



**New York State Division of Probation
And Correctional Alternatives**

**New York State
Probation Sex Offender Management
Practitioner Guidance**

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Points of view in this document are those of the author and do not necessarily represent the official policies of the U.S. Department of Justice.



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Dear Colleagues,

The Division of Probation and Correctional Alternatives (DPCA) is very pleased to present the New York State Probation Sex Offender Management Practitioner Guidance. The management of sex offenders in the community poses significant challenges to probation professionals. This document provides best practice recommendations for the community supervision of sex offenders and can assist probation departments in managing this diverse population. Specialized probation supervision, clinical evaluation and treatment, and the use of polygraph for monitoring, supervision and treatment purposes comprise the Comprehensive Approach endorsed by researchers and being implemented by probation departments.

These materials were created based on current research and the input of the Sex Offender Management Focus Groups held across New York State. The project was funded by the Bureau of Justice Assistance of the United States Department of Justice.

I want to take this opportunity to thank Probation Directors and Officers, who participated in the focus groups convened throughout the State and for contributing their knowledge and experience in the development of this Practitioner Guidance. I would also like to acknowledge and thank DPCA staff Laura Zeliger, along with Gary Govel and Linda Valenti for their efforts in producing this important guidance for probation officers.

A handwritten signature in cursive script that reads "Robert M. Maccarone".

Robert M. Maccarone
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Probation Sex Offender Management Practitioner Guidance

Section I. Introduction and Overview

The Division of Probation and Correctional Alternatives (DPCA) recognizes the efforts of probation departments in New York State in effectively managing sex offenders placed under their supervision by the Courts. Protecting our communities, reducing offender recidivism and preventing victimization, especially amongst our most vulnerable populations, are the goals of probation sex offender management. DPCA is also cognizant of the importance of probation conditions in achieving offender accountability, promoting law-abiding behavior, and facilitating successful reintegration of offenders into the community. The Probation Sex Offender Management Practice Guidance was developed drawing upon the latest research and the experience and expertise of probation professionals in New York State.

There are nearly 30,000 sex offenders registered on the New York State Sex Offender Registry (SOR) and nearly 20,000 live in communities across New York State¹

Sex offenders under community supervision are an important public safety issue, with over 6,000 sex offenders under probation supervision in New York State. Probation supervision is the most frequently imposed disposition by the courts for sex offenders. Although sex offenders constitute less than three percent of persons on probation, sex crimes can have devastating and long-term effects on victims and challenge our communities.² Accordingly, significant probation resources are utilized in the management of sex offenders placed on community supervision.

In addition to the 4,200 sex offender probationers listed on State's Sex Offender Registry (SOR), probation officers in New York State supervise an additional 2,000 sex offenders, including 400 juveniles, 600 Youthful Offenders and 1,000 offenders who plead to non-SOR offenses such as public lewdness and endangering the welfare of a minor. This latter population includes persons convicted of non-registerable offenses whose crimes are sexual in nature, but are exempted from registration.³

There are 58 local probation departments serving 62 counties across New York State. These departments serve geographically and demographically diverse communities ranging from small rural communities to large urban areas. Probation department resources vary across the state.

During the summer 2006, the Division of Probation and Correctional Alternatives (DPCA) conducted the first comprehensive Probation Sex Offender Management Survey to assess sex offender management practices employed throughout New York State. The 2006 Survey Report is available on the agency's public website www.dpca.state.ny.us. The 2006 survey revealed differences in practices with each department striving to meet the needs of their specific community and the supervision of probationers with varying available resources. The Survey Report also includes an Action Plan that DPCA has continued to implement.

In an effort to continue assessing probation sex offender management practices across the state and develop statewide procedural guidelines, DPCA conducted 10 sex offender management focus groups between October 2008 and March 2009. One hundred and six probation officers and administrators representing 38 probation departments attended the meetings, which produced the following findings.

- Each of the departments has specific needs and practices based on the following factors:
 - available resources (treatment providers, funding, polygraph examiners, scheduling flexibility, community support, housing, employment, tools and technology, and workloads)
 - local judicial practices
 - local prosecution and defense practices
 - local laws and ordinances
- Many of the larger and medium sized departments have specialized sex offender officers and/or units while many of the small departments with small sex offender caseloads have limited specialized officers.
- Departments in urban areas have greater access to treatment providers and many report multiple treatment provider options within their respective communities.
- Several departments report the availability of flexible scheduling by their staff while others are bound by local union restrictions that limit non-traditional work hours.
- Most departments place offenders on sex offender caseloads if the underlying offense is sexual in nature. This is done to enhance community safety as many departments believe that plea bargains may result in non-registerable (non-SOR) convictions for sex offenders.

Section II. Sex Offender Management Approaches

Experts agree that the most effective community supervision and management of sex offenders requires ongoing, open communication between probation officers and other law enforcement agencies, treatment providers, victim advocates, and the family, friends and acquaintances of the offender. These collaborative networks or supervision teams, work together to hold offenders accountable and to protect victims and enhance public safety. Probation officers need to work with these collaborative networks to assist the offender in achieving success while in treatment and on probation.

Containment Approach

This approach was published in 1996 by the American Probation and Parole Association (APPA) in a work titled *Managing Adult Sex Offenders: A Containment Approach*. The model was grounded in the evidence-based practice movement growing from the work of the Colorado Division of Criminal Justice, a leader in sex offender management.

This model process for managing adult sex offenders can be conceptualized as having five parts:

1. A philosophy that values public safety, victim protection, and reparation for victims as the paramount objectives of sex offender management;
2. Implementation strategies that rely on agency coordination, multidisciplinary partnerships, and job specialization;
3. An approach that seeks to hold sex offenders accountable through the combined use of both the offenders' internal controls and external criminal justice control measures, and the use of the polygraph to monitor internal controls and compliance with external controls;
4. Development and implementation of informed public policies to create and support consistent practices; and
5. Quality control mechanisms, including program monitoring and evaluation, that ensure prescribed policies and practices are delivered as planned.⁴

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

This model was developed originally in 1998 with the most recent revision in 2008 by the Colorado Sex Offender Management Board (SOMB). The Standards apply to adult sexual offenders under the jurisdiction of the criminal justice system. The Standards are designed to establish a basis for the systematic management and treatment of adult sex offenders. The primary goals of the Standards are to improve community safety and protect victims.⁵

The Guiding Principles of the Standards are as follows:

1. Sexual offending is a behavioral disorder which cannot be “cured”.
2. Sex offenders are dangerous.
3. Community safety is paramount.
4. Assessment and evaluation of sex offenders is an on-going process. Progress in treatment and level of risk are not constant over time.
5. Assignment to community supervision is a privilege, and sex offenders must be completely accountable for their behaviors.
6. Sex offenders must waive confidentiality for evaluation, treatment, supervision and case management purposes.
7. Victims have a right to safety and self-determination.
8. When a child is sexually abused within the family, the child’s individual need for safety, protection, developmental growth and psychological well-being outweighs any parental or family interests.
9. A continuum of sex offender management and treatment options should be available in each community in the state.
10. Standards and guidelines for assessment, evaluation, treatment and behavioral monitoring of sex offenders will be most effective if the entirety of the criminal justice and social service systems, not just sex offender treatment providers, apply the same principles and work together.
11. The management of sex offenders requires a coordinated team response.
12. Sex offender assessment, evaluation, treatment and behavioral monitoring should be non-discriminatory and humane, and bound by the rules of ethics and law.
13. Successful treatment and management of sex offenders is enhanced by the positive cooperation of family, friends, employers and members of the community who have influence in the sex offenders’ lives.⁶

Relapse Prevention as a Supervision Strategy for Sex Offenders

This approach was developed through the Vermont Treatment Program for Sexual Aggressors. The approach is discussed and presented in the work **Supervision of the Sex Offender**⁷ by Georgia Cumming and Maureen Buell.

The strategy of supervision proposed is a combination of three techniques: relapse prevention, specialized conditions of probation tailored to the offender's risk areas, and use of a collateral community network. Relapse prevention is a self-management program designed to teach individuals who are trying to change their behaviors to identify problems early on and to avoid a relapse as defined by Marlatt and Gordon in 1980. The model was initially developed as a treatment tool with addictive behaviors and was adapted for the treatment of sex offenders. This adaptation included a supervisory dimension that includes probation officers and develops a collateral network of community members.⁸

This strategy was further developed and presented in the work *Supervision of the Sex Offender – Second Edition*⁹ by Georgia Cumming and Robert McGrath.

Relapse prevention principles can effectively be applied in supervising sex offenders. Supervision begins with the premise that an identifiable and predictable chain of thoughts, feelings, and behaviors typically precedes sex offenders' deviant sexual behaviors. Supervising officers individualize supervision by developing supervision plans based on the offender's particular offense patterns.¹⁰

Supervision tends to go well when offenders are actively involved in preventing relapses. Effective supervising officers develop collaborative working relationships with offenders, while trying to ensure that offenders refrain from risky behaviors. Prohibiting sex offenders from engaging in high-risk behaviors, such as contacting victims, loitering near potential victims, and abusing alcohol is a reasonable and appropriate condition of community supervision. However, "just say no" to risky behavior has limited value in helping sex offenders achieve long-term changes.¹¹

In addition to saying "you shall not," supervising officers should help offenders develop a positive and balanced lifestyle that will enable them to approach traditional supervision activities positively: brokering education, job training, employment, and mental health services as well as developing leisure-time activities, healthy friendships, and appropriate civic involvement. The development of a community supervision network enhances positive strategies by involving pro-social community members in offenders' day-to-day lives. When limits need to be set supervising officers should do so firmly, fairly, and promptly. Graduated sanctions also have a role in the overall supervision strategy, especially when they are appropriately matched to the offender's risk and the severity of the infraction.¹²

The Comprehensive Approach

This approach was developed through the National Center for Sex Offender Management (CSOM). It involves the entire criminal justice system in managing sex offenders, sex offense specific treatment and the use of the polygraph.¹³

The Comprehensive Approach to Sex Offender Management



Source: CSOM, Sex Offender Management Training Materials.¹⁴

The core goals of this approach are to enhance public safety, prevent future victimization and improve management practices of sex offenders in the community.¹⁵

Section III. Pre-Sentence and Pre-Plea Investigations and Reports

Summary of the Research

Enhanced pre-plea/sentence investigations and reports are considered a best practice in probation. This is because sentencing decisions, orders and conditions, and case planning all depend on relevant information gathered during the investigation stage and contained in these reports. The report lays the foundation for supervision and case planning. The investigation phase is also an excellent time to establish a collaborative network for the case.

The Colorado Sex Offender Management Board (CSOMB) addresses the importance of the pre-sentence investigation and report as follows:

The purpose of the pre-sentence investigation is to provide the court with verified and relevant information upon which to base sentencing decisions. Sex offenders pose a high risk to community safety and have special needs. Therefore, pre-sentence investigations on these cases differ from those in other types of cases, primarily by the inclusion of information on the defendant's sexual history, history of sexual offending, and other related areas. Where possible, a sex offense-specific evaluation should be completed at the pre-sentence stage. Such an evaluation establishes a baseline of information about the offender's risk, type of deviancy, amenability to treatment and treatment needs.¹⁶ In addition to sentencing decisions, the court will rely upon the information contained in the pre-sentence report to determine SORA classification levels and designations where applicable, and set the conditions of supervision.

Although the pre-sentence investigation is ordered by the court, the information contained in an enhanced sex offender pre-sentence report is critical to decisions made in many other areas of the criminal justice system. In particular, in New York State, the supervising probation officer, Department of Correctional Services, Division of Parole, sex offender treatment providers and other entities (where authorized to receive the information) will utilize the pre-sentence report in case management and planning. The Department of Correctional Services and the Division of Parole will use the report for classification and case planning purposes. Pursuant to New York State Criminal Procedure Law §390.50(b) a copy of reports prepared in the case of individuals known to be licensed under Title 8 of the Education Law are forwarded to the Department of Health or State Education Department, whichever is applicable. Additionally, Criminal Procedure Law §390.50(3) establishes that the Commissioner of Mental Health, the Attorney General review panel, or psychiatric examiners as described in Mental Hygiene Law Article 10 are authorized to request and receive the report from an "agency with jurisdiction" as that term is defined in Mental Hygiene Law §10.03(a) when performing statutory functions, powers, and duties under Mental Hygiene Law Article 10 relative to sex offenders requiring civil confinement or strict and intensive supervision.

The Center for Sex Offender Management identifies the following as critical elements for the pre-sentence investigation and report:

- The police record which details the instant offense: PSI writers should thoroughly review all charging documents that provide details about the crime. Whenever possible, and if applicable, writers should also attempt to gain access to any police records detailing prior allegations of sexual offending.
- The offender's personal history: Obtaining the sex offender's family and personal history should occur during the initial interview with the offender. Information gathered from the offender should include their marital status, employment history, financial history, medical background, military experience, and substance abuse history. Securing this type of information allows the probation officer to discuss areas that are typically non-threatening to the offender and provides an opportunity to establish a rapport before broaching the sexual aspects of the report. Other areas that should be explored in greater depth when interviewing a sex offender include the offender's relationship history, past physical and sexual abuse the offender may have experienced, and the ages and genders of the offender's children or stepchildren.
- The offender's sexual history: It is critical for probation officers to ask probing questions about an offender's deviant and non-deviant sexual history. Interviewers should ask only open-ended questions with positive assumptions, as this technique may evoke responses that provide the detailed information that is needed to accurately assess the offender's pattern of sexually abusive behavior. According to Georgia Cumming, interviewers should ask: "When did you begin touching your daughter inappropriately?" rather than "Did you ever touch your daughter inappropriately?"
- Sex offender-specific evaluations: These evaluations, conducted by psychologists or other trained clinicians, often contain an evaluation of mental disorders, a history of drug and alcohol use, the results of medical screening, a comprehensive sexual evaluation (including a sexual history, a summary of arousal patterns and diagnosis of sexual deviancy), and an evaluation of the offender's level of denial.
- Collateral interviews: Probation officers should also interview the offender's family members, employer, friends, and any other individuals with whom the offender interacts or has interacted with on a regular basis. These individuals can often provide important information about the offender that otherwise would not be known.
- An evaluation of the offender's amenability to specialized treatment: In jurisdictions where sex offender specific evaluations are not conducted and the probation officer must make a preliminary determination about the offender's amenability to treatment, supervising officers should seek answers to the following kinds of questions: Does the offender admit to the offense and accept responsibility for his actions? Does the offender identify his sex offending behavior and express a desire to change? Since sex offenders rarely take total responsibility for their actions at the time of the pre-sentence report, the

probation officer will be attempting to evaluate if offenders accept responsibility and are willing to participate in specialized treatment.

- Victim access: The offender's access and threat to actual and potential victims is perhaps the most critical factor to consider when recommending for or against community supervision. It is not uncommon for child molesters to be prohibited from having any contact with children of any age at the beginning of their community supervision term. Consideration should also be given to this issue for offenders convicted of other sexual offenses.
- A victim impact statement: All jurisdictions should encourage the inclusion of a victim impact statement in the PSI if the victim is willing to provide such a statement. This statement should reflect the effects (e.g., emotional, financial, or physical) that the offense has had on the victim's life. Probation officers should work with victim advocates whenever possible to obtain information from victims. If this is not possible, PSI writers must take care not to challenge the validity of victim's statements as most victims have already been interviewed about the details of their assault several times prior to the PSI report having been ordered.
- The level of risk that the offender poses to the community: The PSI summary recommendation regarding a sex offender's level of risk to the community should be based upon all of the information that the officer has gathered and analyzed during the course of the investigation. Research indicates that re-offense risk is most accurately measured by sex offender-specific actuarial risk assessment instruments, such as Static-99. These instruments should be used to anchor the judgment or impressions of the probation investigator.
- Corresponding recommendations regarding incarceration or community supervision with special conditions: The evaluation and recommendation sections of the report should include a brief synthesis of the following factors:
 - The probability of re-offense;
 - Recommendations regarding risk that were identified during the sex offender specific evaluation;
 - Factors gleaned from the investigation that tend to exacerbate risk (e.g., propensity for violence, easy access to victims, lack of treatment resources in the jurisdiction where the offender may be released, and enabling attitudes of family members and/or friends);
 - Resources that are available which support the criminal justice system management of the offender's risk in the community (e.g., supportive family/friends, specialized treatment, stable employment and residence, access to polygraph evaluations, sufficient supervision resources, and ability to limit access to victims);

- The degree of harm that might be expected if the offender were to commit another crime (both sexual and non-sexual); and
- A list of special conditions needed to monitor risk if probation is recommended; probation officers must recommend conditions of probation that specifically address each offender's sexually abusive behaviors.¹⁷

Pre-Plea and Pre-Sentence Investigations and Reports in New York State

Probation departments reported the following according to the DPCA Sex Offender Management Survey Report:

- Nearly 40 departments report probation officers who specialize in sex offender pre-sentence investigations.¹⁸
- Enhanced Pre-Sentence Investigations (PSI's) for sex offenders are considered a best practice in probation because sentencing, orders and conditions of probation and case planning depend on information contained in the PSI – information that is generally not known to the court and corrections officers without the aid of the investigation and report. As such, the PSI functions to protect the public by discerning which offenders should be incarcerated and which may remain and be managed in the community. In doing so, the PSI lays the foundation for supervision and case planning.¹⁹

Probation officers participating in the Sex Offender Management Focus Groups reported the following:

- Probation departments generally do enhanced PSIs for all cases where the offense is sexual in nature. This is done because defendants frequently receive sentences through plea bargaining that result in non-registerable conviction offenses even though the original charge is a registerable sex offense.
- The pre-sentence report is viewed as a tool for the supervision officer and the treatment provider.
- The use of specialized sex offense PSI officers is preferred whenever possible or feasible.
- Departments frequently include specialized sex offender orders & conditions with the pre-sentence report even when incarceration is recommended by probation. This is done to ensure that specialized conditions are ordered where the sentence is probation instead of the recommended incarceration.
- Extended PSI interviews are often the adopted practice for sex offenders. Two to three-hour single-session interviews are preferred by some because this allows the officer the opportunity to establish a rapport with the defendant and delve deeper into the circumstances of the instant offense and the offender's history. Others utilize a two-session interview that includes a home-visit and collateral contacts between the interviews.
- Collateral contacts are important in order for the officer to gather additional information and to build a network for supervision. Frequently, collateral contacts include the following: family members, intimate partners, employers, treatment providers, and law enforcement.

- An enhanced PSI worksheet/format is frequently used in sex offense cases. The interview begins with general questions and then moves into more specific areas (Appendix A- Albany Enhanced PSI Worksheet)
- Officers generally check the offender's social networking sites as part of the PSI. The importance of this practice was emphasized in light of the Electronic Security and Targeting of Online Predators Act (e-STOP) that was signed into law on April 28, 2008. (Appendix B e-STOP Law). This law is designed to strengthen measures to protect children from internet sex predators. This 2008 law sought to address the problem by:
 1. requiring certain convicted sex offenders to register their internet screen names with the Sex Offender Registry;
 2. allowing social networking web sites to obtain those screen names in order to prohibit those account holders from accessing web sites on which they could contact children; and
 3. mandating that certain convicted sex offenders who are serving a term of probation, a conditional discharge or parole be prohibited for using the internet to contact children.
- Sex offender PSI interviews are conducted in private areas whenever possible. This allows officers to obtain a detailed sexual history of the offender.
- Officers reach out to victims during the PSI phase as follows: over the phone or in person (home visits, meeting in public locations, location of victim's choice, probation office). Departments also utilize a "soft victim letter"- an approach that invites victims to participate in the process in a non-threatening manner. (Appendix C- "soft victim" letter)

Recommendations for Best Practice for Pre-Plea and Pre-Sentence Investigations and Reports in New York State

The pre-plea and pre-sentence investigation phase is an excellent time to establish the collaborative network that will work together to provide supervision, treatment and monitoring of the offender.

Enhanced Pre-Plea and Pre-Sentence Investigations:

Whenever possible, enhanced pre-plea and pre-sentence investigations should be conducted for all offenses that are sexual in nature or meet the following criteria:

- SORA Registerable Offenses (The list of current SORA registerable offenses can be found at <http://www.criminaljustice.state.ny.us/nsor/sortab1.htm>), (Appendix-D)
- Defendant is SORA Registered from a prior offense,
- The offense is sexually related in nature, but conviction charge is not SORA registerable, or where the conviction may be converted to a Youthful Offender adjudication.

At a minimum, the investigation must comply with *DPCA Rule §350.6 Investigation Process for Criminal, Juvenile Delinquency, Persons In Need of Supervision, and Family Offense Proceedings* and §350.9 as to special requirements for Pre-plea Investigations and Reports.

Specialized Officers

Sex Offender pre-sentence investigations should be assigned to an experienced officer, who solely or primarily works with sex offenders or has a significant concentration of sex offenders on the caseload, and who has received specialized training in sex offender management. Probation officers should be trained in the following areas:

- Prevalence of Sexual Assault
- Offender Characteristics
- Assessment/Evaluation of Sex Offenders
- Community Management of Sex Offenders
- Motivational Interviewing
- Dynamics of Sexual Offending
- Sex Offender Treatment Models
- Cognitive Behavioral Model
- Relapse Prevention
- Technology Tools for Monitoring Computer/Internet Usage
- Victim Specific Issues
- Physiological Procedures
- Determining Progress
- Offender Denial
- Special Populations of Sex Offenders
- Cultural and Ethnic Awareness²⁰

Document Review

Prior to interviewing the defendant, investigating officers should review the following documents whenever available or practicable:

- Accusatory Instrument (Indictment or Information)
- Police Affidavit
- Sex Offender's Statement
- Victim Statement
- Criminal Record (including offender statements and affidavits on prior convictions) Criminal Record Check from other states (NCIC)
- Psychosexual Report from previous convictions
- Probation Record
- History of compliance with Sex Offender Registry (if registered from a prior offense)²¹

Defendant Interviews

Thorough, in-depth interviews should be conducted with defendants. DPCA Rule §350.6(c)(2) requires in person i.e. face-to-face interviews be conducted in real time in either direct physical proximity or remotely by video conference. Officers should either use a two-session model or an extended single-session model to complete the interview. At the time of the interview, the officer should have the defendant sign any Release of Information Forms necessary for the probation department to gather information and records from outside sources. Interviews should include questions in the following areas:

- **Criminal History** (including description of all offenses whether or not sexual in nature)
- **Sexual Attitudes and History** (offense patterns and victim grooming behaviors, use of pornography, patronage of prostitutes, etc.)
- **Mandatory Conditions** – Where applicable, the mandatory conditions of probation NYS Penal Law Sections 65.10 (4-a)(a)-Internet Usage and 65.10 (4-a)(b)-1000 foot rule, should be reviewed to assess the defendant's capacity for compliance as this may influence the recommendation to the Court
- **Physical Health** – Inquire about the offender's past and current physical health. Become aware of the offender's overall physical health/limitations, and prescribed medications. (Offenders may use medical conditions as a means to justify behavior or elicit sympathy. Offenders may also report that a prescribed medication caused the sexual behavior).²²
- **Mental Health and Developmental Disabilities** – Inquire about the offender's mental health status including any past or current diagnoses or prescribed medication. The interviewer should obtain information about any developmental disabilities, involvement in treatment programs, and whether the offender is the recipient of social security disability. Inquire and make a note about any experiences in treatment relative to sexual problems/dysfunction and any medications for the same. Obtain written consent from the

offender to follow through on mental health history from any past or current treatment providers to confirm diagnosis, treatment and any medications.²³

- **Employment/Military History** – Ask the offender about any employment and/or military history, including the type of work/position, dates of employment, reason for leaving, any terminations or dishonorable discharges. Look for employment arrangements that provide offenders with easy access to victims and/or other vulnerable populations. It is essential to contact past and current employer(s) to verify employment and reasons for leaving.²⁴
- **Family History** – Include complete information relative to the offender’s parents, siblings, step-siblings, and other members of the extended family. Information about significant family members may include age, relationship to offender, significance of that relationship, past convictions, etc. With respect to the offender’s relationship history, it is imperative that persons past and present are reviewed as well as the ages and genders of the offender’s children or step-children.²⁵
- **Alcohol/Substance Abuse History** – Establish any history of alcohol/substance abuse. The offender may have used alcohol/drugs to entice/gain access to the victim and to rationalize his/her behavior, or to prepare himself to commit an offense. Be sure to obtain the following information:
 - Establish use vs. abuse
 - History of alcohol/drug use (age of onset, frequency, type of drug, etc.)
 - Were alcohol/drugs used at time of the offense?
 - Is there a history of treatment (treatment providers and duration)
 - Was alcohol/drug use a factor in employment, getting fired from a job, criminal arrests, relationships, etc.?
 - If alcohol/substance abuse is an issue for an offender, take note of any relapses.²⁶
- **Education** – Inquire about the offender’s educational/vocational experience. The interviewer should take notice of any disciplinary actions (particularly those relating to incidents of a sexual nature), behavioral problems or failure to complete an educational program. When confirming school attendance request information regarding dates enrolled, classes enrolled in, attendance and disciplinary actions. It is also relevant to ask if the offender received special education services or was determined to be in need of such services.²⁷
- **Computer/Internet Usage** – Inquire about offender’s screen names, use of internet, social networking sites, digital photos, pornographic videos, pornographic sites or chat rooms of a sexual nature. Before completing the PSI report, officers should visit the offender’s social networking sites (My Space, Facebook, etc.) and make a note of content of the site.²⁸
- **Residence Information** - Include a chronological listing of locations where the offender has established residence. For sex offenders, patterns may be related to the offender’s

sexual offending. It is important to look for frequent changes in residence, unexplained periods between residences, vague reasons for moving, locations of residences near schools, parks or other areas where children congregate.²⁹

- **Activities/Hobbies/Special Interests** – It is imperative to inquire whether the offender has been or is currently affiliated as a teacher/volunteer or otherwise participates in any organization, group, or clubs that provide access to children or any other vulnerable populations. This may include Boy and Girl Scouts, Big Brothers/Big Sisters, church youth groups, Emergency Medical Services, coaching/refereeing sports, school volunteers, etc. This is particularly important for sex offenders who have abused against minors.³⁰
- **Victim Impact Statement** – This should include a description of the offense and the impact on the victim and the victim’s family. Also, include the victim’s recommendations and comments relative to sentencing and conditions of supervision. Encourage the inclusion of the Victim Impact Statement in the PSI, if the victim is willing. Whenever possible, work with the Victim Advocate to obtain information and ensure that the victim is offered services.

