

CLINICAL EVALUATOR HANDBOOK AND STANDARDIZED ASSESSMENT PROTOCOL

**Revised
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**California Department of Mental Health
Sacramento, California**

CLINICAL EVALUATOR HANDBOOK
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Address questions regarding this Clinical Evaluator Handbook to:

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INTRODUCTION

The California Sexually Violent Predator (SVP) law is contained in Welfare and Institutions Code Section (WIC) 6600 et seq. (see Appendix A). This law was enacted in October 1995 and became effective January 1, 1996. It established a new category of civil commitment for persons found, upon release from prison, to be sexually violent predators. The term of SVP commitment is two years, and may be renewed through the filing of a new petition for civil commitment. The SVP commitment is ended if the individual's diagnosed mental disorder has so changed that he or she is not likely to commit an act of sexual violence. The statute has been amended by AB 3130 (Chapter 462, Statutes of 1996), AB 1496 (Chapter 4, Statutes of 1996), AB 2161 (Chapter 461, Statutes of 1996), and SB 536 (Chapter 19, Statutes of 1998), SB 1976 (Chapter 961, Statutes of 1998), SB 786 (Chapter 350, Statutes of 1999), and SB 746 (Chapter 995, Statutes of 1999).

The Department of Mental Health (DMH) program that implements its evaluation and treatment responsibilities under the SVP statute is the Sex Offender Commitment Program (SOCP).

The statute calls for the DMH to designate two clinical evaluators (psychiatrists and/or licensed psychologists) to determine if an identified inmate has a diagnosed mental disorder such that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody. If these two evaluators agree that the inmate meets all criteria, the Director of DMH will request that the designated counsel, in the county of the most recent judicial commitment to prison, file a petition for civil commitment. If there is a difference of opinion between the two DMH evaluators, then examinations by two independent evaluators are required. These independent evaluators must also be a psychiatrist or a licensed psychologist, cannot be state government employees, and must have at least five years of experience in the diagnosis and treatment of mental disorders. The Director may only request that a petition for commitment be filed if both the independent examiners concur that the inmate meets SVP criteria.

Once a determination has been made that all SVP criteria are met based on the findings of the clinical evaluators, the DMH sends a letter to the designated counsel of the county that last committed the individual to prison. This letter carries a recommendation that a petition for civil commitment as an SVP be filed in Superior Court. DMH has on file a listing of the designated counsel for each county to which SOCP referrals are sent. At this time, all California counties have designated the District Attorney as the designated counsel. Enclosed with the DMH recommendation are all evaluations (positive and negative) completed by DMH and independent clinical evaluators, additional material collected by DMH, as well as all background information originally provided to DMH by the California Department of Corrections (CDC). If the district attorney concurs with the recommendation, a petition for civil commitment is filed in Superior Court.

STANDARDIZED ASSESSMENT PROTOCOL

WIC Section 6601(c) requires that a person referred from CDC be evaluated in accordance with a standardized assessment protocol, developed and updated by the DMH. This clinical evaluator handbook is the centerpiece of that protocol. This handbook may be supplemented by additional instructions to clinical evaluators as necessary. This handbook and all supplemental instructions to DMH staff and contractors in the implementation of the SVP law is the required standardized assessment protocol.

EVALUATOR PANEL

The DMH utilizes state employees and contractors as its clinical evaluators. All evaluations are assigned, supervised, and submitted to the SOCP Evaluation Unit in Sacramento in accordance with instructions contained in this handbook. The address and phone number for the SOCP Evaluation Unit is located on the Table of Contents page at the front of this handbook.

State contract evaluators are selected, trained and supervised by the SOCP Evaluation unit. Evaluators are required to interview and evaluate persons in accordance with the protocol contained within this handbook, as well as present their findings in court where necessary. In accordance with the requirement for independent evaluations (WIC 6601(e)), state contractors are the sole resource for the Department when there is a split opinion in the first two evaluations.

EVALUATOR LIABILITY

In Section 1618 of the Penal Code, the following statement addresses liability for staff or contractors who perform evaluations and provide court testimony in SVP cases:

The administrators and the supervision and treatment staff of the Forensic Conditional Release Program shall not be held criminally or civilly liable for any criminal acts committed by the persons on parole or judicial commitment status who receive supervision or treatment. This waiver of liability shall apply to employees of the State Department of Mental Health, the Board of Prison Terms, and the agencies or persons under contract to those agencies, who provide screening, clinical evaluation, supervision, or treatment to mentally ill parolees or persons under judicial commitment, or considered for placement under a hold by the Board of Prison Terms.

CASE REFERRAL FROM DEPARTMENT OF MENTAL HEALTH

Upon acceptance of a case referral by the evaluator, SOCP sends a referral package. This package contains:

- The CDC material which was sent to DMH.
- Additional supportive material obtained by SOCP record reviewers.
- A STATIC 99 risk assessment score completed by SOCP staff
- A cover letter that includes the name of the CDC inmate, the inmate's location, the date the completed evaluation is due, and the name and phone number of the responsible record reviewer.

Before the case is referred for evaluation, DMH record review staff have reviewed the material to assure that basic SOCP legal criteria are met (number of convictions, victims, etc.). However, the evaluator should independently confirm this information since it will be included in the final report. Should any additional information be needed regarding the case referral, contact the responsible record reviewer.

It is not unusual for a previously evaluated case to be re-referred to DMH from CDC. This may happen if there was a previous negative evaluation finding, or if the referral to the county did not result in an SVP commitment and the person has returned to CDC custody for any reason. In cases where there has been a previous evaluation, the Department has several options:

- The previous evaluators may be provided any new information contained in the new referral, and will be asked to consider whether this information would be likely to cause a change in the last given opinion. If so, the case will be assigned to that evaluator to perform a new evaluation.
- If the previous evaluator is no longer available, the case may be assigned to a new evaluator. Previous evaluations will be part of the record sent to the new evaluator.

Evaluators may only read the evaluations of those evaluators no longer on the panel, as these reports are considered part of the individual's history. Evaluators are not provided reports of active evaluators on the same case, and should not review them. Until the SVP case is resolved in some fashion, the department recommends that there be no discussion among the current evaluators regarding the case. This caution is not intended to restrict necessary consultation with designated consultants.

SCHEDULING AN EVALUATION

The evaluator is responsible for scheduling the evaluation at the prison or facility where the inmate is housed. The majority of the inmates are in CDC institutions, although some inmates may be in local custody or at Atascadero State Hospital (ASH). The SOCP Unit recommends that the evaluator confirm the location of the inmate or patient at the time of scheduling the interview appointment. SOCP staff will assist in locating the individual if necessary.

Procedures for gaining access to these facilities are as follows:

Access to the Prisons

1. Call the Classification and Parole Representative (C&PR) at the prison where the inmate is housed to schedule the evaluation. The C&PR, or a designee, will schedule the interview and usually be the contact person at the prison.
2. Tell the C&PR that the following are needed:
 - a. Gate clearance to get into the prison, unless you possess a CDC ID card.
 - b. Time to review the Central and Medical files prior to the interview. Specify the amount of time needed.
 - c. Someone to make copies of relevant records from the files.
 - d. Quiet interview room with an optimal amount of privacy.
 - e. Time for the clinical interview of the inmate. Specify the amount of time needed.
 - f. Appropriate supervision to ensure safety.
3. Once you arrive at the prison, enter through the main gatehouse. Inform the gate officer of your assigned contact person. Your contact person will assist you in the logistics of moving through the prison and in the file review process. It is helpful to have the contact person's phone number with you, as the gate officers sometimes do not have this information.
4. Do not wear jeans, any denim-type material, or any light blue shirt with navy colored pants. This is the inmates' attire and CDC staff needs to be able to identify visitors as separate from the inmate population.
5. If you experience any difficulty, including lengthy waiting prior to an interview, please call DMH at (916) 653-0673 for assistance.

