

Chapter 07

Section 09.02 - Supervision of the Sexual Offender

Authority: Criminal Procedure Article, §§ 11-701, et seq.
Annotated Code of Maryland

A. Introduction.

DPSCS-Community Supervision (hereinafter, "the agency") has established a strategy and a structure for the effective management of sexual offenders being supervised in the community. Whether these offenders are probationers, mandatory releasees, or parolees, the agency's approach is uniformly and firmly focused on the nature of each individual's offending behavior and risk to re-offend. The approach is built upon evidence-based risk assessment procedures and differential supervision strategies that allow for the application of the most intensive interventions to those offenders requiring the highest levels of oversight, treatment, and restriction.

COMET (Collaborative Offender Management/Enforced Treatment) teams throughout the State utilize a containment model approach to supervision, the overarching goal of which is to reduce sexual offense recidivism. As developed and implemented by the agency, the intent of this approach is both to support and to enforce the process of surrounding the offender with a professional, multidisciplinary team capable of assessing and addressing, from different perspectives, the offender's risk and progress.

At the nucleus of each team is a specially trained parole and probation agent, positioned to direct and coordinate the efforts of the various other team members and to employ newly available technologies to control and monitor previously inaccessible aspects of the offender's behavior. The essence of this strategy, however, is not the technology, but the interactive skills of the agent - skills which are evident during the frequent contacts with the offender which promote a productive ongoing dialogue with a reluctant subject; skills which are sharpened by the constant assessment and application of overwhelming quantities of data; and skills which are enhanced through the continuous integration of the focused contributions of other professionals.

The policies and procedures associated with this process are based on evidence and experience and will evolve in response to ongoing research and observation, enabling the agency to direct limited resources where they are most needed, enhancing their effectiveness.

B. Eligibility Criteria.

(1) An offender who is placed under supervision for a sexual offense shall be assigned to COMET supervision at intake. Sexual offense includes:

- (a) Abduction of a child under the age of twelve;
- (b) Child abuse (sexual);

- (c) Child pornography offenses;
 - (d) False imprisonment of a minor by a non-parent adult;
 - (e) Incest;
 - (f) Indecent exposure;
 - (g) Kidnapping of a minor;
 - (h) Obscene material offenses;
 - (i) Peeping;
 - (j) Perverted sexual practice;
 - (k) Rape, first or second degree, attempted rape and assault with intent to commit rape;
 - (l) Sexual abuse of a minor;
 - (m) Sexual commerce involving a minor:
 - (n) Sexual offenses (first, second, third, and fourth degree; including attempted first, second, or third degree sexual offenses, assault with intent to commit a first or second degree sexual offense, and sexual offenses classified as "other");
 - (o) Sodomy; and
 - (p) Soliciting a minor to engage in sexual conduct.
- (2) **Prostitution conviction excluded from COMET supervision.** Absent a conviction for an offense listed in paragraph (1) of this subsection, an offender who is convicted of prostitution may not be assigned to COMET supervision.
- (3) **Perverted practice conviction.** An offender convicted of perverted practice may be transferred to general supervision if:
- (a) Upon investigation by the agent, it is determined that the offense clearly was related to an act of prostitution; and
 - (b) Prior to the transfer of supervision, the COMET agent's supervisor enters a Case Note summarizing the facts leading to the determination that the perverted practice conviction clearly was related to an act of prostitution.
- (4) **Indecent exposure.** Except as set forth in the next paragraph, an offender convicted of indecent exposure shall be assigned to a COMET agent.

(5) An offender convicted of indecent exposure may be transferred to general supervision if:

(a) The indecent exposure was clearly non-sexual in nature; and

(b) Prior to the transfer of supervision, the COMET agent's supervisor enters a Case Note summarizing the facts leading to the determination that the indecent exposure clearly was non-sexual behavior.

(6) **Failure to register as a sexual offender is not a sexual offense.** An offender's failure to register as a sexual offender is not itself a sexual offense, but on the basis of the underlying sexual offense conviction the offender shall be assigned to COMET supervision.

(7) **Assignment to COMET supervision at Intake.** Regardless of the offense for which an offender is placed under supervision, Intake shall assign the offender to COMET supervision if the offender is:

(a) Listed on the Sexual Offense Registry; or

(b) If not listed on the Sexual Offense Registry, is required to register as a sexual offender.

(8) **Post-intake qualifiers for COMET supervision.** An offender under supervision for other than a sexual offense and who is not required to register with the Sexual Offender Registry may be referred for COMET supervision if:

(a) Notwithstanding the named offense for which the offender was placed under supervision, the offense was sexual in nature; or

(b) The offender's adult or juvenile criminal history includes a conviction for or involvement in a sexual offense.

(9) **Post-intake referral procedure.** An agent who determines that an offender may qualify for COMET supervision as set forth in paragraph (8) of this subsection shall:

(a) Enter a Case Note stating the basis for the COMET referral; and

(b) Notify the agent's immediate supervisor of the referral.

(10) A supervisor who receives the notification described in paragraph (9) (b) of this subsection shall send an electronic mail message to the appropriate COMET unit supervisor requesting that the offender be considered for COMET supervision.

(11) **COMET review of referred offender.** Each case referred for COMET supervision shall be reviewed by a specialized agent and the agent's supervisor. The factors to be considered by the agent and supervisor include the:

(a) Nature and number of the offender's sexual offenses; and

(b) The length of time that has elapsed since the offender's last sexual offense.

(12) **Offender accepted for COMET supervision.** If the outcome of the review described in paragraph (11) of this subsection is that the offender is accepted for COMET supervision, the COMET supervisor shall:

(a) Assign supervision of the offender to a specialized agent; and

(b) Notify the referring agent and supervisor of the transfer and agent assignment.

(13) **Offender not accepted for COMET supervision.** If the outcome of the review described in paragraph (11) of this subsection is that the offender is not accepted for COMET supervision, the COMET supervisor shall:

(a) Note the decision and a brief explanation for the decision in Case Notes; and

(b) Send an electronic mail message to the referring agent and supervisor informing them of the decision.

C. The COMET Team: Composition and Supervision.

(1) **The COMET team.** The COMET team is a collaborative unit formed around the risks and needs of the sexual offender, with the flexibility to include the parties and agencies necessary to ensure the most effective approach to managing and treating the sexual offender. The COMET team core membership includes a:

(a) Specialized supervision agent;

(b) Sexual offender specific treatment provider;

(c) Polygraph examiner; and

(d) Supervisor.

(2) In addition to the core membership of a COMET team identified in paragraph (1) of this subsection, a COMET team may include, as necessary and available:

(a) Law enforcement;

(b) Other members of the criminal justice system, including representatives of juvenile justice and juvenile protection agencies,

(c) Victims' advocates;

(d) Treatment providers;

(e) Employment counselors;

(f) Community leaders;

(g) Employers; and

(h) Clergy.

(3) **COMET team coordinator.** The specialized agent or the field supervisor of the COMET team shall coordinate the activities of the COMET team. These activities include:

(a) Scheduling and convening monthly team meetings;

(b) Setting monthly meeting agenda;

(c) Notifying or, as applicable, inviting parties to monthly meetings; and

(d) Guiding the team toward effective resolution of issues related to the management of sexual offenders.

(4) **COMET team functions.** The COMET team shall:

(a) Staff cases and make decisions regarding case management and treatment for sexual offenders under the supervision of the team;

(b) Share information among team members regarding the direction and progress of a case and shall consider input from all team members in its decision-making process; and

(c) Cooperate in making informed decisions regarding a sexual offender's assessment and reassessment, treatment, behavioral monitoring (i.e., incentives and sanctions), and any other matters related to the management of a sexual offender that furthers risk reduction and public safety.

(5) **COMET team meeting minutes.** Minutes of each COMET team meeting shall be recorded and include, as applicable:

(a) The names, titles, and agency affiliations of the attendees;

(b) The names of the offenders whose cases were staffed at the meeting and a summary of the staffing issues presented and decisions made;

(c) Any interagency issues discussed and plans for the resolution or further review of those issues; and

(d) Any policy questions or other concerns requiring the attention of upper management.

(6) **Forward minutes.** Not later than 10 workdays following a COMET team meeting, the minutes of the meeting shall be forwarded to the Director of the Office of Community Supervision Support.

D. Supervising, Assessing, and Reassessing Sexual Offenders.

(1) **Supervision.** A sexual offender shall be supervised:

- (a) In the jurisdiction in which the offender resides; and
- (b) By a specially trained agent in collaboration with the COMET team.

(2) **Risk assessment (Static-99R instrument).** Not more than five workdays after a sexual offender is assigned to an agent, the agent shall:

- (a) Complete an initial assessment (Static-99R) of the offender;
- (b) Document in Case Notes that the assessment was conducted, and include in the entry the offender's assessment score; and
- (c) As determined by the offender's numerical Static-99R score, enter the offender's supervision level code (i.e., LV1, LV2, LV3, or LV4) into Case Notes and OBSCIS II.

(3) **Minimum duration of Level 1 supervision for current sexual offenders.** Regardless of an offender's Static-99R score, if the offender is under supervision for a sexual offense, the offender shall be maintained in Level 1 supervision for at least the first three months of the supervision period.

Note: See paragraphs (4) through (6) of this subsection for the mandatory minimum durations of Level 1 supervision for sexual offenders by specific Static-99R score.

(4) **Level 1 with Static-99R score of at least six.** A sexual offender with a Static-99R score of at least six shall remain in Level 1 supervision for at least the first 12 months of the supervision period.

(5) **Level 1 with Static-99R score of four or five.** A sexual offender with a Static-99R score of four or five shall remain in Level 1 supervision for at least the first six months of the supervision period.

(6) **Level 1 with Static-99R score of three or less.** A sexual offender with a Static-99R score of three or less shall remain in Level 1 supervision for at least the first three months of the supervision period.

(7) **Other COMET-supervised offenders.** Offenders not currently under supervision for a sexual offense but who are under COMET supervision as a result a Sexual Offender Registry requirement or a referral for COMET supervision may be placed directly into the supervision level corresponding to their Static-99R score.

Note: See paragraphs (8) through (11) of this subsection for mandatory placement of the offenders described in paragraph (7) of this subsection in certain supervision levels by Static-99R score.

(8) **Level 1 with Static-99R score of at least six.** A sexual offender who is not under current supervision for a sexual offense and whose Static-99R is at least six shall be placed in Level 1 supervision.

(9) **Level 2 with Static-99R score of four or five.** A sexual offender who is not under current supervision for a sexual offense and whose Static-99R score is four or five may be placed in Level 2 supervision.

(10) **Level 3 with Static-99R score of two or three.** A sexual offender who is not under current supervision for a sexual offense and whose Static-99R score is two or three may be placed in Level 3 supervision.

(11) **Level 4 with Static-99R score of less than two.** A sexual offender who is not under current supervision for a sexual offense and whose Static-99R score is less than two may be placed in Level 4 supervision.

(12) **Supervisor's review and certification of Static-99R score and supervision level.** Not later than five workdays after an agent completes a Static-99R risk assessment, the agent's supervisor shall:

(a) Review, for accuracy and completeness, the Static-99R and score;

(b) Ensure that if the Static-99R is inaccurate or incomplete, corrections are made; and

(c) Certify, as correct and complete, the Static-99R score, the risk level, and the supervision level by entering the completed Static-99R template into Case Notes.

(13) **Risk reassessments (Acute-2000 instrument).** Offender risk reassessments shall be conducted using the Acute-2000 reassessment instrument and adjustments to the offender's level of supervision may be made using the results of these reassessments.

(14) **Reassessment schedule.** Unless an offender's changed circumstances require a reassessment to be conducted sooner, an agent shall complete and document the completion of the Acute-2000 risk reassessment tool every 90 days for each offender.

(15) **Changing a sexual offender's supervision level.** To determine whether to elevate, to lower, or to leave unchanged a sexual offender's supervision level, an agent shall rely upon both the Acute-2000 outcome and any other information regarding the offender that is pertinent to the determination.

(16) **Case plan update required.** An agent shall update an offender's case plan when the determination described in paragraph (15) of this subsection is made.

(17) **Supervisor's review and certification of reassessment score and supervision level.** The supervisor of an agent who conducts a reassessment shall:

(a) Review, for accuracy and completeness, the Acute-2000 entries and score;

(b) Ensure that if the Acute-2000 is inaccurate or incomplete, corrections are made; and

(c) Certify, as correct and complete, the Acute-2000 score, the risk level, and the supervision level by entering the completed Acute-2000 template into Case Notes.

E. Type and Frequency of Supervision Contacts.

(1) **Introduction.** Although a sexual offender's risk assessment score establishes the agent's parameters for certain minimum required regular interactions with the sexual offender (and others), the specific nature and frequency of a number of these contacts will be determined by and documented in the case plan developed for each offender. The mandatory and optional contacts for each of the four supervision levels are set forth below.

(2) **Level 1: face-to-face contacts.** Minimally, an agent who supervises an offender in Level 1 shall effect a face-to-face contact with the offender weekly. Over the course of a month, the face-to-face contacts shall occur as follows:

(a) Two at the agent's office; and

(b) The remaining contacts at:

(i) The agent's office;

(ii) The offender's residence;

(iii) Within the community other than at (i) or (ii); or

(iv) Any combination of (i), (ii), and (iii).

Note: For fully compliant offenders only, an agent may include one kiosk contact monthly to satisfy an optional location contact listed in paragraph (2)(b) of this subsection.

(3) **Initial visit to offender's residence.** Not later than 10 workdays after receiving notification of a case assignment from intake or receiving a case in transfer, an agent shall visit the sexual offender's residence. Thereafter, visits to the offender's residence shall occur as set forth in paragraphs (4), (9), (14) and (19) of this subsection.

(4) **Level 1: visits to offender's residence.** An agent shall visit the residence of each offender in supervision Level I at least once monthly, and at least one of the visits shall include a face-to-face contact with the offender.

Note: A verified positive, collateral, or negative visit to an offender's residence by a law enforcement member of the COMET team may be substituted for a positive, collateral, or negative visit to the residence by an agent.

(5) **Level 1: daily telephone contact.** Except as set forth in paragraph (6) of this subsection, an agent shall require an offender who is subject to Level 1 supervision to effect

daily telephone contact with the agent, either by speaking with the agent or by leaving a voice-mail message for the agent, as instructed by the agent.

(6) **Level 1: Kiosk check-in permitted.** An agent may require an offender to check-in at a kiosk, in lieu of a telephone contact, but substitution shall be on a one-for-one basis. (i.e., A single kiosk check-in substitutes for a single telephone contact.)

(7) **Level 1: collateral contacts.** An agent shall conduct at least one collateral contact monthly. Collateral contacts may be effected with:

- (a) A person who resides with the offender;
- (b) An offender's family member, whether or not the family member resides with the offender;
- (c) A significant other of the offender;
- (d) The offender's victim or a family member of the victim;
- (e) An offender's employer;
- (f) An educational or vocational program attended by the offender;
- (g) A social services agency;
- (h) A law enforcement officer; and
- (i) Other community and criminal justice system members.

Note: The required collateral contact must occur outside of the presence of the offender.

(8) **Level 2: face-to-face contacts.** An agent who supervises an offender in Level 2 shall effect three face-to-face contacts with the offender monthly. The monthly face-to-face contacts shall occur as follows:

- (a) Two at the agent's office; and
- (b) The remaining contact at:
 - (i) The agent's office;
 - (ii) The offender's residence; or
 - (iii) Within the community other than at (i) or (ii).

Note: For fully compliant offenders only, an agent may substitute a kiosk check-in every other month for an optional location contact listed in paragraph (8)(b) of this subsection.

(9) **Level 2: visits to offender's residence.** An agent shall visit an offender's residence monthly, as follows:

(a) If the offender is present during the agent's visit, or if a collateral contact is effected during the visit which results in verification that the offender lives at that residence, no additional visits to the offender's residence are required for that month; and

(b) If the offender is not present during the agent's visit, the agent shall visit the offender's residence during the same month until a collateral contact is effected there which results in verification that the offender lives at the residence.

