

**Initial Report of the
Sex Offender Risk Assessment Advisory Commission
January 5, 2013**

Members:

Sarah Churchill, Esq.

Sgt. Brian O'Malley

Matt Ruel

Elizabeth Ward Saxl

Julia Sheridan, Esq.

Adam Silberman

Laura Yustak Smith, Esq.

Liaison to Maine Courts:

Anne Jordan, Esq.

Contents

I. Executive Summary of Recommendations.....	1
II. Commission Creation and Charge.....	2
III. Commission Process.....	4
IV. The Colorado Sex Offender Management Board.....	5
V. Sex Offender Registration in Colorado.....	10
VI. Initial Recommendations for Statutory Changes.....	16
VII. Initial Recommendations Based on Review of Colorado’s Sex Offender Management Board and Convicted Sex Offender Site.....	18
VIII. Conclusion.....	33
<u>Appendices.....</u>	<u>34</u>
A. P.L. 2011, ch. 663	
B. Agendas and Minutes	
C. Cover Memo (Study Commission Reports)	
D. Correspondence; CPC Clinician Handbook Excerpt	
E. SOMB Staff and Board Members	
F. Colorado Statute (Membership and Duties of SOMB)	
G. SOMB Reports (List); Lifetime Supervision Reports (and Attachments A-F)	
H. Colorado Statutes (Sex Offender Registration)	
I. MCJA Minimum Standards; Model Policy (re Notification)	

**Initial Report of the
Sex Offender Risk Assessment Advisory Commission
January 5, 2013**

I. Executive Summary of Recommendations

A. Recommended Statutory Changes

1. The Commission's charge should be broadened, to authorize it to make recommendations with respect to Maine's Sex Offender Registration and Notification Act (SORNA) in general, similar to the role of the Criminal Law Advisory Commission (CLAC) with respect to the Criminal, Juvenile and Bail Codes. The Commission has already identified technical issues and needed amendments.
2. The Commission's charge with respect to risk assessment should be revised to authorize it to study and make policy recommendations concerning sex offender management and risk assessment, rather than to create a specific risk assessment tool.
3. The language creating the Risk Assessment Advisory Commission should be moved from Title 17-A (the Criminal Code) to Title 34-A (Corrections).
4. The Commission should be given authority to enter contracts and accept grants.

B. Initial Recommendations Based on Review of Colorado's Sex Offender Management Board (SOMB) and Convicted Sex Offender Site

1. Our initial review leads the Commission to conclude that much in Colorado's approach deserves to be emulated. However, in order to evaluate the Colorado approach and assess the feasibility of transferring any aspect of it to Maine, the Legislature should familiarize itself with current Maine programs and resources, particularly with respect to pre-sentence investigations and post-conviction supervision and treatment of convicted sex offenders. The Commission proposes specific areas of inquiry.
2. Policymakers in Maine should determine whether and how the State will prioritize management of convicted sex offenders. Any commitment to a Colorado-style approach will require significant resources from all branches of state government, as well as from local government (law enforcement).

3. Review of Colorado's Convicted Sex Offender site shows that Maine's Sex Offender Registry site provides an opportunity to make educational material and appropriate links widely accessible to the public at little cost to the State or those accessing the site. Such information should be expanded, without sensationalizing the site or information concerning specific offenders.
4. Review of the Colorado approach and Maine's DOC sex offender treatment program has confirmed that risk assessment is complex, takes different forms, and is used in different contexts. Policymakers should understand the multiple contexts in which it is used, be aware of how it is currently used in Maine, and appreciate its limitations. Development of risk assessment methods is appropriately left to forensic professionals.
5. Because of the complexity and changeability of risk and assessment of that risk, a proposal to link risk assessment to Maine's existing conviction-based SORNA is not currently recommended. The Commission hopes to explore the appropriate use of risk assessment further.

II. Commission Creation and Charge

The Maine Legislature created the Sex Offender Risk Assessment Advisory Commission in 2012, as part of the legislation that enacted the Sex Offender Registration and Notification Act of 2013. P.L. 2011, ch. 663 (Chapter 663, Appendix A). Attorney General William Schneider appointed seven members to the Commission, in accordance with 17-A M.R.S. § 1402(1). The members include Sarah Churchill (attorney with experience defending accused sex offenders); Sgt. Brian O'Malley (Detective, Lewiston PD); Matt Ruel (Director, State Bureau of Identification); Elizabeth Ward Saxl (Director, Maine Coalition against Sexual Assault); Julia Sheridan (Assistant District Attorney) Adam Silberman (probation officer, sex offender specialist), and Laura Yustak Smith (Assistant Attorney General). In addition, the Attorney General requested that Anne Jordan, currently Criminal Process Manager for the Maine Courts and former Commissioner of the Department of Public Safety, serve as a liaison from the courts to the Commission; this request was approved by the Chief Justice Leigh Saufley. Assistant Attorney General Paul Rucha, an experienced Maine prosecutor who now advises the Sex Offender Registry, has been assisting the Commission as well.

The Commission was "created for the purpose of conducting a continuing study of methods that may be used to predict the risk of recidivism by a sex

offender and to develop a method that may be used for such purposes.” 17-A M.R.S. § 1401. The Legislature assigned the Commission the following duties:

The commission shall:

- A. Develop a plausible risk assessment method for reviewing and analyzing precursors to the commission of a sex offense, victim populations of sex offenders, living conditions and environment of a registrant or a sex offender and other factors predisposing a person to become a registrant or a sex offender and for the ongoing purpose of identifying risk factors;
- B. Continue to evaluate the plausibility, implementation and application of sex offender risk assessments; and
- C. Consult with experts in the field of sex offender matters, including but not limited to state or federal agencies, courts, correctional facilities, organizations whose affairs pertain to sex offender matters and other interested parties as the commission determines necessary.

17-A M.R.S. § 1403(1). In addition, the Commission may make recommendations to the Legislature, executive agencies and the judiciary “regarding sex offender risk assessment.” 17-A M.R.S. § 1403(2).

As an initial task, the Legislature directed the Commission to review Colorado’s Sex Offender Management Board:

The Sex Offender Risk Assessment Advisory Commission...shall review the structure and duties of Colorado's Sex Offender Management Board.... The commission shall report its findings and recommendations regarding Colorado's Sex Offender Management Board to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on or before January 5, 2013. The joint standing committee may report out a bill implementing the recommendations of the commission to the First Regular Session of the 126th Legislature.

P.L. 2011, ch. 663, § 4. The Commission submits this report in response to this initial assignment.

