

Section 2: Psychosexual Evaluations and Evaluators

The provisions of this section chapter govern the procedures relating to (a) the certification of professionals approved by the Idaho SOMB to conduct or assist with the conduct of psychosexual assessments of adults convicted of sex offenses or sex offense-related crimes (as referenced in section 18-8314, Idaho Code) and (b) evaluators' required practices with respect to conducting such evaluations.

I. GENERAL CONSIDERATIONS

- A. A person certified by the SOMB to conduct or assist with the conduct of psychosexual evaluations in accordance with the minimum requirements outlined in this section is expected to:
 - a. Adhere to the ethical principles and codes, and any and all practice standards and guidelines, for the person's respective discipline/area of professional licensure as promulgated by the licensing body;
 - b. Conduct testing in accordance with the person's licensing body, qualifications and experience. Outside sources should be utilized to interpret required testing that is beyond the person's training and expertise (see appendix for assessment qualification standards);
 - i. The SOMB will require verification of testing qualifications.
 - c. Adhere to current professional code of ethics established by ATSA. Although membership in ATSA is not a requirement for certification pursuant to this section, it is strongly recommended;
 - d. Follow current practice standards and guidelines for evaluators and evaluations as established by ATSA;
 - e. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation;
 - f. Be committed to community protection and safety; and
 - g. Conduct evaluation procedures in a manner that ensures the integrity of testing data, and the humane and ethical treatment of the individual.

- B. When decision making for an individual requires a current psychosexual evaluation, an evaluator shall not represent an evaluation that was conducted on the individual more than 1 year prior as being current, without taking reasonable and appropriate steps to ensure the currency with respect to the:
 - a. Individual's legal status;
 - b. Required content of the written report as set forth in this section;
 - c. Required assessment methods and tools utilized for the evaluation as set forth in this section;
 - d. Accompanying results, findings, and recommendations contained in the evaluation, which may involve, but are not limited to, the individual's level of recidivism risk, specialized treatment needs, and other management/interventions; and
 - e. Such updated or current psychosexual evaluation shall follow the format and standards established in this section.

II. PROPER SCOPE, PURPOSES FOR CONDUCTING PSYCHOSEXUAL EVALUATIONS

- A. Pursuant to sections 18-8314 and 18-8316 of the Idaho Code, a psychosexual evaluation conducted in accordance with this section is to be completed after a finding of guilt to inform sentencing and other disposition decisions.
- B. A psychosexual evaluation conducted in accordance with this section shall be written utilizing the frame/format as outlined by the SOMB. The SOMB values and respects professional discretion, judgment, and style with respect to the conduct of psychosexual evaluation, provided that the evaluator addresses the minimum requirements and operates within the parameters set forth in this section. A report that does not comply with the prescribed format shall not be represented as meeting the psychosexual evaluation criteria for the purposes described in this section.
- C. A psychosexual evaluation conducted in accordance with this section – and generally, for all other circumstances in which a psychosexual evaluation is being requested or conducted – is designed for the primary purposes of identifying the

level of recidivism risk, victim typology, treatment needs, responsivity, and amenability of the individual being evaluated.

- D. A psychosexual evaluation conducted in accordance with the standards and requirements set forth in this section may be further appropriate for informing other post-conviction decisions, provided that the use of such an evaluation is not prohibited, overriding, or incompatible with any statutory or other legal provisions of the Idaho Code, administrative rules, or other statutory expectations, requirements, or regulations in Idaho. These additional appropriate uses may include:
- a. Treatment planning;
 - b. Probation, post-release supervision, or other case management planning;
 - c. Significant custody status change, such as from incarceration to community;
 - d. Release decision making; and
 - e. Registration and community notification.
- E. The SOMB does not regulate psychosexual evaluations completed for purposes other than those defined herein. However, under no circumstances shall an evaluator conduct a psychosexual evaluation in accordance with this section – or generally in all other circumstances under which a psychosexual evaluation is requested or conducted – for the explicit purposes of:
- a. Attempting to substantiate or refute criminal allegations of sexual abuse made during the course of, or subsequent to, the following:
 - i. Law enforcement investigations;
 - ii. Social services/child protective services investigations;
 - iii. Domestic/family law proceedings such as child custody or parental fitness;
 - iv. Pending, previously resolved, or unresolved civil or criminal or juvenile/family court matters;
 - b. Establishing the factual basis of any civil, criminal, or other court proceedings, or ascertaining an evaluator’s opinions or assertions regarding

the guilt or innocence of the individual being evaluated during the course of any proceedings; or