Note: A verified positive, collateral, or negative visit to an offender's residence by a law enforcement member of the COMET team may be substituted for a positive, collateral, or negative visit to the residence by an agent.

(10) **Level 2: daily telephone contact.** Except as set forth in paragraph (11) of this subsection, an agent shall require an offender who is subject to Level 2 supervision to effect daily telephone contact with the agent, either by speaking with the agent or by leaving a voice-mail message for the agent, as directed by the agent, and shall record and respond to compliance with this requirement as set forth in paragraph (5) (a) and (b) of this subsection.

(11) **Level 2: Kiosk check-in permitted.** An agent may require an offender to check-in at a kiosk, in lieu of a telephone contact, but the agent may not alter the daily telephone or kiosk check-in requirement. (i.e., A single kiosk check-in substitutes for a single telephone contact.)

(12) **Level 2: collateral contacts.** An agent shall conduct at least one collateral contact monthly. Collateral contacts may be effected with:

(a) A person who resides with the offender;

(b) An offender's family member, whether or not the family member resides with the offender;

(c) A significant other of the offender;

(d) The offender's victim or a family member of the victim;

(e) An offender's employer;

(f) An educational or vocational program attended by the offender;

(g) A social services agency;

(h) A law enforcement officer; and

(i) Other community and criminal justice system members.

Note: The required collateral contact must occur outside of the presence of the offender.

(13) **Level 3: face-to-face contacts.** An agent who supervises an offender in Level 3 shall effect two face-to-face contacts with the offender monthly. The monthly face-to-face contacts shall occur as follows:

- (a) One at the agent's office; and
- (b) The remaining contact at:
 - (i) The agent's office;
 - (ii) The offender's residence; or
 - (iii) Within the community other than at (i) or (ii).

Note: For fully compliant offenders only, an agent may substitute a kiosk check-in every other month for an optional location contact listed in paragraph (13)(b) of this subsection.

(14) **Level 3: visits to offender's residence.** An agent shall visit a Level 3 offender's residence monthly. If monthly verification of the offender's residence is not obtained through this contact, the agent may verify the offender's place of residence by reviewing offender-furnished documents, such as a rent receipt or utility bill.

(15) **Level 3: daily telephone contact.** An agent may require an offender who is subject to Level 3 supervision to effect daily telephone contact with the agent, either by speaking with the agent or by leaving a voice-mail message for the agent, as directed by the agent.

(16) **Level 3: kiosk.** An agent may require an offender who is subject to Level 3 supervision to check-in at a kiosk on a schedule and for a duration established by the agent.

(17) **Level 3: collateral contacts.** An agent shall conduct at least one collateral contact monthly. Collateral contacts may be effected with:

- (a) A person who resides with the offender;
- (b) An offender's family member, whether or not the family member resides with the offender;
- (c) A significant other of the offender;
- (d) The offender's victim or a family member of the victim;
- (e) An offender's employer;
- (f) An educational or vocational program attended by the offender;
- (g) A social services agency;

- (h) A law enforcement officer; and
- (i) Other community and criminal justice system members.

Note: A collateral contact may occur with or without the offender present.

(18) **Level 4: face-to-face contacts.** An agent who supervises an offender in Level 4 shall effect one face-to-face contact with the offender monthly. The monthly face-to-face contact may occur as follows:

- (a) At the agent's office;
- (b) At the offender's residence; or
- (c) Elsewhere within the community.

Note: For fully compliant offenders only, an agent may substitute a kiosk check-in every other month.

(19) **Level 4: visits to offender's residence.** An agent shall visit a Level 4 offender's residence monthly. If monthly verification of the offender's residence is not obtained through this contact, the agent may verify the offender's place of residence by reviewing offender-furnished documents, such as a rent receipt or utility bill.

(20) **Level 4: daily telephone contact.** An agent may require an offender who is subject to Level 4 supervision to effect daily telephone contact with the agent, either by speaking with the agent or by leaving a voice-mail message for the agent, as directed by the agent.

(21) **Level 4: kiosk.** An agent may require an offender who is subject to Level 4 supervision to check-in at a kiosk on a schedule and for a duration established by the agent.

(22) **Level 4: collateral contacts.** An agent shall conduct at least one collateral contact quarterly. Collateral contacts may be effected with:

- (a) A person who resides with the offender;
- (b) An offender's family member, whether or not the family member resides with the offender;
- (c) A significant other of the offender;
- (d) The offender's victim or a family member of the victim;
- (e) An offender's employer;
- (f) An educational or vocational program attended by the offender;

- (g) A social services agency;
- (h) A law enforcement officer; and
- (i) Other community and criminal justice system members.

Note: A Level 4 collateral contact shall be separate from any other contact with the offender. (e.g., An offender reports to the agent and is accompanied by another person. This will not satisfy the minimum quarterly collateral contact requirement.)

(23) Missed office contact: all supervision levels. A sexual offender who misses a scheduled office appointment with an agent shall report for two make-up contacts, as follows:

(a) Not later than the second workday following the missed appointment, the offender shall report to a kiosk site and complete the check-in process; and

(b) Not later than the second workday following the kiosk check-in, the offender shall report to the agent's office to make up the missed face-to-face office contact.

F. Reducing an Offender's Supervision Level.

(1) Introduction. Except as set forth in paragraph (2) of this subsection, in consultation with the agent's supervisor, an agent shall consider reducing a sexual offender's supervision level based upon the following indicators:

- (a) The offender's Acute-2000 scores;
- (b) Input from the specialized treatment provider and other members of the COMET team; and
- (c) Other pertinent factors regarding the offender's adjustment.

(2) Mandatory minimums must first be met. An agent shall ensure that an offender has met the mandatory minimum supervision term for the offender's supervision level before reducing the level under this section. These minimums are set out below in paragraphs (3) through (14) of this subsection.

(3) Reduction to Level 2 with Static-99R score of at least 6. An offender whose Static-99R score is at least six may be moved to Level 2 supervision only:

(a) After the offender completes at least 12 months of satisfactory adjustment in Level 1 supervision; and

(b) If the offender's two most recent Acute-2000 scores entered by the agent in Case Notes during the Level 1 supervision period are less than three.

(4) Reduction to Level 3 with Static-99R score of at least 6. An offender whose Static-99R score is at least six may be moved to Level 3 supervision only:

(a) After the offender completes at least six months of satisfactory adjustment in Level 2 supervision; and

(b) Only if the offender's two most recent Acute-2000 scores entered by the agent in Case Notes during the Level 2 supervision period are less than three.

(5) Reduction to Level 4 with Static-99R score of at least 6. An offender whose Static-99R score is at least six may be moved to Level 4 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 3 supervision; and

(b) Only if the most recent Acute-2000 score entered by the agent in Case Notes during the level three supervision period was less than three.

(6) Reduction to Level 2 with Static-99R score of four or five. An offender whose Static-99R score is four or five may be moved to Level 2 supervision only:

(a) After the offender completes at least six months of satisfactory adjustment in Level 1 supervision; and

(b) If the offender's two most recent Acute-2000 scores entered by the agent in Case Notes during the Level 1 supervision period are less than three.

(7) Reduction to Level 3 with Static-99R score of four or five. An offender whose Static-99R score is four or five may be moved to Level 3 supervision only:

(a) After the offender completes at least six months of satisfactory adjustment in Level 2 supervision; and

(b) If the offender's two most recent Acute-2000 scores entered by the agent in Case Notes during the Level 2 supervision period are less than three.

(8) Reduction to Level 4 with Static-99R score of four or five. An offender whose Static-99R score is four or five may be moved to Level 4 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 3; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 3 supervision period is less than three.

(9) Reduction to Level 2 with Static-99R score of two or three. An offender whose Static-99R score is two or three may be moved to Level 2 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 1 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 1 supervision period is less than three.

(10) Reduction to Level 3 with Static-99R score of two or three. An offender whose Static-99R score is two or three may be moved to Level 3 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 2 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 2 supervision period is less than three.

(11) Reduction to Level 4 with Static-99R score of two or three. An offender whose Static-99R score is two or three may be moved to Level 4 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 3 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 3 supervision period is less than three.

(12) Reduction to Level 2 with Static-99R score of one or less. An offender whose Static-99R score is one or less may be moved to Level 2 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 1 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 1 supervision period is less than three.

(13) Reduction to Level 3 with Static-99R score of one or less. An offender whose Static-99R score is one or less may be moved to Level 3 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 2 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 2 supervision period is less than three.

(14) Reduction to Level 4 with Static-99R score of one or less. An offender whose Static-99R score is one or less may be moved to Level 4 supervision only:

(a) After the offender completes at least three months of satisfactory adjustment in Level 3 supervision; and

(b) If the offender's most recent Acute-2000 score entered by the agent in Case Notes during the Level 3 supervision period is less than three.

(15) **Supervision levels are limited.** An agent may not classify or reclassify a sexual offender into any supervision level other than the supervision levels specifically provided in this section (i.e., Levels 1, 2, 3 and 4).

(16) **Early termination and abatement of supervision unavailable to sexual offender.** Notwithstanding any other agency procedural or policy provision, a sexual offender is ineligible either for early termination or abatement of supervision.

G. Lifetime Supervision.

(1) **Introduction.** A sexual offender may be sentenced to lifetime supervision upon conviction for certain sexual offenses. Additionally, minimum mandatory sentencing for sexual offenses qualifying for lifetime supervision all but ensures that cases will be received long before the offender is released to the community. Consequently, it is critical that agents ensure that lifetime supervision cases are timely and properly encoded in OBSCIS II, as set forth below in this subsection.

(2) **Coding of lifetime sexual offender supervision cases.** An agent who is assigned to supervise a sexual offender sentenced to lifetime supervision shall ensure that the case is initially encoded in OBSCIS II, as follows:

(a) Code LTS (i.e., lifetime supervision) is entered in the *case type* field in OBSCIS II;

(b) Code NAU (i.e., non-active-unavailable) is entered in the *case status* field in OBSCIS II; and

(c) Code LV1 (i.e., Level 1) is entered in the *supervision level* field in OBSCIS II.

(3) **Release of offender.** Upon the release from incarceration of an offender sentenced to lifetime supervision, an agent shall change the case status from NAU to NAD (non-active-additional).

(4) **Lifetime supervision case status to active (ACT).** When all of an offender's mandatory release, parole, and probation supervision periods end, an agent shall:

(a) Change a lifetime supervision offender's case status to active (ACT) in OBSCIS II; and

(b) Ensure that that the supervision level of the lifetime sexual offender supervision case corresponds to the level for the last-closed parole, mandatory release, or probation case. (e.g., If the offender's last-closed case before the lifetime supervision became active was at supervision Level 3, the lifetime supervision case is Level 3.)

(5) **Supervision of lifetime sexual offender supervision cases.** An agent shall supervise a lifetime sexual offender supervision case in full accordance with the supervision requirements of a mandatory release, parole, or probation case at the same supervision level.

(6) **Termination of lifetime supervision.** After completing five years of lifetime sexual offender supervision, an offender may file a petition (*Petition for Discharge from Lifetime Sexual Offender Supervision*) with the sentencing judge to request that lifetime supervision be terminated. If the initial petition is denied, the offender may file a new petition once annually.

(7) **Court-forwarded *Petition for Discharge from Lifetime Sexual Offender Supervision*.** A court which receives a *Petition for Discharge from Lifetime Sexual Offender Supervision* may forward a copy of it, along with related documents, to the agency. In turn, the documents will be channeled to the supervising agent.

(8) **Five-year threshold unmet.** Upon receipt of the documents described in paragraph (7) of this subsection, an agent shall determine whether the offender met the five-year threshold for filing a *Petition for Discharge from Lifetime Sexual Offender Supervision*. If the agent determines that the offender served less than five years on lifetime sexual offender supervision at the time the petition was filed, the agent shall inform the court, in writing, of this determination.

(9) **Five-year threshold met.** If an agent determines that an offender who filed a *Petition for Discharge from Lifetime Sexual Offender Supervision* served at least five years on lifetime sexual offender supervision, the agent shall:

(a) Request that the petitioner be scheduled for a risk assessment interview with a treatment services member of the COMET team - if applicable, the member who provided assessment, or treatment, or both to the petitioner. (Using a predetermined format, the treatment provider will submit to the agent a report of the results of the assessment.);

(b) Request that the petitioner be scheduled for a polygraph test specifically constructed to address issues relevant to the suitability of the petitioner for discharge from lifetime sexual offender supervision. (Using a predetermined format, the polygraph examiner will submit to the agent a report of the results of the polygraph test.); and

(c) When the reports are completed, schedule the case to be staffed at the next COMET meeting for the purpose of:

(i) Reviewing and discussing the reports, as well as all other information relevant to the sexual offender's petition; and

(ii) Deciding whether or not the team recommendation is to support or to oppose the offender's request to the court (See note immediately below.)

Note: The team decision described in paragraph (c)(ii) of this subsection is to be unanimous. If unanimity is not obtained initially, the matter should be addressed and discussed by the team until differences are resolved and unanimity is obtained.

(10) **Report regarding offender's petition.** After a unanimous decision regarding an offender's petition is reached by the COMET team, an agent shall prepare a report—using a predetermined format—that:

(a) Incorporates the responses of the treatment provider and the polygraph examiner;

(b) Includes a summary of the petitioner's overall criminal record and supervision history to date; and

(c) Recommends granting or denying the offender's *Petition for Discharge from Lifetime Sexual Offender Supervision*.

(11) **Distribution of approved report.** When the report described in paragraph (10) of this subsection is approved, the report and all attachments to it shall be forwarded to the sentencing court, with copies for the State's Attorney, the petitioner, the petitioner's attorney, and the clerk of the court.

H. Standard Instructions to All Sexual Offenders.

(1) A specialized agent shall—as soon as practicable following a case assignment—meet with the assigned offender for the purposes of:

(a) Reviewing with the offender all of the offender's supervision and release orders, including each standard and special condition thereon;

(b) Instructing the offender that compliance with all standard and special conditions of supervision will be closely monitored and strictly enforced;

(c) Directing the offender to keep all scheduled appointments with the agent and, as applicable, with the treatment provider, the polygraph examiner, and anyone else charged with effecting or monitoring the offenders satisfaction of the conditions of supervision; and

(d) Informing the offender that certain activities related to specialized sexual offender management may be implemented at the commencement of supervision or at later points in the supervision period and, once completed, may subsequently be re-implemented at the discretion of the agent, if deemed necessary.

(2) In addition to the items set forth in paragraph (1) of this subsection, an agent shall:

(a) Instruct the offender to notify the agent immediately of any significant changes (including changes in address, employment, or treatment status) or events, and of any new arrests;

(b) Inform the offender that:

(i) Regular visits, announced and unannounced, will be made to the offender's home and employment by the agent and other members of the COMET team;

(ii) The agent and the COMET team will consider the suitability of the sexual offender's residence and employment;

(iii) The offender's home and employment must conform to the conditions of supervision and the goals of reduced recidivism and public safety; and

(iv) The agent may initiate contact with the sexual offender's family members, neighbors, and employers to ascertain the offender's compliance with supervision conditions and requirements.

(3) An agent shall instruct each offender that violation to any degree of any of the terms of the offender's supervision:

(a) Is subject to review and sanction; and

(b) May result in the issuance of a warrant for the offender's arrest and, ultimately, the offender's incarceration.

I. Monitoring the Sexual Offender.

(1) **Introduction.** Regardless of a sexual offender's supervision level, an agent shall regularly verify and document in Case Notes the offender's status in the crucial areas identified in this subsection.

(2) **Reporting and supervision condition requirement compliance.** Monthly, an agent shall verify and document an offender's compliance with:

(a) All standard and special conditions of supervision; and

(b) The reporting requirements associated with the offender's supervision level, including any telephone reporting requirements.

Note: For an offender subject to the daily telephone contact requirement, a summary of the telephone contacts for the preceding month (e.g., "The subject made 27 daily telephone contacts during January.") should be part of the Case Note for the first face-to-face contact of each month. It is not necessary to record telephone contacts on a daily basis.