III. Commission Process

The Commission met three times: October 30, 2012, November 26, 2012, and January 2, 2013. (Agendas and Minutes, Appendix B). Meetings have been publicized on the InforME website and on the Legislative Calendar. The first meeting was attended by report A.J. Higgins of Maine Public Radio. Coverage available at:

<http://www.mpbn.net/Home/tabid/36/ctl/ViewItem/mid/3478/ItemId/24428/Default.aspx>. In between meetings, Commission members reviewed many pages of materials related to Maine's SORNA, the Colorado Sex Offender Management Board and Colorado registry, and reports of previous study commissions addressing sex offending and sex offender management in Maine. (Cover Memo listing reports distributed to Commission members, Appendix C).

The Commission was fortunate to hear from persons directly involved with Colorado's Sex Offender Management Board. Jeanne Smith, Director of the Division of Criminal Justice, Colorado Dept. of Public Safety, and Chris Lobanov-Rostovsky, Program Manager, Sex Offender Management Board, participated by telephone from Colorado in the first meeting, and have continued to be extremely generous with their time in responding to follow-up questions via e-mail. Several members of the Criminal Justice & Public Safety Committee may be familiar with Mr. Lobanov-Rostovsky; he addressed the Committee during a public forum in 2008. "Sex Offender Management: A Briefing for Policy Makers in Maine," was held in Augusta as part of the Committee's interim review of sex offender registration and notification issues. See Joint Order, S.P. 933 (Second Regular Session, 123rd Leg.); Final Report of the Criminal Justice & Public Safety Committee, Study of Sex Offender Registration Laws, November 2008, p. 3.

The Commission sought information regarding treatment currently available in Maine for convicted sex offenders, and heard from persons directly involved in supervision and treatment for offenders currently or formerly in the custody of Maine's Dept. of Corrections. The second meeting was attended by Susan Wiechman of Maine's Dept. of Corrections, Probation & Parole; Ms. Wiechman is a Regional Case Manager for Sex Offender Specialists (probation officers). She has been invited to continue to attend the Commission meetings. In addition, Tim App and his colleagues from the Counseling and Psychotherapy Center, Inc. (CPC), an organization that provides sex offender treatment programs for Maine's Dept. of Corrections, briefed the Commission on its programs during the second meeting. Mr. App subsequently provided the Commission with materials related to the treatment program, including CPC's response to the Dept. of Corrections' RFP #201110173, Comprehensive Correctional Health Care Services; an excerpt from the CPC's Clinician Handbook & Resource Guide; and the client handbook for CPC's RULE (Responsibility, Understanding, Learning, Experience) Program. According to Mr. App, the handbook represents "the core treatment program used in both

the prison and community program.” (Correspondence, App to Rucha, Dec. 21, 2012; Correspondence and CPC Clinician Handbook excerpt, Appendix D). The Commission found it helpful to begin to familiarize itself with current Maine programs and resources in order to have some context for evaluating the Colorado approach and assessing the feasibility of such an approach in Maine.

IV. The Colorado Sex Offender Management Board

The Colorado Sex Offender Management Board (SOMB) is within the Division of Criminal Justice of the Department of Public Safety. It consists of 25 members with experience and expertise in a variety of disciplines, including mental health, corrections, criminal defense, law enforcement, polygraph examinations, prosecution, victims’ services, and juvenile offenders. The Chief Justice of the Colorado Supreme Court, the Directors of the Depts. of Corrections, Human Services, Public Safety and the District Attorneys’ Council, and the Commissioner of Education appoint members. C.R.S.A. § 16-11.7-103. The Board is part of the Division of Criminal Justice within Colorado’s Dept. of Public Safety, and has its own staff, including a director, two standards coordinators (adult and juvenile), a researcher, and two administrative support persons. Current staff and board members are listed on the SOMB website at http://dcj.state.co.us/odvsom/sex_offender/contact.html (Appendix E).

Information on Colorado’s Convicted Sex Offender Registry site about the Sex Offender Management Board reflects a statewide philosophy that results in a comprehensive approach to the management of sex offenders who have been convicted of sex crimes in Colorado:

Sex Offender Management in Colorado

- The Colorado Sex Offender Management Board (SOMB) is a multi-disciplinary board of professionals created by legislative mandate to oversee the management of sex offenders in Colorado.
- The Colorado General Assembly and the SOMB conclude that sex offenders are dangerous because of the harm they cause to victims and their risk to re-offend.
- The SOMB believes that community safety is paramount and comes before the needs of the offender. The primary goal of sex offender management is to prevent the offender from victimizing any other person.
- Sex offender management practices, based on available research, assume that sexual offending is a behavioral disorder which cannot be "cured."
- While sex offenders cannot be cured, it is believed that some can be managed. The combination of comprehensive treatment and carefully structured and monitored behavioral supervision may assist some sex offenders to develop internal controls for their behaviors.
- Colorado utilizes the Containment Approach to manage sex offenders in the community. Sex offenders are never managed by an individual person. Rather they are managed by community supervision teams, consisting of supervising criminal justice officers (probation and parole officers and community

corrections staff), polygraph examiners and treatment providers. Supervising officers set conditions for the offender, monitor their behavior and impose sanctions for infractions. Treatment providers gather information about the offender, assist with monitoring and administer a long-term comprehensive set of planned therapeutic interventions designed to change sexually abusive thoughts and behaviors. The polygraph examiner assists in gathering a full and accurate history of the offender's behavior and monitors current compliance with conditions and risk behaviors.

- Sex offenders must waive confidentiality for evaluation, treatment, supervision and case management purposes. All members of the management team must have access to the same relevant information. Sex offenses are committed in secret, and all forms of secrecy potentially undermine the rehabilitation of sex offenders and threaten public safety. This approach has been identified through research to be the best way to manage adult convicted sex offenders in the community.
- Successful containment, treatment and management of sex offenders is enhanced by the involvement of family, friends, employers, and others who have influence in sex offenders' lives, when these people are willing to support the conditions and requirements of the criminal justice system.
- Assignment to community supervision is a privilege, and sex offenders must be completely accountable for their behaviors. Offenders must agree to intensive and sometimes intrusive accountability measures. These measures are designed to increase the likelihood that the offender can safely remain in the community rather than in prison. Offenders must learn to be accountable to maintain the privilege of remaining under community supervision.

Available at <http://sor.state.co.us/?SOR=home.youshouldknow> .

