



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-053200 PPD Sex Offender Tracking and Supervision	Issued: 7/1/99 Effective: 7/1/99	Reviewed: 2/13/20 Revised: 2/13/20
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. Statute 29-11A-1 et seq. 8, 30-9-1 et seq. 30-9-14.3 NMSA 1978, as amended
- B. Policy *CD-040900*
- C. *Gwinn v. Awmiller*, 354 F.3d 1211 (10th Cir. 2004)
- D. *Paul v. Davis*, 424 U.S. 693 (1976)
- E. *Brown v. Montoya*, 662 F.3d 1152 (10th Cir. 2011)
- F. *Kvech v. N.M. Dept. of Pub. Safety*, 987 F.Supp.2d 1162 (D.N.N. 2013)

REFERENCE:

- A. Section 29-11A-1 through 29-11A-10, NMSA 1978
- B. Sex Offender Registration and Notification and “Megan’s Law” Source Book, Civic Research Institute, 1988.

PURPOSE:

- A. The purpose of this policy is to ensure that the Probation and Parole Division is in compliance with the Sex Offender’s Registration Act as amended effective, July 2013.
- B. To establish alternative methods of sex offender supervision to minimize the likelihood of a negative effect on the community.

APPLICABILITY:

Probation and Parole Officers (PPO) who are assigned the duty to supervise sex offenders who are under probation and/or parole supervision by the Probation and Parole Division (PPD) of the New Mexico Corrections Department.

FORMS:

- A. **Policy/Procedure Acknowledgement** Form (*CD-053200.1*)
- B. **Notice of Administrative Hearing** Form (*CD-053201.1*)
- C. **Notice to Employer/Educator** Form (*CD-053202.1*)
- D. **Notice to Register** Form (*CD-053201.3*)
- E. **Sex Offender Supervision Behavioral Contract** Form (*CD-053202.4*)

ATTACHMENTS:

None

DEFINITIONS:

- A. Sex Offender: Any person convicted of a sex offense on or after July 1, 1995; any person convicted of a sex offense prior to July 1, 1995; and who, on July 1, 1995, was either incarcerated, on probation or on parole. Sex Offender means a person eighteen (18) years of age or older who:
- Is a resident of New Mexico and convicted of a sex offense in New Mexico;
 - Does not have an established residence in New Mexico, but lives in a shelter, halfway house or other transitional living facility, or stays in multiple locations in New Mexico and who has been convicted of a sex offense pursuant to state, federal, tribal or military law; or,
 - Changes his residence to New Mexico when the person has been convicted of a sex offense in another state pursuant to state, federal or military law; or,
 - Is a resident of New Mexico who is convicted of a sex offense pursuant to federal or military law; or,
 - An adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is on supervision for a sex offense; or
 - An adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision; or
 - Must register with the local sheriff's office for the county for which the sex offender resides if the date of conviction was on or after July 1, 1995 within prescribed time limits pursuant to statute.
- B. Sex Offender Supervision Unit: Any individual Probation and Parole PPO or group of officers, supervisor and support staff, who is designated the specific and exclusive duty of providing supervision of sex offenders.
- C. Sex Offense:
- Criminal sexual penetration in the first, second, third or fourth degree
 - Criminal sexual contact in the fourth degree
 - Criminal sexual contact of a minor in the second, third or fourth degree
 - Sexual exploitation of children in the second or third degree
 - Sexual exploitation of children by prostitution in the first, second or third degree
 - Kidnapping when committed with the intent to inflict a sexual offense.
 - False imprisonment when committed with the intent to inflict a sexual offense.

- Aggravated criminal sexual penetration
- Aggravated Indecent Exposure
- Enticement of a Child
- Incest, when the victim is less than 18 years old
- Child solicitation by electronic communication device, for convictions occurring on or after July 1, 2013.
- Attempt or solicitation or conspiracy to commit any of the sex offenses set forth in paragraphs above.
- An offense from another jurisdiction that is substantially the same as the sex offenses set forth above.

For convictions prior to July 1, 2013, the crimes of Kidnapping and False Imprisonment are only sex offenses if the victim was less than eighteen years old and the offender is not a parent of the victim.

D. *Supervision contact*: An action performed by a PPO or responsible designee such as a law enforcement officer acting in partnership with PPD that result in the gathering of information or intelligence pertaining to an individual under probation and/or parole supervision.

- *Face to face contact*: Any personal meeting or encounter between PPD personnel and the offender that allows for staff to be able to assess offender behavior and for the PPO to determine if assistance or intervention is necessary.
- *Office visit in the field*: Successful contact between a Probation/Parole Division PPO (including Supervisory chain of command) and an offender in which information is received and verified which allow the PPO to evaluate the offender's supervision status. This contact will take place outside the PPD office environment.
- *Field contact*: Any personal contact between a PPO and offender under PPD supervision away from the vicinity of the PPO's office, or contact with a neighbor, landlord or property manager in the immediate vicinity or a family member residing in the offender's home, if the offender is not at the residence, provided that such contact permits the PPO to make observations about the offender's behavior and activities in a manner that can be documented in the case notes.
- *Office visit*: A face-to-face contact conducted at the probation and parole office between offender and PPD staff in which a meaningful interaction takes place between staff and offender. Staff must be able to articulate the substance of the interaction and document such in offender case notes.
- *Collateral contact*: Any contact between the Probation/Parole Officer (PPO) and a person or organization having knowledge of, or interest in, the offender supervision status, including but not limited to: counseling services; medication verification; medical personnel; community service; employment; physicians and/or hospitals; GPS; Alcohol Monitoring System; Courts; Parole Board; family members; victims; law enforcement or STIU Officers.