(3) **Treatment compliance.** If procedures are established providing for immediate notification to an agent of critical concerns or non-compliant behavior, the agent shall verify and document an offender's specialized treatment program status each month. In the absence of such procedures, an agent shall contact the offender's treatment provider weekly.

(4) **Sexual Offender Registry compliance.** Monthly, an agent shall verify and document an offender's compliance with Sexual Offender Registry requirements.

(5) **Visits to offender's residence.** Beginning with the initial visit to an offender's residence, to be effected not later than 10 days after an agent's receiving of notification of

case assignment from intake or in transfer, the supervising agent shall conduct regular monthly visits to the sexual offender's home throughout the period of supervision.

(6) Agent observations during visits to an offender's residence. When visiting an offender's residence, an agent shall be alert to the:

(a) Proximity of the residence to the home, school, or place of employment of a victim or a potential victim; and

(b) Presence of a:

(i) Potential victim in the residence;

(ii) Person or thing specifically prohibited to the sexual offender by a court or the Parole Commission; and

(iii) Person or thing (e.g., pornographic material, children's toys, clothing, or personal articles) that may be a trigger or precursor to offending behavior, that may indicate an increase in the risk for re-offense, or that suggests that the sexual offender may be re-offending.

(7) Contacts with family and others without the offender present. Inasmuch as a sexual offender's family and household members tend to be less frank in talking about the offender when the offender is present, an agent shall visit the offender's residence at least once every three months for the purpose of speaking privately with others who may reside there.

(8) Homeless offenders. An agent shall monitor closely the status of a sexual offender who reports being homeless.

(9) Offenders who claim to reside at a homeless shelter. When a sexual offender claims to reside at a homeless shelter, an agent shall:

(a) Document in Case Notes the name and address of the homeless shelter;

(b) Contact the shelter's manager or other responsible employee to verify the offender's claim and, if verified, request immediate notification if the sexual offender moves out of the shelter or exhibits any behavior which appears to pose a risk to the sexual offender or others;

(c) Instruct the offender to meet Level 1 supervision contact requirements;

(d) Substitute appropriate additional face-to-face and kiosk contacts for telephone contacts, if necessary.

(10) Offenders without fixed address or shelter placement. When a sexual offender claims to have neither a fixed address nor a shelter residence, an agent shall:

(a) Document the offender's claims in Case Notes;

(b) Notify the Sexual Offender Registry Unit of the offender's homeless status;

(c) Document in Case Notes when and to whom the notification required under item (b) of this paragraph was made;

(d) Refer the offender for Phase 1 electronic tracking in order to confirm the offender's homeless status and to monitor the offender's movements for the duration of the offender's homelessness;

(e) Require the offender to meet Level 1 supervision contact requirements, substituting appropriate additional face-to-face and kiosk contacts for home and telephone contacts, if necessary; and

(f) Summarize in Case Notes the offender's residential situation and the case plan that will be in effect during the offender's period of homelessness.

J. Supervision Transfer and Out-of-State Travel Procedures.

(1) **Introduction.** Public safety considerations require that an offender's request for transfer from one supervision office to another within the State be carefully examined. Accordingly, supervision transfer from one office to another may not occur until the procedures set forth in this subsection are satisfied and the offender's home plan is approved. Similarly, an offender's request to relocate out of state requires careful examination but, unlike in-state supervision transfer, is controlled by the *Interstate Compact for Adult Offender Supervision*. Consequently, in addition to the provisions set forth in this subsection regarding out-of-state supervision transfer, please see Chapter 09 in this manual.

(2) **In-state supervision transfer considerations.** When a sexual offender requests a supervision transfer from one office to another within the State, the offender's agent shall consider:

(a) The offender's criminal history;

(b) The offender's special conditions;

(c) Whether others will reside with the offender and, if any, the ages and gender of those individuals; and

(d) The proximity of the proposed residence to playgrounds, schools, and other places where children typically congregate.

(3) **Requesting the assistance of another office.** If the distance between the sending and receiving offices precludes the offender's current agent from making all of the determinations required under paragraph (2) of this subsection, assistance shall be requested. The current agent's supervisor shall send an electronic mail message to a supervisor in the office where the offender will be supervised if the transfer is approved, requesting that an investigation be conducted into the sexual offender's proposed residence and neighborhood.

(4) **Response to request for assistance.** Not later than five workdays after the request described in paragraph (3) of this subsection is received, the supervisor who receives the request shall:

(a) Assign an agent to make the determinations requested by the sending agent's supervisor; and

(b) Report the results of the investigation to the sending agent's supervisor by electronic mail.

Note: The sole purpose of the assistance described in paragraphs (3) and (4) is information gathering. Consequently, unless a recommendation is specifically requested by the supervisor of the offender's current agent, a recommendation is not to be included in the response report.

(5) **Supervisor's decision to approve or to deny a transfer.** The supervisor of an offender's supervising agent shall approve or deny a requested transfer and shall document that decision in Case Notes. A request shall be denied only if the supervisor believes public safety will be compromised by the transfer and the Case Note entry must specify the basis for that determination. If the transfer is approved, the supervisor shall:

(a) By electronic mail message, promptly notify the receiving agent's supervisor of the transfer; and

(b) Request reporting instructions for the offender.

(6) **Sending agent's notice to offender.** Upon receipt of reporting instructions for the offender, the sending agent shall:

(a) Promptly notify the sexual offender of the transfer; and

(b) In writing, provide the offender with specific instructions for reporting to the offender's new office and agent.

(c) **Face-to-face meeting is prerequisite to electronic case transfer.** An agent may not submit a case for electronic transfer until the agent receives confirmation by electronic mail message from the receiving agent or receiving agent's supervisor that the receiving agent and offender have met face to face.

(7) **Out-of-state travel.** Out-of-state travel by a sexual offender for a purpose other than supervision transfer may be authorized only after the specific requirements set forth in paragraphs (8) through (11) and (13) of this subsection are satisfied.

(8) **Travel plan considerations.** An agent shall conduct a thorough review of the appropriateness of the offender's proposed travel plan, including the:

(a) Purpose of the trip;

(b) Destination;

(c) Route and stopovers, if any;

(d) Duration of the trip;

(e) Timetable for the trip;

(f) Age, gender, and reasons for travel of any individuals who will accompany the offender on the trip.

(9) Supervision adjustment. An offender's eligibility for travel depends, in part, on the offender's supervision history and adjustment to supervision. An agent shall consider:

(a) The offender's complete record of compliance with all standard and special conditions of supervision;

(b) As applicable, the offender's response to contact and treatment requirements; and

(c) The offender's compliance with the restrictions and requirements imposed in connection with any prior travel outside of the State.

(10) Offenders in specialized treatment. If a sexual offender who requests travel permission is participating in specialized treatment, the agent shall consult with the offender's treatment provider regarding the travel plan in order to assess the potential impact of the proposed trip on the offender's adjustment and any potential the trip may have to increase the risk of harm to the victim or others.

(11) Decision to grant or to deny travel request. The agent and the agent's supervisor, upon consideration of the information developed through the agent's review of the offender's proposed travel plan and supervision status, shall decide whether to grant or to deny the offender's request to travel outside of the State and shall document the decision in Case Notes, as set forth in paragraphs (12) and (13) of this subsection.

(12) Travel request denied. If an offender's out-of-state travel request is denied, an agent shall:

(a) Document the decision in a Case Note; and

(b) Include in the Case Note the reason for the denial.

(13) Travel request granted. If an offender's out-of-state travel request is granted, an agent shall:

(a) Document the decision in a Case Note;

(b) In consultation with the agent's supervisor, make the determinations set forth in paragraphs (14) and (15) of this subsection; and

(c) Provide to the sexual offender a signed and dated travel authorization form (“COMET Temporary Travel Permit - Sexual Offender”) containing the requirements and instructions which will apply to the offender’s out-of-state travel including, if applicable:

- (i) Electronic monitoring instructions; and
- (ii) Out-of state sex offender registration requirements.

(14) **Electronic monitoring decision.** An agent and the agent’s supervisor shall determine whether an offender shall be subject to electronic tracking while traveling out of state.

(15) **Out-of-state sex offender registration.** An agent of an offender who is granted out-of-state travel permission shall determine whether the laws of the states through which the offender will travel and the state of destination require the offender to register as a sexual offender. If registration is required, the agent shall include registration instructions on the travel authorization form.

(16) **Out-of-state travel for employment purposes.** Out-of-state travel for a sexual offender may be authorized for employment purposes if the:

(a) Details of the employment, including the exact location of the job site and the offender’s route to and from the job site, are verified;

(b) Verification and information in item (a) of this paragraph are documented in Case Notes; and

(c) Offender’s compliance with registration laws in the neighboring state, if required by that state, are verified and documented.

(17) **Daily employment commutes between Maryland and a state bordering Maryland.** An agent may authorize an offender to commute daily between Maryland and a state bordering Maryland without issuing a daily travel authorization form to the offender if the:

(a) Offender leaves Maryland and returns to Maryland daily solely for employment purposes;

(b) Offender is registered, if required by the other state, as a sexual offender in the other state; and

(c) Authorization is documented clearly in Case Notes.

(18) **Temporary, employment-related out-of-state travel.** An agent and supervisor may authorize a sexual offender to travel out of state for temporary, employment-related purposes, such as a special work assignment or to attend a business meeting, provided the requirements set forth in paragraphs (19) through (24), as applicable, are first met.

(19) **Offender's travel plan.** An agent of a sexual offender who requests permission to travel outside of Maryland for temporary, employment-related purposes shall instruct the offender to furnish the agent with a detailed, written itinerary which includes each location at which the offender will stop during the requested travel and the purpose and duration of each stop.

(20) **Agent review of offender request.** An agent shall conduct the same review of the appropriateness of the offender's travel plan and the offender's eligibility for travel as is required by this subsection for out-of-state travel not specific to employment. These requirements include the offender's adjustment to supervision and specialized treatment considerations, if any.

(21) **Decision to grant or to deny employment-related travel request.** An agent and the agent's supervisor, upon consideration of the information developed through the agent's review of the offender's proposed itinerary and knowledge of the offender's supervision status, shall decide whether to grant or to deny the offender's request and shall document the decision in Case Notes, as set forth in paragraphs (22) and (23) of this subsection.

(22) **Employment-related travel request denied.** If an offender's employment-related, out-of-state travel request is denied, an agent shall:

- (a) Document the decision in a Case Note; and
- (b) Include in the Case Note the reason for the denial.

(23) **Employment-related travel request granted.** If an offender's employment-related, out-of-state travel request is granted, an agent shall meet the requirements set forth in paragraphs (13) through (15) of this subsection.

(24) **Case note required upon return of offender to Maryland.** Not more than five workdays after an offender who is authorized to travel out of state returns to Maryland, an agent shall document, in Case Notes:

- (a) The offender's return;
- (b) The offender's compliance with sexual offender registration requirements, if any; and
- (c) If applicable, the electronic tracking data by summarizing the data.

K. Responding to Alerts and Offender Non-Compliance.

(1) **Offender's failure to report to intake.** When an offender fails to report for intake, an intake reviewer will send notice of that event by electronic mail to the:

- (a) Intake supervisor;
- (b) Assigned agent; and

(c) Assigned agent's supervisor.

(2) **Agent's response.** An agent who receives the notice described in the preceding paragraph shall:

(a) Immediately attempt to locate and establish contact with the offender; and

(b) Document in Case Notes as many of the steps set forth in paragraphs (3) through (5) of this section as are taken by the agent in attempting to locate and to establish contact with the offender.

(3) **VINELink® inquiry.** An agent shall access <http://www.vinelink.com/index.jsp> (VINELink®) and search for the offender by name to determine whether the offender is in the custody of a correctional facility.

(4) **Offender located through VINELink®.** If the result of a VINELink® inquiry is positive, an agent shall enter the details of that result in a Case Note and shall register with VINELink® for notification of any change in the offender's custody status.

(5) **Offender not located through VINELink®.** If the result of the VINELink® inquiry is negative, an agent shall attempt to locate the offender by:

(a) Calling whatever telephone numbers may be available to the agent through agency records, the sentencing court, the Parole Commission, the Sexual Offender Registry Unit, and the Motor Vehicle Administration;

(b) Visiting in person the addresses which may be available to the agent through agency records, the sentencing court, the Parole Commission, the Sexual Offender Registry Unit, and the Motor Vehicle Administration.

(c) Calling or visiting offender employers and treatment providers listed in the records of the agency, the sentencing court, the Parole Commission, the Sexual Offender Registry, and the Motor Vehicle Administration.

(6) **Notice to law enforcement: two workdays.** If a sexual offender who fails to report for intake is not located within two workdays, an agent shall notify the local law enforcement unit associated with the COMET team that the offender may have absconded from supervision.

(7) **Warrant request: five workdays.** If a sexual offender who fails to report for intake is not located within five workdays, an agent shall request a warrant for the offender's arrest.

(8) **Offender's failure to report for supervision appointments.** If an offender misses two or more consecutive supervision appointments and fails to maintain contact with the agent otherwise, the agent shall:

(a) Immediately initiate the procedures set forth in paragraphs (3) through (5) of this subsection to locate and re-establish contact with the offender; and

(b) Document in Case Notes as many of the steps set forth in paragraphs (3) through (5) of this section as are taken by the agent in attempting to locate and to re-establish contact with the offender.

(9) Notice to law enforcement: two workdays. If a sexual offender is not located or contact is not re-established by the close of the second business day following the offender's second consecutive missed appointment, the agent shall notify the local law enforcement unit associated with the COMET team that the offender may have absconded from supervision.

(10) Warrant request: five workdays. If a sexual offender is not located or contact is not re-established by the close of the fifth business day following the offender's second consecutive missed appointment, an agent shall request a warrant for the offender's arrest not later than the end of the following day.

(11) Offender's failure to register or re-register as a sexual offender. If a sexual offender fails to register or re-register as a sexual offender as required by law and the offender is criminally charged with failing to register or re-register, an agent shall request a warrant for the offender's arrest not more than three workdays after the agent learns of the violation.

(12) Offender's attempt to avoid sexual offender registration or re-registration. If an agent, in consultation with the agent's supervisor, determines that a sexual offender is purposefully attempting to avoid registration or re-registration as a sexual offender, the agent shall request a warrant for the offender's arrest not more than three workdays after making the determination.

Note: The warrant request requirement set forth in paragraph (12) of this subsection is not contingent upon the offender's being criminally charged with failing to register or re-register.

(13) Offender's failing to register or re-register not deliberate. An agent may direct an offender to register or re-register as a sexual offender and forego other action if the agent:

(a) In consultation with the agent's supervisor, determines that a sexual offender's failure to register or re-register is not a purposeful attempt to avoid sexual offender registration or re-registration requirements; and

(b) Not more than three workdays after the agent learns of the offender's failure to register or re-register, the agent enters all of the following into Case Notes:

(i) The determination made by the agent and supervisor;

(ii) The instructions given to the offender regarding registration or re-registration; and

(iii) The date the offender registered or re-registered as instructed by the agent.

Note: The inference to be taken from item (iii) in paragraph (13)(b) is that the offender must register or re-register not later than three workdays after the agent learns of the offender's failure to register or re-register.

(14) **Other violations.** In addition to the specific violations listed above in this subsection, an offender's violations can include:

(a) Failing to report or to comply with any other standard or special condition of supervision;

(b) Disobeying a civil or criminal no-contact order;

(c) Entering onto real property used for elementary or secondary education, or registered as a family day care home or child care home or institution;

(d) Behaving in a way which, in the judgment of the COMET team, constitutes imminent danger to the sexual offender or others; and

(e) Being charged with committing a new offense.

(15) **Responding to violations.** Unless an offender's supervision violation is a direct violation of a special condition or significantly increases the offender's risk to re-offend, the offender's agent shall develop a response to the violation in consultation with the agent's supervisor and other appropriate members of the COMET team. Developed responses include:

(a) Elevating the offender's supervision level, which will increase the number of face-to-face contacts required of the offender and may re-institute a daily telephone contact requirement; and

(b) If permitted by the offender's probation or release order:

(i) Requiring the offender to attend or to resume attending treatment, to attend additional treatment sessions, or to participate in additional forms of treatment;

(ii) Re-instituting or adjusting the level of electronic tracking of the offender;

(iii) Requesting that a polygraph examination be conducted to further explore the nature and extent of the non-compliant activity; and

(iv) Adjusting the level of restriction on the offender's computer activity;

Note: An offender's failure to comply with a daily telephone contact requirement should be considered along with other aspects of his cooperation with the supervision process and addressed in a manner the agent deems appropriate - which may include increased face-to-face reporting or an increased score on the Acute-2000 instrument, which could affect the offender's eligibility for movement to a lower level of supervision.