In some cases the victim may not want to be interviewed or be involved in the process. Rather than allowing the offender’s version of the offense to stand alone, the investigator should review police/court reports, including any available victim statements, medical reports, as well as information from other collateral sources. This information should be summarized or quoted as appropriate to describe what happened to the victim.³¹ Officers should adhere to DPCA’s Investigative Report Rule §350.7(b)(2)(i) which emphasizes for sex offense cases victim’s age at the time of the offense, nature and length of offense, type of sexual contact and whether it occurred over or under clothing.

- **Description of Present Offense** – A detailed account of the sexual offense is necessary to provide an accurate description of the severity of the injuries, level of violence, and potential for sadistic behavior. This section of the investigation can provide a sense of the offender’s level of denial, perception of the victim and justification for the behavior.³² A description that includes an emphasis of greater victim details can assist in classification with the SORA risk level instrument.

Collateral Contacts/Collaborative Networks

Whenever possible, collateral interviews should be conducted to assist in the investigation. These interviews will allow the probation officer to obtain information about the offender and also assess the honesty of the offender. Offenders should sign a release of information form as needed and appropriate. Collateral contacts may include but are not limited to the following:

- Household Members
- Family Members
- Treatment Providers

- Employers
- Friends
- Intimate Partners and Ex-Partners
- Schools
- Clergy
- Neighbors
- Support Groups (AA/NA)
- Victim(s)

Departments that conduct a two-session sex offender PSI interview may wish to complete interviews of all collateral contacts prior to the second interview so that any areas of discrepancy or concern can be discussed in that subsequent session.

The collaborative network will consist of those individuals that will best provide on-going supervision and support of the offender. It is essential that members of this collaborative network maintain on-going and open communication with one another.

Home Visits

Home visits should be conducted whenever possible as part of the PSI in order to assess appropriateness of the household and surroundings. The visit should include an observation not a search of the following:

- Inventory of computers/electronics
- Presence of children in the household
- Proximity to vulnerable populations
- Presence of toys/children's clothing
- Window coverings/locks on doors
- Presence of pornographic materials
- Presence of drugs or alcohol

New York State Sex Offender Housing Law

Chapter 568 of the Laws of 2008, effective January 23, 2009, requires the agency heads of the Division of Probation and Correctional Alternatives (DPCA), the Division of Parole (DOP), and the Office of Temporary and Disability Assistance (OTDA) to promulgate rules and regulations regarding the housing for certain sentenced sex offenders.

Under Executive Law §234(4) the State Director of Probation and Correctional Alternatives is required to promulgate rules and regulations in this area which shall include guidelines and procedures on the placement of probationers who are sex offenders designated as Level 2 or 3 sex offenders pursuant to Article 6-C of the Correction Law, commonly referred to as the Sex Offender Registration Act (SORA). This law further requires that such regulations shall instruct local probation departments to consider certain statutorily enumerated factors when investigating and approving the residence of such offenders during their respective periods of probation.

The statutory factors to be considered by probation departments must include the following:

1. The location of other sex offenders required to register pursuant to the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;
2. The number of registered sex offenders residing at a particular property;
3. The proximity of entities with vulnerable populations;
4. Accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and
5. The availability of permanent, stable housing in order to reduce the likelihood that such offenders will be transient.

Decisions as to the housing and supervision of sex offenders should take into account all relevant factors and no one factor will necessarily be dispositive. These factors should include but not be limited to the risk posed by the offender, the nature of the underlying offense, whether housing offenders together or apart is safer and more feasible, the most effective method to supervise and provide services to offenders, and the availability of appropriate housing, employment, treatment and support.

While Chapter 568 of the Laws of 2008 address the housing considerations of sentenced sex offenders, probation officers participating in the focus groups recognized the above-referenced considerations should be considered during the pre-plea and pre-sentence investigation phase whenever possible, depending on local resources.

Probation departments should also be aware of any local laws and ordinances that pertain to residency restrictions and exclusionary zones and confer with their legal representatives and the judiciary or other releasing authority. For an up to date summary of local sex offender residency restrictions in New York known to the New York State Office of Sex Offender Management please refer to the following link:

<http://www.criminaljustice.state.ny.us/nsor/pdfdocs/residencylaws.pdf>

Assessments/Evaluations

Sex offenders should be referred to a provider who follows the protocols of the Association for the Treatment of Sexual Abusers (ATSA) for a formal psychosexual evaluation during the period of the pre-sentence investigation whenever possible. This evaluation will assist officers in determining the offender's amenability to treatment and may reveal additional information regarding the defendant's history of offending, level of risk to the community and other factors. Information obtained from this evaluation should be referenced within

the text of the report and should be used when making sentencing recommendations to the Court.

Specialized Risk and Need Assessment Instruments

The sex offender must be assessed by a trained probation officer or treatment provider using the Static-99. Other sex-offender specific assessment instruments approved by the DPCA may be used.

Mandatory Conditions

Officers should be mindful of all mandatory probation conditions set forth in New York State Penal Law §65.10(3) and all mandatory sex offender probationer conditions set forth in New York State Penal Law §65.10(4-a)(a) and §65.10(4-a)(b) and §65.10(5-a) as applicable. Officers may wish to request mandatory conditions on offenders where the nature of the offense is sexual in nature and/or if the offender is convicted of a non-registerable offense.

Below are the mandatory conditions set forth in New York State Penal Law §65.10(4-a)(a) and §65.10(4-a)(b) and §65.10(5-a):

§65.10(4-a)(a) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of this chapter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section 168-l of the correction law, the court shall require, as a mandatory condition of such sentence, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of this chapter, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her probation officer or the court and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the probation officer or the court and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

§ 65.10(4-a)(b) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the

crime, the court shall require, as mandatory conditions of such sentence, that such sentenced offender be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the court may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision, a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.

§65.10(5-a) Other conditions for sex offenders. When imposing a sentence of probation upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, in addition to any conditions required under subdivisions two, three, four, four-a and five of this section, the court may require that the defendant comply with a reasonable limitation on his or her use of the internet that the court determines to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to protect public safety, provided that the court shall not prohibit such sentenced offender from using the internet in connection with education, lawful employment or search for lawful employment.

Specialized Orders & Conditions

The pre-sentence report should include a request for specialized sex offender orders and conditions. These conditions should be chosen to match individual offenders. Below is a compilation of specialized conditions that may be applied to specific offenders. These conditions are meant to serve as an example of specialized conditions and should be reviewed, selected and modified as appropriate to comport with local policies and procedures and resources as well as the needs of specific offenders.

Criteria for Sex Offender Orders and Conditions of Probation

General Definition: A sentencing or dispositional order imposed on an offender by a court which allows that offender to remain in the community subject to behavioral conditions specified by that court and monitored by a probation officer.

Primary Goals: Offender accountability, victim security and public safety.

Ideal Construction:

Specific and non-ambiguous: There should be no question as to what behaviors the court intended the offender to engage in or refrain from.

Quantifiable: The courts' behavioral expectations of the offender must be phrased in such a way that the behaviors to be monitored can essentially be counted or measured in some manner (time, rate, frequency, distance, duration, etc.).

Enforceable: Conditions that are specific, quantifiable, and achievable by the offender are more easily and readily enforced by the probation officer, police and the courts.

Relevant: Conditions should not be "cookie cutter" for all sex offenders. They must be reflective of and adapted to the case specifics where appropriate and reflect mandatory sex offender conditions required by law where applicable.

Legal: Local interpretations as to the legality of some conditions vary from jurisdiction to jurisdiction. All conditions used by a probation department should be reviewed with your respective legal representatives to establish legality in terms of content and scope, addresses local concerns and should be promoted with the judiciary to better guarantee local judicial acceptance.

Justification for Orders & Conditions

Specific orders and conditions should be imposed upon offenders according to the specific underlying nature of the offense and the risks and needs of the offender. The rationale for using particular orders and conditions are as follows:

- The conditions address the rehabilitation of the offender and the protection of the community.
- The conditions address the safety of the victim of the present offense, as well as other potential victims who fit this probationer's offense pattern. They are consistent with treatment contracts/requirements utilized by all approved treatment providers and assist in the offender's rehabilitation by providing external behavioral controls until the offender can develop appropriate internal controls.
- The conditions address legal mandates, enhance community safety, aid in the offender's rehabilitation, and/or assist Probation in adequately supervising this offender.
- The conditions address the safety of the community, the probationer's family members under 18 years old, and that of any family friends under the age of 18 where applicable.
- The conditions address and complement the treatment goals of accepting responsibility for one's actions and setting in place safeguards to relapse.³³

The following depict various types of conditions being imposed by courts upon sex offender probationers in New York State:

1. Treatment

- You shall undergo and pay for a psychological/psychiatric evaluation, including a psycho-sexual evaluation.
- You shall participate in, pay for, and successfully complete a sex offender treatment program approved by the probation department.
- You will be responsible for the cost of any treatment and/or test costs associated with treatment, including polygraph testing.
- You will sign an appropriate treatment release form to allow the unrestricted exchange of information between probation and the treatment provider.

2. Victim Contact

- You shall not have any direct or indirect contact and/or communication with your victim(s) unless granted permission by the probation officer or the Court.
 - *Departments may wish to define victim contact as follows: Direct and/or indirect contact or communications shall include but is not limited to; physical contact, written communications, electronic communications, telephone or facsimile communications, e-mail, instant messaging, and/or chat room communications.*

- You shall comply with any existing orders of protection and/or Family Court orders pertaining to you.

3. Driving & Travel

- **You shall remain within the jurisdiction of the court unless otherwise granted permission to leave by the court or the probation officer (New York State Penal Law §65.10 (3)(b)).**
- If given authorization to visit another jurisdiction, upon arrival, you will present a travel letter given to you by your probation officer, to the local police department, have it signed, and return it to your probation officer. Travel will only occur under the restriction of the probation department's travel policy regarding sex offenders.
- You shall maintain a daily activity and driving log as directed by the probation officer or the Court.
- You shall comply with all rules for traveling or relocating as set forth by the Sex Offender Registration Act, Interstate Compact for Adult Offender Supervision, and the Probation Department.
- You shall not travel outside the jurisdiction of the probation department without prior written approval from your probation officer.
- For any travel for the purposes of employment, treatment or any other reason you shall obtain prior written approval from your probation officer that details the specific travel schedule including dates, times, locations and routes.

4. Residence (Daily Living)

- You shall reside in _____ County unless otherwise authorized by the court or the probation department.
- You shall provide the probation department with the address at which you will reside during the period of your probation.
- You shall provide the probation department with written notice at least ___ days in advance of any change in your address during the period of your probation.
- You shall not change your address without the prior written approval of the probation department.
- You shall not live with persons under the age of 18 until a risk assessment has been completed by an approved treatment provider and approval for such residence has been given by the treatment provider and the probation officer.

5. Family Contact

- You shall not reside in the same residence where persons under 18 years of age reside without the approval of the court and/or probation department. This includes but is not limited to your own children and step children.
- You shall support your dependents even if required to live separate and apart from your family. If applicable, you shall make timely payments of any and all child support obligations which you are required to pay, as well as timely payments of any and all other support obligations to your dependents.
- You shall have no contact with your children under the age of 18 without the prior approval of the court and/or your probation officer and without the supervision of a chaperone who has been trained and approved by probation.

6. Social/Sexual Behavior

- You shall not engage in sexual conduct or have any direct or indirect contact or communication, whether sexual or non-sexual with anyone who is under 18 years of age. For the purpose of this condition, direct or indirect contact or communications shall include, but not be limited to physical contact, written communications, electronic communications, telephone, texting or facsimile communications, e-mail, instant messaging, and/or chat room communications.
- You shall not be with or communicate with any child who is under 18 years of age, unless an adult is present who is aware of your history of sexual offending behavior and has been approved as a chaperone by the probation department.
- You shall not expose the private or intimate parts of your body in a lewd manner or commit any lewd act in a public place or on private premises where you may be readily observed by others. You shall not appear in a public place in such a manner that the private or intimate parts of your body are unclothed or exposed.
- You shall not knowingly associate with or have any contact with convicted sex offenders without prior approval from the supervising probation officer.
- You shall refrain from knowingly entering into or upon any school grounds, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present if conviction appropriate pursuant to Section 65.10 (4-a)(a) of the New York State Penal Law.
- You shall not have children's toys or children's books in your possession.
- You shall not view videotapes, films or television shows and any other electronic entertainment or work media that is of a pornographic nature and/or involving minor

children engaged in sexual behavior, or act as a stimulus to your abusive cycle, or act as a stimulus to arouse you in an abusive fashion.

- You shall not linger, loiter or spend time at locations where persons under the age of 18 are likely to be present including, but not limited to parks, playgrounds, arcades, malls and internet chat-rooms.
- You shall refrain from the use or possession of any medications or supplements designed or intended for the purpose of enhancing sexual performance or treating erectile dysfunction without prior approval of your probation officer or the Court.
- You shall not have contact, written or otherwise, with persons, groups, clubs, associations, etc. that engage in, promote or encourage illegal or sexually deviant behavior.
- You shall not enter adult book stores, sex shops, topless/nude bars, massage parlors, internet cafes, or any other establishment that the probation officer deems inappropriate.
- You shall consult with your probation officer and your therapist about your daily schedule and any additional activities. You will follow directions of your probation officer and your therapist to avoid those activities which your probation officer and therapist have determined might trigger your impulse to commit an additional offense.
- You shall not rent or have access to a post office box or private storage or delivery unit without the prior written approval of your probation officer or the Court.
- You shall abide by a curfew requiring you to remain within your approved residence between the hours of ____PM and ____AM or as otherwise directed by your probation officer or the Court.
- You shall not own or display any law enforcement, emergency services or related equipment or paraphernalia including scanners, uniforms, mini-shields and courtesy cards.

7. Computer/Phones/Electronics Conditions

- You shall not call any sexually explicit telephone services or have sexually explicit electronic communication. You shall submit copies of your personal/business telephone, internet, and/or cable records to the probation department upon request.
- You will comply with limited usage of the internet as directed by your probation officer that does not otherwise prohibit usage in connection with education, lawful employment or search for lawful employment.

- You shall not possess or view images of your victim(s), stories or images related to your crime or similar crime, images which depict individuals similar to your victim(s), or materials focused on the culture of your victim (e.g. children's shows or web sites).
- Pursuant to PL Section 65.10(4-a)(b) and (5-a), you shall not use any form of encryption, cryptography, stenography, compression, password protected files and/or other method that might limit access to, or change the appearance of data and or images without prior written approval of the probation department. If, for work purposes, password protection is required on any system or files used by you, then you will provide the password to the probation department.
- You shall install, or allow to be installed at your own expense, equipment and/or software to monitor or limit computer use. You will have no expectation of privacy regarding computer use or information stored on the computer if monitoring software is installed and you agree that information gathered by the monitoring software may be used against you in subsequent court actions regarding your computer use and conditions of probation.
- You agree to be fully responsible for all material, data, images and information found on your computer, a computer used by you or accessible by you, and/or other communication or electronic storage devices at all times. These computers, communication, electronic storage devices will be subject to monitoring and/or search and seizure.
- You shall notify your probation officer or designee of any computers being used or accessed, including ownership and location.
- You shall agree to unannounced examination by the supervising probation officer or designees of any and all computer(s) and/or other electronic device(s) to which you have access. This includes access to all data and/or images stored on hard disk drives, floppy diskettes, CD ROMs, optical disks, magnetic tape and/or any other storage media whether installed within a device or removable. The examination may take place where the computer is located or it may be removed for the examination to be done in a timely manner by the probation department. In the event illegal or prohibited material is located, you shall further agree to forensic examination of the computer.
- You shall not use the internet to access or disseminate pornography or possess any other sexually stimulating material deemed inappropriate by the probation officer or the Court.
- You shall not purchase or possess photographic or video equipment without the prior written approval of your probation officer or the Court.
- You are prohibited from using the internet to: access pornographic material and/or any commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with any person(s) under the age of eighteen, and communicate with a person under the age of eighteen when you are over eighteen years of age.

8. Work/Paid or Volunteer

- Your employment must be approved by your therapist and/or probation officer. If so instructed by the supervising probation officer, your employer must be told of nature of offense and probation conditions.
- You shall not participate in any volunteer or other unpaid or uncompensated activity without the prior written approval of your probation officer or the Court.
- You shall not pursue or take employment or do volunteer work with any youth organization.
- You shall work faithfully at verifiable employment or attend school or pursue a course of study or vocational training that can lead to suitable employment.

9. Alcohol/Drugs/Weapons

- You shall not purchase, possess or consume alcoholic beverages or alcoholic products. You shall submit to Alco sensor/urinalysis or any other recognized method to determine alcohol use as requested by the probation department.
- You shall not abuse prescription or over the counter drugs. You shall submit to/undergo urinalysis or any other recognized method to determine drug use as requested by the probation department.
- You shall not purchase, possess or use illegal and/or regulated substances. You shall submit to urinalysis testing or any other recognized method to determine drug use as requested by the probation department.
- You shall not possess or purchase a firearm, rifle, shotgun, or any other weapon, including but not limited to those defined in Section 265.00 of the New York State Penal Law, and shall surrender any such firearm, rifle, shotgun or other weapon immediately to a police department, sheriff or other peace officer.
- You shall not own, have in possession, residence or motor vehicle any weapon as defined in Section 265.00 of the Penal Law. Further you shall not possess or own any instrument construed to be a weapon.

10. Search/Seizure

- You shall submit to periodic searches by the probation officer or designee of your computer/electronic device or any computer/electronic device within your control. These computers/electronic devices may be seized by the probation department if any evidence is found of use prohibited by your conditions.

- You shall submit to search of your person, premises, residence, vehicle and area under your immediate control without prior notification as deemed appropriate by the probation department.
- You shall submit to any alcohol and/or substance abuse testing as required by the probation officer and pay for costs associated with such testing.

11. Disclosure

- You shall agree to sign appropriate release forms to ensure the information regarding your participation in any and all treatment programs required to be attended, pursuant to this Order, is readily available to the Court, probation, and therapist or any other agency authorized by the court.
- You shall disclose the nature of your conviction to the police department where you reside, visit and work as determined necessary by the court and/or your probation officer.
- You shall disclose the nature of your offense to your family and employer where determined appropriate by the court and/or probation officer
- You shall be required to comply with the provisions of the Sex Offender Registration Act, if applicable, including but not limited to the duty to register as a sex offender with the New York State Division of Criminal Justice Services and notify the Division of Criminal Justice Services Sex Offender Registry in writing of any change of home address within 10 days.
- You shall provide a sample for DNA testing for the Convicted Offender Index as mandated by Executive Law §995-c for designated offenders.
- You shall provide a sample for DNA testing for the Subject Index as authorized by Executive Law Article 49-B.
- If your conviction applies, you shall register, re-register and comply with all the requirements of the Sex Offenders Registration Act Failure to comply will constitute a Violation of Probation and/or a Class E Felony.
- You shall inform all persons with whom you have a significant relationship, with whom you have a close affiliation, or with whom you reside of your sexual offending history. Your therapist and/or your probation officer will determine who shall be informed.
- You shall provide your probation officer with a copy of your NYS Driver's License and the registrations of any/all vehicles owned and/or operated by you.
- You shall submit to be photographed by the probation department for the purpose of SORA and record keeping.

- You shall notify your probation officer immediately/within 1 business day of any contact, questioning or arrest by a police agency or any law enforcement officer.
- You agree to sign any medical, treatment or programmatic release of information required by any agency to which the defendant is referred for services for purposes of probation obtaining attendance, participation and communicating as to services performed.

12. Electronic Monitoring

- You shall submit to GPS monitoring by wearing a GPS device and fully cooperating with the monitoring process as directed by the probation department.
- You shall participate in the Electronic Monitoring Program as directed by the probation department for a period of ____ months at your own expense. The fee is payable in full to the probation department at the time of sentencing or billed in accordance with the probation department's guidelines. The fee is non-refundable.
- You agree to all the instructions and requirements of the Electronic Monitoring Program as established by the probation department, a written copy of which will be provided to you.

