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Sexual Offense Treatment Board

Practice Standards and Guidelines
for the Evaluation, Treatment and
Management of Sex Offenders with
Intellectual and Other Developmental
Disabilities

January 2010 Edition

Regulation:

Effective March 15, 2010, and in accordance with ORS 675.400 and OAR 331-840-0070, all certified clinical and associate sex offender therapists as defined in ORS 675.365 and OAR 331-800-0010 must adhere to the following practice standards and guidelines for the evaluation, treatment and management of sex offenders with intellectual and other developmental disabilities.

SECTION I:

STANDARDS FOR SEX OFFENSE-SPECIFIC EVALUATIONS

A. Conducting Evaluations

Evaluations are conducted to identify levels of risk and specific risk factors that require attention in treatment and supervision, and to assist the court in determining the most appropriate sentence for offenders. Each sex offender must receive a thorough assessment and evaluation that examines the interaction of the offender's intellectual or other developmental disabilities, mental health, social/systemic functioning, family and environmental functioning, and offending behaviors because of the importance of the information to planning subsequent sentencing, supervision, treatment, placement and housing, day programming, and behavioral monitoring. Specialized experience and training is needed to conduct a sex offense specific evaluation with clients who experience intellectual or other developmental disabilities.

Evaluators have an ethical responsibility to conduct evaluations which are within the scope of their training, education, and experience. Clinicians without sufficient training and experience with special needs clients should either obtain the needed training and supervision or refer such clients to another evaluator with the requisite training and experience for such evaluations. All evaluations of special needs clients need to be conducted in a comprehensive and factual manner, regardless of the offender's status within the criminal justice system. Such evaluations are not intended to supplant more comprehensive psychological or neuropsychological evaluations.

When conducting evaluations with special populations:

- The information must be provided in a manner that is easily understood, verbally and in writing, or through other modes of communication as may be necessary to enhance understanding.

When the evaluator is evaluating a sex offender with intellectual or other developmental disabilities the evaluator must obtain informed assent. The evaluator should be familiar with characteristics of persons with developmental disabilities such as impaired cognitive functioning, communication styles, mental health issues, vocabulary and language skills, and other significant limitations. If the evaluator feels that informed assent could not be acquired at the time of the

evaluation, the evaluator shall obtain assistance from a third party who is not a practitioner from within the same agency. A third party may be an individual or group of individuals who understands the definition of informed assent and who has had significant knowledge of the person's unique characteristics.

- The evaluator shall obtain the assent/consent of the legal guardian, if applicable, and the informed assent/consent of the offender with developmental disabilities for the evaluation and assessments. The legal guardian needs to be informed of the evaluation methods, how the information may be used and to whom it will be released. The evaluator shall also inform the offender with developmental disabilities and the legal guardian about the nature of the evaluator's relationship with the offender and with the court. The evaluator shall respect the offender's right to be fully informed about the evaluation procedures. Results of the evaluation may be reviewed with the offender and the legal guardian upon request.

The mandatory reporting law ORS 675.390 requires certain professionals to report suspected or known abuse or neglect to the local department of social services or law enforcement. Evaluators need to be aware of the laws pertaining to their licensed discipline and function accordingly.

- If informed assent/consent cannot be obtained after consulting with the third party, then the evaluator shall refer the case back to the referring agent, agency, or court.
- The evaluator shall be sensitive to any cultural, ethnic, developmental, sexual orientation, gender, medical and/or educational issues, or disabilities that become known during the evaluation.

B. Evaluation Methodology Concerns

Due to the complex issues of evaluating sex offenders with intellectual and other developmental disabilities, methodologies are to be applied individually and their administration will be guided by the following:

- When possible, instruments should be used that have relevance and demonstrated reliability and validity which are supported by research in the mental health and sex offender treatment fields as they relate to persons with intellectual or other developmental disabilities.
- If a required procedure is not appropriate for a specific client, the evaluator must document in the evaluation why the required procedure was not done.

Evaluators must carefully consider the appropriateness and utility of using a plethysmography assessment, or VRT assessment with sex offenders who have

developmental disabilities. For these assessments to be effective with this population, evaluators must assess whether the offender has a sufficient level of cognitive functioning to be able to adequately discriminate between stimulus cues and/or respond appropriately to instructions and questions.

Evaluators shall address the level of adaptive functioning and any neuropsychological concerns for sex offenders with intellectual or other developmental disabilities. Evaluators also need to make appropriate recommendations regarding treatment modalities and any need for additional behavioral interventions or containment and supervision requirements.