(16) **Informative report to court or Parole Commission.** In addition to the responses set forth in paragraph (15) of this subsection, an agent may, by Informative report, inform the court or the Parole Commission of the nature and extent of the offender's non-compliant acts or omissions and propose a response to the offender's non-compliance, including the modification of existing conditions or the imposition of additional conditions.

(17) **Threats to public safety.** Supervision violations that constitute a threat to public safety require an immediate response from an agent. These violations include a:

- (a) Direct violation of a special condition of the offender's release or supervision order;
- (b) Violation that significantly increases the offender's risk to re-offend; and
- (c) Violation that potentially impacts the safety of a specific victim or the general public.

(18) **Request for violation hearing.** In response to a violation of the kind described in paragraph (17) of this subsection, an agent shall, not later than one workday after the agent learns of the violation, initiate a violation hearing request by warrant, summons, or subpoena, as appropriate.

(19) **New criminal charge.** If a sexual offender is charged with a new offense, the agent and supervisor shall review the facts underlying the offense alleged to determine whether they constitute a violation of the kind described in paragraph (17) of this subsection.

(20) **Warrant request required.** If, pursuant to the requirement set forth in paragraph (19) of this subsection, the agent and supervisor determine that the facts constitute a threat to public safety, the agent shall immediately request a warrant for the offender's arrest.

(21) **Response other than warrant permitted.** If, pursuant to the requirement set forth in paragraph (19) of this subsection, an agent and supervisor determine that the facts underlying the alleged offense do not constitute a threat to public safety, the agent may, in consultation with the supervisor, take any reasonable and appropriate action that is consistent with the interest of public safety, in response to the new criminal charge.

(22) **COMET Arrest Tracking Form to be completed.** Not later than two workdays after learning of a sexual offender's new arrest, an agent shall:

- (a) Complete a COMET Arrest Tracking Form; and
- (b) Enter the completed form into Case Notes.

(23) **New arrest for sexual offense.** Not later than five workdays after learning of a sexual offender's new arrest for a sexual offense, an agent shall complete and forward to the Director of the Office of Community Supervision Support the form entitled, "Critical Incident Analysis - Sexual Offense."

Note: The requirement set forth in paragraph (23) of this subsection is in addition to the requirement set forth in paragraph (22) of this subsection.

(24) **COMET team review of "Critical Incident Analysis - Sexual Offense" form.** A completed "Critical Incident Analysis - Sexual Offense" form shall be staffed for review and discussion by the COMET team. The purpose of this staffing is to support the development of effective supervision practices and to fix attention on policies and practices that further or contribute to this goal, as well as those that do not. Accordingly, if the supervision practices in the particular case under review were consistent with policy and practice or were inconsistent with policy or practice, this should be noted in the appropriate place on the "Critical Incident Analysis - Sexual Offense" form. To be noted on the form, also, are the relative strengths and weaknesses of the supervision strategy employed with the particular offender. The outcome of this staffing process is aimed at enhancing the ability of the agency to protect the public.

(25) **Warrant notification procedures.** Not later than one workday after learning of the issuance of a retake or violation of probation warrant for a sexual offender's arrest, the agent shall notify the following of the warrant's issuance:

- (a) The appropriate local law enforcement;
- (b) The Sexual Offender Registry Unit (websiteresponse@dpscs.state.md.us);
- (c) The Warrant Apprehension Unit.

(26) **Document the notifications in Case Notes.** An agent who makes the notifications required under paragraph (25) of this subsection shall, on the same date that the notifications are made, enter a Case Note identifying when and to whom each notification was made.

(27) **Pending Warrant Service case status and case closure.** An employee may not close a case of a sexual offender in Pending Warrant Service (PWS) status.

L. Recordkeeping, Disclosure of Information, and Certain Notifications.

(1) **Records.** An agent shall ensure that the case file of each sexual offender under COMET supervision is placed and maintained in a red file folder.

(2) **Case Notes.** Supervision records are kept primarily in the Case Notes system. An agent shall document in Case Notes each face-to-face contact with an offender, as set forth in paragraph (3) of this subsection and each significant event that occurs in the course of supervising an offender, as set forth in paragraph (4) of this subsection.

(3) **Recording face-to-face contacts in Case Notes.** For each face-to-face contact with a sexual offender, an agent shall, using the approved Case Note Template, enter into Case Notes a detailed record of the meeting, including:

- (a) Up-to-date information regarding the offender's home and employment situation;
- (b) Offender compliance with reporting requirements;

(c) Offender compliance with the standard and special conditions of supervision, including specialized treatment and sexual offender registry requirements;

(d) Offender compliance with special initiatives in effect, if any;

(e) The status of pending charges, if any;

(f) Agent comments or concerns regarding the offender's overall adjustment; and

(g) The date of the offender's next appointment with the agent.

(4) Recording significant supervision events in Case Notes. An agent shall record in Case Notes each significant supervision event. The term significant event includes:

(a) A referral made by the agent;

(b) An assessment or reassessment completed by the agent;

(c) A verification obtained by the agent;

(d) A notification made by the agent;

(e) A granting or denying of permission requested by the offender;

(f) A staffing conducted;

(g) A sanction imposed by the agent; and

(h) A report submitted by the agent to a court or the Parole Commission.

(5) Disclosure of information. An agent may disclose information regarding an offender's supervision to:

(a) The sexual offender's treatment provider;

(b) A polygraph examiner;

(c) Members of the COMET team; and

(d) Members of the criminal justice system with a business purpose for receiving the information.

(6) Follow-up to reported victimization. If, during the course of supervision, an agent learns from any source, including the offender, that the offender engaged in illegal activity involving an identifiable victim, the agent, not later than twenty-four hours after receiving that information, shall report the information to the:

(a) Appropriate law enforcement agency for further investigation; and

(b) As applicable, the Parole Commission, the sentencing court, or both.

(7) **Mandatory reporting of suspected child abuse or neglect.** If, during the course of supervision, an agent learns from any source, including the offender or the agent's personal observation, of the potential, possible, or actual abuse or neglect of an identifiable minor, vulnerable adult, mentally ill, or developmentally disabled individual, the agent, not later than 24 hours after receiving the information or making the observation, shall report that information to the appropriate law enforcement agency and the Department of Social Services in accordance with State mandatory reporting requirements.

Note: For specific guidance on rendering child-abuse reports, see Section 05 of this chapter ("Child Abuse and Child Neglect Reports)."

M. Specialized Psychotherapeutic Treatment.

(1) **Introduction.** Traditional community supervision alone has not proven effective with many sexual offenders because of the psychological determinants of their behavior - a problem further complicated by a reluctance to participate in treatment arising from an unwillingness to admit to the existence of the emotional disorders and cognitive distortions that may be addressed through therapy. Even when ordered to participate in such treatment, these offenders tend to avoid it and often stop attending after relatively few sessions. Traditional treatment providers in the community are typically burdened with large caseloads of patients voluntarily seeking help; they cannot effectively treat individuals who insist that they do not need such help, nor do they have the resources to pursue those who refuse to commence or continue in treatment.

To address this issue, the agency includes specialized psychotherapeutic treatment as an essential element of the containment approach to sexual offender management, and specialized agents strictly enforce the regular participation of offenders under COMET supervision in appropriate treatment programs. While it is widely held that certain sexual offenders cannot be cured, it is also generally acknowledged that many can thus be successfully maintained in the community through this combination of intensive, structured supervision and sexual offender specific psychotherapeutic treatment.

The goals of specialized psychotherapeutic treatment for sexual offenders include: addressing and redirecting deviant sexual interests, arousal patterns, and preferences; addressing and correcting distorted attitudes; increasing the offender's awareness of the nature of his problem and his or her accountability for past abusive behaviors as well as lapse behaviors that may occur while under supervision; addressing issues related to interpersonal functioning; assisting the offender in attaining sufficient control over his impulses through the development of behavior management skills; addressing interrelated issues of denial, deceit, and victim empathy; assisting offenders to adopt a non-exploitive, responsible lifestyle; and assisting specialized agents in the development of information relative to the type and severity of sexually abusive behavior patterns, and in the implementation of appropriate supervision levels, strategies, interventions, conditions, and networks.

(2) Eligibility criteria for specialized psychotherapeutic treatment referrals.

(a) **Special condition required.** A special condition authorizing or mandating specialized psychotherapeutic treatment for a sexual offender is required for the implementation of specialized psychotherapeutic treatment for the offender.

(b) **Mandatory and parole release condition on or after a certain date.** Specialized psychotherapeutic treatment is authorized for all sexual offenders mandatorily released or paroled from the Division of Correction on or after February 1, 2009.

(c) **Probationers.** Specialized psychotherapeutic treatment may be authorized or mandated for a sexual offender placed under probation supervision as a special condition imposed by the court.

(d) **Authorized but not mandated specialized treatment condition.** For cases in which specialized treatment is authorized but not mandated, an agent shall refer an offender for specialized treatment if the sexual offender's:

(i) Static-99R score is greater than three; or

(ii) Static-99R score is not greater than three, but the agent and the agent's supervisor (in possible consultation with appropriate members of the COMET team) agree that specialized treatment is advisable.

(e) **Criteria for requesting specialized treatment condition.** Not later than ten workdays after receiving the case of a sexual offender, an agent shall request the addition of a condition authorizing specialized psychotherapeutic treatment if the:

(i) Sexual offender indicates a willingness to enter into treatment;

(ii) Sexual offender's Static-99R score is greater than three; or

(iii) Agent and the agent's supervisor (in possible consultation with certain members of the COMET team) agree, on the basis of the facts and history of the case, that specialized treatment is necessary.

Note: Under the circumstance described in item (i) of the preceding paragraph, an agent may refer the offender for treatment immediately and then request the addition of a special condition.

(f) **Mandatory language for Maryland Parole Commission special condition request.** In requesting that the Maryland Parole Commission add a special condition authorizing specialized treatment, only the following wording shall be used: "As directed by DPSCS-Community Supervision, you must comply with the requirements of and pay any costs associated with specialized sexual offender supervision including: offense-specific treatment, medication, polygraph testing, computer monitoring, and electronic tracking and related curfew and/or geographic restrictions."

(g) **Mandatory language for probation case special condition request.** In requesting that a judge in a probation case add a special condition authorizing specialized treatment, an agent may use the wording in subparagraph (f) or may submit, with the supervision report, the "Special Conditions of Probation for Sexual Offenders" form, specifying in the report the condition(s) being requested.

(3) **Referral and implementation.**

(a) **Static-99R.** In the absence of a supervision condition mandating a specialized treatment referral, an agent shall complete a Static-99R risk assessment to determine whether an offender's score supports the action set forth in paragraphs (2)(d)(i) or (2)(e)(ii).

(b) **Referral.** An agent shall complete and submit a treatment referral packet and document the submission in Case Notes:

(i) Not later than ten workdays after receiving the case of a sexual offender for whom specialized psychotherapeutic treatment has been mandated; or

(i) Not later than ten workdays after receiving the case of a sexual offender who meets one of the criteria for referral for specialized psychotherapeutic treatment specified in paragraph (2)(d); or

(ii) Not later than five workdays after receiving notification of the addition of a special condition for specialized psychotherapeutic treatment for a sexual offender who meets one or more of the criteria for requesting such a condition specified in paragraph (2)(e).

(c) **Treatment referral packet.** An agent shall ensure that the treatment referral packet referenced in the preceding paragraph includes all of the following:

(i) An accurate and complete "COMET Referral for Psychotherapeutic Treatment" form;

(ii) A completed Static-99R risk assessment form;

(iii) A completed and signed "COMET Authorization for Release of Psychotherapy Information and Records" form;

(iv) A copy of the mandatory release certificate, parole order, probation order, or other document on which the special condition authorizing specialized treatment appears; and

(v) An offense report or similar document describing the sexual offense for which the offender is currently under supervision or, if the offender is not currently under supervision for a sexual offense, the offender's most recent sexual offense conviction.

Note: If, due to the length of time elapsed since the offense occurred, the requirement set forth immediately above in (c) (v) cannot be met, an agent shall interview the offender regarding the offense and submit a summary of the offender's account of the crime.

(d) **Treatment provider under state contract.** When a referral is made to a treatment provider under contract to the State, an agent shall submit a completed treatment referral packet to the agency's COMET Treatment Services Coordinator at the Office of Community Supervision Support.

(e) **COMET Treatment Services Coordinator shall review.** The COMET Treatment Services Coordinator shall review and record all referrals for specialized sexual offender treatment with contracted providers.

(f) **COMET Treatment Services Coordinator approval.** The COMET Treatment Services Coordinator, or designee, shall be the sole source for the approval of referrals for specialized sexual offender treatment with contracted providers.

(4) **Implementation.** The agent who completes the referral process will receive a proposed assessment interview or treatment commencement date directly from the specialized treatment provider.

(a) **Assessment interview notice response procedures.** In response to an agent's receipt of the notice described in paragraph (4) of this subsection, an agent shall:

(i) By electronic mail message to the treatment provider, acknowledge receipt of the notice;

(ii) Contact the sexual offender and inform the offender as to where and when to report to the treatment provider;

(iii) Send an electronic mail message to the treatment provider that confirms the proposed assessment interview or treatment commencement date or requests an alternate date; and

(iv) Document the scheduling of the assessment interview or the commencement of treatment in Case Notes.

(b) **Assessment report.** If an assessment interview is conducted, an agent will receive an assessment report directly from the specialized treatment provider.

(c) **Assessment outcome: no treatment.** If the conclusion in the assessment report from the treatment provider is that no treatment is required for the offender, the agent shall document that outcome in Case Notes.

(d) **Assessment outcome: treatment.** If the conclusion in the assessment report from the treatment provider is that the sexual offender should participate in specialized treatment, the agent shall, not later than five workdays after receiving the assessment report:

(i) Document the assessment outcome in Case Notes;

(ii) Contact the treatment provider to obtain treatment commencement information;

(iii) Contact the sexual offender and inform the offender as to where and when to report to commence treatment;

(iv) Send an electronic mail message to the treatment provider that confirms a treatment commencement date; and

(v) Document the scheduling of the commencement of specialized treatment in Case Notes.

(5) Frequency and duration of specialized treatment.

(a) **Treatment provider not under State contract.** For sexual offenders placed into treatment with treatment providers who are not under contract with the State, the frequency and duration of treatment will be established and adjusted by the provider in consultation with the agent and the agent's supervisor.

(b) **Treatment provider under State contract.** For sexual offenders placed into treatment with treatment providers under contract with the State, the frequency and duration of treatment shall be established and adjusted by the provider in consultation with the agent and the agent's supervisor, subject to monitoring and approval by the COMET Treatment Services Coordinator.

(c) **Standard course of treatment.** The standard course of treatment with contracted providers for sexual offenders under COMET supervision consists of weekly group therapy sessions.

(d) **Non-standard course of treatment requires approval.** The following courses of treatment are non-standard and require the prior approval of the COMET Treatment Services Coordinator:

(i) A course of treatment for a sexual offender which requires more than one group therapy session per week; and

(ii) A course of treatment which involves individual therapy for the sexual offender.

(e) **Duration of treatment.** The duration of the standard course of treatment for sexual offenders under COMET supervision is between six months and one year but the duration of treatment within that timeframe will be specific to the individual offender, as determined by the treatment provider.

(f) **Treatment beyond one year requires special approval.** A course of treatment with a contracted provider for a sexual offender may not exceed 12 months without the written approval of the COMET Treatment Services Coordinator.

