

SEX OFFENDER MANAGEMENT BOARD

ANNUAL LEGISLATIVE REPORT

*Evidence-Based Practices for the Treatment and Management of
Adults and Juveniles Who Have Committed Sexual Offenses*



A Report of Findings per 16-11.7-109(2) C.R.S.

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Executive Summary

Pursuant to Section 16-11.7-109 (2), Colorado Revised Statutes (C.R.S), this annual report presents findings from an examination by the Sex Offender Management Board (SOMB) of best practices for the treatment and management of adults and juveniles who have committed sexual offenses.

To identify the most current research- and evidence-based practices to date within the field of sex offender treatment and management, the SOMB conducted a series of literature reviews in support of ongoing committee work and the development of this report.

Section 1: Research and Evidence-Based Practices

Within the field of sexual offender treatment and management, the interest in evidence-based practice is increasing. Establishing the degree to which provided services are effective is an essential part in improving public policies aimed at reducing the risk for future sexual re-offense by identified adult sex offenders and juveniles who have committed sexual offenses.

- *Teletherapy in Sex Offense Specific Services*

The COVID-19 Pandemic was an incredibly impactful event throughout the course of 2020 and 2021. Consequences associated with COVID-19 along with the federal, state, and local public health response measures made a significant mark on the way that business was conducted for the SOMB, the SOMB's staff, and the treatment providers across the state. In the wake of this situation, the SOMB adapted many aspects of the way it conducts business to limit the disruptions to public safety and the support it provides to stakeholders. The SOMB also made an unprecedented shift in policy that allowed SOMB Approved Providers to seek an expedited variance from in-person services to services via telehealth. This change offered a new way of providing treatment for individuals that would have otherwise posed significant concerns to the safety of victims, the community, and providers themselves. This innovation resulted in newfound ways for individuals to still give and receive the necessary treatment in a safe manner. Prior to COVID-19, teletherapy was considered a fast-growing modality in traditional psychotherapy that offered access and convenience.

Findings from this research suggest that teletherapy assessments and testing (Chakrabarti, 2015; Cullum, 2014; Drago et al., 2016), along with treatment (Sucala et al., 2012), were equivalent to that of face-to-face services. Concentrating on the teletherapy research to date with correctional populations seems to follow a similar pattern, as compared to traditional psychotherapy, minus the benefit of rigorous study designs and methodological approaches. Several limitations to teletherapy have been noted in the literature including privacy and technology issues, negative attributions to therapeutic relationships (emotional distance), and a lack of protocols and guidelines for teletherapy.

In summation, a majority of studies indicated that teletherapy is effective and at least equivalent with conventional face-to-face modality in terms of clinical assessments and

treatment outcomes (Chakrabarti, 2015; Hubley, et al., 2016; Sucala et al. 2012). However, the research to date regarding the use of teletherapy with correctional populations is still formative and has limitations that have yet to be accounted for in the empirical literature. Notably there is uncertainty regarding who would be suitable for teletherapy versus other in-person modalities. This is important because someone who unsuccessfully discharges from sex offense specific treatment may have engaged and fared better with services delivered in-person. More research is needed to begin discerning how teletherapy can be applied within the context of sex offense specific services so that technical and safety issues are accounted for during the course of treatment.

SOMB Data Collection Analysis: The SOMB data collection project provides information to the SOMB, other affiliated stakeholders who may benefit from having critical information and those who advocate on behalf of the clients who receive services. The SOMB has received a significant amount of data in the past year, which demonstrates commitment on the part of many Approved Providers to support evidence-based research for the Standards and Guidelines, as well as fidelity in implementing them. In particular, the volume of treatment and evaluation entered has doubled from last year which shows the commitment of Approved providers in providing their work for objective review and analysis. Overall, the pattern and trends were pretty consistent as compared to the numbers from 2020.

Between November 30, 2020 and November 30, 2021, there have been 670 evaluations, 545 records (81%) were subject to the Adult Standards and Guidelines, and 125 (19%) were subject to the Juvenile Standards and Guidelines. Among the 836 treatment records entered at the time of client discharge, regardless of whether the outcome was successful or not, 731 records (87.4%) were subject to the Adult Standards and Guidelines, and 105 (12.6%) were subject to the Juvenile Standards and Guidelines. Finally, among the 3,743 polygraph exams entered, 3,657 records (97.7%) were completed under the Adult Standards and Guidelines, and 86 (2.3%) were completed under the Juvenile Standards and Guidelines. There are 843 additional polygraph exam records that were submitted without any data entry due to client refusal and therefore, were not included in the data analysis. Thus, the total valid polygraph cases where data was entered was 2,904.

Evaluation Results

Among the clients being evaluated, 65% had a contact offense, 12% had a non-sex crime with a history of a sex crime, 10% had a non-contact in-person victim (e.g., exposing, voyeurism, or image/video capturing), 8% had non-contact anonymous online victim (child sexual abuse images, sexting, social network chats, etc.) and 6% reported other crimes. Finally, 170 (25%) had previously been in sex offense treatment. The incorporation of the RNR Principles was evident among Approved Evaluators. A large majority of the evaluations (95%) reported specifically addressing the individual client's self-reported needs and reviewing past records and collateral data (91%). The evaluations reported the use of standardized and validated risk assessment instruments as part of the evaluation process. In terms of risk assessment instruments, the SOTIPS and the VASOR/VASOR2 were the most used instruments for adult evaluations, and the J-SOAP-II was the most used instrument for juvenile evaluations. The majority (77%) of juvenile clients evaluated were low, low moderate or moderate risk clients, representing a 16% increase from last year; and about 6% were moderate-high risk clients and 6% were high risk clients. Contrastingly, of the adult clients evaluated, 12% were moderate-high and 10% were high risk clients.

Treatment Completion

Among the 781 treatment completion records with valid data, 678 were for clients ages 18 and over, while the remaining 55 were for clients under the age of 18, with 48 records skipping this question. As far as the offense of conviction or adjudication, 570 (73%) had a contact sexual offense, 20 (2.6%) had a current non-sex crime with a history of sex crime, 61 (7.8%) had non-contact offense (e.g., exposing, voyeurism, or image/video capturing), and 115 (14.7%) had a non-contact online offense (e.g., child sexual abuse images, or sexting). The distribution of overall risk level at the beginning of the treatment resembled similar pattern of evaluation results for adults with most clients classified as low and moderate risk. However, at the end of treatment, the overall distribution of low risk or high-risk clients became more pronounced. This could happen as treatment providers tend to have a more accurate understanding about the client at the end of the treatment. The level of denial decreased significantly over the course of the treatment. Out of the 781 clients, 311 (40%) successfully completed treatment which is an increase over last year at 36%. In addition, 70 clients were transferred administratively, 11 received a medical discharge, 17 were discharged because of lack of progress, 6 were discharged for maximum benefits, 7 were discharged for administrative reasons, 7 for incompetency reasons, 8 for therapeutic transfer, 2 clients from the DYS aged out of system, and 22 were discharged but the reasons were unknown. The remaining 320 (41%) treatment clients received a non-compliance discharge. In terms of the non-compliance discharge clients, 269 (34%) violated treatment contracts or the terms and conditions of supervision, 33 (4.2%) committed new non-sexual crimes (the corresponding number was 1.7% last year), and 11 (1.4%) committed new sexual crimes.

Polygraph Assessment

A majority of polygraph exams conducted, 2,120 (73%), were initial exams while 781 (27%) were retests. In terms of clinically relevant disclosures, 1,271 (43.8%) exams resulted in disclosures (multiple things could be disclosed) in the pre-test, during the test, or in the post-test, including 284 (9.8%) who indicated sexually abusive thoughts, feelings, and attitudes; 496 (17%) who indicated sexual behavior (e.g., use of pornography), 291 (10%) who admitted to historical information (e.g., admitting an unknown offense), 309 (10.6%) admitted change of circumstance/risky behavior (e.g., increased access to children), and 358 (12.3%) admitted other behaviors. The remaining 1,633 (56%) exams did not indicate any type of clinically relevant admission. Moreover, 1544 of 2051 cases (75.1%) of Maintenance/ Monitoring exams, 72.4% of Sex History exams, 50% of Child Contact Screening exams, and 56.5% of Specific Issue exams were NSR/non-deceptive/No opinion, followed by 10.3% of Index Offense exams and 23.8% of Instant Offense exams being NSR/non-deceptive/No opinion. Overall, the NSR/non-deceptive/no opinion rate of polygraph exam (72%) is important information for the SOMB and the Colorado State Legislature to use in considering future policy initiatives.

Section 2: Relevant Policy Issues and Recommendations

Relevant Policy Issues and Recommendations consist of a literature review of the empirical research on issues in sex offender management, policies, and practices. Specific policy issues are examined to highlight areas that may be of particular interest to the members of the general assembly. Two examples of this are the recommendations regarding sex offender registration and notification (SORN) for juveniles, and sexually violent predator (SVP) policies. Both of these topics are once again pertinent topics for this year. Per the 2019 SOMB Sunset Report there is a recommendation regarding the classification of “sexually violent predator,” (SVP) and replacement with a risk classification system. This recommendation came about as a result of a change in federal SORN law, which no longer requires states to designate SVPs.

Sexually Violent Predator Designation

Research on the topic of the SVP designation has been reviewed and presented in previous years by the Board. This research states that classification systems not based on risk assessments generally do not do a good job of accurate assessment of risk to reoffend (Harris, Lobanov-Rostovsky, & Levenson, 2010; Levenson, Grady, & Leibowitz, 2016). Additionally, the research has suggested that mislabeling somebody as higher risk than they actually are can lead to a loss of protective factors through social rejection (Levenson et al, 2016; Zgoba, Miner, Levenson, Knight, Letourneau, & Thornton, 2016). The implications of the research have not changed and therefore the recommendations of the Board regarding the SVP designation remain the same. The SOMB has approved a series of recommendations for the Legislature to consider regarding modification of the current classification system to eliminate SVP designation. This change can only be made by the legislature, as SVP requirements are described in statute (16-13-901-906 C.R.S). These recommendations are listed below:

- 1) Move to a three-tier risk level system in lieu of SVP designation (based on risk assessment).
- 2) Recognize that risk is dynamic and tier levels (or SVP status) should be changed based on changes in risk level.

Section 3: Milestones and Achievements

The following highlights some of the many additional achievements of the SOMB in 2020. For a comprehensive summary of the work of the SOMB, please refer to Appendix A.

- **Managed 12 SOMB committees** that functioned at some point during 2021.
- Adjusted the way the SOMB conducts business in response to the COVID-19 pandemic, while offering additional trainings and continuing all normal business in a virtual environment.
- **Approved 108 applications for placement or continued placement** on the SOMB Approved Provider List during 2021.
- As of December 2021, there are **327 adult treatment providers and 225 juvenile treatment providers** approved by the SOMB in Colorado. There are **28 adult polygraph examiners and 15 juvenile polygraph examiners**.
- **Conducted 38 trainings virtually to over 1,800 attendees** from across Colorado in calendar year 2021. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses.
- **Implemented monthly Technical Assistance hours.** On a monthly basis, SOMB staff hosted a virtual, one-hour technical assistance session for approved providers. This allows staff to update providers on recent changes to the *Standards and Guidelines* as well as allowing providers to have questions answered.
- Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement around the state.
- Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines*

revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.

- Published the 2021 SOMB Annual Legislative Report and the 2020 Lifetime Supervision of Sex Offenders Annual Report.

Introduction

Purpose

Pursuant to Section 16-11.7-109 (2), C.R.S.,¹ this annual report presents findings from an examination by the Sex Offender Management Board (SOMB) of best practices for the treatment and management of adults and juveniles who have committed sexual offenses. This report fulfills the statutory mandate by providing:

1. A summary of emerging research- and evidence-based practices regarding evaluation, assessment, treatment and supervision strategies in the field of sex offender management; and
2. A review of policy issues affecting the field of sex offender management that the Legislature may wish to review for potential statutory change.

Additionally, this report documents the 2021 achievements and current efforts being undertaken by the SOMB.

Background of the Sex Offender Management Board

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107, C.R.S.) that created a Sex Offender Treatment Board to develop *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (henceforth referred to as the *Adult Standards and Guidelines*). The General Assembly changed the name to the Sex Offender Management Board (SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Adult Standards and Guidelines* were originally drafted by the SOMB over a period of two years and were first published in January 1996. The *Adult Standards and Guidelines* applied to convicted adult sexual offenders under the jurisdiction of the criminal justice system. From the beginning, the *Adult Standards and Guidelines* were designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate to the SOMB and the

¹C.R.S.16-11.7-109 (2): On or before January 31, 2012, and on or before January 31 each year thereafter, the board shall prepare and present to the judiciary committees of the senate and the house of representatives, or any successor committees, a written report concerning best practices for the treatment and management of adult sex offenders and juveniles who have committed sexual offenses, including any evidence-based analysis of treatment standards and programs as well as information concerning any new federal legislation relating to the treatment and management of adult sex offenders and juveniles who have committed sexual offenses. The report may include the board's recommendations for legislation to carry out the purpose and duties of the board to protect the community.

primary goals of the *Adult Standards and Guidelines* are the safety of the community and the protection of victims. The *Adult Standards and Guidelines* were revised in written form in 1998, 1999, 2008, 2011, 2017, 2019 and 2021.

In 2000, the Colorado General Assembly amended and passed legislation (16-11.7-103, C.R.S.) that required the SOMB to develop and prescribe a standardized set of procedures for the evaluation and identification of juveniles who committed sexual offenses. The *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses* (henceforth referred to as the *Juvenile Standards and Guidelines*) was first published in 2003, and subsequently revised in 2008, 2011, 2014, and 2017. As with the *Adult Standards and Guidelines*, the *Juvenile Standards and Guidelines* continue to hold public safety as a priority, specifically the physical and psychological safety of victims and potential victims.

Both the *Adult* and *Juvenile Standards and Guidelines* are now continuously revised in real time on the SOMB website, updating each section with new changes as they are approved. Between 2017 and 2021, a number of revisions have been made to each document. These revisions address omissions in the prior versions and continue to incorporate the growing literature on sex offender treatment and management.

The *Adult* and *Juvenile Standards and Guidelines* are both specifically designed to establish a framework for the systematic risk management, assessment, and clinical treatment of adult sex offenders and juveniles who have committed sexual offenses. Both the *Adult* and *Juvenile Standards and Guidelines* support a comprehensive range of therapeutic modalities and interventions for identified treatment needs, along with behavioral monitoring strategies for improved supervision based on risk level. This systemic approach fulfills a two-fold purpose: (1) managing and reducing sexually abusive risk behavior, while also (2) promoting protective factors that enable an offender's success.

The *Adult* and *Juveniles Standards and Guidelines* support a coordinated approach in which a Community Supervision Team (CST) for adult sex offenders, or a Multi-Disciplinary Team (MDT) for juveniles who have committed sexual offenses, provide an individualized treatment and supervision plan that targets both psycho-social deficits and potential risk factors, while concurrently building upon the resiliency and positive traits inherent in the person. To be effective, this approach must include interagency and interdisciplinary teamwork. The CST and MDT commonly consist of a supervising officer, treatment provider, victim representative, polygraph examiner, and other adjunct professionals, where applicable. CST and MDT members, independent of each other, possess critical expertise and knowledge that once shared can enable improved decision-making among the team. This enhances not only public safety but the supervision and accountability of the individual under supervision.