- Supervision level: The level at which an offender is supervised as characterized by the duration in time of a specific level, by the numbers and types of supervision contacts that are required, and by other requirements including, but not limited to, therapy, GPS tracking, and electronic monitoring. All sex offenders shall be overridden to Extreme Special Programs as they are a special management offender.

POLICY:

- A. PPOs shall ensure that probationers and parolees under their supervision who are sex offenders properly register within five (5) business days of conviction or release from a correctional facility as a sex offender with the appropriate County Sheriff, by notifying the sex offenders of their duty to register and by notifying the County Sheriff of sex offenders under their supervision who are required to register.
- B. As soon as practicable after release from prison and no later than five (5) business days after release from prison, the assigned PPO shall ensure that a convicted sex offender has registered with the local Sheriff's Office.
- C. The Interstate Compact Unit for PPD will ensure that any approved out-of-state transfer of a convicted sex offender to New Mexico is identified via ICOTS (Interstate Compact Offender Tracking System) and notify the district where he or she is placed so that proper follow-up is done to include notification of the local Sheriff's Office and verification that registration has been completed.
- D. Upon acceptance of an in-state transfer of sex offender to another district, the sending officer shall note on the Travel Request that the offender is a sex offender and must register with the county sheriff's office where transferred and within the statutory time limits. The sending officer shall make immediate notification of issuance of the travel permit and reporting instructions to receiving district via established reporting.
- E. In recognizing the impact of sexual crimes in the community and in protection of the victims of these crimes, it is the policy of the New Mexico Corrections Department PPD to provide, as caseload size and available staff allow, enhanced supervision of offenders identified as sex offenders. Such enhancements of supervision shall include, but not be limited to:
 - increased contact between PPD staff and offenders
 - provision of sex offender-specific therapy
 - electronic monitoring
 - global positioning monitoring
 - the use of a polygraph in conjunction with therapy and/or law enforcement

investigations

- active interaction and partnership with therapy providers and local law enforcement officials

Additionally, travel, employment and residency are subject to restrictions that may be more stringent than those normally imposed on other types of offenders.

- F. In communities where there is discernible public concern about the propriety of having sex offenders reporting to one central location, alternative means of supervision will be implemented.

NEW MEXICO CORRECTIONS DEPARTMENT

Policy/Procedure Acknowledgement

I, _____, acknowledge that I have received
(Print name)
a copy of the policy (CD-053200) and procedures (CD-053201, CD-053202 and CD-053203) and I
further acknowledge that it is my responsibility to become familiar with this policy/procedure if I have
questions, or if I do not understand any provision of this policy/procedure, I will ask my supervisor.

Sex Offender Registration, Tracking and Supervision

Employee Signature _____

Date _____

Witness' Signature _____

Date _____

Original – Employee File

Copy – Employee



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-053201 Placement of Offenders on Sex Offender Supervision	Issued: 7/1/99 Effective: 7/1/99	Reviewed: 2/13/20 Revised: 2/13/20
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-053200*

PROCEDURES:

A. General Guidelines:

1. Offenders who have initially been charged or indicted for a sex offense but who were subsequently convicted of a crime not technically defined as a sex offense, may be considered for referral to sex offender supervision based on the facts and circumstances of the crime.
2. Offenders placed under Probation or Parole supervision for a conviction other than a sex offense, but for whom there is evidence that they have committed or attempted a sex offense, may be considered for referral to sex offender supervision if the prior history continues to be of concern based on professional assessment of a certified treatment provider recommendation.
3. If an Offender is to be assigned to sex offender supervision solely as a result of a conviction for kidnapping or false imprisonment, because of evidence that the kidnapping or false imprisonment was carried out with the intent to commit a sex offense, the Department must first:
 - a. Ascertain which counts of the charging document, such as the indictment or information, led to the offender's conviction for kidnapping and/or false imprisonment, and whether these counts contain any statement showing that the offender was intending to carry out a sex offense. If it is possible to determine intent from the charging document, then the offender may be assigned to sex offender supervision. However, if the counts for which the offender was convicted do not contain any such statement, then the Department must;
 - b. Determine if the offender admitted intent to commit a sex offense during the court proceedings resulting in his conviction or sentence. For instance, the Department can determine whether the offender testified at trial and admitted his intent or, if the offender pled guilty, whether the offender admitted intent during an allocution. If the Offender admitted intent to commit a sex offense during court proceedings, the Department may assign the offender to sex offender supervision.

4. No probationer or parolee may be required to serve probation or parole under the supervision of a sex offender officer unless there is sufficient evidence that the probationer or parolee committed a sex offense or intended to commit a sex offense.
5. Before placing an individual whose current conviction is not for a sex offense into sexual offender supervision, The Department must arrange an administrative hearing for parolees, or a review with the Court who has jurisdiction in the case for probationers (or offenders on dual supervision).
6. A probationer or parolee who was not convicted of a sex offense is not required to register as a sex offender, even if the probationer/parolee is referred to sex offender supervision, unless the offender has a prior conviction for a sex offense that requires him or her to so register.