(6) Instructions to offender regarding specialized treatment attendance. An agent of an offender who is to attend specialized treatment shall instruct the offender that:

- (a) Participation in specialized treatment is mandatory;
- (b) Attendance at all scheduled treatment sessions is required;
- (c) Absence from a treatment session will be excused only in the event of an emergency;
- (d) An anticipated absence due to emergency is to be reported as soon as possible both to the agent and the treatment provider prior to the scheduled therapy session;
- (e) Documentation of an emergency which results in the offender's absence from a treatment session is to be submitted both to the agent and the treatment provider;
- (f) Active participation in all scheduled treatment sessions and completion of all treatment-related assignments are required;
- (g) Reporting on time for all scheduled treatment sessions is required;
- (h) Compliance with all policies and procedures established by the treatment program is mandatory; and
- (i) Violation of treatment program rules, lateness, unexcused absence, and failure to complete assignments or to actively and appropriately participate in treatment are grounds for supervision violations which may result in a range of responses, including a request for warrant and incarceration.

(7) Monitoring.

(a) **"COMET Authorization for Release of Psychotherapy Information and Records."** An agent shall ensure that fully completed copies of the "COMET Authorization for Release of Psychotherapy Information and Records" form are in the case file and have been provided to the treatment program.

(b) **Treatment status verification.** At least once monthly for as long as the sexual offender is in treatment, an agent shall verify and document in Case Notes the offender's treatment:

- (i) Status;
- (ii) Attendance, including missed and attended sessions;
- (iii) Progress, including, as applicable, non-compliance issues; and
- (iv) Provider concerns or recommendations, if any.

(c) **Written verification from treatment provider.** If an agent receives a writing from a treatment provider regarding an offender's treatment status or progress, the agent shall document in Case Notes the date the written verification was received, its source, and include a summary of its content.

(d) **Other verification from treatment provider.** If a writing as described in the preceding paragraph is not sent to an agent by a specialized treatment provider but verification is otherwise obtained by the agent, the agent shall document in Case Notes the date verification was obtained, the medium by which it was obtained, and the source from which it was obtained.

(8) **Responding to offender non-compliance: direct violations and public safety threats.** If a treatment provider reports or an agent otherwise learns that a sexual offender is non-compliant with some aspect of the offender's specialized treatment program, the agent shall, not later than one workday after the agent learns of the violation, initiate a violation hearing request by warrant, summons, or subpoena, as appropriate, if the violation:

(a) Is a direct violation of a special condition of the offender's release or supervision order; or

(b) Poses a threat to public safety by significantly increasing the offender's risk to re-offend.

(9) **Responding to offender non-compliance: developed responses.** If a treatment provider reports or an agent otherwise learns that a sexual offender is non-compliant with some aspect of the specialized treatment program that is not a direct violation of a special condition of the offender's release or supervision order and does not increase the offender's risk to re-offend, the agent, in consultation with the agent's supervisor and the treatment provider, shall develop a response to the non-compliance. Developed responses include:

(a) Elevating the offender's supervision level, which will increase the number of face-to-face contacts required of the offender and may re-institute a daily telephone contact requirement; and

(b) Requiring the offender to attend additional treatment sessions or additional forms of treatment;

(c) If permitted by the offender's probation or release order, re-instituting or adjusting the level of electronic tracking of the offender;

(d) If permitted by the offender's probation or release order, requesting that a polygraph examination be conducted to explore the nature and extent of the non-compliant behavior; and

(e) If permitted by the offender's probation or release order, adjusting the level of restrictions on the offender's computer activity.

(10) **Informative report to court or Parole Commission.** In addition to the responses set forth in paragraph (9) of this subsection, an agent may, by Informative report, inform the court or the Parole Commission of the nature and extent of the offender's non-compliant acts or omissions and propose a response to the offender's non-compliance, including the modification of existing conditions or the imposition of additional conditions.

(11) **Recordkeeping and disclosure of information.** The recordkeeping and disclosure of information provisions set forth in subsection L are incorporated by reference.

N. Polygraph Testing.

(1) **Introduction.** Clinical polygraph examination is a highly effective tool for exploring the type and severity of an offender's sexual offense patterns and for investigating his or her compliance with treatment and supervision conditions. Polygraph testing can also be useful in determining the need for changes in levels of supervision and treatment, and can improve treatment outcomes by shortening the denial phase.

The purpose of administering a polygraph examination to a sexual offender is to assist both the agent and the offender in understanding and managing the offender's personal behavior through the acknowledgment and disclosure of the true nature and extent of the abusive acts and through the confrontation of denial and rationalization.

The overall goal of the clinical polygraph examination program is to minimize the potential for sexual re-offense by: increasing the disclosure of offense pattern details for supervision and treatment purposes; increasing the accountability of offenders for past behaviors as well as any which may occur while under supervision; ensuring compliance with supervision and treatment requirements; assisting ongoing monitoring and deterrence efforts through early identification of supervision rule violations and other criminal behavior; facilitating the identification of sexual offenders who need more intensive supervision or treatment and providing for more precise targeting of treatment interventions; and providing for the verification of self-reported information for purposes of assessment, treatment, and monitoring.

(2) **Special condition required.** Except as set forth in paragraph (5) of this subsection, an agent may not direct an offender to be polygraph tested unless the offender's supervision or release order mandates or authorizes polygraph testing.

(3) **Sexual offenders released on or after February 1, 2009.** Polygraph testing is authorized for all sexual offenders released on or after February 1, 2009 from the Division of Correction either to mandatory release or parole supervision.

(4) **Sexual offenders on probation.** Polygraph testing may be authorized or mandated for a sexual offender placed under probation supervision, as a special condition imposed by a court.

(5) **Polygraph testing and specialized psychotherapeutic treatment.** If a special condition authorizing polygraph testing was not imposed for a sexual offender but a condition for specialized psychotherapeutic treatment was imposed, polygraph testing may be approved on the basis of a statement from the treatment provider that polygraph testing is a necessary component of the required treatment process.

(6) **Criteria for requesting a polygraph-testing special condition.** If a special condition authorizing polygraph testing was not imposed in a probation case, an agent shall request the addition of a special condition to serve any of the following purposes:

(a) To aid the treatment process when an offender with a special condition requiring participation in sexual offender specific psychotherapeutic treatment denies having committed the sexual offense for which the offender was placed on probation;

(b) To assist in verifying and monitoring the offender's compliance with computer-related restrictions when a special condition was imposed requiring the offender to cooperate in a program to monitor the offender's computer use but the offender denies access to a computer;

(c) To assist in verifying and monitoring the residential status of a sexual offender who claims to be homeless and unable to provide a verifiable address.

(7) **Mandatory language for special condition request.** In requesting the addition of a special condition authorizing polygraph testing, specific wording shall be used:

(a) In requesting that the Maryland Parole Commission add a special condition authorizing polygraph testing, only the following wording shall be used: "As directed by DPSCS-Community Supervision, you must comply with the requirements of and pay any costs associated with specialized sexual offender supervision including: offense-specific treatment, medication, polygraph testing, computer monitoring, and electronic tracking and related curfew and/or geographic restrictions."

(b) In requesting that a judge in a probation case add a special condition authorizing polygraph testing, an agent may use the wording in subparagraph (a) or may submit, with the supervision report, the "Special Conditions of Probation for Sexual Offenders" form, specifying in the report the condition(s) being requested.

(8) **COMET Polygraph Coordinator.** The agency's sole approving authority for polygraph testing is the COMET Polygraph Coordinator. The Polygraph Coordinator shall receive, review, record, and approve or disapprove a requested testing referral and may designate another agency employee to assist in performing these functions, in whole or part.

(9) **Department of the Maryland State Police.** The Department of the Maryland State Police conducts polygraph examinations of sexual offenders whose referrals are approved by the COMET Polygraph Coordinator. Only the results of polygraph examinations which are conducted by or through that department are accepted as official and presumptively valid for purposes of this policy.

(10) **Private polygraph examiners.** If an offender submits to a polygraph examination conducted by a private examiner, the results of the examination, if offered to the agent, may be accepted by the agent but the results may not substitute for or supplant the results of a polygraph examination conducted by the Department of the Maryland State Police.

Note: The fact that a polygraph examiner may be contractually or otherwise affiliated with an offender's specialized treatment provider has no effect on paragraph (10).

(11) **Polygraph testing referral packet.** To refer a sexual offender for a polygraph examination the agent must assemble and submit a complete polygraph testing referral packet and document the submission in Case Notes. A complete polygraph referral packet includes:

(a) An accurately and fully completed "Referral for Polygraph Examination" form (DPP-SUP-31) on which is clearly indicated the type of examination being requested;

(b) A copy of the mandatory release certificate, parole order, probation order, or other document on which the special condition authorizing polygraph testing appears; and

(c) The offense report or other official document providing a detailed description of each applicable sexual offense committed by the offender to be examined.

Note: If, due to the length of time elapsed since the offense occurred, the requirement set forth immediately above in (11)(c) cannot be met, an agent shall interview the offender regarding the offense and submit a summary of the offender's account of the crime.

(12) **Submit referral packet to COMET Polygraph Coordinator.** When an agent has assembled a polygraph referral packet as described in paragraph (11) of this subsection, the agent shall:

(a) Submit the packet to the agency's Polygraph Coordinator; and

(b) Document the referral submission in Case Notes.

(13) **Procedures upon receipt of polygraph examination date.** An agent who completes the referral process set forth in paragraph (12) of this subsection will receive a proposed polygraph examination date directly from a polygraph examiner at the Department of Maryland State Police. Upon receiving the proposed date, the agent shall:

(a) Reply to the polygraph examiner by electronic mail to acknowledge receipt of the proposed date for the polygraph examination;

(b) Contact the sexual offender to be examined and inform the offender as to where and when to report for the polygraph examination;

(c) Send an electronic mail message to the polygraph examiner that confirms the proposed examination date or seeks an alternate date; and

(d) Document the scheduling of the polygraph examination in Case Notes.

Note: The alternate date referred to in (13)(c) is to account for the possibility that the offender, for legitimate reason, is unable to appear for an examination on the date set by the polygraph examiner.

(14) **Follow-up interview required.** During the contact at which the offender is informed as to where and when to report for the polygraph examination, the agent shall also schedule a follow-up interview with the offender to occur no later than 72 hours after the polygraph examination.

(15) **Agency point of contact required.** During a scheduled polygraph examination, an agent or supervisor shall serve as the agency's point of contact for the purposes of receiving and responding immediately to inquiries and alerts from the polygraph examiner.

(16) **Alert from polygraph examiner.** If a polygraph examiner informs an agent of a specific threat posed by an offender or of a supervision violation or previously unknown crime committed by an offender, the agent shall:

(a) Not later than the close of the next business day following receipt of the information from the polygraph examiner, investigate the matter and take appropriate action; and

(b) In Case Notes, document the polygraph examiner's alert and the action taken.

(17) **Offender's failure to appear for polygraph examination.** Upon learning that an offender failed to appear for a scheduled polygraph examination, an agent shall investigate the reason for the offender's failure to appear and if the offender:

(a) Provides a valid and verifiable reason for missing the examination, the agent shall reschedule the examination with the polygraph examiner; or

(b) Fails to provide a valid and verifiable reason for missing the examination, the agent shall initiate violation proceedings by requesting a warrant, summons, or subpoena.

(18) **Initial (Instant Offense) polygraph examination.** Except as set forth in paragraph (19) of this subsection, not later than 10 workdays following an agent's receipt of a case in which polygraph testing is mandated or authorized, the agent shall submit a referral for examination for the purposes of identifying the details of the offender's specific sexual offense and the offender's degree of admission or denial regarding the offense.

(19) **Waiver of Instant Offense examination.** The initial, offense-focused polygraph examination otherwise required under paragraph (18) of this subsection may be waived if:

(a) To the agent's satisfaction, the offender fully admits to committing the offense to the agent and treatment provider, if applicable; and

(b) The agent enters in Case Notes the details of the admission used as the basis for the waiver.

(20) **If waived, monitoring examination to occur with six months.** If the examination required under paragraph (18) of this subsection is waived, an agent shall schedule a monitoring examination for the offender not later than six months after the offender's agency

intake. (See the next paragraph for residence and computer-access focused examinations and the attendant time limitation for requesting these examinations.)

(21) **Polygraph examination with residence or computer access focus.** If the examination required under paragraph (18) of this subsection is waived but the agent determines that a polygraph examination is necessary to focus on offender residence or computer access issues, that examination shall be requested not later than the end of the first full month of supervision.

(22) **Static schedule for Maintenance/Monitoring examinations.** Except as permitted under paragraph (23) of this subsection, an agent shall observe the following schedule for referring eligible offenders for polygraph testing:

(a) Not later than six months after the initial, offense-focused examination is conducted, refer an offender for a monitoring examination for the purpose of focusing on the offender's compliance with the conditions and requirements of supervision, or the truth of specific claims or allegations by or about the sexual offender; and

(b) Not later than six months after the examination required in item (a) of this paragraph is conducted, again refer the offender for a monitoring examination, for the same purposes provided in item (a).

(23) **For-cause examinations.** A polygraph examination of an offender who is subject to such examination may be requested for cause at any time, before, after, or while the schedule set forth in paragraph (22) is in effect. The term *for cause*, as used in this paragraph, is not limited to an articulable suspicion but includes a COMET team determination that an offender ought to be examined more frequently than the schedule in paragraph (22) requires.

(24) **Instructions to offender regarding polygraph examination requirement.** The agent of an offender whose release or supervision order authorizes or mandates the offender to undergo polygraph examination shall instruct the offender that:

(a) Several examinations will be conducted during the period of supervision;

(b) Failing to report for a scheduled polygraph examination is a violation of the terms of supervision and may result in the offender's arrest, among other possible actions;

(c) Failing to cooperate with a polygraph examiner or the examination process (e.g., by engaging in countermeasures intended to affect the accuracy of the examination) will constitute a supervision violation with the potential consequence to the offender of arrest and incarceration.

(25) **Polygraph results.** Upon receiving the results of a polygraph examination conducted by the Department of the Maryland State Police, an agent shall:

(a) Immediately review the reported results;

(b) During the follow-up meeting with the offender required under paragraph (14) of this subsection, discuss the results with the offender, focusing on concerns or issues presented in the report, if any; and

(c) Enter a summary of the follow-up meeting in a Case Note which contains:

(i) A summary of significant disclosures, if any, made by the offender during the polygraph examination;

(ii) If there were significant disclosures, a statement as to whether the disclosures were confirmed during the follow-up interview; and

(iii) Specific responses of the agent to the information provided in the polygraph examination report and follow-up interview, including changes to the offender's case plan, notification to a treatment provider, the reporting of any technical violations, the initiation of a violation proceeding, and any other actual or planned response to the polygraph results.

(26) **Responding to alerts and offender non-compliance.** Interventions may be imposed by an agent, in consultation with the agent's supervisor and other appropriate members of the COMET team, for an offender's failure to cooperate with the polygraph examination process by:

(a) Failing to report for a polygraph examination; or

(b) Failing to cooperate with the polygraph examiner (e.g., by engaging in countermeasures intended to affect the accuracy of the examination).

(27) **Interventions.** Offender noncompliance which, in the judgment of the agent, supervisor, and other COMET team members, does not indicate a substantial risk that the offender will re-offend may be addressed through the developed responses listed in subsection M, paragraph (9) (a) through (e). Additionally, an agent may, by Informative report, inform the sentencing court or the Parole Commission of the nature and extent of the offender's non-compliant acts or omissions and propose a response to the offender's non-compliance, including the modification of existing conditions or the imposition of additional conditions.

(28) **Responding to offender non-compliance: direct violations and public safety threats.** If a sexual offender's non-compliance constitutes a direct violation of a special condition, poses a threat to public safety, or signals a substantial risk that the offender will re-offend, the agent shall, not later than one workday after the agent learns of the non-compliant behavior, initiate a violation hearing request by warrant, summons, or subpoena, as appropriate.

(29) **Offender deception and inconclusive results.** An agent may not cite as a basis for violation of supervision charges polygraph examination results which indicate deception on the part of the sexual offender or which are inconclusive.