Access to Atascadero State Hospital

As a reminder, ASH is a forensic facility with rules that must be followed. Evaluators must check in to the secured area and be escorted at all times while in this area.

1. Call the Health Information Department, Legal Section to schedule the interview. (Staff appreciate one day's notice if possible.) ASH operates a reservation system. If a reservation is made to interview a patient, it is extremely important to notify the hospital if the appointment cannot be kept.
2. The individual's CDC file will be retained at the California Men's Colony (CMC) and a separate visit must be made for its review.
3. Check in at the main reception area for direction to the Health Information Department. ASH records may be reviewed at this location prior to the interview.
4. Return to the main reception area to check into the secured area of the hospital for the actual interview.
5. Do not wear khaki or any similar colored material.

It is possible that an evaluation may need to be conducted at a state hospital other than ASH if the inmate has been temporarily housed there. The above rules may also apply. Before visiting any state hospital to conduct an evaluation, contact the Forensic Coordinator at the hospital for specific instructions.

Access to County Jails

The evaluator should call the jail to arrange for the interview. If necessary, access to individual county jails can be facilitated through the SOCP record review staff.

DEFINITIONS RELEVANT TO SOCP

WIC 6600 sets forth several legal definitions. These are the definitions that are used in evaluations and in court.

- A. **"Sexually violent predator"** - A person who has been convicted of a sexually violent offense against two or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. For the purposes of counting offenses and victims, consider only the "sexually violent offenses" listed in section (B) below. Countable offenses may include a prior finding of not guilty by

reason of insanity, convictions prior to July 1, 1977 of offenses in (B) below, a conviction resulting in a finding that the person was a mentally disordered sex offender, or a maximum of one prior juvenile adjudication for a sexually violent offense. A conviction in another state for an offense that includes all the elements of an offense listed in (B) below, shall also be deemed to be a sexually violent offense even if the offender did not receive a determinate sentence for that prior offense.

- B. **"Sexually violent offense"** - Defined as one of several specified crimes when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction. "Sexually violent offenses" consist of the following Penal Code sections:

PC 261(a)(2)	Rape by Force and Violence
PC 262(a)(1)	Rape of Spouse by Force and Violence
PC 264.1	Defendant Acted in Concert with Another Person to Commit and Act in Section 261, 262, or 289
PC 286	Sodomy
PC 288(a)*	Lewd Act on Child Under 14 Years
PC 288(b)	Lewd Act on Child Under 14 Years by Force and by Force and Violence
PC 289(a)	Rape with Foreign Object by Force and Violence
PC 288a	Oral Copulation

*Lewd acts on a child under 14 years of age, charged under PC 288(a), are deemed to be sexually violent when they involve Substantial Sexual Conduct.

Section 6600.1 (added to the Welfare and Institutions Code by SB 2161, Chapter 461, and effective January 1, 1997) reads as follows:

- (a) If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14 and the offending act or acts involved substantial sexual conduct, the offense shall constitute a "sexually violent offense" for the purposes of Section 6600.
 - (b) **"Substantial sexual conduct"** means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either by the victim or the offender.
- C. **"Diagnosed mental disorder"** - A congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

- D. **"Danger to health and safety of others"** - Does not require proof of a recent overt act while the offender is in custody.
- E. **"Predatory"** - An act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
- F. **"Prior Juvenile Adjudication"** – The juvenile was 16 years of age or older at the time he or she committed the offense; the juvenile was adjudged a ward of the court; the offense committed by the juvenile was one of the offenses listed in WIC 6600(b); and the juvenile was committed to the California Youth Authority for the sexually violent offense.

BEGINNING THE SVS CLINICAL EVALUATION

The role of the clinical evaluator is that of a fact finder. The only objective is to determine if the facts of a given case match the criteria contained in law. The evaluator must maintain a neutral position throughout the process, and be open to reconsideration of a conclusion based on new information.

The decision as to evaluation outcome is based on several factors including, but not limited to : 1) a review of records, 2) a clinical interview, if possible, 3) diagnostic formulation and 4) a risk assessment targeting sexual recidivism. Only after all available data is reviewed should the clinical evaluator arrive at a conclusion.

The evaluation will begin by reviewing available data including CDC central, medical and psychiatric files (if available) in the prison where the inmate is housed. Pertinent information will be contained throughout the CDC files, but the Probation Officers Report (POR), Arrest Reports if available, the CII report (rap sheet) and any psychiatric evaluations are essential to review. Many of the inmates to be evaluated will have had only brief mental health screenings or not have had a psychiatric evaluation, while others have had prior admissions to state and county psychiatric facilities. All psychiatric and criminal records available from both inside and outside of California should be reviewed prior to completing the clinical evaluation. While the evaluations require review of a substantial amount of material, the scope of the questions to be answered is narrow. The review of files and the clinical interview should be done with the specific forensic task in mind, namely, to answer the three questions that are included in WIC 6600:

- A) Has the inmate been convicted of sexually violent predatory criminal offenses against two or more victims?
- B) Does the inmate have a diagnosed mental disorder that predisposes the person to the commission of criminal sexual acts?

- C) Is the inmate likely to engage in sexually violent predatory criminal behavior as a result of his or her diagnosed mental disorder without appropriate treatment and custody?

THE CLINICAL INTERVIEW

Although the inmate may view the clinical interview as adversarial, the evaluation is, in fact, one of several steps required before a court considers the matter of a civil commitment. The reports that the DMH evaluators and independent evaluators generate will be a primary resource for district attorneys in their review to determine if they will file a petition for commitment on an individual. They will be read by attorneys and judges, and may be presented to juries in the form of expert testimony in Superior Court. These evaluations need to provide the courts with more than just summary professional conclusions. Key facts must be included in the body of the evaluation and must clearly state the reasoning that lead the evaluator to conclusions.

The evaluator should begin the interview by describing the interview process and responding to questions from the inmate. The inmate should be asked to sign a "Notification of Evaluation as a Sexually Violent Predator" (Appendix B). The inmate may want to interview without signing the Notification, which is permissible since the purpose of the Notification is to provide information about WIC 6600 to the inmate, rather than to serve as a legal informed consent. If the inmate refuses the interview, use the space provided on the Notification document for "decline" and obtain the inmate's signature. If the inmate refuses to attend the interview and the Notification cannot be signed, the evaluator should make a notation on the Notification regarding the inmate's refusal and should report the refusal in the evaluation.

If a language barrier exists, a translator or interpreter may be required and should be arranged in advance by the evaluator, if possible. The preferred method is to contact the court in the county where the institution housing the inmate is located and arrange for a court certified language interpreter.

There may be an obligation under California's child and elderly abuse reporting laws to report specific new crimes that the inmate reveals if they involve child victims or elderly victims if the crimes have not previously been reported, and/or there is a person who has been abused or is likely to suffer continuing abuse. The inmate should be informed of this reporting requirement prior to the evaluation as stated in the Notification document.