The *Adult* and *Juvenile Standards and Guidelines* are based on research and best practices for managing and treating adult sex offenders and juveniles who have committed sexual offenses. To the extent possible, the SOMB has based the *Adult* and *Juveniles Standards and Guidelines* on evidence-based practices in the field. However, the specialized field of sex offender management and treatment is still developing and evolving. Professional training, literature reviews, and documents from relevant professional organizations have also been used to direct the *Adult* and *Juveniles Standards and Guidelines*. The SOMB will continue to modify the *Adult* and *Juveniles Standards and Guidelines* periodically on the basis of new empirical findings.

In part, the SOMB stays current on research through the work of its active committees. These committees meet on a regular basis and report back to the SOMB to inform potential modifications to the *Adult and Juvenile Standards and Guidelines*. The following is a list of the SOMB committees. Of the twelve committees that were active in 2021, two workgroups have concluded and are no longer meeting. These workgroups are identified by an asterisk.

1. Executive Committee
2. Application Review Committee
3. Best Practices Committee
4. SONICS Workgroup*
5. Adult Standards Revisions Committee
6. Juvenile Standards Revision Committee
7. Victim Advocacy Committee
8. Sex Offender Surcharge Committee
9. Training Committee (in Collaboration with the Domestic Violence Offender Management Board)
10. Family Support and Engagement Committee
11. Sex Offender Registration Legislative Work Group
12. Community Corrections Lifetime Supervision Criteria Workgroup*

Report Organization

This annual legislative report consists of four sections. The first section provides a summary of the current and relevant literature concerning research and evidence-based practices. The second section highlights relevant policy issues. The third section highlights the 2021 achievements of the SOMB. This section will include priorities identified by the SOMB, which will be addressed in 2022. The fourth and final section provides the future goals and directions of the SOMB.

Section 1: Research and Evidence-based Practices

Teletherapy in Sex Offense Specific Services

The COVID-19 Pandemic was an incredibly impactful event throughout the course of 2020 and 2021. Consequences associated with COVID-19 along with the federal, state, and local public health response measures made a significant mark on the way that business was conducted for the SOMB, the SOMB's staff, and the treatment providers across the state. In the wake of this situation, the SOMB adapted many aspects of the way it conducts business to limit the disruptions to public safety and the support it provides to stakeholders. One such example is how the SOMB migrated all of its trainings, committee meetings, and Board meetings to an online format in less than a month, while still maintaining the same frequency and schedule for these individual meetings and trainings. These practices are still in place and have led to new innovations.

In March of 2020, the SOMB also made an unprecedented shift in policy that allowed SOMB Approved Providers to seek an expedited variance from in-person services to services via telehealth. This change offered a new way of providing treatment for individuals that would have otherwise posed significant concerns to the safety of victims, the community, and providers themselves. This innovation resulted in newfound ways for individuals to still give and receive the necessary treatment in a safe manner. Prior to COVID-19, teletherapy was considered a fast-growing modality in traditional psychotherapy that offered access and convenience. Some features of telehealth have been longstanding concerns to the SOMB as there was a scarcity of research on the use of telehealth with forensic populations under the criminal justice system and no such studies specific to sex offending populations. For example, access to electronic devices is often a prohibited activity for this population unless granted by a court order, making the use of teletherapy with problematic. The following section summarizes the preliminary research on teletherapy and the lessons learned with its application with adult sex offenders and juveniles who have commit sexual offenses.

Summary of Literature and Research

The Colorado Sex Offender Management Board (SOMB) Executive Committee requested a review of the research related to telemental health (TMH). For the purposes of this review, a systematic search of relevant articles published in the past 10 years were analyzed² resulting in a total of 22 recent articles.

² One article was included for specific studies on older patients even though it did not meet the search criteria.

Of the 22 articles, eight articles were either a systematic review or meta-analysis. Although, the research reviewed focused on both adults and juveniles, much of the literature reviewed is specific to adults and may not be generalizable to juveniles.

According to the Anxiety and Depression Association of America, telemental health is where “a therapist or counselor provides psychological counseling and support over the internet through email, video conferencing, online chat, or a phone call.”³ While there are varying terms in use today for telemental health, teletherapy will be used for purposes of this report. Teletherapy “is not a clinical service itself, but rather a mode of service used to connect patients or providers located in one location with providers in a distant location” (Kramer, Ayers, Mishkind, & Norem, 2011).

Research on teletherapy has primarily focused on services to voluntary individuals seeking traditional psychotherapeutic services. Findings from this research suggest that teletherapy assessments and testing (Chakrabarti, 2015; Cullum, 2014; Drago et al., 2016), along with treatment (Sucala et al., 2012), were equivalent to that of face-to-face services. In fact, Hubley, Lynch, Schneck, Thomas, & Shore (2016) found that clinical assessments and treatment outcomes associated with teletherapy were comparable and equally reliable to that of face-to-face services. While these results are promising and important based on the methodical design, it is important to note that quantitative findings were mixed (Hubley et al., 2016). In general, qualitative findings noted practical considerations to teletherapy. Some clients may not have access to a reliable internet connection or have the equipment necessary for teletherapy. Clients may also lack a private and confidential space to participate in a session (Shealy et al., 2015). Conversely, the limitations of teletherapy noted in the research are offset by distinct advantages including broader accessibility, flexibility, and overall convenience (Kazdin, 2015). It should also be noted that research found it was feasible to use teletherapy with older patients (Lazzari, Egan, & Rees, 2011; Tyrrell, Couturier, Montani, & Franco, 2001), though it may not be appropriate for patients with perceptual or sensory impairments (Tyrrell et al., 2001). Furthermore, researchers found that teletherapy may be more suitable for children and young adults (Nelson & Duncan, 2015) and these clients displayed higher satisfaction (Diamond & Bloch, 2010), though it may not be appropriate for those with substance abuse problems (Chakrabarti, 2015). Overall, the appropriateness of using telemental health should be evaluated based on diagnostic considerations, resources and preferences (Myers & Cain, 2008).

Concentrating on the teletherapy research to date with correctional populations seems to follow a similar pattern, as compared to traditional psychotherapy, minus the benefit of rigorous study designs and methodological approaches. Farabee, Calhoun, and Veliz (2016) reported high satisfaction among parolees who participated in teletherapy and no significant difference between groups in terms of medication adherence or psychological functioning. However, Farabee et al. (2016) did note that teletherapy resulted in lower levels of the therapeutic alliance at follow-up. Kip et al. (2018) found positive feedback from inmates that elicited more sensitive information and tailored services to the specific needs of the inmate. Conversely, Kip et al. (2018) noted several limitations to teletherapy including privacy and technology issues, negative attributions to therapeutic relationships (emotional distance), and a lack of protocols and guidelines for teletherapy. Detecting in-session client impairment or intoxication may be more challenging than face-to-face sessions where behavioral signals or odors may not be observable by the primary therapist.

³ <https://adaa.org/finding-help/telemental-health>

In the fall of 2020, the Office of Domestic Violence and Sex Offender Management conducted a conjoint survey regarding the use of teletherapy with domestic violence and sex offender populations in Colorado. Given the circumstances of the COVID-19 pandemic and the necessity of teletherapy, the collection of survey data seemed prudent to assess the long-term viability of teletherapy. Three separate surveys were administered: one survey for offenders receiving services (n = 50), one survey regarding domestic violence and sex offender service providers (n = 124), and one survey for other stakeholders involved with the case management of offenders (n = 77). Offenders receiving services via teletherapy reported high levels of satisfaction regarding their personal comfort (Very Satisfied and Satisfied = 86%) and overall treatment experience (Very Satisfied and Satisfied = 84%). When asked to choose a preference that included teletherapy and face-to-face options, 48% of respondents selected teletherapy, and 24% preferred a combination of both face-to-face and teletherapy.⁴ Survey feedback from service providers indicated a majority thought teletherapy worked effectively as a modality (80%) and would like to continue using teletherapy after the COVID-19 pandemic (76%). Despite the general support for teletherapy by service providers, the survey feedback document concerns surrounding issues previously discussed in this section. There also seemed to be agreement amongst service providers surrounding the need for guidelines and protocols, suitability criteria, and requirements for offending populations. Other stakeholders who responded to the survey indicated slightly more than half agreed offenders had benefited from teletherapy (52%). The results from the survey data appear to correspond to the findings in the literature. Responses to open-ended questions documented more of the administrative and technical challenges with implementing teletherapy effectively. These responses ranged from offenders talking over each other during group, difficulties obtaining electronic signatures with sex offending populations, and offenders engaging in other activities during sessions or being otherwise distracted. Additionally, the open-ended responses also suggested less agreement amongst stakeholders regarding the long-term viability of teletherapy. Some stakeholders thought teletherapy should only be used in extreme cases in a post-COVID-19 environment while others deferred to the Community Supervision Team (CST) or Multi-Disciplinary Team (MDT) to decide the appropriate usage of teletherapy.

In summation, a majority of studies indicated that teletherapy is effective and at least equivalent with conventional face-to-face modality in terms of clinical assessments and treatment outcomes (Chakrabarti, 2015; Huble, et al., 2016; Sucala et al. 2012). **However, the research to date regarding the use of teletherapy with correctional populations is still formative and has limitations that have yet to be accounted for in the empirical literature. Notably there is uncertainty regarding who would be suitable for teletherapy versus other in-person modalities. This is important because someone who unsuccessfully discharges from sex offense specific treatment may have engaged and fared better with services delivered in-person.** More research is needed to begin discerning how teletherapy can be applied within the context of sex offense specific services so that technical and safety issues are accounted for during the course of treatment.

SOMB Data Collection Analysis

The 2016 Sex Offender Management Board (SOMB) Sunset review process led to a consensus among the SOMB, General Assembly and other stakeholders of the importance of gathering client service data to measure the efficacy of SOMB policies. As a result, the Colorado Legislature passed House Bill 16-1345.

⁴ Note that respondents could select multiple categories regarding their individual preferences to receive treatment in the survey.

The bill required the SOMB to identify a plan to collect data from SOMB Approved Evaluators, Treatment Providers, and Polygraph Examiners who provide services to adults convicted and juveniles adjudicated for a sex offense, and to begin collecting these data when funding was available. The SOMB completed the data collection plan and included it in the Annual Legislative Report issued in January 2017. Per the SOMB data collection plan, each Approved Provider was required to submit service information about the evaluation, treatment, or polygraph examination for each client at the time of service completion for that client, regardless of the outcome of the service. The data collection plan was in keeping with the Legislature's mandate for the SOMB's *Standards and Guidelines* to be evidence-based. The mandate required a review of the national research along with conducting of original research using Colorado data collected and/or reviewed by the SOMB [see 16-11.7-103 (4) (e), C.R.S.].

Updates regarding Implementation of Data Collection Project

The SOMB continues to troubleshoot database issues and has made adjustments to the data collection process accordingly based on ongoing Provider feedback. At the same time, the SOMB continues to provide individual training and technical assistance to Approved Providers. As of November 30, 2021, a significant number of client service data has been collected, with evaluation and treatment data entries almost double the amount from 2020. The total number of polygraph entries were less than that of last year, possibly due to COVID-19 or burnout as polygraphers tend to bear a heavier data entry burden. The goal is to achieve 100% participation for Approved Provider with active clients.

The data are de-identified (that is, Approved Providers are anonymous) so that Approved Providers feel comfortable participating in the process. Currently, there are 84 approved providers who have not entered any data. This includes 21 clinical supervisors who may not need to do data entry as a result of not carrying a caseload. There are several considerations that could be impacting participation in data collection. This could be a training issue (some providers are not tech-savvy and need technical assistance; some are new providers who have not discharged any clients yet). The SOMB is working on refining the requirements within the Standards and Guidelines for data entry (e.g., clearly delineate the timeframe for data entry).

There is a second component to the SOMB Data Management System that allows Approved Providers to manage their provider status online through the system. Thus, all Approved Providers should be actively using the system to maintain their provider status. Current efforts include ensuring that all Approved Providers are regularly logging in and using the system for the SOMB data collection. A small number of Approved Providers have informed the SOMB that although they remain on the provider list, they are not providing direct services (e.g., supervisors, consultants, trainers, etc.). The SOMB has set up a new mechanism to identify and verify those who are not currently entering data due to not having any active clients. Approved Providers will be required to notify the SOMB if they are not currently seeing clients. The Application Review Committee (ARC) of the SOMB have ensured all Providers who should be entering data are doing so, as it is a requirement of their Approved Provider status. Those who continue to not follow this requirement may find this adversely impacts their status as an Approved Provider. The SOMB is also looking into reducing the data entry burden for polygraphers. To accomplish this, efforts are underway to help providers identify and address the issues preventing them from participation (e.g., technical problems, lack of understanding, etc.).

The SOMB data collection project provides information to the SOMB, other affiliated stakeholders who may benefit from having critical information and those who advocate on behalf of the clients who receive services. However, Approved Treatment Providers reported that about 40% of the clients declined to participate in data collection (as compared to about half from last year). Approved Polygraph Examiners reported that approximately 60% of clients declined data collection participation (as compared to 1/3 from last year). Compared with adult clients, a higher proportion of juvenile clients declined to participate in the data collection. To encourage participation and increase

understanding of the importance of the data collection effort, the SOMB made a video speaking directly to the clients to address their concerns. If a client declines to participate, service records can still be entered without a client identifier (i.e., court case number), but this will limit the SOMB's ability to track these records and study recidivism in Phase II. Thus, the SOMB is continuously working with advocacy groups to boost client participation.

Research Questions

The analysis of these data will occur in two phases. First, the SOMB will use this information to assess the extent to which the Standards and Guidelines linked to RNR research are implemented as required. This baseline data will serve as a general evaluation of the Standards and Guidelines implementation. The second phase of the project will follow clients longitudinally and track recidivism.

The goal of the Phase I analysis is to provide a summary of the services provided by Approved Providers and determine whether the services accomplish the following:

- 1) Adhere to the *Standards and Guidelines*
- 2) Are being implemented as required by the *Standards and Guidelines*
- 3) Are consistent with the RNR Principles, and are being individualized based on a client's risk and need levels

Results of the Prior: Year One Data Analysis

Data entered between October 18, 2019 (the first valid client data entered into the database) and November 25, 2020 indicated that most Approved Evaluators used empirically based and validated risk assessment instruments recommended by the *Standards and Guidelines*. **Approved Treatment Providers made numerous adjustments and modifications throughout treatment to meet client needs and there was an overall decrease in risk level for both adult and juvenile clients throughout treatment, with a sharper drop for juveniles at the end of treatment. The majority of polygraph exams taken last year were initial exams and were found to be NSR/non-deceptive. Based on last years' review, Approved Providers appear to be following the Standards and Guidelines and utilizing RNR to individualize treatment.**

Results of the Current: Year Two Data Analysis Results

The following provides an initial summary of the services provided in Colorado to clients who have committed sexual offenses. Similar to the analyses conducted last year, three separate questionnaires were developed to capture the different service types: evaluation, treatment, and polygraph. In addition, there are different versions of the questionnaires depending upon whether the client is subject to the Adult or Juvenile Standards and Guidelines. It should be noted that some juveniles may be subject to the Adult Standards and Guidelines, and some adults may be subject to the Juvenile Standards and Guidelines depending upon the date of offense and adjudication/conviction, and which court handled the case (also termed a crossover case). In addition, some young adults who were adjudicated in juvenile court for a sex crime may receive a subsequent adult criminal court conviction for a non-sex offense, making them subject to both sets of Standards and Guidelines. Between November 30, 2020 and November 30, 2021, there have been 670 evaluation records, 836 treatment records, and 3,743 polygraph exam records entered into the data collection system.

