

## Section 4: Post-Conviction Sex Offender Polygraph Examinations and Examiners

The provisions of this section govern the procedures relating to (a) the certification of professionals approved by the Idaho SOMB to conduct post-conviction polygraph examinations of adults convicted of sex offenses or sex offense-related crimes as ordered or required by the court, Idaho Department of Correction or Commission for Pardons and Parole, and (b) examiners' practices regarding such examinations, provided that the use of such examinations are not prohibited or incompatible with any statutory or other legal provisions of the Idaho Code, administrative rules, or other regulations in Idaho.

### I. GENERAL CONSIDERATIONS

- A. Primary Objectives. Post-conviction sex offender polygraph examinations conducted in accordance with this section are intended to:
  - a. Provide an independent and objective means of collecting relevant information about a given individual that may not otherwise be obtained via other assessment methods;
  - b. Explore potential changes, progress, and/or compliance relative to treatment, supervision, and other case management goals and objectives;
  - c. Promote internal motivation and engagement in the treatment and supervision process by providing additional opportunities for self-disclosure and introspection; and
  - d. Support case management decisions involving adults convicted of sex offenses.
- B. Utilization as an Adjunctive, Supplemental Tool. Post-conviction sex offender polygraph examinations conducted pursuant to this section shall be utilized as an adjunctive assessment tool, the findings from which shall be used to complement, not supplant, other assessment information.
- C. Adherence to Commonly Accepted Standards. Persons certified by the SOMB to administer post-conviction sex offender polygraph examinations in accordance

with the minimum requirements and other expectations outlined in this section are expected to:

- a. Adhere to any and all ethical principles and codes, and any and all practice standards and guidelines for the administration of polygraph examinations generally, as promulgated by the American Polygraph Association (APA) or the American Association of Police Polygraphists (AAPP);
- b. Adhere to any and all standards and guidelines specific to post-conviction sex offender testing (PCSOT) as promulgated by the American Polygraph Association (APA);
- c. Adhere to any and all ethical principles and codes, and any and all practice standards and guidelines, for the person's discipline, area of professional practice, or licensure as promulgated by any applicable regulatory board or licensing authority.

D. Testing.

- a. Persons certified by the SOMB to administer post-conviction sex offender polygraph examinations shall use a validated testing technique. For purposes of these standards, a testing technique shall be considered valid if supported by research conducted in accordance with the APA's research standards. Where examinations deviate from the protocols of a validated testing technique, the deviations should be noted and justified in writing.
- b. (Effective January 1, 2015) Polygraph techniques used for screening purposes shall be those for which there exists at least two published empirical studies, original and replicated, demonstrating an unweighted accuracy rate that is significantly greater than chance, and should be used in a "successive hurdles" approach which entails additional testing with validated methods when the screening test is not favorably resolved.
- c. Examiners will only use APA validated tests in PCSOT testing.

**II. ADOPTED STANDARDS FOR POST-CONVICTION SEX OFFENDER POLYGRAPH TESTING**

The SOMB has adopted the tenets of the American Polygraph Association (2018) Model Policy for Post-Conviction Sex Offender Testing. Modifications have been made as appropriate to comply with Idaho laws and regulations.

1. Standards. These standards should be considered a description of best-practices for polygraph professionals who engage in post-conviction sex offender testing (PCSOT) activities in Idaho.
  - 1.1. Compliance and local authority. Examiners are responsible for knowing and adhering to all legal and regulatory requirements of their local jurisdictions. In case of any conflict between these standards and any local practice requirements, the local regulations should prevail.
    - 1.1.1. Compliance with these standards. Examiners whose work varies from these standards should be prepared to provide justification for doing so.
    - 1.1.2. Compliance with professional standards. Unless prohibited by law, regulation or agency policy, all members of the American Polygraph Association (APA) shall comply with the APA Standards of Practice. Additionally, all examiners should be responsible for knowing and adhering to standards of ASTM International.
  - 1.2. Periodic review and modification. These standards will be reviewed and amended periodically in order to remain consistent with emerging information from new empirical studies.
2. Evidence-based approach. These standards rely on knowledge and principles derived from existing research pertaining to polygraph testing, risk assessment, risk management, and sex offender treatment. Examiners should be cautious of field practices based solely on a system of values or beliefs. Some elements of these standards are intended to increase professionalism and reliability among field examiners through the implementation of standardized field practice recommendations in the absence of data from empirical studies.

- 2.1. Face-valid principles. When an evidence-based approach is not possible, face-valid principles pertaining to polygraph testing, field investigation principles and related fields of science should be utilized. These include psychology, physiology, mental health treatment, forensic threat assessment, signal detection, decision theory, and inferential statistics.
  - 2.2. Evolving evidence. In the event that evidence from future empirical studies reveals the practice recommendations of these standards are inconsistent with empirically based evidence, the evidence-based information should prevail.
3. PCSOT program goals. The primary goal of all PCSOT activities is to increase public safety by adding incremental validity to risk-assessment, risk-management, and treatment-planning decisions made by professionals who provide supervision and sex-offense specific treatment to convicted sex offenders in community settings.
  - 3.1. Containment approach. Examiners who engage in PCSOT activities shall emphasize a multi-disciplinary or multi-systemic containment approach to the supervision and treatment of sex offenders. This approach involves a collaborative effort among professionals from varying disciplines and systems including treatment providers, supervising officers, polygraph examiners, medical and psychiatric professionals, child-protection/family-services workers, and other professionals. These professionals are referred to as the “containment team” throughout these standards.
  - 3.2. Operational objectives. Any or all of the following operational objectives are considered a reasonable and sufficient basis to engage in PCSOT activities:
    - A. Increased disclosure of problem behavior that will be of interest to professionals who work with convicted sex offenders;

- B. Deterrence of problem behavior among convicted sex offenders by increasing the likelihood that engagement in such behaviors will be brought to the attention of supervision and treatment professionals; and
  - C. Detection of involvement in or abstinence from problem behavior that would alert supervision and treatment professionals to any escalation in the level of threat to the community or potential victims of sexual abuse.
4. Decision-support. Psychophysiological Detection of Deception (PDD) (polygraph) testing of convicted sex offenders is regarded as a decision-support tool intended to assist professionals in making important decisions regarding risk and safety. Polygraph testing should not replace the need for other forms of behavioral monitoring or traditional forms of supervision and field investigation.
- 4.1. Professional judgment. Polygraph testing and polygraph test results do not supplant or replace the need for professional expertise and judgment. Polygraph test results should not be used as the sole basis for revocation of any individual from court supervision or termination of sex offense specific treatment.

4.2. Successive hurdles approach. Examiners should use a successive hurdles approach to testing to maximize both the informational efficiency and sensitivity of multi-issue (mixed-issue) screening polygraphs and the diagnostic efficiency and specificity of event-specific single-issue exams. The term screening, as it applies to PCSOT, is based on the fact that some exams are conducted for exploratory purposes in the absence of known allegations or known incidents. Follow-up examinations should employ a single-issue technique whenever increased validity is required to resolve an issue. Successive-hurdles may include following an unresolved mixed-issue polygraph test with additional attempts to resolve the issue(s), including post-test discussion, additional field or background investigation, or additional polygraph testing. Follow-up examinations may be completed on the same date as the initial exam, or they may be scheduled for a later date.

4.2.1. Multi-issue (mixed-issue) exams. Examiners should use multi-issue polygraph techniques only in the absence of a known incident, known allegation, or a particular reason to suspect wrongful behavior. Exploratory exams may at times be narrowed to a single target issue of concern. However, most exploratory exams involve multiple target issues in which it is conceivable that a person could lie about involvement in one or more issues while being truthful or uninvolved in the other issues of concern.

4.2.2. Single-issue exams. Examiners should use single issue polygraph techniques for follow-up exams conducted in response to a previously unresolved exploratory exam. Event specific diagnostic/investigative exams, conducted in response to known allegations or known incidents for which there is reason to suspect the involvement of the examinee, may be formulated as

multi-facet tests with questions pertaining to several behavioral roles or aspects of a single known allegation.