B. Sex Offender Supervision Administrative Hearings for Parolees:

1. The parolee shall receive the **Notice of Administrative Hearing** form (*CD-053201.2*) a minimum of 3 business days prior to the scheduled hearing, and shall have the opportunity to present evidence in opposition to the placement.
 2. The Department will designate a Hearing Officer to provide an emergency administrative Hearing and/or review in case of an emergency placement on sex offender supervision and for purposes of public safety.
 3. For the emergency hearings and/or review, the Hearing Officer shall provide the sentencing authority and the offender with a written statement of the evidence relied upon and the reasons for the decision to place (or ultimately not place) the offender on sex offender supervision.
 4. The offender may petition the sentencing authority to request a hearing with the court to review the decision of the Department at the emergency hearing.
- C.** In all cases, the final determination as to whether a person is assigned to sex offender supervision is subject to the ruling of the sentencing authority. If the Court, in the case of a probationer, or parole board, in the case of a parolee, orders that a person should be removed from sex offender supervision, the Department must comply with that order. However, if a conviction for which the probationer or parolee is currently supervised is a sex offense under all circumstances, or if the Department of Public Safety ordered the probationer or parolee to register as a sex offender, then the probationer or parolee will remain on sex offender supervision.
- D.** Any such case accepted for Sex Offender supervision may subsequently be supervised at a lower supervision status at such time as the offender is no longer considered to be a significant risk for re-offending with recommendation from the treatment provider.

New Mexico Corrections Department
Notice of Administrative Hearing

TO: _____
(Offender Name)

NMCD or Offender #: _____

You are hereby advised that an Administrative Hearing will be held:

Date: _____ Time: _____

Place: _____

The Hearing Officer will be: _____

PURPOSE: The purpose of this hearing is to determine if there is a legitimate reason or justification to supervise you under the specialized caseload for sex offenders.

RIGHTS: At this hearing you may speak on your own behalf or you have the right to remain silent. You may bring letters, documents or any witnesses to give relevant information on your behalf. You have the right to question persons who have given information and/or who will give testimony at this hearing and the Parole Officer will request their presence at this hearing. If the Hearing Officer determines that a witness would be subject to risk of harm if their identity were disclosed, that witness will not be subject to confrontation or cross-examination. You may request postponement of the hearing for good cause. If you request postponement, you should list the reasons (s) and give them to the officer serving this Notice. There reasons will be considered by the Hearing Office, who will make the final decision regarding postponement. All testimony will be given under oath.

DOCUMENTARY EVIDENCE:

(Please include all evidence which will be used in this hearing including a narrative of reason for hearing and any documents such as police reports, treatment summaries, adjustments, etc.)

DETAILS AND SUPPORTING EVIDENCE:

New Mexico Corrections Department
Notice of Administrative Hearing

ATTORNEY: You are notified that under certain conditions you are entitled to the services of an attorney as per Gagnon vs. Scarpelli. Determination as to the need for this service will be made by the Hearing Officer. If your request for attorney assistance is approved, you may provide your own attorney, or, if you cannot afford one, the Department will try to provide one from Public Defenders.

RIGHT TO REQUEST AN ATTORNEY: Offender has the right to request or refuse attorney assistance at the Hearing. Check one:

I do not want attorney assistance at my Status Hearing.

I want an attorney appointed to assist me at my Status Hearing.

I have my own attorney or will get my own attorney to assist me if my request is granted.

My attorney's name and address is:

Please state the reasons why you think an attorney will be needed: Use attached "Interview for Attorney" form.

INTERPRETER:

I DO

I DO NOT request an interpreter at this hearing.

WITNESSES AT THE STATUS HEARING: Parole Officer will list below the names of any witnesses who may give testimony to support NMCD's stance on the issue.

OFFENDER has the right to contact and request witnesses and Offender will list below all witnesses you want present, including any witnesses listed above by parole Officer. If you do not request a witness listed above, the parole Officer is not obligated to have this witness at the Status Hearing.

I do not want to have any witnesses present at the Status Hearing.

HEARING ISSUES: The issue to be examined at this Hearing will be limited to determining whether there is legitimate reason or justification to have you supervised under Special Programs/Sex Offender Unit. After the hearing, you will be furnished a written statement by the Hearing Officer giving the evidence relied on in making this determination.

I certify that I have received a copy of this Notice of Hearing.

Signature

Date



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-053202 Registration/Tracking of Sex Offenders	Issued: 7/1/99 Effective: 7/1/99	Reviewed: 2/13/20 Revised: 2/13/20
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy CD-053200

PROCEDURES:

A. Registration:

1. The PPO shall, within five (5) business days after a sex offender's release from jail, prison, or date placed on probation, assist the offender in completing the **Notice to Register Form (CD-053201.3)**.
2. The PPO shall direct the offender to take the **Notice to Register** to the local Sheriff's Office to register as a sex offender.
3. Once the offender has been officially registered and the form is signed by the local sheriff's office, the offender will have a copy made and return it to the PPO for verification of registration and to retain in the offender's electronic file.
 - a. If an offender fails or refuses to register as required, it will result in a report of violation of conditions of supervision. Appropriate action must follow, either through paroling authorities, courts or both.
 - b. In cases where the offender does not bring proof of registration, the PPO will verify through the Sheriff's Office registration.