Among the 670 evaluations, 545 records (81%) were subject to the Adult Standards and Guidelines, and 125 (19%) were subject to the Juvenile Standards and Guidelines. Among the 836 treatment records entered at the time of client discharge, regardless of whether the outcome was successful or not, 731 records (87.4%) were subject to the Adult Standards and Guidelines, and 105 (12.6%) were subject to the Juvenile Standards and Guidelines. Finally, among the 3,743 polygraph exams entered, 3,657 records (97.7%) were completed under the Adult Standards and Guidelines, and 86 (2.3%) were completed under the Juvenile Standards and Guidelines. There are 843 additional polygraph exam records that were submitted without any data entry due to client refusal and therefore, were not included in the data analysis. Thus, the total valid polygraph cases where data was entered was 2,904.

If clients refuse to allow their data to be entered into the system, the SOMB still expect providers to enter the declination so that the SOMB can track the number of refusals. But the Approved Providers do have the option to enter the details of the service information. Many Approved Polygraph Examiners do use this option. The volume of polygraph results is significantly higher because Approved Polygraph Examiners can conduct as many as four exams per day, while treatment discharge and evaluation completion typically occur less frequently.

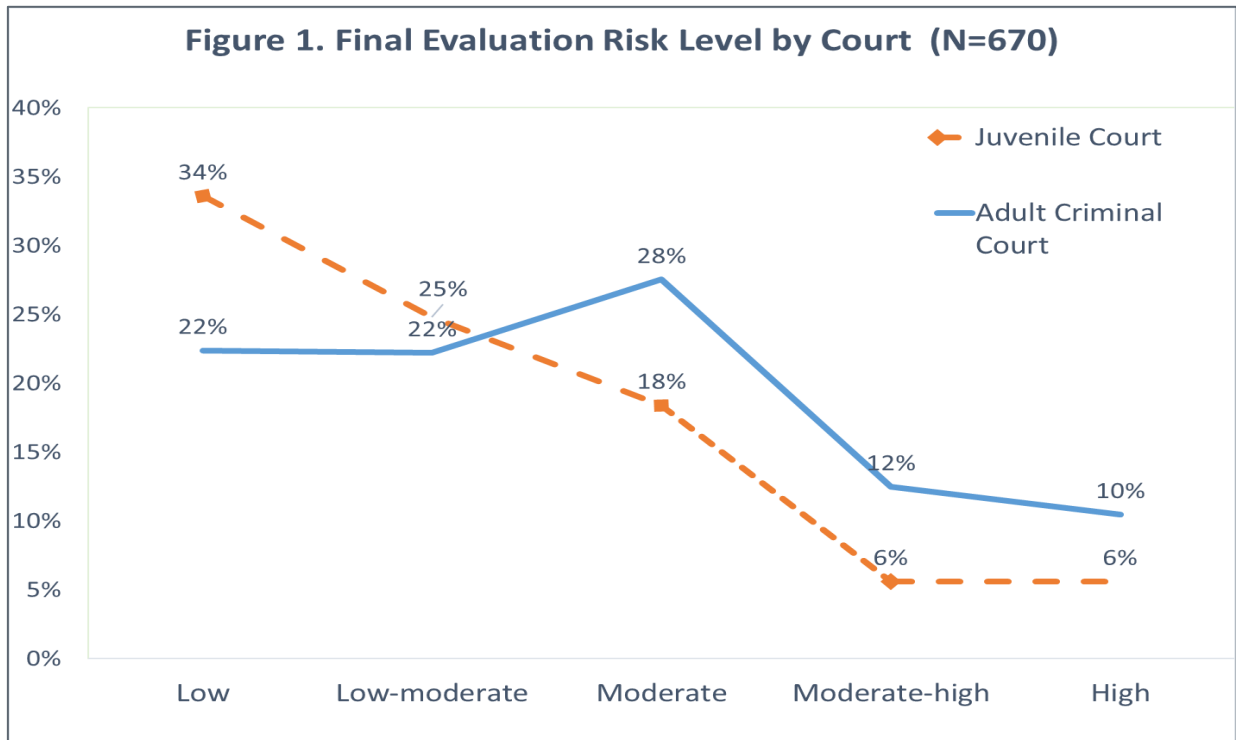
Evaluation Results

The ages of the evaluation clients ranged from 11 to 89. Specifically, 576 (86%) were 18 years or older, 69 (10%) were under the age of 18, and 4% of the clients' ages were left blank. Among the clients being evaluated, 17 (2.5%) were females, 625 (93.3%) were males, 4 clients were reported as "Other", and 24 skipped this question. Additionally, 16 (3%) clients (15 adults and 1 juveniles) had a developmental or intellectual disability (DD/ID). Among the clients being evaluated, 65% had a contact offense, 12% had a non-sex crime with a history of a sex crime, 10% had a non-contact in-person victim (e.g., exposing, voyeurism, or image/video capturing), 8% had non-contact anonymous online victim (child sexual abuse images, sexting, social network chats, etc.) and 6% reported other crimes. Finally, 170 (25%) had previously been in sex offense treatment. To match treatment to the level of risk, evaluators recommended the following: adjustments in frequency of treatment services (31%), adjustments to community access (e.g., level of restrictions) (34%), adjunct non-sex offense specific treatment (57%), changes to supervision (14%), implementing changes to supervision (4%), and/or adjustments to types of groups (24%), and type of placement, length of stay, or step-down (19%) or other adjustments (9%).

The incorporation of the RNR Principles was evident among Approved Evaluators. A large majority of the evaluations (95%) reported specifically addressing the individual client's self-reported needs, reviewing past records and collateral data (91%), having discussions with Community Supervision Team and Multidisciplinary Team members (CST/MDT) (26%), and/or discussing with the client's support system (22%) about the client's needs. To address client needs, the evaluators made treatment recommendations regarding an individualized treatment plan (76%), increased support (35%), increased resources (35%), flexible scheduling options (6%, an increase over last year where the corresponding number was 3%), modified programming (14%), modifications to treatment expectations (12%), modified treatment assignments (16%), modified supervision conditions (16%), used the sex history evaluation matrix (10%), implemented modification to supervision conditions (4%), modified the Standards and Guidelines through a variance (2 cases, or .3%), used the young adult modification protocol (61 cases, or 9%), or modified the Standards and Guidelines by the MDT/CST (11 cases, or 1.6%).

To address the client’s responsivity to treatment, the evaluations recommended adjustments to the frequency of treatment services (28%), assessment of cultural/language/sexual orientation/gender identification and family needs (14%, an increase over last year where the corresponding number was 7%), assessment of intellectual/cognitive functioning for additional testing (16%), feedback from the client (38%), feedback from the support system (24%), implemented modification to supervision conditions (11%), recommendation to modify supervision conditions (10%), modifications to increase progress (8%), and/or use of mental health related adjunct therapy (62%). Finally, the top three recommended treatment settings were community provider (68%; representing a 10% increase from last year), community corrections (13%), and Department of Corrections (7%).

The evaluations reported the use of standardized and validated risk assessment instruments as part of the evaluation process. In terms of risk assessment instruments, the SOTIPS and the VASOR/VASOR2 were the most used instruments for adult evaluations, and the J-SOAP-II was the most used instrument for juvenile evaluations. As shown in Figure 1, the majority (77%) of juvenile clients evaluated were low, low moderate or moderate risk clients, representing a 16% increase from last year; and about 6% were moderate-high risk clients and 6% were high risk clients. Contrastingly, of the adult clients evaluated, 12% were moderate-high and 10% were high risk clients.



Treatment Completion

Among the 781 treatment completion records with valid data, 678 were for clients ages 18 and over, while the remaining 55 were for clients under the age of 18, with 48 records skipping this question. There were 31 female clients (4%), 735 male clients (94%) and 4 “Other,” and 11 skipped the gender question. Notably, treatment started as early as in 2012. The treatment client ages ranged from 11 to 92 years old. Among them, 43 (6%) were designated as development disability/intellectual disability (DD/ID) clients. In terms of race/ethnicity, 58% of the treatment clients were white, 27% were

Hispanic, 10% were African Americans, 1.3% were Alaska Natives/American Indians and 1.7% were Asian or Pacific Islanders. Additionally, there were a few crossover cases, 22 clients under age of 18 at adjudication were adjudicated at adult criminal court (thus following adult standards) and 8 clients 18 years or older at adjudication were convicted at juvenile court (thus following juvenile standards).

As far as the offense of conviction or adjudication, 570 (73%) had a contact sexual offense, 20 (2.6%) had a current non-sex crime with a history of sex crime, 61 (7.8%) had non-contact offense (e.g., exposing, voyeurism, or image/video capturing), and 115 (14.7%) had a non-contact online offense (e.g., child sexual abuse images, or sexting). Most of the client needs were identified by self-report (94%), followed by discussion with CST/MDT (91%), review of past records or collateral data (85%), and support systems (40%). Once a client’s needs were identified, treatment consisted of an individualized treatment plan (92%), modified assignments (45%), increased support (41%), flexible scheduling (34%), increased resources (36%), modified treatment expectations (20%), modified programming (12%), modified supervision conditions (15%), implemented modification to supervision conditions (7%), young adult protocol (6%), modifications to Standards and Guidelines by the MDT/CST (2.4%), and/or modifications to Standards and Guidelines through a variance (.9%).

According to Figure 2 regarding overall risk level distribution, the distribution of overall risk level at the beginning of the treatment resembled similar pattern of evaluation results for adults with most clients classified as low and moderate risk. However, at the end of treatment, the overall distribution of low risk or high-risk clients became more pronounced. This could happen as treatment providers tend to have a more accurate understanding about the client at the end of the treatment. Understandably as showcased in Figure 3, clients who were higher risks had much lower success discharge rates as compared to clients of lower risks.

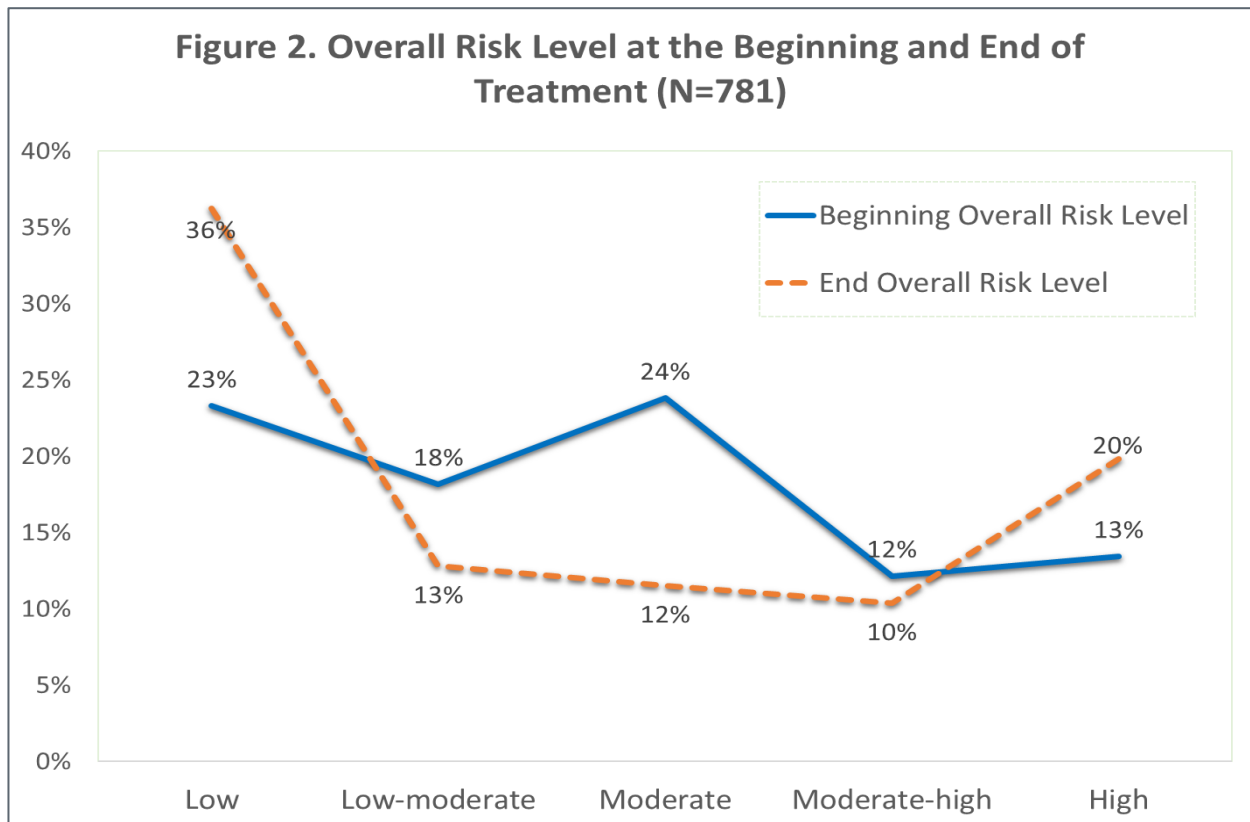
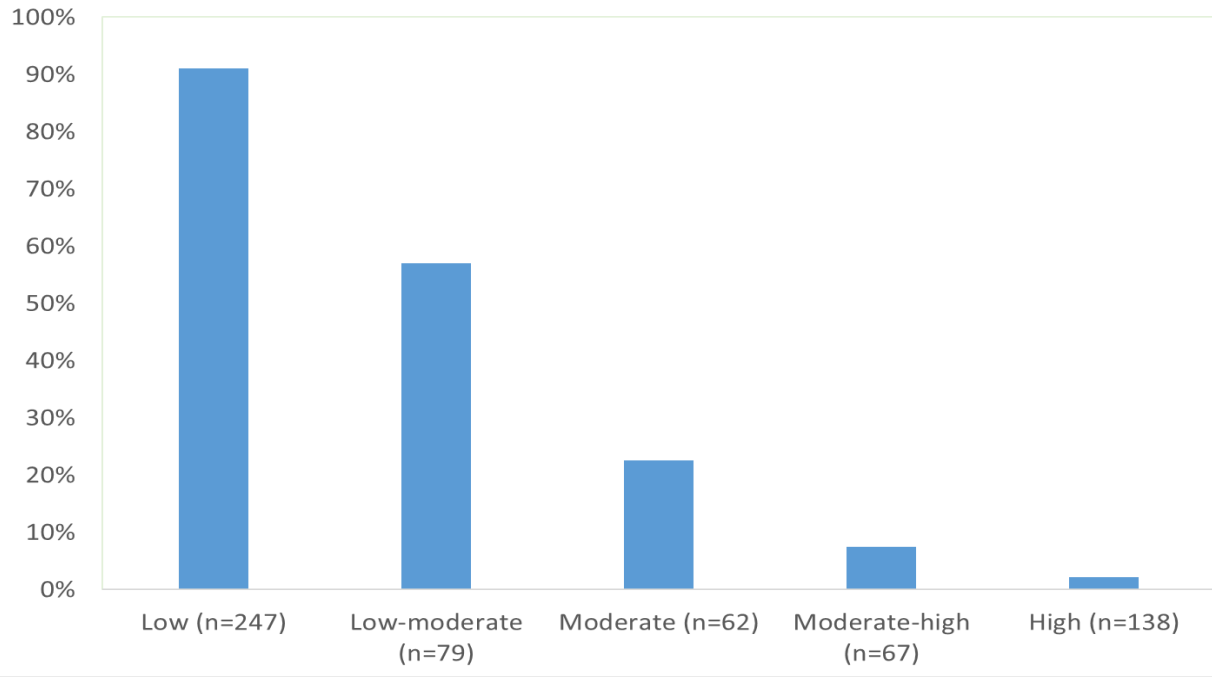


Figure 3. End of Treatment Success Discharge Rates By Overall Risk Level



As shown in Figure 4 regarding overall risk level by court, the ending overall high-risk levels (the dotted lines) decreased for both adult and juvenile clients from the beginning risk level. Similar to the pattern from last year, this decrease in overall risks were particularly pronounced among juvenile clients. As shown in Figure 5, the level of denial decreased significantly over the course of the treatment.