4.2.3. Multi-facet tests. Event specific diagnostic/investigative exams, conducted in response to known allegations or known incidents for which there is reason to suspect the involvement of the examinee, may be formulated as multi-facet tests with questions pertaining to several behavioral roles or aspects of a single known allegation.

4.3. Confidentiality and mandatory reporting. Except as provided by law, information from the polygraph examination and test results (outcomes) should be kept confidential and provided only to those involved in the containment approach to the supervision and treatment of sex offenders.

4.3.1. Examiners are mandated reporters. Examiners shall engage in mandatory child-abuse reporting activities in accordance with Section 16-1605, Idaho Code. Examiners shall provide examinees with written notification explaining the limits to confidentiality and mandatory reporting requirements.

5. General principles. Examiners who engage in PCSOT activities will adhere to all of the generally accepted principles that pertain to polygraph testing, including, but not limited to the following:

5.1. Rights and dignity of all persons. Examiners will respect the rights and dignity of all persons to whom they administer polygraph examinations.

5.2. Polygraph examiner as part of the supervision and treatment team. Examiners will consider themselves to be an integral part of the containment team. Contact with the containment team should be frequent, though contact with an examinee will be periodic (i.e., the examiner will not maintain routine contact with the examinee between examinations).

- 5.3. Non-interference with ongoing investigations. Examiners who engage in PCSOT activities will not interfere with or circumvent the efforts of any open or ongoing investigation of a new criminal allegation.
- 5.4. Known and unknown allegations. Examiners who engage in PCSOT activities will investigate and attempt to resolve, if possible, known allegations and known incidents before attempting to investigate or resolve behavioral concerns that do not involve a known allegation or known incident.
- 5.5. Confirmatory testing. PCSOT activities will be limited to the Psychophysiological Detection of Deception (PDD). Confirmatory testing approaches involving attempts to verify truthfulness of partial or complete statements made subsequent to the issue of concern should not be utilized in PCSOT programs. Truthfulness should only be inferred when it is determined that the examinee has not attempted to engage in deception regarding the investigation targets.
- 5.6. Ethical and professional roles. Examiners who possess multiple types of credentials (i.e., examiners who are also therapists, evaluators, probation officers, lawyers, or law enforcement) should be limited to one professional role with each examinee and may not conduct polygraph examinations on any individual whom they directly or indirectly treat, supervise or investigate.
- 5.7. Number and length of examinations. Examiners should not conduct more than five examinations in a single day, or conduct more than three sexual history disclosure examinations in a single day.
  - 5.7.1. Length of examination. Exams will include pre-test interview, acquaintance test when required, actual test, chart analysis and post-test interview. Tests should be scheduled for a minimum of 60 minutes.



5.7.2. Number of exams per examinee. Offenders will not take more than (4) tests per calendar year for maintenance purposes except for re-tests. Does not include testing for monitoring sexual history, etc. that may occur the same year.

5.8. Examination techniques. Examiners will use a recognized comparison question technique for which there is evidence of validity and reliability, including estimates of sensitivity and specificity, published in the *Polygraph* journal or a peer-reviewed scientific journal. There should not be more than four (4) relevant questions per test series.

6. Operational definitions. Examiners will ensure that every behavior of concern to the containment team will be anchored by an operational definition that describes the behaviors of concern. Operational definitions should be common among all referring professionals, use language that is free of vague jargon, and be easily understood by the examinee. Examples of operational definition include the following:

- A. Physical sexual contact: refers to rubbing or touching another person's sexual organs (i.e., breasts, buttocks, genitalia) whether over or under clothing, if for the purpose of sexual arousal, sexual gratification, sexual stimulation or sexual "curiosity." This includes having, allowing, or causing another person to rub or touch one's own sexual organs, whether over or under clothing, for purposes of sexual arousal, sexual gratification, sexual "curiosity," or sexual stimulation. This does not include parental contact with children's private areas in the form of diapering, wiping, bathing, dressing, or changing, unless done for the purpose of sexual arousal or stimulation.
- B. Sexual contact: includes the above definition, and also includes non-contact sexual behaviors such as exhibitionism, voyeurism, public masturbation, child-pornography, or other non-contact sexual behaviors.

- C. Force (real or implied violence): includes any form of real or implied violence; physical restraint to prevent a victim from leaving, escaping or moving away from the assault; or threats of harm against a victim's family members or pets.
- D. Coercion (non-violent): includes any non-violent means of gaining the compliance of a victim who expresses his or her reluctance to comply (e.g., bribery, threats to end a relationship, etc.).
- E. Grooming (child grooming): includes any means of building trust or exploiting a relationship such that a victim tolerates an offense with a perception of complicity.
- F. Manipulation: includes any means of trickery to gain the compliance of a victim who is unaware of the sexual motives of the offender (e.g., wrestling, horseplay, tickling or other trickery).
- G. Relative (family member): includes aunts, uncles, nieces, nephews, children, grandchildren, parents, grandparents, brothers, sisters, cousins, or any person related by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).
- H. Minor, child, youth, underage person: refers to anyone who has not yet reached the age of majority or adulthood (usually 18). Adolescence, though it refers to older/teenage children, is included in this broad category.
- I. Incidental contact: refers to any brief or unanticipated contact, typically concerning minors, including any greeting (e.g., waving, or smiling), interaction (i.e., verbal), or incidental physical contact (e.g., shaking hands, hugging, patting the head, bumping into, exchanging money or merchandise, etc.).

- J. Physical contact: includes shaking hands, hugging, patting the back or head, bumping into, exchanging money or merchandise along with other forms of physical contact including sitting on one's lap, holding, wrestling or athletic activities, etc.
- K. Alone or unsupervised with minors: refers to any contact or activity with minors in a location where one cannot be seen or heard, and where others are not aware of one's presence or activity with a minor, and in which the activity cannot be monitored or observed.
- L. Pornography: refers to the explicit depiction of sexual subject matter for the sole purpose of sexually arousing the viewer, sometimes referred to as X-rated or XXX material, though there is no formal rating system that includes these designations. Minors cannot purchase pornographic materials in most, if not all, jurisdictions.
- M. Sexually stimulating materials/erotica: refers to the use of sexually arousing imagery, especially for masturbation purposes.
- N. Sexual fantasy/erotic fantasy: refers to a deliberate thought or patterns of thoughts, often in the form of mental imagery, with the goal of creating or enhancing sexual arousal or sexual feelings. Sexual fantasy can be a developed or spontaneous story, or a quick mental flash of sexual imagery, and may be voluntary or intrusive/involuntary.
- O. Masturbation: refers to sexual stimulation of one's genitals, often, though not always, to the point of orgasm. Stimulation can be over or under clothing, either manually or through other types of bodily contact, through the use of objects or devices, or through a combination of these methods. Although masturbation with a partner is not uncommon, masturbation for the purpose of these standards refers to self-masturbation.

7. Examination questions. Examiners have the final authority and responsibility for the determination of test questions and question language, which must be reviewed with the examinee. Examiners will advise the containment team to refrain from informing the examinee of the exact test questions and investigation targets, or coaching the examinee in the mechanics, principles or operations of the polygraph test. Technical questions about polygraph should be directed to the examiner at the time of the examination. Examiners will advise containment team members that it is appropriate to inform the examinee of the purpose or type of each examination.

7.1. Relevant questions. Relevant questions should pertain to a single frame of reference, which refers to the type of PCSOT examination. (See section

7.1.1 Content. Relevant questions should address behaviorally descriptive topical areas that have a common time of reference, which refers to the time-period under investigation. Content should bear operational relevance to actuarial or phenomenological risk assessment, risk management and treatment planning methods. Examiners should exercise caution to ensure they do not violate any rights of examinees regarding answering questions about criminal behaviours.