B. Transfers/Moves:

1. When an offender transfers to another district within the state or to another state, both the sending and receiving PPO shall instruct the offender to report to the sheriff's office in the area to which he has moved.
 - a. Upon acceptance of an in-state transfer of sex offender to another district, the sending officer shall note on the travel permitin CURRENT OFFENDER MANAGEMENT SYSTEM that the offender is a sex offender and must register with the county sheriff's office where transferred and within the statutory time limits. The sending officer shall make immediate

notification of issuance of the travel permit and reporting instructions to the receiving district supervisor via email..

- b. If the offender moves within the same district, they will report their change of address via the **Notice to Register** to the local Sheriff's Office. (If the move from one district office assignment to another district office assignment does not involve a change in residence, no action is required).
2. Upon arrival to the new residence, the offender shall report their move immediately to the Probation and Parole PPO and provide documentation that they completed their updated registration with the local Sheriff's Office.
 - a. Registration in the new location must be within five (5) business days of arrival.
 - b. The offender shall also send written notice and provide written verification of the change of residence to the county sheriff with whom he/she last registered no later than five (5) business days after establishing his or her new residence
3. When an offender requests transfer to another state he/she shall register as a sex offender in accordance within that state's Sex Offenders Registration Act.
 - a. In cases of an Emergency Request, the PPO will submit a request for reporting instructions via ICOTS and await the response from the receiving state offender is not allowed to leave the state until approval has been submitted via ICOTS.
 - b. The receiving state will be advised of the circumstances of this offender via ICOTS by submitting a Transfer Request.
4. In cases where a sex offender is moving to New Mexico via Reporting Instructions, Interstate Compact will assign the case to the District Office Supervisor via ICOTS. The District office will have 5 business days to review and respond that the proposed address is acceptable under New Mexico State laws, city ordinances and NMCD Policy.
 - a. Upon the offender's arrival into New Mexico he/she will have five (5) business days to register.
 - b. The PPO will assist the offender in filling out the **Notice to Register** and directing them to the local sheriff's office for registration.
5. In cases where the offender has changed employers, the offender must provide documentation that they completed their updated registration with the local Sheriff's Office..
6. In cases where any offender's personal information changes, offender shall provide documentation that they completed their updated registration with the local Sheriff's Office.

7. A sex offender who willfully fails to comply with the registration or certification requirements of SORNA or provides false information when complying is guilty of a fourth degree felony and the failure will result in a report of violation of conditions of supervision.

C. Tracking/Classification:

1. The **Notice to Register or updated registration must** be entered into CURRENT OFFENDER MANAGEMENT SYSTEM by the PPO.

Offenders who meet the definition and are required to register as Sex Offenders, will be classified as Extreme Special Programs. Sex Offenders will be supervised at the appropriate level based on clinical and PPD assessment.

D. Employment:

1. The PPO is required to visit the place of education/employment/community service or potential place of education/employment/community service_of any sex offender assigned to their caseload and verify the suitability and appropriateness of that education/employment/community service. The visits by the PPO must be done in a discreet and professional manner. Communications between PPO officials and the probationer/parolee's employer/educator/community service supervisor must be limited to that which is necessary to meet the goals described in this paragraph, and PPO officials shall limit their meetings with employees, officials, and agents of the employer/educator/community service supervisor to those individuals necessary to provide the information needed to meet these goals.
2. The PPO will advise the Employer/Educator about the conditions of the offender's probation/parole in writing and the employer/educator shall acknowledge receipt on the **Notice to Employer/Educator** Form (*CD-053201.1*), which will be completed within 14 calendar days. A copy will be maintained in the offenders file. As with Subparagraph 1 of this Paragraph, this advising shall be done in a professional and discrete manner, and ideally limited to one individual. The PPO will advise the Employer/Educator to keep the conditions of the offender's probation or parole confidential.
3. The PPO will direct the offender to report any changes in their shift, duties, hours, employment location or changes in clientele to the PPO and that failure to comply may result in the revocation of the offender's supervision.

E. Release of Information:

1. Access of the Public to Sex Offender Registration Act Information:

Persons wanting registration information regarding sex offenders may request that information from the county sheriff, chief law enforcement officer for the municipality in which the sex offenders reside, district attorney for the judicial district in which the sex offender resides or the secretary of public safety.

For offenses enumerated in N.M.S.A. § 29-11A-5.1(A), the public is entitled to the following information:

- legal name and any other names or aliases;
- date of birth;
- current address;
- place of employment;
- sex offense; and,
- date and place of conviction.

The offender's social security number is not public information.

NEW MEXICO CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Notice to Employer/Educator

Date: _____

Name of Employer or Educator: _____

Sir or Madam:

This letter is to inform you that your employee/student _____ is a sex offender and/or is under the supervision of the Probation and Parole Division for a sexual offense. He/She has been adjudicated guilty of the following crime(s): _____.