Figure 4. Overall Risk level by court (N=781)

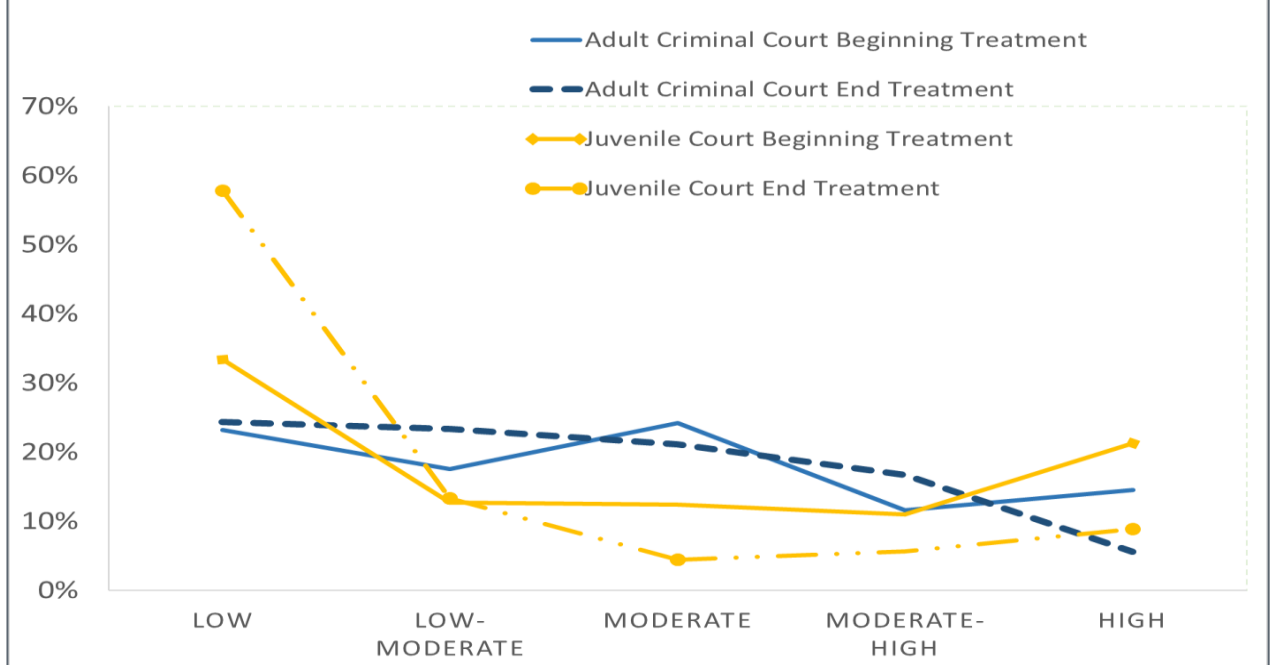


Figure 5. Level of Denial at Beginning and End of Treatment (N=781)

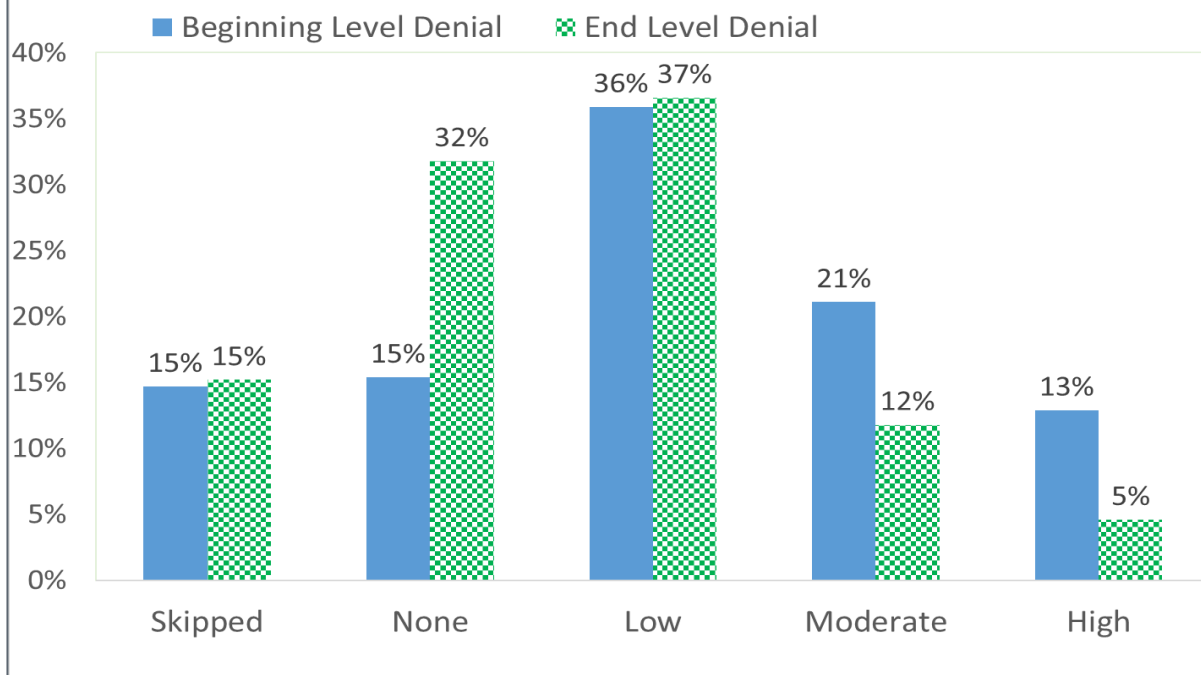
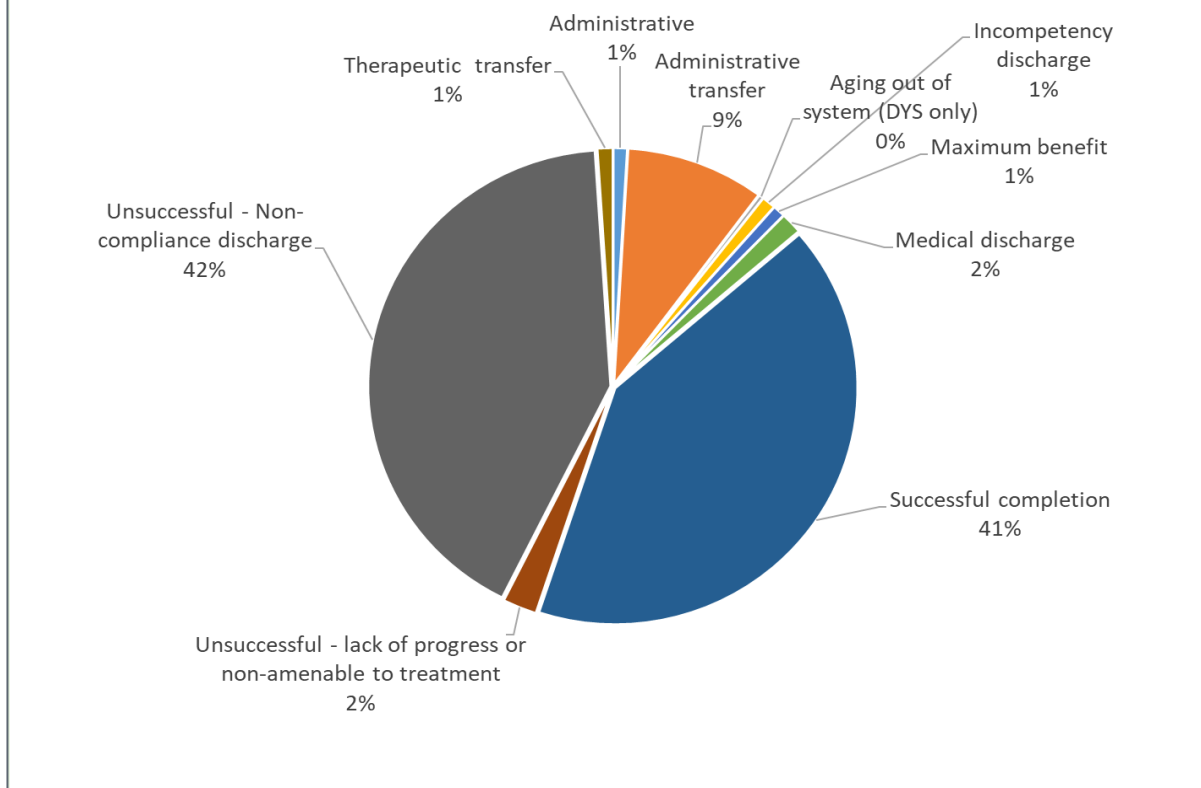


Figure 6. Treatment Discharge Outcome (N=781)



As shown in Figure 6, 311 of the 781 clients (40%) successfully completed treatment, an increase over last year where the corresponding number was 36%). In addition, 70 clients were transferred administratively, 11 received a medical discharge, 17 were discharged because of lack of progress, 6 were discharged for maximum benefits, 7 were discharged for administrative reasons, 7 for incompetency reasons, 8 for therapeutic transfer, 2 clients from the DYS aged out of system, and 22 were discharged but the reasons were unknown. The remaining 320 (41%) treatment clients received a non-compliance discharge. In terms of the non-compliance discharge clients, 269 (34%) violated treatment contracts or the terms and conditions of supervision, 33 (4.2%) committed new non-sexual crimes (the corresponding number was 1.7% last year), and 11 (1.4%) committed new sexual crimes.

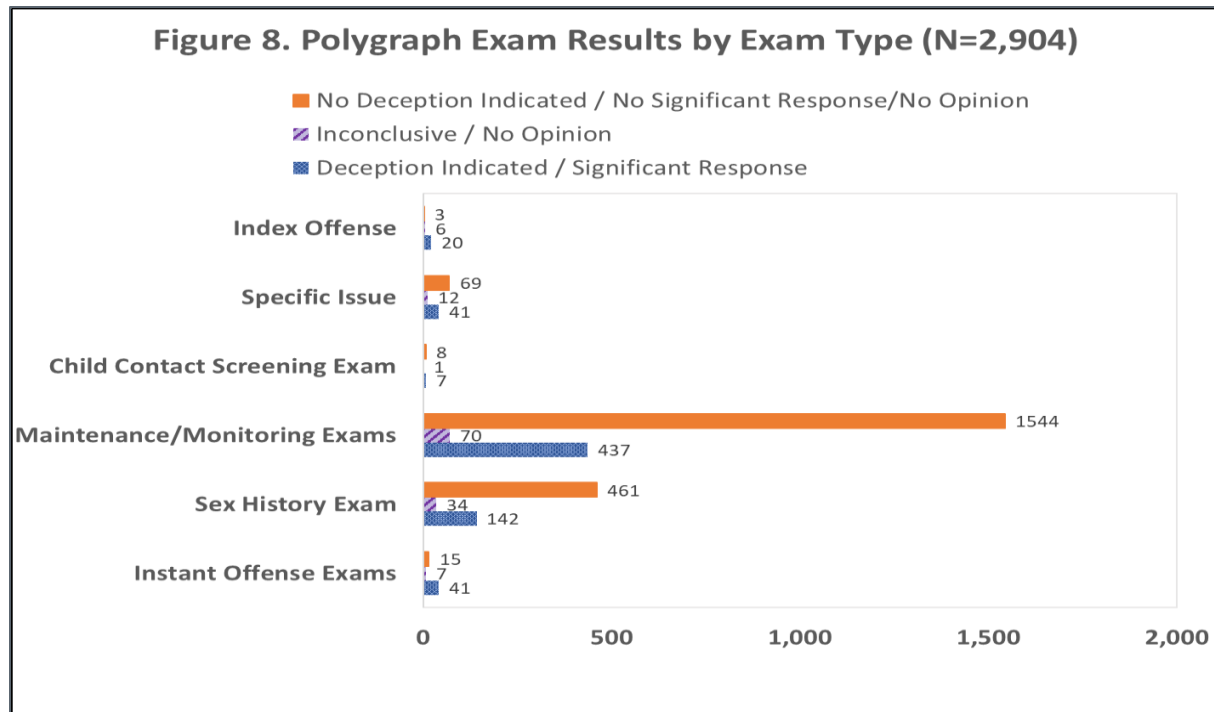
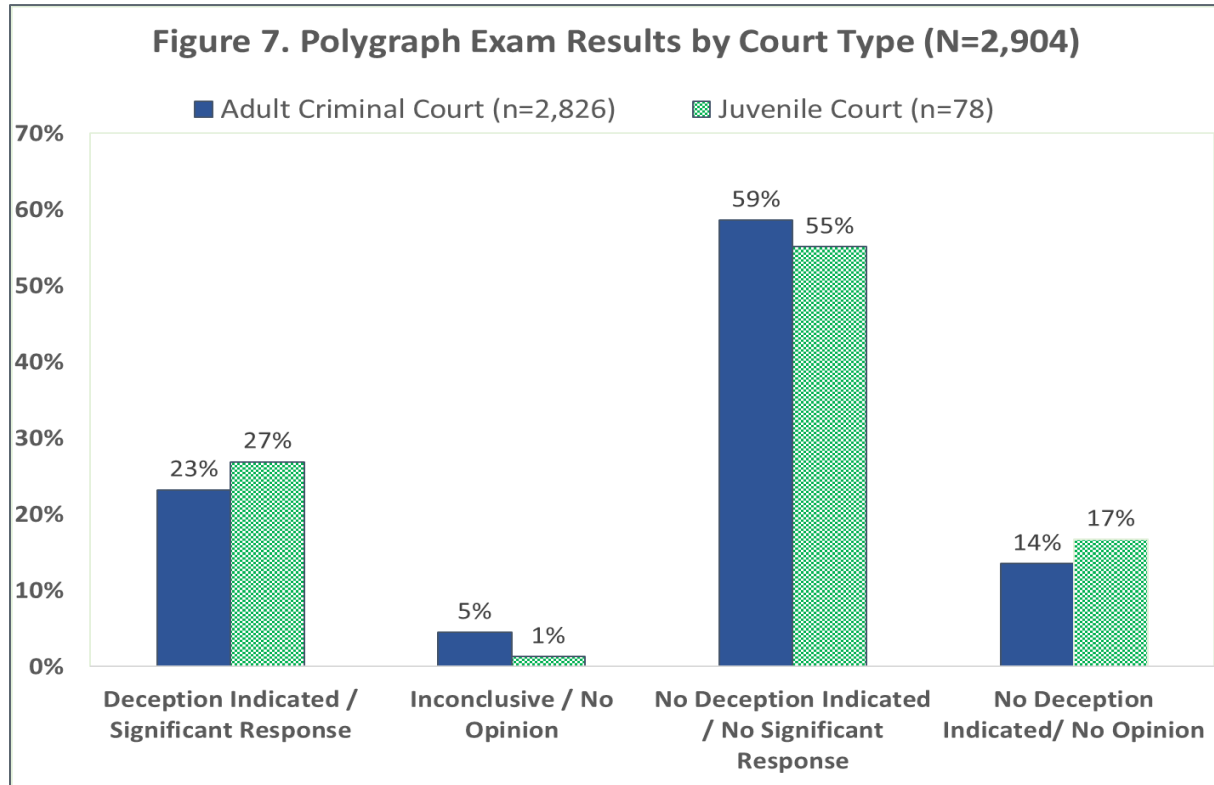
Polygraph Assessment

In terms of the type of polygraph exam, 2,120 (73%) of the polygraph exams conducted were initial exams while 781 (27%) were retests. Retests are used to clarify initial exams which resulted in significant responses indicative of deception (SR/Deception) or no opinion resulting in an inconclusive test result (NO/Inconclusive), or when there was an attempt to manipulate the test results. In terms of specific types, 2,056 (71%) were Maintenance/Monitoring Exams, 637 (22%) were Sex History Exam, 122 (4.2%) were Specific Issue, 63 (2.2%) were Instant Offense exams, 29 (1%) were Index Offense, and 16 (.6%) were Child Contact Screening exams.