7.1.2 Structure. Relevant question construction includes the following characteristics:

- A. Answerable by a “NO” without unnecessary mental exercise or uncertainty;
- B. Behaviorally descriptive of the examinee’s direct or possible involvement in an issue of concern and, whenever possible, not indirectly addressing that issue by targeting a subsequent denial of it;
- C. Simple, direct and easily understood by the examinee;
- D. Time-delimited (date of incident or time of reference);

- E. Free of assumptions of guilt or deception;
- F. Free of idiosyncratic jargon, legal terms; and
- G. Free of references to mental state or motivational terminology except to the extent that memory or sexual motivation may be the subject of an examination following an admission of behavior.

7.2. Comparison questions. Control questions should be comparison questions. They should be either Probable Lie Comparisons or Directed Lie Comparisons and should evoke cognitive effort on the part of the examinee an analysis of differential reactions as compared to relevant question responses.

7.2.1. Content. Comparison questions should address broad categorical concerns regarding honesty and integrity and should not be likely to elicit a greater physiological response than deception to any relevant question in the same test.

7.2.2. Structure. Comparison questions are to be structurally separated from relevant questions by either frame of reference or time of reference. Nothing in these standards should be construed as favoring exclusive or non-exclusive comparison questions.

8. Types of PCSOT examinations. Examiners will utilize five basic types of PCSOT examinations: 1) instant offense exams; 2) prior-allegation exams; 3) sexual history disclosure exams; 4) maintenance exams; 5) and sex offense monitoring exams. These basic types of examinations provide both a frame of reference and a time of reference for each examination. Examiners will not mix investigation targets from different frames of reference (examination types) or times of reference within the structure of a single examination.

8.1. Instant Offense Exams. Examiners will use two basic types of examinations to investigate the circumstances and details of the instant offense for which the examinee was convicted: 1) the Instant Offense

Exam, and 2) the Instant Offense Investigative Exam. These exams are to be conducted prior to victim clarification or reunification in order to reduce offender denial and mitigate the possibility of further traumatizing a victim. These circumstances might result when an offender has attempted to conceal the most invasive or abusive aspects of an admitted offense or whenever the containment team determines that accountability for the circumstances and details of the instant offense represent a substantial barrier to an examinee's engagement and progress in sex offense specific treatment.

8.1.1. Instant Offense Exam. Examiners should conduct the Instant Offense Exam as an event-specific polygraph for examinees who deny any or all important aspects of the allegations pertaining to their present crime(s) of conviction.

8.1.1.1. Instant offense – examination targets. Examiners, along with the other members of the containment team, should select the relevant investigation targets from the circumstances of the allegation that the examinee denies.

8.1.1.2. Instant offense – testing approach. Examiners should conduct this exam either as a single-issue or multi-facet event-specific exam. However, nothing in these standards should be construed as to prohibit the completion of the Instant Offense Exam in a series of single-issue exams when such an approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.1.2. Instant Offense Investigative Exams. Examiners should conduct the Instant Offense Investigative Exam to test the limits of an examinee's admitted behavior and to search for other behaviors or offenses not included in the allegations made by the victim of the instant offense.

8.1.2.1. Instant offense investigative – examination targets.

Examiners, along with the other members of the containment team, should select relevant targets from their concerns regarding additional or unreported offense behaviors in the context of the instant offense. At the discretion of the examiner and the other professional members of the containment team, examination targets may include the following:

- A. Number of offense incidents against the victim: when the admitted number of offense incidents is very small.
- B. Invasive offense behaviors: when the examinee denies intrusive or hands-on offense behaviors against the victim of the instant offense.
- C. Degree of physical force or violence: when the examinee denies use of violence, physical restraint, threats of harm, or physical force against the victim of the instant offense.
- D. Other sexual contact behaviors: when not included in the allegations made by the victim of the instant offense, at the discretion of the containment team.

8.1.2.2. Instant offense investigative – testing approach.

Examiners should conduct this exam as a multi-facet or multi-issue (mixed-issue) exploratory exam. However, nothing in these standards should be construed as to prohibit the completion of the Instant Offense Investigative Exam in a series of single-issue exams (i.e., in the absence of an allegation involving the behavioral examination targets) when that approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.2. Prior Allegation Exam. Examiners should use the Prior Allegation Exam to investigate and resolve all prior alleged sex offenses (i.e., allegations made prior to the current conviction) before attempting to investigate and resolve an examinee's history of unknown sexual offenses. This exam should be considered identical in design and structure to the Instant Offense Exam, except that the details of the allegation stem not from the present crime of conviction but from an allegation prior to the conviction resulting in the current supervision and treatment, regardless of whether the examinee was charged with the allegation. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding answering questions about criminal behaviors.

8.3. Sexual History Exams I and II. Examiners should use two basic types of Sexual History Examinations to investigate the examinee's history of involvement in unknown or unreported offenses and other sexual compulsivity, sexual pre-occupation, or sexual deviancy behaviors. Information and results from these examinations will be provided to the containment team to add incremental validity to decisions pertaining to risk assessment, risk management and treatment planning.



8.3.1. Sexual history document. Examiners will work with the containment team to require that examinees complete a written sexual history document prior to the conduct of a sexual history polygraph. The sexual history document must provide operational definitions that unambiguously describe each sexual behavior of concern. The purpose of the document is to help examinees review and organize their sexual behavior histories. It aids in familiarizing examinees with the conceptual vocabulary necessary to accurately discuss sexual behaviors; it can assist examinees in recognizing sexual behavior that was abusive, unlawful, unhealthy, and identify behaviors that are considered within normal limits.

8.3.1.1. Prior review of the sexual history document. Examiners will request that each examinee review the sexual history document with his or her containment team prior to the examination date. The examiner does not need to review this document prior to the examination date, though the content should be reviewed thoroughly during the structured or semi-structured pretest interview.

8.3.1.2. Examiner authority. It is within the examiner's discretion to administer an alternative form of PCSOT examination if an examinee has not completed and reviewed the sexual history document prior to the examination date.

8.3.2. Sexual History Exam I – unreported victims. Examiners should conduct the Sexual History Exam I to thoroughly investigate the examinee's lifetime history of sexually victimizing others, including behaviors related to victim selection, victim access, victim impact, and sexual offenses against unreported persons.

These target issues provide a summary of the most tangible signal issues that provide interpretable information about victim-age, victim-profile, victim-selection, victim-control/access, and victim-silencing behaviors. Sexual History Exam I also provides information about the offender's capacity for grooming, sneakiness, violence, relationship-building and relationship-exploiting in addition to the capacity to offend in the absence of a relationship. Gathering information in these areas is additive to forensic risk assessment and risk management efforts. Ruling out matters in these Sexual History Exam I areas is also helpful as it allows the justification of a lower assumption of risk. What a person does or does not do (is capable of doing or not doing) to others is illustrated by past behavior. The best predictor of future behavior is past behavior.

8.3.2.1. Sexual History Exam I – examination targets.

Examiners, along with the other members of the containment team, should select investigation targets that provide operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to recidivism, victim selection, and risk management decisions. Examples include the following:

- A. Sexual contact with underage persons. Sexual contact with underage persons, in accordance with applicable Idaho Codes.

- B. Sexual contact with relatives, whether by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).
- C. Use of violence to engage in sexual contact, including physical force/physical-restraint and threats of harm or violence toward a victim or victim's family members or pets through the use of a weapon or any verbal/non-verbal means.
- D. Sexual offenses against persons who appeared to be unconscious, asleep, or incapacitated, including touching or peeping against persons who were asleep, severely intoxicated, impaired due to drugs, or who were mentally/physically helpless for other reasons.

8.3.2.2 Sexual History Exam I – time of reference. The time of reference for the Sexual History Exam I may be restricted to the period of time prior to the current conviction mandating the present treatment when there are concerns about: 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post-conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court, Idaho Department of Correction, or in a treatment program.

8.3.2.3 Sexual History Exam I - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in these standards should be construed as to prohibit the completion of the Sexual History Exam I in a series of more narrowly focused exams when that approach will lead to more accurate or satisfactory resolution of the investigation targets.

