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Sex Offender Management in the Federal Probation and Pretrial Services System

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WHEN WE TALK about sex offenders, who are we really talking about? On any given day, we can see such headlines as, “Dozens Charged in International, Internet-Based Child Pornography Investigation” ^[1] or “Federal Government Cracks Down on Online Child Pornographers.” The national and local media’s spotlight on crimes against children at times magnifies stories for purposes of sensationalism. Nevertheless, law enforcement/community corrections officers and treatment providers all agree that sex offenders pose significant risks to vulnerable populations in the community and require specialized and intensive management in the community. In the Federal Probation and Pretrial Services System (FPPSS), a “sex offender” is an individual who has any prior state or federal conviction for a sexual offense. For many, the term “sex offender” conjures up a wide-array of feelings, thoughts, and beliefs ranging from intense anger, rage, and disgust to beliefs that all sex offenders should be castrated or at least sentenced to life in prison without the possibility of parole. Although these are valid feelings and beliefs, the reality of sex offenders being apprehended and convicted is quite different.

Myth : “The majority of sexual offenders are caught, convicted, and in prison.”

Fact : Only a fraction of those who commit sexual assault are apprehended and convicted for their crimes. Most convicted sex offenders eventually are released to the community under probation or parole supervision.

Even when offenders are convicted of a sex offense, very few spend the remainder of their lives behind bars. While sex offenders constitute a large and increasing population of prison inmates, most are eventually released to the community. In fact, according to the Bureau of Justice Statistics, on any given day in 1994 an estimated 234,000 convicted sex offenders were under the care, custody, or control of community corrections agencies, and on average, nearly 60 percent of those released were under some form of community supervision. ^[2] Short of incarceration, community supervision allows the criminal justice system the best means to maintain control over offenders, monitor their residence, and require them to work and participate in treatment. ^[3] In the last 10 years, FPPSS has seen a steady increase in the numbers

of sex offenders charged with and convicted of some form of sexual offense. As a result, there is growing interest in providing community supervision for this population as an effective means of reducing the threat of future victimization.

In order to effectively manage sex offenders in the community, officers need to become knowledgeable about sex offender characteristics and types. Additionally, they need to know the patterns of victim selection and interests. Acquiring this knowledge will help officers differentiate between the types of sex offenders they are managing, and, more importantly, allow the officer to consider the risk variables at hand.

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Implications for Federal Probation and Pretrial Services Officers

Our definition of the term “sex offender” emphasizes the word “conviction.” This is not intended to de-emphasize the need for individuals *charged* with a sex offense to be carefully monitored for “high risk” behaviors that could place vulnerable individuals, particular children, in harm’s way. However, unlike probation officers, pretrial services officers also need to bear in mind the importance of maintaining the *presumption of innocence* as well as a defendant’s *right against self-incrimination*. At the pretrial services stage, the right against self-incrimination is invoked when a court—independently or at the recommendation of a pretrial services office—requests that a sex-offense-specific evaluation be conducted to determine possible risk to the community. This right against self-incrimination becomes an issue when a defendant is compelled during an evaluative process to disclose information or evidence that may incriminate him or her in the alleged instant offense or in some offense that is yet unknown to law enforcement officials. Although it is a struggle for some pretrial services officers, all officers must continuously strive to balance the need for public safety with the need to maintain and protect the rights of all defendants.

As noted in the Federal Judicial Center’s *Special Needs Offender Bulletin on Sex Offenders*: “Federal jurisdiction over sex crimes...is based on constitutional grants of authority to regulate interstate or foreign commerce, and military posts, national parks, and Native American reservations.” ⁴ In accordance with Title 18 USC subsection 1153 and other applicable statutes, the United States District Courts have exclusive jurisdiction over all major crimes occurring in Indian territories. Therefore, crimes that would typically fall within the jurisdiction of municipal, state, or tribal courts fall within the jurisdiction of U.S. District Courts. This holds major implications for federal officers responsible for supervising defendants or offenders on Indian reservations ⁵ (whose task may differ drastically from officers who supervise sex offense-related cases in non-Indian Country districts). Federal officers supervising cases in Indian Country or remote rural locations grapple with geographical constraints, lack of adequate or available community resources, and local political climates, all of which may vary from non-Indian Country districts.