The site for Colorado's Sex Offender Management Board provides a very brief history of its governing statutes that further emphasizes Colorado's comprehensive philosophy and approach:

In 1992, the Colorado General Assembly passed legislation (**Section 16-11.7-101 through Section 16-11.7-107 C.R.S.**) which created a Sex Offender Management Board to develop standards for the assessment, evaluation, treatment and behavioral monitoring of adult sex offenders.

State statute (**Section 16-11.7-107 C.R.S.**) prohibits the Department of Corrections, the Judicial Department, the Division of Criminal Justice of the Department of Public Safety, or the Department of Human Services from employing or contracting with, or allowing a convicted sex offender to employ or contract with providers unless they meet these standards.

In 1998, the Colorado General Assembly passed legislation directing the Sex Offender Management Board, in collaboration with the Department of Corrections, the Judicial Branch and the Parole Board to establish the criteria by and the manner in which a sex offender who is subject to lifetime supervision may demonstrate that he and she would not pose an undue threat to the community if released on parole or to a lower level of

supervision while on parole or probation or if discharged from parole or probation and the methods of determining whether a sex offender has successfully progressed in treatment (**Section 16-13-809 (1) (a) and (b) C.R.S.**).

In 1998, the Colorado General Assembly passed legislation directing the Sex Offender Management Board, in collaboration with the Department of Corrections, the Judicial Branch and the Parole Board to develop Standards for community entities that provide supervision and treatment specifically designed for sex offenders who have developmental disabilities. At a minimum, the Legislature mandated that these Standards shall determine whether an entity would provide adequate support and supervision to minimize any threat that the sex offender may pose to the community (**Section 16-13-809 (1) (c) C.R.S.**).

In 1999, the Colorado General Assembly passed legislation (**16-13-901 through 19-13-905 C.R.S.**) which mandates community notification regarding certain sexually violent predators. The General Assembly directed the Sex Offender Management Board to establish protocols and procedures for carrying out community notification, which are found in the Criteria, Protocols and Procedures for Community Notification Regarding Sexually Violent Predators. The Sex Offender Management Board developed these criteria based on the governing philosophy of public safety, current research in the field, and the Guiding Principles of the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders.

In 2000, The Colorado General Assembly amended and passed legislation (**Section 16-11.7-103, C.R.S.**) which required the Sex Offender Management Board to develop and prescribe a standardized set of procedures for the evaluation and identification of juvenile sex offenders. The legislative mandate to the Board was to develop and implement methods of intervention for juvenile sex offenders, recognizing the need for standards and guidelines specific to these youth. These Standards continue to hold public safety as a priority, specifically the physical and psychological safety of victims and potential victims.

Available at: http://dcj.state.co.us/odvsom/sex_offender/governing.html.

Central to Colorado's system is its approach that convicted offenders should be subject to lifetime supervision, which in turn rests upon data that sex offenders engage in "crossover" behavior and the philosophy that there is "no known cure" for sex offending. It is possible for some offenders to manage their likelihood of re-offense. The Board's conclusions are evidence-based. See SOMB Position Paper: "Defining 'No Known Cure' with Regard to Adult Sex Offenders," approved August 19, 2011:

Purpose:

The Sex Offender Management Board (SOMB) has reviewed the considerable body of research concerning the treatment of adult sexual offenders. The purpose of this paper is to define and clarify that “no known cure” is a treatment and management philosophy which recognizes that there is currently no way to ensure that adult sex offenders will not re-offend. However, with effective treatment and supervision certain offenders can internalize changes that decrease their likelihood of re-offense.

Opening Statement:

Sex offenders present a risk to community safety and their crimes cause significant trauma to victims. The phrase “no known cure” reflects the current known research about adult sex offenders.¹ It emphasizes the importance of ongoing long-term management and containment of adult sex offenders.

It is generally recognized in the sex offender management field that sexual offending is a complex problem for which there are no simple solutions.² We cannot accurately predict who will or will not re-offend. Treatment and supervision teaches offenders cognitive-behavioral interventions to manage their risk. It is up to the offender to take responsibility for his or her behavior and continually manage the behaviors that led to his or her offense(s) in order to prevent future offenses and enhance community safety.

¹ Lowden, K., English, K., Harrison, L., Pasini-Hill, D., & Lounders, P. (2007). *Crime and justice in Colorado*. Denver, CO: Office of Research and Statistics, Division of Criminal Justice.; Heil, P. (2010). Sex Offender Recidivism Meta-Analysis. Presentation to the Colorado Sex Offender Management Board on September 17, 2010 and November 19, 2010.

² Marshall, W., Laws, D.R., & Barbaree, H. (1990). *Handbook of Sexual Assault: Issues, theories, and treatment of the offender*. New York and London: Plenum Press.

Emphasis provided. SOMB Position Paper *available at:*

http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/No%20Known%20Cure%20position%20paper%20FINAL%20Aug%202011.pdf.

Although it reflects the philosophy of the SOMB, the “no known cure” tenet is not universally espoused. Mr. Lobanov-Rostovsky has directed the Commission to recent legislation in Colorado, which he identified as reflecting a balancing of the positions of various stakeholders:

(4) Duties of the board. The board shall carry out the following duties:

(a) Standards for identification and evaluation of adult sex offenders. The board shall develop, prescribe, and revise, as appropriate, a standard procedure to evaluate and identify adult sex offenders, including adult sex offenders with developmental

disabilities. The procedures shall provide for an evaluation and identification of the adult sex offender and recommend management, monitoring, and treatment based upon existing research demonstrating that sexually offending behavior is often repetitive and that there is currently no way to ensure that adult sex offenders with the propensity to commit sexual offenses will not reoffend. Because there are adult sex offenders who can learn to manage unhealthy patterns and learn behaviors that can lessen their risk to society in the course of ongoing treatment, management, and monitoring, the board shall develop a procedure for evaluating and identifying, on a case-by-case basis, reliably lower-risk sex offenders. The board shall develop and implement methods of intervention for adult sex offenders, which methods have as a priority the physical and psychological safety of victims and potential victims and which are appropriate to the assessed needs of the particular offender, so long as there is no reduction in the safety of victims and potential victims.

C.R.S.A. 16-11.7-103(4)(a).

Colorado does not take the same “no cure” approach with respect to juvenile offenders, and, accordingly, has developed different standards for the treatment of juvenile sex offenders. See *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses*, available at http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/FINAL%202012%20Juvenile%20Standards%20120712.pdf. See also the Colorado Sex Offender Management Board Position Paper, “‘No-Cure Policy’ with Juveniles Who Have Committed Sexual Offenses”:

Purpose: “The Sex Offender Management Board (SOMB) enabling statute (C.R.S. 16-11.7-103(4)(a), as passed in 1992, states that, “sex offenders are extremely habituated and that there is no known cure for the propensity to commit sex abuse. The Board shall develop and implement measures of success based upon a no-cure policy for intervention.”