8.3.3. Sexual History Exam II – sexual deviancy, compulsivity, and preoccupation. Examiners should conduct this Sexual History Exam II examination to thoroughly investigate the examinee's lifetime history of sexual deviancy, preoccupation, and compulsivity behaviors not including those behaviors described in the Sexual History Exam I. This examination may be most important with examinees who substantially deny involvement in sexual deviancy, compulsivity and preoccupation behaviors. Sexual History Exam II issues are additive to risk-assessment/risk-management/treatment-planning, but in a different way than Sexual History Exam I issues. Actuarial risk researchers tell us that sexual deviancy/compulsivity/pre-occupation is also correlated with increased rates of recidivism and increased rates of failure under supervision and failure in sex-offense-specific treatment. Sexual History Exam II adds incremental validity to risk-assessment/risk-management/treatment-planning to the extent that it gathers information about involvement in sexual behaviors that are more often compulsive (large-numbers) such as peeping/voyeurism, exhibitionism, theft of undergarments, public masturbation, and child-pornography. The forensic challenge will be to differentiate no-involvement from minimal-involvement

from high-involvement. Polygraph examiners should be cautious about attempting to test the limits of admitted sexual compulsivity or sexual preoccupation behaviors with the hope of somehow knowing *everything* or *every incident* when an examinee admits to substantial involvement in the behavioral targets of concern. When an offender admits to being highly involved in these activities, there may be little to be gained from testing the limits of involvement: there is likely more, but it might not be remembered. It is not additive because the answer is already known: he or she is highly involved. Testing these behaviors is additive when an offender denies involvement or admits to only minimal involvement because confirming that will help justify an assumption of absence of compulsivity/deviancy/pre-occupation, which is correlated with an assumed lower level of risk.

8.3.3.1. Sexual History Exam II - examination targets.

Investigation targets for the Sexual History Exam II should bear operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to sexual deviancy, sexual compulsivity, and sexual preoccupation behaviors. Investigation targets may include any of the following:

- A. Voyeurism/sexual peeping activities, including all attempts to look into someone's home, bedroom or bathroom without the person's knowledge or permission, in an attempt to view someone naked, undressing/dressing, or engaging in sexual acts. Voyeurism activities include attempts involving the use or creation of a hole or opening to view others for sexual arousal, including all attempts to use any optical devices (e.g., cameras, mirrors, binoculars, or telescope) to view others for sexual purposes.
- B. Exhibitionism/indecent exposure, including all attempts to intentionally or to have appear to have "accidentally" exposed one's bare private parts to unsuspecting persons in public places. Exhibitionism includes wearing loose or baggy clothing that allows one's sexual organs to become exposed to others, and may also include mooning, streaking or flashing behaviors, and public urination while in view of others.
- C. Theft or use of underwear/undergarments for sexual arousal or masturbation, including taking or keeping undergarments (including other personal property or "trophies") from relatives, friends, sexual partners, or strangers for masturbation or sexual arousal. It also includes all incidents of wearing or trying on another

person's underwear or undergarments without that person's knowledge or permission, in addition to all incidents in which underwear, undergarments, or personal property was returned after use for masturbation or sexual arousal.

- D. Frottage/sexual rubbing, including all attempts to sexually rub or touch others without their knowledge or permission, by standing or walking too close in public locations (e.g., work, stores, school, or other crowded places), or during any form of play, horseplay, wrestling/athletic activities, or other similar activities.

8.3.3.2. Sexual History Exam II – additional investigation targets. Other possible investigation targets for the Sexual History Exam II include but are not limited to the following:

- A. Child pornography, including any history of ever viewing, possessing, producing, using, or distributing pornographic images of minors (i.e., infants, children or teenagers under age 18) engaging in sexual acts, child erotica or child nudity.
- B. Sexual contact with animals, refers to all sexual behaviors (including attempts) involving pets, (those belonging to the examinee or others) domesticated (farm/ranch) animals, or wild animals, whether living or deceased, and

whether whole or dismembered. This target may include animal cruelty behaviors.

- C. Prostitution activities, including ever paying anyone or being paid for sexual contact (including erotic massage activities) with either money, property, or any special favors. It also includes ever employing or managing others who were paid to engage in sexual activities.
- D. Coerced sexual contacts, including bribing, tricking, manipulating, lying, misuse of authority, badgering/pestering, wearing-down boundaries, or not accepting “no” for an answer.
- E. Stalking/following behaviors, including all incidents of following someone to his or her home, workplace or vehicle, or following others around a store, aisle, parking lot, workplace/school, campus, or community for sexual or aggressive/angry reasons. It also includes all other efforts to monitor or observe another person's behavior without that person’s knowledge or permission.
- F. Use of a computer to solicit minors for sexual activities, including ever using a computer, the Internet, or any electronic communication device in attempt to solicit an underage person for sexual contact. It also includes ever engaging in on-line sex-chat or cyber-sex



activities via IRC, Instant Messaging, Web Chat, email or any other electronic method.

G. Masturbation or sexual acts in public places

where one could be seen by others such as a vehicle, hiding place, standing outside someone's home or window, or anywhere one could watch others without their knowledge or permission. It also includes masturbation or sexual acts in workplace/school locations, public restrooms, or adult entertainment businesses.

8.3.3.3. Sexual History Exam II – time of reference. The time of reference for the Sexual History Exam II may be restricted to the period of time prior to the current conviction mandating the present treatment when there are concerns about: 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court, Idaho Department of Correction, or in a treatment program.

8.3.3.4. Sexual History Exam II - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in these standards should be construed as to prohibit the completion of the Sexual History Exam II in a series of more narrowly focused exams when that approach will lend to more accurate or satisfactory

resolution of the investigation targets. Nothing in these standards should be construed as to require the investigation of all or any of the suggested investigation targets or preclude the selection of alternative targets pertaining to sexual behavior that would assist the containment team in determining and responding to the examinee's supervision and treatment needs.

8.3.3.5. Testing the limits of admitted sexual compulsivity or sexual preoccupation. Examiners should attempt to prioritize the investigation of behaviors in which the examinee denies any involvement. It may not be realistic to hope to know *everything* when an examinee admits to substantial involvement in sexual behaviors that may include elements of sexual compulsivity or sexual preoccupation. In these cases containment team members should be informed of the examinee's admission of substantial involvement.

8.4. Maintenance Exam. Examiners should conduct the Maintenance Examination to thoroughly investigate, either periodically or randomly, the examinee's compliance with any of the designated terms and conditions of supervision or treatment rules.

8.4.1 Maintenance Exam - scheduling. It is recommended that Maintenance Exams be completed every four to six months, or every 12 months at a minimum. Containment team members should consider the possible deterrent benefits of randomly scheduled maintenance exams for some examinees.

8.4.2. Maintenance Exam - examination targets. Investigation targets for the Maintenance Exam should bear operational relevance to

an examinee's stability of functioning and any changes in dynamic risk level as indicated by compliance or non-compliance with the terms and conditions of the supervision and treatment contracts. Any of the terms and conditions of supervision or treatment may be selected as examination targets. Investigation targets for Maintenance Exams should emphasize the development or verification of information that would add incremental validity to the early detection of an escalating level of threat to the community or to potential victims.

8.4.2.1. Unknown allegations. Maintenance Exams should not address known allegations or known incidents, which are properly investigated in the context of an event-specific polygraph exam.

8.4.2.2. Compliance focus. Maintenance Exams should be limited to questions about compliance or non-compliance with supervision and treatment rules. Questions about unlawful sex acts or re-offense behaviors may be included in the examination as long as circumstances related to rights against self-incrimination as listed in the section dealing with Sex Offense Monitoring examinations do not exist. An elevated level of concern regarding reoffense would warrant a Sex Offense Monitoring Exam – not a Maintenance Exam. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding the answering of questions about new criminal behaviors.