The following illustration may shed light on the unique challenges officers in Indian country encounter versus the challenges experienced in a large city or urban environment where resources may be plentiful and readily available:

In order to get a perspective on the unique challenges experienced by federal officers supervising mental health and sex offenders in a remote location, in 2001, I conducted a program review of the mental health treatment program in the Western District of North Carolina. As part of the review, I accompanied a Senior U.S. Probation Officer on a routine field supervision of sex offenders. During this particular field supervision, which spanned one 8-hour workday, we were scheduled to see two sex offenders and one sex offender treatment provider. In order to accomplish this, we had to drive approximately 240 miles, and we still were only able to make face-to-face contact with two of the three people we sought to see (the treatment provider and one offender). For many officers, this excursion may seem unimaginable or even far-fetched. However, for many officers supervising sex offenders in Indian Country and/or in rural or remote locations, this is part of their “routine.”

The geographical constraints are major in most Indian Country districts. In some districts, the closest sex offense-specific treatment provider is 100 to 300 miles from the defendant or offender's home. Many of the defendants and offenders are faced with little to no public transportation services and limited access to private vehicles; when these options are available, many simply do not have the financial means to travel 100 to 300 miles to receive services. Fortunately, federal probation and pretrial services have been very astute in identifying creative solutions to the unique challenges faced by officers in remote and rural areas. These creative solutions range from hiring Native American probation officers who live on or near a reservation to contracting with treatment providers who provide mobile services. In addition, in January of 2000, OPPS designated a position to support these districts with technical assistance, supplemental funding (if available), identification of available resources, and ongoing communication via a national electronic forum that assists officers in managing mental health and sex offenders in the community.

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The Keys to Effective Sex Offender Management

KNOWLEDGE: "One Size Does Not Fit All"

Pedophiles, rapists, child molesters, child traffickers, and Internet child pornographers are all classified as sex offenders. The reality is that sex offenders are not a homogeneous group. On the contrary, they are a very heterogeneous group who come from all walks of life, professions, and lifestyles. They range from the "dirty old man hiding in alley ways," to the highly educated professor, law enforcement officer, and teacher. Physically, sex offenders are indistinguishable from you or me—which is essentially why it is critical for probation and pretrial services officers to be aware of who these sex offenders are and, just as important, the potential risk they pose to the community.

Officers are generally cautioned not to make overall assumptions and generalizations about sex offenders. What may work for one sex offender may not necessarily work for another. Sex offenders vary in their levels of risk as well as in their sex-specific interests (e.g., some prefer male child victims while others prefer adult female victims). Nevertheless, the key issue is that sex offenders vary in one way or another, and "*one size does not fit all* ." Therefore, FPPSOs should be guided by Monograph 109, the national policy for the *Federal Supervision of Offenders*. [6](#)

SKILLS: "Specialized Training is Key to Successful Sex Offender Management"

We often hear the phrase, "*Knowledge is Power* ." In the case of supervising federal sex offenders, knowledge *is* power, and many vulnerable children—both known and unknown to the system—depend on an officer's knowledge to protect them from sexually deviant individuals under community supervision. The primary goals in the supervision of sex offenders include, but are not limited to: 1) public safety, 2) preventing the victimization or re-victimization of children by sex offenders, and 3) serving as "the eyes and ears" of the court and ensuring that the general and special conditions ordered by the court are strictly adhered to during a defendant/offender's term of supervision.

Community supervision of sex offenders can be more effective when FPPSOs are adequately trained in the areas of identification, evaluation, and treatment/management of sex offenders. To achieve this objective, the Federal Judicial Center (FJC), the education and research agency for the U.S. Courts, has produced several national satellite training programs in the areas of sex offender management. In addition, OPPS has provided officers (via national, local, and/or regional training programs) with national trends, resource information and general training in the area of sex offender management.

