THE SEX OFFENDER
CORRECTIONS, TREATMENT
AND LEGAL PRACTICE

Edited by
Barbara K. Schwartz, Ph.D.
and
Henry R. Cellini, Ph.D.
Acknowledgments

The editors are grateful to many individuals who throughout the years have shared the journey in search of answers to the many issues surrounding the treatment of sex offenders. Our deepest gratitude goes to the authors of the individual chapters. Our thanks to the National Institute of Corrections and the National Academy of Corrections for sponsoring the initial work. Special thanks to John Moore who fought for the resources and commitment and continues to be a source of support. Thanks to the Safer Society, which has been there from the earliest days with research and resources, and especially to Fay Honey Knopp who has been supportive friend to many sex offender treatment specialists. Grateful acknowledgment to our publisher, Arthur Rosenfeld, and our editor, Marsha Leest. We also thank those who offered personal support, including the Justice Resource Institute of Boston, Greg Canfield, MSW, Susan Wayne, MSW, co-workers at the Massachusetts Treatment Center, and John Kilburn, office manager of the Training and Research Institute. Finally, we thank our families, including Ed, Ben, Betsy, cats and dogs.

Dedicated to Fay Honey Knopp

“Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it's the only thing that ever has.”—Margaret Mead

Publisher’s Note: The Sex Offender: Corrections, Treatment and Legal Practice grew out of an earlier work prepared by the Editors for the U.S. Department of Justice in 1988. A Practitioner’s Guide to the Treatment of the Incarcerated Male Sex Offender. The new work contains substantial additional and updated material. Entirely new are chapters 1, 2, 4, 5, 6, 7, 12, 16, 17, 18, 20, 23, and 30. Substantially revised and updated are chapters 3, 8, 14, 22, 24, 25, 26, 27, 28, and 29. The remaining chapters, 9, 10, 11, 13, 15, 19 and 21 are reprinted from the earlier work.
Preface

According to the ancient Greek myth, when Hercules was dying, he gave his arrows to the skilled archer, Philoctetes, who joined the Greeks against Troy. However, Philoctetes was accidentally wounded by one of the arrows. The wound became infected and began to fester. It gave off such an offensive odor that Philoctetes’ shipmates left him behind on the island of Lemnos when they went to do battle in Troy. An oracle had prophesied that only Hercules’ arrows could slay Paris, the Prince of Troy, and only Philoctetes had those arrows. The warriors were forced to return to Lemnos to get him. Indeed, as had been forecast, Paris was killed by one of his arrows.

Perhaps this myth teaches modern society that it should not abandon even those it deems the most offensive. Surely the Greek warriors felt justified in abandoning their comrade rather than taking the time and effort to treat him. After all, his condition was repugnant. But abandoning Philoctetes meant losing the war. The warriors could only triumph if they embraced their comrade regardless of his condition.

This book, which is the next step in a process that began in the early 1980s when the National Institute of Corrections first decided to develop a course in treating sex offenders, points out ways we might be able to reclaim some of those that our society might choose to abandon simply because they are viewed as too horrible to live among us. Inevitably, a society that creates a class that “deserves” to be abandoned begins to scorn anyone who is affiliated with that class. The class begins to grow. Then, other groups begin affiliating their particular enemies with this group. The despised class grows even larger. This phenomenon can be seen clearly in anti-gay legislation that has sought to link gays and lesbians with sadists and child molesters. Such a linkage is ludicrous. Ultimately, the quality of our society may well be judged on its treatment of our outcasts.

Recently, the field of sex offender treatment has advanced at a phenomenal rate. This book updates the available material and presents a new treatment model. Initially, sex offender treatment programs relied heavily on the cognitive-behavioral approach. The new model emphasizes an integrative approach that treats sexual deviance from a holistic paradigm. The techniques are not merely added onto each other. Instead, they are integrated together to form a program that focuses on all facets of the problem, from the offender’s inner functioning to the different aspects of the criminal justice system.

This volume is intended for therapists, prison and community corrections administrators, probation and parole officers, correctional officers, child protective workers, police, prosecutors, defense attorneys, prison chaplains, and sex offenders who are in treatment and their friends and families. These members of the system all must cooperate in order to address the tragic problem of sexual abuse in this country. We can only combat this problem through education and a coordinated effort.
John Bergman, M.A., R.D.T.
Mr. Bergman received his early education in London. He received his master of arts in theater from Humboldt State College. He is an adjunct member of the faculty at the University of Iowa. Mr. Bergman is the founder of Geese Theater. His work in producing plays for prisoners led to the development of a specialized treatment for sex offenders. He is the director of the British touring company and is affiliated with the Vermont Department of Corrections and the Justice Resource Institute’s program at the Massachusetts Treatment Center. He is a registered drama therapist and has consulted internationally on the use of drama therapy with sex offenders and correctional ethics.

Henry R. Cellini, Ph.D.
Dr. Cellini received his degrees in psychology with an emphasis on counseling from Southern Illinois University. He has served on the faculty of the University of New Mexico, Department of Counselor Education and Department of Continuing Education. He has been the director of Mental Health Services at the Penitentiary of New Mexico and chief psychologist for the New Mexico Department of Corrections. He has worked with female offenders at Dwight Correctional Center, Dwight, Illinois. While on loan to the National Academy of Corrections, he developed the first courses on the treatment of sex offenders. Currently he is the president of TriCorp, a consulting firm that provides training and publications on drugs, gangs, violence, and sex assault throughout the country. His publications include Alcohol, Tobacco and Other Drugs of Abuse and a chapter in the American Correctional Association’s Managing Delinquency Programs that Work.

Fred Cohen, D.J.P.
Mr. Cohen received his undergraduate degree at Temple University and his law degree from the Yale Law School. He has been a professor of law at the University of Texas, New York University, University of Iowa, University of Arizona, and University of Puerto Rico. He is currently a professor at the School of Criminal Justice at the State University of New York in Albany. He is the editor-in-chief of the Criminal Law Bulletin, and co-editor of the Correctional Law Report and the Community Corrections Report. He lectures frequently at the National Academy of Corrections on laws related to sex offenders.

Georgia F. Cummings, B.S.
Ms. Cummings received her Bachelor of Science in Criminology and Corrections from Florida State University. She began her career as a probation and parole officer in Vermont. She has been affiliated with the Vermont Sex
Offender Treatment Program since its inception. Currently, she is the Coordinator of Sex Offender Treatment Services for the Vermont Center for Prevention and Treatment of Sexual Abuse. She consults nationally with the National Institute of Corrections and the American Probation and Parole Association.

**Michael Dougher, Ph.D.**
Dr. Dougher received his degrees from the University of Illinois at Chicago. He founded and directed one of the first behaviorally-based, outpatient treatment programs for sex offenders sponsored by the University of New Mexico, where he is chairman of the psychology department. He has been a consultant on behavioral treatment to the New Mexico Department of Corrections Sex Offender Treatment Program and has served on the faculty of the National Academy of Corrections.