8.4.2.3. Examination targets. Examination targets should include, but are not limited to the following:

- A. Sexual contact with undisclosed persons of any age, including any form of rubbing or touching of the sexual organs (i.e., breasts, buttocks, or genitalia) of any person not already known or reported to the supervision and treatment team, either over or under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity.” It also includes causing or allowing others to touch or rub one's own private parts either over or under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity”; and sexual hugging and kissing activities.
- B. Use of pornography, refers to viewing or using X-rated (or “XXX”), nude, or pornographic images or materials (e.g., pornographic magazines, pornographic movies on cable television, including scrambled television programming, pornographic movie theaters, pornographic video arcades, videotape, CD/DVD, or other recorded media including pornographic images or materials via computer or the Internet, iPod, cell phone, video games, or any electronic messaging system). It may also include using non-pornographic erotica (nude or non-nude) images or materials for sexual stimulation or masturbation purposes (e.g., sexually objectifying entertainment

magazines, bikini or car magazines, nudity or erotic scenes in non-pornographic movies, sexually oriented stories in magazines, novels, or Internet/computer resources, and/or anything at all on television). This target may be restricted to using pornographic or sexually stimulating materials for masturbation purposes when the examinee admits to incidental contact with pornographic images.

- C. Masturbation activities and masturbatory fantasies, which may refer to any involvement in masturbation activities when the examinee is prohibited from those activities or it may refer to problematic forms of masturbation such as masturbating in a public location or where one could view or be viewed by others. It may also include voluntary or involuntary/intrusive thoughts or fantasies of a minor or past victim while masturbating or masturbation due to stress, boredom, anger, or other negative mood.
- D. Unauthorized contact with underage persons, which refers to prohibited physical or other contact with underage persons or to being completely alone or unsupervised with underage persons if the examinee has reported or admitted to incidental contact.
- E. Sexual offenses while under supervision, including forced, coerced or violent sexual

offenses, sexual offenses against underage persons, incest offenses, or sexual contact with unconscious persons. It may also include sexual deviancy/compulsivity/preoccupation behaviors such as voyeurism, exhibitionism, theft of undergarments, public masturbation or other behaviors.

- F. Use of alcohol, illegal drugs or controlled substances, including tasting or consuming any beverage containing alcohol (if prohibited), or consuming any product containing alcohol for the purpose of becoming intoxicated, inebriated, drunk, “buzzed,” or “relaxed.” It also includes any use of marijuana (whether inhaled or not) or any other illegal drugs. This target also includes any misuse of controlled prescription medications, whether borrowing, sharing, trading, loaning, giving away, or selling one's own or another person's prescription medications or using any medication in a manner that is inconsistent with the directions of the prescribing physician.

8.4.3. Maintenance Exam - time of reference. Maintenance Exams should address a time of reference subsequent to the date of conviction or the previous Maintenance Exam, generally not exceeding one year and only exceeding two years in rare circumstances. The time of reference may be described generally as the six-month period preceding the examination; although, there may be reasons for lengthening or shortening the time of

reference for some exams. All investigation targets in a test series should have a common time of reference.

8.4.4. Maintenance Exam - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in these standards should be construed as to prohibit the completion of the Maintenance Exam in a series of more narrowly focused exams when that approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.5. Sex Offense Monitoring Exam. Examiners should conduct the Sex Offense Monitoring Exam to explore the possibility the examinee may have been involved in unlawful sexual behaviors including a sexual re-offense during a specified period of time. Other relevant questions dealing with behaviors related to supervision and treatment compliance should not be included.

- 8.5.1. Sex Offense Monitoring Exam - scheduling. Sex Offense Monitoring Exams should be completed whenever there is a specific request from a supervision or treatment professional to investigate the possibility of a new offense while under supervision. Alternatively, this exam may be used when: 1) the likelihood of sexual offense or other sexual crime is elevated because of information received by any member of the containment team to include the examiner, or 2) following a previously unresolved Maintenance Exam that included a relevant question about sexual offense behavior. Whenever the results of a Maintenance Exam indicated the need for further testing to obtain a more diagnostic conclusion, a single-issue test format will be utilized. A single-issue Sex Offense Monitoring Exam can be expected to have improved diagnostic accuracy over a multi-issue (mixed issue) exam. However, this approach is still an exploratory exam, which should not be regarded as a sole basis for action (such as probable cause for arrest, revocation or removal from a treatment program).
- 8.5.2. Sex Offense Monitoring Exam - examination targets. Examiners should select investigation targets for the Sex Offense Monitoring Exam that pertain to new sex crimes while under supervision based on concerns expressed by the containment team.



8.5.3. Sex Offense Monitoring Exam - time of reference. Sex Offense Monitoring Exams should refer to a time of reference generally following the date of conviction or a previous Monitoring Exam. The time of reference should be clearly stated in the test questions and may include all or any part of the time that the examinee is under supervision or in treatment, including a specific date or restricted period of time. The time of reference should emphasize the investigation of possible unlawful sexual acts or sexual re-offense during the most recent period of months prior to the Sex Offense Monitoring Exam.

8.5.4. Sex Offense Monitoring Exam - testing approach. Examiners should conduct the Sex Offense Monitoring Exam as a multi-issue (mixed-issue) exploratory examination. However, nothing in these standards should be construed as to prohibit the completion of the Sex Offense Monitoring Exam as a narrowly focused exam when that approach will lead to more accurate or satisfactory resolution of the investigation targets. Examiners should use a single-issue technique when the Sex Offense Monitoring Exam is used to follow-up on a previously unresolved Maintenance Exam.

9. Suitability for testing. Suitable examinees should, at a minimum, be expected to have a capacity for:

- A. Abstract thinking;
- B. Insight into their own and others' motivation;
- C. Understand right from wrong;
- D. Tell the basic difference between truth and lies;
- E. Anticipate rewards and consequences for behavior; *and*
- F. Maintain consistent orientation to date, time, and location.

9.1. Medications. Examiners should obtain and note in the examination report a list of the examinee's prescription medication(s), any medical or

psychiatric conditions, and any diagnosed acute or chronic medical health conditions.

9.2. Unsuitable examinees. Examiners should not test examinees who present as clearly unsuitable for polygraph testing at the time of the examination.

9.2.1. Psychosis. Persons who are acutely psychotic, suicidal, or have un-stabilized or severe mental health conditions, including dementia, should not be tested.

9.2.2. Age. Persons whose chronological age is 12 years or greater should be considered suitable for polygraph testing unless they are substantially impaired. Polygraph testing should not be attempted with persons whose Mean Age Equivalency (MAE) or Standard Age Score (SAS) is below 12 years as determined by standardized psychometric testing (e.g., IQ testing, and adaptive functioning).

9.2.3. Level of functioning. Persons whose level of functioning is deemed profoundly impaired and warranting continuous supervision or assistance may not be suitable for polygraph testing.

9.2.4. Acute injury or illness. Persons suffering from an acute serious injury or illness involving acute pain or distress should not be tested.

9.2.5. Controlled substances. Persons whose functioning is observably impaired due to the influence of non-prescribed or controlled substances should not be tested.

9.3. Team approach. Examiners should consult with other members of the containment team, prior to the examination, when there is doubt about an examinee's suitability for polygraph testing.

- 9.4. Incremental validity. When there are concerns about an examinee's marginal suitability for testing, examiners should proceed with testing only when the containment team determines that such testing would add incremental validity to risk assessment, risk management, and treatment planning decisions through the disclosure, detection, or deterrence of problem behaviors.
10. Testing procedures. Examiners who engage in PCSOT activities shall adhere to all generally accepted polygraph testing protocols and validated principles.
- 10.1. Case background information. The examiner should request and review all pertinent and available case facts within a time frame sufficient to prepare for the examination.
- 10.2. Audio-visual or audio recording. Examiners will record all PCSOT polygraph examinations. The recording should include the entire examination from the beginning of the pretest interview to the completion of the post-test review and will be maintained for a minimum of three years. The recording documents the quality of the conduct of the testing protocol; documents the content and authenticity of the content of the information provided by the examinee, thus precluding possible future denials; and facilitates a comprehensive quality assurance review when necessary.
- 10.3. Pre-test phase. Examiners will conduct a thorough pre-test interview before proceeding to the test phase of any examination. A thorough pretest interview will consist of the following:
- 10.3.1. Greeting and introduction. Examiners will introduce themselves by their names and orient examinee to the examination room.
- 10.3.2. Brief explanation of procedure. Examiners will ensure examinees have some information about the ensuing procedure and scope of testing prior to obtaining the authorization and release to complete the exam.