OR

This letter is to inform you that your employee/student _____ is under the supervision of the Probation and Parole Division for the crime of _____, and is a registered sex offender for the crime of (_____),

OR

This letter is to inform you that your employee/student _____ is under the supervision of the Probation and Parole Division for the crime of _____ was originally charged or indicted with a sex offense (_____), but that offense was pled down or reduced to the above-designated crime.

We are submitting this letter in compliance with the Departmental directive that employers be notified of their employees who are on Probation-Parole supervision for sexual offenses.

We request that you sign this letter below as confirmation that you have been so notified. If you have any questions or concerns, please contact the assigned Probation-Parole Officer _____, at _____.

Sincerely,

Probation and Parole Officer

Employer/Educator Print Name & Position

Employer/Educator Signature & Acknowledgement Date

NEW MEXICO CORRECTIONS DEPARTMENT

NOTICE TO REGISTER

Registrant Name: _____ DOB: _____ SSN#: _____

Physical Address: _____ City: _____ State: _____ Zip Code: _____

Mailing Address: _____ City: _____ State: _____ Zip Code: _____

Pursuant to NMSA 29-11A-1, a convicted sex offender is required to register with the Sheriff's Office in the County where they will reside. Registration must take place no later than ten (10) days (5 business days if convicted on or after July 1, 2013) after being released from the custody of the Corrections Department: or registration must take place no later than ten (10) days (5 business days if convicted on or after July 1, 2013) after being placed on probation or parole. A sex offender who changes his/her residence within the same county, will be required to notify the county sheriff no later than ten (10) days (5 business days if convicted on or after July 1, 2013) after establishing his/her new residence. A sex offender who changes his/her residence to a different county in New Mexico, will be required to register with the sheriff of the new county no later than ten (10) days (5 business days if convicted on or after July 1, 2013) after establishing his/her new residence. A sex offender is required to give written notice of any change of residence to the county sheriff with whom he/she last registered no later than ten (10) days (5 business days if convicted on or after July 1, 2013) after establishing a new residence. Following his/her initial registration, the sex offender is required to renew his/her registration as instructed by the local Sheriff.

Failure to comply or providing false information is a Fourth Degree Felony Offense.

You will be required to provide the following information to the county sheriff:

- 1) Legal name and any other names or aliases that you have used.
- 2) Date of birth.
- 3) Social Security number.
- 4) Current physical and mailing address, and the address of every place you habitually live.
- 5) Place of employment.
- 6) The sex offense for which you were convicted.
- 7) The date and place of sex offense conviction.
- 8) Your names, e-mail address and monikers and other self-identifiers used on social networking sites.
- 9) Your landline and cellular telephone numbers and any other telephone number primarily used by you.
- 10) Your professional licenses.
- 11) The license plate or other identifier and the description of any vehicle owned or primarily operated by you, including air craft and watercraft.
- 12) The name and address of any school or institution of higher education you are attending.
- 13) Copies of your passport and immigration documents.

The Sheriff will obtain the following:

- 1) Fingerprints.
- 2) Photograph.
- 3) Registration Information (State Form)

Registrant Acknowledgment: _____ Date: _____



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-053203 Supervision of Sex Offenders	Issued: 7/1/99 Effective: 7/1/99	Reviewed: 2/13/20 Revised: 2/13/20
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-053200*

PROCEDURES:

A. General:

1. Supervision is to be conducted in progressive phases from Phase I to Phase IV. Progression to the next phase is contingent on having completed the minimum amount of time required for each phase, and upon having incurred no violations and having met any behavioral objectives that might be set by the probation and parole officer and/or therapist. The input of the therapist for progression to the next phase should be considered.
2. Upon supervisory review with the supervising PPO, an offender under supervision may not be deemed suitable for advancement. In cases where the offender fails to demonstrate improvement in behavior, or regressions to past behavior, the offender may be returned to a previous level of supervision.

B. Sex Offender Supervision phases and reporting requirements:

Regardless of the number of required contacts at each phase, at minimum the required contacts must include one (1) office visit and one (1) face to face field call in the established residence for phases I-III.

1. **Phase I:** This is the presumptive entry level for offenders commencing their period of supervision. This level is intended to last a minimum of six (6) months. Contact standards require at least four (4) offender contacts per month, which will be a combination of office visits or field calls and at least three (3) collateral contacts per month.

- a. Phase I offenders are to receive an initial polygraph screening, if this service is available, in conjunction with the referral for sex offender counseling.
- b. GPS monitoring, if available, will be required for at least the first six (6) months for probationers or the entire term of parole for parolees.
- c. After the first six (6) months, unless mandated by law, the PPO will consult with the Supervisor and/or Region Manager to provide input and recommendations about whether continued GPS monitoring is necessary. The final determination shall be approved at the discretion of the Region Manager.
- d. Travel permits may be allowed as permitted under CD-051203.
- e. Behavioral objectives include:
 - 1) Assessment for treatment, and enter counseling if recommended by treatment provider. and no unexcused absences;
 - 2) Full employment, education, or vocational training (or any combination thereof), or other approved exemption from this requirement (at the discretion of the PPO, offenders deemed to be exempt from the employment/education/training requirement may be required to participate in other appropriate activities in order to occupy their time in a positive manner);
 - 3) No positive drug screens;
 - 4) Compliance with all supervision reporting instructions;
 - 5) No other technical violations.
- f. Input from counseling, law enforcement, or other related agencies may be considered by the supervising PPO when considering advancement of the offender to Phase II.
- g. Any violations that occur in the first ninety (90) days that do not result in outright revocation will require starting a return to the beginning of Phase I.