The age range of the clients tested was from 12 to 91. Approximately 2.9% (84 adults and 1 juveniles) of the clients were identified as having some form of a DD/ID. Of the clients referred for polygraph exam, 21 (.7%) clients (all adults) were not suitable for polygraph testing. Regarding the use of counter measures during a polygraph exam, about .9% (26 cases) used such measures during the polygraph exam, and 1.9% (54 cases) were suspected of using counter measures. Compared to the corresponding numbers from last year (1.2% and 2.6% respectively), it seemed that fewer clients were using counter measures or were suspected of using counter measures. To address client responsivity factors, 99.3% polygraphers had discussions with client during pre-test interview, 14% adjusted the testing situation, 29% had discussions with MDT/CST, and/or 24.3% had recommendations to the MDT/CST as requested. In terms of clinically relevant disclosures, 1,271 (43.8%) exams resulted in disclosures (multiple things could be disclosed) in the pre-test, during the test, or in the post-test, including 284 (9.8%) who indicated sexually abusive thoughts, feelings, and attitudes; 496 (17%) who indicated sexual behavior (e.g., use of pornography), 291 (10%) who admitted to historical information (e.g., admitting an unknown offense), 309 (10.6%) admitted change of circumstance/risky behavior (e.g., increased access to children), and 358 (12.3%) admitted other behaviors. The remaining 1,633 (56%) exams did not indicate any type of clinically relevant admission.

According to Figure 7, 72% clients among both adult and juvenile clients were classified as non-deceptive based on having no significant responses (NSR/Non-deception: The NSR/non-deceptive responses include NSR/non-deceptive responses, or NSR/non-deceptive and NO/Inconclusive responses). As seen from Figure 8, 1544 of 2051 cases (75.1%) of Maintenance/ Monitoring exams, 72.4% of Sex History exams, 50% of Child Contact Screening exams, and 56.5% of Specific Issue exams were NSR/non-deceptive/No opinion, followed by 10.3% of Index Offense exams and 23.8% of Instant Offense exams being NSR/non-deceptive/No opinion. The lower rates of NSR/non-deceptive results in the latter two exams are not a surprise given that they most likely involve denial of the offense for which the client was convicted. The SR/deception responses were slightly higher among repeat exams (37.8% vs. 18%). Overall, the NSR/non-deceptive/no opinion rate of polygraph exam (72.1%) is important

information for the SOMB and the Colorado State Legislature to use in considering future policy initiatives.



Limitations

The results of this preliminary review should not be generalized to all Approved Providers as there are still a small number of providers who have not as yet entered any data in the system. The data entered also suffered from some missing data issues, as providers were able to skip certain questions or all of the questions when the client declined to participate. Quite a few polygraphers took advantage of this option and most treatment providers still entered baseline data even when the client declined to participate. Because the missing data does impact the overall review, the SOMB encouraged all Approved Providers to enter baseline data if possible. It is worth noting that all juvenile clients in this dataset were successfully discharged, which may be due to selection effect from the clients (only successful clients agreed to the consent form).

Summary and Conclusions

The SOMB has received a significant amount of data in the past year, which demonstrates commitment on the part of many Approved Providers to support evidence-based research for the Standards and Guidelines, as well as fidelity in implementing them. In particular, the volume of treatment and evaluation entered has doubled from last year which shows the commitment of Approved providers in providing their work for objective review and analysis. Overall, the pattern and trends were pretty consistent as compared to the numbers from last year.

In addition, the SOMB Data Management System provides an avenue for Approved Providers to track service provision and communicate issues and concerns, as well as what is working, directly to the SOMB. The data collection system includes comment boxes throughout the process which allows Approved Providers to input comments and other qualitative data. The SOMB will be able to use this data to make adjustments to Standards and Guidelines, improve implementation processes, and provide training and technical assistance opportunities. For example, quite a few evaluators put in qualitative data to indicate that there are no appropriate assessment tools for sex history cases, female offenders, crossover cases or transgender clients. Many Approved Polygraph Examiners used the comment boxes to explain exam specifics, client countermeasures, or disclosures. Similarly, approved Treatment Providers described their denial intervention and other treatment modes being utilized.

For example, evaluators used the database to communicate with the SOMB on the issues they encountered.

“It is important to note that the assessment tools did not provide a valid risk level due to the length of time since the crime and the client's time in the community”

“There are no known risk assessments for a juvenile who is now an adult without a new known sexual offense....” (18 other similar comments)

“Colorado Sex Offender Management Board (October 2013) has reviewed the existing literature and peer-reviewed journals by experts in the field to identify indicators that may be helpful in appraising risk for female sex offenders. In addition to the use of a standard risk scale, the LSI, suggest factors to consider in evaluating female offenders.” (3 other similar comments)

In terms of treatment outcomes, data collected to date indicated an overall decrease in risk level for both adult clients and juvenile clients, with a sharper drop for juveniles. The integration of the RNR

Principles into the Standards and Guidelines appeared to have been incorporated into treatment as evidenced by the data entered by Approved Treatment Providers.

Correspondingly, treatment providers reported using many other Treatment Modes such as “Peer-led weekend process groups”, “Peer-driven specialized content”, “Couple’s therapy”, or “Teletherapy during COVID”. The following qualitative data entered by the treatment providers are quite telling:

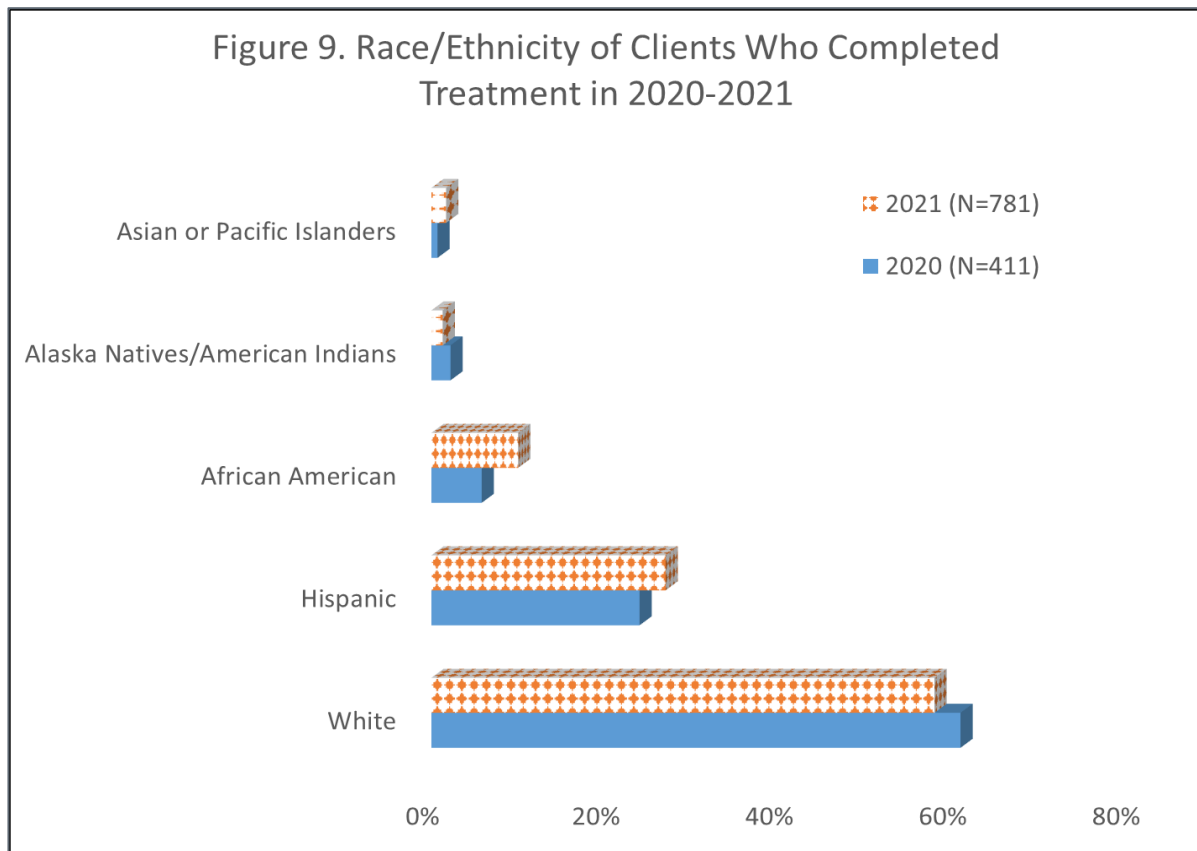
“Client cognitive evaluation indicated he needed individual treatment, rather than group therapy. He attended only 8 group therapy sessions designated to assist him with making better decisions.”

“Phone session with support from community to review risk and coping.”

“Increased treatment level for higher risk/failed prior treatment individuals.”

“Started participating in groups, but moved towards doing individual sessions only as a modification of his treatment to meet his intellectual and emotional needs.”

The majority of data entered by Approved Treatment Providers noted numerous adjustments and modifications throughout treatment to meet client needs. Treatment providers are doing more individualized treatment and paying more attention to diversity of the clients. As indicated in Figure 9, the race-ethnicity composition of the clients seemed to be more diverse as compared with the race/ethnic distribution of clients from last year. There were more female clients (4% as compared to 2% from last year) and more clients who do not fit in the binary gender classification (4 clients as compared to 1 from last year).



Treatment providers also used the database to explain their rationale when they encountered some conflicting scenarios or lack of assessment tools for certain clients. For example:

“Other agency only provided the overall rating which was moderate on VASOR and high on SOTIPS”

“Dynamic risk appeared to be increasing due to lack of transparency/lack of compliance with treatment and parole, treatment supervision level was increased as a result”

“There are no known risk assessments for a person who was born male and identifies as a transwoman. The VASOR/SOTIPS were used as they committed their crime as a male and were used as a clinical indicator not an actuarial assessment”.

Finally, unsuccessful discharge from treatment appeared to be correlated with engaging in risk behavior (treatment contract violation) or a new offense. Possible factors that contribute to unsuccessful discharge include denial issues at the end of treatment and substance abuse issues. Despite these concerns, the very low new sex crime rates (11 cases, 1.4%) and new non-sex crime rates (33 cases, 4.2%) during treatment is the best evidence to show that treatment appears to be effective. The new non-sex crime rates did increase slightly as compared to the corresponding number from last year, which might be related to the uptick of general crime rates in Colorado.

The majority of polygraph exams (72.1%) taken were found to be NSR/non-deceptive/no opinion, which demonstrated client accountability in their treatment and supervision process. Most of the exams (73%) were initial exams which supported the efficient and effective use of the tool to resolve test issues. Similar to what the SOMB found last year, slightly higher SR/deception rates were found in repeat exams. Finally, the SOMB made a change in polygraph standards for juveniles from previously requiring polygraph to now only using polygraph when clinically indicated. Given the small number of juvenile polygraph tests (dropped from 3.9% to 2.3% this year), it appeared as if this change has been implemented within the field.

Based on this preliminary review, Approved Providers appear to be following the Standards and Guidelines and utilizing RNR to individualize treatment. The SOMB Data Management System makes it possible for the SOMB to have an evidence-based data-driven perspective for ongoing improved Standards and Guidelines. The SOMB is also committed in making data-entry a stress-free and user-friendly process and has solicited feedback from all sides (providers, family and victims). Discharge outcome questions will be updated based on feedbacks from family advocates and providers and polygraph questions will be streamlined to reduce the data entry burdens for polygraphers. In the upcoming year, the SOMB will begin to analyze the contributing factors for treatment success. In addition, the SOMB is also committed to making it easier for all Approved Providers to obtain Court Case numbers in order to facilitate the SOMB being able to do ultimately move to Phase II of the analysis by studying the long-term outcomes of treatment, including recidivism.

Section 2: Relevant Policy Issues and Recommendations

Background

Beginning in 2011 with the SOMB Sunset renewal, policies were put into place requiring the SOMB to make policy recommendations along with implementation of the Standards and Guidelines based on evidence and research. Every year in the annual legislative report the SOMB has made policy recommendations based on research, and has identified current research trends on pertinent or emerging topics in the field. These recommendations continue to be reoccurring topics or point of concerns. One such recommendations is the changes requested by the SOMB regarding sexually violent predator (SVP) designation. This topic is once again pertinent for this year. Per the 2019 SOMB Sunset Report there is a recommendation regarding the classification of “sexually violent predator,” (SVP) and replacement with a risk classification system. This recommendation came about as a result of a change in federal SORN law, which no longer requires states to designate SVPs.

Recent Court Cases

People in the Int. of T.B. v. the State of Colorado

The Colorado Supreme Court rendered a decision in 2021 concerning the constitutionality of mandatory lifetime sex offender registration for individuals with multiple juvenile adjudications. At issue in this case was the requirement in the Colorado Sex Offender Registration Act (CSORA), 16-22-101 to 115, C.R.S. that mandates juveniles with multiple sexual offenses to lifetime registration without any means to deregister after rehabilitation is completed. The court concluded that this mandate for juveniles constituted cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution. The juvenile in this case (referred hereafter as T.B.) was adjudicated in 2001 for unlawful sexual contact and in 2005 for sexual assault at the age of 11 and 15 respectively. As a juvenile, T.B. completed sex offense-specific treatment following their second adjudication.

In 2010, T.B. petitioned to discontinue sex offender registration which the court granted for the 2005 case, but not in the 2001 case. A subsequent petition was submitted in 2015 arguing that mandatory lifetime sexual offender registration was unconstitutional as it violated due process and was unconstitutional as cruel and unusual punishment. “The juvenile court again denied the petition recognizing the burden of continued registration and stated that relief from registration needed to come from the legislature or a higher court. The decision was appealed and Colorado Supreme Court held that while CSORA was not intentionally punitive, mandatory registration for multiple adjudications constituted cruel and unusual punishment under the 8th Amendment and was unconstitutional. The

court noted several factors as why lifetime registration for juveniles was punitive in effect. It emphasized that the statute did not “bear a rational connection to and is excessive in relation to CSORA’s non-punitive purpose of protecting community and aiding law enforcement.” The court referenced a multitude of research that support that juveniles are more amenable to treatment, less likely to offend and have a high capacity for change. The court also expressed concern that registration could negatively affect recidivism for juveniles as it could alienate them from social supports in their community including education, housing, employment and family. The court further found the punishment was unusual, noting the number of states that declined mandatory lifetime registration for juveniles and the magnitude of punishment compared to the “diminished culpability of the offender”. The court held “legislature cannot, under the Eighth Amendment, mandate lifetime sex offender registration for offenders with multiple juvenile adjudications without providing a mechanism for individualized assessments or an opportunity to deregister upon a showing of rehabilitation.” It is not clear if this decision will impact the SOMB Juvenile Standards and Guidelines. This may lead to more juveniles seeking relief from lifetime registration resulting in an increase in requests for SOMB Juvenile Treatment Providers to provide discharge summaries. The impact of this case is scheduled to be reviewed with the Juvenile Standards Revision Committee.