10.3.3. Authorization and release. Examiners will obtain an examinee's agreement, in writing and/or on the audio/video recording, to a waiver/release statement. The language of the statement should minimally include: 1) the examinee's voluntary consent to take the test; 2) that the examination may be terminated at any time; 3) a statement regarding the examinee's assessment of his or her mental and physical health at the time of the examination; 4) that all information and results will be released to members of the containment team; 5) an advisement that admission of involvement in unlawful activities will not be concealed from the referring professionals; and 6) a statement regarding the requirement for audio/video recording of each examination.

10.3.4. Biographical data/determination of suitability for testing.

Examiners should obtain information about the examinee's background including marital/family status, children, employment, and current living situation in addition to a brief review of the reason for conviction and length/type of sentence. Examiners shall obtain, prior to and at the time of the examination, information pertaining to the examinee's suitability for polygraph testing.

10.3.5. Explanation of polygraph instrumentation and testing procedures.

The testing process will be explained to the examinee, including an explanation of the instrumentation used and the physiological and psychological basis of response. Nothing in these standards should be construed as favoring a particular explanation of polygraph science. In general, an integrated explanation involving emotional attributions, cognitive theory and behavioral learning theory may be the best approach.

10.3.6. Structured interview. The examiner will conduct a thorough structured or semi-structured pre-test interview, including a detailed review of the examinee's background and personal information, any applicable case facts and background, a detailed review of each issue of concern, and an opportunity for the examinee to provide his or her version of all issues under investigation. For event-specific diagnostic/investigative polygraphs of known allegations or known incidents, a free-narrative interview is used instead of a structured or semi-structured interview.

10.3.7. Review of test questions. Before proceeding to the test phase of an examination, the examiner will review and explain all test questions to the examinee. The examiner should not proceed with the exam until satisfied with the examinee's understanding of and response to each issue of concern.

10.4 In-test operations. Examiners will adhere to all generally accepted standards and protocols for test operations.

10.4.1 Environment. All examinations will be administered in an environment that is free from distractions that would interfere with the examinee's ability to adequately focus on the issues being addressed.

10.4.2 Instrumentation. Examiners will use an instrument that is properly functioning in accordance with the manufacturer's specifications.

10.4.2.1. Component sensors. The instrument must continuously record the following during the test: 1) thoracic and abdominal movement associated with respiratory activity by using two pneumograph components; 2) electrodermal activity reflecting

relative changes in the conductance or resistance of current by the epidermal tissue; and 3) cardiovascular activity to record relative changes in pulse rate and blood pressure. A channel that detects vasomotor responses or other validated data channels may also be recorded.

10.4.2.2. Activity sensors. A seat sensor is mandatory.

10.4.2.3 Calibration. The polygraph instrument shall be given a functionality or calibration test consistent with manufacturer recommendations and in compliance with applicable laws. In absence of manufacturer's recommendations, examiners should semi-annually record a chart demonstrating correct functioning of the instrument. A functionality or calibration test shall be administered at the beginning of each day of testing.

10.4.3 Data acquisition. The conduct of testing will conform to all professional standards concerning the data quality and quantity.

10.4.3.1. Number of presentations. Examiners employing a comparison question technique will conduct a minimum of three presentations of each relevant question. It is acceptable to conduct a fourth or fifth presentation in order to obtain a sufficient volume of interpretable test data.

10.4.3.2. Question intervals. Question intervals must allow a reasonable time for recovery. For comparison question techniques, question intervals from stimulus onset to stimulus onset should not be less than 20 seconds.

10.4.3.3. Acquaintance test. An acquaintance test will be administered during the first examination of each examinee by each examiner. Examiners are encouraged to use an acquaintance test during the conduct of other tests as appropriate.

10.5. Test data analysis. The examiner will render an empirically-based interpretation of the examinee's responses to the relevant questions based on all information gathered during the examination process.

10.5.1. Scoring methods. Examiners will employ quantitative or numerical scoring for each examination using a scoring method for which there is known validity and reliability, which has been published and replicated.

10.5.2. Results – diagnostic exams. Test results for event-specific diagnostic/investigative tests will be reported as Deception Indicated (DI), No Deception Indicated (NDI) or Inconclusive (INC) / No Opinion (NO).

10.5.3. Results – screening or multi issue. Test results of screening or multi issue tests will be reported as Significant Response (SR), No Significant Response (NSR) or No Opinion (NO).

10.5.4. No opinion/inconclusive. Examiners will render No Opinion (NO) whenever test results produce inconclusive numerical scores or whenever the overall set of test data do not allow the examiner to render an empirically-based opinion regarding the relevant test questions. (i.e., when test results are “inconclusive,” an examiner should render “no opinion” concerning the truthfulness of the examinee.) “No opinion” concerning the truthfulness of the examinee is to be reported when an examination was stopped prior to collection of sufficient data to arrive at an empirically-based opinion.

10.5.5. Professional opinions and test results. 1) Examiners will render an opinion that the examinee was deceptive when the test results are SR or DI for any of the investigation targets. 2) Examiners will render an opinion that the examinee was truthful when the test results are NSR or NDI for all of the investigation targets. 3) Examiners will not render an opinion that the examinee was truthful when the test results are SR or DI for any of the investigation targets. 4) Examiners will not conclude an examinee is deceptive in responses to one or more investigation targets and non-deceptive in responses to other investigation targets within the same examination.

10.5.6. Non-cooperation. Examiners will note in the examination report whenever there is evidence that an examinee has attempted to falsify or manipulate the test results and whether the examinee was forthcoming in explaining his or her behavior during the test. An opinion that the examinee was Purposefully Non-Cooperative (PNC) is appropriate when there is evidence that an examinee was attempting to alter his or her physiological response data. Examiners reporting an examinee was PNC are not precluded from rendering an opinion that the examinee was deceptive (SR/DI) when the numerical scores support a conclusion that there were significant reactions to one or more relevant questions. Examiners will not render an opinion of truthfulness (NSR/NDI) when there is evidence that an examinee has attempted to falsify or manipulate the test results.

10.5.7. Data quality. Examiners will not render a conclusive opinion when there is insufficient data of adequate quality and clarity to allow a minimum of three interpretable presentations of each of the investigation targets.



10.5.8. Computer algorithms. If the examiner chooses to use computer algorithm scoring assistance, it should never be as a primary scoring method. Manual scoring is mandated on all examinations. In the event that an examiner chooses to use a scoring algorithm, any differences between the examiner's score and the computer score should be addressed in the written report.

10.6. Post-test review. The examiner will review the test results with the examinee, advise the examinee of any significant responses to any of the test questions, and provide the examinee an opportunity to explain or resolve any reactions or inconsistencies.

11. Examination report. Examiners will issue a written report containing factual and objective accounts of all pertinent information developed during the examination, including case background information, test questions, answers, results, and statements made by the examinee during the pre-test and post-test interviews.

11.1. Dissemination of test results and information. The polygraph examination report will be provided to members of the containment team who are involved in risk assessment, risk management, and treatment/intervention planning activities.

11.1.1. Dissemination to other authorities. Reports and related work products will be released to the court, Commission for Pardons and Parole or other releasing agency, or other professionals at the discretion of the containment team or as required by law.

11.1.2. Communication after the exam. Following the completion of the post-test review, examiners will not communicate with the examinee or examinee's family members regarding the examination results except in the context of a formal case staffing.