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Section IV. Post Sentence Supervision

Summary of the Research

The Center for Sex Offender Management's *Comprehensive Approach* provides the following:

- Sex offender-specific supervision is a hallmark of contemporary sex offender management efforts. Specialized knowledge and training of staff facilitates:
 - effective assessment and interviewing skills;
 - supervision and field work practices;
 - the development of sex offender-specific case plans with tailored conditions of supervision that enhance offender accountability, victim protection and community safety;
 - ongoing, individualized case management strategies; periodic reassessments of risk and continual monitoring of dynamic risk factors;
 - appropriate use of ancillary supervision strategies as appropriate (e.g., polygraph, GPS monitoring) to promote risk management and public safety.
- Specialized caseloads, the use of team-based case management, appropriate use of incentives, and proactive responses to non-compliance are also key. Because research has demonstrated that supervision – coupled with sex offender-specific treatment – can result in marked reductions in recidivism, an equal emphasis on both is advised. For this reason, community supervision officers, treatment providers, victim advocacy professionals, and others should work closely together in an ongoing fashion to monitor compliance and reinforce progress.³⁴

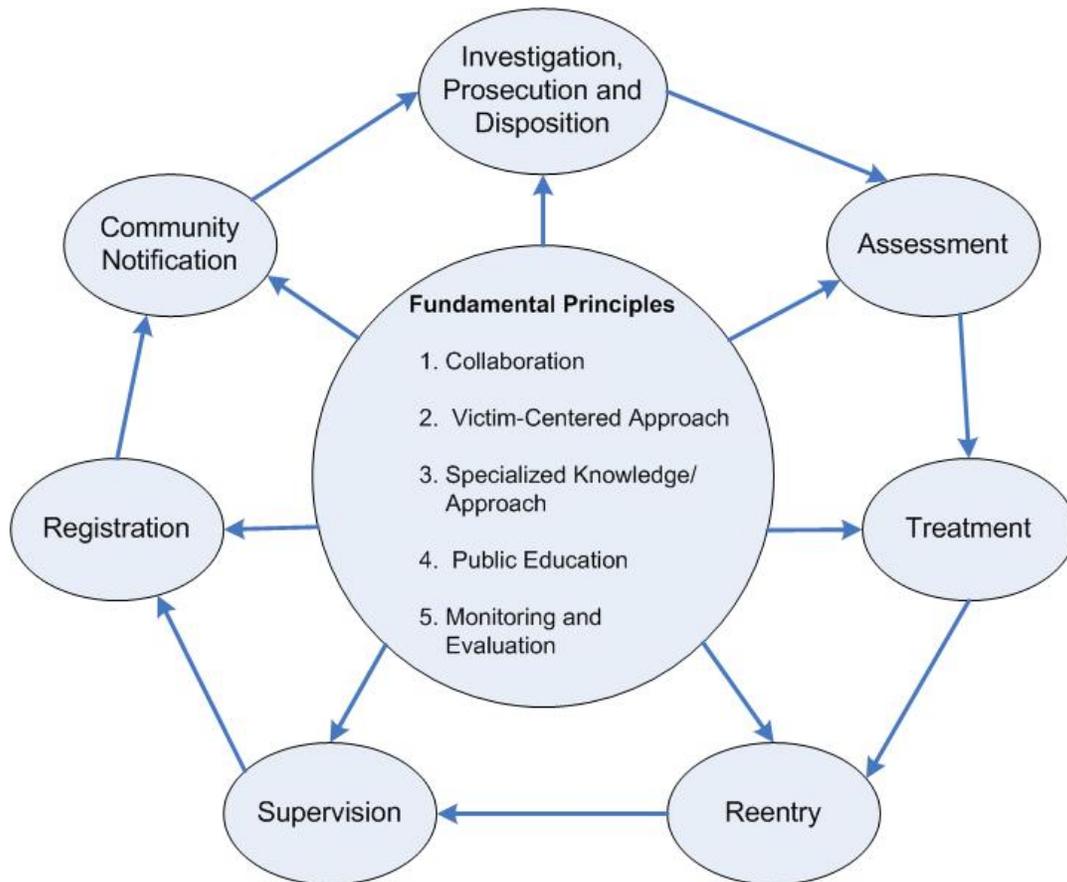
The Center for Sex Offender Management Training Curriculum further identifies the following as:

Key Elements of Sex Offender Supervision:

- An understanding of the importance of a shared and consistent philosophy and strategy for supervision of sex offenders in the community.
- A primary concern for the prevention of future victimization and the safety and recovery of previous victims, to the extent possible.
- An acknowledgement that sex offenders must be held accountable for their actions.
- An understanding that some offenders can be managed safely in the community.
- A collaborative effort that begins with the cooperation of supervision agencies and offense specific treatment providers.
- Collaborative efforts may extend to include the polygraph examiner and victim advocate in a “containment approach” and may also extend to other agencies and individuals such as law enforcement who share responsibility for sex offender management.

- An understanding that traditional methods of assessment and supervision may not be appropriate for sex offenders and that specialized approaches are warranted.
- Informed and consistent public policy whenever possible.
- An understanding that on-going evaluation and monitoring are vital components in any sex offender supervision and management program.³⁵

The Role of Probation in Sex Offender Management



Source: Center for Sex Offender Management, “Effective Management of Sex Offenders in the Community,” American Probation and Parole Association (APPA) Summer Training Institute, 2005.

“Supervision of the Sex Offender” by Georgia Cumming and Maureen Buell offers the following for effective management of sex offenders in the community:

Relapse Prevention as a Supervision Strategy:

Experience shows that standard supervision practices with sex offenders are ineffective. Sex offenders typically present few management problems. They hold jobs, keep their appointments and complete the conditions of probation, so rarely is a problem obvious until after arrest on a new charge.³⁶

The strategy of supervision proposed is a combination of three techniques: relapse prevention, specialized conditions of probation tailored to the offender’s risk areas, and use of a collateral community network. Relapse prevention is a self-management program designed to teach individuals who are trying to change their behaviors to identify problems early on and to avoid a relapse. This model was initially developed as a treatment tool with addictive behaviors and was adapted for the treatment of sex offenders. This adaptation included a supervisory dimension that includes probation officers and develops a collateral network of community members.³⁷

Probation officers who use the relapse prevention method with sex offenders should be guided by the following principles:

- Treatment will not cure sex offenders of their sexual deviancy: they can learn skills enabling them to stop their abusive behavior, but treatment will not eradicate the deviant interests. Therefore, offenders always must be prepared for the possibility of a return of deviant interests.
- Offenders must be active participants in identifying risky behaviors and developing the coping strategies to address them.
- The self-report of risky behavior by sex offenders historically has been unreliable; therefore, it is essential to develop an informed collateral network.
- The responsibility squarely rests with offenders for curtailing their sexually deviant impulses. Treatment is not magical, and if offenders choose to remain in denial or refuse to engage in treatment to reduce their deviant interests, they are at high risk to reengage in sexually deviant behaviors.³⁸

Development of the Supervision/Support Network

The creation and use of a supervision network increases the accuracy and consistency of information pertaining to an offender’s routine behaviors and activities in a given period of time. It also provides a more structured framework to the supervision process. In developing a supervision network, significant individuals in the offender’s life are identified. Community supervision is enhanced when the probation officer maintains contact with these individuals.³⁹

Meetings in the probation office with the offenders provide only a “snap-shot” of offenders’ activities: time is limited, and offenders may attempt to portray themselves and their situations in the best light possible. Offenders are often seemingly compliant, yet can be vigilant secret

keepers. Use of a supervision network allows the probation officer to interact routinely with individuals more familiar with the offenders and their actual day-to-day activities.⁴⁰

The community support network serves two purposes: to assist the offender in making and supporting positive lifestyle changes and to assist the officer in gaining information regarding the offender's adjustment in the community. The support network is composed of the important people in the offender's life who regularly interact with him. Generally, network members become involved because they care about the offender and want the offender to succeed in the community.⁴¹

Case Planning

The case planning process forms the basis for sex-offender supervision. The probation officer develops it in conjunction with the offender at the onset of supervision. It reflects all the available and relevant information regarding the offender, including the special conditions of probation. The overall case manager of the sex offender case is the probation officer who has the responsibility of directing the offender's activities while under supervision.

The case plan is driven by relevant and verifiable information. The initial case plan will reflect information available at the time the offender is beginning community supervision. As more information about the offender becomes available and as the offender's risk level changes, so will elements of the case plan. A case plan that clearly spells out the offender's responsibilities will eliminate confusion later on during supervision.⁴²

Pursuant to DPCA Rule §351.2 the case plan must be developed within 30 days of the department receiving a new probationer. The case plan is developed from information learned through the risk and need assessment.

Ongoing Supervision

Developing a case plan, identifying and educating the supervision network, and referring the offender to treatment may take some time, depending on the probation officer's workload, availability of specialized treatment and department practice and policy.

Throughout the process of setting up the supervision framework, the probation officer should make sure offenders are clear about their responsibilities. Offenders must be prepared to discuss details of their offense and high-risk behaviors, as well as potential risk situations that may occur on a day-to-day basis. For example, in accounting for their leisure time, offenders should inform their probation officers of any reduction in their work hours. Unaccounted for or unplanned leisure time may provide offenders opportunities to engage in deviant behavior.

At the beginning of supervision, probation officers should place emphasis on supervision and surveillance. Officers should establish rapport to encourage offenders to talk freely about their activities without feeling fearful, intimidated or threatened. Probation officers should do whatever is possible to ensure that during office visits, there is a confidential space for offenders to privately discuss their sexually deviant behaviors.⁴³

Family Reunification

Sex offenders reuniting with families and children is a controversial issue in sex offender management and supervision. The research indicates that several factors need to be taken into consideration when working with adult offenders who may be allowed to return to a home where victims or potential victims reside.

It is not reasonable, realistic, nor advantageous to wholly prohibit reunification efforts. Some sex offenders may pose a relatively low degree of risk to reoffend depending on arousal patterns and other dynamic risk factors, victim preferences, response to treatment and supervision, and victim and family responses to intervention. Under prescribed circumstances and with adequate safeguards and planning, some offenders may, in fact, safely resume contact with their families and return home. Conversely, there are many cases in which any continued contact between the offender and the victim or other family members is clearly contraindicated, and for which consideration of family reunification is inadvisable. The most prudent approach to considering family reunification is to consider fully the individualities of each case.⁴⁴

Given the considerable harm that could result from an offender's premature or otherwise unsuitable return to the home, reunification should always occur as a gradual and deliberate process. Toward this end, appropriate treatment for the victim, family, and offender are obvious prerequisites, with specific, measurable, logical, and progressive goals that assure the readiness of all parties. In addition, ongoing and closely supervised contacts between the offender, victim, and other family members are critical during the process.

Key stakeholders in the reunification process should include:

- Victim Advocate
- Offender's Treatment Provider
- Family Therapist
- Supervision Officer (Probation)
- Child Welfare/Child Protective Caseworker⁴⁵

Because the risk, needs, and circumstances of sex offenders change over time, responsible reunification practices require the ongoing assessment of risk and needs of the offender and the environment. Those involved in the sex offender management system must be equipped to modify reunification plans and other case management strategies based upon the current risk posed by the offender, as well as the needs of the victim and other family members.⁴⁶

Routine collaboration among the parties responsible for sex offender management is essential to reunification efforts. Clear and consistent communication among the supervision (probation) officer, offense-specific treatment provider, family therapist, and victim advocate can ensure that an environment conducive to safe reunification has been established and can be maintained. Without this ongoing collaboration, the ability to provide such an assurance may be compromised substantially.⁴⁷

Sex Offender Supervision Practices in New York State

Probation officers participating in the Sex Offender Management Focus Groups reported the following:

Specialized Caseload

Generally, all sex offenders whether registered or non-registered, are placed under intensive supervision when they are assigned to the sex offender caseload. They remain under intensive supervision for at least three to six months or until the supervising officer feels that it is appropriate to step down the supervision level. This level of supervision includes weekly appointments and group treatment.

Home Visits

Typically, home visits are conducted monthly. Departments use a combination of announced and unannounced visits at varying times of day. Many departments conduct home visits with additional law enforcement personnel. Visits that are conducted in teams allow one officer to talk with the offender, while the other officer searches the residence for toys, pictures of children, stuffed animals, video tapes, removable computer drives, cell phones, alcohol, prescription drugs, and presence of multiple computers. During these visits, officers should verify in which room in the home the offender actually lives and sleeps.

DPCA establishes minimum frequency of home visits in *Rule §351.4 Differential Supervision*.

Sex Offender Housing

Housing of sex offenders is a persistent challenge across New York State. Recent state regulations combined with local laws and ordinances, while well-intended, have made it very difficult for sex offenders to obtain housing in many urban settings as well as suburban and rural areas. Departments report that due to residency restriction laws, sex offenders are barred from residing in several communities across the state. Many departments work with local law enforcement to assist offenders in identifying appropriate residences.

Case Conferencing

Departments generally utilize some form of case conferencing with treatment providers, child protective services and victim services. The conferences frequently take place in person. The meetings are used to discuss specific cases as well as issues related to sex offender management in the community. In most cases, the conferences occur monthly. Probation officers report they are in contact with treatment providers on a regular basis.

Travel

Sex offenders are generally under restricted travel and must obtain travel permits from the probation department for any extended travel.

Confidentiality Waivers

Generally, sex offenders sign confidentiality waivers to allow for contact with service providers and involved agencies.

Early Discharge

Early discharge should not be granted except under rare circumstances. There is typically no early discharge for sex offenders. Probation officers recognize the importance of sustained supervision and treatment.

Disclosure

Sex offenders are generally required to fully disclose to employers, family members and intimate partners. This is verified by probation departments. Frequently, disclosure is done in the presence of probation to ensure that family members and partners have complete and accurate information.

Chaperones

Several departments utilize chaperones when sex offenders attend events or visit with children. Chaperones are trained and approved by the probation department and can be an effective component of the collaborative network.

Family Reunification

Generally, departments do not initiate the process of family reunification for sex offenders. Departments will communicate with the treatment provider, child protective services, victim advocates and the courts if the offender is working toward reunification.

Remote Computer Monitoring

Several departments have experienced success by requiring offenders to purchase remote computer monitoring services. The cost of the service is passed on to the offender and the probation department receives electronic notification of any violations.

Electronic Monitoring

Several departments use some form of electronic monitoring or GPS for sex offenders. Of those that use GPS, it is believed that active GPS with 24-hour monitoring is the best practice. GPS is used effectively to track and document the offender's daily routine (deviation in a daily routine is a red flag for the probation officer). Active GPS can be very costly to departments as it requires extensive staffing. GPS and other forms of electronic monitoring can be effective tools to probation officers and should be utilized at the discretion of the supervising officer with court approval. GPS can inform the supervising probation officer of the location of the offender, but it cannot advise of the offender's activities. Electronic monitoring and GPS may complement, but they are not substitutes for active probation supervision.

Recommendations for Best Practice for Community Supervision of Sex Offenders

DPCA's Supervisory Rule, specifically Section 351.7 sets forth specific parameters including procedures by which probation departments may issue supervisory directives and/or instructions for an offender to follow as part of his/her respective supervision plan. These are not conditions of probation but clarify any general or specific conditions relating to supervision and other relative to conduct, rehabilitation, movement and controls.

Specialized Officers

Sex Offender supervision should be assigned to the caseload of an experienced Officer/Unit who either solely or primarily works with sex offenders, or has a significant concentration of sex offenders on the caseload, and who has received specialized training on sex offender management. These officers should obtain training in the following areas:

- Prevalence of Sexual Assault
- Offender Characteristics
- Assessment/Evaluation of Sex Offenders
- Community Management of Sex Offenders
- Motivational Interviewing
- Dynamics of Sexual Offending
- Sex Offender Treatment Models
- Cognitive Behavioral Model
- Relapse Prevention
- Technology Tools
- Victim Specific Issues
- Physiological Procedures
- Determining Progress
- Offender Denial
- Special Populations of Sex Offenders
- Cultural and Ethnic Awareness

Development of Case Plan

The case plan flows from the risk/need assessment and more specific clinical evaluations. The plan must be specific to goals, objectives and required activities as well as identified service providers.

Classification by Local Probation Department

Upon assignment to the specialized officer/unit, sex offenders should be placed under intensive supervision. Where available, sex offenders may be placed into the Intensive Supervision Program (ISP) caseload. At a minimum, sex offenders should be classified as Supervision Level 1 by local probation departments for at least six months. At this

probation classification, offenders should be seen at least weekly with a monthly home visit by the supervising officer. During this period, the officer can become acquainted with the offender, become familiar with offense cycles, and propensity for relapse. The officer can begin making service referrals. The officer should work with a collateral network to assist in the management and supervision of the offender. DPCA establishes classification of probationers in *Rule §351.3 Classification of Probationers*.⁴⁸

Caseload Size

Officers who are responsible for the community supervision of sex offenders should have a caseload that is smaller than a caseload for general supervision wherever possible and resources allow. Sex offender cases require additional time and resources to ensure effective community supervision.

Workload Duties

Supervision officers should develop a supervision plan and contact standards based on a risk assessment of each sex offender, the sex offender's offending cycle, physiological monitoring results and the offender's progress in treatment. At a minimum, the officer should maintain weekly contact with the offender and also conduct monthly home-visits. Officers should monitor the treatment progress of each offender by maintaining regular face to face, verbal and written contact with the offender's treatment provider.

Confidentiality Waivers and Disclosures

Supervision officers should ensure that sex offenders sign release of information forms for at least the following types of information:

- Treatment Providers
- Child Protective Services
- Polygraph Examiner
- Victim's Therapist
- Other Professionals and other Collateral Contacts involved in the treatment and/or supervision of the offender

Collateral Contacts/Collaborative Networks

Collateral contact means a communication other than a normal supervisory interaction, between a probation department and a person other than the probationer, concerning the probationer's behavior or status, either in person, by telephone, by mail, by electronic medium, or any other means approved by the State Director of Probation and Correctional Alternatives.

Officers should develop a collateral network that may include the following:

- Law Enforcement
- Household Members
- Family Members
- Treatment Providers

- Employers
- Friends
- Intimate Partners and Ex-Partners
- Schools
- Clergy
- Neighbors
- Support Groups (AA/NA)
- Victim(s)

A variety of individuals in the community may have information to share that will be both supportive and/or informative of potential high risk behavior.

Modifications of Orders & Conditions

Adjustments to sex offender orders and conditions should be addressed on a case-by-case basis and may be used as incentives for compliance or sanctions for non-compliance and with the approval of the court.

Home Visits

Home Visits for sex offenders should be conducted on a more regular basis than that of the general caseload. To conduct thorough visits, officers should make visits in teams wherever possible. The teams may consist of probation officers or as joint operations with other law enforcement officers. Whenever possible, the visits should be held at varying times of day and days of the week and should include evenings and/weekends if resources permit. Home visits should occur at least monthly. DPCA establishes minimum frequency of home visits in *Rule §351.4 Differential Supervision*.⁴⁹

Family Reunification & Chaperones

When an offender is pursuing family reunification, probation officers must work with the treatment provider, child protective services, victim advocates, and family therapist to ensure that victim safety is paramount. Open and ongoing communication throughout the process is essential where possible. Departments should work with trained and approved chaperones when offenders are visiting with children. Probation should work with victims and therapists to discuss the role of probation. (See Appendix-F for a sample agreement)

Assessments

A specialized risk and need assessment should be conducted at the onset of supervision if it was not completed during the pre-sentence investigation. Sex offenders should have on-going assessments as they progress in treatment and as any circumstances change. It is important that no single instrument or data source be used to make critical decisions. Supervision officers, treatment providers and other key stakeholders must assess offenders on an on-going basis and they need to be in tune with dynamic or changeable factors.

The Static-99 is a *specialized* risk instrument that has been validated on a community corrections population that probation officers have been trained on. It should be used with adult sex offenders. The NYCOMPAS is a *general* risk and need instrument that can be used to assist probation officers in developing offender case plans.

Employment

Probation officers should consider contacting the sex offender’s employer at the onset of supervision as determined necessary. This will allow the officer to determine if the employment is appropriate and will also ensure that full disclosure, where required, is made to the employer. Probation officer contact with employers may serve to provide support for both the employer and the offender which may assist with employment retention.

Probation can assist unemployed offenders in obtaining employment by working with “*Ready, Set, Work*” initiatives and also forming relationships with One-Stop Centers.

Transfers

- **Interstate** – Probation officers must adhere to the rules of the Interstate Compact for Adult Offender Supervision. This compact and its rules have the force and effect of federal law (attached). Refer to www.interstatecompact.org.
- **Intrastate** – Probation officers must adhere to the rules of Intrastate Transfers (see Appendix G)
- Officers should communicate with the department’s interstate/intrastate liaison to ensure full compliance.

Travel/Movement

- Travel permits are recommended when sex offenders are travelling outside of the county and/or the state. When leaving the state, sex offenders must comply with the laws of the destination state and ICAOS and its governing rules where applicable. These laws should be discussed by the officer with the offender. (See Appendix H)
- Travel permits may be used as incentives for compliance. Similarly, an officer’s refusal to issue a travel permit can be used as a sanction for non-compliance.
- Travel Documentation should comport with all local practices.

SORA Compliance

The Sex Offender Registration Act (SORA), added by Chapter 192 of the Laws of 1995, was effective January 21, 1996. SORA requires anyone on parole or probation or imprisoned for a sex offense on January 21, 1996, to register with the Division of Criminal Justice Services

(DCJS). In addition, sex offenders sentenced to probation, local jail, or state prison after that date must register upon their return to the community.

There are three levels of risk, based on an offender's risk of re-offending: Level 1 (low), Level 2 (moderate), and Level 3 (high). Offenders may be registered as "P-pending" until such time they are classified by the Court. As a general rule, the sentencing court will determine an offender's risk level either at the time of sentence (in probation cases) or when the offender is released from custody (in jail or prison cases). Because the court may not possess up-to-date information on an offender being released from prison or jail, SORA established a Board of Examiners of Sex Offenders to evaluate these cases and make a risk level recommendation to the court. The risk level assigned governs the amount and type of community notification authorized for a particular sex offender.

Currently, a SORA Level 1 offender who has not been designated a sexual predator, a sexually violent offender or a predicate sex offender must register for twenty years. A SORA Level 1 offender who has been so designated, as well as SORA Level 2 and SORA Level 3 offenders, regardless of whether they have been so designated, must register for life.

SORA Level 1 or SORA Level 2 sex offenders are required to register with DCJS, verify his or her address each year and notify DCJS no later than 10 days after any change of address. In addition to the same duties required of a SORA Level 1 or 2 sex offender, a SORA Level 3 sex offender or a sexual predator regardless of level, is also required to personally verify his or her address every 90 days with the local law enforcement agency having jurisdiction over the sex offender's residence. Each year, DCJS will mail a Sex Offender Registry Address Verification Form to the offender's last listed address. The form must be signed and returned to DCJS within 10 days after receiving it. If the post office returns the form to DCJS or if the offender does not sign and return the form, the local police department will be notified.

All registered sex offenders must notify DCJS of any institution of higher education at which the sex offender is or expects to be employed, residing, enrolled or attending. Any change of status at such institution must also be reported to DCJS. As of May 3, 2003, SORA Level 3 sex offenders are required to provide his or her employment address to DCJS.

Effective April 12, 2006, all SORA Level 3 sex offenders must provide an updated photograph to the Registry on an annual basis and all SORA Level 1 and SORA Level 2 offenders must provide an updated photograph every three years from the date of registration.

The Electronic Security and Targeting of Online Predators Act (e-STOP), which took effect on April 28, 2008, requires all registered sex offenders to report to DCJS any internet accounts with internet service providers belonging to such offenders and e-mail addresses and designations used by such offenders for the purposes of chat, instant messaging, social networking or other similar internet communication. In addition, a registered sex offender must notify DCJS no later than 10 days after any change of the above-mentioned internet information.

The Act authorizes DCJS, upon request, to provide sex offender internet information to social networking websites which have members under the age of 18. The websites may use the

information to prescreen or remove sex offenders from their services and/or advise law enforcement of potential threats to public safety and/or violations of law.

The Act requires, as a condition of probation, conditional release, or parole, mandatory restrictions on a sex offender's access to the internet where the offender was convicted of a sex offense against a person under the age of 18 or the internet was used to commit the offense. For instance, the offender will be banned from accessing pornographic materials and social networking websites. The same restrictions may apply to all SORA Level 3 sex offenders on probation, conditional discharge, conditional release, or under parole supervision.