(30) **Examination results indicate supervision violation.** If the results of a polygraph examination indicate that the sexual offender may have violated one or more conditions of supervision, or if the report includes an admission by the sexual offender to any such violation, the agent shall:

(a) Seek to corroborate the indication or admission during the pre-arranged follow-up interview of the sexual offender by the agent, or during a subsequent interview; and

(b) In a consequent report to a court or the Parole Commission, cite the specific behavior of the sexual offender that violates the terms of supervision, as corroborated by the agent without making reference to the outcome of the polygraph examination or the resulting report.

(31) **Admissions of new crimes.** If, during a polygraph examination, a sexual offender provides information that may warrant criminal investigation, such as an admission to committing a crime, an agent shall, not later than 24 hours after learning of the admission:

(a) Ensure that the information is reported to the appropriate law enforcement agency; and

(b) If there is an identifiable abuse victim who is a minor, vulnerable adult, mentally ill or developmentally disabled individual, report the information to the Department of Social Services, pursuant to Section 05 of this chapter.

Note: The Department of Maryland State Police polygraph examiner will terminate a polygraph examination and advise an offender of his Miranda rights if the offender makes an admission to a specific crime.

(32) **Recordkeeping and disclosure of information.** The recordkeeping and disclosure of information provisions set forth in subsection L are incorporated by reference.

O. Electronic Tracking of Sexual Offenders.

(1) **Introduction.** Electronic tracking is a means of monitoring an offender's whereabouts, curfew compliance, or both. The agency employs both radio frequency (RF) and global positioning system (GPS) tracking technologies.

RF tracking is used for curfew enforcement. It is designed to confirm an offender's presence in the offender's home during a pre-arranged time period but does not record the offender's travels outside of the home. GPS tracking, on the other hand, is intended to record an offender's locations throughout the day. The passive system used by the agency records and stores an offender's location points at regular time intervals and, through a daily download of accumulated data, provides details regarding an offender's movements during a specified time period.

Both RF and GPS tracking systems provide agents with the ability to establish, modify, and verify offender compliance with curfews. Additionally, the GPS system enables agents to establish geographic exclusion and inclusion zones that are unique to a specific offender and

the offender's criminal behavior patterns, and to monitor the offender's whereabouts on a continuous (24 hours per day, seven days per week) basis. Both systems can be configured to report offender violations to the agency within a designated timeframe ranging from next day to near real-time notification.

(2) **Special condition required for electronic tracking.** A special condition mandating or authorizing electronic tracking or monitoring is prerequisite to activating electronic tracking for an offender.

(3) **Offenders released from Division of Correction on or after February 1, 2009.** Electronic tracking is authorized for all sexual offenders released from the Division of Correction either to mandatory release or to parole supervision on or after February 1, 2009.

(4) **Agency electronic-tracking mandate.** Electronic tracking is mandated by the agency for all sexual offenders mandatorily released or paroled from the Division of Correction on or after January 11, 2010.

(5) **Probationer.** An offender on probation for a sexual offense shall be placed on electronic tracking only if the:

(a) Offender's probation order contains a special condition authorizing or mandating electronic tracking or monitoring; or

(b) Offender is also a mandatory releasee or parolee who is subject to electronic tracking.

Note: Under (5) (b), absent the addition of a special condition to an offender's probation order, when the mandatory or parole case expires, electronic tracking shall cease for that offender.

(6) **Requesting electronic tracking as a probation special condition.** An agent may request that a sentencing court add a special condition to a sexual offender's probation order:

(a) For the purpose of monitoring and enforcing an existing special condition requiring the offender to have no contact with a specified victim or to stay away from a specified location;

(b) For the purpose of safely and effectively tracking a sexual offender who reports being homeless or living in a homeless shelter; or

(c) As a response to offender non-compliance with supervision requirements, provided the offender's non-compliant behavior does not, in the view of the agent and the agent's supervisor, significantly increase the offender's risk to re-offend.

(7) **Mandatory language for special condition request.** In requesting the addition of a special condition authorizing electronic tracking, specific wording shall be used:

(a) In requesting that the Maryland Parole Commission add a special condition authorizing electronic tracking, only the following wording shall be used: "As directed by DPSCS-

Community Supervision, you must comply with the requirements of and pay any costs associated with specialized sexual offender supervision including: offense-specific treatment, medication, polygraph testing, computer monitoring, and electronic tracking and related curfew and/or geographic restrictions.”

(b) In requesting that a judge in a probation case add a special condition authorizing electronic tracking, an agent may use the wording in subparagraph (a) or may submit, with the supervision report, the “Special Conditions of Probation for Sexual Offenders” form, specifying in the report the condition(s) being requested.

(8) **Time limitation.** Not later than five workdays after receiving a case of an offender who is subject to electronic tracking, an agent shall activate the electronic tracking, as set forth below in paragraphs (10), (12), and (14) of this subsection.

(9) **Electronic tracking phases.** Electronic tracking is a three-phase system (Phases 1, 2, and 3) that may include a home detention element. Which of the three phases an offender initially occupies depends upon the offender’s Static-99R score.

(10) **Phase 1 tracking.** Phase 1 tracking involves GPS technology and equipment that is used to verify an offender’s movements, as well as the sites the offender visits, as listed on a Daily Activity Schedule that is submitted weekly by the offender. An agent shall activate Phase 1 monitoring for a sexual offender:

(a) Who is being supervised for a sexual offense; and

(b) Whose Static-99R score is at least six.

(11) **Phase 1 tracking: additional activation purposes.** In addition to the purpose described in the preceding paragraph, Phase 1 tracking may be activated:

(a) As a sanction for a sexual offender who fails to comply with the requirements of Phase 2 tracking but whose non-compliance does not significantly increase the offender’s risk to re-offend;

(b) As a sanction for a sexual offender who previously completed a term of electronic tracking but who subsequently committed supervision violations which do not significantly increase the offender’s risk to re-offend; and

(c) For a sexual offender who was not initially subject to electronic tracking but for whom, as a sanction for non-compliance with some aspect of supervision determined not to significantly increase the offender’s risk to re-offend, a special condition authorizing electronic tracking was added.

(12) **Phase 2 tracking.** Phase 2 tracking involves GPS technology and equipment that is used to verify an offender’s movements, as well as the sites the offender visits, as listed on a Daily Activity Schedule that is submitted weekly by the offender. An agent shall activate Phase 2 monitoring for a sexual offender:

(a) Who is being supervised for a sexual offense; and

(b) Whose Static-99R score is at least two and no greater than five.

(13) **Phase 2 tracking: additional activation purposes.** In addition to the purpose described in the preceding paragraph, Phase 2 tracking:

(a) Shall be activated for a sexual offender who successfully completes Phase 1 tracking;

(b) May be activated as a sanction for a sexual offender who fails to comply with the requirements of Phase 3 tracking but whose non-compliance does not significantly increase the offender's risk to re-offend;

(c) May be activated as a sanction for a sexual offender who previously completed a term of electronic tracking but who subsequently committed supervision violations which do not significantly increase the offender's risk to re-offend; and

(d) May be activated for a sexual offender who was not initially subject to electronic tracking but for whom, as a sanction for non-compliance with some aspect of supervision determined not to significantly increase the offender's risk to re-offend, a special condition authorizing electronic tracking was added.

(14) **Phase 3 tracking.** Phase 3 tracking involves GPS technology and equipment that is used to confirm or monitor an offender's compliance with curfew requirements associated with a pre-arranged and programmed schedule. An agent shall activate Phase 3 monitoring for a sexual offender:

(a) Who is being supervised for a sexual offense; and

(b) Whose Static-99R score is no greater than one.

(15) **Phase 3 tracking: additional activation purposes.** In addition to the purpose described in the preceding paragraph, Phase 3 tracking:

(a) Shall be activated for a sexual offender who successfully completes Phase 2 tracking;

(b) May be activated as a sanction for a sexual offender who previously completed a term of electronic tracking but who subsequently committed supervision violations which do not significantly increase the offender's risk to re-offend; and

(c) May be activated for a sexual offender who was not initially subject to electronic tracking but for whom, as a sanction for non-compliance with some aspect of supervision determined not to significantly increase the offender's risk to re-offend, a special condition authorizing electronic tracking was added.

(16) **Minimum initial duration of electronic tracking.** Minimally, an offender who is placed on electronic tracking shall remain on electronic tracking for 90 consecutive days. If an offender's initial tracking is activated at Phase 1, the offender, if successful, will be tracked

in increments of 30 days at that phase and at the two subsequent phases. However, regardless of the phase at which initial activation occurs, an offender on electronic tracking shall be required to remain on electronic tracking for an aggregate minimum term of 90-days.

Note: Paragraph (16) merely establishes the base minimum duration for electronic tracking of an offender, usually a 30-day minimum term at each phase for a total minimum of 90 days. However, if an offender's release or supervision order notes a specific duration for electronic tracking, the specified duration shall be met. Additionally, because an offender's Static-99R score controls the phase at which the electronic tracking begins, an offender's minimum 90 days will not necessarily be distributed among the three phases. Please see the next paragraph for more on this.

(17) 90-Day minimum applied. An agent shall ensure that an offender placed on electronic tracking remains on electronic tracking for at least 90 consecutive days. If an offender's Static-99R score results in the offender's beginning tracking at:

(a) Phase 2, the offender shall remain at that phase (unless cause requires an escalation to Phase 1), for at least 30 consecutive days before being placed on Phase 3; or

(b) Phase 3, the offender shall remain at that phase (unless cause requires one or more escalations), for 90 consecutive days.

(18) Moving an offender from Phase 1 to Phase 2. An agent shall move an offender from Phase 1 to Phase 2 tracking if the move is approved by the agent's supervisor and the agent confirms through the tracking data that the offender, for at least 30 consecutive days during Phase 1 tracking:

(a) Resided at the offender's approved residence;

(b) Accurately reported the offender's whereabouts by submitting the required Daily Activity Schedule forms each week and that the offender traveled only to those locations reported to the agent;

(c) Complied, to an acceptable standard, with the requirements of supervision, treatment, and all other standard and special conditions, as applicable; and

(d) Incurred no:

(i) Unapproved deviations from the offender's Daily Activity Schedule;

(ii) Exclusion zone violations by entering into an area prohibited to the offender; or

(iii) Behavior-related tracking violations by attempting to evade tracking or by equipment tampering.

(19) Moving an offender from Phase 2 to Phase 3. An agent shall move an offender from Phase 2 to Phase 3 tracking if the move is approved by the agent's supervisor and the agent

confirms through the tracking data that the offender, for at least 30 consecutive days during Phase 2 tracking:

(a) Resided at the offender's approved residence;

(b) Accurately reported the offender's whereabouts by submitting the required Daily Activity Schedule forms each week and that the offender traveled only to those locations reported to the agent;

(c) Complied, to an acceptable standard, with the requirements of supervision, treatment, and all other standard and special conditions, as applicable;

(d) Incurred no:

(i) Unapproved deviations from the offender's Daily Activity Schedule;

(ii) Exclusion zone violations by entering into an area prohibited to the offender; or

(iii) Behavior-related tracking violations by attempting to evade tracking or by equipment tampering.

(20) Moving an offender from Phase 3 electronic tracking. An agent shall move an offender from Phase 3 tracking if the move is approved by the agent's supervisor and the agent confirms that the offender, for at least 30 consecutive days during Phase 3 tracking:

(a) Resided at the offender's approved residence;

(b) Fully complied with schedule and curfew requirements;

(c) Complied, to an acceptable standard, with the requirements of supervision, treatment, and all other standard and special conditions, as applicable; and

(d) Incurred no behavior-related tracking violations by attempting to evade tracking or by equipment tampering.

(21) Supervisor's entry in Case Notes required. When a decision is rendered regarding movement of an offender from one tracking phase to another, or successful removal from electronic tracking altogether, an agent's supervisor shall enter a Case Note to document that decision.

(22) Requirement to convey instructions. An agent shall explain to a sexual offender who is subject to electronic tracking the rules and restrictions governing the particular offender's movement and travel, as well as the instructions set forth in the next paragraph.

(23) Instructions to offender. An agent shall advise an offender to be electronically tracked that:

(a) Exclusion zones may be programmed into the tracking software in relation to:

(i) An individual with whom contact by the offender is specifically prohibited in a sentencing document;

(ii) A location at which the offender's presence is specifically prohibited in a sentencing document; and

(iii) The offender's offense pattern;

(b) Established exclusion zones may be expanded or otherwise modified as determined by the agent; and

(c) The offender is required to comply with all tracking requirements, including the requirement that the offender respond immediately to any attempts by the agent to contact the offender.

(24) Curfew hours instruction. An agent shall instruct an offender to adhere to the daily curfew restriction of 7:00 p.m. to 7:00 a.m. unless, with the agent's prior approval, those hours are modified by the agent to accommodate the offender's employment or treatment schedule.

(25) Daily Activity Schedule for Phase 1 and Phase 2 tracking. During Phase 1 and Phase 2 tracking, the offender maintains and submits a Daily Activity Schedule. This is to be accomplished as set forth in paragraphs (26) and (27) of this subsection.

(26) Issuing Daily Activity Schedule to offender. During a face-to-face meeting with an offender who is to begin or continue Phase 1 or Phase 2 tracking, an agent shall:

(a) Provide the offender with a blank Daily Activity Schedule; and

(b) Instruct the offender to:

(i) Record on the schedule, without exception, each activity the offender engages in outside of the offender's approved residence during the upcoming week;

(ii) Include the date each activity occurs, the purpose of the activity, its starting and ending time, as well as the complete address of each activity site and, as applicable, the name and telephone number of a contact person at each site; and

(iii) Submit the completed schedule to the agent during the next weekly meeting with the agent.

(27) Activity sheet to case folder and summarize in Case Notes. An agent shall:

(a) Place a completed Daily Activity Sheet received from an offender in the offender's case folder; and

(b) Enter into Case Notes a summary of the offender's activities.

(28) **Daily activity scheduling for Phase 3 tracking.** Whether an offender in Phase 3 tracking is required to complete and submit a Daily Activity Schedule shall be determined by an agent, in consultation with the agent's supervisor.

(29) **Tracking an offender's compliance.** An agent shall review an offender's tracked location points to:

(a) Confirm the offender's compliance with curfew requirements;

(b) Corroborate the movements reported by the offender; and

(c) Determine the locations frequented by the offender.

(30) **Phase 1 and 2 monitoring procedures.** An agent shall monitor a sexual offender who is on Phase 1 or 2 electronic tracking by:

(a) Reviewing alerts and resolving them, daily;

(b) Examining downloaded location points to determine whether they comport with the offender's Daily Activity Schedule:

(i) For at least three of the days, including one weekend day, covered by the most recent Daily Activity Schedule submitted during Phase 1 tracking; or

(ii) For at least two of the days, including one weekend day, covered by the most recent Daily Activity Schedule submitted during Phase 2 tracking; and

(c) Documenting in Case Notes the offender's compliance or non-compliance and significant tracking data.

(31) **Phase 3 monitoring procedures.** An agent shall monitor a sexual offender who is on Phase 3 electronic tracking by:

(a) Reviewing alerts and resolving them, daily; and

(b) Examining the tracking data to determine whether it comports with the offender's recorded curfew during each of the days of the preceding week; and

(c) Documenting in Case Notes the offender's compliance or non-compliance and significant tracking data.

Note: See subsection Q regarding alerts and alert-response procedures.

P. Initiating Electronic Tracking.

Note: The electronic tracking of sexual offenders will be conducted primarily through the use of GPS technology. However, as a sanction for non-compliance during Phase 1 tracking, as set forth in paragraph (39) (a) of this subsection, an agent may elect to utilize RF tracking technology.

(1) **Initiating GPS electronic tracking.** To initiate GPS electronic tracking of a sexual offender, a COMET agent shall:

(a) Obtain GPS equipment from the designated inventory control officer in the agent's region;

(b) Follow the prescribed procedures for attaching the appropriate mobile transmitting device to the offender and installing the base unit ("beacon") at the offender's residence; and

(c) In Case Notes, document the equipment acquisition, attachment, and installation described in items (a) and (b) of this paragraph.