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Traditional Mental Health Treatment versus Sex Offense-Specific Treatment

A key point that has been driven home by OPPS in the past six years is that sex offenders cannot be effectively managed in the community using “traditional” mental health treatment practices. [Table 1](#) illustrates the differences between traditional mental health treatment and sex offense specific treatment. Sex offense specific treatment is defined as “interventions used to help sex offenders accept responsibility; increase level of recognition; and focus on the details of their sexual behavior, arousal, fantasies, planning and rationalizations of their sexually deviant thoughts and behavior.” ⁷ Treatment may include objective physiological and psychological evaluations for ongoing assessment of the offender’s progress and risk of re-offending. Officers must know the major differences between the two types of treatment, so they can effectively work with this population.

Federal Probation and Pretrial Services officers have been advised through formal and informal training to seek and work with treatment providers who not only have advanced degrees, but also adhere to the standards and practices of the Association for the Treatment of Sexual Abusers (ATSA)—the national organization that sets the standards for the evaluation and treatment of sexual abusers and/or the standards established by a state regulatory board for the evaluation and treatment of sex offenders. Federal officers also receive guidance in identifying qualified sex offender treatment providers through the referral sources available through the Safer Foundation Society and ATSA.

ABILITIES: “The Officer’s Tool Box”

To address challenging issues officers confront that include sex offender management, OPPS has designated a full-time position in the area of mental health. For issues involving sex offender management, OPPS has created “tools” that can assist officers in their everyday work. These tools include:

- **Updated information on sex offender resources, statistics, and information** via the judiciary’s Federal Judicial Television Network (FJTN), *News and Views*, *Federal Probation* and national, local, and regional sex offender symposiums.
- **A national electronic forum for officers working with mental health and sex offender cases**.
- **Technical assistance, community resource development, legal opinions, conferences, etc.** that can increase awareness and understanding of sex offenders.
- **Increases in the mental health budget.** The mental health budget in the last six years has nearly tripled, making it easier for officers to contract for services when needed;
- **Increased number of available treatment services officers can utilize and contract for to effectively manage sex offenders.**
- **Enhanced quality of the statement of work for contracted sex offender treatment services.**
- **Sex offender management resources for officers.**
- **Assistance with Identification of Qualified Treatment Providers.** Officers can obtain from OPPS a listing of all available sex offender treatment providers in their district.
- **Provisional Information Regarding Sex Offenders Being Released From the Federal Bureau of Prisons (BOP).** Every two months, OPPS receives a roster of all the sex offenders who are being released from the BOP within the next 150 days. The roster is then made available to probation officers via our OPPS web home page.

Sex Offenders on Post-Conviction Supervision [8](#)

For the purposes of this article, statistics on sex offenders under post-conviction supervision in FPPSS were analyzed to identify the treatment methods used to most effectively manage this population. During the 12-month period analyzed (7/1/04–6/30/05), a total of 2,199 sex offenders in FPPSS received contracted services for sex offender treatment. This total, however, did not include pretrial defendants and may not represent all sex offenders in the federal probation system, as some sex offenders may have received non-contracted treatment services in their respective districts. Unfortunately, due to limitations of the current PACTS database system, we were unable to accurately identify those offenders who received non-contracted sex offender treatment services. Individual sex offenders under post-conviction supervision were identified through sex offender project codes, [9](#) problem codes and/or treatment condition types, as well as through statutory requirements available in the National PACTS Reporting system (NPR).

Myth : “Treatment for sex offenders is ineffective.”

Fact : Treatment programs can contribute to community safety because those who attend and cooperate with program conditions are less likely to re-offend than those who reject intervention.

As shown in [Table 2](#), Group Counseling and Individual Counseling were by far the most utilized methods for treating sex offenders in terms of number of offenders treated, total dollars spent, and average dollars spent per offender treated. This finding is not surprising, as many mental health professionals consider counseling to be the most effective means of addressing various forms of deviant behavior. Information regarding a sex offender’s sexual criminal history is deemed tenuous at best by mental health professionals, particularly because most of it is obtained through self-reports from the offenders in interviews or standardized questionnaires. [10](#) Fear of legal reprisal often prevents offenders from revealing information beyond their current legal situation. [11](#) Thus, it is virtually impossible to be certain of the full extent of the offender’s sexual history.