SORA does not restrict where a registered sex offender may live or travel. However, there are other New York State laws that may apply if the registered sex offender is still under sentence. For example, a judge may order that a registered sex offender not enter an area accessible to the public within 1,000 feet of school grounds or other facility caring for children if the registered sex offender is conditionally discharged or on probation and the registered sex offender has been convicted of a qualifying offense against a victim under 18 years of age. The judge may order the same condition for any SORA Level 3 sex offender who is conditionally discharged or on probation as listed in New York State Penal Law §65.10 (4-a). If a sex offender moves, he or she must notify DCJS in writing of such new address no later than 10 days after moving.

If the registered sex offender is conditionally released or under parole supervision and the registered sex offender has been convicted of a qualifying offense against a victim under the age of 18 years of age, there is a mandatory condition in New York State law which provides that the registered sex offender cannot enter an area accessible to the public within 1,000 feet of school grounds or other facility caring for children. The same condition applies for SORA Level 3 sex offenders conditionally released or under parole supervision. See Executive Law §259-c(14).

Additionally, there may be local laws in a particular county, town or village restricting where a registered sex offender may live or travel.

The only employment prohibition contained in SORA is set forth in Correction Law §168-v which prohibits a registered sex offender from being employed on a motor vehicle engaged in the retail sale of frozen desserts. Other New York State laws require employers to conduct criminal background checks on applications for employment, such as applicants for a teaching position or school bus driver. Depending on the specific provisions of the law, individuals convicted of certain offenses will be disqualified from such employment.

Failure of a sex offender to perform any of these registration obligations is a crime. A first conviction is punishable as a class E felony; a second or subsequent conviction is punishable as a class D felony.

Probation Officers should assist probationers with SORA Compliance as follows:

- Address Verification – Probation officers should assist offenders with completion of address verification forms by offering reminders about anniversary dates. DPCA requires

probation departments to confirm the address of all SORA sex offender probationers quarterly, regardless of the SORA level. The results are reported to DPCA on Quarterly Address Confirmation Form DPCA 900. (Appendix I)

- Change of Address—Probation officers ensure that probationers complete change of address forms and officers complete the 48 hour notification and submit it to DCJS
- DNA – Officers must ensure the collection of DNA for all offenders.
- Photographs – Probation officers should assist offenders with SORA photograph compliance. SORA Level 1 and SORA Level 2 offenders should be reminded to report to the police every three years for an updated photograph, and SORA Level 3 offenders should be reminded to report to the police every year for an updated photograph.

Field Work

Searches are an important element in maintaining offender compliance and should be utilized on a regular and random basis in the management of sex offenders. Each department should have written policies and procedures regarding search and seizure, forensic computer searches and the use of search orders. Searches should be conducted in compliance with local policy and practice and applicable state and federal law.

It is recommended that searches be conducted in teams of at least two. The team may consist of probation officers and other local law enforcement officers in accordance with local department policy and practice. Forensic searches of computers must be conducted by specially trained probation officers or law enforcement personnel to insure the integrity of the data that is gathered and the process by which it is gathered. Search orders must be utilized in compliance with local department policy and practice and state and federal law.

Evidence/Contraband

- Forensic Evidence – Computer searches that reveal violations of probation conditions and/or illegal activity should be turned over to appropriate law enforcement agencies for thorough searches and storage.
- Storage – Evidence that is seized as part of a search must be stored according to local department policy and practice in order to maintain the chain of evidence.
- Removal – Removal and storage of evidence and contraband must be conducted in compliance with local department policy and practice in order to maintain the chain of evidence.

Electronic Monitoring/GPS

The use of this equipment is resource intensive and when adequately monitored, can enhance public safety. When using these systems, it is recommended that active tracking is utilized, though full-time, 24/7 coverage is largely dependent on local resources. DPCA's electronic monitoring procedures must be followed.

Computers/Internet Usage/Other Electronics

Local departments should have some mechanism to monitor the use of the internet and to ensure compliance with e-STOP Legislation. Supervising officers should periodically review social networking sites to monitor compliance with e-STOP.

Joint Field Operations

Collaboration with other law enforcement in the jurisdiction is recommended for the enhancement of community safety. Joint operations may be useful for added safety on home visits or for additional personnel on special details such as Halloween and/or community and school events where a large number of children will be gathering.

Early Discharge

Absent extraordinary circumstances, probation departments should not ask the Court to grant or support early discharge from probation supervision for sex offenders.

Response to Non-Compliant Behavior

The use of graduated sanctions for sex offenders needs to take into account the nature of the offense and the potential for relapse and public safety. Graduated sanctions should be used in consultation with the treatment provider. Non-compliant behavior should be communicated to the Court in accordance with DPCA rules and regulations and department policies and procedures. Swift and certain response to offender behavior better promotes public safety and offender accountability.

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Section V. Sex Offender Treatment

Summary of Research

According to the Center for Sex Offender Management:

- Treatment is defined as the delivery of prescribed interventions as a means of managing crime-producing factors and promoting positive and meaningful goal attainment for participants, all in the interest of enhancing public safety. Many of the goals of sex offender treatment are largely pre-determined. Although individuals who commit sex offenses are a fairly heterogeneous population, they also have in common several types of needs and risk factors. As such, treatment programs tend to include a number of relatively “standard” goals for participants, such as addressing denial, identifying and managing risk factors, enhancing empathy for victims, and developing pro-social skills.⁵⁰
- Most programs for adult male sex offenders report using cognitive-behavioral and relapse prevention models as the foundation of treatment. In the broadest sense, the primary goals of sex offender treatment are for individuals to take responsibility for their behaviors, develop the necessary skills and techniques that will prevent them from engaging in sexually abusive and other harmful behaviors in the future, and lead productive and pro-social lives.⁵¹
- Treatment should be individualized. Although several components are common to all individuals entering sex offender treatment, interventions should be designed to meet the specific needs of clients. This requires that specialized assessments be conducted to inform treatment for each participant. It is important to use specialized research-based tools that explore not only general mental health needs and personality functioning, but also assess offense-specific variables, such as deviant sexual interest and pro-offending attitudes, because of their association with recidivism risk. When focusing specifically on the assessment of risk of sexual recidivism for adults or juveniles, practitioners should use instruments that have been designed for those populations. Whenever possible, practitioners should use instruments that have a demonstrated predictive validity. Ideally, assessments are the means by which levels of risk are determined and needs are identified so that individualized, meaningful and effective treatment plans can be developed.⁵²

Sex Offender Treatment and Probation in New York State

According to DPCA's 2006 Sex Offender Management Survey Results, the following is a summary of treatment across the state:

- The majority of local probation departments use private treatment providers for sex offenders. All departments report having access to treatment, but ten departments are forced to refer offenders to neighboring counties for treatment.
- Fourteen (14) departments use the treatment resources offered by their local Department of Mental Health.
- Fifty-three (53) departments reported that the most common method of payment for treatment was self-pay. Twenty-four (24) departments reported that self-pay was the only payment method and four use a sliding fee scale for adult treatment. Twenty (20) departments reported insurance as a payment form and sixteen (16) reported that Medicaid pays for the treatment. Seven (7) departments reported that the Department of Social Services or preventive service funds pay for juvenile sex offender treatment.
- Ten (10) departments reported that either the probation department and/or the county mental health department bore the cost of treatment.⁵³

Probation officers participating in the Sex Offender Management Focus Groups reported the following:

Probation and Treatment Provider Relationship:

- Treatment programs followed cognitive behavioral techniques and there is an emphasis on relapse prevention. Offenders remain in treatment anywhere from two to six years to the duration of their probation sentence.
- Treatment groups are frequently held at probation offices.
- Treatment groups are frequently co-facilitated by treatment providers and probation officers. The roles of the probation officer and the treatment provider are clearly defined.
- Departments attending the focus groups reported that they subscribe to the containment approach, meaning that probation and the treatment providers work together in the management and supervision of the sex offender.
- Departments require sex offenders to participate in treatment by providers that meet the standards set by the Association for the Treatment of Sexual Abusers (ATSA) whenever possible.
- Departments work with treatment providers to identify the proper treatment group for each offender and appropriate frequency of treatment for each offender.

Recommendations for Best Practice for Treatment of Sex Offenders on Probation

- **Sex Offenders should receive a psycho-sexual evaluation from an ATSA member service provider that meets OSOM requirements and participate in recommended treatment. (See Appendix - J)**
- **Sex offenders must participate in treatment from an ATSA member provider whenever possible.**
- **The supervising probation officer must be in regular contact with the treatment provider to discuss compliance with treatment as well as compliance with probation orders and conditions. This contact should occur at least monthly for updates. “Red flags”, absences, or conflicting information must be discussed immediately.**
- **Case conferences between probation, the treatment provider and victim advocates should be held monthly. These conferences should include other collateral contacts as needed.**
- **Probationers should be required to sign a release of information that allows the officer and treatment provider to share information openly.**

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Section VI. Polygraph

Summary of Research

Post Conviction Sex Offender Polygraph Testing has emerged as one of the central elements in sex offender management as a means to focus and support specialized treatment and supervision efforts. In “The Value of Polygraph Testing in Sex Offender Management”, the nationally recognized researcher Kim English and co-authors emphasize the importance of such testing stating, “Complete information about the scope and frequency of sex offender’s deviant activities is available only from the offender, yet most sex offenders have made secrecy and dishonesty part of their lifestyle.”⁵⁴

Types of Polygraph Examinations:

Sexual history disclosure polygraph exams: These exams are used to verify the accuracy and completeness of the sexual history information a sex offender provides during treatment. This information is obtained using a very specific treatment tool: sexual history documentation. This treatment task requires the offender to record the gender, age, and method of assault for every past victim. The sexual history document—to be completed within six months of commencing treatment—is then provided to the polygraph examiner who, after reading it carefully along with other case file information, asks the offender very specific questions about the accuracy of parts of his or her sexual history. In most cases, the completed sexual history document is long, with disclosures of many prior assaults and attempted assaults, and many different types of assaults as well. The clear expectation that the offender will be accurate and truthful on the sexual history assignment, coupled with the ability to verify truthfulness through polygraph exams, increases the offender’s incentive to disclose this potentially embarrassing and illegal information to the treatment provider.⁵⁵

Denial and other specific-issue exams: Denial exams verify the details of the conviction offense. These tests are usually given when the offender’s version of the crime varies from the victim’s version, or the offender continues to deny committing the crime of conviction. Specific-issue exams are also used to address a single concern or suspicion that arises during an offender’s probation or parole, such as suspected contact with children. Specific-issue tests are also recommended as a follow-up to deceptive results on previous exams to clarify the nature of the deception.⁵⁶

Maintenance or monitoring exams: Maintenance or monitoring exams are used to verify whether a probationer or parolee is complying with the terms and conditions of community supervision and cooperating with treatment expectations. These exams require the polygraph examiner, the treatment provider and the supervising officer to work together to identify questions that target high-risk behavior related to the assault patterns described in the offender’s sexual history document.⁵⁷

Polygraph Usage for Sex Offenders on Probation in New York State

The 2006 DPCA Survey revealed the following about polygraph usage:

- Thirty-one of fifty-eight probation departments in New York State may require probationers to have a polygraph examination.
- Polygraph examinations most commonly are conducted on probationers by third party contractors to a sex offense treatment provider or by a contractor to a probation department.
- Polygraphs are most commonly conducted post-sentence at the supervision stage.
- Fifty-four percent of departments indicated that polygraph examination of sex offenders was possible, the frequency and consistency of the administration of these tests varies greatly by county.
- Probation departments in New York frequently utilize the services of polygraph examiners from other areas of the state, or even from out of state. As a result, the probation department or the treatment provider schedules a cluster of exams over the course of a day or two. This allows the polygraph examiner to travel to a designated area and conduct a number of exams.⁵⁸

A 2009 DPCA Polygraph Usage Survey Update revealed the following:

- Thirty-eight departments reported that probationers may undergo polygraph testing either as a condition of probation or a condition of treatment.
- An additional thirteen departments are considering the use of polygraph exams or are in the process of contracting for polygraph exam services.

Recommendations for Best Practice for Polygraph Usage for Sex Offenders on Probation

- **Sexual History Disclosure exams should be completed by certified polygraph examiners on all SORA registered probationers, as well as all other criminal court probationers that are supervised as sex offenders. The exam should be completed as soon as practicable and no later than six months after the probationer has begun sex offender treatment as part of a sentence to community supervision. Therefore, timely referral to a sex offender treatment provider is critical.**
- **Probationers should be subject to denial and other specific-issue polygraph exams as deemed appropriate by the treatment provider/community supervision sex offender management partners.**
- **Maintenance or monitoring polygraph examinations of SORA-registered probationers, as well as all other criminal court probationers that are supervised as sex offenders should be conducted periodically throughout the duration of the period of supervision, minimally on an annual schedule. Any significant deviation from that exam schedule should be approved by the unit supervisor and the reason documented in the case record.**

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Section VII. Victim Services

Summary of Research

According to the Center for Sex Offender Management:

- Supervision agencies, treatment providers and others who manage sex offenders in the community traditionally have been offender-focused in their work. They utilize a variety of methods, which include monitoring, use of sanctions and treatment to minimize the possibility of re-offense by offenders. Yet, they must also work to ensure that these methods do not re-traumatize victims of sexual assault or inadvertently jeopardize the safety of others. The most comprehensive and responsible approaches to community management of sex offenders are those which place paramount importance on addressing the needs and safety of past and potential victims of sexual assault.⁵⁹
- Victim advocates are eminently qualified to assist in managing sex offenders from a victim-focused perspective, due to their history of working with and on behalf of sexual assault survivors. Their knowledge of the needs of victims can enhance sex offender management policy development, professional training initiatives, day-to-day practices and community notification and education efforts. In addition, advocates and other victim service providers offer services for survivors to respond to issues that may arise when their perpetrators are released on probation or parole.⁶⁰

Victim Services in Probation in New York State

The 2006 DPCA Sex Offender Management Survey revealed the following:

- Forty (40) departments indicated that they maintain affiliations or partnerships with not-for-profit and/or local service providers or advocates for victims of sexual assault, including those affiliated with the district attorney's office or multi-system teams.
- Approximately half of the departments have policies regarding family reunification and visitation.
- Forty-one (41) departments indicated that they have victim-specific policies in place at the pre-sentence investigation stage.⁶¹

Probation officers participating in the Sex Offender Management Focus Groups reported the following:

- Most departments indicate that they collaborate with victim service providers in their communities. This is done through task force participation as well as in individual cases.

- Victim Service providers participate in case conferences in several departments across the state.
- Departments frequently provide victims with referrals to victim service providers.
- A few departments have victim service providers as part of the probation department staff.
- A few departments offer chaperone training programs to allow for family visitation.
- Some probation officers report re-reading the description of the offense on a regular basis to help maintain a victim-centered approach.
- Some probation officers meet with victims in locations other than the probation office for the comfort of the victim.

Recommendations for Best Practice for a Victim-Centered Approach to Sex Offender Management

Local probation departments should collaborate with victim service providers in their community at the team treatment level and as part of the collaborative network.

Probation Officers should work to ensure that victims' experiences are conveyed in Victim Impact Statements, but be mindful that the decision to participate in the sentencing process remains with the victim.

As with all victims, understanding, patience and empathy are required.

Probation officers should assist victims and their families in accessing treatment providers to address victim specific needs.

Victims who have been harmed by their family members and vulnerable populations require special care and services.

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Section VIII. Juvenile Sex Offenders

Summary of Research

According to the Center for Sex Offender Management, juveniles commit a significant number of the sexual assaults against children and women. The onset of sexual offending behavior in these youth can be linked to numerous factors reflected in their experiences, exposure and/or developmental deficits. Emerging research suggests that as in the case of adult sex offenders, a meaningful distinction can be made between youth who target peers or adults and those who offend against children. However, juveniles who sexually offend are distinct from their adult counterparts. Youth who commit sexual offenses are not necessarily “little adults”; many will not continue to offend sexually. This is a formative area of research. While there is an ever-increasing body of knowledge regarding the etiologies of dysfunction and aggression, there remains a tremendous need for additional data to understand the etiology of juvenile sexual offending.⁶²

The National Center on Sexual Behavior of Youth (NCSBY) provides information and support through national training and technical assistance to improve the accuracy, accessibility, and strategic use of information about the nature, incidence, prevalence, treatment, re-entry, and management of children with sexual behavior problems and adolescent sex offenders. The website offers a summary of research on juveniles who sexually offend. The following is reported by NCSBY:

- Adolescent sex offenders are defined as adolescents from age 13 to 17 who commit illegal sexual behavior as defined by the sex crime statutes of the jurisdiction in which the offense occurred.⁶³
- Adolescents do not typically commit sex offenses against adults, although the risk of offending against adults increases slightly after an adolescent reaches age 16.⁶⁴
- Approximately one-third of sexual offenses against children are committed by teenagers. Sexual offenses against young children, under 12 years of age, are typically committed by boys between the ages of 12 to 15 years old.⁶⁵
- Adolescent sex offenders are significantly different from adult sex offenders in several ways:
 - Adolescent sex offenders are considered to be more responsive to treatment than adult sex offenders and do not appear to continue re-offending into adulthood, especially when provided with appropriate treatment.⁶⁶
 - Adolescent sex offenders have fewer numbers of victims than adult offenders and, on average, engage in less serious and aggressive behaviors.⁶⁷

- Most adolescents do not have deviant sexual arousal and/or deviant sexual fantasies that many adult sex offenders have.⁶⁸
- Most adolescents are not sexual predators, nor do they meet the accepted criteria for pedophilia.⁶⁹
- Few adolescents appear to have the same long-term tendencies to commit sexual offenses as some adult offenders.⁷⁰
- Across a number of treatment research studies, the overall sexual recidivism rate for adolescent sex offenders who receive treatment is low in most United States settings as compared to adults. Adolescents who offend against young children tend to have slightly lower sexual recidivism rates than adolescents who sexually offend against other teens.⁷¹
- Adolescent sex offenders commit a wide range of illegal sexual behaviors, ranging from limited exploratory behaviors committed largely out of curiosity to repeated aggressive assaults.⁷²
- The characteristics of adolescent sex offenders are also very diverse.
 - Some are otherwise well-functioning youth with limited behavioral or psychological problems.
 - Some are youth with multiple non-sexual behavior problems or prior non-sexual juvenile offenses.
 - Some are youth with major psychiatric disorders.
 - Some come from well-functioning families; others come from highly chaotic or abusive backgrounds.⁷³
- Contrary to common assumption, most adolescent sex offenders have not been victims of childhood sexual abuse.⁷⁴

NCSBY also provides the following summary of community safety and supervision issues:

- There is a general agreement that adolescent sex offenders should be processed through the juvenile justice system as it can provide documentation for future use and provide broader sentencing options.⁷⁵
- Adolescent sex offenders should be subjected to the normal juvenile probation supervision requirements.⁷⁶
- Most adolescent sex offenders pose a manageable level of risk to the community. They can be safely maintained in the community under supervision by probation officers and be treated in outpatient treatment programs. However, a minority, do pose a danger to the community and require residential or custodial placement to ensure community safety.⁷⁷

- It is important to identify higher risk youth in order to make the most effective placement recommendations. There is currently no scientifically validated system or test to determine exactly which adolescent sex offenders pose a high risk for sexual recidivism. Mental health professionals and treatment staff typically overestimate the possibility of recidivism in evaluations, labeling far more teenagers as high risk than is accurate. In predicting risk to the community, it is usually appropriate to assume that an adolescent sex offender is relatively low risk unless there is significant evidence to suggest otherwise. Low risk does not imply the absence of risk, and low risk offenders still need supervision and treatment. The following factors are important to consider in evaluating risk:
 - A history of multiple sexual offenses, especially if any occurs after adequate treatment.
 - A history of repeated non-sexual juvenile offenses.
 - Clear and persistent sexual interest in children.
 - Failure to comply with an adolescent sexual offender treatment program.
 - Self-evident risk signs such as out-of-control behavior, statements of intent to re-offend, etc.
 - Family resistance regarding supervision and compliance, (e.g., the youth needs to be supervised by appropriate adults in the home and community and the adult needs to make certain the youth complies with probation and treatment requirements).⁷⁸
- Decisions about whether an adolescent sex offender should remain in the same home with the victim of his or her offense should be made carefully on a case-by-case basis. The decision may involve input from a variety of professionals within and outside of the juvenile justice system (e.g. child protection workers, therapists, etc.).⁷⁹
- For the adolescent sex offender who commits sexual offenses against young children, additional supervision requirements should be considered. The following suggested rules should be adapted for the specific adolescent's family:
 - No baby-sitting under any circumstances.
 - No access to young children or potential victims without direct supervision by a responsible adult who is aware of the problem.
 - No authority or supervisory role over young children.
 - No possession or use of sexually explicit or pornographic materials.⁸⁰
- These rules do not preclude most ordinary daily activities, such as going to school, church, stores, or restaurants with family or involvement in age-appropriate and appropriately supervised peer activities.⁸¹

Although there are safety and supervision issues that need to be addressed with this population, it is crucial to remember that adolescent sex offenders are different from adult sex offenders.⁸²

In a project for the Virginia Department of Juvenile Justice, a document titled "The Effective Management of Juvenile Sex Offenders in the Community, Case Management Protocols" was

developed in November 2002, by John A. Hunter, Ph.D. Several goals and case management goals were identified as follows:

The philosophy was articulated in a manner that is consistent with a “balanced approach” in the community-based management of juvenile sexual offenders. The model places equal emphasis on three complementary intervention elements: 1) the need to maintain public safety and protect victims from further harm; 2) the need to hold offenders accountable for their offending and responsible for their future actions; and 3) the need to present offending youth with the opportunity to receive specialized treatment designed to reduce their risk of re-offending.⁸³

The developed case management protocols were designed to permit the systematic integration of legal supervisory and clinical interventions so as to most effectively meet the needs of individual offenders and maintain each offender in the least restrictive environment possible. It is recognized that juvenile sexual offenders represent a heterogeneous population and vary as to the nature and severity of their sexual behavior problem(s), the extent to which they manifest other psychological disorders and character disturbance, and their intervention and supervisory needs. It is also recognized that juvenile sexual offenders come from a variety of family backgrounds and are subject to an array of positive and negative peer group and cultural influences.⁸⁴

For those juvenile offenders placed on probation: community supervision following adjudication, the following was identified:

Goals

- Supervised juvenile sex offenders will have no further violations of the law.
- Supervised juvenile sex offenders will be fully compliant with all court orders and terms of probation.
- Supervised juvenile sex offenders will successfully complete a juvenile sex offender-specific treatment program.

Special Case Management Responsibilities

Pre-Sentencing

- Refer to a certified sex offender provider for a psychosexual evaluation
- Transfer sex offender specific information to evaluating clinician, including police report, victim statements, criminal and social histories.
- Meet with youth and parents to explain purpose of psychosexual evaluation and how court will use findings in disposition decision-making. Stress the importance of cooperation.
- Ensure that “risk” and “needs” assessment has been conducted. Ideally, this includes Probation Officer making an in-home visit in conjunction with evaluating clinician or clinical team.

- Participate in post-assessment clinical case staffing devoted to evaluating the offender's appropriateness for community-based care and developing an initial treatment plan.
- Develop comprehensive case management recommendations based on results of psychosexual and other pre-sentence evaluations. The case management recommendations should detail required legal and clinical interventions, and supervisory goals and methods. They should include a copy of the juvenile sex offender-specific treatment plan.
- Formulate report to the court synthesizing the results of the pre-sentence evaluations and making recommendations for disposition. Report should address the offender's appropriateness for community-based care, his designated level of risk for re-offending, and the case management plan. It should include an assessment of the most appropriate living environment for the youth and a description of treatment goals, objectives, and methods, and a timetable for their completion.