People v. Landis

On July 8th, 2021, the Colorado Court of Appeals published an opinion in the case of *People v. Landis* regarding the constitutionality of a sentence to sex offender intensive supervision probation (SOISP) that restricted the defendant’s use of internet and social media. The Colorado Court of Appeals ruled that the conditions of SOISP did not violate the Colorado statutory scheme. The court found that the restrictions were reasonable to Mr. Landis rehabilitation and the purposes of probation under the statute. In reaching this decision, concluded that the conditions were (1) reasonably related to the underlying offense for which Mr. Landis pled guilty and, the results of Mr. Landis’ individual testing on the SOSE(2) the “conditions at issue are not punitive to the point of being unrelated to rehabilitation and are not unduly severe and restrictive,” noting that Mr. Landis was not on standard probation but was on a specialized SOISP and that the trial court authorized an exception for Mr. Landis’ employment purpose (pg. 8), and (3) condition was not unduly severe and restrictive, 4) the condition could be later modified in the future based on the defendant’s individual circumstances and 5) there were not less restrictive means available as there was an exception for his employment and means to seek a modification through his probation officer or the court

The Court of Appeals also heard arguments in this case citing the United States Supreme Court’s decision in *Packingham v. North Carolina*. At issue in the *Packingham* case was the constitutionality of a North Carolina statute that made it a felony for a registered sex offender to access commercial social networking websites like Facebook and Twitter. The Colorado Court of Appeals ruled that *Packingham v. North Carolina* was not applicable to this case by virtue of the fact that the North Carolina law indiscriminately applied to all registered sex offenders including those who are no longer subject to the supervision of the criminal justice system. Given that the defendant was still serving his sentence, the Colorado Court of Appeals distinguished these cases stating the *Packingham* case “does not apply to conditions restricting internet and social media use of a sentence to SOISP that a defendant is still serving.”

The court also found that the prohibition of internet did not violate Mr. Landis’ free speech as it was sufficiently “narrowly tailored” to the government interest in protecting minor from a person convicted of a sex offense still serving their sentence.

This case underscores the importance of individualizing conditions of probation and treatment based on the Pre-Sentence Investigation along with the Sex Offense Specific Evaluation (SOSE). The higher court cited the results of the SOSE indicating the defendant’s highest sexual interest was toward juvenile females and that “he be ‘monitored carefully while in the community’ and ‘not have contact with [the victim] or with anyone younger than 18.’” (pg. 8).

Recommendations

Sexually Violent Predator Designation

Per the 2019 SOMB Sunset Report there is a recommendation regarding the classification of “sexually violent predator,” (SVP) and replacement with a risk classification system. This recommendation came about as a result of a change in federal SORN law, which no longer requires states to designate SVPs.

Research on the topic of the SVP designation has been reviewed and presented in previous years by the Board. This research states that classification systems not based on risk assessments generally do not do a good job of accurate assessment of risk to reoffend (Harris, Lobanov-Rostovsky, & Levenson, 2010; Levenson, Grady, & Leibowitz, 2016). Additionally, the research has suggested that **mislabeled somebody as higher risk than they actually are can lead to a loss of protective factors through social rejection** (Levenson et al, 2016; Zgoba, Miner, Levenson, Knight, Letourneau, & Thornton, 2016). The implications of the research have not changed and therefore the recommendations of the Board regarding the SVP designation remain the same. The SOMB has approved a series of recommendations for the Legislature to consider regarding modification of the current classification system to eliminate SVP designation. This change can only be made by the legislature, as SVP requirements are described in statute (16-13-901-906 C.R.S). These recommendations are listed below:

1. Move to a three-tier risk level system in lieu of SVP designation (based on risk assessment).
2. Recognize that risk is dynamic and tier levels (or SVP status) should be changed based on changes in risk level.

SOMB 2019 Sunset Review Updates

The Colorado Department of Regulatory Agencies published its Sunset Report of the SOMB on October 15th, 2019. According to DORA, a sunset review “is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.” The SOMB has been subject to several Sunset Reviews since its inception in 1992. Sunset reviews serve a meaningful role in the context improving the services offered to offenders without compromising the community and victim safety.

After a comprehensive review of the SOMB, the 2019 Sunset Report recommended the following changes to statute:

1. Continue the Sex Offender Management Board for seven years, until 2027

Despite some inefficiency in the SOMB processes, DORA reasoned that the standardization of services was largely accomplished and that the SOMB offered a forum for important discussions to occur at various stages of the policy-making process. DORA echoed concerns regarding the number of appointed members on the SOMB, citing the findings of an independent parliamentary examiner, hired to examine SOMB processes. These issues notwithstanding, DORA concluded that the SOMB and its duties are necessary to protect the public health, safety, and welfare which warrant reauthorization.

2. Clarify that supervising officers are required to follow SOMB-promulgated standards when working with the sex offender population

This recommendation by DORA originated from concerns identified during its review that some supervising officers are not following the Standards and Guidelines. Both the Adult and Juvenile Standards and Guidelines are premised upon a coordinated and team-based approach for the professionals involved with supervision and treatment. These teams commonly consist of a supervising officer, treatment provider, victim representative, polygraph examiner, and other adjunct professionals, where applicable. This coordinated response is designed to promote better case management in the treatment and supervision of those subject to the Standards and Guidelines. The SOMB service providers who are approved to work with adult sex offenders or juvenile who commit sexual offenses are required to follow the SOMB Standards and Guidelines. However, this mandate does not apply in the same manner with supervision officers because the SOMB has limited statutory authority that does not extend to supervision officers.

The report notes that “[t]here are no hard data that indicate that supervising officers are acting counter to the S&Gs. However, both anecdotal and survey data indicate that there is enough angst in the treatment provider community to justify concern” (pg. 35). As a result, the DORA report requests the general assembly clarify that those supervising officers who have a sex offense specific caseload be required to follow the SOMB Standards and Guidelines.

3. Repeal the limitation on the number of treatment providers given to offenders and provide every available listed treatment provider

Pursuant to § 16-11.7-105(1), C.R.S., the supervising agency of any person convicted of a sexual offense living in the community must provide a choice of two appropriate treatment provider agencies approved by the SOMB. The analysis by DORA concludes that this statutory requirement unnecessarily limits competition and the availability of listed providers. The report further requests that § 16-11.7-105(2), C.R.S. remain without modification.

4. Update the Act and remove inaccurate and outdated terminology.

This recommendation by DORA advises that the legislature should remove the term “sexually violent predator” (hereafter SVP) from section 16-11.7-103(4)(d), C.R.S., and any SOMB-related materials. The recommendation further asks that a tiered risk classification system replace the

SVP designation. The Adam Walsh Child Protection and Safety Act (AWA) was signed into law on July 27, 2006 (42 § 16911 et seq). AWA is a comprehensive piece of Sex Offender Registration Notification (SORN) legislation that established stricter registration requirements and created a standardized offense-based classification system for registration tiering, requiring states to set the requirements for the intensity and duration of registration based upon the offense of conviction. The enactment of the AWA effectively repealed provisions of the Wetterling Act and states are no longer required to label certain sex offenders as SVPs. This practice continues in effect in Colorado due to its existence in state statute. Given that there is no longer a federal requirement to designate certain sex offenders as SVP, DORA recommends that this term be eliminated and replaced. This recommendation mirrors the recommendation made by the SOMB since 2015 in its annual legislative reports.

5. Direct the SOMB to keep record of any denials and delistings due to criminal history.

The DORA report notes in this recommendation that the SOMB does not keep records of denied placement due to criminal history. While there were no known cases of this occurring, this DORA recommendation seeks to mandate that records be kept concerning any denials, delistings, or other sanctions due to criminal history.

Following the publication of this report, HB20-0508 was subsequently introduced seeking to redress the issues identified in the five recommendations of the report. Contention surrounded the draft bill throughout the legislative session despite multiple proposed amendments. The legislature opted to reauthorize the SOMB with a one-year clean extension in 2020 and a subsequent two-year extension in 2021.

Section 3: Milestones and Achievements

Overview of 2021 Accomplishments

Over the last year, the SOMB has driven change based on the 2020 audit by the Office of the State Auditor and focused its efforts on enhancing collaboration between stakeholders. The SOMB was able to successfully host its first virtual conference that was attended by over 500 stakeholders. Significant efforts were also made to support stakeholders operating during the COVID-19 pandemic. Staff transitioned in-person trainings to virtual formats that could be accessed by anyone, at any time. The SOMB also offered training opportunities that has started the process of raising awareness of how issues of Equity, Diversity, and Inclusion impact the work of the SOMB and affiliated stakeholders.

SOMB Committee Charters and Standard Operating Procedures

The SOMB formalized many of its internal policies and procedures not codified in the Bylaws or the Standards and Guidelines by creating a series of Standard Operating Procedures (SOPs) and Committee Charters. The Standard Operating Procedures serve an important role for defining how the SOMB conducts its legislatively mandated work, specifically that of the staff supporting the Board. Alternatively, the purpose of the Committee Charters is to specify the authority the various committees of the Board and the scope of their work as it relates to the overall statutory responsibilities of the SOMB. To date, the statutorily mandated committees of the SOMB now have a corresponding Charter. For example, the SOMB staff created SOPs concerning the research operations, ARC processes, complaint procedures, the Best Practice Committee, and the Surcharge Allocation Committee.

Efforts toward Equity, Diversity, and Inclusion

Building upon the efforts from 2020, the SOMB continued to prioritize discussions on equity, diversity, and inclusion (EDI). These efforts centered on learning more about implicit biases, cultural considerations, and how these issues can impact services under the SOMB Adult and Juvenile *Standards and Guidelines*. The SOMB added a new Guiding Principle⁵ that speaks directly to the importance of

⁵ *Guiding Principle 16. The individualization of evaluations, assessment, treatment and supervision requires particular attention to social and cultural factors. Recognition of these factors are essential when interacting with clients from different social, cultural, and religious backgrounds. A basic premise is to recognize the client's culture, your own culture, and how both affect the client-provider relationship. This premise extends to all professional members of the CST and positive support*

service providers being aware and sensitive to the impact social and cultural factors can have with the therapeutic alliance.

The SOMB incorporated new processes aimed at supporting EDI efforts in the composition and representation of those serving on the Board as well as at the committee level. Nomination forms added more inclusive questions that sought information that could help foster more diversity and lived experience for those appointments. The SOMB also collected this information from currently appointed Board members. Results indicated that the racial and ethnicity make-up of the Board was 61% White, 22% Latino/Hispanic, 13% mixed-race, and 4% African-American. In addition, Board members were identified as female in 61% of Board members, and the remaining Board members identified as male at 39%. Options outside of the gender binary construct were offered, however, there were no Board members who identified themselves in those categories (e.g., transgender, non-binary). These efforts were mirrored in the solicitation for abstracts to present at the annual conference. The inclusion of these questions required all abstracts to consider how EDI would be addressed in their presentation and produced three abstracts specifically addressing EDI.

Further EDI work occurred at the committee level. The Victim Advocacy Committee is creating a handout for victims that includes considerations related to labels regarding EDI and reviewed research related to survivors of color. These materials also provided racial equity tools and videos for professionals supporting survivors. Another committee of the Board, the Sex Offending Needs Integrated Classification System (SONICS) Committee, discussed how risk assessment instruments can over-predict the risk profile of a person of color. The result of this work has led to new language being considered for Evaluators to understand the limitations and cultural considerations of any risk assessment instrument as well as to include the necessary disclosures regarding how cultural factors may impact the overall risk categorization of an offender.

Applications for Placement on the SOMB Approved Provider List

During calendar year 2021, the Application Review Committee of the SOMB reviewed and approved a total of 108 applications for placement or continued placement on the Approved Provider List.

Table 1. SOMB Count of Approved Applications Report for 2021

Application Type	Number Pending	Number Approved	Total
Application 1	3	49	52
Application 2	14	26	40
Application 3 (Renewal)	30	33	63
Total	47	108	155

persons and is essential in creating an equitable and inclusive environment regardless of differences in culture or lifestyle.

Continued Utilization of Online Mediums for Board Operations

The COVID-19 Pandemic was an incredibly impactful event throughout the course of 2020 and continued in 2021. The SOMB made significant changes to the way that business was conducted for the SOMB, the SOMB's staff, and the service providers across the state. In an effort to ensure that the SOMB's support and access was not disrupted by the pandemic, the SOMB migrated all of its in-person trainings, committee meetings, and Board meetings to online formats. The hallmark of these efforts is best represented by the SOMB's annual conference it hosts in conjunction with the Domestic Violence Offender Management Board (DVOMB). Due to COVID-19 the SOMB and DVOMB had to cancel the annual conference in 2020. However, this year the conference was executed in a virtual format and received high marks from the 544 individuals who attended.

Policy Updates

Committees

The majority of the work conducted by the SOMB occurs at the committee level. Within these committees, a variety of policy and implementation related work is proposed, discussed, and reviewed by relevant stakeholders. These committees then make proposals for the SOMB to consider. The SOMB staffed 12 active committees and workgroups during the course of 2021, which were open to all stakeholders in order to work on statutorily mandated duties. These committees included the following:

1. Executive Committee
2. Application Review Committee
3. Best Practices Committee
4. SONICS Workgroup
5. Adult Standards Revisions Committee
6. Juvenile Standards Revision Committee
7. Victim Advocacy Committee
8. Sex Offender Surcharge Committee
9. Training Committee (in Collaboration with the Domestic Violence Offender Management Board)
10. Family Support and Engagement Committee
11. Sex Offender Registration Legislative Work Group
12. Community Corrections Lifetime Supervision Criteria Workgroup

All of these committees have been and continue to be engaged in studying advancements in the field of sex offender management, recommending changes to the Adult and Juvenile Standards and Guidelines as supported by research, and suggesting methods for educating practitioners and the public to implement effective offender management strategies. For a comprehensive summary of the work of the SOMB, please refer to Appendix A.

Figure 10. Organizational chart of the SOMB committees and workgroups.



2020 Office of the State Auditor Audit Updates

In 2020 the SOMB underwent an audit performed by the Office of the State Auditor (OSA) (Appendix B). The result of this audit was a list of 6 different recommendations, each composed of multiple parts, to revise or create new policies to ensure the Board improves its work. The recommendations ranged from things such as strengthening the complaint handling process of the Board to creating new Standard Operating Procedures (SOP) for the work of the Board and its staff. The SOMB and its staff have taken great strides in responding to and achieving compliance with the recommendations from the Audit.

Much of the work in 2021 concentrated on retroactively documenting and citing all revisions to the Adult and Juvenile Standards and Guidelines with the research that the board reviewed as part of discussions. The SOMB reviewed and approved research citations for each of the major sections of the Adult and Juvenile Standards and Guidelines, amounting to over 30 documents that qualify the statutory, procedural, or research basis for mandates.

Audit Response

To date the SOMB and its staff have completed 100% of the projects in response to the recommendations from the SOMB Audit from 2020. The culmination of this work was presented to the Legislative Audit Committee on December 6th, 2021. At this hearing, it was reported that the Office of the State Auditor had determined the SOMB had sufficiently responded and implemented all of the

recommendations (see Appendix B). While this marks the formal end to the OSA audit, the SOMB intends to continue working on refining its policies and procedures to ensure that the SOMB operates in the most efficient and transparent way possible.

Current Availability of Providers

Table 2 provides the current statistics on the availability of service providers approved to operate in Colorado.