- c. Attempting to generate or offer the evaluator's opinions or assertions regarding the individual's absolute risk/potential for engaging in sexually abusive or offending behavior or refraining from engaging in such behavior.

III. ASSESSMENT METHODS AND PROCEDURES

- A. Informed consent. An evaluator conducting psychosexual evaluations in accordance with this section shall afford the individual being evaluated (and/or their parent or legal guardian) to provide informed consent/assent and document accordingly in writing. The evaluator shall utilize the SOMB "Notice and Consent for Psychosexual Evaluation" form (see appendix). The SOMB form may be supplemented with additional evaluation consent/assent form(s) as desired by the evaluator.
- B. Multiple methods and information sources. An evaluator conducting psychosexual evaluations in accordance with this section shall utilize multiple assessment methods and information sources to support the comprehensiveness, reliability, and validity of the findings and recommendations of the evaluation. Minimally required data sources and assessment methods and processes shall include the following:
 - a. Structured clinical interviews;
 - b. Official law enforcement documents must be reviewed if available;
 - c. Other official records (e.g., victim statements, prior evaluations, treatment, social services, juvenile and/or adult criminal justice agencies);
 - d. Psychometrically sound measures for assessing intellectual, personality, functional, substance abuse, and other psychological variables;
 - e. Research-based instruments specifically designed to assess normative and deviant sexual interests, attitudes, arousal, and/or preferences; and
 - f. Research-supported risk assessment tools and protocols with currency in the field and which are designed to promote systematic and objective

assessments of risk factors and recidivism risk among sexually abusive individuals.

- g. The methods and assessments used by the evaluator should comport with the same requirements for the admissibility of expert testimony as outlined in Idaho Rules of Evidence, Rule 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S.Ct. 2786 L.Ed.2d 469 (1993).
- C. When conducting a psychosexual evaluation in accordance with this section, an evaluator shall employ assessment methods, procedures, and instruments appropriate for responding to these and other variables. Consider variables such as age, cultural/spiritual, language, development, level of functioning, physical and other limitations/disabilities. Address possible implications of these variables on the methods and processes used.
- D. An evaluator shall disclose and document all sources of information and methods used to conduct the psychosexual evaluation.
- E. Offender participation. The individual being evaluated (and/or the parent or other legal guardian) may refuse or decline to participate in any testing, assessment measure, or protocol used for a psychosexual evaluation conducted pursuant to this section. Under this circumstance, the evaluator shall:
 - a. Make reasonable efforts to obtain the signature of the individual (and/or the parent or other legal guardian) on a written statement/form indicating the individual's refusal or declination and include this form as an appendix to the psychosexual evaluation report;
 - b. Document the individual's refusal or declination in the body of the written evaluation report; and
 - c. Document in the written evaluation report any implications of the refusal or declination on the reliability and validity of the findings and accompanying recommendations.

- F. An evaluator shall provide recommendations commensurate with the assessed level of risk, research-supported risk factors, protective factors, and intervention needs as supported in the body of the report.
- G. An evaluator shall provide findings, conclusions, recommendations, and responses to referral questions that are congruent with the scope of the purposes of psychosexual evaluations as set forth in this section.
- H. Departures from established criteria. Any departures from the minimum expectations and requirements for psychosexual evaluations as specified in this section shall be specifically noted in the written evaluation report and any implications for the findings and recommendations for the evaluation.