Post-Sentencing

- Conduct orientation session with youth and family to review court orders and terms of probation.
- Review expectations with regard to compliance with treatment program requirements. Stress the fact that probation officer and therapist will be in regular, on-going communication with one another and that treatment compliance and progress will be closely monitored and reported to the presiding judge at regularly scheduled court reviews.
- Collaboratively establish with youth, family, and therapist a monitoring/supervision plan that specifies proscribed and prohibited activities, and persons responsible for tracking and reporting compliance and effectiveness.
- Track and carefully document the youth and family's attendance of scheduled therapy sessions, and compliance with monitoring plan and terms of probation.
- Attend major clinical case staffing. Review with therapist the youth and family's progress in achievement of defined therapy goals. Carefully document all findings.
- Maintain collateral contact, as appropriate, with other professionals providing intervention/monitoring services or educational/vocational support. Where applicable, this should include the youth's employer.
- Re-assess "risk" and "needs" on an interval basis—preferably every six months. Use information to evaluate adequacy of case management and treatment plans, achievement of intervention goals, and youth's readiness for "step-down" in intensity of care.
- Submit regular formal reports to the presiding judge describing the youth's progress in treatment, achievement of specific legal and clinical goals, and continued appropriateness

for community-based care. Keep judge apprised of anticipated time to completion of treatment program. Where possible and appropriate, have above information processed in formal court reviews with youth and family in attendance.⁸⁵

Criteria for Termination of Services

- Offender takes full responsibility for his sexual offending and acknowledges all behaviors for which he was convicted.
- Offender appears genuinely remorseful for his sexual offending and has empathy for his victim(s).
- Offender was fully cooperative with his therapist(s) and compliant with therapeutic directives.
- Offender successfully completed the treatment program in its entirety.
- Offender understands his sexual offense cycle, including the thoughts, feelings, and events that lead to his sexual acting-out.
- Offender sufficiently understands his risk factors for re-offending, and can identify and successfully employ coping and management skills to maintain control over his behavior.
- All of the offender's psychiatric and behavioral problems were adequately addressed, and he displays overall emotional maturity and behavioral control over his sexual behavior, and other psychiatric and behavioral problems.
- Offender is gainfully employed or enrolled in an educational/vocational program that offers the promise of developing competitive job skills.
- Offender has positive peer and familial relationships that support him in maintaining a healthy lifestyle and refraining from future sexual acting out and delinquent behavior.⁸⁶

Juvenile Sex Offenders on Probation in New York State

Juvenile sex offending was beyond the scope of the DPCA 2006 Sex Offender Management Survey.

Probation officers participating in the Sex Offender Management Focus Groups reported the following about juvenile sex offenders:

- In some departments, juvenile sex offense cases begin at the investigation phase and sexual behavioral evaluations are obtained at that time. In others, evaluations are done post-adjudication.
- Juvenile sex offenders need to be on intensive caseloads.
- Departments try to work some juvenile sex offense cases through Diversion without court intervention.
- A large number of juvenile sex offenders are currently put in placement due to the seriousness of the charges.
- The departments work with juvenile sex offense treatment providers.
- Family Court tends to be supportive of juvenile treatment.
- Family Court Judges take these cases very seriously. Community safety is the priority.
- Judges frequently look to place juvenile sex offenders in state facilities.
- Offenders are typically acquainted with victims.
- There tends to be parental denial in many of these cases.
- The departments maintain close contact with child protective services and treatment providers in juvenile sex offense cases.
- Law guardians have been aggressive about fighting for shorter dispositions.
- Departments are trying to cut down on placements and are looking to obtain services in the community when possible.
- There are very few services for juvenile female sex offenders.
- Probation works with child protective services to engage family cooperation.

- There are challenges paying treatment providers as the families are often “working poor” without access to insurance, Medicaid or Child Health Plus.
- It can be difficult to identify juvenile sex offenders because sometimes it is just juvenile acting out.
- In recent years there has been a decrease in juvenile sex offense cases.
- There are some concerns about other states who have implemented the Adam Walsh Act and the Sex Offender Registration Notification (SORNA) Act which allows for placement of juveniles on the sex offender registry. It is believed that this has led to strong defense for juveniles. There are concerns about the impact of this especially if this is enacted in New York State.
- Cases are frequently ending without adjudication.
- Often juveniles are receiving Adjournments in Contemplation of Dismissal (ACDs) without any supervision.
- Juveniles who exhibit predatory behaviors tend to get adjudicated and then placed in residential treatment facilities.
- A lot of cases following the pre-dispositional investigation (PDI) are being placed in Department of Social Services (DSS) or Office of Children and Family Services (OCFS) facilities.
- Specialized juvenile sex offender conditions include curfews and limits on associations.
- Frequently, the victims are family members and therefore, special conditions are needed.
- Diversion is used as a tool for juveniles because it is a foot in the door for probation and an opening for treatment and supervision.
- All juveniles are assessed as to risk and needs using the Youth Assessment and Screening Instrument (YASI).

Recommendations for Best Practice for Juvenile Sex Offenders on Probation

- **It may be very difficult to distinguish inappropriate behavior from sexual offending behavior in juveniles. As such, it is essential to work with the treatment provider to obtain a sexual behavioral evaluation early in the case and to obtain additional information about the child and the family from child protective services when applicable.**
- **Juvenile sex offenders must be referred to juvenile specific sex offender treatment providers, where they exist.**
- **Juvenile sex offenders should never be placed in treatment groups with adults.**
- **Decisions about juveniles remaining in the home should involve input from child protective services where applicable and treatment providers.**
- **Probation should maintain ongoing open communication with the family, treatment provider, child protective services and schools as required.**
- **Unlike adults, some juveniles may be appropriate for consideration for early termination; these considerations should be made on a case-by-case basis, in consultation with the family, treatment providers, child protective services, schools and of course, the courts.**
- **Juveniles should have specialized conditions of probation that limit contact with potential victims. These conditions may include the following:**
 - **No baby-sitting under any circumstances.**
 - **No access to young children or potential victims without direct supervision by a responsible adult who is aware of the problem.**
 - **No authority or supervisory role over young children.**
 - **No possession or use of sexually explicit or pornographic material.**
 - **Limited or no access to the internet or social networking sites.**
- **Juvenile sex offenders should be placed on intensive supervision caseloads.**
- **Probation officers with a juvenile sex offender caseload should receive specialized training as follows:**
 - **Dynamics of Juveniles Who Sexually Offend**
 - **Adolescent Brain Development**
 - **Prevalence of Sexual Assault**
 - **Offender Characteristics**
 - **Assessment/Evaluation of Sex Offenders**
 - **Community Management of Sex Offenders**
 - **Motivational Interviewing**

- **Dynamics of Sexual Offending**
 - **Sex Offender Treatment Models**
 - **Cognitive Behavioral Model**
 - **Relapse Prevention**
 - **Technology Tools**
 - **Victim Specific Issues**
 - **Physiological Procedures**
 - **Determining Progress**
 - **Offender Denial**
 - **Special Populations of Sex Offenders**
 - **Cultural and Ethnic Awareness**
- **There are currently no validated actuarial risk assessment tools for juvenile sex offenders. As such, juveniles should receive a sexual behavioral evaluation from the treatment provider. Some treatment providers report using the Juvenile Sex Offender Assessment Protocol (J-SOAP) and the Child and Adolescent Needs and Strengths-Sexual Development (CANS-SD).**

Section IX. Female Sex Offenders

Summary of Research

According to the Center for Sex Offender Management, although the vast majority of attention on sex crimes focuses on men as offenders, an increased awareness of females as sex offenders has surfaced in recent years. Several highly publicized cases involving inappropriate and illegal sexual contact between female high school teachers and their male students are a primary source of this growing attention. These cases are not representative of the full nature or scope of sexual abuse committed by females. However, they have the potential to promote myths and misperceptions about the broader issue of female-perpetrated sex crimes.⁸⁷

The current research and literature about this unique segment of the sex offender population remains in its infancy and there is no evidence-based guidance or other consensus about the most effective approaches to working with them. However, experts agree that understanding female sex offenders remains a significant area of need within the criminal and juvenile justice fields.⁸⁸

Preliminary findings in research about adult women who commit sex offenses suggest that they may have the following characteristics:

- Histories of childhood maltreatment, including sexual victimization;
- Mental health symptoms, personality disorders, and substance abuse problems;
- Difficulties in intimate relationships, or an absence of intimate relationships;
- A propensity to primarily victimize children and adolescents (rarely adults);
- A tendency to commit offenses against persons who are related or otherwise well known to them; and
- An increased likelihood of perpetrating sex offenses in concert with a male intimate partner.⁸⁹

To maximize the success of female sex offenders, it is important that supervision officers assume a role that extends beyond enforcement tasks by also including supportive functions. A key responsibility of the supervision officer should focus on understanding the specific needs of the offender and ensuring that appropriate resources are available to address those needs. This requires the development of formal and informal partnerships with a range of relevant professionals experienced with providing specialized services to justice-involved women and girls including the following:

- Mental health and substance abuse treatment providers;
- Domestic violence and other victim services organizations;
- Healthcare agencies;
- Educational and employment programs;
- Child care assistance and other services for women with children; and
- Sex offense-specific treatment providers.⁹⁰

The establishment of networks including other key individuals in the community, who can serve as sources of support and accountability, may also enhance supervision efforts with female sex offenders. It is particularly critical to work closely with non-offending partners, parents or caregivers, or other family members to ensure that they understand the ways in which they can support supervision and treatment efforts. Fostering these types of relationships will also complement the approach that should be modeled by supervision officers – one in which accountability and support are carefully blended.⁹¹

Female offenders can benefit from more gender-responsive sex offender treatment. The following treatment goals are particularly salient for female sex offenders:

- Establishing and maintaining trusting, supportive, and equitable intimate relationships;
- Promoting autonomy and self-sufficiency;
- Developing a positive self-concept;
- Enhancing assertiveness and social competency;
- Increasing effective emotional management;
- Reducing self-destructive/self-injurious behaviors; and
- Ensuring healthy sexual development, expression, and boundaries.⁹²

The research on females who sexually offend is extremely limited. Until recently, females who perpetrate sex offenses have been largely overlooked for a host of reasons. As a result, comparatively little is known about sexually abusive females. The strategies for assessing, treating, and supervising the population remain in the early stages of development. Additional research is clearly needed. In the meantime, the application of gender-specific principles and practices with women offenders and delinquent girls – when coupled with lessons learned from the broader sex offender management field – holds promise for the management of this special population.⁹³

Female Sex Offenders on Probation in New York State

Female sex offenders were not specifically addressed in the DPCA 2006 Sex Offender Management Survey.

Probation officers participating in the Sex Offender Management Focus Groups reported the following:

- Most departments reported having a very small or non-existent female sex offender caseload.
- Those departments reporting small female sex offender caseloads have the offenders participate in female sex offender treatment groups.
- Female offenders are judged very harshly by the community.
- Those who offend against children must also deal with the loss of their children.
- Female sex offenders who proceed through family court do not get probation supervision.
- Many of these offenders have been victims of domestic violence.

- Female offenders often have substance abuse or mental health problems.
- Criminal court judges are more likely to allow female offenders to have contact with children than male offenders.
- Female offenders require many resources.
- Females who are engaged in probation services tend to do very well.
- Often females offend against adolescent males.
- Victims are rarely female and rarely family members.
- Typically female sex offenders on probation are non-incest cases.
- Female groups are very successful in general on probation. The women rely on each other for support.

Recommendations for Best Practice for Female Sex Offenders on Probation

- **Female sex offenders need to be supervised and managed on an individual case-by-case basis in collaboration with the treatment provider.**
- **Supervision officers should develop collaborative networks that can serve as sources of support and accountability for female offenders. As with the supervision of male sex offenders, officers should maintain contact and open communication with treatment providers and law enforcement**
- **Supervision officers should ensure that female sex offender receive any identified specialized services including, sex offense specific treatment, mental health and substance abuse treatment, domestic violence and victim services, education and employment, healthcare, and childcare services.**
- **Because there are no validated actuarial risk assessment tools for female sex offenders, a clinical psychosexual evaluation should be conducted for all female sex offenders.**

Section X. Appendices

- A. Enhanced Pre-Sentence Investigation Worksheet (Courtesy of Albany County Probation)
- B. Electronic Security and Targeting of Online Predators (e-STOP) Law – Enacted April 21, 2008
- C. “Soft Victim Letter” (Courtesy of Monroe County Office of Probation – Community Corrections)
- D. New York State Sex Offender Registry Registerable Offenses, December 3, 2008
- E. DPCA Proposed Sex Offender Housing Regulations
- F. Supervisor Agreement (Courtesy of Genesee County Probation)
- G. DPCA’s and Intrastate and Interstate Rule
- H. Law Enforcement Travel Letter (Courtesy of Genesee County Probation)
- I. Sex Offender Quarterly Address Confirmation Form DPCA 900
- J. New York State Office of Sex Offender Management Treatment Provider Guidelines
- K. Glossary
- L. Examples of Sex Offender Orders and Conditions across New York State

Appendix A
Enhanced Pre-Sentence Investigation Worksheet (Albany County)

A. CURRENT SOCIAL

Last Name	First Name	Middle Name	Alias(es)
Interview Date		Verification Contact	
Current Address			
Residing With Defendant:			
Home Phone		Mobile Phone	Work Phone
Current Probation/Parole <input type="checkbox"/> Yes <input type="checkbox"/> No		Department	Officer
DOB	Age	Place of Birth	Ethnic Origin
Marital Status			
Citizenship	INS Status	Sex	Height
Hair		<input type="checkbox"/> Male <input type="checkbox"/> Female	Weight
Social Security Number		Religious affiliation	Eyes
			Military Service <input type="checkbox"/> Yes <input type="checkbox"/> No
Identification Marks			Gang Affiliation

B. PRESENT COURT PROCEEDINGS

Judge	Prosecuting Attorney
Counsel's Name & Address	
Conviction	Sentence Date
	Proposed Sentence

Drugs Used at Offense <input type="checkbox"/> Yes <input type="checkbox"/> No	Alcohol Used at Offense <input type="checkbox"/> Yes <input type="checkbox"/> No
Prior Convictions/Adjudications Charges <input type="checkbox"/> Yes <input type="checkbox"/> No	Subsequent Arrests <input type="checkbox"/> Yes <input type="checkbox"/> No
Pending <input type="checkbox"/> Yes <input type="checkbox"/> No	
What kinds of weapons/tools do you usually carry?	
Codefendant(s) Information	Aliases Contact

C. FAMILY

Where did you grow up?		
Who raised you and why?		
Biological Mother:		
Name	Maiden Name	DOB
Ethnic Origin	Race	Occupation
Address	Phone	
Short description of the relationship:		
Legal History:		
Biological Father:		
Name		DOB
Ethnic Origin	Race	Occupation
Address	Phone	
Short description of the relationship:		
Legal History:		
Were your parents ever married? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Describe past and present relationship between parents. Abuse?

Step-Mother, Long-term Mother Figure:		
Name	Maiden Name	DOB
Ethnic Origin	Race	Occupation
Address		Phone
Short description of the relationship:		
Legal History:		

Step-Father, Long-term Father Figure:		
Name		DOB
Ethnic Origin	Race	Occupation
Address		Phone
Short description of the relationship:		
Legal History:		

Siblings

Name	DOB	Address	Phone	Occupation	Race	Legal History

--	--	--	--	--	--	--

Any siblings abused physically? Emotionally/mentally? Sexually?

Describe current relationships.

Spouse/Significant Other

Name	Maiden Name	DOB
Ethnic Origin	Race	Occupation
Address	Phone	
Short description of the relationship:		
Legal History:		

Children

Name and Other Parent	DOB	Address	Phone	Occupation	Race	Legal History

--	--	--	--	--	--	--

Any allegations against you or the other parent of abuse regarding your children? CPS involvement?

Describe current relationships.

Others (anyone else significant in your life such as other relatives or friends)

Name and Relationship	DOB	Address	Phone	Occupation	Race	Legal History

CHILDHOOD AND EDUCATION

Age began and brief description for each:
Physical Fighting:
Truancy:
Shoplifting/Stealing:
Running Away:
Fire Setting:
Disobedience in School:
Harming Animals:
Bullying/Threatening Others:
Destruction of Property:
Lying/Conning:

Victim of physical abuse <input type="checkbox"/> Yes <input type="checkbox"/> No If yes – Who? Relation?
Victim of mental/emotional abuse <input type="checkbox"/> Yes <input type="checkbox"/> No If yes – Who? Relation?
Victim of sex abuse <input type="checkbox"/> Yes <input type="checkbox"/> No If yes – Who? Relation?
Significant things that happened in your life:

Currently Enrolled <input type="checkbox"/> Yes <input type="checkbox"/> No	Highest level of education
Ever diagnosed with a learning disability or attend special education classes? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe:	
Ever behavior or conduct issues? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe:	

E. EMPLOYMENT HISTORY

Present Employment:		
P/T F/T Unemployed If unemployed, why?		
Employer	Dates employed	Wages
Employer's Address	Job Title	
Past Employment (longest employment):		
Employer Wages	P/T F/T	Dates employed
Employer's Address	Job Title	Reason for leaving
Past Employment (two most significant):		
1. Employer Wages	P/T F/T	Dates employed
Employer's Address	Job Title	Reason for leaving
2. Employer Wages	P/T F/T	Dates employed
Employer's Address	Job Title	Reason for leaving

Ever fired?
Describe yourself as an employee.
Typical type of work:

Extracurricular Activities:

F. COMPUTER USE AND INTERNET INFORMATION

Number of Computers in Home:	Location(s):
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Other Equipment Used to Access the Internet:
--

Internet Provider	Type of Service
-------------------	-----------------

Other Locations Used to Access Internet:
--

Internet/E-mail Accounts (include work/school accounts):
--

Social Network Accounts (MySpace, Facebook, Twitter, YouTube, etc.):
--

Instant Message Accounts (AIM, MSN Messenger, Google Talk, Yahoo Messenger, ICQ, etc.):

Internet Relay Chat Accounts (mIRC, QuakeNet, Undernet, IRCnet, etc.):
--

Peer to Peer/File Sharing/Torrent Accounts (Skype, LimeWire, BearShare, Shareaza, Torrent-Finder, etc.):

--

H. HEALTH

Medical Doctor/Clinic	Mental Health Treatment
Current Medical Problems	Medications
Past Illnesses/Injuries	Hospitalizations
Blackouts <input type="checkbox"/> Yes <input type="checkbox"/> No	Depression <input type="checkbox"/> Yes <input type="checkbox"/> No
Anxiety <input type="checkbox"/> Yes <input type="checkbox"/> No	Loss of sleep <input type="checkbox"/> Yes <input type="checkbox"/> No
Hallucinations <input type="checkbox"/> Yes <input type="checkbox"/> No	Bipolar disorder <input type="checkbox"/> Yes <input type="checkbox"/> No
Psychosis <input type="checkbox"/> Yes <input type="checkbox"/> No	Suicide attempts <input type="checkbox"/> Yes <input type="checkbox"/> No
Suicidal thoughts <input type="checkbox"/> Yes <input type="checkbox"/> No	Homicidal thoughts <input type="checkbox"/> Yes <input type="checkbox"/> No
Self Mutilation <input type="checkbox"/> Yes <input type="checkbox"/> No	

Explanations/Concerns:

--

I. SUBSTANCE ABUSE

Ever used IV drugs? <input type="checkbox"/> Yes <input type="checkbox"/> No			
	First Use	Last Use	Typical Use
Alcohol			
Marijuana			
Cocaine/Crack cocaine			
Heroin			
Morphine			
Methadone			
Amphetamines			
Barbiturates			
PCP			
LSD			
Ecstasy			
Mushrooms			
Crystal Meth			
Prescription Medication			
Misuse of Other Substances			
Other			
Treatment History – Where, when			
How many times have you given drugs or alcohol to minors?			

J. RELATIONSHIPS

Discuss significant past relationships starting with the most recent (household composition, relationships, why the relationship ended, abuse, how long, live together, where)

K. SEXUAL ATTITUDES & HISTORY

Age first learned about sex	How?			
First exposure to pornography				
How old were you when you first began masturbating? Compulsive behaviors?				
Sexual fantasies involving violence:				
Sexual Preferences				
Gender	Age			
Appearance	Fetishes			
Other preferences:				
First Significant Relationship				
Defendant's Age	Other's Name	Other's Age		
Briefly describe relationship.				
First Sexual Experience				
Defendant's Age	Other's Name	Other's Age		
Briefly describe relationship.				
Number of sex partners				
Significant Sex Partners				
Age	Name	Partner's Age	When	Relationship

Use of Pornography	
Magazines <input type="checkbox"/> Yes <input type="checkbox"/> No	Videos/DVDs <input type="checkbox"/> Yes <input type="checkbox"/> No
Photographs <input type="checkbox"/> Yes <input type="checkbox"/> No	Internet <input type="checkbox"/> Yes <input type="checkbox"/> No
Child Pornography <input type="checkbox"/> Yes <input type="checkbox"/> No	Specific Themes <input type="checkbox"/> Yes <input type="checkbox"/> No
What sex-related items could be found in your home, including pornography and sex toys?	
Frequency of condom use:	
STD Diagnoses:	
Sexual Disorders:	
Used products/prescriptions to effect sexual performance? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, explain.	
Used the internet to arrange a meeting for sexual purposes? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, explain.	
Engaged in phone sex? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain.	
Sent text messages that were sexual in nature? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain.	
Pornography on mobile phone? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain.	
Engaged in cyber sex? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain.	
Ever accused of sexual harassment? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain.	

Made obscene phone calls? Yes No If yes, explain.

Sexual experiences with people of the same sex? Yes No If yes, explain.

Used a prostitute? Your age at time? Yes No If yes, explain.

Worked as a prostitute? Any other work experience in sex industry? Yes No If yes, explain.

Sadism – Do you ever experience sexual pleasure by hurting others? Yes No If yes, explain.

Masochism – Do you experience sexual pleasure when others hurt you? Yes No If yes, explain.

Exhibitionism – Do you enjoy others watching while you are engaged in sexual activity? Yes No If yes, explain.

Voyeurism – Do you enjoy watching others engaged in sexual activity? Watching in secret? Yes No If yes, explain.

Frottage – Have you ever rubbed up against another without them realizing for sexual pleasure? Yes No If yes, explain.

Incest – Any sexual experiences with family members? Yes No If yes, explain.

Bestiality – Any sexual experiences with animals? Yes No If yes, explain.

Anyone else you know been charged with a sex offense? Yes No If yes, who?

Ever accused of sex offense before? Yes No If yes, who?

L. DESCRIPTION OF PRESENT OFFENSE

Appendix B
Electronic Security and Targeting of Online Predators (e-STOP) Law
Enacted April 28, 2008

Correction Law §§168-a, 168-b, and 168-f

- Requires that sex offenders register with the Division of Criminal Justice Services (DCJS) no later than 10 calendar days as to any internet account with internet access providers belonging to such offenders and all internet identifiers used by such offenders and any changes of such information. The term “internet identifiers” is defined. It means electronic mail addresses and designations used (screen names) for the purpose of chat, instant messaging, social networking or other similar internet communications.
- Authorizes DCJS to release upon request to an authorized internet entity, internet identifiers maintained in the Sex Offender Registry. The term “authorized internet entity” is defined to mean any business, organization or other entity providing or offering a service over the internet which permits a person under 18 to access, meet, congregate or communicate with other users for the purpose of social networking. (This definition does not include general e-mail services.) An authorized entity may use the information to prescreen or remove sex offenders from its services or in conformity with state and federal law, advise law enforcement and/or other governmental entities of potential violations of the law and/or threats to the public. However, the entity cannot publish or in any way disclose or redisclose any information provided to it by DCJS. Establishes DCJS may charge a fee to an authorized internet entity for access to registered internet identifiers. Requires that DCJS shall promulgate rules and regulations relating to procedures for release of information in the registry, including but not limited to the disclosure and redisclosure of such information and the imposition of any fees.