Polygraph testing is considered the most effective means of validating the accuracy of an offender’s self-reports. In [Table 2](#), two sex offender project codes represent polygraph exams: 5022 (Polygraph Examination) and 5023 (Maintenance/Monitoring). For the purpose of identifying the amount spent per project code, these two codes were placed in the table separately. However, for treatment purposes, these two codes are used almost interchangeably. The primary difference between codes 5022 and 5023 is that the Polygraph Examination (5022) is used to validate historical information as part of an initial assessment, whereas Maintenance/Monitoring (5023) is used to validate reports of recent sexual behavior by offenders and is often conducted every six months.

Combined, polygraph testing was used on nearly 44 percent of the 2,199 sex offenders during the 12-month period analyzed. One of the least used treatment services was the Sex Offender Treatment/Education Group, as only 80 sex offenders received this form of treatment. One possible explanation for this may be that offenders received educational materials and information during their group counseling sessions, hence reducing the need to duplicate the effort. Penile plethysmographs were used to treat the fewest sex offenders (55). This may be due to the intrusiveness of the procedure as well as the fact that the primary purpose of the plethysmograph is to identify gender and age preferences and sexual arousal to deviant and non-deviant stimuli. Another factor that may reduce the use of penile plethysmograph is that districts may lack the trained professionals necessary to perform the procedure. It should also be noted that some project codes such as 5021 and 5025 may be underrepresented in this analysis due to some districts, for example, California Central, using them as part of their Sex Offender Specific Evaluation Report (5012).

Myth : “The cost of treating and managing sex offenders in the community is too

high—they belong behind bars.”

Fact : One year of intensive supervision and treatment in the community can range in cost between \$5,000 and \$15,000 per offender, depending on treatment modality. The average cost for incarcerating an offender is significantly higher, approximately \$22,000 per year, excluding treatment costs.

With the exception of Group and Individual Counseling, all the sex offender project codes had an average cost per offender treated below the national average of \$933. The national average is somewhat inflated due to the total amount of money spent on group and individual counseling, which constitutes roughly 80 percent of the total dollars spent on sex offender treatment services. However, when we subtract both group and individual counseling project codes from the expenditures, the national average is greatly reduced to \$488 per offender treated.

It is not uncommon for sex offenders to receive more than one form of sex offender treatment services during their period of supervision. In fact, PACTS data used for this article indicate that, on average, sex offenders received at least four different forms of treatment services [12](#) (see [Figure 1](#)). Therefore, the total number of offenders treated (4,803) will appear to exceed the total number of offenders in the system (2,199). In actuality, the total number of sex offenders treated is merely the number of offenders in the system receiving multiple combinations of treatment services.

Out of the 94 federal Probation and Pretrial Services districts, 83 districts used at least one of the available sex offender treatment project codes. Of the 83 districts that contracted out for sex offender treatment services, 20 districts [13](#) used at least six different project codes (see [Figure 1](#)). Most districts used between 3 and 5 sex offender project codes, with 4 being the most frequently used number. Only two districts (Rhode Island and the Virgin Islands) used only one sex offender project code during the 12-month period analyzed. Eleven districts [14](#) did not report using any of the sex offender project codes; meaning they did not acknowledge paying for any sex offender treatment services.

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Costs

Overall, districts spent a little less than \$4.5 million on contracted sex offender treatment services during the 12-month period analyzed (see [Table 2](#)). This equates to an average cost of \$53,965 per district that contracted out for sex offender treatment services. Arizona spent the most on sex offender treatment services (\$388,584), followed closely by South Dakota (\$380,958) and California Central (\$262,177). Although Arizona spent the most money on sex offender treatment services (\$388,584) and provided services for the greatest number of offenders (198), the average amount they spent on each offender (\$1,963) was less than eight of the top 10 districts listed in [Table 3](#). California Northern, which spent the largest amount per offender treated (\$5,278), paid out close to a \$1,000 more than the next closest district, which was California Central. With the exceptions of Arizona and Missouri Eastern, the remaining top ten districts spent, on average, more than \$2,000 to treat each of their sex offenders.

It appears that districts are making a concerted effort to provide some form of treatment services to the sex offenders under their jurisdiction. Although districts are utilizing several different treatment methods, there are still a few project codes that are not being used.