(2) **Retrieval of GPS equipment.** Unless published procedures provide otherwise, an agent shall be responsible for retrieval of GPS equipment installed by the agent and for documenting the disposition of retrieved equipment in Case Notes.

(3) **Initiating RF electronic tracking.** To initiate RF tracking (i.e., home detention) of an offender, an agent shall:

(a) Complete form DPP-SUP-57 ("Electronic Monitoring Referral");

(b) In the agency's Central Region, submit completed form DPP-SUP-57 to the Community Surveillance and Enforcement Program's Home Detention duty officer, who will coordinate the installation of the appropriate electronic tracking device;

(c) In the agency's Northern and Southern Regions, submit completed form DPP-SUP-57 to the Community Surveillance and Enforcement Program officer designated by the CSEP Assistant Director for the region; and

(d) In Case Notes, document the submission of form DPP-SUP-57.

(4) **CSEP designee's duties.** The duties of the CSEP designee include:

(a) Attaching to the offender the appropriate mobile transmitting device;

(b) Installing the base unit at the offender's residence; and

(c) Retrieving attached and installed electronic tracking equipment from the offender and the offender's residence.

(5) **Restrictions and authorized activities.** As applicable, an agent shall set restrictions upon the sexual offender ranging from full home confinement - subject to exceptions for authorized activity - to monitored movement through the community.

(6) **Full home confinement.** Except as provided in paragraphs (8) and (9) of this subsection, an offender who is subject to full home confinement shall be restricted to the offender's approved residence 24-hours per day, seven days per week.

(7) **Approved residence defined.** In this subsection, the term *approved residence* means the agency-approved dwelling place to be occupied by an offender during a term of home confinement and does not include real property upon which the dwelling place is situated or any structure or building other than the dwelling, whether attached to the dwelling or not.

(8) **Authorized activity defined.** An authorized activity is a permitted exception to the requirement that an offender remain within the offender's approved residence around the clock. An authorized activity is one that is:

- (a) Approved by an agent; and
- (b) Entered into Case Notes.

(9) **Mandated authorized activities.** An agent shall approve an offender to leave the offender's approved residence for the following purposes:

- (a) To keep scheduled supervision appointments; and
- (b) To attend required counseling or education programs, provided the agent verifies the offender's program attendance monthly.

Note: The monthly verification required under (9)(b) is program-furnished verification, including direct communication between the agent and therapist, counselor, facilitator, teacher, or instructor, or by the agent's viewing attendance or sign-in sheets maintained by the program.

Q. Procedures for Responding to Alerts and Non-compliance.

(1) **Agent review of Alert Summary Reports.** Each business day, an agent shall:

- (a) Review the daily "Alerts Summary Reports" for sexual offenders supervised by the agent;
- (b) Resolve each listed alert; and
- (c) Document in Case Notes the resolution of each alert.

(2) **Immediate supervisor's review of Alert Summary Reports.** An immediate supervisor of an agent supervising a sexual offender shall regularly review the alerts pertaining to the supervisor's span of control to ensure alerts are being timely and appropriately addressed.

(3) **Intermediate supervisor's responsibility.** An intermediate supervisor whose span of control includes the supervision of sexual offenders shall each week ensure that alerts pertaining to the intermediate supervisor's span of control have been resolved.

(4) **Email alert: agent investigation.** Except as provided in paragraph (5) of this subsection, an agent shall, on the same business day that an email alert is received by the agent:

(a) Investigate the alert to determine the cause of the alert and location of the offender; and

(b) Respond to the alert as set forth in paragraphs (6) through (36) of this subsection.

(5) **Supervising agent unavailable.** If, for any reason, an agent is unavailable to investigate and respond to an alert, the agent's immediate supervisor shall ensure that the alert is investigated and responded to either by:

(a) The supervisor; or

(b) Another agent.

(6) **Zone, curfew, and equipment status alerts.** An agent shall:

(a) Regard each zone, curfew, and equipment status alert as a potentially serious violation; and

(b) Timely and thoroughly investigate these alerts to determine their impact, if any, on public safety.

(7) **Equipment-related alerts.** When an offender registers an equipment-related alert, an agent shall diligently attempt to contact and to locate the offender prior to requesting a warrant for the offender's arrest. An agent's diligent efforts may include, as applicable:

(a) Telephoning the offender;

(b) Responding to the offender's approved residence;

(c) Seeking information regarding the offender's whereabouts from co-residents and neighbors of the offender;

(d) Telephoning the offender's employer to learn whether the offender is at work and, if not, when the employer last saw or heard from the offender;

(e) Contacting the tracking hardware and software vendor to learn alert details and other information that may be helpful in locating the offender; and

(f) Contacting the local jail and hospital to learn whether the offender is jailed or hospitalized.

(8) **Zone alerts.** *Zone alert* is a general term that includes several types of alerts that are triggered when an electronically tracked offender enters a geographic location that the offender is prohibited from entering or fails to arrive at a location where the offender is to be. Specific zone alerts and the required responses to them are set forth in paragraphs (9) through (20) of this subsection.

(9) **Inclusion zone alert.** These alerts indicate that an offender failed to appear at a designated geographic location (e.g., residence, school, work, treatment) by the specific time the offender was scheduled to arrive.

(10) **Failed to Enter Inclusion Zone Alert.** This alert indicates that an offender failed to return to a required Inclusion Zone before the offender's grace period expired.

(11) **Inclusion Zone Leave Alert.** This alert indicates that an offender vacated an Inclusion Zone before the offender's scheduled departure time.

(12) **Master Zone Leave Alert.** This alert indicates that an offender vacated the Master Inclusion Zone within which the offender was required to remain around the clock, seven days per week.

(13) **Beacon Unauthorized Leave Alert.** This alert indicates that an offender went outside the range of a tracking beacon when the offender was scheduled to be within the offender's approved residence and the tracking unit has not received a signal from the beacon for the duration of the Leave Window.

(14) **Responding to specific inclusion zone alerts.** An agent shall respond to a specific inclusion zone alert by:

(a) Accessing the tracking system to determine the offender's current status and location;
and

(b) Attempting to establish immediate face-to-face or telephone contact with the offender to obtain information about the deviation which prompted the alert.

(15) **Late-arriving offender: explanation accepted.** If an offender's failure to arrive at a scheduled location prompted an alert but the offender arrives not later than one hour after the offender's scheduled arrival time, an agent shall query the offender regarding the lateness and if the offender's explanation is reasonable and accepted by the agent, the agent shall issue a warning and document the action in Case Notes.

(16) **Late-arriving offender: explanation not accepted.** If an offender's failure to arrive at a scheduled location prompts an alert and the offender either does not arrive or is over an hour late in arriving, an agent shall query the offender regarding the absence or lateness and if the offender's explanation is not accepted by the agent, the agent shall take appropriate action and document the action in Case Notes. The actions which may be taken include:

- (a) Issuing a warning to the offender;
- (b) Elevating the offender's tracking phase; or
- (c) Initiating a violation hearing by requesting a warrant, summons, or subpoena, as appropriate.

(17) **Warrant request required.** If an offender cannot be located, or if contact cannot be established with the offender, an agent shall confirm the alert with the monitoring service and proceed with a warrant request.

(18) **Exclusion Zone Enter Alert.** This alert indicates that an offender entered a designated geographic location which the offender was prohibited from entering. Absent credible and verifiable information to the contrary, an agent shall:

- (a) Regard the offender's violation as a risk to public safety; and
- (b) Respond as set forth in paragraphs (19) and (20).

(19) **Responding to an exclusion zone alert - offender in exclusion zone.** An agent shall respond to an exclusion zone alert by taking the steps set forth in paragraph (14) of this subsection; and

(a) Immediately notifying local law enforcement of the offender's location and status and requesting assistance in ensuring the safety of a potential victim; and

(b) If the agent establishes contact with the offender, determining from the tracking data and any information obtained through contact with the offender, the action to take, as provided in paragraph (16) (a) through (c);

(c) If the agent cannot locate or establish contact with the offender:

- (i) Confirm the exclusion zone violation with the monitoring service; and
- (ii) Request a warrant for the offender's arrest.

(20) **Responding to an exclusion zone alert - offender no longer in exclusion zone.** An agent shall respond to an exclusion zone alert by taking the steps set forth in paragraph (14) of this subsection; and

(a) If the tracking data indicate that the offender is no longer in the exclusion zone, and the agent establishes contact with the offender, query the offender regarding the violation and determine the action to take, as provided in paragraph (16)(a) through (c); and

(d) If the agent cannot locate or establish contact with the offender:

- (i) Confirm the exclusion zone violation with the monitoring service; and

(ii) Request a warrant for the offender's arrest.

(21) **Confirmation of violation.** In all instances in which an agent determines that the appropriate action to take in response to an alert-based violation is to request a warrant, the agent shall, prior to requesting the warrant, confirm the specific violation with the monitoring service.

Note: The requirement set forth in paragraph (21) is especially critical when the sole basis for a warrant request is an alleged tracking violation.

(22) **Equipment status alerts.** *Equipment status alert* is a general term that includes several types of alerts that are triggered when equipment malfunctions. The reason for a malfunction may range from low battery power to deliberate equipment tampering or breakage. Specific equipment status alerts and the required responses to them are set forth in paragraphs (23) through (32) of this subsection.

(23) **Tracker Case Tamper alert.** This alert indicates that a tracking unit case has been opened.

(24) **Responding to a tracker case tamper alert.** In response to a tracker case tamper alert, an agent shall:

(a) Immediately attempt to establish face-to-face contact with the offender;

(b) If the offender cannot be located, request a warrant for the offender's arrest; or

(c) If the offender is located, inspect the tracking device for evidence of damage or tampering and if the agent finds:

(i) No evidence of purposeful damage or tampering, replace the malfunctioning device; or

(ii) Evidence of purposeful damage or tampering, request a warrant for the offender's arrest.

(25) **Beacon Case Tamper alert.** This alert indicates that beacon's outer shell casing has been opened or tampered with.

(26) **Responding to a beacon case tamper alert.** In response to a beacon case tamper alert, an agent shall follow the procedures set forth in paragraph (24).

(27) **Tracker Strap Tamper alert.** This alert indicates that the fiber-optic circuit inside the strap is open.

(28) **Responding to a tracker strap tamper alert.** In response to a tracker strap tamper alert, an agent shall follow the procedures set forth in paragraph (24).

(29) **Tracker Low Battery alert.** This alert indicates that the tracking unit's battery has no more than 25% of its power remaining.

(30) **Responding to a tracker low battery alert.** In response to a tracker low battery alert, an agent shall, if the offender:

(a) Is at the offender's residence, instruct the offender to place the tracking device in the charging stand immediately;

(b) Is not at the offender's residence, contact and instruct the offender to return, immediately and directly, to the offender's residence and, when there, to place the tracking device in the charging stand; and

(c) Cannot be contacted, or fails to return the tracking device to the charging stand after a reasonable amount of time has elapsed since being contacted, take appropriate action (e.g., issuing a warning to the offender, elevating the offender's tracking phase, initiating a violation hearing by requesting a warrant, summons, or subpoena, as appropriate).

(31) **Beacon Low Battery alert.** This alert indicates that a beacon's batteries have no more than 25% of their power remaining and must be replaced.

(32) **Responding to a beacon low battery alert.** In response to a beacon low battery alert, an agent shall:

(a) Replace the beacon's batteries or instruct the offender to do so;

(b) If the agent instructs the offender to replace the batteries but the offender fails to do so after a reasonable amount of time has elapsed, take appropriate action (e.g., issuing a warning to the offender, elevating the offender's tracking phase, initiating a violation hearing by requesting a warrant, summons, or subpoena, as appropriate).

(33) **Signal status alerts.** A *signal status alert* occurs when an abnormal signal is detected between paired tracking devices or between a tracking device and the monitoring station. The abnormality may be an intermittent signal, an unrecognized signal, or none at all.

(34) **Beacon Not Found alert.** This alert indicates that a newly installed tracking unit does not recognize its assigned beacon.

(35) **Responding to a beacon not found alert.** In response to a beacon not found alert, an agent shall perform as many of the following as are necessary to establish a connection:

(a) Instruct the offender to remain near the beacon until a "Beacon First Found" message is received;

(b) Confirm that the beacon's batteries are fully charged and correctly installed; and

(c) Review the installation steps and confirm that the beacon identification number was entered correctly into the system software.

(36) **Tracker Missed Callback alert.** This alert indicates that the central monitoring station did not receive an expected call from a tracking device within the time allowed by the Missed Callback Window setting and, consequently, tracking data from the device was not downloaded.

(37) **Responding to a tracker missed callback alert.** In response to a tracker missed callback alert, an agent shall:

(a) Access the tracking system and determine the offender's last known status and location;

(b) Contact the offender to obtain information about the alert's cause;

(c) If the offender cannot be located, request a warrant for the offender's arrest;

(d) If the offender is located within a reasonable time following the alert:

(i) Instruct the offender on the procedures for re-establishing a connection between the tracking device and the tracking center;

(ii) Determine and document the offender's location at the time of the contact to be verified against data points when available; and

(iii) Determine, based on a review of data points, information provided by the offender, or both, the appropriate action to be taken (e.g., issue a warning, change tracking phase or the offender's approved schedule, initiate a violation hearing by requesting a warrant, summons, or subpoena, as appropriate); and

(d) In Case Notes, document the appropriate action taken or to be taken.

(38) **Non-compliance with overall tracking phase requirements.** Not later than five workdays after an agent learns that an offender is non-compliant with an aspect of the electronic tracking program, the agent shall sanction the offender based upon the:

(a) Offender's tracking phase;

(b) Nature and extent of the non-compliance;

(c) Agent's assessment, in consultation with the agent's supervisor and other appropriate members of the COMET team, of the risk the offender represents to the community; and

(d) Requirements set forth in paragraphs (39) through (41) of this subsection.

(39) **Phase 1 tracking sanctions.** If, during Phase 1 tracking, an offender is willfully noncompliant with an aspect of the tracking requirements, an agent shall sanction the offender for a:

(a) First incident of non-compliance, by placing the offender on full home confinement;
and

(b) Subsequent incident, by requesting a warrant for the offender's arrest.

(40) **Phase 2 tracking sanctions.** If, during Phase 2 tracking, an offender is willfully noncompliant with an aspect of the tracking requirements, an agent shall sanction the offender for a:

(a) First incident of non-compliance, by placing the offender on Phase 1 tracking; and

(b) Subsequent incident, by placing the offender on full home confinement, unless, based on the offender's overall adjustment, a warrant request is justified.

(41) **Phase 3 tracking sanctions.** If, during Phase 3 tracking, an offender is willfully noncompliant with an aspect of the tracking requirements, an agent shall sanction the offender for a:

(a) First incident of non-compliance, by placing the offender on Phase 2 tracking; and

(b) Subsequent incident, by placing the offender on Phase 1 tracking or full home confinement, unless, based on the offender's overall adjustment, a warrant request is justified.

(42) **Recordkeeping and disclosure of information.** The recordkeeping and disclosure of information provisions set forth in subsection L are incorporated by reference.

R. Computer Monitoring.

(1) **Introduction.** Computer monitoring involves the installation on an offender's computer of software designed to provide an agent with access to the contents of the computer as well as the ability to monitor and record all of the activity conducted on the monitored computer. It can be programmed to restrict access to particular activities (e.g., chat rooms, file sharing programs) or designated web sites, including social networking sites, or to block Internet access altogether.

The intent of computer monitoring is to assist both the agent and the offender in the process of managing the offender's personal behavior by controlling access to potential victims and by minimizing exposure to online sites and activities that increase the risk of relapse and re-offense. It can also be a useful tool for increasing the agent's awareness of the deviant interest and arousal patterns of the offender, including those patterns which may be part of the offender's unique offense cycle, and thus indicative of an increased risk for re-offense.

The overall goals of the computer monitoring program include: minimizing the risk of a new offense by determining and enforcing appropriate levels of restriction on offender computer activity; ensuring compliance with supervision and treatment requirements and restrictions and identifying any violations as early as possible; deterring sexual offenders from

relapse behaviors; and facilitating the accurate assessment of the risk level of the offender. Identifying those sexual offenders who require more intensive supervision or treatment leads to a more precise targeting of treatment interventions as well as increased protection for potential victims.