IV. FORMAT, FRAMEWORK FOR WRITTEN PSYCHOSEXUAL EVALUATION REPORTS

- A. Required format for written report. Evaluators shall frame/format the written reports using the following headers in order to promote consistency in the organization and presentation of material, comprehensiveness of the reports, and familiarity/ease of use for consumers of these reports:
 - a. Preliminary statement
 - b. Identifying information
 - c. Synopsis
 - d. Referral information and nature of evaluation
 - e. Confidentiality
 - f. Sources of information
 - g. Mental status examination and psychological symptoms
 - h. Background, criminal and social history
 - i. Description of current offense(s)
 - j. Sexual history behavior
 - k. Psychological test results
 - l. Current full DSM diagnosis
 - m. Specialized risk assessment measures and measures of sexual behavior

- n. Risk variables (*attach Sex Offender Static and Dynamic Risk Variables Checklist*)
 - i. Static variables
 - ii. Protective variables
 - iii. Dynamic variables
- o. Risk level
- p. Potential for future harm (optional but encouraged)
- q. Resources for community protection, amenability for treatment, and recommended treatment focus
- r. Additional suggestions for management (optional)
- B. An evaluator shall incorporate, under the above organizing headers/format, the specific areas of focus detailed in this section.
- C. The printed name, highest attained degree, license, and certification designation must appear at the end of the report, and the report must be signed and dated by the evaluator.
 - a. An evaluation conducted by an Associate/Supervised Psychosexual Evaluator, must be reviewed, verified and co-signed by the Senior/Approved Psychosexual Evaluator who supervised the development of the evaluation that the findings are accurate.

V. AREAS OF FOCUS FOR PSYCHOSEXUAL EVALUATIONS

- A. An evaluator conducting psychosexual evaluations in accordance with this section shall assess and explore each the following elements during the course of the psychosexual evaluation:
 - a. Preliminary statement to be included in evaluations:

“Risk classification is the examinee’s assessed risk to re-offend when compared to other sexual offenders, not compared to the general population. Furthermore, the risk to re-offend is not reflective of the level of harm experienced by the victim. For consideration of victim harm, the

reader is encouraged to consider information from other sources such as victim impact statements, hospital records, or other relevant sources.”

- b. Identifying information
Examinee name, birth date, age, date of evaluation, criminal case, etc.
- c. Synopsis
 - i. Risk level conclusion, identified as being in Low, Moderate or High risk category;
 - ii. Conclusion regarding examinee’s amenability for treatment; and
 - iii. Identification of most pertinent information to be considered by the court as supported in body of report, including what lead to conclusions regarding risk and amenability for treatment (could include static, dynamic, and protective factors).
- d. Referral information and nature of evaluation
 - i. Identification of how the examinee was referred for evaluation;
 - ii. Statement regarding structure of the evaluation; and
 - iii. Idaho Codes that are followed.
- e. Confidentiality
 - i. Statement regarding evaluation confidentiality and how this was explained to examinee; and
 - ii. Informed consent form. (see appendix)
- f. Sources of information
 - i. List of tests, measures; and
 - ii. Collateral information, interviews, other relevant sources.
- g. Mental status examination and psychological symptoms
 - i. Standard mental status information and relevant psychological symptoms identified during interview; and
 - ii. Appearance and behavior observation
Description of examinee’s appearance and behavior during interview.
- h. Background, criminal and social history

- i. Developmental history (e.g., family dynamics, exposure to violence, maltreatment);
- ii. Interpersonal relationships (e.g., nature and quality of past and current relationships such as family, peers, intimate partners);
- iii. Medical history;
- iv. Mental health history (i.e., client and family), including previous diagnosis and treatment efforts;
- v. History of harm to self or others;
- vi. Education, employment, and/or military history;
- vii. Prior and current criminality or delinquency (e.g., including antisocial attitudes and values, psychopathy, juvenile delinquency, adult criminal history, violence or aggression)(*access criminal history, Idaho court repository or other official records*);
- viii. Substance use and/or abuse;
- ix. Prior responses to juvenile or adult justice system or other interventions (e.g., institutional/custodial conduct or adjustment, compliance with conditions of supervision, compliance/completion of other court orders, social services plans);
 - x. Family of origin history;
 - xi. Recreation/leisure;
 - xii. Cultural/spiritual; and
 - xiii. Capacity to identify problems and appropriate solutions.
- i. Description of current offense(s)