**Randy Green, Ph.D.**
Dr. Green received degrees from Miami University of Ohio and from the Western Conservative Baptist Seminary in Portland, Ohio. He is the former director of the Sex Offender Program in the Forensic Services Unit at the Oregon State Hospital. He has taught classes in the treatment of sex offenders at the National Academy of Corrections. He is currently affiliated with the Mid-Valley Center for Clinical and Consulting Services Corporation in Salem, Oregon.

**William B. Land, M.D.**
Dr. Land received his B.A. from Brown University and his M.D. from Northwestern University Medical School. He completed his residency in psychiatry at Massachusetts Mental Health Center and was chief resident in psychopharmacology. In 1992 he received the Gaughan Fellowship for study in forensic psychiatry. Dr. Land is a diplomate on the American Board of Psychiatry and Neurology. He is currently a clinical instructor in psychiatry at Harvard Medical School, a psychopharmacology consultant at Bridgewater State Hospital and Noddles Island Health Center, consulting psychiatrist for the Massachusetts Treatment Program and the Massachusetts Rehabilitation Commission, and supervisor for the Department of psychiatry at Beth Israel Hospital. Dr. Land has written and lectured widely on a variety of topics and his article in this volume received an honorable mention in the American Academy of Forensic Sciences’ Competition for Forensic Psychiatry Fellows.

**D. R. Laws, Ph.D.**
Dr. Laws received degrees from the University of Missouri and Southern Illinois University. He is the former director of the Sex Behavior Laboratory at the Atascadero State Hospital in California. He was professor of crime and delinquency at the Florida Mental Health Institute at the University of Southern Florida and the director for the Center for the Prevention of Child Molestation in Tampa, Florida. He is currently affiliated with the Interpersonal and Family Skills Program in Edmonton, Alberta.
William D. Pithers, Ph.D.
Dr. Pithers received degrees from Edinboro State University and Kent State University. He founded and directs the sex offender treatment program for the Vermont Department of Corrections and is the director of the Vermont Center for the Prevention and Treatment of Sexual Assault. He is widely known for his work in adapting the Relapse Prevention model for use with sex offenders, and lectures, writes, trains, and consults internationally.

Stephen Price, B.A.
Mr. Price received his B.A. from Oglethorpe University in Atlanta, Ga. in liberal arts. He has worked with offenders and victims of sexual assault as a pastor /clinical chaplain and therapist. He interned as a pastoral counselor at Worcester Pastoral Counseling Center. He worked with sex offenders and mentally ill offenders in the South Carolina Department of Corrections. He has treated sex offenders at the Massachusetts Treatment Center and is currently a therapist with the Massachusetts Department of Corrections Sex Offender Treatment Program.

Barbara K. Schwartz, Ph.D.
Dr. Schwartz received her M.A. in psychology from the New School for Social Research in New York City. She received her Ph.D. in psychology/criminology from the University of New Mexico. She has been treating sex offenders since 1971, when she assisted in establishing one of the first community-based sex offender treatment programs in the United States (P.A.S.O. in Albuquerque, New Mexico). She founded and administered the New Mexico Department of Corrections’ Sex Offender Treatment Program and the Washington Department of Corrections Sex Offender Treatment Program. Currently she is the clinical director for Sex Offender Treatment for Justice Resource Institute, Boston, Massachusetts, and in that capacity she directs treatment services for the Massachusetts Treatment Center for Sexually Dangerous Persons and the Massachusetts Department of Corrections Sex Offender Treatment Program. She is a consultant to the National Institute of Corrections and has consulted on program establishment and evaluation for Corrections Departments in Wisconsin, Arizona, Hawaii, Illinois, Indiana, Texas, New York, and Washington, D.C. She is an instructor for the National Academy of Corrections. Dr. Schwartz is the editor of A Practitioner’s Guide for Treating the Incarcerated Male Sex Offender and has authored numerous articles, and conference presentations.

Roger Smith, D.Crim.
Dr. Smith received his undergraduate degree from Grinnell College, his master’s degree from the University of Chicago and his doctorate in criminology from the University of California at Berkeley. He was active in the establishment of drug rehabilitation programs in the San Franciscan area before becoming the director of Correctional Programs at the Oregon State Hospital. Among the programs he directed in that position was the Sex Offender Treatment Program which was a model program in the field. For two years he was on loan to the National Academy of Corrections. He went on to become the director of sex offender treatment for the Hawaii Department of Corrections. Currently he is the director of forensic mental Health Services for the State of Michigan. He consults internationally in the area of drug rehabilitation, sex offender treatment, and mental health services in corrections.
Nancy Steele, Ph. D.
Dr. Steele received her B.A., M.A., and Ph.D. from the University of Ohio. She founded and directed the sex offender treatment programs at several Colorado Department of Corrections facilities. She then became the director of the Transitional Sex Offender Program (TSOP) at Lino Lakes Correctional Center in Minnesota. This was one of the first prison-based sex offender programs focusing on the therapeutic community format and offering community aftercare. In 1993 she affiliated with the Medical/Legal Foundation in Indianapolis, Indiana and consulted with the Indiana Department of Corrections on sex offender treatment. She is currently with the Ohio Department of Corrections. She is a consultant with the National Institute of Corrections and an instructor for the National Academy of Corrections and has written, trained, and consulted throughout the country.
Introduction

During the past 30 years, the issue of sexual assault has been the focus of public attention. Movies, television specials, talk shows, and books have brought the problem out into the open. Citizens live with facts such as these: one in four girls will be assaulted before they are 18 years of age; one in six boys will be victimized; and patterned child molesters frequently have tragically high numbers of victims (perhaps several hundred).

Historically, society has responded by imposing restrictions on potential victims. The Israeli Parliament, for example, suggested addressing the increasing incidence of rape by enforcing a curfew on women. Golda Meier, then a member of Parliament, suggested that surely the curfew should be imposed on men rather than women. Other responses, advocated by groups such as Society’s League Against Molesters or Washington’s Tennis Shoe Brigade, include long prison sentences as retribution and as a deterrent.

Experts in this field suggest that most sexual offenders were molested during their childhood. Such offenders often exhibit a unique phenomenon known as the “Dracula Syndrome” in which the victim becomes the assailant. Thus, this syndrome causes the crime rate to grow exponentially. Given the large number of victims, the growth rate of this crime can be staggering if even a small percentage of the victims later become offenders. Indeed, the increase in the number of incarcerated sex offenders presents a major problem for corrections officials.

Response to Increase in Reported Crimes Includes Longer Incarceration and More Community Based Treatment Programs

On April 14, 1990, The New York Times reported that sex offenders represented 15% of the prison population. According to the July 1991 issue of Corrections Compendium, there was a 48% increase in sex offenders in U.S. prisons between 1988 to 1990. All other crimes increased by 20% increase over the same period. In Wyoming, sex offenders made up over one-third of the prison population. In 10 other states, they made up more than 20%. The increased rate is due to a variety of factors, including:

• More crimes are being reported because:

  — Public attention has increased.

  — Victims’ rights groups have helped change the way members of the criminal justice system treat victims, and made it likelier that victims will report crimes.

  — Teachers and youth workers are more aware of the possibility of sexual abuse. In many states, they are mandated by law to report suspicious circumstances.
• Many courts are handing out stiffer sentences.