Table 2. Number of approved sex offender service providers in Colorado, 2021⁶

Population	Service	Service Level		
		Associate	Full Operating	Total
Adult	Treatment Provider	139	188	327
	<i>Treatment Provider DD/ID⁷</i>	<i>26</i>	<i>35</i>	<i>61</i>
	<i>Clinical Treatment Provider (Supervisor)</i>	<i>N/A</i>	<i>107</i>	<i>107</i>
	Evaluator	43	80	123
	<i>Evaluator DD</i>	<i>8</i>	<i>17</i>	<i>25</i>
	<i>Clinical Evaluator (Supervisor)</i>	<i>N/A</i>	<i>49</i>	<i>49</i>
	Polygraph Examiner	5	23	28
	<i>Polygraph Examiner DD/ID</i>	<i>0</i>	<i>11</i>	<i>11</i>
Juvenile	Treatment Provider	103	122	225
	<i>Treatment Provider DD/ID</i>	<i>9</i>	<i>21</i>	<i>30</i>
	<i>Clinical Treatment Provider (Supervisor)</i>	<i>N/A</i>	<i>66</i>	<i>66</i>
	Evaluator	24	43	67
	<i>Evaluator DD</i>	<i>3</i>	<i>11</i>	<i>14</i>
	<i>Clinical Evaluator (Supervisor)</i>	<i>N/A</i>	<i>24</i>	<i>24</i>
	Polygraph Examiner	2	13	15
	<i>Polygraph Examiner DD/ID</i>	<i>N/A</i>	<i>5</i>	<i>5</i>

Note: *Italicized categories contain providers who may be approved to provide multiple services and are not used to calculate the sum.*

⁶ The numbers in the following table come from the new SOMB Provider Database which is still being finalized, any major discrepancies between these numbers and those from reports earlier in the year can be attributed to the new system

⁷ Developmentally Disabled/Intellectually Disabled

As of December 2021, there are **327 adult treatment providers** and **225 juvenile treatment providers** approved by the SOMB in Colorado. There are **28 adult polygraph examiners** and **15 juvenile polygraph examiners**. Treatment providers may choose to pursue an addition of services onto their status. For example, a full operating treatment provider may also be approved as a full operating treatment provider Developmental Disabled/Intellectually Disabled (DD/ID), a full operating evaluator, a full operating evaluator DD/ID, a clinical supervisor for treatment providers, and a clinical supervisor for evaluators.

On average, providers operated in three different counties. In total, the SOMB has approved providers located in all 22 judicial districts in the state, as depicted in Figure 11 through Figure 16.

Figure 11. Number of SOMB Adult Treatment Providers by County

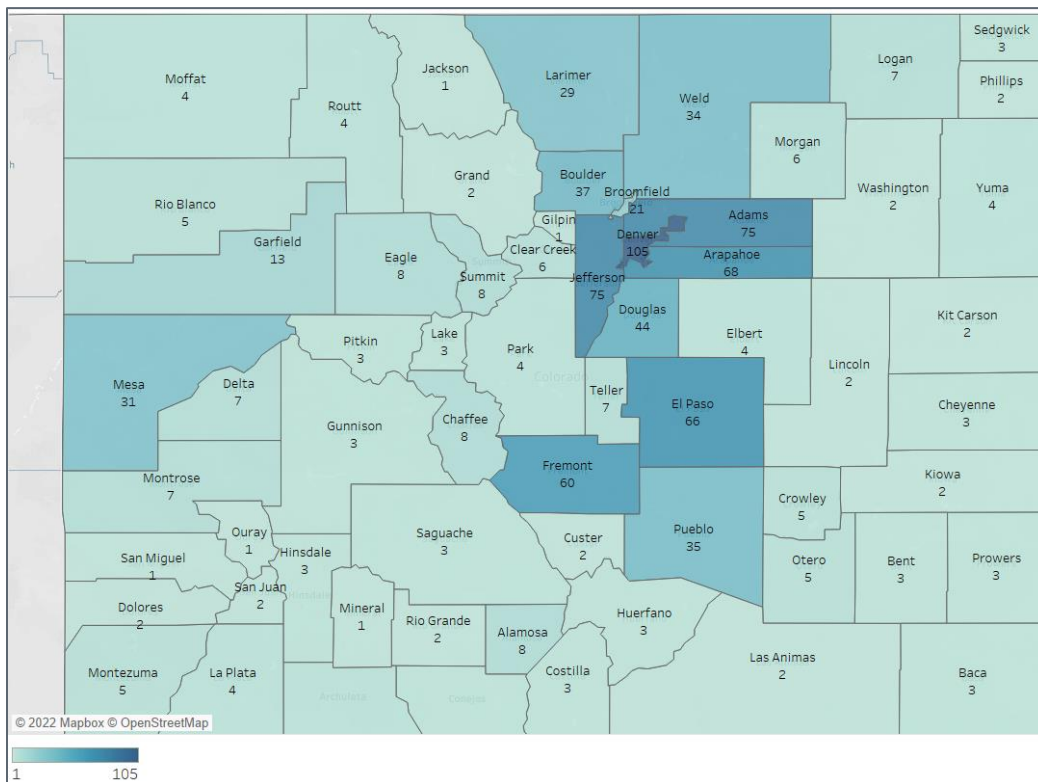


Figure 12. Number of SOMB Juvenile Treatment Providers by County

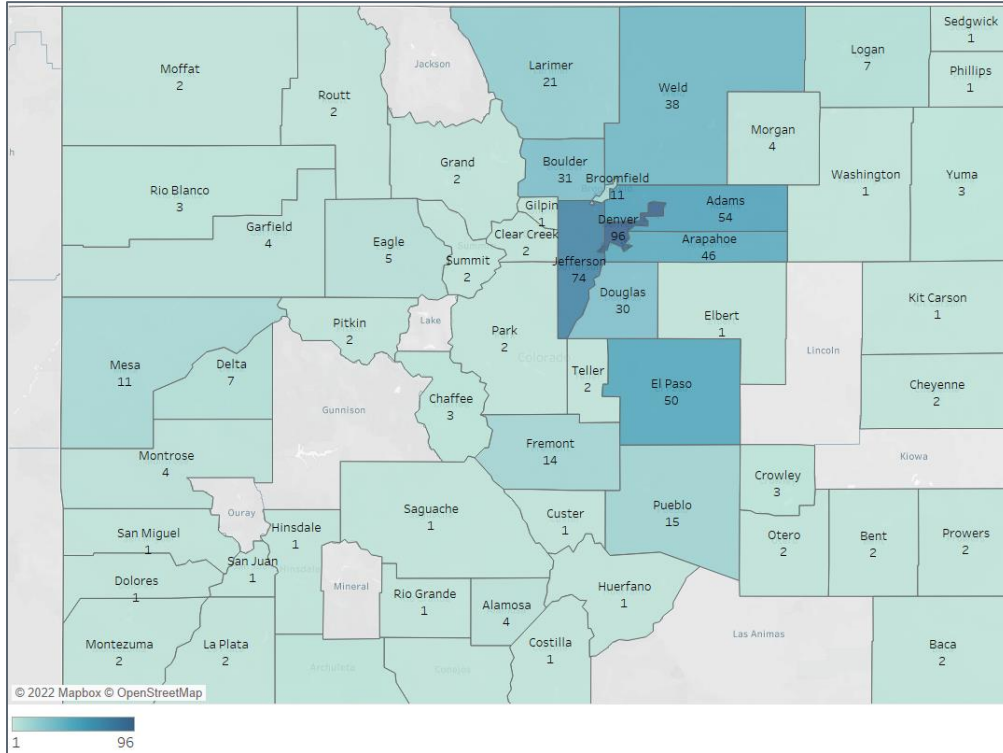


Figure 13. Number of SOMB Adult Evaluators Providers by County

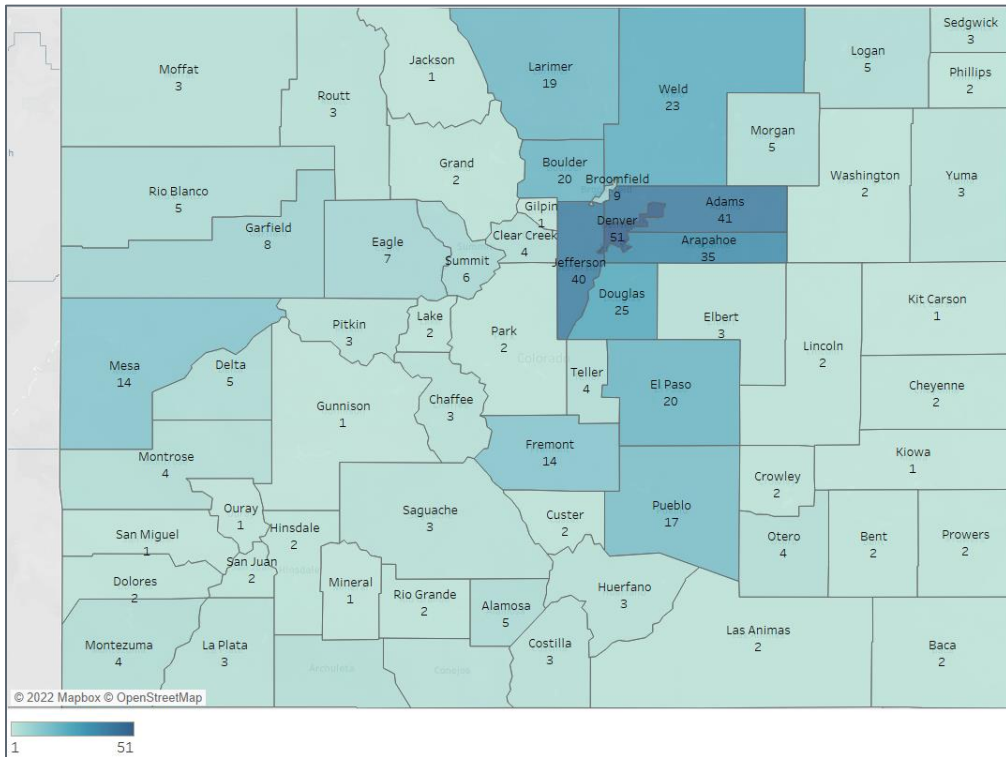
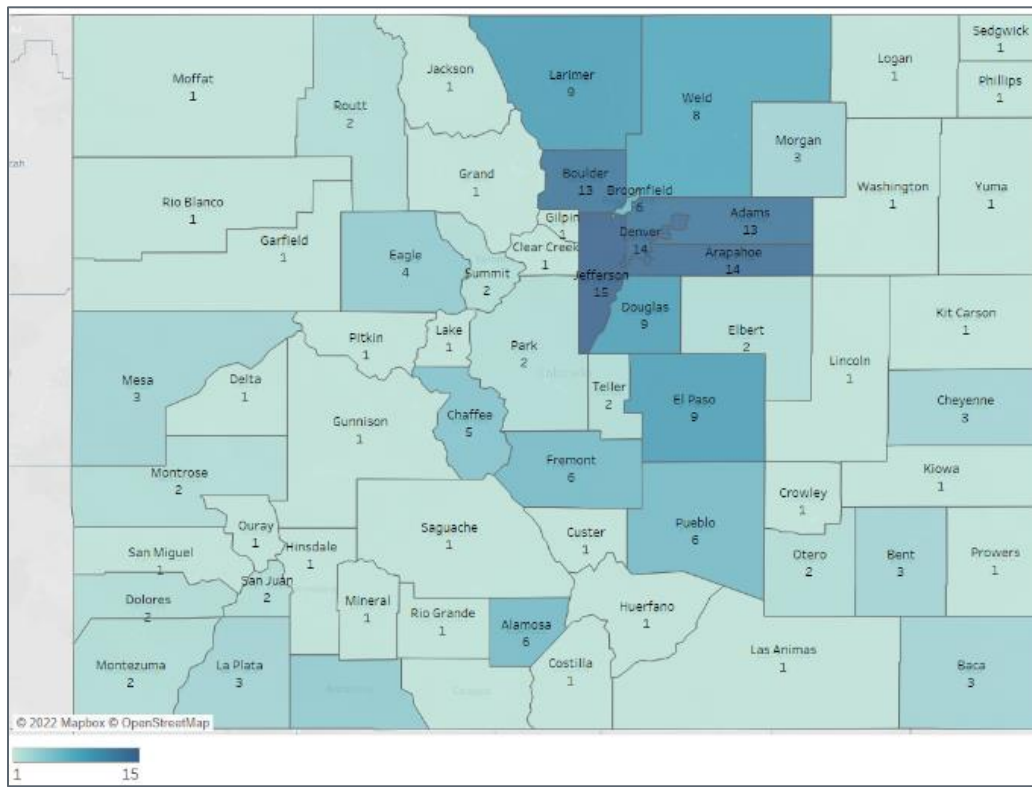


Figure 16. Number of SOMB Juvenile Polygraphers by County



Additional year end accomplishments

In 2021, the SOMB completed the SOMB Strategic Action Plan created and approved in 2018. For a comprehensive summary of the work of the SOMB, please refer to Appendix A. The following highlights some of the many additional achievements of the SOMB in 2021:

- **Managed 12 SOMB committees** that functioned at some point during 2021.
- Adjusted the way the SOMB conducts business in response to the COVID-19 pandemic, while offering additional trainings and continuing all normal business in a virtual environment.
- **Approved 108 applications for placement or continued placement** on the SOMB Approved Provider List during 2021.
- As of December 2021, there are **327 adult treatment providers and 225 juvenile treatment providers** approved by the SOMB in Colorado. There are **28 adult polygraph examiners and 15 juvenile polygraph examiners**.
- **Conducted 38 trainings virtually to over 1,800 attendees** from across Colorado in calendar year 2021. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses.

- **Implemented monthly Technical Assistance hours.** On a monthly basis, SOMB staff hosted a virtual, one-hour technical assistance session for approved providers. This allows staff to update providers on recent changes to the *Standards and Guidelines* as well as allowing providers to have questions answered.
- Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement around the state, and explored options to in-person community notifications given limitations due to the pandemic.
- Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines* revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.
- Published the 2021 SOMB Annual Legislative Report and the 2020 Lifetime Supervision of Sex Offenders Annual Report.

Ongoing implementation

Ongoing implementation refers to the dissemination of information from the SOMB to approved service providers. The main components of ongoing implementation include training professionals, implementing policies with fidelity, and offering research/program evaluation support activities. This is a process that SOMB is consistently working on, and mechanisms have been put in place to ensure that there is continuous progress in this area. There are consistent training programs that are offered by the SOMB to provide updated information and guidance to the SOMB's approved providers. The SOMB hosts bimonthly lunch and learn trainings for providers along with consistent online and in person trainings on a wide variety of topics pertinent to the field. The SOMB also retains lines of communication for providers and stakeholders through the use of email lists for communication and a quarterly newsletter. The SOMB Adult and Juvenile coordinators have also been distributing monthly bulletins that contain training information and assistance to aid those working in the field with the *Standards*. The SOMB staff have also created a new website to make the ongoing work product of the SOMB and contact with the Board or its staff easier to find and access for Providers and members of the public. The SOMB has also adopted a new process at the Board level to address the implementation of changes to standards. The Board now identifies an implementation period for newly ratified changes and allows providers a window during this period to ensure that they are familiar with the changes and to make sure the implementation of these changes proceeds smoothly.