4. **Phase IV:** Minimum duration is up to the five (5) years of supervision or expiration of sentence whichever is first. Supervision requirements are one (1) face to face field call with the offender in their established residence monthly and one (1) office visit every three (3) months. In addition, one (1) collateral contact is required every quarter.
 - a. Any violations that occur in the first six (6) months that do not result in revocation will require a return to the beginning of Phase IV.
 - b. Any similar violations that occur after six (6) months will require an extension of time starting from six (6) months to a year, at the discretion of the PPO, after consultation with the supervisor and therapist.
 - c. On a case-by-case basis, at the discretion of the supervising PPO, and with the concurrence of the supervisor, such violations may also be handled by a return to the previous supervision phase.
 - d. Offenders who are ordered to continue supervision beyond five (5) years will continue to be supervised at phase IV unless it is determined that a lower level of supervision would be more appropriate.
5. All sex offenders will be subject to a curfew. Generally, the curfew shall be set at 9:00 PM to 6:00 AM for all sex offenders who are employed, and 6:00 PM to 6:00 AM for those who are unemployed. However, curfew times and duration will be at the discretion of the supervising officer and will be set in a reasonable manner as to not interfere with employment or emergency situations. Curfew will remain in effect through the phase changes but can be altered based on extenuating circumstances.

C. Sex Offender Case Loads:

1. Sex offender specific caseload sizes will be limited to 35 phase I and phase II offenders per caseload.

D. Interaction with Law Enforcement:

1. Field calls may be conducted with a law enforcement partner rather than the customary practice of having two PPOs. Such partnership is encouraged, and to that end, PPOs may accompany law enforcement officers charged with the responsibility to survey sex offenders when they make their field contacts.
2. All case information except for “privileged” information may be shared with law enforcement partners, and such sharing should be done when staffing cases for registration purposes and when contemplating field calls, arrests of offenders, or other activity, which will involve cooperative arrangements.

E. Supervision Requirement Exceptions:

1. On a case-by-case basis, the frequency of required office visits may be modified in cases in which the offender may encounter unusual and / or unreasonable difficulties in getting to the probation and parole office, such as in the case of someone who is verifiably ill or infirm.
 - a. The PPO must document the situation and obtain supervisory approval and region manager approval for such a modification.
 - b. The details of any such modification must be set forth in writing.
 - c. It is anticipated that such modifications will occur on an infrequent basis.
2. Sex offenders who have been under supervision for a period of time prior to being referred to a sex offender supervision unit will be assessed for placement at a supervision phase commensurate with the length of time under supervision that they have served, the status of their sex offender therapy, violation history, overall criminal history, and any other salient factors that the PPO, or the supervisor may feel is significant. Input from therapy specialists and / or law enforcement officials may also be considered.

F. Interaction with Therapists:

PPOs assigned to supervise sex offenders will work closely with therapists designated to treat the offenders supervised by the New Mexico Corrections Department.

1. PPO's will consult with therapists concerning implementation of treatment plans, and they will seek periodic progress reports.
2. Consultation will occur prior to changing offenders from one supervision phase to another.
3. PPO's should not interfere with therapy decisions except where such decisions might cause conflict with supervision requirements or restrictions. Likewise, therapists should not be allowed to interfere with supervision decisions.

G. Travel Permits

1. For all phases travel permits may be issued in accordance with CD-051203.
2. Nothing in this policy should be construed to mean that a PPO is at any time obligated to grant permission to travel.

I. Employment:

1. PPOs will instruct offenders under their supervision to apprise them of their place of employment or of their intent to seek employment.
2. Sex offenders may be denied permission to engage in any type of place or employment where it can be reasonably foreseen that their presence there would be likely to cause undue risk to others or may cause an adverse reaction by the public.
3. PPOs will ensure that employers, or authorized representatives of employers, confirm in writing that they are aware of the offender's history of sex offenses through the Notice to Employer/Educator CD-053201.1.

J. Residency Restrictions:

1. As a general rule, the PPO should determine if the sex offender's residence is within one thousand (1000) feet of an area where children may frequent such as a school, day care, and/or community center. If it is determined that the sex offender is within one thousand (1000) feet, the PPO will immediately order that the sex offender no longer reside at that location. An exception to the thousand (1000) foot rule can be granted by the region manager, in consultation with the therapist, for those sex offenders whose victim(s) were not a minor.
2. In cases where the sex offender's residence exceeds the required one thousand (1000) feet, and the PPO determines that the sex offender's presence at the residence creates an immediate and serious threat in the community, efforts should be made to re-locate sex offender immediately.
3. In cases where the sex offender's residence exceeds the one thousand (1000) feet, and the PPO determines that the sex offender's presence at the residence creates a potential threat in the community, efforts should be made to re-locate sex offender.