Limits of confidentiality should be explained to the inmate. The inmate should be told that the evaluation report will be provided to the DMH, court officers in the county of CDC commitment in accordance with the statute, the Board of Prison Terms, and, in some cases, CDC Parole. Also, information from the evaluation may be entered into evidence in court or be the subject of court testimony, and, consequently, may become available to the press and the community.

In rare instances, an inmate may become a threat to him/herself, others or you during the clinical interview. Just as you would make every effort to provide for the safety of all concerned in a community setting, you should do so in the prison setting. If the inmate becomes a threat, immediately notify custody staff. Each prison has medical and/or psychiatric staff either present or on call who are designated to deal with this type of emergency. Report your clinical findings verbally to the designated prison clinician and write a progress note in the inmate's CDC medical file. Inform state hospital staff if the evaluation is conducted at a state hospital. In your note, address your assessment of inmate risk of self harm or danger to others, and how the situation was resolved.

There are various approaches to interviewing sex offenders, and the determination of how to approach and structure the interview is made by the evaluator. While this Evaluator Handbook protocol specifies the questions that must be answered and formats to be used, it does not address everything an evaluator may need to consider. The interview will vary depending on many factors such as the type of offense, the inmate's history, and his/her willingness to discuss case factors. The DMH makes available to evaluators an interview schedule that may be used as a whole or those parts relevant to a particular evaluation may be used. The evaluator may tailor the interview to best fit their interview procedure. Since it contains the PCL-R interview, it is not attached as addendum.

HISTORICAL INFORMATION

As in other clinical situations, the evaluator may not always be able to confirm information given by the inmate. This will often be the case with inmates who believe their self-interests are best served by denying their sexual disorder, criminal history, or psychiatric symptoms and attempting to present themselves in a favorable light. Reliable history and prior clinical evaluations from the inmate's records should be used to provide a basis for decision making in SVP evaluations. The examiner can then integrate this information with data gained from the clinical interview.

DRAWING CLINICAL CONCLUSIONS

The evaluator needs to consider each of the three major clinical questions and offer clear and unambiguous opinions regarding these WIC 6600 criteria. It is in the nature of clinical evaluation that qualified professionals will sometimes draw different conclusions from the same data or emphasize some data over other data in formulating their opinions. Each evaluator should produce a report that represents his or her best judgment. Clearly stated definitive opinions with a YES or NO answer to each clinical question are required. At times, the facts may be conflicting or incomplete, making an unequivocal clinical opinion impossible. If, after review of all the information available, you are unable to support an affirmative conclusion regarding a criterion, then that criterion has not been met and the answer is **NO**.

REPORT WRITING

An evaluation is properly completed when it clearly describes how each of the criteria are, or are not, met. The evaluation report must comport with the SVP statute, be internally consistent, and be written in a length and style that will allow parties to any later legal proceedings to understand the evaluator's reasoning and conclusions. With the exception of diagnostic terms, evaluators should avoid unnecessary technical language from psychology, psychiatry and the law. The format for the report is provided in this handbook.

SUBMITTING THE REPORT

After the evaluator has formed his/her conclusion, a clinical evaluation summary (see Appendix C) must be completed and faxed as soon as possible to DMH. This summary should represent the final conclusion of the evaluator. The final report, with original signature, must be delivered to DMH by the due date assigned by the scheduling staff. It is critical that timelines be met. The SOCP program will call the evaluator if a report has not been submitted on time.

UPDATING REPORTS

As of the printing of this handbook, the DMH is being advised by the Attorney General of legal requirements that must be met before previously submitted evaluations may be updated. This is a summary of those requirements:

- Evaluators must not re-interview an SVP respondent unless there is a court order to do so, or with the written consent of the SVP respondent or his/her attorney.
- Evaluators may not use new medical information (developed after submission of the original report) unless the District Attorney obtains the information and provides it to the evaluator. Atascadero State Hospital and Patton State Hospital will not provide medical information to the evaluator who is updating an evaluation. They will provide it to the District Attorney who will turn it over to the evaluator. If the District Attorney provides the medical information to the evaluator, it may be used to update the evolution.
- If requested by the District Attorney, evaluators may use non-medical information to update reports, and may use existing medical information, or new non-medical information, in application of different risk assessment tools to assess the SVP respondent.
- Questions about updates should be addressed to the District Attorney who filed the SVP petition.
- Updated reports are to be forwarded to DMH SOCP Unit as are the initial reports.

COURT TESTIMONY

As part of the evaluator's agreement in accepting a case for evaluation, he/she may be asked to provide court testimony in various hearings and in trials. The District Attorney, who will contact the evaluator directly, will usually request this testimony. If the evaluation resulted in a difference of opinion, and there was a conclusion that criteria were not met, he/she may be subpoenaed by defense counsel to testify as to the findings. The evaluator should be prepared to explain the evaluation. It is recommended that the evaluator consult with the District Attorney or Defense Attorney prior to the testimony to offer information as to how the conclusion was reached.

As an expert witness, the evaluator should be familiar with the SVP law, research literature pertaining to sex offenders, and, of course, the specifics of the case. Regardless of who requires the evaluator's attendance in court, or what conclusions are contained in the report, the evaluator remains a "fact finder" having applied the requirements of the SVP statutes to a particular case. If presented with contradictory or different information after submission of the report, the evaluator is obliged to change his/her conclusion if so warranted by the new information.

SUBPOENAS AND DEPOSITIONS

Clinical evaluators are expected to comply with subpoenas for appearances in relation to cases that they evaluated. Subpoenas may also require evaluators to produce documents. Some documents, such as training materials provided to all evaluators, are kept at the SOCP office in Sacramento. The evaluator may contact the SOCP staff regarding assistance in obtaining past training materials. When the SOCP responds to a subpoena, every effort is made to notify the evaluator of what materials are sent to courts and attorneys in response to subpoenas.

Evaluators should not rely, however, on the SOCP for all materials. For example, each evaluator should be aware of and able to respond to questions regarding their income from doing contract SVP evaluations, a common subpoena request. The evaluator should also be prepared to provide copies of any other materials used in formulation of evaluation findings, not provided to him/her by SOCP. Sometimes subpoenas are received requiring that confidential information be provided. Examples of such items include names or evaluations of other SVP cases you have evaluated for the Department of Mental Health. If you receive such a subpoena, notify DMH and we will advise you of how to proceed. The Attorney General's office may be consulted in such a case.



I. IDENTIFYING INFORMATION

II. FINDINGS (WIC 6600 criteria)

- A. Has the inmate been convicted of sexually violent predatory criminal offenses against two or more victims? (Yes/No)
- B. Does the inmate have a diagnosed mental disorder that predisposes the person to the commission of criminal sexual acts? (Yes/No)
- C. Is the inmate likely to engage in sexually violent predatory behavior as a result of his/her diagnosed mental disorder without appropriate treatment and custody? (Yes/No)

III. CONCLUSION

"Based on the above information, in my opinion the inmate meets/does not meet the criteria as a sexually violent predator as described in Section 6600 (a) of the Welfare and Institutions Code."