- 11.2. Scope of expertise. Examiners shall not attempt to render any opinion concerning the truthfulness of the examinee prior to completing the test phase and test-data-analysis. Examiners shall not attempt to render any opinion regarding the medical or psychological condition of the examinee beyond the requirement to determine suitability for testing at the time of the examination. Post-test recommendations are to be limited to needs for further polygraph testing and the resolution of the behavioral targets of the examination.
12. Records retention. Examiners will retain all documentation, data, and the recording of each examination for a period of at least three years or as required by law.
13. Quality control. To ensure examiner compliance with these recommendations and other field practice requirements and to sustain the quality of the testing process, the SOMB shall develop an annual quality assurance process to review a portion of each examiner's work product.

### III. CATEGORIES OF SOMB-CERTIFIED POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINERS

- A. Pursuant to statutory mandate and authority afforded to the SOMB in Section 18-8314, Idaho Code, to be authorized to administer post-conviction sex offender polygraph examinations in accordance with this section, an individual must meet the eligibility criteria and minimum requirements as set forth in this section and must be formally certified by the SOMB to administer such examinations. The two established categories of certification for Post-Conviction Sex Offender Polygraph Examiners are:
- a. Senior/Approved Post-Conviction Sex Offender Polygraph Examiner. A Senior/Approved Post-Conviction Sex Offender Polygraph Examiner is a professional who is currently authorized by the SOMB to:
    - i. Independently conduct post-conviction sex offender testing (PCSOT) polygraph examinations in accordance with the requirements, standards, and guidelines for such examinations as outlined in this section; and
    - ii. Is authorized to provide direct clinical supervision to individuals certified as an Associate/Supervised Post Conviction Sex Offender Polygraph Examiner.
  - b. Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner. An Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner is a professional who is currently authorized by the SOMB to conduct PCSOT polygraph examinations under the supervision of a Senior-Approved Post-Conviction Sex Offender Polygraph Examiner in good standing.
  - c. The SOMB shall provide authorization of the polygraph examiner to conduct PCSOT polygraph examinations based on the minimum educational, experience, specialized training, and other criteria set forth in the section.

**IV. CENTRAL ROSTER OF CERTIFIED POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINERS**

- A. The SOMB shall maintain a complete and current official roster of all Senior/Approved Post-Conviction Sex Offender Polygraph Examiners and Associate/Supervised Post-Conviction Sex Offender Polygraph Examiners, to minimally include the:
  - a. Name of the polygraph examiner;
  - b. Business name, address, telephone number, and other contact information;
  - c. Level of certification as designated by the SOMB; and
  - d. Expiration date of the certification period as designated by the SOMB.
- B. The SOMB shall ensure the accuracy and currency of the official roster by updating the roster at a minimum of quarterly or as otherwise necessary and indicating on the official roster the date on which it was updated.
- C. The SOMB shall publish the central roster on the SOMB's website and make the written roster otherwise available upon request.
- D. A certified Post-Conviction Sex Offender Polygraph Examiner as designated by the SOMB has a continuing duty and obligation to maintain eligibility under this section if desiring to remain on the central roster.
- E. The SOMB may remove an individual from the official roster of certified Post-Conviction Sex Offender Polygraph Examiners for reasons as outlined in these guidelines.

**V. REPRESENTATIONS AS A CERTIFIED POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINER**

- A. A person conducting polygraph examinations pursuant to this section shall clearly and accurately indicate their level and scope of certification as either a SOMB Senior/Approved Post-Conviction Sex Offender Polygraph Examiner or an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner when:

- a. Making oneself available to accept referrals for PCSOT polygraph examinations;
  - b. Advertising oneself as an SOMB-certified Post-Conviction Sex Offender Polygraph Examiner;
  - c. Communicating with the courts, other professionals, or the public regarding their certification to conduct PCSOT polygraph examinations;
  - d. Providing informed consent to clients and/or their parents or legal guardians at the time of the examination; and
  - e. Identifying oneself as the examiner in any written report or other method of communicating the findings of an examination, including on the signature line of a report.
- B. In accordance with Section 18-8314, Idaho Code, no person shall claim or imply oneself to be an SOMB-certified Post-Conviction Sex Offender Polygraph Examiner pursuant to this section, or use a title or any abbreviation that implies that the person is an SOMB-certified Post-Conviction Sex Offender Polygraph Examiner, unless so certified by the SOMB and currently in good standing on the official roster maintained by the SOMB.

**VI. MINIMUM ELIGIBILITY REQUIREMENTS FOR SOMB CERTIFICATION AS A POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINER**

- A. A person who conducts a PCSOT polygraph examination in accordance with this section must meet the eligibility criteria and minimum requirements as set forth in this section and be certified by the SOMB as either a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner or an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner.
- B. A person certified by the SOMB to conduct PCSOT polygraph examinations has a continuing duty to notify the SOMB in writing should circumstances result in the ineligibility of the examiner to meet the minimum requirements for the level of certification by the SOMB.
- C. The minimum requirements for certification by the SOMB as a Post-Conviction Sex Offender Polygraph Examiner include criteria, and requirements in the following categories:
  - a. Educational requirements;
  - b. Experience requirements;
  - c. Specialized training requirements; and
  - d. Continuing education/ongoing professional development requirements.
- D. Educational Requirements. To be eligible for certification as a certified Post-Conviction Sex Offender Polygraph Examiner a person must have graduated from an American Polygraph Association (APA) accredited polygraph school.
- E. Specialized Training. Have successfully completed a minimum of 40 hours of formal post-conviction sex offender polygraph testing training beyond the basic polygraph training course requirements from an accredited APA program or school.
- F. Professional Reference Requirements. A person seeking certification from the SOMB as a Post-Conviction Sex Offender Polygraph Examiner shall provide professional references to the SOMB that attest to the quality and integrity of the examiner's polygraph practices with respect to such examinations.

- G. Professional Liability Insurance Requirements. A person seeking certification from the SOMB as a Post-Conviction Sex Offender Polygraph Examiner shall secure and maintain professional liability insurance coverage.

**VII. REQUIREMENTS FOR CERTIFICATION AS A SENIOR/APPROVED POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINER**

To be eligible for SOMB certification as a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner, a person must:

- A. Meet the minimum eligibility requirements in accordance with this section;
- B. Has successfully completed a minimum of 100 polygraph examinations, to include 20 PCSOT polygraph examination. The 20 PCSOT polygraph examinations must have been completed within the three years immediately proceeding the application for SOMB certification as a Senior/Approved level Post-Conviction Sex Offender Polygraph Examiner, and include a minimum of 10 sexual history polygraph examinations and 10 maintenance polygraph examinations, under the supervision of an SOMB-certified Senior/Approved level Post-Conviction Sex Offender Polygraph Examiner.
- C. To be eligible for renewal as a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner, a person must have conducted a minimum of 20 PCSOT polygraph examinations during the two-year effective period of certification preceding the renewal application.

**VIII. REQUIREMENTS FOR CERTIFICATION AS AN ASSOCIATE/SUPERVISED POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINER**

Certification as an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner is limited to a 2 year period, at which time the person must have achieved minimum requirements for certification level upgrade to Senior/Approved Post-Conviction Sex Offender Polygraph Examiner, unless a conditional waiver is granted. To

be eligible for SOMB certification as an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner a person must:

- A. Meet the minimum eligibility requirements in accordance with this section.
- B. Supervision is required during the period of time in which a supervisee is conducting polygraph examinations and in accordance with a formal supervision agreement as outlined in this section. For purposes of supervision for an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner certification, "supervision" is generally considered as direct face-to-face contact with an SOMB-certified Senior/Approved level Post-Conviction Sex Offender Polygraph examiner during the supervisee's first 5 PCSOT polygraphs and review of PCSOT polygraphs conducted during the remaining period a person is certified as an Associate/Supervised Post-Conviction Polygraph Examiner. Such review shall include chart and report review at a ratio of 1:5 PCSOT polygraphs thereafter until a minimum of 20 PCSOT polygraphs are conducted.
- C. To maximally support any application for SOMB certification as a Post-Conviction Sex Offender Polygraph Examiner, supervisees are required to maintain a cumulative log that includes at a minimum:
  - a. The dates of face-to-face supervision; and
  - b. The number and completion dates of supervised polygraph and PCSOT polygraph examinations conducted, all of which can be verified and signed by the supervisor.
- D. The cumulative log may be required by the SOMB as a condition of approval of a formal supervision plan or application for certification; such log may be subject to audit or requested by the SOMB in support of decision making regarding certification or quality assurance processes.
- E. Formal supervision agreement.
  - a. A person seeking certification by the SOMB as an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner shall only conduct polygraph and PCSOT polygraph examination under the supervision of an



SOMB-certified Senior/Approved level Post-Conviction Sex Offender polygraph Examiner and in accordance with the terms of a formal supervision agreement.

b. The formal supervision agreement shall minimally address the following criteria:

- i. The name and contact information of the supervisee and the supervisor(s);
- ii. Locations(s) in which services will be conducted; and
- iii. Effective period of supervision.