NEW MEXICO CORRECTIONS DEPARTMENT
SEX OFFENDER SUPERVISION BEHAVIORAL CONTRACT

I _____, understand that the additional probation/parole conditions set forth in this contract fall under:

- A) Probation Order Condition # 5, which states: I will follow all orders and instructions of my Probation Officer.
- B) Any applicable Parole Condition(s)

(SECTION 1) EMPLOYMENT AND EDUCATION

- A) My supervising officer must review any paid employment, community service, or volunteer positions for appropriateness **before** I begin working or within a 2 week period of being placed on probation.
- B) ***Prohibited positions include, but are not limited to: security/police officer, daycare, nursing home, assisted living staff, home healthcare staff, city or school bus driver, food delivery driver, cab driver, door to door sales, consultations and business, masseuse, or any job that requires you to enter private residences unaccompanied and Youth Care Worker. Positions, such as teacher or coach or position of authority over children, which require direct contact with minor children, are also prohibited.***
- C) I understand that my employer and the school which I attend will be notified **in writing** of my sexual offense charges within two weeks, and/or of my probation/parole status (**Notice to Employer/Educator**).
- D) I will not miss work without notifying my employer and my supervising officer. I will provide a medical excuse for my absence if required by my employer or supervising officer.
- E) I must provide proof of employment in the form of a check stub on a monthly basis. All my check stubs must show the appropriate tax deductions. **Cash payment for work is not acceptable.** If I own a business, I will provide a State Taxation Revenue number and federal income tax form to my Probation Parole Officer **and provide monthly proof of gross receipts tax.**
- F) I will not possess any simulated deadly weapons. These items are prohibited for officer safety reasons. These items include, but are not limited to: ***air rifles, pellet guns, B.B. Guns, or toys that closely resemble a deadly weapon.***
- G) I understand that I may not possess items that can be construed as State, or Federal Law Enforcement or Security Officer Equipment. These items include, but are not limited to: ***badges, ID cards, ammunition, handcuffs, batons, pepper spray, MACE, any clothing items imprinted with the word "Security", or any other Law Enforcement insignia (i.e.-FBI, DEA, ATF). Items imprinted with Fire Department, EMS, EMT, or any Public Service Agency insignia are also prohibited. I understand that my supervising officer may approve certain items in writing, if they are required to perform an approved employment position.***

(SECTION 2) TREATMENT PROGRAMS/COUNSELING/DRUG TESTING

- A) I will not miss **any** scheduled appointments without **prior permission** of my supervising officer and without **prior permission** from my counselor. Appointments missed without permission will be considered a violation.
- B) I understand that it is my responsibility to inform my employer that I will have obligations that may conflict with daytime work hours. These appointments include, but are not limited to: Random drug testing, counseling appointments, and reporting to my supervising officer. **Missing appointments due to work or to work overtime hours is not acceptable.**
- C) I will inform my PPO of, and comply with any psychiatric medication I may be prescribed while on supervision. I will also notify my supervising officer of **any** new prescriptions.
- D) I understand that polygraph testing is **required**. I understand that I am responsible for polygraph fees, and refusal to submit to a polygraph, failure to appear for the polygraph, or failure to actively participate in the polygraph appointment is considered a **serious** violation of my probation or parole.
- E) You will allow your sex offender treatment provider to consult, advise and release to your PPO, Judge and Parole Board any information which you have disclosed to your therapist in the course of your treatment, and any information relating to your treatment and your participation in treatment.
- F) I understand that I am prohibited from securing a prescription, or using any non-prescription drug (**including, but not limited to, Viagra**) that enhance sexual performance without the permission of my supervising officer. Use of enhancement drugs may be approved after consultation with both the treatment provider and medical doctor for the specific purpose of maintaining consensual, adult relations with a spouse or partner.

(SECTION 3) RESIDENCE

- A) I will not enter into any lease or housing agreement without **prior permission** of my supervising officer. All proposed residences must be inspected for appropriateness before moving in. I also understand that roommates both current and future must be approved by my supervising officer. A probationer, who is already living at an established residence at the time of their sentencing, will have their residence inspected by a PPO for appropriateness within five (5) business days. If the residence is not appropriate you will be required to relocate.
- B) I will keep my residence clean and orderly, and agree to make reasonable changes as directed by my supervising officer.
- C) I will not allow **any** individual (**adult or child**) to reside or spend the night in my residence, unless approved in advance by my supervising officer. Overnight guests are defined by having anyone at your residence past your curfew without your PPO's consent. I will not spend the night away from my approved residence, or in any residence where there are minor children without prior permission from my supervising officer.
- D) I will notify my supervising officer immediately (**within 24 hours**): **of any evictions, serious disagreements with spouses, partners, landlords, apartment managers, neighbors, or roommates.**
- E) I will not frequent, acquire, purchase, go to, or reside at any hotel or motel, whether for an hour or a night without prior permission from your PPO.