I. IDENTIFYING INFORMATION

- A. Inmate Name
- B. California Department of Corrections Number (CDC number)
- C. Criminal Identification and Investigation number (CII)
- D. Date of Birth (DOB)
- E. Earliest Possible Release Date (EPRD), or Revocation Release Date (RRD), or Parole Revocation Release Date (PRRD), or Controlling Discharge Date (CDD)
- F. Facility
- G. County of Commitment
- H. Date of evaluation

Include here a short narrative discussion of the circumstances of the evaluation. This should include a brief description of the; location and length of the clinical interview; documentation of discussion of confidentiality; mandatory reporting and notification of evaluation as a sexually violent predator. Note if the inmate declined to be interviewed. If the inmate declined to be interviewed include the limits of a record review evaluation. The following is an example from an evaluation.

Mr. SVP was interviewed at Avenal State Prison by Dr. Evaluator on June 7, 2000, in a facility conference room for two hours. Mr. SVP was informed of the nature and purpose of the interview, that was to determine whether he qualifies as a Sexually Violent Predator (SVP) under the Welfare and Institutions Code (WIC) Section 6600. Issues of confidentiality and mandated reporting were explained to the inmate. He read aloud and signed a *Notification of Evaluation as a Sexually Violent Predator Form*, which provides information about the commitment procedure. After answering questions posed by the inmate about the SVP Act, Mr. SVP agreed to participate in a clinical interview pursuant to WIC 6600 and signed the notification form accordingly.

SOURCES OF INFORMATION

List all documents you read and relied upon to form your clinical opinion. Include the date and case number of the document for clarification.

PSYCHOLOGICAL TESTING

List any psychological tests administered.

II. FINDINGS (WIC 6600 Criteria)

A. Has the inmate been convicted of a sexually violent predatory criminal offense against two or more victims? (Yes/No)

Always quote the source of your information regarding the offense and then list each arrest and conviction for the relevant PC violations (i.e., PC 261 (a)(2); PC 262 (a)(1) PC 264.1; PC 288(a); PC 288(b); PC 289(a); PC 286; or PC 288 that makes a subject eligible for referral under WIC 6600. An example from a report illustrates this documentation.

On 10-2-94, the inmate was charged with PC 288(a)(count 1) and PC 288(a)(c)(count 2) as noted in the Complaint, County of San Francisco, Case No. 1234. The Abstract of Judgment, County of San Francisco, Case No. 1234 indicated that the inmate was convicted by plea of guilty to count 1 on April 12, 1995 and sentenced to four years in prison.

List dates and provide narrative descriptions of the crimes involved. Descriptions of the crimes are contained in Arrest Reports, Probation Officer's Reports and Preliminary Hearing Transcripts. If you have inadequate information describing the crimes, contact the Record Review staff member at the Department of Mental Health who is responsible for the case and request additional records.

A thorough description of the sexually violent offenses (see page 7) is necessary for several reasons. First, you will need to have an accurate account of the circumstances of the offense for court testimony. Second, this is often the only way one can untangle the complex circumstances that often arise, especially where multiple victims are involved. Finally, a detailed discussion of the offense helps the reader better understand the relationship between the victim and the perpetrator as it pertains to this statute. Use first names and last initial to identify the victims. Never use victim's full names in the evaluation report.

For each qualifying victim, indicate whether each offense was "**predatory**" as defined in the statute (see definition p. 8)

When the victim is a stranger or the relationship is casual the relationship between the inmate and the victim is always predatory. In the case of relationships established or promoted for victimization, the evaluator must ascertain from records and the clinical interview the nature of the relationship between the inmate and the victim. A typical relationship established or promoted for sexual victimization is when an individual with pedophilia grooms a child for sexual activity.

For each qualifying victim indicate whether force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person was involved. Evaluators sometimes assume that since they have already described the crime in detail that a summary statement indicating that force and violence was involved in the offense is adequate. This is not the case. The evaluator needs to quote facts of the case and specific behaviors which indicate that force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person have occurred **for each qualifying victim.**

Additionally, when the victim is under the age of 14, evaluators must note whether the behavior involved **"substantial sexual conduct."** If it did, the offense is countable as a "sexually violent offense" *whether or not* it contained "force, violence, duress, menace or fear of immediate or unlawful bodily injury on the victim or another person." However, substantial sexual conduct is not necessary for an offense to qualify if there were elements of force, violence, menace, duress and fear. Substantial sexual conduct never applies to cases where the victim is 14 years or older, such as in cases of adult rape.

A summary statement should be made to address whether or not the conditions of Criterion "A" are met.

B. Does the inmate have a diagnosed mental disorder that predisposes the person to the commission of criminal sexual acts? (Yes/No)

According to this statute, the continuing danger posed by these inmates and the continuing basis for their judicial commitment is their currently diagnosed mental disorder that predisposes them to engage in sexually violent criminal behavior.

"Diagnosed mental disorder" is defined in WIC 6600 as a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

While the definition of a "diagnosed mental disorder" is statutorily defined, clinicians utilize the diagnostic categories in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition (DSM-IV) to describe the diagnosed mental disorder. Since V Codes are not contained in the sixteen major diagnostic categories in the DSM-IV and only represent conditions that may be a focus of clinical attention or treatment, the use of V Codes for diagnostic purposes in SVP evaluations is inappropriate (see p. 682 in DSM-IV).

The DSM-IV contains many classifications of mental disorders however, the WIC 6600 statutory definition of a mental disorder is narrowed only to those conditions that predispose the person to the commission of criminal sexual acts. Paraphilias, antisocial personality disorder and substance abuse or dependence are common diagnoses associated with criminal sexual acts. The individual may have a number of other

psychiatric diagnoses that can be discussed in terms of their clinical presentation, but those diagnoses should be distinguished from those that comprise "diagnosed mental disorders" according to WIC 6600.

If a clinical interview is conducted, the psychiatric diagnosis offered should be based on psychiatric history, the mental status examination, psychological testing, if conducted and current findings from the clinical interview. If a clinical interview is not conducted, a diagnostic impression can be offered if adequate records are available to confirm a diagnostic impression. While an evaluation completed using a record review alone and based on adequate records is both clinically and ethically appropriate, when an interview is not conducted, limitations of a record review should be clearly stated in the clinical evaluation.

The following areas should be addressed in an SVP evaluation and discussed in Criterion "B":

- Brief developmental history
- Psychiatric history
- Substance abuse history
- Juvenile and adult criminal history
- Parole history
- Institutional history
- Psychosexual history
- Relationship history
- Mental Status Examination, behavioral observations and attitudes of the inmate
- Psychiatric diagnosis in **list format on AXIS I and AXIS II**
- Explanation of psychiatric diagnosis offered
- Justification for the psychiatric diagnosis

For inmates with a documented psychiatric history in CDC, a summarized chronological account of pertinent evaluations and treatment should be documented under this criterion, along with the source of the information and the date.

A Mental Status Examination should be performed during the clinical interview and the evaluator should note behavioral observations and current attitude of the inmate. This clinical information with historical data and psychological testing, if administered, will form the basis for the diagnosed mental disorder on AXES I and II.

The importance of a thorough sexual history is obvious for SVP evaluations. Since the level of deviant sexual preference is linked to the paraphilia diagnosis and contributes to offender risk, the evaluation should contain a thorough description of the offender's paraphiliac symptoms and behavior. It is well recognized that sex offenders may have multiple paraphilias, so every category of paraphilia should be considered, even if his or her documented behavior reflects a single type of paraphilia.

If a deviant sexual preference has been identified, data indicates that it is associated with a higher risk for sexual reoffense. The Hanson and Bussiere (1998) meta-analysis identified variables associated with sexual deviance that were significant correlates with sexual recidivism including, deviant sexual preference, phallometric assessment indicating arousal to children and specifically to boys.