• Parole boards are becoming more reluctant to release sex offenders if they have the discretion to hold them longer.

• In many states, offenders who refuse treatment serve longer sentences. Treatment while incarcerated may be mandatory prior to parole.

A number of strategies have developed in response to the problem of sexual assault. Along with longer sentences for the most serious offenders, there has been a virtual explosion of techniques for maintaining less serious offenders in the community. Today, programs ranging from mandatory counseling to electronic monitoring to involuntary commitment are in operation. There also has been a trend to close large institutional sex offender programs operated under mental health agencies. Responsibility for such programs is being shifted to corrections. At the same time, sex offender treatment programs in Departments of Corrections must fight long and hard, first to be established and then to continue intact.

Neither the public nor the media seem to want to scientifically ascertain whether therapy is effective. Instead, they prefer to debate a very different issue: whether sex offenders even deserve treatment. Apparently, they have decided that certain populations deserve treatment and others do not. The main criteria appears to be whether the individual had control over his or her condition. The more an individual is viewed as being responsible for his or her problems, the less deserving of help that person seems to be. Thus, those who have no control over their condition—for example, victims of natural disasters, children, etc.—merit treatment; individuals whose behavior was illegal or immoral are less worthy of help.

AIDS patients offer a classic example of how this philosophy works. The government’s slow response to this serious health crisis coupled with the limited availability of funding probably reflects the initial perception of victims of this illness: they caused it themselves through their “morally unacceptable” behavior. Probably on the advice of public relations specialists, agencies seeking to promote AIDS education or raise funds for treatment use “innocent” victims—children, hemophiliacs, and women infected without their knowledge by a partner—to champion their cause.

Earlier in this century, victims of paralyzing illness faced the same kind of prejudice. They were considered responsible for their conditions and unworthy of sympathy. In FDR’s Splendid Deception, Gallagher describes how revolutionary the atmosphere at his treatment center at Warm Springs, Georgia was. Previously, in a real although subconsciously motivated sense, the handicapped were viewed as flawed in moral character as well as in body. The physical handicap was as it were, “an outward sign of some inner weakness.” R. C. Elmslie, a medical authority at the turn of the century, referred to crippled children as “individual(s) detestable in character, a menace and burden to the community, who is only too apt to graduate into the mendicant and criminal classes.”
Treatment of Sex Offenders Should Focus on Alleviating the Problem Rather Than Whether Offenders “Deserve” Treatment

The focus should not be on whether sex offenders deserve treatment. Instead, it should be on reducing the cost, the recidivism rate, and the toll of human suffering caused by the problem.

The treatment of sex deviance is no more a perfect science than the treatment of any other complex physical or mental disorder. Furthermore, as a discipline, it is much younger than many other areas of therapeutic concern. Still, there is hope from a wide variety of sources that treatment can be effective. In fact, the availability of treatment programs may reduce recidivism as well as encourage reporting of these crimes. This is particularly true for intra-familial offenses. Families seem to be more willing to report an offense, victims to testify, and defendants to confess if treatment is a possibility. Conviction rates have risen in states that have comprehensive sex offender treatment programs in both the community and in prisons. In these states, judges do not have to weigh possible dangerousness against pleas for treatment. Furthermore, community treatment for low-risk offenders can save millions of taxpayers’ dollars and yield more positive result than incarceration without treatment.

Background of the “Nothing Works” Philosophy

During the late 1970s and early 1980s, “rehabilitation” programs in corrections departments across the country were dramatically curtailed when R. Martinson published the two articles that became the foundation for the “nothing works” philosophy. Another article that is often quoted in this regard is a report entitled Psychiatry and Sex Psychopath Legislation: The 1930s to the 1980s, prepared by the Group for the Advancement of Psychiatry. This report addressed the problems inherent in assuming that sex offenders are mentally ill and attempting treatment in mental hospitals that usually did not offer specialized programs. Nevertheless, many people interpret this article as concluding that sex offenders cannot be treated.

These articles caused state legislators to begin shifting from indeterminate sentencing with parole based on program participation to a “just deserts” model requiring felons to serve set sentences regardless of whether they participate in rehabilitative efforts. Unfortunately, the movement to dismantle vocational, educational, and treatment programs for offenders continued despite the fact that Martinson later recanted his own research. All-or-nothing thinking, such as that reflected in the “nothing works” philosophy is self-indulgent. It gives the impression that there are simple answers to complex problems.

Few correctional professionals, politicians, or other policy-makers are aware of the impact of the nothing works theory. Even today, Martinson’s articles are used to deny funding to criminal rehabilitation programs; research that corroborates the effectiveness of treatment is ignored.

In 1989, the Psychological Bulletin published an article by Furby, Weinrott, and Blackshaw, who did a mega-analysis on 42 studies evaluating treatment offered as far back as the mid-50s (only 26% of the articles dated from 1980 or more recently) and comparing outcomes to studies of untreated sex offenders (98% of the studies of
untreated offenders were done in Europe). Although the authors acknowledged that there were numerous severe research errors, they nevertheless concluded that there was no evidence that treatment had been effective.

Critics have pointed out that this study may have reached a negative conclusion for two reasons: (1) the high recidivism rate for institutionally-based treatment programs may be due to the fact that these programs often attract the most at-risk offenders; and (2) the outcome rates may vary so dramatically because the study does not distinguish between different types of treatment. The identical problems were present in a study conducted in 1991 by the Minneapolis Star-Tribune.

Every treatment program—be it for substance abuse or appendicitis—has its failures. Still, citing the case of some notorious re-offender who had undergone treatment at some time in the past is a popular way of discrediting sex offender treatment. Evoking the terrifying image of the serial rapist or the lust murderer is enough to radically sway public opinion. How many votes did Michael Dukakis lose because Willie Horton was furloughed during his term? Robert P. Casey, the former governor of Pennsylvania, found himself in a similar situation because his appointees paroled Reginald McFadden, a suspected serial killer. These stories always carry a subtle implication that the treatment program is partially to blame for the re-offense. It would be interesting to see what would happen to cancer treatment if oncologists were held to the same standards as sex offender treaters and blamed for every patient that succumbed to their disease.

Treatment Should Be Part of All Sex Abuse Prevention Programs

Numerous studies attest to the efficacy of sex offender treatment. However, as with all studies on psychotherapy, the research may show some methodological problems. Consider these examples: sex offender programs rarely occur in settings conducive to tightly controlled research; sponsoring agencies may be reluctant to deny treatment to amenable volunteers in order to maintain a control group; some offenders are systematically denied treatment because it is assumed that their offense record would be higher than the treated group; and the level of motivation or disclosure may vary radically between the two groups depending on such factors as a state’s sentence structure or “good time” policy.

Administrative concerns may override therapeutic ones. Nevertheless, the success which individuals have experienced in treating sex offenders and which the criminal justice system has witnessed has led to the development of over 1,500 specialized programs for this population. Victims and potential victims deserve to have energy and resources committed to this problem. Treatment as a primary form of prevention should be part of any comprehensive plan to decrease sexual abuse. The reluctance to acknowledge this on the part of many, particularly certain representatives of the media, may have more to do with primitive human desires for revenge than a desire to do something constructive about the problem of sexual assault.