(2) **Special condition required for electronic tracking.** A special condition mandating or authorizing computer monitoring is prerequisite to activating computer monitoring for an offender.

(3) **Offenders released from Division of Correction on or after February 1, 2009.** Computer monitoring is authorized for all sexual offenders released from the Division of Correction either to mandatory release or to parole supervision on or after February 1, 2009.

(4) **Probationer.** An offender on probation for a sexual offense may be subject to computer monitoring only if the:

(a) Offender's probation order contains a special condition authorizing or mandating computer monitoring; or

(b) Offender is also a mandatory releasee or parolee who is subject to computer monitoring.

Note: Under (4) (b), absent the addition of a special condition to an offender's probation order, when the mandatory or parole case expires, computer monitoring shall cease for that offender.

(5) **Requesting computer monitoring as a probation special condition.** An agent shall request that a sentencing court add a special condition for computer monitoring to a sexual offender's probation order if:

(a) The sexual offender's criminal history includes a current or prior conviction for:

(i) A sexual offense in which access to and contact with the victim was accomplished through use of the internet; or

(ii) An offense involving child pornography; or

(b) At any time during the supervision period, the offender engages in internet-related behavior which the agent and the agent's supervisor determine may increase the offender's risk to re-offend.

(6) **Mandatory language for special condition request.** In requesting the addition of a special condition authorizing computer monitoring, specific wording shall be used:

(a) In requesting that the Maryland Parole Commission add a special condition authorizing computer monitoring, only the following wording shall be used: "As directed by DPSCS-Community Supervision, you must comply with the requirements of and pay any costs associated with specialized sexual offender supervision including: offense-specific treatment,

medication, polygraph testing, computer monitoring, and electronic tracking and related curfew and/or geographic restrictions.”

(b) In requesting that a judge in a probation case add a special condition authorizing computer monitoring, an agent may use the wording in subparagraph (a) or may submit, with the supervision report, the “Special Conditions of Probation for Sexual Offenders” form, specifying in the report the condition(s) being requested.

(7) Authorized but not mandated computer monitoring. When a special condition authorizes but does not mandate computer monitoring for a sexual offender, an agent shall implement computer monitoring if:

(a) The sexual offender’s criminal history includes a current or prior conviction for:

(i) A sexual offense in which access to and contact with the victim was accomplished through use of the internet; or

(ii) An offense involving child pornography; or

(b) At any time during the supervision period, the offender engages in internet-related behavior which the agent and the agent’s supervisor determine may increase the offender’s risk to re-offend.

(8) Offender computer access. An agent supervising an offender whose release or probation order contains a special condition for computer monitoring shall ask the offender whether the offender has access to a computer and document the offender’s answer in Case Notes.

Note: The purpose for asking the question in paragraph (8) is to learn the device or devices used by the offender to access the internet. An agent may frame the question in any way best designed to obtain this information, such as by asking a leading question (e.g., “What do you have at home, a pc or a Mac?”) and by asking follow-up questions (e.g., “Do you have a desktop computer or a notebook?”)

(9) Offender denies computer access. If an offender’s response to the question or questions asked pursuant to paragraph (8) is to deny having access to a computer, an agent shall:

(a) If an offender’s supervision or release order contains a polygraph special condition, immediately refer the offender for a polygraph examination; and

(b) If an offender’s supervision or release order does not contain a polygraph testing special condition, submit a request for the addition of a special condition authorizing polygraph testing.

(10) Purpose of polygraph examination. The purpose of the polygraph examination required under paragraph (9) (a) is to determine whether or not the offender has access to

the internet and, if so, through what devices. Accordingly, an agent shall request that the polygraph examiner question the offender about these matters specifically.

(11) **Offender response is positive.** If, pursuant to paragraph (8), a sexual offender responds by identifying the offender's internet access devices, an agent shall initiate the computer monitoring referral process set forth in the next paragraph.

(12) **Referral.** Not later than 10 workdays after receiving the case of a sexual offender who is subject to computer monitoring, an agent shall:

(a) Accurately and fully complete DPP-SUP-32 ("COMET Referral for Computer Monitoring");

(b) Submit the completed form DPP-SUP-32 to the agency's Computer Monitoring Coordinator; and

(c) Document the computer monitoring referral submission in Case Notes.

(13) **Computer Monitoring Coordinator.** The agency's sole approving authority for computer monitoring is the Computer Monitoring Coordinator. The Computer Monitoring Coordinator shall receive, review, record, and approve or disapprove a computer monitoring referral and may designate another agency employee to assist in performing these functions, in whole or part.

(14) **Time limitation.** Not later than five workdays after receiving a computer monitoring referral, the Computer Monitoring Coordinator shall respond to the referring agent with an approval or a disapproval. If a referral is approved, activation may be immediate, to occur on a future specified date, or conditionally or unconditionally deferred to a later date. If a referral is disapproved the reason for the disapproval shall be specified by the Coordinator.

(15) **Referral disapproved.** If the Computer Monitoring Coordinator disapproves a referral, an agent shall:

(a) Document that result in Case Notes, along with the reason given by the Coordinator for the disapproval; and

(b) If the reason for the disapproval is an inaccurate or incomplete form DPP-SUP-32, not later than two workdays after the notice of disapproval is received, make the necessary corrections or additions and resubmit the referral form.

(16) **Referral approved for future date.** If the Computer Monitoring Coordinator approves a referral to occur on a future specified date or conditionally or unconditionally defers it to a later date, an agent shall document the Coordinator's response and the specific date or condition, if any, in Case Notes.

(17) **Immediate implementation.** If the Computer Monitoring Coordinator approves immediate implementation of computer monitoring, an agent shall:

(a) Document the Coordinator's approval in Case Notes; and

(b) Not later than five workdays after receiving the approval notice, complete the steps set forth in paragraph (18) of this subsection.

(18) Implementation procedures. To implement computer monitoring, an agent shall:

(a) Instruct the offender as set forth in paragraph (34) of this subsection;

(b) Obtain the offender's signature on any required consent and release forms;

(c) Submit copies of signed consent and release forms to the Computer Monitoring Coordinator;

(d) Obtain computer monitoring equipment from the agent's regionally designated source for the equipment;

(e) Either install the monitoring software at the offender's residence or instruct the offender to install the monitoring software remotely and electronically verify the successful remote installation of the software by the offender; and

(f) In accordance with training, instructions, technical manuals, and protocols regarding the initiation and programming of the computer monitoring system, activate a computer monitoring program which includes the applicable restrictions, alert, and notification procedures described herein under this subsection.

(19) Access to internet prohibited. If an offender is subject to a special condition prohibiting internet access by the offender, an agent shall program the monitoring software to prohibit access by the offender to the Internet.

(20) Access to internet restricted, not prohibited. If an offender is subject to a special condition restricting, but not prohibiting, internet access by the offender, an agent shall program the monitoring software to implement the restrictions established in the special condition.

(21) Access to internet unrestricted. If an offender is not subject to a special condition that restricts or prohibits internet access by the offender, an agent shall program the monitoring software to allow unrestricted internet access.

(22) All activity to be monitored. An agent shall program monitoring software to monitor all activity on an offender's computer, without regard to access or content restrictions, if any.

(23) High-risk terms and other additions. An agent shall:

(a) Activate the list of high-risk terms pre-configured by the monitoring system and available through the monitoring software;

(b) Add to the high-risk terms list, at a minimum, the name of:

(i) Each current and past victim of the sexual offender; and

(ii) The agent;

(c) Enter the agent's electronic mail address into the computer monitoring system to ensure that violation alerts, if any, are sent to the agent; and

(d) Document in Case Notes the commencement of computer monitoring and the details of the monitoring program established.

(24) Biometric user verification device. A biometric user verification device, when connected to a monitored computer, significantly reduces the possibility that computer activities attributed to the offender were conducted by someone other than the offender.

(25) Circumstances requiring device connection. An agent shall connect a biometric user verification device to an offender's computer if the:

(a) Offender's monitoring record includes evidence of access or attempted access to restricted or prohibited websites or activities; or of behavior potentially related to increased risk for relapse; and

(b) Offender attributes to someone else the activities or attempted activities described in item (a) of this paragraph.

(26) Circumstances permitting device connection. An agent may connect a biometric user verification device to an offender's computer if the agent and the agent's supervisor agree that the use of the device will increase the effectiveness of the computer monitoring process.

(27) Biometric user verification device installation process. If an agent intends to install a biometric user verification device on an offender's computer, the agent shall:

(a) Document, in Case Notes, the basis for using the device;

(b) Obtain a device from the agent's regionally designated source for the device;

(c) At the offender's residence, connect the device to and install the required software on the offender's computer; and

(d) Program the device in accordance with training, instructions, technical manuals, and protocols.

(28) Duration of computer monitoring. If a sexual offender's release or supervision order:

(a) Specifies the duration of computer monitoring, the computer monitoring shall be for the duration specified;

(b) Does not specify the duration of computer monitoring, the monitoring term shall be 90 consecutive days, subject to the extension provisions set forth in paragraphs (30) and (31) of this subsection.

(29) **Termination of computer monitoring.** If, for 90 consecutive days, an offender has been fully compliant with the computer-monitoring rules applicable to the offender's computer use, an agent may satisfactorily terminate the monitoring in accordance with paragraphs (32) (b) and (33) of this subsection.

(30) **Extension of 90-day monitoring term.** An offender's initial 90-day term of computer monitoring may be extended if an agent, in consultation with the agent's supervisor and other members of the COMET team, determines that the offender:

(a) Failed to comply fully with the computer-monitoring process;

(b) Attempted to circumvent a prohibition, restriction, or any other requirement of computer monitoring; or

(c) Engaged in behavior—connected or unconnected to computer use—that signals a potential increase of risk that the offender will relapse or re-offend.

(31) **Extensions: 90-day increments.** An agent shall effect an extension of a computer-monitoring term only in 90-day increments.

(32) **Notice to Computer Monitoring Coordinator required.** An agent shall enter a case note and notify the Computer Monitoring Coordinator by electronic mail when an offender's computer monitoring is to be:

(a) Extended; or

(b) Terminated.

(33) **Discontinuation of computer monitoring.** When, for whatever reason, an offender's computer monitoring is to be discontinued, an agent shall:

(a) Complete a "Computer and Internet Monitoring Program Certificate of Discontinuance of Computer Monitoring;"

(b) Submit the certificate of discontinuance to the Computer Monitoring Coordinator;

(c) Authorize or effect the removal of the computer monitoring software from the offender's computer; and

(d) Document in a case note that items (a) through (c) of this paragraph were accomplished.

(34) **Instructions to offender.** The agent shall instruct a sexual offender whose computer activity is to be monitored:

(a) Regarding the:

(i) Rules and restrictions included in the supervision order which govern the offender's computer use;

(ii) Procedures to be used to monitor the offender's computer use; and

(iii) Internet sites and activities to which the offender's access may be restricted or denied in accordance with the offender's supervision order; and

(b) That initial restrictions and access may be increased, expanded, or otherwise modified during the monitoring term in response to supervision developments.

(35) Initial internet site and activity restrictions. An agent shall initially structure offender internet prohibitions and access restrictions on the basis of available information relative to the sexual offender's offense pattern, including known risk factors, offense precursors, behavioral triggers, and victim selection and grooming techniques.

(36) Forms and agreements. An agent shall:

(a) Review and have an offender sign a:

(i) "Computer and Internet Monitoring Program Participant Agreement;" and

(ii) "Computer and Internet Monitoring Program User Software License Agreement;"

(b) Complete a "Computer and Internet Monitoring Program Certificate of User Software License Agreement Execution" and forward the completed form to the Computer Monitoring Coordinator; and

(c) Document in Case Notes the:

(i) General and specific instructions given to the offender as required under this subsection; and

(ii) Completion and, as applicable, the submission of the forms necessary to activate computer monitoring.

S. Monitoring and Responding to a Sexual Offender's Computer Use.

(1) Weekly review. At least once each week, for each offender whose computer access and activities are being monitored, an agent shall:

(a) Review the weekly report sent by the monitoring service to a designated mailbox for access by agency personnel; or

(b) Review the data available on the monitoring service's website; and

(c) Enter a case note with the content described in paragraph (2) of this subsection.

(2) **Case note entry for weekly report review.** An agent shall include in the case note required under paragraph (1) of this subsection a summary of the agent's review of the case level analysis data provided by the monitoring service, including:

(a) Agent concerns arising from a review of an offender's:

- (i) High-risk activities;
- (ii) Top one hundred internet activities
- (iii) Web category statistics;
- (iv) Web search terms;
- (v) External removable media activities;
- (vi) Daily internet usage; and
- (vii) Hourly internet usage; and

(b) The results of an investigation prompted by a review of the data in the categories listed in items (a) (i) through (vii) of this subsection.

(3) **Data review objectives.** In reviewing the data in the categories listed in items (a) (i) through (vii) of this subsection, an agent shall look to identify:

- (a) A theme, unifying idea, or goal in the offender's activity;
- (b) A pattern of activity;
- (c) The intensity or frequency of the activity;
- (d) Anomalies or oddities in the data or the activity to which the data relate; and
- (e) Significant changes in the data, including the absence of data.

(4) **Monitoring service site resource.** If an agent determines that the agent's data review or investigation requires more extensive and more detailed information on the offender's computer-related activity, the agent may access the monitoring services website for additional investigative tools.

(5) **Supervisor's weekly review.** The immediate supervisor of each agent who supervises an offender subject to computer monitoring shall:

(a) At least once weekly, review the agents' Case Notes to ensure that the computer monitoring entries required under this subsection are being timely entered; and

(b) Be responsible for ensuring a timely response to computer monitoring violations and alerts arising from an offender whose supervising agent is unavailable to respond.

(6) Alerts and other non-compliance. Not later than five workdays after learning, either from the monitoring service or from any other source, of any non-compliant or high-risk behavior relative to the offender's computer activity, an agent shall:

(a) Investigate and respond to the alert or non-compliant behavior;

(b) Document in Case Notes the nature of the violation and, if applicable, the action taken.

(7) Immediate and intermediate supervisors' review of alerts. The immediate and intermediate supervisors of agents who supervise offenders subject to computer monitoring shall review alerts generated by the monitoring service for sexual offenders supervised by the agents to ensure that the alerts have been timely and appropriately addressed.

(8) Responding to a special condition violation and increased risk. If a sexual offender is non-compliant with some aspect of the computer monitoring program and the non-compliant behavior either directly violates a special condition of the offender's release or supervision order or significantly increases the offender's risk to re-offend, an agent shall, not later than one workday after learning of the non-compliance, initiate violation proceedings by requesting a warrant, summons, or subpoena, as appropriate.

(9) Responding to other non-compliant behavior. If a sexual offender is non-compliant with some aspect of the computer monitoring program but the non-compliant behavior neither directly violates a special condition of the offender's release or supervision order nor significantly increases the offender's risk to re-offend, an agent shall develop a response in consultation with the agent's supervisor and other appropriate members of the COMET team.

(10) Responses. The responses referenced in paragraph (9) of this subsection include:

(a) Elevating the level of restriction on an offender's computer activity;

(b) If permitted by the offender's probation or release order:

(i) Requesting that a polygraph examination be conducted to explore the nature and extent of the non-compliant behavior or activity;

(ii) Re-instituting or adjusting the level of electronic tracking for the offender; and

(iii) Requiring the offender to attend or resume attending treatment, to attend additional treatment sessions, or to participate in additional forms of treatment;

(c) Elevating the offender's supervision level;

(d) Increasing the number of face-to-face contacts required of the offender and re-instituting a daily telephone contact requirement; and

(e) Submitting a formal report to a sentencing court, the Parole Commission, or both, to:

(i) Advise the court, Parole Commission, or both, of the nature and extent of the offender's non-compliance; and

(ii) Request approval for a proposed response to the offender's non-compliance which may include the modification of existing conditions or the imposition of additional special conditions.

(11) **Recordkeeping and disclosures of information.** The recordkeeping and disclosure of information provisions set forth in subsection L is incorporated by reference.