Because in initial commitment evaluations phallometric assessment is rarely available and because it is difficult to access the nature of offenders' sexual fantasies and urges in SVP evaluation interviews, most assessments of deviant sexual preference will be conducted based on history and in some cases inmate self-report. Unfortunately, because of the adversarial nature of SVP clinical interviews, inmates may be less likely to be candid about paraphiliac fantasies and urges. Therefore, the clinician needs to thoroughly examine the offender's past deviant behaviors to obtain information that may be necessary for an accurate diagnosis.

If an offender does the same sexually deviant behavior many times, then an interest or preference is easily established. In instances where the activity has occurred only once, it is more difficult to determine if it is really a sexual preference, and hence a paraphilia. Basically, the longer the pattern of sexually deviant behavior, the stronger the preference.

Psychological testing

The use of psychological tests in SVP evaluations is usually left up to the discretion of the clinical evaluator, but should be selected appropriately to answer the clinical referral questions. While some evaluators prefer to give a more extensive battery of tests, others may find that a thorough clinical interview and record review provide adequate basis to determine which offenders are at risk for future sexual reoffense by reason of their diagnosed mental disorder.

While most personality tests can provide a better understanding of the inmate's personality functioning, personality disorders and presence of mood or psychotic disorders, they generally do not provide direct information that assists the clinician in differentiating which offenders will sexually reoffend. The clinician is cautioned that only the PCL-R has shown modest predictive accuracy in identifying sexual recidivists (Rice, Harris, Quinsey, 1990; Quinsey, Rice & Harris, 1995).

C. Is the inmate likely to engage in sexually violent predatory criminal behavior as a result of his or her diagnosed mental disorder without appropriate treatment and custody? (Yes/No)

Criterion C requires a determination of the inmate's likelihood to engage in future sexual re-offense if released to the community. While each evaluator will approach the evaluation utilizing their own strength in diagnosis and assessment, they must rely on the guidelines of this protocol and include the following elements of risk assessment. Research has indicated that actuarial prediction based on empirically derived risk

factors for sex offending is more accurate than unguided clinical prediction. Actuarial rating scales can offer a general base rate of sexual re-offense for most sexual offenders. These instruments consider an identified number of variables and apply explicit rules for translating ratings on the individual variables into an overall risk percentage or level.

However, to date, there are no pure actuarial rating scales that incorporate all risk factors for sexual re-offense. Consequently, the SVP evaluation is more accurately termed an adjusted actuarial approach. The adjusted actuarial approach begins with an actuarial prediction, but expert evaluators can then adjust the actuarial prediction, if appropriate after considering potentially important factors that were not included in the actuarial measure (Quinsey, Lalumiere, Rice, & Harris, 1995; Hanson, R. K. 1998).

The actuarial instrument applied to risk assessment in SOCP evaluations from February of 1998 to February of 2000 was the Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR) (Hanson, R. K., 1997). The RRASOR was developed on a large and diverse sample and provided modest predictive accuracy for sex offense recidivism.

In January 2000 the RRASOR was replaced by the more recently developed actuarial rating instrument, the STATIC 99 (Hanson & Thornton, 2000). The STATIC 99 combined items from the RRASOR and an English actuarial instrument, the Structured Anchored Clinical Judgment (SACJ-Min)(Grubin, 1998). Because the combination of items from these two rating scales showed improved predictive accuracy than either scale alone, and it provides a more stable estimate of long-term risk, the STATIC 99 is recommended for use by evaluators in California's SOCP.

Because we are utilizing an adjusted actuarial approach for risk assessment of sex offenders, when appropriate the base rate prediction from the actuarial instrument should be adjusted either up or down depending on the presence of protective factors or aggravating factors for sexual offense. When adjusting actuarial scores evaluators should consider whether there are external factors that can reasonably be considered to aggravate or mitigate the score provided by the actuarial instrument(s). External factors are those that are related to sexual offense recidivism but are not already incorporated into the scale. Evaluators should give little or no weight to factors that are highly correlated with the individual scale items or total score, or items that were considered and rejected in the actuarial frame used in the development of the measures.

The adjustments can either increase or decrease the likelihood of recidivism presented by the actuarial scale. The basic question is whether the numbers of external risk factors are more or less than would be expected by the offenders with a given actuarial score. Before adjusting an actuarial risk score the evaluator should consider how many external risk factors would be expected based on the individual's risk score. Some external risk factors would always be expected and their presence does not, in itself, justify an adjustment. Adjustments are most easily justified when

there are a greater number of risk factors, risk factors are more prominent, or when there are pertinent individual risk factors for an individual.

Pertinent individual factors that may also increase or decrease risk of reoffense. For example, self-admission of urge to re-offend, self-reported offenses not reflected in arrests or convictions, and extreme history of deviant sexual preference are likely to increase risk estimates. Factors such as health concerns, advanced age, sex offender treatment and level of community supervision may decrease an individual's risk in some cases.

While the determination of how to complete a sex offender risk assessment is ultimately up to each evaluator, the following guidelines may assist the evaluator in completing an empirically guided clinical risk assessment for SVP.

Procedure for Conducting an Adjusted Actuarial Risk Assessment

1. Determine an approximate base rate for sexual reoffense:

Calculate the individual's score on the Static-99. Consider that these recidivism base rate estimates are based on data of detected sex offenses. Since most sex offenses are unreported, these base rates underestimate the true risk of a sex offender. Also, the risk estimate on the Static 99 spans 15 years and there is a slow but steady increase in sexual recidivism from 15 years to 25 years after release into the community (Hanson, Scott, & Steffy, 1995; Hanson, Steffy, & Gauthier, 1993a; Prentky, Lee, Knight, & Cerce, 1997). This means that the base rate provided by the Static-99 is an underestimate of the individual's true risk (Barbaree & Marshall 1988).

2. Determine the presence of empirically derived static risk factors for sexual recidivism not included in the actuarial scheme.

Static risk factors are those risk factors that are primarily historical in nature and do not change over time. Static risk factors not included in the actuarial scheme but may increase an offenders risk when present or decrease the offender's risk when absent are included in Appendix D.

3. Determine the presence of empirically derived dynamic risk factors not included in the actuarial scheme:

Dynamic risk factors are risk factors for sexual re-offense that have the capacity for change over time. Dynamic risk factors not included in the actuarial scheme are outlined in Appendix D.

4. Discuss individual risk factors that apply to the particular case. Determine if there are any clinical risk factors that would over-ride the empirically derived risk for the offender.

5. Formulate your clinical conclusion and level of offender risk. Note if the Static-99 risk estimate represents an accurate estimate, underestimate or overestimate of the inmate's probability of re-offense.

III. CONCLUSIONS

Finally, state your opinion regarding the inmate meeting or not meeting the three criteria pursuant to WIC 6600. For example:

Based on the above information, it is my opinion that Mr. Inmate does or does not meet the criteria as a sexually violent predator as described in Section 6600(a) of the Welfare and Institutions Code.