Few issues arouse more public disgust and outrage than this one, which combines society’s anxiety over and fascination with sex and violence. Society can no more afford to ignore the problem of sexual assault than it can afford to dump raw sewage into its waterways. In both cases, the problem may no longer be in the community, but it will come back in one form or another.
Table of Contents

Acknowledgments ................................................................................................. iii
Preface ................................................................................................................... v
About the Authors ................................................................................................ vii
Introduction .......................................................................................................... xi

PART 1: PSYCHODYNAMICS OF SEX OFFENDERS

Chapter 1: Introduction to the Integrative Approach
Overview ............................................................................................................... 1-2
Integrative Model Appreciates the Dynamic Nature of Human Behavior .......... 1-2
Approaches to Modifying Therapeutic Models ..................................................... 1-2
  The “Eclectic” Method ...................................................................................... 1-2
  The Additive Method ....................................................................................... 1-2
  The Integrative Model ...................................................................................... 1-3
The New Paradigm in Natural Science: Relationship Between
  Classical Physics and Psychology ................................................................. 1-3
New Paradigm Calls for Researchers to Accept the Concept of
  Mutual Interactions and Adopt an Integrative Approach ................................ 1-4
  Feedback Ensures the Balance That Is Essential to Growth ......................... 1-5
  Integrative Thinking Impacts on Everyday Life ............................................. 1-6
Psychotherapy and the New Paradigm ............................................................... 1-6
New Paradigm Makes the Observer’s Role More Subjective ............................. 1-8
Sexual Deviancy Treatment May Be Thought of as “Recycling” ......................... 1-8
Integrative Approach to the Treatment of Sex Offenders ................................ 1-10
  Physiological Aspects of Treatment .............................................................. 1-10
  Psychological and Emotional Aspects of Treatment ...................................... 1-10
  Behavioral Aspects of Treatment .................................................................. 1-11
  Interpersonal Aspects of Treatment .............................................................. 1-11
  Familial Aspects of Treatment ....................................................................... 1-11
  Societal Aspects of Treatment ...................................................................... 1-12
  Spiritual Aspects of Treatment ...................................................................... 1-12
Helping Offenders Recognize Their Role in the Dynamic Web of
  Interrelations That Compose Humanity .......................................................... 1-12
Chapter 2: Theories of Sex Offenses
Overview ................................................................. 2-2
Definitions of “Sex Offender” ........................................ 2-2
History of Societal Attitudes Toward Aggressive Sex Offenders ... 2-3
  Attitudes Toward Rape ........................................... 2-3
  Attitudes Toward Child Molestation ......................... 2-3
History of Clinical Attitudes Toward Sex Offenders ............ 2-4
Theoretical Explanations ............................................ 2-7
  Biological Determinism ......................................... 2-7
Evolutionary Theories .............................................. 2-9
  Psychoanalytic Theory ........................................ 2-9
  Ego Psychology .................................................. 2-11
  Neurosis Theory ................................................ 2-12
  Jungian Theory ................................................... 2-13
  Relational Theories ............................................. 2-13
  Behavioral Theories ............................................ 2-14
  Cognitive-Behavioral Theories ......................... 2-15
  Addictions Theory ............................................. 2-15
  Anthropological Theories ..................................... 2-17
  Family Theories ................................................ 2-18
  Societal Theories ............................................... 2-19
  Political Theory ................................................ 2-19
  Integrative Theories ........................................... 2-20
  Integrated Theory of Rape .................................... 2-21
  Integrated Theory of Child Abuse ....................... 2-21
  Integrated Theory of Deviancy ................................ 2-22
Causative Factors and Methods of Treatment ................... 2-22
  Theories Integrating Sexual Compulsivity and Cognitive-
    Behavioral Models ........................................... 2-23
  Interactive Model of Sexual Assault ..................... 2-24
Dynamics of Sexual Assault .................................... 2-24
Conclusion ................................................................... 2-28

Chapter 3: Characteristics and Typologies of Sex Offenders
Overview .................................................................. 3-2
Statistics on Female Victims ..................................... 3-2
Statistics on Male Victims ....................................... 3-2
Date Rapes .................................................................. 3-3
Marital Rape .......................................................... 3-3
Other Sexually Abusive Situations ......................... 3-3
Statistics on Perpetrators ...................................... 3-4
Characteristics of Sex Offenders .............................................................. 3-6
  Factors Related to Age ........................................................................ 3-7
  Factors Related to Race or Ethnic Origin ........................................... 3-8
  Factors Related to Cognitive Skills ..................................................... 3-9
  Factors Related to Lifestyle ................................................................ 3-11
  Factors Related to Marital Status and Sexuality ................................. 3-12
  Factors Related to Mental Illness, Alcoholism, and Personality Disorders ................................................................. 3-16
  Factors Related to Sexual Abuse ........................................................ 3-18
  Factors Related to Parental Relationships .......................................... 3-19
Typologies of Sex Offenders ................................................................... 3-21
Typologies of Pedophiles ....................................................................... 3-22
  Early Studies ..................................................................................... 3-23
  Groth’s Typology ............................................................................... 3-23
  FBI Typology ..................................................................................... 3-24
  Meiselman’s Typology ....................................................................... 3-25
  Knight and Prentky’s Typologies ....................................................... 3-26
Typologies of Rapists ............................................................................ 3-27
  Groth’s Typology ............................................................................... 3-28
  Selkin’s Typology ............................................................................... 3-28
  FBI’s Typology .................................................................................. 3-29
  Nagayama-Hall’s Typology ............................................................... 3-29
  Massachusetts’s Treatment Center’s Typology ................................. 3-29
Escalators Versus Non-Escalators .......................................................... 3-30
Conclusion ............................................................................................. 3-31

Chapter 4: Cost Effectiveness of Treatment
Overview .................................................................................................. 4-2
Research on Program Effectiveness Is Scarce ......................................... 4-2
  Problem Number 1: “True” Recidivism Rate Is Unknown ................... 4-2
  Problem Number 2: Measuring Whether Treatment Works ............... 4-2
Institutional Programs and Recidivism .................................................. 4-3
  Recidivism Rates for Sex Offenders .................................................. 4-3
  Comparison of Studies on Recidivism ............................................... 4-4
  Wisconsin Treatment Program ......................................................... 4-6
  New Jersey Treatment Program ....................................................... 4-6
  Western State Hospital, Washington ................................................ 4-6
  Atascadero, California ....................................................................... 4-7
  Massachusetts Treatment Program ................................................... 4-7
  Canada’s Treatment Program .......................................................... 4-7
  Missouri Department of Corrections ................................................. 4-7
  Minnesota’s Treatment Program ...................................................... 4-7
Chapter 5: Female Sex Offenders