Penal Law §65.10(4-a)

- Establishes a new mandatory sex offender condition of probation or conditional discharge upon a person convicted of an offense for which registration as a sex offender is required pursuant to Correction Law §168-a(2) or (3), and the victim of the offense was under eighteen (18) years of age at the time of the offense or such person has been designated a Level 3 Sex Offender pursuant to Correction Law §168-l(6) or where the internet was used to facilitate the commission of the crime. In such instances, the sentenced offender shall be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicating with other individuals or groups for the purpose of promoting sexual relations with persons under the age of 18 and communicating with a person under the age of 18 when such offender is over 18. However, the court may permit an offender to use the internet to communicate with a person under the age of 18 “when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child”. Additional language establishes that this subdivision shall not be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender.

- As defined in this subdivision, the term "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under 18 to be registered users for the purpose of establishing personal relationships with other users, where such persons under 18 may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over 18. However, this term shall not include a website that permits users to engage in such other activities as are not enumerated herein.

Penal Law §65.10(5-a)

- Statutorily sets forth other probation conditions for sex offenders. Specifically, states that when imposing a sentence of probation upon a person convicted of an offense for which registration as a sex offender is required pursuant to Correction Law §168-a(2) or (3) that in addition to any conditions required under Penal Law §65.10(2),(3),(4), (4-a), and (5), the court may require that the defendant comply with a reasonable limitation on his or her use of the internet that the court determines to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to protect public safety. However, this new provision establishes that “the court shall not prohibit such sentenced offender from using the internet in connection with education, lawful employment or search for lawful employment.”

Executive Law §259-c (15)

- Establishes that, notwithstanding any other provision of law to the contrary, where a person is serving a sentence for an offense for which registration as a sex offender is required pursuant to Correction Law §168-a(2) or (3), and the victim of such offense was under the age of 18 at the time of such offense or such person has been designated a Level 3 sex offender pursuant to Correction Law 168-l(6) or where the internet was used to facilitate the commission of the crime, and the individual is released on parole or conditionally released pursuant to Executive Law §259-c(1) or (2), the Board of Parole shall require, as mandatory condition of such release, that such sentenced offender shall be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under 18, and communicate with a person under 18 when such offender is over the age of 18. However, this new provision establishes that the Board may permit an offender to use the internet to communicate with a person under 18 “when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child”. Additional language establishes that this subdivision shall not be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender.
- The term a "commercial social networking website" is defined the same as found in Penal Law §65.10(4-b).

State Finance Law §97-bb

- Establishes that the New York State criminal justice improvement account shall also consist of all monies received by DCJS pursuant to Correction Law §168-b with respect to the internet fee authorized in this act. With respect to applicability, the law specifies that amendments to Correction Law §§168-a and 168-b applies to all sex offenders registered or required to register prior to, or on or after the effective date. The new law is silent as to retroactivity with respect to the new sex offender conditions. Clearly, the new mandatory condition set forth in Penal Law §65.10(4-a) shall apply to individuals who commit such registerable crimes on or after the law's effective date and the victim is under 18 at the time of the offense, the person has been designated a Level 3 Sex Offender, or where the internet was used to facilitate the crime. However, it does not preclude a judge from enlarging or modifying past conditions of probationers or conditional discharges under supervision prior to the effective date (including a youthful offender) to include this additional sex offense condition in accordance with provisions of the Criminal Procedure Law, specifically Criminal Procedure Law §410.20. Additionally, for individuals who commit a crime before the effective date and were sentenced on or after the effective date, a court could impose this aforementioned mandatory condition and/or the new permissive sex offender condition set forth in Penal Law §65.10(5-a) in accordance with Penal Law §65.10(2)(1) or (5) (i.e. to satisfy any other conditions reasonably related to rehabilitation or any other reasonable condition as the court shall determine necessary or appropriate to ameliorate the conduct which gave rise to the offense or to prevent the incarceration of the defendant). This condition could also be imposed with respect to a youthful offender where appropriate. Please take appropriate steps to ensure probationers subject to this mandatory condition and/or permissive condition have it imposed as part of their sentence. There are three approaches you can institute to ensure these conditions are imposed. In accordance with DPCA's Investigations and Reports Rule, specifically 9 NYCRR Section 350.7(b) (5) (i), the pre-sentence report, involving a defendant convicted of any such crime, whose victim is under 18 at the time of the offense or SORA registerable Level 3 or the internet was used to facilitate commission of the crime, where either probation or conditional discharge is recommended ought to reflect the necessity of adding this mandatory condition as a special condition. Additionally, there may be other offenders which warrant a similar condition. Accordingly, the pre-sentence report recommendation and/or modification of existing conditions should be considered when advisable. Specifically, where such a mandatory condition has not been included involving those subject to this requirement, modification or enlargement of conditions should be sought in accordance with Criminal Procedure Law §410.20. As conditions of probation are recognized as part of the sentence, pursuant to Criminal Procedure Law §410.10(1), notification of the invalid sentence of probation should be pursued as established in Criminal Procedure Law §440.60. Lastly, failure of a sex offender to register as required is a crime- a Class E felony upon conviction for the first failure to comply and a Class D felony for any subsequent conviction relating to registration requirements. Failure to register, verify or provide the requisite registry information may be the basis for a violation and revocation of probation or parole, whichever is applicable. DCJS is communicating with all registered sex offenders and requesting that they provide the required internet

information to DCJS immediately. Attached is a copy of DCJS' standard letter sent to all registered sex offenders. The information will be posted on e-Justice under each registrant's Sex Offender Registry (SOR) profile.

Appendix C – “Soft Victim Letter”



Office of Probation - Community Corrections
Monroe County, New York

Maggie Brooks
County Executive

Robert J. Burns
Probation Administrator

May 14, 2009

(Insert victim's name)
(Insert victim's street address)
(Insert victim's city, state, zip)

Dear (Insert victim's name):

This Office is completing an investigation for (Insert name of court) regarding (Insert defendant's name).

I would appreciate the opportunity to speak with you about your attitudes and recommendations for sentencing in this case.

Please contact me as soon as possible at (585)753-xxxx if you wish to share your thoughts on this matter. A personal interview can be arranged, if that is your preference.

Sincerely yours,

(Insert PO's name)
(585)753-xxxx

QP3616 (VICTI2)
12/1/98 Rev. 2/1/03
Form : Soft Victim Letter

Appendix D – SORA Offenses

New York State Sex Offender Registry Registerable Offenses December 3, 2008

Individuals convicted of one or more registerable offenses on or after January 21, 1996 must register as a sex offender with the Division of Criminal Justice Services. Additionally, any person convicted of a registerable offense who was incarcerated or under parole or probation supervision for the offense on January 21, 1996 is required to be registered. Below are three categories of offenses which require registration.

I. New York State Penal Law Sex Offenses

The following list contains the New York State Penal Law statutes for which registration as a sex offender is required. Individuals are required to register as a sex offender upon a conviction of a registerable offense or a conviction for an attempt to commit a registerable offense or a conviction of or a conviction for an attempt to commit a registerable offense as a hate crime or a crime of terrorism.

Penal Law Statute	Offense Class	Offense
120.70	E Felony ¹	luring a child
130.20	A Misdemeanor	sexual misconduct
130.25	E Felony	rape in the third degree
130.30	D Felony	rape in the second degree
130.35	B Felony	rape in the first degree
130.40	E Felony	criminal sexual act in the third degree
130.40	E Felony	sodomy in the third degree
130.45	D Felony	criminal sexual act in the second degree
130.45	D Felony	sodomy in the second degree
130.50	B Felony	criminal sexual act in the first degree
130.50	B Felony	sodomy in the first degree
130.52 ²	A Misdemeanor	forcible touching
130.53	E Felony	persistent sexual abuse
130.55 ²	B Misdemeanor	sexual abuse in the third degree
130.60	A Misdemeanor	sexual abuse in the second degree
130.65	D Felony	sexual abuse in the first degree
130.65-a	E Felony	aggravated sexual abuse in the fourth degree
130.66	D Felony	aggravated sexual abuse in the third degree
130.67	C Felony	aggravated sexual abuse in the second degree
130.70	B Felony	aggravated sexual abuse in the first degree
130.75	B Felony	course of sexual conduct against a child in the first degree

130.80	D Felony	course of sexual conduct against a child in the second degree
130.90	D Felony	facilitating a sex offense with a controlled substance
130.91	Various Felonies	sexually motivated felony(see category II below)
130.95	A-II Felony	predatory sexual assault
130.96	A-II Felony	predatory sexual assault against a child
135.05 ³	A Misdemeanor	unlawful imprisonment in the second degree
135.10 ³	E Felony	unlawful imprisonment in the first degree
135.20 ³	B Felony	kidnapping in the second degree
135.25 ³	A-I Felony	kidnapping in the first degree
230.04 ⁴	A Misdemeanor	patronizing a prostitute in the third degree
230.05	E Felony	patronizing a prostitute in the second degree
230.06	D Felony	patronizing a prostitute in the first degree
230.30(2)	C Felony	promoting prostitution in the second degree
230.32	B Felony	promoting prostitution in the first degree
230.33	B Felony	compelling prostitution
230.34	B Felony	sex trafficking
235.22	D Felony	disseminating indecent material to minors in the first degree
250.45(2), (3) and (4) ⁵	E Felony	unlawful surveillance in the second degree
250.50	D Felony	unlawful surveillance in the first degree
255.25	E Felony	Incest (committed prior to 11/1/06)
255.25	E Felony	Incest in the third degree
255.26	D Felony	Incest in the second degree
255.27	B Felony	Incest in the first degree
263.05	C Felony	use of a child in a sexual performance
263.10	D Felony	promoting an obscene sexual performance by a child
263.11	E Felony	possessing an obscene sexual performance by a child
263.15	D Felony	promoting a sexual performance by a child
263.16	E Felony	possessing a sexual performance by a child
263.30	B Felony	facilitating a sexual performance by a child with a controlled substance or alcohol

¹ If the underlying offense is a class A or a class B felony, then the offense of luring a child shall be considered respectively, a class C felony or class D felony.

² A registerable offense only if the victim is less than eighteen years of age or where the defendant has a prior conviction for a sex offense, a sexually violent offense, forcible touching or sexual abuse in the third degree or an attempt thereof even if registration was not required for the prior conviction; regardless of when the prior conviction occurred.

³ A registerable offense only if the victim is less than seventeen years old and the offender is not the parent of the victim.

⁴ A registerable offense only if the person patronized is in fact less than seventeen years old.

⁵ A registerable offense unless the trial court finds that registration would be unduly harsh and inappropriate. Please note that an attempt to commit this offense does not require registration.

II. New York State Penal Law Section 130.91 Sexually Motivated Felonies

Registration as a sex offender is also required upon a conviction of a certain offense, or a conviction for an attempt or conspiracy to commit a certain offense, as a sexually motivated felony pursuant to Penal Law §130.91.

A person commits a sexually motivated felony when he or she commits a “specified offense” for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

A "specified offense" is any of the following offenses:

Penal Law Statute	Offense Class	Offense
120.05	D Felony	assault in the second degree
120.10	B Felony	assault in the first degree
120.06	C Felony	gang assault in the second degree
120.07	B Felony	gang assault in the first degree
120.60	D Felony	stalking in the first degree
125.15(1)	C Felony	manslaughter in the second degree
125.20	B Felony	manslaughter in the first degree
125.25	A-I Felony	murder in the second degree
125.26	A-I Felony	aggravated murder
125.27	A-I Felony	murder in the first degree
135.20	B Felony	kidnapping in the second degree
135.25	A-I Felony	kidnapping in the first degree
140.20	D Felony	burglary in the third degree
140.25	C Felony	burglary in the second degree
140.30	B Felony	burglary in the first degree
150.15	B Felony	arson in the second degree
150.20	A-I Felony	arson in the first degree
160.05	D Felony	robbery in the third degree
160.10	C Felony	robbery in the second degree
160.15	B Felony	robbery in the first degree
230.30	C Felony	promoting prostitution in the second degree
230.32	B Felony	promoting prostitution in the first degree

230.33	B Felony	compelling prostitution
235.22	D Felony	disseminating indecent material to minors in the first degree
263.05	C Felony	use of a child in a sexual performance
263.10	D Felony	promoting an obscene sexual performance by a child
263.15	D Felony	promoting a sexual performance by a child

III. Convictions in Other Jurisdictions

Individuals convicted in another jurisdiction (federal, military, another state or country) who reside in New York State are required to register if:

(1) the individual is convicted of an offense equivalent to a New York State registerable sex offense; or

(2) the individual is convicted of a felony requiring registration in the conviction jurisdiction; or

(3) *the individual is convicted of:*

- 18 U.S.C.A. 2251 (sexual exploitation of children);
- 18 U.S.C.A. 2251A (selling or buying of children);
- 18 U.S.C.A. 2252 (certain activities relating to material involving the sexual exploitation of minors);
- 18 U.S.C.A. 2252A (certain activities relating to material constituting or containing child pornography);
- 18 U.S.C.A. 2260 (production of sexually explicit depictions of a minor for importation into the United States);
- 18 U.S.C.A. 2422(b) (*coercion and enticement*);
- 18 U.S.C.A. 2423 (transportation of minors); *or*
- 18 U.S.C.A. 2425 (use of interstate facilities to transmit information about a minor).

The NYS Division of Probation and Correctional Alternatives' (DPCA) Interstate Compact Unit manages the movement of adult and juvenile probationers into and out of New York State in accordance with relevant Interstate Compacts, for the purpose of maintaining continuous and uninterrupted supervision in the interest of public safety. DPCA's Interstate Compact processes transfer of probation supervision requests and related correspondence, monitors transfer activities as necessary, provides technical assistance to local probation staff in New York State, and serves as the liaison between our local jurisdictions and other State Compact Offices. Special attention is focused on more serious transfers such as sex offenders, domestic violence cases, violent felons, high profile and child victim cases.

What is the Interstate Transfer Process?

When a probationer requests, through their probation officer, a transfer of supervision to another state (**Receiving State**), the probation officer in the current state (**Sending State**) reviews the case to determine whether the probationer meets the necessary criteria for transfer. That criteria includes having an established residence and/or immediate family and employment or visible means of support in the Receiving State. It is important to note that a transfer to another state is a privilege provided to probationers who are currently complying with their terms and conditions of probation. If the probation officer agrees to pursue a transfer, the probationer must execute a **waiver of extradition** and must agree to abide by the terms and conditions set by both the Sending and Receiving States.

What are the Reporting Instructions Process?

A probationer is not allowed to move to another state to live without contacting that Receiving State. Permission is required FIRST from the Receiving State in most cases. The Sending State must complete a form that presents a snapshot of the case and forward it to the Receiving State. The Receiving State reviews the information and decides whether it will provide reporting instructions, then returns the information back to the Sending State. If a probationer is found to be in another state, without prior notification and or permission, the probationer may face legal action in that state, such as an arrest or be ordered to pay a fine.

Important Information Regarding Transfers:

In New York State, all **INTERstate** - transfers and related correspondence and communication must go through the Interstate Compact Office in Albany.

In New York State, all **INTRAsate** - transfers are handled directly between the two county probation departments.

Custody and Adoption Investigation requests should not be forwarded through the Interstate Compact. These requests should be handled through the local courts.

Appendix E – DPCA Proposed Housing Regulations

DPCA PROPOSED SEX OFFENDER HOUSING REGULATIONS

A new Chapter III and Part 365 of Title 9 NYCRR are added to read as follows:

Chapter III. Sex Offender Management

Part 365. Sex Offender Housing Procedural Guidelines

Section 365.1 Objective.

This Part's objective is to establish procedural guidelines that delineate criteria and which promote consistent probation practices with respect to the residency of certain sex offenders under probation supervision.

Section 365.2 Applicability.

This Part is applicable to the supervision of any individual designated a Level 2 or 3 sex offender pursuant to the Sex Offender Registration Act (SORA) and sentenced to a period of probation.

Section 365.3 Statement of purpose

(a) Chapter 568 of the laws of 2008 requires the Division of Parole (DOP), the Division of Probation and Correctional Alternatives (DPCA), and the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to provide guidance concerning the placement and/or approval of housing for certain sex offenders.

(b) The State has previously enacted laws concerning sex offenders, including the Sex Offender Registration Act, the Sex Offender Management and Treatment Act, the Electronic Security and Targeting of On-Line Predators Act (e-STOP) and laws restricting certain sex offenders who are under probation or parole supervision from entering school grounds. Chapter 568 of the laws of 2008 continues the State's efforts in the area of sex offender management and specifically in the area of the placement and housing of sex offenders. Sex offender management, and the placement and housing of sex offenders, are areas that have been, and will continue to be, matters addressed by the State. These regulations further the State's coordinated and comprehensive policies in these areas, and are intended to provide further guidance to relevant state and local agencies in applying the State's approach.

(c) Public safety is a primary concern and these regulations are intended to better protect children, vulnerable populations and the general public from sex offenders. The State's coordinated and comprehensive approach also recognizes the necessity to provide emergency shelter to individuals in need, including those who are sex offenders, and the importance of stable housing and support in allowing offenders to live in and re-enter the community and

become law-abiding and productive citizens. These regulations are based upon, and are intended to further best practices and effective strategies to achieve these goals.

(d) In implementing this statute and the State's comprehensive approach, DOP, DPCA, OTDA and the Division of Criminal Justice Services' Office of Sex Offender Management (DCJS/ OSOM) recognize that:

(i) Not all sex offenders are equally dangerous. Some sex offenders may pose a high risk of committing a new sexual crime; others may pose only a low risk.

(ii) All reasonable efforts should be made in to avoid an ill-advised concentration of sex offenders in certain neighborhoods and localities. What constitutes such a concentration will depend on many factors, and may vary depending on housing availability and the locality and community. In addition, it is sometimes safer to house sex offenders together. Law enforcement, probation, and parole officers may more effectively monitor offenders, and service providers may more easily offer transitional services to offenders in these congregate settings. Further, some social service officials and departments rely on congregate housing for sex offenders who seek emergency shelter because of the limited, or lack of other housing options available for this population. All public officials who are responsible for finding or approving housing for sex offenders should recognize that an over-concentration of sex offenders may create risks and burdens on the surrounding community, and that their responsibility is to make judgments that are reasonable under the circumstances.

(iii) All social service districts are required by statute, regulation and directive to arrange temporary housing assistance for eligible homeless individuals, including those who are sex offenders.

(iv) To reduce recidivism it is important that offenders be able to re-enter society and become productive and law-abiding citizens whenever possible. A stable living situation and access to employment and support services are important factors that can help offenders to successfully re-enter society.

(v) Maintaining and/or finding suitable housing for sex offenders is an enormous challenge that impacts all areas of the State. Offenders reside in all regions of the state and may have long-established residences in their respective communities. Even offenders who do not have such long-established relationships are often discharged from prison to the community where they previously lived. As a result, it is not appropriate for any one community or county to bear an inappropriate burden in housing sex offenders because another community has attempted to shift its responsibility for those offenders onto other areas of the State. The proliferation of local ordinances imposing residency restrictions upon sex offenders, while well-intentioned, have made it more challenging for the State and local authorities to address the difficulties in finding secure and appropriate housing for sex offenders.

(vi) Decisions as to the housing and supervision of sex offenders should take into account all relevant factors and no one factor will necessarily be dispositive. These factors should include, but not be limited to, the factors enumerated in the statute, the risk posed by the offender, the

nature of the underlying offense, whether housing offenders together or apart is safer and more feasible, the most effective method to supervise and provide services to offenders, and the availability of appropriate housing, employment, treatment and support.

Section 365.4 Procedures.

1. When investigating and/or approving a residence of any such SORA Level 2 or 3 probationer, the probation department shall consider the following:
 - (a) the location of other sex offenders required to register under SORA, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;
 - (b) the number of registered sex offenders residing at a particular property;
 - (c) the proximity of entities with vulnerable populations;
 - (d) accessibility to family members, friends, or other supportive services including, but not limited to, locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and
 - (e) the availability of permanent, stable housing in order to reduce the likelihood that any such probationer will be transient.

In addition, probation departments should consider the following factors when information is available to them:

- (a) known victim(s) address(es), age(s), and any relationship(s) to the probationer;
 - (b) known existence of and adherence to any order of protection(s) against the probationer and restrictions as to residence/distance;
 - (c) known presence of persons under the age of 18 in the residence or proposed residence;
2. The probation department should summarize its findings and make a recommendation to the court as to the appropriateness of the probationer's residence or proposed residence based on the aforementioned factors, the consideration of the probationer's legal history, adherence to any existing terms and conditions of probation supervision, and compliance with SORA, where applicable. In making a recommendation the probation department should consider all factors, and not consider any one factor as dispositive.
3. Whenever a probation department is supervising a SORA Level 2 or 3 probationer and the individual seeks to relocate to another residence, the department should conduct an investigation and consider the aforementioned factors. Where judicial approval is required or desired, the probation department should summarize its findings to the court of jurisdiction and make a recommendation to the court as to the appropriateness of the proposed residence based on the factors and consideration of his/her legal history, adherence to terms and conditions of probation supervision, and compliance with SORA.

4. Where a probation department learns of a probationer's change of address and where this has occurred without prior notification, the department should conduct an investigation. It should evaluate the appropriateness of the new residence and whether a violation of probation should be considered. Where judicial approval and/or action is required or desired, the department should summarize its findings to the court of jurisdiction and make a recommendation to the court as to the appropriateness of the residence or proposed residence based on the factors and consideration of his/her legal history, adherence to terms and conditions of probation supervision, and compliance with SORA.

Appendix F - Supervisor Agreement

GENESEE COUNTY PROBATION DEPARTMENT

Specific Supervisor:

This is a person who monitors the offender with specific children. The offender's relationship with the child should be one that is beneficial or important to the child. An example would be where the offender requests contact with a niece or nephew. Both parents of the child will need to support this contact. In the case where a parent has sole custody, a copy of the custody order will need to be provided to the Probation Officer and treatment provider.

I understand that I have been approved by the Probation Department to supervise the below-named offender during his contact and visitation with specific children, am aware of the circumstances surrounding the sexual offending behavior, and agree to accept the following responsibilities:

1. I will be physically present and within eyesight at all times during visitation and at no time will the offender be alone with the child/children.
2. I will insure that the child/children's safety is the priority and will not allow anything to occur that may endanger the physical, emotional or moral welfare.
3. I will not delegate my responsibility to supervise the offender's contact with the child/children to anyone at any time.
4. I will not allow any other child/children to be present during visitation except those specifically authorized.
5. I will not be under the influence of alcohol, or any other drug which impairs my ability to properly supervise the offender, during visitation.
6. I will terminate the visitation immediately if the offender acts in an inappropriate or unsafe manner and report the information to the Probation Officer immediately but no later than the next business day.
7. I will contact the police immediately if the offender does anything to the child/children that may constitute sexual contact, assaultive/abusive behavior, harassment, intimidation, threat or any other act that endangers the physical, emotional or moral welfare of the child/children.
8. I will report to the Probation Officer any violations of the terms of probation or guidelines for visitation, or any other concerns that I have, immediately but no later than the next business day.
9. I have been provided with a copy of the "Child Restricted Areas."

I have read and understand the above information and agree to its content.

Probationer _____ Date _____

Approved Supervisor _____ Date _____

Probation Officer _____ Date _____

Appendix G – DPCA Intrastate and Interstate Rule

PART 349

INTERSTATE AND INTRASTATE TRANSFER OF PROBATION SUPERVISION FOR ADULTS AND JUVENILES

Sec. 349.1 Definitions

349.2 Objectives

349.3 General requirements for the transfer of supervision of all probationers

349.4 Requirements for the intrastate transfers of supervision

349.5 Requirements for the Temporary Transfer of Supervision of Adult and Child Probationers

349.6 Administrative Appeal

349.7 Restitution and other financial obligation

§349.1 Definitions.