SECTION 2:

ADDITIONAL EVALUATION AREAS FOR SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES

The evaluation and any subsequent assessments must be sensitive to the rights and needs of the victim and the client. The evaluator shall be sensitive to any cultural, language, ethnic, developmental, sexual orientation, gender, gender identification, medical and/or educational issues that may arise during the evaluation. Evaluators shall select evaluation procedures relevant to the individual circumstances of the case and commensurate with their level of training and expertise. Each phase of an evaluation shall address strengths, risks and deficits in the following areas:

- Psycho-social history, including sexual history
- Cognitive functioning
- Adaptive functioning (e.g., independent living skills, social judgment and competencies, impulse control, treatment amenability and/or ability to participate in group settings)
- Sexual information and comprehension level
- Expressive and receptive language skills
- Developmental /social level of functioning
- History of trauma and reactivity
- Family and community support systems
- Assessment of static and dynamic risk factors
- Specific intervention recommendations
- Feasibility of polygraph testing or similar surveillance techniques

Evaluation methods may include the use of clinical procedures, screening tests, observational data, advanced psychometric measurements and special testing measures. The gathering of collateral information from a broad base of resources needs to be emphasized when evaluating clients with intellectual and other developmental disabilities. Collateral information may be more reliable and valid than self-report data, but all self report information should be included in the evaluation.

SECTION 3:

QUALIFICATIONS OF TREATMENT PROVIDERS, EVALUATORS AND WORKING WITH SEX OFFENDERS

Clinical level treatment providers and evaluators who want to provide evaluation and/or treatment services to sex offenders with developmental disabilities must demonstrate education, training and experience specifically relevant to the assessment and treatment of intellectually or developmentally disabled sex offenders as identified in the in section 3.

Associate level providers, who do not have a graduate degree in social sciences with specific training in evaluation of persons who are developmentally disabled, should not be involved in the clinical evaluation of special needs populations. Associate level providers must provide treatment for developmentally disabled clients only when under the direct supervision of a Clinical level treatment provider who has the requisite training and experience to evaluate and/or treat developmentally disabled clients.

Developmental disabilities specific training may include but is not limited to trainings from these areas:

- Treatment, evaluation and monitoring considerations for the sex offender with intellectual or other developmental disabilities
- Assessment tools and procedures for persons with intellectual and other developmental disabilities
- Impact of developmental disability on the individual
- Healthy sexuality and sex education for the sex offender with developmental disabilities
- Statutes, rules and regulations pertaining to individuals with developmental disabilities
- Co-occurring mental health issues
- Co-occurring family and other support systems
- The role of the regional center/department of developmental disabilities services in the lives of these clients

APPENDIX:

DEFINITIONS

Developmental Disability: A disability that is manifested before the person reaches 22 years of age, which constitutes a substantial disability to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. sec. 6000 et seq., will apply.

This definition is further explicated as follows: Impairment of general intellectual functioning means the person has been determined to have an intellectual quotient equivalent which is two or more standard deviations below the mean (70 or less assuming a scale with a mean of 100 and a standard deviation of 15), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. The standard error measurement of the instrument should be considered when determining the intellectual quotient equivalent.

Adaptive behavior means the person has overall adaptive behavior which is significantly limited in two or more skill areas (communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work), as measured by an instrument which is standardized, appropriate to the person's living environment and administered and clinically determined by a qualified professional.

"Similar to that of a person with mental retardation" means that a person's adaptive behavior limitations are a direct result of or are significantly influenced by impairment of the person's general intellectual functioning and may not only be attributable to a physical impairment or mental illness.

Some sexual offenders have intellectual and/or functional deficits that indicate a need for revised assessment, evaluation, treatment or behavioral monitoring even though they do not meet the federal definition for developmental disabilities. Evaluators, treatment providers, polygraph examiners, and supervising officers shall provide services appropriate to each sex offender's developmental level.

Special Populations: Persons subject to federally mandated protections and accommodations under the *Americans with Disabilities Act (1990)*, *Section 504 of the Rehabilitation Act (1973)*, or who were subject to the *Education of All Handicapped Act (1975)* and the subsequent *Individuals with Disabilities Education Act (1990)* and *Individuals with Disabilities Education Improvement Act (2004)*, are clearly identified as special populations according to those legislative guidelines.