Overview ................................................................. 5-2
Societal Reasons for Denying Female Sexual Abuse .......... 5-4
Basic Gender Differences ................................................. 5-6
  Aggressiveness ......................................................... 5-6
  Empathy and Nurturance ............................................. 5-6
  Emotionality ............................................................. 5-7
  Achievement and Dependence .................................... 5-7
  Cognitive Differences ................................................. 5-7
  Sexuality ................................................................. 5-7
Research on Inherent Differences Between the Sexes
  Not Always Conclusive ............................................. 5-8
Differences in Communication Styles May Have
  Implications for Therapy ........................................... 5-8
  Dependent Relationship May Impact on Commission of Offense .... 5-9
  Group Therapy with Female Sex Offenders ..................... 5-9
  Balance Between Independence and Intimacy .................. 5-9
Theories of Why Females Offend ...................................... 5-10
  Physiological Theories ............................................... 5-10
  Biological and Psychological Differences ....................... 5-11
  Comparative Research Studies .................................... 5-11
Types of Female Offenders ............................................ 5-12
Types of Offenses Committed by Female Offenders .......... 5-13
Offenders’ Attitudes Toward Their Crime ................. 5-15
Characteristics of Female Sex Offenders ......................... 5-15
  Childhood Experiences ............................................ 5-16
  Marriage ................................................................. 5-16
  Lifestyle ................................................................. 5-16
  Mental Illness ......................................................... 5-17
  Substance Abuse ..................................................... 5-17
  Nature of Assault .................................................... 5-17
Characteristics of Adolescent Female Offenders ............ 5-17
Characteristics of Abuse-Reactive Girls ................. 5-18
Treatment Issues ......................................................... 5-18
Behavioral Treatment Techniques ........................................................ 5-19
Use of the Offender’s Victimization .................................................... 5-19
Gender-Based Attitudinal Differences and Treatment Styles .............. 5-19
Conclusion ........................................................................................... 5-20

PART 2: IMPLEMENTATION AND ADMINISTRATION
OF PROGRAMS

Chapter 6: Assessment and Treatment of the Adolescent
Sexual Offender
Overview .......................................................................................... 6-1
Characteristics of Adolescent Offenders ............................................. 6-2
Coordinated Interventions Are Imperative .......................................... 6-3
Phases of the Intervention Process ..................................................... 6-3
Legal Response: The Investigation Phase ......................................... 6-3
Assessment, Evaluation, and Placement Phase ................................... 6-4
  Pretrial Assessment ........................................................................... 6-4
  Presentence Assessment ................................................................... 6-5
  Assessment of Amenability for Treatment ....................................... 6-5
Treatment Phase .................................................................................. 6-6
Accomodating Adolescents’ Developmental Needs ............................. 6-7
Treatment Models ............................................................................... 6-7
  Cognitive-Behavioral Therapy Model .............................................. 6-8
  Multisystemic Treatment Model ....................................................... 6-8
Assessing Progress in Treatment ......................................................... 6-8
Ethical Issues of Treatment ................................................................. 6-9
Aftercare and Follow-Up Phase .......................................................... 6-10
Research and Program Evaluation ...................................................... 6-10
Conclusion ........................................................................................... 6-11

Chapter 7: Sex Offender Program Planning and Implementation
Overview ........................................................................................... 7-1
History of Sex Offender Programs ...................................................... 7-2
Correctional Programs Face an Uncertain Future .............................. 7-2
Impact of Post-Sentence Civil Commitment Statutes ......................... 7-3
  Ethics and Confidentiality ................................................................. 7-3
  Predictions of Future Dangerousness as Factor in Civil Commitment 7-4
Treatment as a Requirement for Parole ................................................. 7-4
  Programs Must Be Pursued Wholeheartedly ...................................... 7-4
  Training and Experience Required for Those Who Treat
  Sex Offenders ................................................................................... 7-5
Planning Sex Offender Treatment Programs ....................................... 7-5
Major Goals of the Program Planning Process .................................................7-6
   Educational Classes ..................................................................................7-7
   Outpatient Psycho-Education Programs ..................................................7-7
   Nonresidential Group Psychotherapy.......................................................7-7
   Residential Programs Housed in State Mental Hospital .........................7-8
   Residential Programs Operated in Correctional Institutions .................7-8
   Special Needs Offenders .......................................................................7-9
Conclusion .........................................................................................................7-12

Chapter 8: Decision Making with Incarcerated Sex Offenders
   Overview ........................................................................................................ 8-2
   Controversy Over Treatment ...................................................................... 8-2
   Sentencing Policies ..................................................................................... 8-3
   Sentencing Procedures Vary ....................................................................... 8-4
   Segregation of Sex Offenders ................................................................... 8-5
   Problems with Prison Environments ......................................................... 8-5
   Making Treatment Decisions ..................................................................... 8-6
   Assessing Dangerousness and Amenability ............................................. 8-6
   Evaluating Amenability ........................................................................... 8-8
       Outpatient Programs ........................................................................ 8-8
       Prison-Based Programs .................................................................. 8-9
   Assessment Device Being Developed ...................................................... 8-9
   Evaluating for Classification ................................................................... 8-9
   Determining Whether an Offender Should Be Released ......................... 8-11
   Selecting Treatment Providers .................................................................. 8-12
       Licensing of Sex Offender Treatment Providers ............................. 8-13
       Standards for Treatment Established in Washington State ........... 8-13
   Utilizing Technologies ............................................................................ 8-14
       Plethysmography ......................................................................... 8-14
       Polygraphy .................................................................................. 8-14
       Electronic Monitoring .................................................................... 8-15
   Civil Commitment .................................................................................... 8-16
   Public Notification ...................................................................................... 8-16
   Registration with Law Enforcement Authorities ...................................... 8-17
   Conclusion ..................................................................................................... 8-17

PART 3: TREATMENT

Chapter 9: Sex Offender Treatment Program Evaluation
   Overview ....................................................................................................... 9-1
   The Concept of Program Evaluation .......................................................... 9-2
Program Evaluation Implementation ................................................................. 9-4
  Input Evaluations ................................................................. 9-4
  Effort Evaluations ................................................................. 9-6
  Output Evaluations ................................................................. 9-6
Evaluation of the Results ................................................................................... 9-7
No Standard Definition for “Recidivism” ......................................................... 9-8
General Recommendations for Collecting Recidivism Data ............................. 9-9
Conclusion ......................................................................................................... 9-10

Chapter 10: Comprehensive Treatment Planning for Sex Offenders
Overview ............................................................................................................ 10-1
Advantages of Comprehensive Treatment Planning ........................................... 10-2
Comprehensive Treatment Planning Process ..................................................... 10-2
  Assessment of Treatment Needs ................................................................. 10-2
  Synthesis of Data ................................................................................ 10-3
  Determination of Clinical Interventions ...................................................... 10-3
  Review and Evaluation of Treatment Progress ........................................... 10-4
Major Treatment Goals for Sex Offenders ........................................................ 10-4
  Goal I: Admitting Guilt ........................................................................ 10-4
  Goal II: Accepting Responsibility ........................................................ 10-6
  Goal III: Understanding Dynamics ...................................................... 10-6
  Goal IV: Identifying Deviant Cycle ..................................................... 10-7
  Goal V: Making Restitution ................................................................. 10-7
  Other Goals ........................................................................................... 10-8
Conclusion ......................................................................................................... 10-8