Appendices:

- A. Welfare and Institutions Code 6600
- B. Notification of Evaluation as a Sexually Violent Predator
- C. Clinical Evaluation Summary Form
- D. Risk Factors Not included in the Static-99 Checklist
- E. References

APPENDIX A

WELFARE AND INSTITUTIONS CODE SECTION 6600-6609.3

6600. As used in this article, the following terms have the following meanings:

(a) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against two or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

For purposes of this subdivision, a prior finding of not guilty by reason of insanity for an offense described in subdivision (b), a conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b), a conviction prior to July 1, 1977, for an offense described in subdivision (b), a conviction resulting in a finding that the person was a mentally disordered sex offender, or a conviction in another jurisdiction for an offense that includes all the elements of an offense described in subdivision (b), shall also be deemed to be a sexually violent offense even if the offender did not receive a determinate sentence for that prior offense.

Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(b) "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as provided in subdivision (a): a felony violation of paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of Section 289 of the Penal Code, or sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code.

(c) "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

(e) "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, no more than one prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following applies:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). Notwithstanding Section 6600.1, only an offense described in subdivision (b) shall constitute a sexually violent offense for purposes of this subdivision.

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Department of the Youth Authority for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

6600.05. (a) Until a permanent housing and treatment facility is available, Atascadero State Hospital shall be used whenever a person is committed to a secure facility for mental health treatment pursuant to this article and is placed in a state hospital under the direction of the State Department of Mental Health unless there are unique circumstances that would preclude the placement of a person at that facility. If a state hospital is not used, the facility to be used shall be located on a site or sites determined by the Director of Corrections and the Director of Mental Health. In no case shall a person committed to a secure facility for mental health treatment pursuant to this article be placed at Metropolitan State Hospital or Napa State Hospital.

(b) A permanent facility for the housing and treatment of persons committed pursuant to this article shall be located on a site or sites determined by the Director of Corrections and the Director of Mental Health, with approval by the Legislature through a trailer bill or other legislation. The State Department of Mental Health shall be responsible for operation of the facility, including the provision of treatment. In no event shall any persons other than those placed pursuant to this article be housed or treated at a facility established pursuant to this subdivision unless expressly authorized by the Legislature.

6600.1. (a) If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14 and the offending act or acts involved substantial sexual conduct, the offense shall constitute a "sexually violent offense" for purposes of Section 6600.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

6601. (a) (1) Whenever the Director of Corrections determines that an individual who is in custody under the jurisdiction of the Department of Corrections, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the director shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the director may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and the Board of Prison Terms based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of re-offense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in

acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Director of Corrections or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall not toll, discharge, or otherwise affect the term of parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

(l) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

6601.1. (a) The Department of Justice, in cooperation with the Youth and Adult Correctional Agency and the State Department of Mental Health, shall report to the Legislature, on or before January 1, 2002, all of the following with regard to petitions to declare persons to be sexually violent predators filed pursuant to Section 6601 between July 1, 1999 through June 30, 2001:

(1) The number of cases in which, despite a later judicial or administrative finding that a person's custody was unlawful, a petition filed under Section 6601 is not dismissed pursuant to paragraph (2) of subdivision (a) of Section 6601 because the unlawful custody was the result of a good faith mistake of fact or law.

(2) The circumstances in each case in which a petition filed pursuant to Section 6601 went forward despite a good faith mistake of fact or law that resulted in the unlawful custody of the person.

(b) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

6601.3. Upon a showing of good cause, the Board of Prison Terms may order that a person referred to the State Department of Mental Health pursuant to subdivision (b) of Section 6601 remain in custody for no more than 45 days beyond the person's scheduled release date for full evaluation pursuant to subdivisions (c) to (i), inclusive, of Section 6601.

6601.5. Upon filing of the petition and a request for review under this section, a judge of the superior court shall review the petition and determine whether the petition states or contains sufficient facts that, if true, would constitute probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. If the judge determines that the petition, on its face, supports a finding of probable cause, the judge shall order that the person be detained in a secure facility until a hearing can be completed pursuant to Section 6602. The probable cause hearing provided for in Section 6602 shall commence within 10 calendar days of the date of the order issued by the judge pursuant to this section.

6602. (a) A judge of the superior court shall review the petition and shall determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. The person named in the petition shall be entitled to assistance of counsel at the probable cause hearing. Upon the commencement of the probable cause hearing, the person shall remain in custody pending the completion of the probable cause hearing. If the judge determines there is not probable cause, he or she shall dismiss the petition and any person subject to parole shall report to parole. If the judge determines that there is probable cause, the judge shall order that the person remain in custody in a secure facility until a trial is completed and shall order that a trial be conducted to

determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of others in that the person is likely to engage in acts of sexual violence upon his or her release from the jurisdiction of the Department of Corrections or other secure facility.

(b) The probable cause hearing shall not be continued except upon a showing of good cause by the party requesting the continuance.

(c) The court shall notify the State Department of Mental Health of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

6602.5. (a) No person may be placed in a state hospital pursuant to the provisions of this article until there has been a determination pursuant to Section 6601.3 or 6602 that there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior.

(b) The State Department of Mental Health shall identify each person for whom a petition pursuant to this article has been filed who is in a state hospital on or after January 1, 1998, and who has not had a probable cause hearing pursuant to Section 6602. The State Department of Mental Health shall notify the court in which the petition was filed that the person has not had a probable cause hearing. Copies of the notice shall be provided by the court to the attorneys of record in the case. Within 30 days of notice by the State Department of Mental Health, the court shall either order the person removed from the state hospital and returned to local custody or hold a probable cause hearing pursuant to Section 6602.

(c) In no event shall the number of persons referred pursuant to subdivision (b) to the superior court of any county exceed 10 in any 30-day period, except upon agreement of the presiding judge of the superior court, the district attorney, the public defender, the sheriff, and the Director of Mental Health.

(d) This section shall be implemented in Los Angeles County pursuant to a letter of agreement between the Department of Mental Health, the Los Angeles County district attorney, the Los Angeles County public defender, the Los Angeles County sheriff, and the Los Angeles County superior court. The number of persons referred to the superior court of Los Angeles County pursuant to subdivision (b) shall be governed by the letter of agreement.

6603. (a) A person subject to this article shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts or professional persons to perform an examination on his or her behalf, and have access to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall appoint counsel to assist him or her, and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf.

(b) The attorney petitioning for commitment under this article shall have the right to demand that the trial be before a jury.

(c) If no demand is made by the person subject to this article or the petitioning attorney, the trial shall be before the court without jury.

(d) A unanimous verdict shall be required in any jury trial.

(e) The court shall notify the State Department of Mental Health of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for two years to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health, and the person shall not be kept in actual custody longer than two years unless a subsequent extended commitment is obtained from the court incident to the filing of a new petition for commitment under this article or unless the term of commitment changes pursuant to subdivision (e) of Section 6605. Time spent on conditional release shall not count toward the two-year term of commitment, unless the person is placed in a locked facility by the conditional release program, in which case the time in a locked facility shall count toward the two-year term of commitment. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections.

6604.1. (a) The two-year term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section. The two-year term shall not be reduced by any time spent in a secure facility prior to the order of commitment. For subsequent extended commitments, the term of commitment shall be from the date of the termination of the previous commitment.

(b) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

6604.1. (a) The two-year term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section. For subsequent extended commitments, the term of commitment shall be from the date of the termination of the previous commitment.

(b) This section shall become operative on July 1, 2001.