(a) The term "interstate compact for parole and probation" and the "interstate compact for juveniles" means legally binding agreements and administrative arrangements under which the states in an interstate transfer serve as each other's agents in the supervision of certain parolees, probationers, juvenile delinquents and youthful offenders.

(b) The term "interstate transfer" means a process by which the supervision of adult and child probationers is transferred to and from jurisdictions outside the State of New York.

(c) The term "intrastate transfer" means a process by which, in the case of an adult probationer, a sentencing court or a court that by virtue of a previous transfer has assumed the powers and duties of the sentencing court and has sole jurisdiction in the case, or in the case of a child probationer, a family court designates any other probation department within the State to perform the duties of probation supervision of the probationer.

(d) The term "temporary transfer" means the intrastate process by which supervision of a probationer who desires to reside temporarily within the jurisdiction of another local probation department for purposes of education, employment, or residential treatment is transferred to such department for a period between one and ten months.

§349.2 Objective.

To provide procedures which will ensure the expeditious processing of interstate, intrastate and temporary transfer of supervision cases and the appropriate supervision of such cases. Additionally, to provide a mechanism to resolve differences between probation departments as to intrastate and temporary transfer cases.

§349.3 General requirements for the transfer of supervision of all probationers.

(a) All interstate transfers of probation supervision shall be in accordance with the provisions of the interstate compact for the supervision of parolees and probationers, the juvenile compact, any other governing compact, and applicable rules, regulation and procedures as adopted by the State compact administrator for such compacts with reference to the transfers of probation supervision. Any sending probation department shall take all necessary steps to ensure the following are completed prior to transfer:

(1) fingerprinting of any convicted adult, youthful offender, juvenile offender/youthful offender, and juvenile delinquent adjudicated of a fingerprintable offense;

- (2) DNA testing, where applicable; and
- (3) Sex Offender Registration, where applicable.

A sending department shall indicate what actions it has taken with regard to these aforementioned requirements.

(b) All intrastate transfers of probation supervision of child probationers shall be in accordance with the provisions of the Family Court Act.

(c) All intrastate transfers of probation supervision of adult probationers shall be in accordance with the provisions of the Criminal Procedure Law.

(d) All temporary, intrastate, and interstate transfers of probation supervision shall comply with relevant provisions of this rule.

(e) Each probation director shall designate an experienced officer or officers to be responsible for transfers of probation supervision. Any such officer shall act as a liaison to the State Division of Probation and Correctional Alternatives. The name and title of such designee shall be filed with the State Director of Probation and Correctional Alternatives.

§349.4 Requirements for the intrastate transfers of supervision.

(a) Any intrastate transfer must be pursuant to a designation and order of the court. A probationer must agree in writing to comply with any and all conditions set forth by the receiving court and be subject to any other fees and/or surcharges authorized by law. No intrastate transfer shall be initiated by a sending probation department when there exists a pending violation of probation in its jurisdiction unless the receiving probation department expresses in writing willingness to accept transfer. No transfer of interim probation cases shall be initiated unless statutorily authorized. Transfers are prohibited whenever there exists pending criminal charge(s) in the sending jurisdiction unless the probationer is a resident of the receiving jurisdiction at time of commission of the offense or at sentencing/disposition or has family residing in the receiving jurisdiction with whom he/she will reside, the transfer enhances public safety, and the receiving probation department expresses in writing willingness to accept transfer.

(b) Prior to a transfer, the sending probation department shall provide the court with information relevant to a probationer's prospective plan of transfer, including residence, in the jurisdiction to which supervision is to be transferred.

(c) (1) Immediately upon knowledge that a person being considered for probation or on probation resides or desires to reside in another jurisdiction, the sending probation department may request the receiving probation department to verify the subject's residence or prospective residence except those cases enumerated in paragraph (2) of subdivision (c). All efforts shall be made to afford the receiving department adequate time so as not to delay disposition of the case. Factors that may be considered when determining suitability to transfer to another probation department are the individual's address for mailing and/or tax purposes, where he/she lives the majority of time, votes, and where his/her vehicle is registered.

(2) Prior to a transfer involving any person convicted or adjudicated of an offense defined in Article 130, 235, 263 of the Penal Law or Section 255.25 of such law, or of an offense between spouses, parent and child, or between members of the same family or household, or any other crime where an order of protection exists, and where a probationer is not a resident of the receiving jurisdiction at the time of sentencing or disposition, the sending probation department shall afford the receiving probation department the opportunity to investigate the prospective transfer and verify actual residence prior to his/her movement and transfer of supervision to a receiving jurisdiction. For purposes of this section, offense shall include the criminal offense or

matter for which convicted or adjudicated, as well as any other criminal offense or matter that is part of the same criminal transaction or underlying behavior or that is contained in any other accusatory instrument or petition disposed of by a plea of guilty or finding of fact or admission of guilt in satisfaction.

(3) The sending probation department shall provide the receiving department at a minimum the following information:

- (i) subject's current address and prospective address, if different;
- (ii) subject's current home and business telephone number;
- (iii) the order and conditions of probation;
- (iv) a copy of any existing order of protection;
- (v) a brief description of the underlying offense or act;
- (vi) where applicable, subject's current employer and prospective employer if different; and
- (vii) where applicable, the name, address, and telephone number of the subject's residential treatment provider or educational institution.

(4) The receiving probation department shall use reasonable efforts to verify residency in a prompt manner. Where the subject of the proposed transfer has not provided adequate verification of his or her address such efforts shall include, at a minimum, two written communications to the subject of the transfer at the address provided by the sending department. Where no response has been obtained from these written communications, it is recommended that a home visit be conducted.

(5) Upon verification of residency by receiving department all information shall be promptly provided to the sending department by the receiving probation department upon request.

(6) The receiving probation department shall, upon verification of residency within its jurisdiction, complete the acknowledgement section contained in the applicable form and promptly return, by fax if available, two duly executed copies to the sending probation department. Upon a finding of nonresidency, the receiving department shall complete the acknowledgement section contained in the form and promptly return two duly executed copies and all transfer materials to the sending department.

(d) When a probationer is granted transfer, a sending probation department shall immediately provide the designee in the receiving department in the most expeditious manner available with the orders and conditions of probation and preliminary information about the probationer, including at a minimum, the name, address and telephone number of the probationer, date of leaving, date of arrival, underlying offense which resulted in probation supervision, sentencing court, and type of transfer. The sending department shall receive instructions from the receiving department as to where the probationer shall report. The sending department shall direct the probationer in writing to report to a specific location in the receiving department within ten business days of arrival.

(e) The sending probation department shall take all necessary steps to ensure fingerprinting, DNA testing, and Sex Offender Registration, where applicable, are completed prior to transfer and shall indicate what actions it has taken with regard to these requirements. The sending probation department, within ten calendar days of receipt of a court order of transfer, shall transmit to the receiving probation department designee the following information:

- (1) a completed form DPCA-16, DPCA-16a or DPCA-16b, whichever is applicable;
- (2) the pre-sentence or pre-disposition investigation report where available or in lieu of the report, a completed pre-sentence or pre-disposition report facesheet, the accusatory instrument or the petition, whichever is applicable, and police report(s) where available;

- (3) periodic supervision reports;
 - (4) any mental health/substance abuse evaluation and/or treatment summary;
 - (5) any records regarding outstanding financial obligations;
 - (6) a photograph if available;
 - (7) a copy of any existing or recent orders of protection and/or victim information, including name and address;
 - (8) whether the probationer is subject to sex offender registration and where applicable all documents relating to sex offender registration, including photograph;
 - (9) any other information authorized by law;
 - (10) information required by either the court ordering the transfer or the court to which supervision is transferred; and
 - (11) name, address, phone number of probationer's prospective or existing employer, residential treatment provider, and/or educational institution.
 - (12) proposed residence, phone number, and information pertaining to others living in the household; and
 - (13) whether the individual is subject to fingerprinting and/or DNA testing. Where any convicted adult, youthful offender, juvenile offender/youthful offender, or juvenile delinquent adjudicated of a fingerprintable offense, is under probation supervision, a copy of the DPCA-200 or through an equivalent process which indicates the sending probation department's ORI number and the probationer's registration number associated with the underlying offense for which such individual is under supervision shall be transmitted to the DPCA via DCJS with a copy to the receiving probation department.
- (f) If it is determined that the probationer: resides at the specified address in the order of transfer; has absconded; does not reside; or will not be residing at the specified address in the order of transfer; the receiving probation department shall immediately upon knowledge, but no later than sixty calendar days after the date the initial court transfer order is received, notify the sending probation department of its finding with respect to residency or non-residency. If the address in the order of transfer is inaccurate, the correct address shall be provided. Any verbal notification shall be immediately confirmed in writing. The sending probation department shall notify the sending court of the finding. The sending probation department shall retain the duty of supervision for the probationer and the sending court shall retain jurisdiction over the case prior to verification of residence or upon notification of probationer non-residence within the time period. If no notification of residency or non-residency occurs within sixty calendar days of the date the court transfer order is received, the transfer shall be effective and the receiving court shall assume those powers and duties as otherwise specified in the court order and the receiving probation department shall assume the duty of supervision. Upon knowledge of residency or non-residency, the receiving probation department shall complete the acknowledgment section contained in the appropriate DPCA transfer form and return two duly executed copies to the sending probation department. Upon acceptance, the receiving probation department shall transmit to DPCA via DCJS a DPCA-200 or through an equivalent process which updates information and shall provide a copy to the sending probation department. After sixty calendar days of the court order being received, if the receiving department has not already done so, the sending department shall transmit to DPCA via DCJS a DPCA-200 or an equivalent electronic process which updates information and provide a copy or notification to the receiving department of its action. Where non-residency is determined, the receiving probation department

shall return all appropriate transfer material to the sending probation department within ten calendar days of such a determination.

(g) Where the receiving probation department recommends additional conditions, it shall seek to calendar the case with the receiving court for modification of conditions within twenty business days of acceptance of transfer. Nothing shall preclude the ability of the receiving probation department to request modification of conditions and/or a court to modify conditions during the term of supervision.

(h) A subsequent intrastate transfer of the supervision of a probationer shall originate from a court which possesses the jurisdiction to re-transfer. If the court transferring supervision retained jurisdiction, copies of all reports and records shall be sent to the probation department which originated the first transfer in order that a second transfer may be made by such court and the probation department servicing such court shall comply with the previous provisions of this Part. If the court transferring supervision did not retain jurisdiction, a second transfer shall be made by the court to which supervision was transferred and the probation department serving such court shall comply.

§349.5 Requirements for the Temporary Transfer of Supervision of Adult and Child Probationers.

(a) Temporary transfer of an adult or child probationer may be approved by a sending probation department upon verification of temporary residency by the receiving probation department.

(b) Upon knowledge of a probationer's desire to temporarily reside in a place other than within the jurisdiction where the sending probation department is located for purposes of education, employment, or residential treatment, for a period of 30 consecutive calendar days or more not to exceed ten months, the sending probation department may request the appropriate probation department within the state to temporarily assume Courtesy supervision. Prior to a transfer of Courtesy supervision, the sending department shall notify the court with jurisdiction of the transfer. Where residency can be verified, the receiving department shall accept supervision, absent special circumstances.

(c) The request by the sending probation department to the receiving department shall occur immediately upon knowledge of a probationer's desire to reside in another jurisdiction of the state. The sending department shall provide the receiving department at a minimum with the following:

- (1) name of individual subject of transfer;
- (2) subject's current and prospective street/apartment address;
- (3) subject's current home and business telephone number;
- (4) underlying offense or act;
- (5) name of subject's current and prospective employer if different; and
- (6) name, address, and telephone number of residential treatment provider or educational institution, where applicable.

(d) All information shall be promptly provided to the sending probation department by the receiving probation department upon request.

(e) Where the subject of the transfer has not provided adequate verification of his or her temporary address to the receiving department, the receiving probation department shall use reasonable efforts to verify temporary residency. Such efforts shall include at a minimum two written communications to the individual at the specified address provided by the sending department and a written or verbal communication with his or her employer, residential

treatment provider, or educational institution, as applicable and it is recommended that a home visit be conducted.

(f) The receiving probation department shall, upon verification of temporary residency within its jurisdiction, provide written notification to the sending department as to their determination and complete the acknowledgment section contained in the applicable form and promptly return two duly executed copies to the sending probation department. Upon a finding of nonresidency, the receiving department shall complete the acknowledgment section contained in the form and promptly return two duly executed copies and all transfer material to the sending department.

(g) Where a probation is transferred, a sending probation department shall immediately provide the designee in the receiving department with the orders and conditions of probation and preliminary information about the probationer, including at a minimum the following:

- (1) the name, address, and telephone number of the probationer and type of transfer;
- (2) the probationer's date of leaving and date of arrival, if different;
- (3) underlying offense which resulted in probation supervision and sentencing court; and if different

(4) the name, address, telephone number of probationer's current or prospective employer, residential treatment provider, and/or educational institution, whichever is applicable.

The sending department shall receive instruction from the receiving department as to where the probationer shall report. The sending department shall direct in writing the probationer that he or she shall report to a specific location in the receiving department within ten business days of arrival.

(h) The sending department, upon approving the transfer, shall further transmit to the receiving department the following information:

- (1) a completed form DPCA-16b;
- (2) the pre-sentence or pre-disposition investigation report where available or in lieu of the report, a completed pre-sentence or pre-disposition report facesheet, the accusatory instrument or the petition, whichever is applicable, and police report(s) where available;
- (3) periodic supervision reports;
- (4) any mental health/substance abuse evaluation and/or treatment summary;
- (5) any records regarding outstanding financial obligations;
- (6) a photograph if available;
- (7) a copy of any existing or recent orders of protection;
- (8) all documents relating to sex offender registration, including photograph; and
- (9) any other information authorized by law.

(i) Upon temporary transfer being authorized, the receiving department shall exercise supervision duties and forward to the sending department copies of periodic supervision reports and provide notification and documentation of any violation of terms and conditions of probation. Such duties shall continue until such time as completion or discharge from schooling, treatment, or cessation of employment in the receiving jurisdiction or ten months, whichever occurs first.

(j) Any temporary transfer case shall be supervised at a level consistent with public safety and the needs of the probationer in accordance with Part 351.

(k) Reapplication in temporary transfer cases shall occur in accordance with this rule section.

§349.6 Administrative Appeal.

(a) Whenever there is a dispute as to acceptance of an intrastate or temporary transfer case between local probation departments, either or both departments may appeal to the State Director of Probation and Correctional Alternatives.

(b) The departments shall provide the Division of Probation and Correctional Alternatives with information as to their respective position and specific details as to the nature of the dispute and such other information as may be requested by the State Director. The division shall attempt to mediate the matter and if necessary, the State Director shall promptly render a final determination binding upon both departments.

§349.7 Restitution and other financial obligation.

The receiving probation department shall be responsible for the collection of any restitution payment and designated surcharge imposed as a condition of a probation sentence or disposition and disbursement to the proper beneficiary. The receiving department shall be entitled to receive and keep any designated surcharge imposed. In no event shall the receiving probation department be responsible for the collection and disbursement of any other financial obligations which it does not routinely collect.

Appendix H - Law Enforcement Travel Letter
GENESEE COUNTY PROBATION DEPARTMENT

County Building No. 1, 15 Main Street
Batavia, NY 14020-2136
Phone: 585/344-2550

The Mission of the Genesee County Probation Department is to enhance the safety of victims and Communities through the fair and effective supervision of community-based offenders, community partnerships, and results-driven management practices.

JULIE A. SMITH
Probation Director II

TIMOTHY J. MICHALAK
KEVIN R. WRIGHT
Probation Supervisors

(date)

Dear Law Enforcement Professional:

The offender bringing this letter to your attention is sentenced to specialized probation supervision for sexual offenders. He has been given the privilege of limited travel outside of Genesee County for a specified purpose as stipulated below:

OFFENDER'S NAME & DOB _____

DATE & TIME OF TRAVEL: _____ CONVICTION: _____

DESTINATION & PURPOSE: _____

VEHICLE INFORMATION: _____

In consideration for this privilege, the offender is required to present this letter to a law-enforcement professional in the jurisdiction where he is traveling. The purpose of this information is intended as a general deterrent for the offender, as well as a way in which he can hold himself accountable to local authorities and our probation program.

The offender bringing this letter is fully aware of its contents and is prepared to discuss any issues you feel are necessary to his safe conduct in your jurisdiction. We encourage you to ask the offender a little more about himself if he does not offer to do so. We would also appreciate your signing and dated this letter so that this offender can verify that he has fulfilled his responsibility when he returns to Genesee County.

Please feel free to phone our office if you have any questions regarding this procedure.

Sincerely,

/va
JAS/Approved

Probation Officer
(Officer name) (Officer phone number)

LAW ENFORCEMENT OFFICER (please print): _____

POSITION AND AGENCY: _____

TELEPHONE NUMBER: _____ DATE & TIME _____

Appendix I - Quarterly Address Confirmation Form DPCA 900

STATE OF NEW YORK DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES Sex Offender Registry Address Confirmation Summary Form

SORA RISK LEVEL(check one – complete this page for EACH level):

Three Two One Pending

_____ County Probation Department

Contact Person: _____

Phone#: _____ E-Mail: _____ Date Submitted: _____

Reporting Year:	
Period: <input type="checkbox"/>	01/01 – 03/31
<input type="checkbox"/>	04/01 – 06/30
<input type="checkbox"/>	07/01 – 09/30
<input type="checkbox"/>	10/01 – 12/31

1. Total number of probationers' names on I-PRS SOR Report:	_____
	(include zeroes)
2. Total number of probationer names on SOR Report that are closed cases. (These cases must be closed on I-PRS to remove them from future lists). Also include cases that incorrectly appear on your departments listing.	_____
	(include zeroes)
3. Number of probationers on SOR Report whose addresses will not be confirmed this quarter due to:	_____
(Total of #3a + 3b + 3c)	(include zeroes)
3a. Supervision has been transferred out of state:	_____
	(include zeroes)
3b. Who have been <u>confirmed</u> as being in ICE custody, but no VOP has been filed (NOTE: SORA probationers who are in ICE custody <u>and</u> are the subject of VOPs/Warrants shall be reported in line 6f below):	_____
	(include zeroes)
3c. Who have been <u>confirmed</u> with ICE to have been deported, but no VOP has been filed and case remains open (NOTE: Deported SORA probationers who are the subject of VOPs/Warrants shall be reported in line 6e below):	_____
	(include zeroes)
4. Total number of probationers' addresses to be checked during this period: (Subtract #2 + #3 from #1 and enter difference in #4)	_____
	(include zeroes)
5. Number who were at addresses checked during this period:	_____
	(include zeroes)
6. Number who were <u>not</u> at addresses checked during this period: (#5 + #6 MUST equal the figure in number 4)	_____
	(include zeroes)
6a. Number on whom a change of address form was submitted:	_____
	(include zeroes)
6b. Number on whom the 48 hour form was submitted: (Include here those that are incarcerated, have entered ICE custody or pending supervision transfer).	_____
	(include zeroes)
6c. Number not confirmed/not located/considered absconders: (6a + 6b + 6c MUST equal the figure in number 6)	_____
	(include zeroes)
6d. Number from 6c for whom a warrant has been requested, has been obtained, or for whom a warrant already exists:	_____
	(include zeroes)
6e. Number from 6d that are <u>confirmed</u> to be in ICE custody, but have <u>not</u> been deported:	_____
	(include zeroes)
6f. Number from 6d that have been <u>confirmed</u> with ICE to have been deported:	_____
	(include zeroes)
Note: The number in 6d is expected to equal the number in 6c. If a discrepancy between these entries exists, please indicate, on a separate sheet, the offender's name and the reason why no warrant has been requested/issued.	
7. Number of probationers convicted of a registerable offense, and whose names should appear on SOR Report for this department, but do not appear on this printout (Please list names, DOB, and NYSID numbers of the probationers from #7 on page two of this form):	_____
	(include zeroes)

**Appendix J -New York State Office of Sex Offender Management
Treatment Provider Guidelines**

	Clinical/Full Provider Status	Associate Provider Status	Provisional Provider Status
General Qualifications			
Degree Requirements	Possesses an advanced degree (masters level or higher) from an accredited college or university in a clinical or clinically related field	Possesses an advanced degree (masters level or higher) from an accredited college or university in a clinical or clinically related field	Possesses a bachelor's degree in counseling, social work, sociology, criminal justice, psychology, or other related field
Licensure Requirements	Currently licensed as a psychiatrist, psychologist, social worker, mental health counselor, psychiatric nurse, or other mental health professional	Currently licensed as a psychiatrist, psychologist, social worker, mental health counselor, psychiatric nurse, or other mental health professional; or meets the requirements to practice within a New York State agency operated program.	NA
Standards of Practice	Providers shall adhere to the Association for the Treatment of Sexual Abusers (ATSA) Practice Standards and Guidelines for the evaluation, treatment and management of adult male sexual abusers (2005) as well as the practice standards of their chosen mental health disciplines.	Providers shall adhere to the Association for the Treatment of Sexual Abusers (ATSA) Practice Standards and Guidelines for the evaluation, treatment and management of adult male sexual abusers (2005) as well as the practice standards of their chosen mental health disciplines.	Providers shall adhere to the Association for the Treatment of Sexual Abusers (ATSA) Practice Standards and Guidelines for the evaluation, treatment and management of adult male sexual abusers (2005) as well as the practice standards of their chosen mental health disciplines.
Ethics	Comply with the Code of Ethics of the Association for the Treatment of Sexual Abusers (ATSA)	Comply with the Code of Ethics of the Association for the Treatment of Sexual Abusers (ATSA)	Comply with the Code of Ethics of the Association for the Treatment of Sexual Abusers (ATSA)
Criminal Background Check	Anyone convicted of a crime, offense, or violation that relates directly to their fitness to provide sex	Anyone convicted of a crime, offense, or violation that relates directly to their fitness to provide sex	Anyone convicted of a crime, offense, or violation that relates directly to their fitness to provide sex

	offender treatment is not eligible.	offender treatment is not eligible.	offender treatment is not eligible.
	Clinical/Full Provider Status	Associate Provider Status	Provisional Provider Status
References	References may be requested.	References may be requested.	References may be requested.
Experience	<p>Within the past 7 years, 2,000 hours of experience in the areas of treatment and evaluation adults who have committed a sexual offense. This experience should have been under clinical supervision.</p> <p>To maintain this status the practitioner must accumulate at least 400 hours of clinical experience in the areas of sex offender treatment, evaluation, or supervision per year.</p>	<p>Within the past 3 years, 500 hours of experience in the areas of treatment and evaluation of adults who have committed a sexual offense, at least 250 hours of which must be face-to-face clinical treatment. This experience should have been under clinical supervision.</p> <p>To maintain this status the practitioner must accumulate an average of 200 hours of clinical experience in the areas of sex offender treatment, evaluation, or supervision per year over 3 years.</p>	<p>Less than 500 hours of experience in the areas of treatment and evaluation of adults who have committed a sexual offense. This experience should have been under clinical supervision.</p> <p>Provisional providers should accumulate sufficient hours to meet requirements for an Associate Provider within 3 years.</p>
Training	An average of 30 hours per year of training related to the treatment and evaluation of sex offenders or sex offender management.	A minimum of 40 hours per year of training related to the treatment and evaluation of sex offenders or sex offender management.	A minimum of 40 hours per year of training related to the treatment and evaluation of sex offenders or sex offender management.
Supervisor	None.	Be supervised by someone at the full provider level.	Be supervised by someone at the full or associate provider level.