This statute was written to apply to adult sex offenders. The purpose of this paper is to affirm and explain why the “no-cure policy” should not be applied to juveniles who are treated and supervised pursuant to the *Standards and Guidelines for the Evaluation, Assessment, Treatment, and Supervision of Juveniles who have Committed Sexual Offenses*.

SOMB Position Paper *available at:*

http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/Juvenile%20NKC%20Position%20Paper.pdf.

The statutory duties of the SOMB are extensive. C.R.S.A. § 16-11.7-103 (Appendix F). Its website is a testament to the extent of its activities. The site provides links to a profusion of position papers, press releases and standards that govern the management of sex offenders. A single document, the 200+ page “Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Offenders” (“Adult Standards”) includes policy on the role of victims, guidelines for presentence investigations and evaluations, standards of practice for treatment providers, qualifications for treatment providers, evaluators and polygraph examiners, standards for management of sex offenders on probation and parole, standards of practice for post-conviction polygraph testing, standards for plethysmography, reasons for denial of placement on the provider list, recommendations for information-sharing on alleged offenders prior to conviction, risk assessment, research supporting restricted contact with children, and an exemplar computer use agreement for sex offenders. The Adult Standards document is available at: http://dcj.state.co.us/odvsom/Sex_Offender/adults.html#standards. The SOMB has published a separate, equally comprehensive “Standards...” book for juvenile offenders. The Juvenile Standards document is available at: http://dcj.state.co.us/odvsom/Sex_Offender/juveniles.html#standards. In addition, the SOMB provides personnel to conduct training, maintains a lending library of training resources, and lists information regarding the availability of related, but non-SOMB-sponsored training. *See, e.g.,* http://dcj.state.co.us/odvsom/Sex_Offender/training.html.

A list of reports published by the SOMB is available at http://dcj.state.co.us/odvsom/Sex_Offender/reports.html. The November 2012 Lifetime Supervision Report is the most recent of statutorily required SOMB reports. Its attachments of several hundred pages include the Adult Standards, the SVP Assessment Screening Instrument and Handbook, a Provider List, a Process Evaluation, and the 2011 Adult Standards and Guidelines Outcome Evaluations. (List and 2012 Lifetime Supervision Report, with Attachments, Appendix G¹).

V. Sex Offender Registration in Colorado

Colorado’s Department of Public Safety has several different divisions. *See* <http://cdpsweb.state.co.us/>. The division known as the Bureau of Identification maintains the Convicted Sex Offender Site (the registry). A

¹ Margin notes on the list of Reports at Appendix G indicate which Lifetime Supervision report is in the Appendix, and indicate that Attachment D to the Lifetime Supervision Report has been abridged.

separate division, the Division of Criminal Justice, includes the Colorado Sex Offender Management Board. The Colorado Convicted Sex Offender site is available at: <http://sor.state.co.us/?SOR=home.home>. Applicable statutes are listed and available at <http://sor.state.co.us/?SOR=home.statute>. (Relevant statutes reproduced in Appendix H).

Registration is determined largely by conviction, with some variation if the offender is a juvenile. “Sexually Violent Predator” (SVP) status is based on convictions or determined by a judge. After initial registration, offenders must reregister annually or quarterly (SVPs). Registrants must supply a current photograph and fingerprints with each re-registration, at their own cost. E-mail and Internet identifiers are required of many registrants. In addition, local law enforcement agencies may assess fees to cover the costs of registration. C.R.S.A. § 16-22-103, 108.

According to Mr. Lobanov-Rostovsky and a notice on the Convicted Sex Offender Site, not all persons who are required to register are posted on Colorado’s Internet site. Persons convicted of misdemeanor sex crimes who are not otherwise classified as Sexually Violent Predators and juveniles are not posted on the Internet site. However, citizens can request a list of all registrants, including misdemeanants and juveniles. A written application must be filed; there is a \$20 fee for the list. The list includes, for each registrant, the name of registrant, the registrant’s date of birth, the address or addresses of registrant, the aliases of the registrant, and a history of the convictions that resulted in the registrant being required to register. The list does not include photos. See Public Request for Registered Sex Offender Information, available at: <http://sor.state.co.us/?SOR=home.sxoreg>. “Neighborhood” lists can be requested from law enforcement agencies. See <http://sor.state.co.us/?SOR=home.home>. Colorado statute identifies the listed registrants as follows:

- a) Any person who is a sexually violent predator;
- (b) Any person sentenced as or found to be a sexually violent predator under the laws of another state or jurisdiction;
- (c) Any person who is required to register pursuant to [section 16-22-103](#) and who has been convicted as an adult of two or more of the following offenses:
 - (I) A felony offense involving unlawful sexual behavior; or
 - (II) A crime of violence as defined in [section 18-1.3-406, C.R.S.](#); and
- (d) Any person who is required to register pursuant to [section 16-22-103](#) because the person was convicted of a felony as an adult and who fails to register as required by [section 16-22-108](#).

C.R.S.A. § 16-22-111.

In Maine, all registrants are posted on the Registry website; accordingly, no fee is required in order to review a list of all registrants in a particular municipality. However, Maine does not require registration for many sex crimes committed against adult victims. See 34-A M.R.S. § 11203 (6), (6-A), (6-B) [defining sex offense with reference to age of victim] or for unlawful sexual touching in violation of 17-A M.R.S. § 260 (even where the victim is a child), or for unlawful sexual contact committed by a psychiatrist, psychologist or social worker against a client or patient in violation of 17-A M.R.S. § 255-A. Maine does not require registration for juveniles, unless they are “bound over” and convicted as adults, so information regarding juvenile adjudications is not available through Maine’s Sex Offender Registry.

On the Colorado site, posted information concerning registrants includes:

- Name, photo and physical description of registrant
- The registrant’s date of birth
- Address or addresses of registrant
- Aliases of the registrant
- List of convictions that resulted in the registrant being required to register, with the year of conviction

This same information is available on Maine’s Registry site. Maine provides substantially more information about the crimes requiring registration. The Maine site includes a citation to the criminal statute, the court and specific date of conviction, and the docket number. This information enables a citizen to contact a court for additional records and to read the language of the statute that defines the crime.