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Endnotes

Federal Probation's publication of the articles and review is not to be taken as an endorsement of the material by the editors, the Administrative Office of the U.S. Courts, or the Federal Probation and Pretrial Services System.

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Table 1: Differences Between Traditional Mental Health Treatment and Sex Offense-Specific Treatment

Traditional Mental Health	Sex Offense-Specific Mental Health
Trust is a “given”;	Trust is never fully gained. All information is subject to verification;
The “individual” is the primary client in treatment (centered on “individual”)	The “community” and “public safety” is primary (victim-centered)
Treatment participation is voluntary;	Treatment participation is mandated by the court;
Accountability is not a major concern;	Accountability is critical;
Confidentiality is maintained and assured;	Confidentiality is limited;
Family involvement is limited;	Family involvement is required and critical to the treatment process;
No need for external controls or verification;	External controls critical to effective treatment and use of polygraphs, plethysmographs and other monitoring tools used to verify information self-reported;
Individual treatment is the preferred method of treatment	Group is the preferred method of treatment;
Client defines treatment goals and objectives;	Treatment team defines treatment goals and objectives;
Liability of treatment provider is low;	Liability of treatment provider is high;
Limited collateral contacts;	Frequent collateral contacts;
Behavioral lifestyle changes “recommended”;	Behavioral lifestyle changes must adhere to strict standards and/or court mandates;

Table 2: Sex Offender Project Codes and Expenditures

Project Code	Description	Number Treated	Sum	Average
6022	Group Counseling/Sex Offender	1,546	\$2,064,858	\$1,336
6012	Individual Counseling/Sex Offender	1,405	\$1,509,352	\$1,074
5012	Sex Offender Specific Evaluation Report	521	\$324,492	\$623
5023	Maintenance/Monitoring	481	\$232,663	\$484
5022	Polygraph Examination	479	\$227,772	\$476
5025	Abel Assessment & Report	129	\$38,810	\$301
6032	Family Counseling/Sex Offender	107	\$29,302	\$274
6090	Sex Offender Treatment/Education Grp	80	\$36,284	\$454
5021	Penile Plethysmograph	55	\$15,586	\$283
	Total		\$4,479,119	

FIGURE 1.