Appendix K – Glossary

Accountability:	Accurate attributions of responsibility, without distortion, minimization, or denial.
Actuarial Risk Assessment	A risk assessment based upon risk factors which have been researched and demonstrated to be statistically significant in the prediction of re-offense or dangerousness.
Alford Plea:	A plea that allows the offender to admit that there is enough evidence to convict him or her at trial without admitting to the offense of record. This type of plea often precludes treatment since it is difficult to treat an individual who claims no to have a problem.
Assessment:	The collection of facts to draw conclusions which may suggest the proper course of action.
Behavioral Monitoring	A variety of methods for checking, regulating and supervising the behaviors of sex offenders.
Case Management:	The coordination and implementation of the cluster of activities directed toward supervising, treating and managing the behavior of individual sex offenders.
Chaperone:	A person who has been approved by a supervising officer to supervise contact between a person at risk (generally a minor or developmentally disabled person) and an offender.
Clinical Polygraph:	<p>A diagnostic instrument and procedure designed to assist in the treatment and supervision of sex offenders by detecting deception or verifying truth of statements by persons under supervision or treatment. The polygraph can assess reports relating to behavior. The three types of polygraph examinations that are typically administered to sex offenders are:</p> <ul style="list-style-type: none">• Sexual History Disclosure Test: Refers to verification of completeness of the offender's disclosure of his/her entire sexual history, generally through the completion of a comprehensive sexual history questionnaire.• Instant Offense Disclosure Test: Refers to testing the accuracy of the offender's report of his/her behavior in a particular sex offense, usually the most recent offense related to his/her being criminally charged.• Maintenance/Monitoring Test: Refers to testing the verification of the offender's report of compliance with supervision rules and restrictions.

Cognitive Behavioral Treatment Model A comprehensive, structured treatment approach based on sexual learning theory using cognitive restructuring methods and behavioral techniques. Behavioral methods are primarily directed at reducing arousal and increasing pro-social skills> the cognitive behavioral approach employs peer groups and educational classes, and uses a variety of counseling theories.

Collateral Contacts: A communication other than a normal supervisory interaction, between a probation department and a person other than the probationer concerning the probationer's behavior or status, either in person, by telephone, by mail, by electronic medium, or any other means approved by the State Director of Probation and Correctional Alternatives.

Containment Approach A method of case management and treatment that seeks to hold offenders accountable through the combined use of both offenders' internal controls and external control measures (such as the use of the polygraph and relapse prevention plans). A containment approach requires the integration of a collection of attitudes, expectations, laws, policies, procedures and practices that have clearly been designed to work together. This approach is implemented through interagency and interdisciplinary teamwork.

Evaluation: The application of criteria and the forming of judgments; an examination of the psychological, behavioral, and/or social information and documentation produced by an assessment (sex offender assessments precede sex offender evaluations). The purpose of an evaluation is to formulate an opinion regarding a sex offender's amenability to treatment, risk/dangerousness, and other factors in order to facilitate case management.

Grooming: The process of manipulation often utilized by child molesters intended to reduce a victim's or a potential victim's resistance to sexual abuse. Typical grooming activities include gaining the child victim's trust or gradually escalating boundary violations of the child's body in order to desensitize the victim to further abuse.

Multi-Disciplinary Team A variety of professionals (e.g. psychologists, psychiatrists, clinical social workers, educators, medical personnel, recreational staff, para-professionals, criminal justice personnel, volunteers, and victim advocates) working together to evaluate, monitor, and treat sex offenders.

Paraphilia: A psychosexual disorder. Recurrent, intense, sexually arousing fantasies, urges, and/or thoughts that usually involve humans, but may also include non-human objects. Suffering of one's self or partner, children, or non-consenting persons is common.

Pedophilia:	The Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) criteria for pedophilia are as follows: <ol style="list-style-type: none"> 1. Over a period of at least 6 months, recurrent, intense, sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a pre-pubescent child or children (generally age 13 years or younger); 2. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning; and 3. The person is at least 16 years old and at least 5 years older than the child or children in the first criterion (this does not include an individual in late adolescence who is involved in an ongoing sexual relationship with a 12 or 13 year old).
Psychosexual Evaluation	A comprehensive evaluation of an alleged or convicted sex offender to determine the risk of recidivism, dangerousness, and necessary treatment. A psychosexual evaluation usually includes psychological testing and a detailed sexual history taking with a focus on criminal, sexual, and family history. The evaluation may also include a phallometric assessment.
Plethysmograph:	A device that measures erectile responses in males to both appropriate and inappropriate stimulus material.
Relapse:	A re-occurring sexually abusive behavior of sex offense.
Relapse Prevention Treatment Model	A three dimensional, multimodal approach specifically designed to help sex offenders maintain behavioral changes by anticipating and coping with the problem of relapse. Relapse Prevention: 1) teaches clients internal self-management skills; 2) plans for an external supervisory component; and 3) provides a framework within which a variety of behavioral, cognitive, educational, and skill training approaches are prescribed in order to teach the sex offender how to recognize and interrupt the chain of events leading to relapse. The focus of both assessment and treatment procedures is on the specification and modification of the steps in this chain, from broad lifestyle factors and cognitive distortions to more circumscribed skill deficits and deviant sexual arousal patterns. The focus is on the relapse process itself.
Release of Information	A signed document for purposes of sharing information between and among individuals involved in managing sex offenders (e.g. two-way information release between treatment providers and legal professionals includes the sharing of sex offender legal and treatment records and other information necessary for effective treatment, monitoring and supervision).

- Risk Controls:** External conditions placed on a sex offender to inhibit re-offense. Conditions may include levels of supervision, surveillance, custody or security. In a correctional facility, these conditions generally are security and custody related. In a community setting, conditions are part of supervision and are developed by the individual charged with overseeing the sex offender's placement in the community.
- Risk Factors:** A set of internal stimuli or external circumstances that threaten a sex offender's self-control and thus increases the risk of lapse or relapse. Characteristics that have been found through scientific study to be associated with increased likelihood of recidivism for known sex offenders. Risk factors are typically identified through assessment instruments. An example of a sex offender risk factor is a history of molesting boys.
- Risk Level:** The determination by evaluation of a sex offender's likelihood of re-offense, and if the offender reoffends, the extent to which the offense is likely to be traumatic to potential victims. Based on these determinations, the offender is assigned a risk level consistent with his/her relative threat to others. Sex offenders who exhibit fewer offenses, less violence, less denial, a willingness to engage in treatment, no/few collateral issues (e.g., substance abuse, cognitive deficits, learning disabilities, neurological deficits, and use of weapons) are considered lower risk than those whose profile reflects more offenses, greater violence, and so on. Risk level is changeable, depending on behaviors exhibited within a treatment program. Disclosures of additional, previously unknown offenses or behaviors may also alter the offender's assessed level of risk.
- Risk Management:** A term used to describe services provided by corrections personnel, treatment providers, community members, and others to manage risk presented by sex offenders. Risk management approaches include supervision and surveillance of sex offenders in a community setting (risk control) and require sex offenders to participate in rehabilitative activities (risk reduction).
- Risk Reduction:** Activities designed to address the risk factors contributing to the sex offender's sexually deviant behaviors. These activities are rehabilitative in nature and provide the sex offender with the necessary knowledge, skills, and attitudes to reduce his/her likelihood of re-offense.
- Sex Offender:** The term most commonly used to define an individual who has been charged and convicted of illegal sexual behavior.

Appendix L – Examples of Sex Offender Orders & Conditions

Specialized Orders & Conditions

The pre-sentence report should include a request for specialized sex offender orders and conditions. These conditions should be chosen to match individual offenders. Below is a compilation of specialized conditions that may be applied to specific offenders. These conditions are meant to serve as an example of specialized conditions and should be reviewed, selected and modified as appropriate to comport with local policies and procedures and resources as well as the needs of specific offenders.

Criteria for Sex Offender Orders and Conditions of Probation

General Definition: A sentencing or dispositional order imposed on an offender by a court which allows that offender to remain in the community subject to behavioral conditions specified by that court and monitored by a probation officer

Primary Goals: Offender accountability, victim security and public safety.

Ideal Construction:

Specific and non-ambiguous: There should be no question as to what behaviors the court intended the offender to engage in or refrain from.

Quantifiable: The courts' behavioral expectations of the offender must be phrased in such a way that the behaviors to be monitored can essentially be counted or measured in some manner (time, rate, frequency, distance, duration, etc.).

Enforceable: Conditions that are specific, quantifiable, and achievable by the offender are more easily and readily enforced by the probation officer, police and the courts.

Relevant: Conditions should not always be “cookie cutter” for all sex offenders. They must be reflective of and adapted to the case specifics where appropriate and reflect mandatory sex offender conditions required by law where applicable.

Legal: Local interpretations as to the legality of some conditions vary from jurisdiction to jurisdiction. All conditions used by a probation department should be reviewed with your respective legal representatives to establish legality in terms of content and scope, addresses local concerns and should be promoted with the judiciary to better guarantee local judicial acceptance.

Justification for Orders & Conditions

Specific orders and conditions should be imposed upon offenders according to the specific underlying nature of the offense and the risks and needs of the offender. The rationale for using particular orders and conditions are as follows:

- The conditions address the rehabilitation of the offender and/or the protection of the community.
- The conditions address the safety of the victim of the present offense, as well as other potential victims who fit this probationer's offense pattern. They are consistent with treatment contracts/requirements utilized by all approved treatment providers and assist in the offender's rehabilitation by providing external behavioral controls until the offender can develop appropriate internal controls.
- The conditions address legal mandates, enhance community safety, aid in the offender's rehabilitation, and/or assist Probation in adequately supervising this offender.
- The conditions address the safety of the community, the probationer's family members under 18 years old, and that of any family friends under the age of 18 where applicable.
- These conditions address and complement the treatment goals of accepting responsibility for one's actions and setting in place safeguards to relapse.⁹⁴

The following depict various types of conditions being imposed by courts upon sex offender probationers in New York State:

1. Treatment

- You shall undergo and pay for a psychological/psychiatric evaluation, including a psycho-sexual evaluation.
- You shall participate in, pay for, and successfully complete a sex offender treatment program approved by the probation department.
- You will be responsible for the cost of any treatment and/or test costs associated with treatment, including polygraph testing.
- You will sign an appropriate treatment release form to allow the unrestricted exchange of information between probation and the treatment provider.

2. Victim Contact

- You shall not have any direct or indirect contact and/or communication with your victim(s) unless granted permission by the probation officer or the Court.
 - *Departments may wish to define victim contact as follows: Direct and/or indirect contact or communications shall include but is not limited to; physical contact, written communications, electronic communications, telephone or facsimile communications, e-mail, instant messaging, and/or chat room communications.*
- You shall comply with any existing orders of protection and/or Family Court orders pertaining to you.

3. Driving & Travel

- **You shall remain within the jurisdiction of the court unless otherwise granted permission to leave by the court or the probation officer (New York State Penal Law §65.10 (3)(b)).**
- If given authorization to visit another jurisdiction, upon arrival, you will present a travel letter given to you by your probation officer, to the local police department, have it signed, and return it to your probation officer. Travel will only occur under the restriction of the probation department's travel policy regarding sex offenders.
- You shall maintain a daily activity and driving log as directed by the probation officer or the Court.
- You shall comply with all rules for traveling or relocating as set forth by the Sex Offender Registration Act, Interstate Compact for Adult Offender Supervision, and the Probation Department.
- You shall not travel outside the jurisdiction of the probation department without prior written approval from your probation officer.
- For any travel for the purposes of employment, treatment or any other reason you shall obtain prior written approval from your probation officer that details the specific travel schedule including dates, times, locations and routes.

4. Residence (Daily Living)

- You shall reside in _____ County unless otherwise authorized by the court or the probation department.
- You shall provide the probation department with the address at which you will reside during the period of your probation.
- You shall provide the probation department with written notice at least ___ days in advance of any change in your address during the period of your probation.
- You shall not change your address without the prior written approval of the probation department.
- You shall not live with persons under the age of 18 until a risk assessment has been completed by an approved treatment provider and approval for such residence has been given by the treatment provider and the probation officer.

5. Family Contact

- You shall not reside in the same residence where persons under 18 years of age reside without the approval of the court and/or probation department. This includes but is not limited to your own children and step children.

- You shall support your dependents even if required to live separate and apart from your family. If applicable, you shall make timely payments of any and all child support obligations which you are required to pay, as well as timely payments of any and all other support obligations to your dependents.
- You shall have no contact with your children under the age of 18 without the prior approval of the court and/or your probation officer and without the supervision of a chaperone who has been trained and approved by probation.

6. Social/Sexual Behavior

- You shall not engage in sexual conduct or have any direct or indirect contact or communication, whether sexual or non-sexual with anyone who is under 18 years of age. For the purpose of this condition, direct or indirect contact or communications shall include, but not be limited to physical contact, written communications, electronic communications, telephone or facsimile communications, e-mail, instant messaging, and/or chat room communications.
- You shall not be with or communicate with any child who is under 18 years of age, unless an adult is present who is aware of your history of sexual offending behavior and has been approved as a chaperone by the probation department.
- You shall not expose the private or intimate parts of your body in a lewd manner or commit any lewd act in a public place or on private premises where you may be readily observed by others. You shall not appear in a public place in such a manner that the private or intimate parts of your body are unclothed or exposed.
- You shall not knowingly associate with or have any contact with convicted sex offenders without prior approval from the supervising probation officer.
- You shall refrain from knowingly entering into or upon any school grounds, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present if conviction appropriate pursuant to Section 65.10 (4)(a) of the New York State Penal Law.
- You shall not have children's toys or children's books in your possession.
- You shall not view videotapes, films or television shows and any other electronic entertainment or work media that is of a pornographic nature and/or involving minor children engaged in sexual behavior, or act as a stimulus to your abusive cycle, or act as a stimulus to arouse you in an abusive fashion.
- You shall not linger, loiter or spend time at locations where persons under the age of 18 are likely to be present including, but not limited to parks, playgrounds, arcades, malls and internet chat-rooms.

- You shall refrain from the use or possession of any medications or supplements designed or intended for the purpose of enhancing sexual performance or treating erectile dysfunction without prior approval of your probation officer or the Court.
- You shall not have contact, written or otherwise, with persons, groups, clubs, associations, etc. that engage in, promote or encourage illegal or sexually deviant behavior.
- You shall not enter adult book stores, sex shops, topless/nude bars, massage parlors, internet cafes, or any other establishment that the probation officer deems inappropriate.
- You shall consult with your probation officer and your therapist about your daily schedule and any additional activities. You will follow directions of your probation officer and your therapist to avoid those activities which your probation officer and therapist have determined might trigger your impulse to commit an additional offense.
- You shall not rent or have access to a post office box or private storage or delivery unit without the prior written approval of your probation officer or the Court.
- You shall abide by a curfew requiring you to remain within your approved residence between the hours of ____PM and ____AM or as otherwise directed by your probation officer or the Court.
- You shall not own or display any law enforcement, emergency services or related equipment or paraphernalia including scanners, uniforms, mini-shields and courtesy cards.

7. Computer/Phones/Electronics Conditions

- You shall not call any sexually explicit telephone services or have sexually explicit electronic communication. You shall submit copies of your personal/business telephone, internet, and/or cable records to the probation department upon request.
- You will comply with limited usage of the internet as directed by your probation officer that does not otherwise prohibit usage in connection with education, lawful employment or search for lawful employment.
- You shall not possess or view images of your victim(s), stories or images related to your crime or similar crime, images which depict individuals similar to your victim(s), or materials focused on the culture of your victim (e.g. children's shows or web sites).
- PL Section 65.10 (4-a)(b) and (5-a) You shall not use any form of encryption, cryptography, stenography, compression, password protected files and/or other method that might limit access to, or change the appearance of data and or images without prior written approval of the probation department. If, for work purposes, password protection is required on any system or files used by you, then you will provide the password to the probation department.

- You shall install, or allow to be installed at your own expense, equipment and/or software to monitor or limit computer use. You will have no expectation of privacy regarding computer use or information stored on the computer if monitoring software is installed and you agree that information gathered by the monitoring software may be used against you in subsequent court actions regarding your computer use and conditions of probation.
- You agree to be fully responsible for all material, data, images and information found on your computer, a computer used by you or accessible by you, and/or other communication or electronic storage devices at all times. These computers, communication, electronic storage devices will be subject to monitoring and/or search and seizure.
- You shall notify your probation officer or designee of any computers being used or accessed, including ownership and location.
- You shall agree to unannounced examination by the supervising probation officer or designees of any and all computer(s) and/or other electronic device(s) to which you have access. This includes access to all data and/or images stored on hard disk drives, floppy diskettes, CD ROMs, optical disks, magnetic tape and/or any other storage media whether installed within a device or removable. The examination may take place where the computer is located or it may be removed for the examination to be done in a timely manner by the probation department. In the event illegal or prohibited material is located, you shall further agree to forensic examination of the computer.
- You shall not use the internet to access or disseminate pornography or possess any other sexually stimulating material deemed inappropriate by the probation officer or the Court.
- You shall not purchase or possess photographic or video equipment without the prior written approval of your probation officer or the Court.
- You are prohibited from using the internet to: access pornographic material and/or any commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with any person(s) under the age of eighteen, and communicate with a person under the age of eighteen when you are over eighteen years of age.

8. Work/Paid or Volunteer

- Your employment must be approved by your therapist and/or probation officer. If so instructed by the supervising probation officer, your employer must be told of nature of offense and probation conditions.
- You shall not participate in any volunteer or other unpaid or uncompensated activity without the prior written approval of your probation officer or the Court.
- You shall not pursue or take employment or do volunteer work with any youth organization.

- You shall work faithfully at verifiable employment or attend school or pursue a course of study or vocational training that can lead to suitable employment.

9. Alcohol/Drugs/Weapons

- You shall not purchase, possess or consume alcoholic beverages or alcoholic products. You shall submit to Alco sensor/urinalysis or any other recognized method to determine alcohol use as requested by the probation department.
- You shall not abuse prescription or over the counter drugs. You shall submit to undergo urinalysis or any other recognized method to determine drug use as requested by the probation department.
- You shall not purchase, possess or use illegal and/or regulated substances. You shall submit to urinalysis testing or any other recognized method to determine drug use as requested by the probation department.
- You shall not possess or purchase a firearm, rifle, shotgun, or any other weapon, including but not limited to those defined in Section 265.00 of the New York State Penal Law, and shall surrender any such firearm, rifle, shotgun or other weapon immediately to a police department, sheriff or other peace officer.
- You shall not own, have in possession, residence or motor vehicle any weapon as defined in Section 265.00 of the Penal Law. Further you shall not possess or own any instrument construed to be a weapon.

10. Search/Seizure

- You shall submit to periodic searches by the probation officer or designee of your computer/electronic device or any computer/electronic device within your control. These computers/electronic devices may be seized by the probation department if any evidence is found of use prohibited by your conditions.
- You shall submit to search of your person, premises, residence, vehicle and area under your immediate control without prior notification as deemed appropriate by the probation department.
- You shall submit to any alcohol and/or substance abuse testing as required by the probation officer and pay for costs associated with such testing.

11. Disclosure

- You shall agree to sign appropriate release forms to ensure the information regarding your participation in any and all treatment programs required to be attended, pursuant to this Order, is readily available to the Court, probation, and therapist or any other agency authorized by the court.
- You shall disclose the nature of your conviction to the police department where you reside, visit and work as determined necessary by the court and/or your probation officer.

- You shall disclose the nature of your offense to your family and employer where determined appropriate by the court and/or probation officer
- You shall be required to comply with the provisions of the Sex Offender Registration Act, if applicable, including but not limited to the duty to register as a sex offender with the New York State Division of Criminal Justice Services and notify the Division of Criminal Justice Services Sex Offender Registry in writing of any change of home address within 10 days.
- Provide a sample for DNA testing for the Convicted Offender Index as mandated by Executive Law §995-c for designated offenders.
- Provide a sample for DNA testing for the Subject Index as authorized by Executive Law Article 49-B.
- If your conviction applies, you shall register, re-register and comply with all the requirements of the Sex Offenders Registration Act Failure to comply will constitute a Violation of Probation and/or a Class E Felony.
- You shall inform all persons with whom you have a significant relationship, with whom you have a close affiliation, or with whom you reside of your sexual offending history. Your therapist and/or your probation officer will determine who shall be informed.
- You shall provide your probation officer with a copy of your NYS Driver's License and the registrations of any/all vehicles owned and/or operated by you.
- You shall submit to be photographed by the probation department for the purpose of SORA and record keeping.
- You shall notify your probation officer immediately/within 1 business day of any contact, questioning or arrest by a police agency or any law enforcement officer.
- The probation department is authorized to disclose a copy of the court-ordered presentence report prepared for this term of probation and the ensuing supervision records to any treatment agency to which you were referred by probation.
- You agree to sign any medical, treatment or programmatic release of information required by any agency to which the defendant is referred for services for purposes of probation obtaining attendance, participation and communicating as to services performed.

12. Electronic Monitoring

- You shall submit to GPS monitoring by wearing a GPS device and fully cooperating with the monitoring process as directed by the probation department.

- You shall participate in the Electronic Monitoring Program as directed by the probation department for a period of ____ months at your own expense. The fee is payable in full to the probation department at the time of sentencing or billed in accordance with the probation department's guidelines. The fee is non-refundable.
- You agree to all the instructions and requirements of the Electronic Monitoring Program as established by the probation department.

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Section XI. Endnotes

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⁵ Standards and Guidelines for the Treatment, Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, p. 3

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⁷ Supervision of the Sex Offender, Georgia Cumming & Maureen Buell, 1997

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⁹ Supervision of the Sex Offender – Second Edition, Georgia Cumming & Robert McGrath, 2005, p.41-42

¹⁰ Ibid

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¹³ Center for Sex Offender Management www.CSOM.org

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¹⁶ Standards and Guidelines for the Treatment, Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, p. 22

¹⁷ Center for Sex Offender Management (CSOM): Community Supervision of the Sex Offender: An Overview of Current and Promising Practices, January 2000

¹⁸ DPCA Sex Offender Management Survey Report, p. 15

¹⁹ Ibid

²⁰ Standards and Guidelines for the Treatment, Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, p. 84-85

²¹ Supervision of the Sex Offender, Cumming & Buell p. 5-6

²² County of Erie Probation Department Pre-Sentence Investigations Sexual Offenses Guide

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³⁴ Center for Sex offender Management (CSOM): The Comprehensive Approach to Sex Offender Management, November 2008

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⁴² Supervision of the Sex Offender, Cumming & Buell, 1997, p. 44

⁴³ Supervision of the Sex Offender, Cumming & Buell, 1997, p. 49

⁴⁴ Center for Sex Offender Management (CSOM): Key Considerations for Reunifying Adult Sex Offenders and their Families, December 2005, p. 2-3

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- ⁵⁰ Center for Sex Offender Management (CSOM): Understanding Treatment for Adults and Juveniles Who Have Committed Sex Offenses, November 2006, p.2
- ⁵¹ Center for Sex Offender Management (CSOM): Understanding Treatment for Adults and Juveniles Who Have Committed Sex Offenses, November 2006, p. 3
- ⁵² Center for Sex Offender Management (CSOM): Understanding Treatment for Adults and Juveniles Who Have Committed Sex Offenses, November 2006, p. 4
- ⁵³ DPCA Sex Offender Management Survey Report, p. 34-35
- ⁵⁴ ncjrs.gov/pdffiles1/nij/grants/199673.pdf p.11
- ⁵⁵ ncjrs.gov/pdffiles1/nij/grants/199673.pdf p. 14
- ⁵⁶ ncjrs.gov/pdffiles1/nij/grants/199673.pdf p. 14
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