Colorado does not post information referencing victims; neither does Maine. Colorado does not post risk assessment scores or the results of evaluations; neither does Maine. Colorado does not post information concerning arrests or convictions that do not require registration; neither does Maine. In both states, citizens can request public criminal history records for a fee through their respective criminal history repositories (in Maine, SBI; in Colorado, CBI).

Additional information posted on Colorado’s Registry site includes notations on each individual registrant’s profile indicating whether the registrant is a felony offender, has multiple convictions, has failed to register and/or has been classified as a Sexually Violent Predator. A registrant may fall into one or more of these categories. The notations are described on the Colorado Registry site as follows:

- [Sexually Violent Predators](#) (SVP's) - SVP's are considered the highest risk sex offenders. Currently, most SVP's are in prison. They are posted on this site when they are living in the community (or have lived in the

community), either under criminal justice supervision or having completed their sentence. SVP's are the only category of sex offenders subject to Community Notification.

- [Multiple Offenses](#) - These sex offenders have two or more adult felony convictions for unlawful sexual behavior or crimes of violence
- [Failed to Register](#) - These sex offenders have not registered or have a history of failing to register, as required, with their local law enforcement agency.
- [Felony Conviction](#) - A person who has been convicted of a felony sex offense as an adult which requires registration and is currently registered.

*A sex offender may meet the criteria of more than one of the above categories and therefore may be posted on more than one list on this site.

Available at: <http://sor.state.co.us/?SOR=home.home>.

Based on information provided by Chris Lobanov-Rostovsky and Jeanne Smith and review of the Colorado laws, SVP status is determined by the sentencing court or by the type of convictions. In some circumstances, where the person was sentenced before the SVP classification system was established and the person is retroactively subject to this classification, it is determined by a parole board. No risk assessment scores or levels obtained through this process are posted or otherwise publicly available.

Colorado has established statutory criteria for being classified as a Sexually Violent Predator where the status is not otherwise established by convictions. The offender must have been 18 or tried as an adult; have been convicted of certain designated crimes; have had a particular relationship with the victim (stranger OR promoted/established relationship for purposes of victimization); and be determined likely to reoffend. C.R.S.A. § 18-3-414.5. As indicated above, this determination is often made by a sentencing judge. The judge bases the determination on investigation and evaluation by probation officers or trained DOC staff and sex offender evaluators qualified by virtue of their listing on the SOMB provider list. An actuarial risk assessment tool, the SOMB Sex Offender Risk Scale (SORS), is one aspect of this multi-part assessment. See Colorado Sexually Violent Predator Assessment Screening Instrument and Handbook, available at: http://dcj.state.co.us/odvsom/Sex_Offender/reports.html (also reproduced in Appendix G to this Report). According to Mr. Lobanov-Rostovsky, much of the cost of evaluation is paid by the offender.

Results of being classified as a Sexually Violent Predator are several. SVPs are designated as such on the Registry site. See <http://sor.state.co.us/?SOR=offender.list&category=SVP>. According to Mr. Lobanov-Rostovsky, SVPs are not permitted to petition for relief from duty to register, and have a lifetime registration requirement. They are subject to active community notification, beyond posting on the Internet site. Community notification may include phone contact, town meetings, and cable access broadcasts. (Commission Minutes of October 30, 2012.) A link on the Registry site allows the public to request e-mail notification regarding SVPs. See

<http://cdps-1.state.co.us/mailman/listinfo/svp-notification>. By way of comparison, Maine also has a process for community notification, though the decision regarding when and to what extent to conduct active community notification, which may include posting flyers, door-to-door notifications, community forums, and/or newspaper publications, is left to individual law enforcement agencies. 34-A M.R.S. § 11255(2) (“law enforcement agency shall notify members of a municipality that the law enforcement agency determines appropriate to ensure public safety”). The outgoing Chair of the Board of Trustees of the Maine Criminal Justice Academy confirmed that all law enforcement agencies have adopted notification policies as required by statute. 25 M.R.S. § 2803-B(1)(J). (MCJA Minimum Standards and Model Policy, Appendix I). The Commission does not have a clear picture of the extent of active community notification that is being done by local Maine law enforcement agencies at this time.

Colorado courts play a key role in the state’s registration scheme. In addition to making SVP determinations, Colorado judges are involved in registration decisions in other ways. For example, a judge can set aside the registration requirement for offenders under 18 under certain limited circumstances. C.R.S.A. 16-22-103. Courts also hear petitions to be relieved of the registration obligation. Depending on the nature of the conviction, a registrant may petition the court of conviction for release from the registration requirement at 5, 10 or 20 years after final discharge from correctional supervision or commitment. The petitioner must not have any new convictions involving “unlawful sexual behavior” (the offense need not be denominated a sex crime). Prior to filing a petition, the registrant must notify law enforcement agencies in the jurisdictions in which they are required to register, prosecutors in those jurisdictions, and the prosecutor who obtained the conviction. The registrant must file return receipts with the court with the petition. Hearing is conducted on the petition in court, after notice to any victim who has requested notice. C.R.S.A. § 16-22-113. The decision to grant or deny the petition is discretionary, and subject to appeal. See, e.g., *People v. Carbajal*, --- P.3d ----, 2012 WL 2581023, Colo.App., 2012 (Decision not yet released for publication) and cases cited therein, at ¶ 48. An unsuccessful petitioner can petition the court again.

In contrast, the role of Maine’s trial courts in registration is largely ministerial. The obligation to register is created by statute, and is one of statutory definition. The court has an obligation to notify the convicted registrant at the time of sentencing of the obligation to register. 34-A M.R.S. §§ 11222, 11282. In the case of retroactive application of the obligation to register, the court does not even have the notification duty—it falls to the Dept. of Corrections, the State Bureau of Identification, or a law enforcement agency. *Id.* Applications for relief that may be filed by retroactive registrants pursuant to 34-A M.R.S. § 11202-A are processed and determined by the Sex Offender Registry, within the State Bureau of Identification. Only the appeal from any

final agency action taken on such an application goes to the Superior Court. 34-A M.R.S. § 11202-A(5).