Chapter 11: Clinical Assessment of Sex Offenders
Overview ............................................................................................................ 11-2
Comprehensive, In-Depth Assessment Is Prelude to Effective
  Treatment Planning and Implementation ......................................................... 11-2
Assessment Issues .............................................................................................. 11-2
  Nature of Specific Offense ........................................................................ 11-3
  Victim Characteristics ............................................................................. 11-3
  Antecedents of Offender’s Crimes ...................................................... 11-3
  Previous Offenses ................................................................................. 11-4
  Level of Psychopathology .................................................................... 11-4
  Developmental History .......................................................................... 11-4
  Educational History ............................................................................... 11-4
  Social History ....................................................................................... 11-4
  Sexual History, Experience, and Knowledge ....................................... 11-4
  Religious Beliefs .................................................................................. 11-5
Chapter 12: Phallometric Assessment

Overview ................................................................. 12-2
Phallometric Assessment of Sexual Interest ......................... 12-3
Identification of Excessive Arousal to Stimuli of Sexual Abuse .......... 12-4
Identification of Lack of Arousal to Stimuli of Consenting Sex ........ 12-4
Determination of Need for Specialized Behavioral Therapies .......... 12-5
Objective Evaluation Minimizes Subjective Misrepresentation .......... 12-5
Objective Evaluation of Behavioral Change ............................. 12-6
Phallometric Monitoring Enhances Some Behavioral Therapies .......... 12-6
Setting Up a Laboratory ................................................... 12-7
   Space Considerations ................................................... 12-7
   Client Rooms .......................................................... 12-7
   Control Room .......................................................... 12-8
Recording Devices ............................................................ 12-8
   Strip Chart Recorders .................................................. 12-8
   Computer-Controlled Devices ......................................... 12-9
Sensing Devices ............................................................... 12-9
   Metal Band Transducer .................................................. 12-9
   Mercury-in-Rubber Transducer .......................................... 12-9
   Reliability of Gauges .................................................... 12-10
Stimulus Materials ............................................................ 12-10
   Slides ................................................................. 12-10
   Videotapes ........................................................... 12-11
   Audiotapes ............................................................ 12-11
Protecting the Client: Issues of Informed Consent ....................... 12-12
   Clients’ Fears .......................................................... 12-12
| Confidentiality | 12-12 |
| Inform Consent | 12-12 |
| Avoidable and Unavoidable Limitations on Phallometry | 12-13 |
| Avoidable Pitfalls | 12-13 |
| Examiner Incompetence | 12-13 |
| Over-Interpretation of Data | 12-13 |
| Failure to Adhere to Administrative Standards | 12-14 |
| Use with Inappropriate Clients | 12-15 |
| Unavoidable Pitfalls | 12-15 |
| Suppression of Deviant Arousal | 12-15 |
| Limitations of Laboratory Analogue Approaches | 12-16 |

**Chapter 13: Psycho-Educational Modules**

Overview ................................. 13-1

**Uses of Psycho-Educational Techniques with Sex Offenders** .......................... 13-1

**Types of Modules** .......................... 13-3

- Sex Offender Characteristics .......................... 13-3
- Victim Awareness/Emptpy .......................... 13-4
- Cognitive Restructuring .......................... 13-4
- Deviant Sexual Acting-Out (Pre-Assault Cycle) .......................... 13-5
- Anger Management .......................... 13-5
- Assertiveness Training .......................... 13-6
- Social Skills Training .......................... 13-6
- Psychological Models for Behavior Change .......................... 13-7
- Autobiographical Awareness .......................... 13-7
- Sex Education .......................... 13-7
- Stress Reduction/Relaxation Management .......................... 13-8
- Chemical Abuse .......................... 13-8
- Sexuality and Religious Belief Systems .......................... 13-9

Conclusion .......................... 13-9

**Chapter 14: Group Therapy**

Overview ................................. 14-1

**Individual Versus Group Therapy** .......................... 14-2

**History of the Use of Group Therapy** .......................... 14-3

**Stages of Group Therapy** .......................... 14-5

**Building a Functioning Group** .......................... 14-6

**Process of Group Therapy** .......................... 14-6

- Dealing With Denial .......................... 14-6
- Ignoring Deniers .......................... 14-6
- Hypnosis .......................... 14-7
Confrontation .................................................................14-7
Inducing Guilt .................................................................14-7
Using Guilt as a Motivational Force .................................14-7
Different Types of Groups ...............................................14-8
  Sexaholics/Sex Addicts Anonymous ..............................14-8
  Victim Empathy Groups ...............................................14-8
  Specialty Groups ..........................................................14-10
Devoting Time to the Offender’s Own Victimization ..........14-10
  Logistics of Providing Treatment .................................14-10
  Offender’s Victimization Must Be Linked to Victim’s Trauma 14-11
Treatment of Offender and Family Members ..................14-11
Therapeutic Correctional Communities ..........................14-13
Conclusion ........................................................................14-15

Chapter 15: Behavioral Techniques to Alter Sexual Arousal
Overview .................................................................15-1
Theoretic Bases for Behavioral Techniques ......................15-2
Types of Techniques ........................................................15-2
  Covert Sensitization ........................................................15-2
  Assisted Covert Sensitization ..............................................15-3
  Olfactory Conditioning ....................................................15-4
  The Satiation Therapies ................................................15-4
  Aversive Behavioral Rehearsal ........................................15-4
  Arousal Reconditioning ................................................15-5
Conclusion ........................................................................15-6

Chapter 16: Enhancing Positive Spirituality, Sex Offenders, and Pastoral Care
Overview .................................................................16-1
Healthy Versus Unhealthy Spirituality ..............................16-1
Identifying and Promoting Healthy Spirituality ..................16-3
Spirituality and 12-Step Programs ..................................16-5
Group Processing of Religious Values ..............................16-6
The Religious Assessment ..............................................16-7
Conclusion ........................................................................16-12

Chapter 17: Life, the Life Event, and Theater—A Personal Narrative on the Use of Drama Therapy with Sex Offenders
Overview .................................................................17-2
Role Playing as a Treatment Strategy ..............................17-2
The Secret and Its Metaphors ..........................................17-6