(SECTION 4) FINANCES

- A) I will pay my personal bills in a timely manner, including: **supervision fees, restitution, child support, and any other fines/fees I am ordered to pay.**
- B) I will be prepared to furnish verification of the source of all money I have received. This may include, but is not limited to: **pay stubs, tax refund checks, school financial aid awards, SSI, lawsuit settlement awards, bank statements, credit card statements, and any lump sum of money received.**

(SECTION 5) ELECTRONIC MONITORING/CURFEW

- A) I will be placed on an electronic monitoring (EM, GPS) device to monitor my whereabouts/curfew. Duration of time on a monitoring device will be at the discretion of State Statute, the District Supervisor and/or Region Manager.
- B) I will be placed on a curfew at any time. Curfew times and duration will be at my supervising officer's discretion. Curfew is 6pm-6 am daily when unemployed. Standard curfew, if employed, is 9 pm -6 am. If an extension is granted for work, on your days off your curfew is 9pm-6am. If an extension is granted for any other reason, your curfew will be specified by your officer.

(SECTION 6) COMPUTERS/ELECTRONICS/ENTERTAINMENT

- A) I will not purchase, possess or subscribe to any sexually oriented or sexually stimulating material. This includes, but is not limited to: Sexual devices, books, magazines, video/audio tapes, pictures, DVDs, CD ROMs, and Internet websites.
- B) I will not subscribe to, or have possession of any material that promotes a sexual interest in minor children. **(i.e.-NAMBLA)**
- C) I will disclose any and all electronic devices to my PPO that I have possession of or access to and I will keep an updated list of all internet/media capable devices on file with my PPO and , I will supply all of my email addresses, online storage accounts, usernames and passwords.
device_____ log in_____ password_____
device_____ log in_____ password_____
device_____ log in_____ password_____
device_____ log in_____ password_____
- D) I understand that any computer, camera, computer tablet, cell phone, thumb drive (USB drive), memory, online storage, or any other electronic device I have access to, including the hard drive and removable drives may be examined for inappropriate content at any time. Inappropriate content includes, but is not limited to: **Sexually stimulating material, Pornography (adult or child), adult websites, dating websites, and personal ads to include cell phone applications.**
- E) **Conditions of personal computers, computer tablets and cell phones.**
 - a. **I will not install any operating systems within or on my operating system (commonly known as virtual operating systems).**
 - b. **I will not utilize any computer cleaning software, encryption, file locker, or document shredders without my PPO's consent.**
 - c. **I understand that I may be required to purchase monitoring tools and software for my computer(s) or other electronic devices.**

- d. ***I will not delete website history in any and all of my electronic devices to include web browsers / text messages / applications without prior permission of my PPO. I will not use incognito or private mode to avoid leaving history.***
- e. ***I will enable history in all software, online accounts, and electronic devices.***
- f. ***I will not use any stand alone or removable software.***
- g. ***I understand that I will not send nude photos of myself or engage in what is commonly known as "sexting".***
- h. ***I will not install any applications on my cell phone, computer, tablet, television or other electronic devices without prior permission of my PPO.***

app_____ log in_____ password_____

app_____ log in_____ password_____

app_____ log in_____ password_____

app_____ log in_____ password_____

- i. ***I will not utilize any VPN (virtual private network), TOR, Proxy, or other means to hide my internet activity.***

- F) I will not patronize any establishment in which sexually oriented material or entertainment is available. Including, but not limited to: ***adult book/video stores, and topless/nude/erotic clubs/shows/venues.***
- G) I understand that I may be asked to provide my telephone, satellite television, or cable bill for examination. Prohibited charges on these bills include: ***calls to adult hotlines, and adult channels.***
- H) I will not place, nor respond to any personal advertisements. This includes, but is not limited to: ***dating services, personal ads on the Internet, newspapers or magazines.***
- I) ***I understand that any questionable items as described above may be seized, held for evidence of probation/parole violation, or new charges, and destroyed.***

(SECTION 7) ADDITIONAL CONDITIONS

- A) I will not hitchhike or pick up hitchhikers.
- B) I will not have a post office box or storage unit unless approved by my Probation Parole Officer.
- C) I will avoid areas known to have active prostitution activities.
- D) I will not engage in cruising or grooming activities. Cruising is defined as driving by or frequenting a location for the purposes of identifying potential victims. Grooming is defined as bringing into your confidence, or attempting to do so, potential victims or their family members.
- E) Upon becoming interested in a person sexually or romantically, and prior to any action or activity, I will disclose the person to my PPO and treatment provider.
- F) I will not have any romantic involvement, sexual involvement, or living arrangements with individual(s) without the individual(s) being informed of the sexual deviancy and criminal offenses and notifying my PPO.
- G) I will not engage in sexual acts in public areas or facilities.
- H) I will have no contact, direct or indirect, with my victim(s), including written correspondence, telephone contact, or communication through a third party except under circumstances approved, ***in advance, and in writing*** by my PPO in consultation with my treatment provider.

l) I will not use an alias or any other fictitious name. Known aliases are:

1) _____ Date _____
2) _____ Date _____

I have read, or have had read to me, and understand these additional supervision conditions. I have received an identical copy of these conditions, and understand that any violations will be reported to the Court and/or the Parole Board for action. Furthermore, if necessary, I understand that I may be subject to the below "Victim Specific Conditions" if my PPO and Therapists deem it appropriate.

I also understand that my PPO may waive any of the above condition(s) in writing.

Probationer/Parolee Print / Sign

Date _____

PPO Print / Sign

Date _____

