/juvenile (and guardian where relevant) should be required to sign a form indicating that the nature of confidentiality and disclosure has been reviewed with him/her and that he/she understands it.
- e) The offender/juvenile (and guardian where relevant) should be required to sign a release of information allowing the program and the polygraph examiner to exchange necessary information. This would not be necessary if the polygraph examiner is directly employed by the program, but the client should be informed about the sharing of information anyway.
- f) Probation/supervised release violations and treatment terminations cannot be based solely on deceptive polygraph results. The results should be used as a supervision and treatment tool and may require further investigation, surveillance, referral to treatment, etc.

- g) Examiners will report “technical” violations to the supervising agent and treatment provider. These should be reviewed on a case-by-case basis. The supervising agent should adjust supervision strategy accordingly due to the new information and proceed with violations after obtaining additional evidence of violations. (e.g., UA results, collateral contacts, police reports, etc.)
- h) The above information should also be included in the treatment program’s Privacy Warning required under the Minnesota Data Practices Act and/or HIPAA.

2. Forms to be Submitted Prior to Polygraph Testing

- a) The offender should complete some form of sexual history questionnaire and a victim disclosure form (which at minimum should include number of victims, age, gender, relationship to victim, force or coercion and/or weapon) for each victim(s) prior to a full disclosure examination. The form may vary depending on the practices used by the treatment program but should include sufficient details about the client’s sexual history and sexual offending to avoid ambiguity about the history.
- b) The offender should complete any questionnaires or forms required for treatment regarding maintenance and monitoring issues.
- c) Terms such as “victim” and “sexual offense” should be clearly and precisely defined.
- d) The offender’s primary therapist should go over the sexual history (questionnaire) and all the victim disclosure forms with the offender and discuss the objectives of the examination.
- e) The offender should be given time to revise the forms.
- f) The offender should be instructed to be fully rested and nourished prior to the exam.
- g) The therapist should discuss with the polygraph examiner:
 - a) The specific objectives of the examination;
 - b) The prescribed medications the offender is taking;
 - c) The general physical health of the offender;
 - d) Any mental health or chemical dependency issues, including cognitive deficits; and
 - e) Any other factors which might affect the validity of the examination.
- h) Immediately prior to the exam, if any extenuating circumstances occur, the examiner must be notified immediately; e.g., the offender becomes ill, experiences any serious emotional upset, misses his/her medication or takes the wrong medication, etc. The therapist and examiner should decide whether to proceed with the exam or reschedule it.

3. Ethical and Legal Concerns

Disclosure polygraphs used in sex offender treatment and supervision are designed to obtain further information about an offender's past sexual history and have the potential to reveal criminal activity not previously disclosed. If the supervising agent and the court system have access to this information, a number of ethical and legal issues are raised.

- a) The 5th Amendment Right to Not Be Required to Incriminate Oneself.

The issue is that disclosed information could be used to generate new criminal charges.

- b) Potential for Civil Commitment.

Information disclosed could be used, in any efforts, to civilly commit the offender post criminal sentence. This is particularly concerning in the case of a juvenile who may face consequences in adulthood for behaviors or developmental issues subsequently dealt with in treatment or outgrown.

- c) Impact on the Therapeutic Alliance.

Treatment is generally viewed in the context of medical and mental health treatment, and often the success of the treatment is rooted in the therapeutic relationship between the therapist and the offender. Fundamental to that is the trust that the offender needs to have in his/her therapist. Critical to that trust is the confidential nature of the communications between therapist and client/offender. If the supervising officer or court requires the therapist to reveal all of the information obtained through the polygraph, there is concern that the therapeutic alliance and the effectiveness of the treatment may be damaged.

- d) Informed Consent.

It is important that informed consent specify exactly the benefits and risks of the polygraph. Issues around who provides the consent and whether the offender (and his or her parents/legal guardian) has access to legal council prior to signing such consent are critical.

(This is especially the case for juveniles and persons who are developmentally delayed/disabled. These persons are unable to fully understand the life-long consequences of the information they provide. Individuals who are not fluent in English may similarly misunderstand the nature of the consent being given.)