Frequency of Sex Offender Project Codes Used

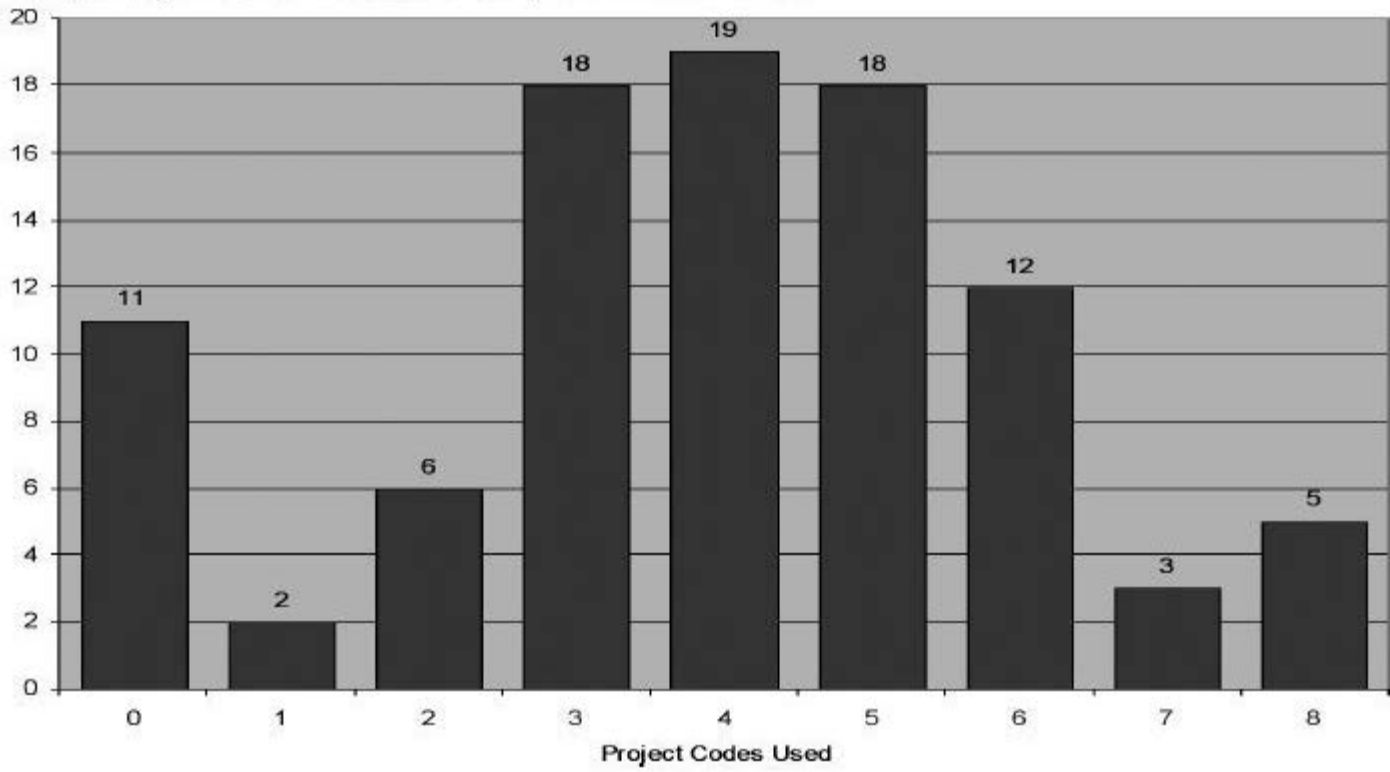


Table 3: Top 10 Districts by Total Money Spent on Sex Offender Treatment

Rank	District	Project Codes Used	Sex Offenders	Total Spent	Avg. per Offender
1	Arizona	8	198	\$388,584	\$1,963
2	South Dakota	6	120	\$380,958	\$3,175
3	California Central	5	61	\$262,177	\$4,298
4	New York Eastern	5	76	\$259,362	\$3,413
5	California Northern	8	37	\$195,276	\$5,278
6	Florida Middle	7	96	\$194,080	\$2,022
7	Maryland	6	58	\$160,370	\$2,765
8	Montana	6	50	\$140,317	\$2,806
9	Missouri Eastern	4	70	\$132,881	\$1,898
10	Illinois Northern	6	38	\$105,560	\$2,778

collective efficacy) as a violence prevention strategy, it is surprising that Farabee did not review this important body of research.

⁴ Clear and Cadova (2003:78) offer a somewhat different view of the role of community corrections. From a community justice perspective, it is “not only how an offender is behaving, but also how that offender’s situation—in or out of prison—affects the people who are not under correctional authority.”

⁵ We agree with Sampson and Laub’s assessment that “the effectiveness of rehabilitative interventions in reducing criminal behavior is not as dismal as common wisdom (“nothing works”) allows” (2001:255). They go on to argue that it is important to distinguish between/among bad theory, bad research (e.g., design choice, analytic procedures and criterion problems), and bad practice (in terms of program design and implementation). Farabee’s review of the treatment research identified a number of effective interventions, including those based on cognitive restructuring (Pearson, et al. 2002) and multifactor initiatives (Antonowicz and Ross, 1994).