The Colorado Convicted Sex Offender site provides a good example of how a Registry website can be a source of information and education for the public, beyond providing a list of convicted offenders. A sidebar option, "Sexual Offender Facts," links to extensive information under the heading "Things You Should Know about Sexual Offending," with the following subtopics:

- Facts About Sex Offenders
- Facts About Sex Offenders in Colorado
- Sex Offender Characteristics
- Sex Offender Management in Colorado
- Personal Safety Tips
- What Can I Tell My Children?
- Adult Behavior That May Signal Sexual Interest in Children
- Behavioral and Physical Warning Signs That a Child Has Been Abused
- Physical Warning Signs Include...
- Safety Tips from a Convicted Child Molester

Available at: <http://sor.state.co.us/?SOR=home.youshouldknow>. Examples of two of these subtopics, which include data particularly relevant to this report, follow:

Facts About Sex Offenders in Colorado

- There are currently 10,096-registered sex offenders in Colorado, as of June 2, 2008.
- Approximately 60% of convicted sex offenders in Colorado are sentenced to community placement (probation, parole, or community corrections) with the remainder being sentenced to incarceration at the Department of Corrections or the county jail (*Colorado State Court Administrator's Office, 2003*).
- As of June 2008, there are currently 457 Sexually Violent Predators in Colorado. Of these, 364 are currently incarcerated in the Department of Corrections and 93 are listed on the Colorado Sex Offender Registration web site. (Not all SVP's who are incarcerated are posted on the web site. As an SVP is released from prison to live in the community, they will be posted to the Web site).
- A 1998 study by the Colorado Department of Public Health and Environment found:
 - 1 in 150 women and 1 in 830 men in Colorado had experienced a completed or attempted sexual assault in the past 12 months;
 - Approximately 16% of these assaults were reported to police;
 - 1 in 4 women and 1 in 17 men in Colorado had experienced a completed or attempted sexual assault in their lifetime (*Colorado Department of Health, 1998*).

Sex Offender Characteristics

- Many offenders commit multiple crimes against multiple types of victims with whom they have varying types of relationships (adults, children, male, female, known and unknown). This behavior is known as "crossover." (*English et al, 2000; Abel and Rouleau, 1990*)
- There is no such thing as a "typical" sex offender. However, all tend to be manipulative, deceptive, and secretive. Sex offenders come from all backgrounds, ages, income levels, and professions.

- Sexual deviancy often begins in adolescence. (*Abel, Mittleman, and Becker, 1985; Abel and Rouleau, 1990; Freeman-Longo, 1993*).
- Sex offenders usually do not commit their crimes impulsively. They usually carefully plan their crimes. (*WebMD Feature, 2000*).
- Less than 10% of sexual assaults are committed by women (*Federal Bureau of Investigation, 2006*).

Available at: <http://sor.state.co.us/?SOR=home.youshouldknow>.

The Colorado site also provides links to a list of “Most Wanted” sex offenders (generally, people for whom warrants have been issued for failure to register); to a “Tip Line” (to report the “possible location of an offenders who has failed to register”); and to an option to request e-mail notification regarding Sexually Violent Predators. Revisions made to Maine’s Registry as a result of SORNA of 2013 will make an e-mail notification option available to citizens who actively request it. However, the Commission does not recommend incorporating a “Tip Line” or “Most Wanted” notices on Maine’s Registry site; such notices are better left to law enforcement agencies in Maine.

VI. Initial Recommendations for Statutory Changes

At its first two meetings, it quickly became apparent to the Commission that certain changes should be made to the statutes governing the Commission. These recommendations and the reasons for them follow.

The Commission’s charge should be broadened, to authorize it to make recommendations with respect to Maine’s Sex Offender Registration and Notification Act (SORNA) in general, similar to the role of the Criminal Law Advisory Commission (CLAC) with respect to the Criminal, Juvenile and Bail Codes. The Commission has already identified technical issues and needed amendments. (Executive Summary (ES) A.1)

The Legislature may wish to authorize the Commission to recommend or submit legislation concerning the management of sex offenders and Maine’s SORNA in general. The expertise and experience of the members of the Commission lend itself to this type of role.²

At its second meeting, it became apparent that technical changes to Maine statutes should be made to more effectively implement the Sex Offender Registration and Notification Act. For example, the statutes governing the Maine Criminal Justice Academy currently require the Academy Board of

² There is potential overlap with the statutory duties of the Maine Commission on Domestic and Sexual Abuse, established pursuant to 19-A M.R.S. § 4013. The Abuse Commission has not historically focused its recommendations on issues relating to post-conviction management of sex offenders or the technical aspects of Maine’s registration statutes. Nevertheless, the two Commissions should apprise each other regarding potentially overlapping recommendations. The currently overlapping membership between the two groups encourages this cooperation.

Trustees to promulgate standards for law enforcement agencies concerning “public notification regarding persons in the community required to register under title 34-A, chapter 15 [SORNA of 1999, as amended].” 25 M.R.S. § 2803-B(1)(J). This statute should be updated to referenced Chapter 17, SORNA of 2013. The need for this technical change has been communicated to John Rogers, Director of the Criminal Justice Academy, who may incorporate the change into legislation already scheduled to be proposed this session updating the Academy statutes.

A second statutory issue related to SORNA that came to the Commission’s attention is the need to amend SORNA and perhaps confidentiality laws to allow DHHS to disclose to the Registry when a registrant who comes into the custody of the Commissioner of DHHS subsequent to a conviction (for example, as a result of an involuntary commitment some time after conviction) is subsequently returned to the community on modified release or discharge. There is currently no obligation on DHHS or the hospital provider to notify the Registry of the registrant’s return to the community, and confidentiality laws may prevent disclosure of that information.

The Commission’s charge with respect to risk assessment should be revised to authorize it to study and make policy recommendations concerning sex offender management and risk assessment, rather than to create a specific risk assessment tool. (ES A.2)

The Commission respectfully suggests that the language in the current statute directing the Commission to “develop a plausible risk assessment method,” be amended to direct the Commission to “make recommendations regarding risk assessment.” The task “of conducting a continuing study of methods that may be used to predict the risk of recidivism by a sex offender and to develop a method that may be used for such purposes” is more appropriately performed by forensic psychologists and psychiatric practitioners schooled in statistics and possessing extensive clinical experience treating convicted sex offenders. This became patently obvious in our discussions with Colorado officials and Tim App, a sex offender treatment provider for the Maine DOC, and as a result of our review of the Colorado SOMB’s Adult “Standards” and Dr. Sue Righthand’s January 2005 “Report [to the 122nd Maine Legislature] of the Committee to Prevent Sexual Abuse.”