F. All polygraph reports conducted by an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner must be reviewed and signed as approved by the supervising polygraph examiner.

#### **IX. CONTINUING EDUCATION/ONGOING PROFESSIONAL DEVELOPMENT REQUIREMENTS**

In order to maintain eligibility as a certified Post-Conviction Sex Offender Polygraph Examiner, a person must:

- A. Accumulate a minimum of 30 verifiable hours of continuing education in the form of workshops, conferences, or symposia related to the field of polygraphy, over the course of the two-year period subsequent to the initial application and certification by the SOMB.
  - a. Teaching relevant coursework at an accredited university or college, or providing training at a conference or workshop (to be reviewed and approved by the SOMB) can substitute for up to one-third (10 hours) of the total of 30 continuing education hours requirement for an applicant.

#### **X. CONDITIONAL WAIVER**

- A. A conditional waiver request shall only be considered one time for:

- a. A person not meeting the *continuing education* requirement at the time of Senior/Approved Post-Conviction Sex Offender Polygraph Examiner certification renewal; and
  - b. An Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner not meeting the minimum requirements for certification level upgrade to Senior/Approved Post-Conviction Sex Offender Polygraph Examiner.
- B. Conditional waivers are not permitted and will not be considered by the SOMB with respect to the *educational and specialized training* requirements for Post-Conviction Sex Offender Polygraph Examiners as specified in this section.
- C. A person submitting a petition for conditional waiver shall clearly articulate in writing the reasons that the time-limited exception for the requirement should be considered by the SOMB. The request shall be submitted on a specialized renewal application developed by the SOMB for such purpose.
- D. The SOMB has sole discretion and final authority for granting or denying any conditional waiver requests and determining any terms of the waiver if so granted.
- a. At the end of the 2-year conditional waiver term, a person is required to fully meet the continuing education requirements outlined in this section to be eligible for renewal of their certification. Failure to fully meet the requirement may result in remedial action or certification denial as determined by the SOMB.
  - b. The terms of remedial actions may, at the SOMB's discretion, include a period of supervision.

**XI. SOMB DECISIONMAKING PROCESSES FOR CERTIFYING POST-CONVICTION SEX OFFENDER POLYGRAPH EXAMINERS**

- A. Certification Committee. The SOMB shall establish/appoint a Certification Committee composed of no fewer than 4 members to oversee the certification of

post-conviction sex offender polygraph examiners pursuant to this section. The Certification Committee will review all applications for initial certification, requests for changes in level of certification, reinstatement requests, or applicants on monitoring status. Renewal applications will be reviewed by the Certification Committee when requested by the SOMB coordinator.

- B. The Certification Committee shall minimally include:
- a. Two current SOMB members eligible for certification as a Senior/Approved Evaluator or Treatment Provider;
  - b. A non-clinical SOMB member;
  - c. An SOMB member of the board's choosing; and
  - d. An SOMB member who is eligible for certification as a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner.

The Certification Committee will provide a recommendation to the SOMB for final approval or denial of the application. No Certification Committee member holding a personal or financial interest in an application before the committee shall participate in the deliberation or voting on approval of the application.

- C. Verification of Completeness of Applications. The SOMB coordinator shall:
- a. Determine, using an established checklist, the completeness of any application submitted for certification;
  - b. Provide written notification to the applicant within 5 business days of the receipt of the application and indicate whether:
    - i. All required items (the application, supporting documentation, and fees) have been received and the application is complete and ready for review by the Certification Committee; and
    - ii. Any required items are absent and needed to complete the application in order to be forwarded to the Certification Committee for review and a deadline for submitting these items.
  - c. Provide to the Certification Committee the completed packet of applications for initial certification, requests for changes in level of certification,

reinstatement requests, or applicants on monitoring status for review prior to the regularly scheduled meeting.

- d. Provide to the Certification Committee a completed renewal application packet if the SOMB coordinator has questions regarding the application
- D. To be considered for review by the Certification Committee in a given month, the completed application and all supporting documentation must be received no less than 30 days prior to the next scheduled meeting date, with such meeting dates published on the SOMB calendar/website. Late submission of an application will be reviewed by the SOMB as time allows and under no circumstances will the SOMB consider an application submitted within 14 days of the next scheduled meeting.
- E. A Certification Review Form shall be completed for each applicant reviewed on the date of the meeting, noting the decision of the committee.
- F. The Certification Committee shall, make a recommendation to the SOMB to approve, deny or otherwise monitor certification with the SOMB making the final certification decision.
- G. The SOMB shall provide each applicant a written notification, within 15 business days, of the final SOMB decision.
- H. Denial of Certification.
- a. The SOMB shall provide written notification to the applicant within 15 business days of the denial decision, the reason(s) for the denial and notice of the right to a hearing; and
  - b. The SOMB may provide the applicant any recommended remedial steps or actions that can be taken to support a further consideration for certification and any deadlines or timeframes in which such remedial action should occur.
  - c. A person who submits, less than 365 days from the submission of the previously denied application for certification, a revised application shall not be required to provide another application processing fee.

- I. The SOMB shall retain a complete file for each applicant seeking initial or renewal certification, including all written correspondence, applications and supporting documentation, and approval/denial decisions.

## **XII. CERTIFICATION PERIOD**

- A. Certification as a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner shall remain in effect for 2 years provided that the examiner continues to meet the criteria for such certification and such certification has not been suspended, revoked, otherwise restricted or on voluntary inactive status. Renewal application shall typically occur during a person's month of birth 2 years following initial certification, and every 2 years thereafter.
- B. Certification as an Associate/Supervised Post-Conviction Sex Offender Polygraph examiner shall remain in effect for 2 years provided that the examiner continues to meet the criteria for such certification and such certification has not been suspended or revoked. Certification as an Associate/Supervised Post-Conviction Sex Offender Polygraph is limited to a 2 year period at which time the examiner must request advancement in certification status to a Senior/Approved Post-Conviction Sex Offender Polygraph Examiner, unless extended by conditional waiver.
- C. The SOMB shall issue to each applicant approved for a certificate that:
  - a. Designates the person as either a certified Senior/Approved Post-Conviction Sex Offender Polygraph Examiner or an Associate/Supervised Post-Conviction Sex Offender Polygraph Examiner;
  - b. Indicates the effective period of the person's certification, including the expiration date; and
  - c. Is signed by the Chair and Vice Chair of the SOMB.
- D. The SOMB shall notify in writing each certified Post-Conviction Sex Offender Polygraph Examiner within 90 days of the expiration of the effective term of certification, the steps necessary to apply for renewal, and the deadline for

providing a completed application for renewal. However, the certificate holder is ultimately responsible for timely renewal of certification.

- E. A person whose certification has not been renewed by the expiration date on the certificate issued by the SOMB shall no longer be certified as such and shall be removed from the central roster.
- F. Expiration. A person whose certification by the SOMB has expired may reapply at any time for certification as follows:
  - a. A person whose certification has been expired for less than 365 days may reapply for certification following the certification *renewal* process as outlined in this section.
  - b. A person whose certification by the SOMB has been expired for 365 days or more may reapply for certification by following the *initial* certification process as outlined in this section.