Overview ................................................................. 20-2
Importance of Identifying Precursors to Sexual Aggression ............... 20-3
  Risk Factors Occurring Within Six Months Prior to Offense .......... 20-4
  Risk Factors Occurring More Than Six Months Prior to Offense .... 20-7
Common Sequence of Precursors to a Relapse ................................... 20-7
Differential Utility ............................................................................. 20-8
Potential Uses of Identified Offense Precursors .................................. 20-8
The Relapse Process ............................................................................. 20-9
  High Risk Situations ........................................................................ 20-9
  Seemingly Unimportant Decisions .................................................... 20-9
Distinguishing Between a Lapse and a Relapse: The Abstinence Violation Effect ................................................................................................ 20-10
Case Study of the Relapse Process .................................................... 20-10
Beginning Relapse Prevention with Sexual Aggressors ......................... 20-12
Two Models of Relapse Prevention ..................................................... 20-13
  Internal, Self-Management Dimension ................................................ 20-13
  External, Supervisory Dimension ....................................................... 20-14
  Professional Liaison ......................................................................... 20-15
Specialized Teams of Professionals .................................................... 20-15
Relapse Prevention Assessment Procedures ......................................... 20-16
  Analysis of Case Records ................................................................. 20-16
  Structured Interview ......................................................................... 20-16
  Direct Behavioral Observation ......................................................... 20-18
  Self-Monitoring and Self-Reporting ................................................. 20-18
  Questionnaires .............................................................................. 20-19
  Documentation of the Occurrence of Precursors ................................ 20-19
  Situational Competency Test ......................................................... 20-19
  Relapse Fantasies ............................................................................. 20-20
Relapse Prevention Treatment Procedures ........................................... 20-21
Interactions to Avoid Lapses ............................................................... 20-21
  Identification of Offense Precursors ................................................ 20-21
  Stimulus Control Procedures ........................................................... 20-22
  Avoidance Strategies ...................................................................... 20-22
  Escape Strategies .......................................................................... 20-22
  Programmed Coping Responses ...................................................... 20-22
  Coping With Urges ........................................................................ 20-22
  Skill Building Interventions ............................................................. 20-23
Interactions to Prevent Lapses From Becoming Relapses ......................... 20-23
Cognitive Restructuring .......................................................... 20-24
Contracting ........................................................................ 20-24
Maintenance Manuals ......................................................... 20-25
Relapse Prevention Compared to Traditional Treatment Models ........................................ 20-25
Multiple Sources of Information Versus Reliance on
Self-Report ........................................................................ 20-25
Relapse Prevention Versus Other 12-Step Models .................. 20-25
12-Step Programs Are Rigid .................................................. 20-26
Relapse Prevention Is More Flexible ................................. 20-27
Terminology ......................................................................... 20-27
Continuum of Treatment Versus Treatment Solely in Institutions ........................................ 20-28
Therapeutic and Supervisory Control Versus Therapeutic Cure .................................................. 20-29
Integration of Parole and Mental Health Versus Mutual Distrust .............................................. 20-29
Effectiveness of Relapse Prevention: Outcome Data .............................................................. 20-30
Conclusion ........................................................................... 20-31

Chapter 21: Community Management of Sex Offenders
Overview ............................................................................ 21-1
Aftercare Defined ................................................................. 21-1
Sentencing Issues ................................................................. 21-3
Aftercare Issues for Agencies Involved With Recovering Offenders ........................................ 21-4
Aftercare Components .......................................................... 21-4
Aftercare/Community Case Management Components ............................................................ 21-5
Aftercare Issues for Recovering Offenders ........................................... 21-7
Conclusion ........................................................................... 21-7

PART 5: LEGAL ISSUES IN THE TREATMENT
OF SEX OFFENDERS

Chapter 22: Introduction to Legal Issues: How the Legal
Framework Developed
Overview ............................................................................ 22-1
Is There a Future for the Rehabilitative Ideal’s Laws and
Treatment Programs? .............................................................. 22-2
Semantic and Conceptual Problems with the Clinical and Legal
Terminology ........................................................................ 22-3
Brief History of State Statutes Dealing with Sex Offenders .................................................... 22-4
The Supreme Court’s Involvement in the Evolution of Sex Offender
Laws ................................................................................... 22-4
Court Confronts Due Process and Equal Protection Challenges .............................................. 22-4
Court Confronts Procedural Challenge .................................................................................. 22-5
Court Has Not Considered Whether Sex Offenders Have a Right to Treatment .......................................................... 22-6
Court Weighs Issue of Compulsory Self-Incrimination Versus Fifth Amendment Rights ............................................ 22-6
Majority Opinion Answers Some Questions, But None That Specify What Treatment Is Required .................................. 22-7
Dissent Argued That Criminal Law Occupies a Central Role in SDPA Proceedings ...................................................... 22-7
Allen Focuses on the Nature of the Process Instead of the Stigmatic Consequences .................................................... 22-8
Impact of Moral Preferences on Legislative Judgments ................................................................................................ 22-9

Chapter 23: Washington’s Sexually Violent Predator Act
Overview ........................................................................................................................................................................ 23-1
Background of Washington’s Law .................................................................................................................................. 23-1
Legal Challenges to the SVPA ................................................................................................................................... 23-2
Washington Supreme Court’s View of These Challenges ............................................................................................. 23-3
Differences from Earlier Laws .................................................................................................................................... 23-3
Political and Social History of the SVPA ....................................................................................................................... 23-4
Some Problems Inherent in Civil Commitment Laws .................................................................................................. 23-5
Distinction Between Mental Illness Disease and Personality Disorder/Mental Abnormality ............................................. 23-6
Causal Factors Have Little Impact .............................................................................................................................. 23-6
Will the Debate Refocus on the Legality of Isolating SVPs Until They Are “Safe”? ......................................................... 23-7
Is the SVPA Likely to Meaningfully Contribute to Community Safety or the Treatment of Offenders? ......................... 23-9

Chapter 24: Right to Treatment
Overview .............................................................................................................................................................................. 24-2
U.S. Constitution Does Not Mandate Treatment for Sex Offenders .................................................................................. 24-2
“Treatment” and Other Helping Terms: A Legal Lexicon ................................................................................................. 24-3
Treatment ....................................................................................................................................................................... 24-3
Rehabilitation ................................................................................................................................................................. 24-3
Habilitation Versus Rehabilitation .................................................................................................................................... 24-4
Training ........................................................................................................................................................................... 24-4
Two Constitutional Arguments for the Right to Treatment ............................................................................................. 24-4
Did Estelle Intend to Include Serious Mental Disorders? ................................................................................................. 24-5
Determining When a Sex Offender Has a Disease that Qualifies Him for Treatment ....................................................... 24-6
Positing a Particular Pattern of Activity as a Disease to Enhance Treatment of that Pattern ........................................................................................................ 24-6
Selecting the Appropriate Treatment Where There Are Alternatives ......................................................................................................................... 24-7
Is an Inmate Who Is Serving a Criminal Sentence While Under Civil Commitment Entitled to Treatment? .......................................................... 24-7
Civil Commitment Is a Form of Preventive Detention ............................................................ 24-8
Description as “Sex Offender” Is Not Enough to Mandate Treatment ........................................ 24-8
Optional Treatment Programs Must Consider Legal Ramifications ........................................ 24-9
Statutory Basis for Treatment ........................................................................................................ 24-10
Criteria for Commitment ........................................................................................................... 24-10
Dangerousness Is Common Requirement .................................................................................. 24-10
Clinical Inquiry May Be Precondition for MDSO Hearing ....................................................... 24-10
Recognition of State-Created Right: Ohlinger v. Watson .......................................................... 24-10
Court Used Misleading Standard to Measure Requisite Treatment ....................................... 24-11
Court Says Lack of Treatment Is Unconstitutional as Punishment Based on Sex Offender Status ................................................................. 24-11
Ohlinger Distinguished—But Not Always Followed—by Other Courts ................................ 24-12
Ninth Circuit: Hoptowit v. Ray .................................................................................................... 24-12
District Court (Idaho): Balla v. Idaho State Board of Corrections ........................................ 24-12
California: People v. Sherman .................................................................................................... 24-13
Colorado: People v. Kibel .......................................................................................................... 24-13
First Circuit: Cameron v. Tomes .................................................................................................. 24-14