6605. (a) A person found to be a sexually violent predator and committed to the custody of the State Department of Mental Health shall have a current examination of his or her mental condition made at least once every year. The person may retain, or if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) The director shall provide the committed person with an annual written notice of his or her right to petition the court for conditional release under Section 6608. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive his or her right to petition the court for conditional release, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he or she would not be a danger to the health and safety of others if discharged. The committed person shall have the right to be present and to have an attorney represent him or her at the show cause hearing.

(c) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(d) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections that were afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged.

(e) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (d), the term of commitment of the person shall run for a period of two years from the date of this ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(f) In the event that the State Department of Mental Health has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person's commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

6606. (a) A person who is committed under this article shall be provided with programming by the State Department of Mental Health which shall afford the person with treatment for his or her diagnosed mental disorder.

(b) Amenability to treatment is not required for a finding that any person is a person described in Section 6600, nor is it required for treatment of that person. Treatment does not mean that the treatment be successful or potentially successful, nor

does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(c) The programming provided by the State Department of Mental Health in facilities shall be consistent with current institutional standards for the treatment of sex offenders, and shall be based on a structured treatment protocol developed by the State Department of Mental Health. The protocol shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual's risk of re-offense.

6607. (a) If the Director of Mental Health determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release in accordance with Section 6608 to the county attorney designated in subdivision (i) of Section 6601, the attorney of record for the person, and the committing court.

(b) When a report and recommendation for conditional release is filed by the Director of Mental Health pursuant to subdivision (a), the court shall set a hearing in accordance with the procedures set forth in Section 6608.

6608. (a) Nothing in this article shall prohibit the person who has been committed as a sexually violent predator from petitioning the court for conditional release and subsequent unconditional discharge without the recommendation or concurrence of the Director of Mental Health. If a person has previously filed a petition for conditional release without the concurrence of the director and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the committed person's condition had not so changed that he or she would not be a danger to others in that it is not likely that he or she will engage in sexually violent criminal behavior if placed under supervision and treatment in the community, then the court shall deny the subsequent petition unless it contains facts upon which a court could find that the condition of the committed person had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the concurrence of the director, the court shall endeavor whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, shall deny the petition without a hearing. The person petitioning for conditional release and unconditional discharge under this subdivision shall be entitled to assistance of counsel.

(b) The court shall give notice of the hearing date to the attorney designated in subdivision (i) of Section 6601, the retained or appointed attorney for the committed person, and the Director of Mental Health at least 15 court days before the hearing date.

(c) No hearing upon the petition shall be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of Mental Health for not less than one year from the date of the order of commitment.

(d) The court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community. If the court at the hearing determines that the committed person would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. A substantial portion of the state-operated forensic conditional release program shall include outpatient supervision and treatment. The court shall retain jurisdiction of the person throughout the course of the program. At the end of one year, the court shall hold a hearing to determine if the person should be unconditionally released from commitment on the basis that, by reason of a diagnosed mental disorder, he or she is not a danger to the health and safety of others in that it is not likely that he or she will engage in sexually violent criminal behavior. The court shall not make this determination until the person has completed at least one year in the state-operated forensic conditional release program. The court shall notify the Director of Mental Health of the hearing date.

(e) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of Mental Health shall submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the committed person. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the record. The procedures described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

(f) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or his or her designee, shall make the necessary placement arrangements and, within 21 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

(g) If the court rules against the committed person at the trial for unconditional release from commitment, the court may place the committed person on outpatient status in accordance with the procedures described in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(h) If the court denies the petition to place the person in an appropriate forensic conditional release program or if the petition for unconditional discharge is denied, the person may not file a new application until one year has elapsed from the date of the denial.

(i) In any hearing authorized by this section, the petitioner shall have the burden of proof by a preponderance of the evidence.

(j) If the petition for conditional release is not made by the director of the treatment facility to which the person is committed, no action on the petition shall be taken by the court without first obtaining the written recommendation of the director of the treatment facility.

(k) Time spent in a conditional release program pursuant to this section shall not count toward the term of commitment under this article unless the person is confined in a locked facility by the conditional release program, in which case the time spent in a locked facility shall count toward the term of commitment.

6609. Within 10 days of a request made by the chief of police of a city or the sheriff of a county, the State Department of Mental Health shall provide the following information concerning each person committed as a sexually violent predator who is receiving outpatient care in a conditional release program in that city or county: name, address, date of commitment, county from which committed, date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than 3 1/8 X 3 1/8 inches in size, or clear copies of the fingerprints and photograph.

6609.1. (a) When the State Department of Mental Health makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, it shall notify the sheriff or chief of police, or both, the district attorney, or the county's designated counsel, that have jurisdiction over the following locations:

(1) The community in which the person may be released for community outpatient treatment.

(2) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(3) The county that filed for the person's civil commitment pursuant to this article. The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The notice shall be given at least 15 days prior to the department's submission of its recommendation to the court.

(b) When the State Department of Mental Health makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section 6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

(1) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(2) The probable community in which the person will be released, if recommending not to pursue recommitment.

(3) The county that filed for the person's civil commitment pursuant to this article. The State Department of Mental Health shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The notice shall be made at least 15 days prior to the department's submission of its recommendation to the court. Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. Those comments shall be considered by the department, which may modify its decision

regarding the community in which the person is scheduled to be released, based on those comments.

(c) If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections. The Department of Corrections shall notify the State Department of Mental Health, the sheriff or chief of police, or both, and the district attorney, that have jurisdiction over the following locations:

(1) The community in which the person is to be released.

(2) The community in which the person maintained his or her last legal residence as defined in Section 3003 of the Penal Code. The Department of Corrections shall make the above notifications regardless of whether the person released will be serving a term of parole after release by the court.

(d) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

(e) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(f) The time limits imposed by this section are not applicable when the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of Mental Health and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate's release, but notice shall be given as soon as practicable. In no case shall notice required by this section to the appropriate agency be later than the day of release.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

6609.2. (a) When any sheriff or chief of police is notified by the State Department of Mental Health of its recommendation to the court concerning the disposition of a sexually violent predator pursuant to subdivision (a) or (b) of Section 6609.1, that sheriff or chief of police may notify any person designated by the sheriff or chief of police as an appropriate recipient of the notice.

(b) A law enforcement official authorized to provide notice pursuant to this section, and the public agency or entity employing the law enforcement official, shall not be liable for providing or failing to provide notice pursuant to this section.

6609.3. (a) At the time a notice is sent pursuant to subdivisions (a) and (b) of Section 6609.1, the sheriff, chief of police, or district attorney notified of the release shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice, informing those persons of the fact that the person who committed the sexually violent offense may be released together with information identifying the court that will consider the conditional release, recommendation regarding recommitment, or review of commitment status pursuant to subdivision (f) of Section 6605. When a person is approved by the court to be conditionally released, notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notice, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notice. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the sheriff, chief of police, or the district attorney shall provide the witness, victim, or next of kin with the revised information.

(b) At the time a notice is sent pursuant to subdivision (c) of Section 6609.1 the Department of Corrections shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice informing those persons of the fact that the person who committed the sexually violent offense has been released.

(c) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the sheriff, chief of police, and district attorney who were notified under Section 679.03 of the Penal Code, informed of his or her current mailing address. SEC. 12. No reimbursement is required by Section 1 of this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

APPENDIX B

NOTICE OF EVALUATION AS A SEXUALLY VIOLENT PREDATOR

Because of your past convictions for sexual crimes, you are being evaluated as a possible Sexually Violent Predator under the law (Section 6600 of the California Welfare and Institutions Code). The purpose of the evaluation is to decide if you have a mental condition that makes you likely to commit sexual crimes in the future. If you qualify under the law, you could be sent to court for trial. If the court finds you to be a Sexually Violent Predator, you could be sent to a treatment program at a state mental hospital. This would be an involuntary commitment to a treatment program run by the California Department of Mental Health.