Description of current offense(s) of conviction (including official version as documented in police reports or other official records, victim statements, and the version of the individual being evaluated);
- j. Sexual history behavior
 - i. Sexual development, early sexual experiences;
 - 1. Ages 0 through 5

2. Ages 6 through 12
 3. Ages 13 through 17
 4. Adulthood (age 18 +)
- ii. History of age-appropriate, consensual, non-coercive sexual relationships;
 - iii. History of experiences involving being subjected to non-consensual or coercive sexual behaviors (e.g., sexual victimization);
 - iv. Historical and current sexual interests, fantasies, practices/behaviors;
 - v. Sexual functioning, sexual dysfunction;
 - vi. Use of sexually-oriented materials or services (e.g., magazines, sexually explicit video games, videos and other programming, Internet sites, telephone sex lines, adult establishments);
 - vii. Prior sexual offender treatment;
 - viii. Intent of individual related to treatment;
 - ix. Offense-related sexual arousal, interests, and preferences;
 - x. Evidence or characteristics of paraphilias;
 - xi. History of sexually abusive behaviors, both officially documented and unreported (if identified through credible records or sources);
 - xii. Number of victims as identified through credible records or sources;
 - xiii. Current and previous victim-related variables (e.g., age, gender, nature of relationship);
 - xiv. Contextual elements of sexually abusive behaviors (e.g., frequency and duration; apparent motivators; patterns; circumstances; access to victims; degree of planning; use of threats, coercion, or force);
 - xv. Attitudes supportive of sexually abusive behavior; and
 - xvi. Demonstrated level of insight, self-disclosure, denial, and minimization relative to the sexually abusive behavior.

- k. Psychological test results (testing for personality and mood, and intellectual functioning are required; remaining categories are recommended for assessment as indicated but are at the discretion of the evaluator)
 - i. Personality and mood – must use at least one of:
 - 1. MMPI-2
 - 2. MCMI-III
 - 3. PAI
 - ii. Intellectual functioning testing – must use one of:
 - 1. Shipley-2 (preferred)
 - 2. WAIS-IV (preferred)
 - 3. Other validated assessment tool
 - iii. Psychopathic tendencies – such as:
 - 1. PPI-R
 - 2. PCL-R (Hare)
 - 3. Other validated assessment tool
 - iv. Substance abuse – such as:
 - 1. SASSI-3
 - 2. GAIN-I
 - 3. Other validated assessment tool
 - v. Additional optional testing, but not exclusive to:
 - 1. STAXI-2 (anger)
 - 2. HCR-20
 - 3. SVR-20
 - 4. LSI-R
- l. DSM diagnosis
Current axis diagnosis from the current version of the Diagnostic and Statistical Manual of Mental Disorders.
- m. Specialized risk assessment measures and measures of sexual behavior
 - i. Risk assessment must include the following measures:

1. STATIC-99 or STATIC-99R (unless inappropriate for case)
 2. MSI-II
 3. STABLE 2007
- ii. Additional optional measures, but not exclusive to:
1. ACUTE 2007
 2. SORAG
 3. VASOR
 4. Viewing time measure (e.g. Abel screen)
 5. Phallometric testing
 6. Polygraph
- n. Risk variables
- i. Static variables
Research-supported static variables (see appendix)
 - ii. Dynamic variables
Research-supported dynamic variables (see appendix)
 - iii. Protective variables
Research-supported protective variables (see appendix)
 - iv. *Attach Sex Offender Static and Dynamic Risk Variables Checklist*
- o. Risk level
Estimated classification as low/moderate/high risk.
- p. Potential for future harm (optional but encouraged)
- i. Demonstrated level of awareness or insight into potential harm/impact on the victim(s) and others (e.g., perspective-taking and empathic abilities and actions); and
 - ii. Most likely type of victim and potential harm they could experience based on literature.
- q. Resources for community protection, amenability for treatment, and recommended treatment focus
- i. Resources for community protection;

- ii. Amenity for intervention and treatment;
 - iii. Advice regarding treatment; and
 - iv. Advice regarding supervision.
- r. Additional suggestions for management (optional)

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