The Commission can provide valuable service to policymakers by making recommendations concerning sex offender management and registration, the use of risk assessment at various points in the criminal justice process, the extent to which risk assessment information can or should be communicated to the public, and the appropriate role for Maine’s Registry in the management of sex offenders and education of the public. Indeed, existing language in the enabling statute already authorizes the Commission to “[c]ontinue to evaluate the plausibility, implementation and application of sex offender risk

assessments,” and to make recommendations to the Legislature, executive agencies and the judiciary “regarding sex offender risk assessment.” 17-A M.R.S. §§ 1403(1)(B), 1403(2). The Commission respectfully suggests that the Legislature endorse this role for the Commission of studying and making policy recommendations concerning sex offender management, risk assessment and conducting an ongoing review of Maine’s registration statute, without developing a specific risk assessment tool.

The language creating the Risk Assessment Advisory Commission should be moved from Title 17-A (the Criminal Code) to Title 34-A (Corrections). (ES A.3)

Placement of the Sex Offender Risk Assessment Advisory Commission within the corrections statutes would be consistent with the current location of Maine’s statutes concerning sex offender registration, and is likewise consistent with the general approach the Commission recommends in this report, that management of convicted sex offenders, and prevention of re-offending, requires a comprehensive and long-term approach to post-conviction supervision of sex offenders.

The Commission should be given the statutory authority to enter contracts and accept funds or grants to accomplish its work. (ES A.4)

As an example, the Commission points to the statutes governing the Criminal Law Advisory Commission, which can contract with and employ staff and accept federal funds. 17-A M.R.S. §§ 1355, 1357.

VII. Initial Recommendations Based on Review of Colorado’s Sex Offender Management Board (SOMB) and Convicted Sex Offender Site

Our initial review led the Commission to conclude that much in Colorado’s approach deserves to be emulated. However, in order to evaluate the Colorado approach and assess the feasibility of transferring any aspect of it to Maine, the Legislature should familiarize itself with current Maine programs and resources, particularly with respect to pre-sentence investigations and post-conviction supervision and treatment of convicted sex offenders. The Commission proposes specific areas of inquiry. (ES B.1)

As the Commission began its review of the Colorado system, it quickly became apparent that the work should be done with knowledge of Maine’s current approach beyond that of our respective professional experiences and knowledge of the statutes. Accordingly, we accessed the reports of past study commissions, consulted with DOC probation officers and treatment providers, and made an inquiries of law enforcement agencies. As a result of beginning this education process, the Commission respectfully suggests that the Committee hear directly from the Maine courts, the Department of Corrections, Maine prosecutors and law enforcement with respect to at least the following questions.

How many and what percentage of convicted sex offenders undergo presentence investigation prior to sentencing by the court? Is there capacity to conduct more? If not, what additional resources are required?

How often is a forensic evaluation a part of such a presentence evaluation? Is there capacity to conduct more? If not, what additional resources are required?

What percentage of convicted sex offenders receives sentences that include probation or supervised release?

To what extent is deferred disposition being used to resolve sex offense charges? Of those subject to deferred disposition, to what extent is the offender being supervised or monitored during the deferral period, and how many of these cases result in charges being dismissed?

How many/what percentage of convicted sex offenders receive sentences that make them eligible for the type of treatment provided by CPC?

To what extent do incarcerated offenders who receive shorter sentences that don't allow for the intensive 3+ year treatment provided by CPC receive any other treatment? When is it required?

What level of supervision is provided for sex offenders on probation or supervised release (number and nature of face-to-face contacts, random checks)?

When is community-based treatment of sex offenders required? What does it involve?

Areas of inquiry should include the frequency of contact required, the level of provider who can provide the treatment, whether there are licensing or educational standards for the treatment provider or DOC standards for the content of any treatment program, whether there is polygraph testing to ensure compliance with treatment and other probation conditions, whether there are standards for polygraphers who provide sex offender polygraphs, whether there is ongoing risk assessment (and what kind/by whom conducted).

To what extent is the containment model used in Maine? Who are the participants? How does the process work?

Do changes in DOC policies regarding revocation of probation extend to sex offenders and to offenders whose crimes involve a sexual component?

How is active community notification accomplished?

Policymakers in Maine should determine whether and how the State will prioritize management of convicted sex offenders. Any commitment to a Colorado-style approach will require significant resources from all branches of state government, as well as from local government (law enforcement). (ES B.2)

Maine's criminal statutes make available sentencing options that allow for extended periods of probation or supervised release and lengthy periods of incarceration for some convicted sex offenders. 17-A M.R.S. §§ 1202(1-A),(B), 1231, 1252. The decision to make incarceration or supervision for "any term of years" an option for the sentencing court speaks to the Legislature's recent emphasis on longer sentences for sex offenders. With respect to registration, the Legislature has both extended the reach of SORNA of 1999 (to 1992, then to 1982), and rolled back registration requirements in response to objections from convicted offenders (P.L. 2009, ch. 365) and guidance from the Maine Law Court (*State v. Letalien*, 2009 ME 130; P.L. 2009, ch. 570). The Legislature has enacted a new registration law, SORNA of 2013, which goes a substantial way toward complying with the SORNA portion of the federal Adam Walsh Child Protection and Safety Act of 2006. However, the Commission is not aware of whether the State intends to pursue further efforts to be found in substantial compliance. It is not clear that Maine's approach to sex offender management has been guided by a unified philosophy or comprehensive policy.

Were the Legislature to propose programs such as that in Colorado, Maine would have to espouse a statewide comprehensive approach to sex offender management similar to that demonstrated by Colorado when its legislature created the SOMB—and prioritize it. It is evident from the size of the staff and board of the SOMB, its research capacity, standards development and training resources, that such an effort requires long-term commitment to provide substantial human and financial resources to be effective. Any legislative proposal to create a sex offender management board with functions similar to that of the Colorado SOMB, or with statutory duties that go beyond an assignment to make recommendations regarding policy and legislation, should include a funding mechanism and be staffed with personnel whose experience includes sex offender supervision, forensic evaluation of sex offenders, professional standards for appropriate treatment providers, direct victims' services and criminal prosecution and defense. A Colorado-style program would likely require more local participation, with active community notification (beyond Internet posting) for some offenders, and local law enforcement providing lists of local offenders upon request. The courts would be conducting hearings to determine the status of certain offenders and whether they could be relieved of the obligation to register.