⁶ The most recent example of a deterrence-based intervention that received a very favorable initial evaluation (Kennedy, et al. 2001) was “operation cease-fire,” a strategy to reduce gun violence in Boston. Attempts to replicate the Boston model in Los Angeles were unsuccessful (see, Tita et al., 2005) and the initiative “did not have the *desired deterrent effect*” (20). The recent negative evaluation research reviews of problem-oriented policing generally (National Research Council, 2004), and the underlying assumptions of “broken windows” policing in particular (Sampson and Raudenbush, 2001; Taylor, 2001; Sampson and Raudenbush, 2004), should also be examined. Sampson and Raudenbush (2004:1) challenge the empirical foundation of the “disorder causes crime” thesis, which is a central tenet of the broken windows model. Their research revealed that “it is the structural characteristics of neighborhoods, as well as neighborhood cohesion and informal social control— *not levels of disorder* —that most affect crime (4). More recently, these same researchers presented findings from their long-term study of Chicago neighborhoods that revealed that strategies consistent with the broken windows model “may have only limited payoffs in neighborhoods inhabited by large numbers of ethnic minority and poor people. The limitations on effectiveness in no way derives from deficiencies in the residents of such neighborhoods. Rather, it is due to social psychological processes of implicit bias and statistical discrimination as played out in the current (and historically durable) racialized context of cities in the United States. In other words, simply removing (or adding) graffiti may lead to nothing, depending on the social context” (Sampson and Raudenbush, 2004:337). Given the current concentration of offenders in a small number of “high risk” communities across the country (Byrne and Taxman, 2004), it appears that “broken windows”- based strategies would not have the deterrent effect proposed.

⁷ Farrington and Welsh point out that one of the problems with previous reviews of the effectiveness of a wide range of criminal justice interventions is the tendency on the part of reviewers to mistake statistical significance for strength of association (or effect size). They observe that “... a statistically significant result can reflect either a large effect in a small sample or a small effect in a large sample. [For this reason] it is important to measure effect size.” (Farrington and Welsh, 2005:21). The rule of thumb they used in their meta-analysis of the effects of interventions combined significance and effect size differences, with a 10 percent or greater difference being the criterion of effectiveness.

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¹ Department of Justice Press Release (March 15, 2006).

² Lawrence A. Greenfield. “Sixty Percent of Convicted Sex Offenders are on Parole or Probation,” *Bureau of Justice Statistics* News Release, February 2, 1997 (Department of Justice).

³ Center for Sex Offender Management (2000) “Myths and Facts About Sex Offenders.” Silver Spring, MD.

⁴ Orlando, Dennise. *Special Needs of Offenders Bulletin: Sex Offenders*. Washington , D.C. : Federal Judicial Center (September 1998).

⁵ There are 562 federally recognized Indian Tribes in the United States and approximately 297 Indian Reservations.

⁶ Office of Probation and Pretrial Services (2005). “The Supervision of Federal Offenders, Monograph 109.” Washington, D.C.: Administrative Office of the U.S. Courts.

⁷ Office of Probation and Pretrial Services (2005). “Simplified Procurement Procedures for Treatment Services.” Washington, D.C.: Administrative Office of the U.S. Courts.

⁸ Source: National Treatment Database (NTD); data retrieved 10/19/05.

⁹ Project codes are billing codes used to track expenditures on specific types of services. Examples of sex offender project codes include polygraph examinations or sex offender specific evaluations and reports.

¹⁰ Hindman, Jan & James M. Peters (2001). “Polygraph Testing Leads to Better Understanding Adult and Juvenile Sex Offenders.” *Federal Probation* , 65 (3): 8-15.

¹¹ Ibid.

¹² The average number of project codes used was 4.42.

¹³ See Appendix 1 for more detailed information.

¹⁴ Alabama Middle, Georgia Middle, Guam, Indiana Southern, Kentucky Western, Michigan Eastern, Northern Mariana Islands, Pennsylvania Middle, Puerto Rico, South Carolina, and West Virginia Southern.

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Sex Offenders on Federal Community Supervision: Factors that Influence Revocation

¹ Orlando, Dennise (1998). “Sex Offenders.” *Special Needs Offenders Bulletin* . Federal Judicial Center, No. 3, September.

² Ibid.

³ Ibid.

⁴ Lane Council of Governments (2003). “Managing Sex Offenders in the Community: A National Overview.” U.S. Department of Justice, Office of Justice Programs.

⁵ Project codes are billing codes used to track expenditures on specific types of services. Examples of sex offender project codes include polygraph examinations or sex offender specific evaluations and reports.

⁶ Total does not include the 687 cases that were either transferred out or closed due to death or “other” reasons.

⁷ Center for Sex Offender Management (2002). “An Overview of Sex Offender Management.” Washington, D.C.: Office of Justice Programs, U.S. Department of Justice. July.

⁸ Orlando, Dennise (1998). “Sex Offenders.” *Special Needs Offenders Bulletin* . Federal