This evaluation includes a review of your records and interviews with you by at least two doctors (psychologists or psychiatrists). The doctors will write reports on your case, and may later testify if your case goes to court. Any information you provide during the interviews may be used in the reports and court testimony.

If you give any new information about abuse of children or elders that has not been reported, the doctors are legally required to report this information to the authorities.

The interviews are voluntary, and you must give consent for the interview to proceed. If you don't consent to the interview, the evaluation will be completed using your records and other sources of information.

I have been informed about my evaluation as a Sexually Violent Predator and I have been offered a copy of this notification.

_____ I **agree** to be interviewed by Dr. _____
for the purpose of evaluating me as a Sexually Violent Predator.

_____ I **disagree** to be interviewed by Dr. _____
for the purpose of evaluating me as a Sexually Violent Predator.

Date

Inmate's Signature

Date

Evaluator's Signature

APPENDIX C

CLINICAL EVALUATION SUMMARY

WIC 6600 CIVIL COMMITMENT

I. IDENTIFYING INFORMATION

Inmate Name: _____

CDC# _____

II. FINDINGS (WIC 6600 criteria)

YES

NO

- A. Has the inmate been convicted of a sexually violent predatory offense against two or more victims?

Convicted of a qualifying offense(s)?.....1.

☐☐

Use of force, fear, etc., and/or substantial sexual conduct?..1a.

☐☐

Against two or more victims?.....2.

☐☐

Predatory against two or more victims?3.

☐☐

- B. Does the inmate have a diagnosable mental disorder that predisposes person to the commission of criminal sexual acts?

(If YES, specify).....4.

☐☐

Axis I

Axis II

- C. Is the inmate likely to engage in sexually violent criminal behavior as a result of his/her diagnosed mental disorder without appropriate treatment and custody?

5.

☐☐

III. CONCLUSION

Based on the above information, in my opinion the inmate:

☐

MEETS

☐

DOES NOT MEET

the criteria as a sexually violent predator as described in section 6600(a) of the Welfare and Institutions Code.

(If a NO response is marked for any of the above questions (1-5), then the inmate does not meet criteria)

SIGNATURE _____

DATE _____

PRINT NAME _____

LICENSE NUMBER _____

APPENDIX D

RISK FACTORS NOT INCLUDED IN THE STATIC 99

STATIC RISK FACTORS

Sexual Deviance Variables:

- Phallometric Assessment
- Sexual deviant preference/ paraphilias
- Wide range of potential victims (male and female and/or children and adults)
- Early onset of offending

Treatment Variables:

- Dropping out of sex offender specific treatment
- Participation in sex offender specific treatment

Criminologic Variables:

- Antisocial Personality Disorder or other personality disorder (only if moderately severe to severe, antisocial, narcissistic and borderline)
- Psychopathy (score of 30 or above)

Developmental variables:

- Separation from parents prior to age 16
- Negative relationship with mother during childhood

Protective Factors:

- Offenders who have been in the community over 5 years without re-offense have decreased risk of sexual re-offense. For each 5 years the offender remains offense free, there is an incremental reduction in risk.
- Risk is decreased for individuals who have less than 15 years left in their expected life span due to age or poor health.

DYNAMIC RISK FACTORS

A. Lack of cooperation with supervision

This area concerns the offender's ability to self-monitor and comply with the rules of community and institutional supervision. Offenders with general criminal lifestyles would be expected to have more supervision problems. This risk factor is characterized by the following:

- Testing known risk factors
- Keeping secrets
- Not invested in treatment
- Manipulates the system
- Boundary problems with staff
- Violating conditions of community supervision
- Unwilling to make sacrifices to avoid high-risk situations
- Failing to attend commitments other than community supervision

B. Intimacy deficits

Individuals without intimacy deficits will have a stable romantic relationship with an appropriate partner, and several constructive long-term friendships. Intimacy deficits are indicated by having some intimate relationships, but they may be short-term, conflicted or problematic. Intimacy deficits can be identified by the presence of infidelity, sexual problems, distrust, jealousy, general conflicts and long-term separations (e.g., prison). The degree of troubles should be sufficient to be of concern to one of the two individuals. Individuals with higher levels of intimacy deficits would have no intimate relationships, or relationships only with wholly inappropriate partners (e.g., children).

C. Negative Social Influences

Name all the individuals in the offender's life who are not paid to be with him. For each one, determine whether the influence of those individuals is positive, negative or neutral. High levels of negative social influences would be associated with overtly deviant peer groups (e.g., substance abusers, others with paraphilias, criminals).

D. Attitudes

1. Sees self as no risk / denial of problems

Individual believes his sexual problem is cured or controllable, and he has no need for community supervision. He denies the presence of potential problems in the community having to do with social occupational or other areas of functioning. He may deny that precursors to his offending are likely to be a problem for him once released.

2. Sexual entitlement

The offender agrees with the following statements:

- Everyone is entitled to sex
- Men need sex more than women do
- He has a higher sex drive than most people
- Once they get you "wound-up" sexually, you just can't stop

3. Low remorse/victim blaming:

The offender is unconcerned for the negative consequences that his actions had on others. He may fail to appreciate the seriousness of his actions. He may claim the victims were responsible for being sexually assaulted because of the way they dressed or the their provocative behavior. The offender may claim that the victim was generally irresponsible because of his/her involvement in criminal activity, prostitution or substance abuse.

4. Rape attitudes

The rape offender agrees with some or all of the following statements:

- Many women would secretly like to be raped.
- When women go around wearing short skirts or tight tops they are asking for trouble.
- A lot of times when women say "no" they are just playing hard to get and they really mean, "yes."
- Women are playing with him sexually.
- Some rape victims deserve what they get.

5. Child Molest Attitudes

The child molest offender agrees with some or all of the following statements:

- Some children are mature enough to enjoy sex with adults.
- Some children like to sexually tease him.
- A child who does not resist sexual touching really feels OK about being touched.
- Some children are so willing to have sex that it is difficult to stay away from them.

E. Uncontrolled release environment

The individual's release environment is associated with access to victims, drugs and alcohol.

F. Current evidence of impulsivity

The individual's behavior is generally impulsive, not premeditated and lacking in reflection or forethought.

G. Current evidence of antisocial lifestyle

The individual is bored/aimless and has an unstructured use of leisure time. The individual's lifestyle is generally chaotic and characterized by "partying," restlessness, hyperactive energy and curfew violations. He may be resistant to feedback and personal change. He may have contacts with police and exhibit antisocial attitudes.

H. Substance abuse

The individual's lifestyle is characterized by illicit drug use and alcohol use.

I. Anger/chronic hostility

The individual expresses anger towards women. He engages in temper tantrums, aggressiveness, hostility and threatening behavior toward others.

J. Places self in high-risk situations/victim access

The individual places himself in situations where he has access to victims. He may engage in cruising to identify potential victims. He may groom victims with money or goods. The individual may engage in Internet and e-mail schemes to find victims. The individual's hobbies may be focused on activities that would increase access to children.

APPENDIX E

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