Review of Colorado’s Convicted Sex Offender site shows that Maine’s Sex Offender Registry site provides an opportunity to make educational material and appropriate links widely accessible to the public at little cost to the State or those accessing the site. Such information should be expanded, without sensationalizing the site or information concerning specific offenders. (ES B.3)

Maine’s Sex Offender Registry site can be a source of information and education for the public without assigning risk scores to individual offenders. The Colorado Sex Offender site provides a good example of this approach. Maine’s Registry site already makes a significant amount of information available to the public by linking to statutory language and by identifying the court of conviction and sentence. The Colorado site provides different types of information, with links to services and research, and includes educational information on the site itself regarding sex offenses and offenders. See Section V, Sex Offender Registration in Colorado, above, and the Colorado Convicted Sex Offender site at <http://sor.state.co.us/>. However, the Commission does not recommend the use of labels such as “sexually violent predator” (Maine’s registration statutes were amended to eliminate such terms), or the use of labels in brightly colored font, which might serve only to sensationalize the site. Similarly, the Commission does not recommend that Maine’s Registry site emulate the Colorado site by including links to a “Most Wanted” list, or to provide tips regarding unregistered offenders. These functions are better left to law enforcement.

Review of the Colorado approach and Maine’s DOC sex offender treatment program has confirmed that risk assessment is complex, takes different forms, and is used in different contexts. Policymakers should understand the multiple contexts in which it is used, be aware of how it is currently used in Maine, and appreciate its limitations. Development of risk assessment methods is appropriately left to forensic professionals. (ES B.4)

Because of the complexity and changeability of risk and assessment of that risk, a proposal to link risk assessment to Maine’s existing conviction-based SORNA is not currently recommended. The Commission hopes to explore the appropriate uses of risk assessment further. (ES B.5)

The Commission respectfully suggests that Maine should follow Colorado’s lead by taking a broader view with respect to sex offender management. Maine’s Registry is but one aspect of a much larger picture. The Registry is a valuable source of accurate information, and informs citizens that certain individuals have been found beyond a reasonable doubt to have committed identified crimes. This conviction information is public, and should not be made more difficult to obtain. The Registry website can be made more useful to the public by expanding information available on the website, as Colorado has done. In Colorado, however, the registration system, which includes Internet posting of certain registrants, is but one aspect of the state’s

overall approach to sex offender management, which involves pre-sentence evaluations for all offenders and supervision for most. Risk assessment scores are not posted on Colorado's registry, and registration is not used as a substitute for a comprehensive approach to incarceration, supervision, management and public education.

Colorado incorporates risk assessment in its management and treatment of offenders. SOMB guidelines, standards and publications recognize the complexity of risk assessment. Colorado does post whether a registrant has been classified as a Sexually Violent Predator as a result of court determination or as a result of convictions. When made by a court, the determination is made by the sentencing judge, after a convicted offender has been the subject of a pre-sentence evaluation, met certain statutory criteria, and has been assessed by both a parole officer and a forensic evaluator approved by the SOMB.

Risk assessment is also used in Maine, primarily in the context of sex offender treatment. Tim App, who provides sex offender treatment for Maine offenders in DOC, recommended that risk assessment scores not be posted on Maine's registry website. Risk changes over time and often cannot be accurately assessed, especially before someone has been in treatment and under supervision. Mr. App told Commission members of specific offenders who, having been convicted of or initially disclosed certain offenses, subsequently disclosed in treatment many, many more offenses and victims. (Minutes of Nov. 26, 2012.) Information provided by Mr. App regarding the treatment program used by the Maine DOC acknowledges this reality. (CPC's Clinician Handbook and Resource Guide, Excerpt at pp. 3-7. Appendix D). This is consistent with information published by the Colorado SOMB. See Appendix C to the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders ["Adult Standards"], "Research Supporting Restricted Contact With Children," citing multiple studies of offenders who subsequently admitted shockingly high numbers of offenses, as well as "cross-over" sexual offending. The research summary (charts excluded) is reproduced below because of the enormity of its implications for any proposed use of risk assessment. (The Adult Standards are reproduced in Appendix G, and *available at*: http://dcj.state.co.us/odvsom/sex_offender/SO_Pdfs/FINAL%202012%20Adult%20Standards%20120712.pdf).

If the Legislature wants to assume the role of mandating how risk assessment is used, it should first acquire an understanding of the different types of risk assessment, how an individual's risk changes over time, the limits of actuarial tools, particularly when used in isolation and not in the context of treatment supported by supervision and confirmatory processes such as polygraphs, and how different risk assessments methods are used for different purposes. The research below, cited by Colorado, is a starting point.

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*.

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

A. 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.

B. 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.

C. 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 156 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.

D. 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. E. 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).

1) 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.

F. 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.

G. 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).

[Chart omitted]

H. 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.

I. 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.

J. 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.

K. 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."

II. "An important aspect of ongoing risk assessment is measuring an offender's ability to comply with the requirements of treatment and supervision."

A. 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.

III. "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."

A. 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.

B. 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.

C. 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.

D. 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.

E. 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).

1) 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.

F. 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.

G. 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).

[Chart omitted]

H. 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.

I. 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).

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

A. 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)

B. 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)

C. 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.

D. (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.

E. 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 noncollaborating

person is present: increased excitement - 77%; sense of mastery - 77%; compulsive sexual behavior - 75.2%; and stupidity -38.9%.

F. 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."

G. 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."

H. 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 Tufts 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).

V. "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."

A. 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.*

VI. "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."

A. 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.

B. 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.

Available at:

http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/FINAL%202012%20Adult%20Standards%20120712.pdf, pp. 155-167.

VIII. Conclusion

Our initial conclusion, based on the Colorado model, input from Maine DOC treatment providers, and our collective experience in victim services, investigation, prosecution, defense and supervision, is that registration is one small component of sex offender management. Registration, with its corresponding Internet site, is one very important way to communicate publicly available information about convicted offenders to the public. It facilitates management and supervision in that it helps law enforcement to remain informed regarding convicted offenders who are no longer subject to supervision by the Dept. of Corrections. Maine's Registry site can be expanded to provide more general information and serve an educational role.

Registration should not substitute for policies that encourage reporting, investigation and prosecution of sex offenses; ensure presentence investigations with forensic evaluations, long-term supervision and treatment for convicted offenders; and provide accurate, non-sensational public education. Where long-term incarceration is not appropriate or no longer available, community supervision should be accomplished within a containment model by professionals subject to appropriate standards. These best practices, some recommended by past Maine study commissions, are echoed by Colorado authorities and current DOC treatment providers.

The Colorado model of the Sex Offender Management Board is laudable and deserves to be emulated; it also requires a significant commitment by Maine policymakers and State government. We look forward to exploring these issues further with and on behalf of the Committee and Maine's citizens.

Respectfully submitted,

Sex Offender Risk Assessment Advisory Commission

APPENDICES