Chapter 25: Treatment Modalities and Consent
Overview ........................................................................................................................................ 25-2
Use of Castration as Punishment .................................................................................................. 25-2
Is There a Difference Between “Cruel and Unusual Punishment” and “Cruel and Unusual Treatment”? ............................................................... 25-2
Surgical Castration ......................................................................................................................... 25-2
Depo-Provera™ .............................................................................................................................. 25-3
State v. Gauntlett: The Only Case on Point .................................................................................. 25-3
Is It the Defense Attorney’s Responsibility to Consider Medication as an Option? .................. 25-4
Consent to Treatment: A General Approach ................................................................................ 25-4
Psychotropic Medication and Involuntary Treatment .................................................................. 25-5
Procedural Requirements .............................................................................................................. 25-5
Different Aspects of the Supreme Court’s Decision .................................................................... 25-6
Finding of Mental Incompetence Not Required ......................................................................... 25-6
Urgency of Situation Not a Factor ................................................................................................. 25-6
Intrusiveness of Treatment Method Does Not Have to Be Considered ........................................................................................... 25-6
No Required Standard of Proof ............................................................. 25-6
Inmate’s Right to Refuse a Particular Treatment................................. 25-7
Traditional Liberty Interests Balanced by Reasonableness Test ...... 25-7
Adequacy of Procedural Safeguards .......................................................... 25-7
Issues that Should Be Reviewed According to Harper’s Requirements ....................................................................................... 25-8
Due Process Speculations ................................................................................... 25-9
Program Admission Criteria ................................................................. 25-9
Termination of Treatment ......................................................................... 25-10
Community-Based Corrections................................................................. 25-10

Chapter 26: Confidentiality, Privilege, and Self-Incrimination
Overview ............................................................................................................. 26-1
Need for Confidentiality and Privilege in a Treatment Setting............... 26-2
Individual Should Be Advised About Mental Health Advisor’s Agency
Relationship ........................................................................................................ 26-2
Privilege of Professional Confidentiality....................................................... 26-3
The Tarasoff Situation: Mental Health Professionals Owe a Duty of
Reasonable Care to Identifiable Third Parties................................. 26-4
Conflict Between Professional Ethics and
Individual Judgment .................................................................................. 26-4
Tarasoff Situation Does Not Exist When There Is No
Identifiable Intended Victim ................................................................ 26-5
Reverse Tarasoff Situations: Prior Offenses and the Treatment
Relationship ....................................................................................................... 26-5
Keeping the Inmate-Client Confidences General Might
Be a Solution ................................................................................................. 26-6
Inmate-Client Preadmission Waiver ...................................................... 26-6
When Does a Mental Health Professional Assume a Duty To Report? ......... 26-6
Constitutional Privilege Against Self-Incrimination .................................... 26-7
Offender Required to Admit to a Crime He Denies and for
Which He Was Not Convicted................................................................. 26-7
Offender Required to Admit to Crime for Which He
Was Convicted .............................................................................................. 26-8
The Alford Plea: Admission of Guilt Not Constitutional
Prerequisite to Imposition of Criminal Sentence ...................................... 26-11
Glimpse Into the Future ...................................................................................... 26-12
Chapter 27: Liability and Negligent Release
Overview ................................................................. 27-1
Civil Liability Claims May Be Brought Under State or Federal Law ............................................... 27-2
Case Law Clarifies Some Trends.......................................................... 27-2
How Decision Is Reached May Have More Impact Than Decision ............................................. 27-3
Some Jurisdictions More Receptive to Negligent Release Claims .................................................. 27-3
Doctrine of Judicial Immunity Is Not Total ..................................................................................... 27-4
Plaintiff Must Prove Breach of Duty ................................................................................................. 27-4
Legal Perceptions Impact on Program and Policy Implementation .................................................. 27-4
Supreme Court’s View of Immunity Statutes ....................................................................................... 27-5
Supreme Court’s View of § 1983 Claims ............................................................................................ 27-6
Narrowing the Basis for Federal Tort Actions Will Either Cause More State-Based Actions or Change How Cases Are Presented .................................................................................. 27-6
State Court Claims of “Negligent or Reckless Release” ................................................................. 27-7
Drawing a Distinction Between the Decision and the Steps in the Decision Process ......................... 27-9
Duty to Warn Faces Special Problems ............................................................................................... 27-9
Special Relationships; Negligent Supervision .................................................................................... 27-10
Guidelines for Clinicians and Others Who Work with Sex Offenders .................................................. 27-10

Chapter 28: Duty to Protect
Overview ............................................................................................................. 28-1
No Exemption from Incarceration on Ground of Potential for Personal Harm ............................................... 28-1
Sex Offenders Require Special Treatment.......................................................................................... 28-2
“Protection” Versus “Treatment” ....................................................................................................... 28-3

Chapter 29: Therapeutic Uses of Sexually Explicit Material and the Plethysmograph
Overview ............................................................................................................. 29-1
Legal Issues Concerning the Use of Sexually Explicit Photographs of Young Persons ............................................. 29-2
Obtaining the Material ......................................................................................................................... 29-2
Are Users Guilty of Criminal Conduct in the Possession and Exhibition of the Material? ......................... 29-2
Sexual Performance ................................................................................................................................. 29-3
Impact of Public Perception .................................................................................................................. 29-3
Use of Materials May Be Deemed an Invasion of Privacy ........................................................................ 29-4
Chapter 30: Registration and Scarlet Letter Conditions

Overview ................................................................. 30-1
Examples of Scarlet Letter Probation Conditions ........................................... 30-1
Conditions’ Objectives Not Clear ................................................................. 30-2
Examples of State Registration Laws .......................................................... 30-2
Legal Challenges to Aspects of Registration Laws ......................................... 30-2
Probationer Must Be Notified of Duty to Register ........................................ 30-2
  Washington State’s Registration Law Not Unconstitutional
    Ex Post Facto Law ............................................................................ 30-3
    Privacy Claims ............................................................................. 30-3
Legal Challenges to Scarlet Letter Conditions ............................................. 30-4

Appendix

Appendix A, Psychological Evaluation ......................................................... A-1
Appendix B, Minnesota Transitional Sex Offenders
  Program (TSOP) ............................................................................... A-7
Appendix C, Evaluation Schemes .............................................................. A-15
Appendix D, Suggested Sentencing Conditions for Sex Offenders ................. A-17
Appendix E, Treatment Level Descriptions: CFFPP Sex Offender
  Treatment Program ............................................................................ A-19
Appendix F, Pastoral Assessment ............................................................... A-23
Appendix G, Allen v. Illinois ................................................................. A-25
Appendix H, In re Young ....................................................................... A-31
Appendix I, Revised Code of Washington .................................................. A-59
Appendix J, Annotated Bibliography ................................................. A-69

Index ........................................................................................................ I-1