Training

In calendar year 2021, the SOMB provided 38 trainings virtually to over 1,800 attendees from across Colorado. These trainings covered a range of topics related to the treatment and supervision of individuals convicted or adjudicated for sexual offenses such as:

- Adherence and Application of the Risk, Need and Responsivity Principles
- *Adult and Juvenile Standards and Guidelines* Introduction Trainings
- *Adult and Juvenile Standards and Guidelines* Booster Trainings

- Vermont Assessment of Sex Offender Risk -2 (VASOR - 2) and Sex Offender Treatment Intervention and Progress Scale (SOTIPS) Risk Assessment Trainings
- Self-Care Training
- Bimonthly Lunch and Learns
- Sex Offender Registration and Notification (funded by the 2018 Adam Walsh Act Grant)
- What District Attorney's Need to Know about the SOMB Standards and Guidelines
- Adjusting to the COVID-19 Environment
- Team Resilience in the Workplace
- New SOMB Provider Data Management System

Section 4: Future Goals and Directions

The mission of the SOMB as written in its enabling statute is to have continuing focus on public safety. To carry out this mission for communities across the state, the SOMB strives toward the successful rehabilitation of offenders through effective treatment and management strategies while balancing the welfare of victims of sexual crimes, their families and the public at large. The SOMB recognizes that over the past 20 years, much of the knowledge and information on sexual offending has evolved. Since the creation of the SOMB, the *Adult and Juvenile Standards and Guidelines* for the assessment and treatment of sexual offenders has been a ‘work in progress.’ Thus, periodic revisions to improve the *Adult and Juvenile Standards and Guidelines* remains a key strategic priority for the SOMB through its process of adopting new research and evidence-based practices as they emerge from the literature and the field. The SOMB will continue to recognize the key role that the RNR model plays in the successful rehabilitation and management of adults and juveniles who commit sexual offenses.

Strategic goals and initiatives

Over the next year, the SOMB will continue its focus on executing its statutory duties and supporting service providers navigate the challenges associated with COVID-19. Utilizing feedback and recommendations from the audit, there is work underway to build capacity and improve SOMB related application and complaint processes through improvements the Provider Data Management System. Revisions and changes to the SOMB Standards and Guidelines will continue in order to keep pace with emerging research and literature. The SOMB consistently demonstrates and fulfills its statutory authority and mandate to ensure that a community safety and victim centered approach is the focus of any work that is done. Research and evidence-based practices have allowed for the SOMB to continue to evolve over the years, and will continue to encourage growth and evolution while work is continued on additional goals.

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Appendices

Appendix A. Committee Updates

1. Adult Standards Revisions

Active

Committee Chairs: Taber Powers

Purpose: This Committee was reconvened with the purpose of returning to the Standards for review due to technical assistance questions from both providers and other stakeholders. The SOMB has been tasked by the Legislature to ensure we have "evidence-based standards for the evaluation, identification, Treatment, management, and monitoring of adult sex offenders." The Revisions Committee is tasked with ensuring the Standards are revised to reflect the legislative requirement and meet the needs of those in Colorado who work with this population.

Major Accomplishments: This committee reconvened 2020 and has continued its work during 2021. This committee was reconvened to ensure effective implementation and adherence to research in the Standards. The Committee began the process of reviewing new research, addressing technical assistance concerns, and ensure the Standards are compliant with statutory requirements and recommendations from the 2020 audit.

Future Goals: The Committee intends to re-review the literature and stakeholder input regarding labeling throughout the entirety of the Standards to a person first perspective. Additionally the Committee intends on to do a review of previous revisions to ensure these revisions were conducted in a way that coincides with the SOMB's newly adopted Research Standard Operating Procedure.

2. Executive Committee

Active

Committee Chair: Kim Kline

Purpose: The purpose of the SOMB Executive Committee is to review and maintain the mission of the SOMB. The Executive Committee prepares the agenda consisting of presentations, decisions items and discussions prior to the SOMB meeting.

Major Accomplishments: Managed the SOMB agenda and Strategic Action Plan implementation process, which included the completion and progress on many of the SOMB strategic goals. The SOMB Executive Committee additionally ensures the efficiency and efficacy of the SOMB's work.

Future goals: The SOMB Executive Committee will continue to maintain the mission of the SOMB and ensure that the SOMB continues to move forward with its initiatives.

3. Juvenile Standards Revision Committee

Committee Chair: Carl Blake

Purpose: The Committee is reviewing and revising *the Juvenile Standards and Guidelines* as needed, based on emerging research and best practices. Revisions are also made to clarify information based on any feedback received from stakeholders.

Major Accomplishments: In 2021 the committee recommended revisions to sections 2.00, 3.00, 5.00, and 9.00:

- Recommending revisions based on HB 21-1064 regarding juvenile registration. Clarification was added regarding evaluators and treatment providers including recommendations for or against registration based on research. This impacted sections 2.00 and 3.00.
- Recommending revisions based on FFSPA and the impacts to placement based on new requirements of qualified individuals to assess for placement in QRTPs. This impacted sections 2.00, 3.00, 5.00, and 9.00
- Recommending revisions regarding clarification letters and the ability to provide letters, upon request, to victims.

Future Goals: The Committee will be reviewing standards revisions to address the SOMB data collection system, juveniles who have filed an appeal, guiding principles related to cultural competency, and the use of treatment plans and discharge summaries.

4. Best Practices Committee

Active

Committee Chairs: Kim Kline and Hannah Pilla

Purpose: This Committee strives to ensure that the *Adult and Juvenile Standards and Guidelines* remain current with any emerging research by making recommendations to other active committees, including the SOMB when necessary. This Committee consists of a minimum of 80% treatment providers, in accordance with language from the 2016 Sunset Bill. This Committee meets once per month.

Major Accomplishments: This Committee meets once per month and met 10 of the 12 months in 2021. In 2021 the Best Practices Committee assisted with the development of criteria for e-therapy and tele-therapy which was based on the need to continue to provide treatment while practicing safety measures with COVID-19. The Best Practices committee continues to be involved with the Board regarding this issue and is currently having discussions regarding Standards revisions and adding this as a modality to treatment with criteria. This committee also reviewed literature regarding use of the penile plethysmograph (PPG) and surveyed providers on their use, discussing further the Standards that provides discretion on the use of the PPG. This committee also reviewed the Lifetime Supervision Criteria for Community Corrections, the SONICS criteria, Clinical Supervision along with the requirements of the Department of Regulatory Agencies and the sexual history disclosure packet. The committee will continue to work on Equity, Diversity and Inclusion, sexual history cases and the use of e-therapy/teletherapy as a modality of offense specific treatment

Future Goals: The Best Practices Committee will continue to review and provide feedback to the SOMB and other revisions committees. This Committee will continue to review relevant and contemporary research to ensure adherence to evidence-based practices.

4.1 SONICS Workgroup

Purpose: This workgroup focuses on developing a classification system to designate clients into different categories according to a comprehensive assessment of needs. The goal is to improve accuracy and consistency in decision-making across disciplines by creating a common language system to describe and communicate a client's overall risk profile.

Major Accomplishments: In 2021 the SONICS Workgroup finalized the Integrated Classification System and the pilot project. This group has finished its work and presented their work to the SOMB.

Future Goals: Moving forward, the workgroup is working on the development of training materials for service providers to begin using which will become the basis for making further adjustments as well as the possible consideration for inclusion in the Standards as an Appendix.

5. Victim Advocacy Committee

Active

Committee Chairs: Allison Boyd and Katie Abeyta

Purpose: To ensure that the SOMB remains victim-centered and that the *Adult and Juvenile Standards and Guidelines* address victim needs and include a victim perspective.

Major Accomplishments: In 2021, the Victim Advocacy Committee helped plan multiple trainings and presentations to the SOMB in honor of Sexual Assault Awareness Month, Domestic Violence Awareness Month, and from Victim Representatives. The committee has also been providing support to victim representatives on community supervision teams and multidisciplinary teams throughout the year. This year the committee also began working on a resource guide for victims, that they hope to have completed in 2022. Finally, the committee continues to also provide feedback to various other SOMB committees on their work to ensure it is victim-centered, and to provide education to the SOMB.

Future Goals: Moving forward, the Victim Advocacy Committee will continue identifying victim research that pertains to SOMB hot topics, gathering feedback from victims on the SOMB standards, and holding a training for providers on victimization. The Victim Advocacy Committee will continue to support the SOMB in a victim centered approach to sex offender management.

6. Application Review Committee

Active

Committee Chair: Carl Blake

Purpose: The Application Review Committee (ARC) reviews all new and re-applications for treatment providers, evaluators and polygraph examiners. Complaints made against listed providers are also reviewed by ARC. ARC additionally conducts randomized or for-cause Standards Compliance Reviews.

Major Accomplishments:

- ARC continued to review provider applications and complaints. ARC continues to monitor variances and the application process to ensure proper oversight of listed providers.
- Completed 1 standard compliance review for a listed provider. While only 1 was conducted in 2021 it has been a very thorough and ongoing review with collaboration between the ARC and the provider.
- Changed membership to include both Board and non-Board member appointed members to give increased transparency and a great voice to listed providers.
- Continued to reviewed complaints and made findings on complaints. The outcome of some complaints are still pending based on the review process and appeal process.
- Drafted criteria for the use of Teletherapy that has been reviewed by the Best Practices committee and Adult Standards Revisions. This criteria was reviewed by the SOMB and is slated to be included as a standard and appendix.

Future Goals: Continue reviewing applications, complaints, and variances. Review and revise, as needed, the application process and move towards an online application.

7. Training Committee (In collaboration with the Office of Domestic Violence Offender Management)

Active

Committee Chair: Jesse Hansen

Purpose: The Training Committee assists with the ongoing identification of training topics and objectives, and provides support in the planning process of long-range and large-scale training events. This Committee also helps define and assess the training needs for stakeholders affiliated in the fields of domestic violence and sex offender management. Lastly, the committee is tasked with developing trainers for sustainability purposes though the means of collaboration with other agencies.

Major Accomplishments: In 2021 the Training Committee met in preparation for the 2021 Domestic Violence and Sex Offender Management Conference. This conference was held virtually with 544 attendees. The committee continued to meet virtually throughout 2021 to provide input and feedback regarding the training needs of stakeholders and the development of online trainings.

Future Goals: In 2022, the Training Committee is continuing to plan for training events that will be impactful to both SOMB and DVOMB stakeholders to include the 2022 Domestic Violence and

Sex Offender Management Conference. There is optimism and planning efforts underway to return the 2022 conference to an in-person event, so long as it is determined safe to do so.

8. Family Education, Engagement and Support Committee

Active

Committee Chairs: Chris Renda and Roberta Ponis

Purpose: The purpose of the Family Education, Engagement and Support Committee is to provide ways to educate families of adults who have been convicted of sexual offenses about the journey their loved one will take from arrest to post sentencing; to support families by acknowledging the impact their loved one's offenses will have on their family; and to offer appropriate engagement opportunities for families who want to know what they can do and where they can go to get help and answers to their questions. The committee includes family members, registered citizens, advocates for people with sexual offenses, advocates for people who have been sexually victimized, community and prison-based therapists, probation and parole representatives, legal representatives, and SOMB members and staff. The *Resource Guide of Families of Adults Accused, Charged or Convicted of Sexual Offenses in Colorado* is divided into three parts: Part 1 From Arrest to Sentencing, Part 2 Serving the Sentence, and Part 3 Agency Information. As reported in earlier updates, Part 1 has been completed which can be viewed on the Advocates for Change (AFC) website where AFC, as a public service only, is providing access for the completed drafts of the Guide for public review.

Major Accomplishments: This committee has completed its work and all sections have been drafted and are pending finalization.

Committee has completed its work. All sections have been drafted and are now in final editing phase. Will then go out for public comment. Hope to have a finalized document for public dissemination in 2022.

Future Goals: Once the remaining sections have been finalized, there will be a public comment period on the drafted sections. It is hoped that this document in its entirety will be finalized for public dissemination in 2022.

9. Sex Offender Registration Legislative Workgroup

Active

Committee Chair: Jeff Shay

Purpose: The Sex Offender Registration Legislative Work Group strives to ensure that sex offender registration and community notification is working effectively by addressing system level concerns of stakeholders. The Committee works with law enforcement to examine and make suggestions for improvements to registry processes.

Major Accomplishments: In 2021, the Sex Offender Registration Legislative Workgroup assisted law enforcement agencies manage registration issues that emerged as a result of the COVID-19 pandemic. Additionally, the workgroup also helped craft the modifications to the community notification protocol. The Committee continues to identify other key registration issues and concerns while attempting to problem solve within the work group.

Future Goals: Moving forward, the Committee will continue to discuss key registration issues and identify problem areas and potential solutions. This Committee will continue to provide input into the work of the Adam Walsh Act (AWA) 18 Implementation Grant obtained by the Sex Offender Management Unit to work on further registration training for law enforcement personnel, and improvements to the Colorado Sex Offender Registry (COSOR) to better align with the Sexual Offender Tracking and Registration (SOTAR) system.

10. Community Corrections Lifetime Supervision Criteria Work Group

Work Group Chairs: Christina Ortiz-Marquez and Amanda Retting

Purpose: The Lifetime Supervision Act of 1998 requires the Sex Offender Management Board to establish criteria “In collaboration with the department of corrections, the judicial department, and the parole board...in which a sex offender may demonstrate that he or she would not pose an undue threat to the community if released on parole or to a lower level of supervision.” Senate Bill 20-85, passed by the Colorado Legislature “Concerning a requirement that a sex offender being placed in a community corrections program meet certain requirements for a sex offender being released on parole.” Following this bill the Department of Corrections requested to set up a work group and work in collaboration with the SOMB and include members of the judicial department and parole board, to create appropriate criteria for those who fall under the lifetime supervision act and are requesting to be released to Community Corrections. It is the goal of this committee to provide consistency throughout the state for those assessing these individuals within the Department of Corrections, Community Corrections, and Parole Boards.

Major Accomplishments: This group has developed specific criteria for community corrections related to those sentenced under the Lifetime Supervision Act.

Group completed its work. Has now developed specific criteria for community corrections related to lifetime supervision. Is doing education and training of key stakeholders from here.

Future Goals: This workgroup will begin doing education, training, and outreach to key stakeholders regarding the new criteria.

11. Sex Offender Surcharge Committee

Active

Committee Chair: Lisa Meyer

Purpose: The Sex Offender Surcharge Committee makes recommendations to the SOMB regarding the allocation of moneys deposited in the Sex Offender Surcharge Fund, and the coordination of expenditures of moneys from the Sex Offender Surcharge Fund with any moneys expended by any of the Departments to identify, evaluate, and treat adult sex offenders and juveniles who have committed sexual offenses.

Major Accomplishments: Based on an additional agency need for the Department of Public Safety, the Sex Offender Management Board recommended to allocate \$200,000 to the Colorado Department of Public Safety Office of Information Technology to be used to support development of an online application submission process for approved treatment providers,

evaluators, and polygraph examiners. This is in conjunction with the previously developed Provider Management System. The SOMB voted to approve this recommendation as well.

Future Goals: Allocations were made in the following amounts:

1. \$ 163,591 to the Division of Criminal Justice (DCJ) for administration and implementation of the Standards (personnel, contract, operating and POTS dollars for FTE appropriated positions amended to reflect actual base and POTS dollars).
2. \$302,029 to the Judicial Department for direct services, beginning with the funding of sex offender evaluations, assessments and polygraphs required by statute during the pre-sentence investigation.
3. \$30,041 to the Department of Corrections to be used to manage sex offender data collection, including entry of ViCAP, psychological and risk assessment test results and demographics for use in treatment planning and research (personnel, operating and POTS dollars for FTE appropriated positions).
4. \$38,250 to the Department of Human Services to be used for training and technical assistance to county departments, the Division of Youth Services, and the Division of Child Welfare.

Appendix B. 2020 Office of the State Auditor Audit

AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME	Sex Offender Management Board performance audit
AUDIT NUMBER	1926P
AGENCY	Department of Public Safety
DATE OF STATUS REPORT	November 4, 2021

SECTION I: SUMMARY

REC. NUMBER	AGENCY'S RESPONSE	ORIGINAL IMPLEMENTATION DATE	CURRENT IMPLEMENTATION STATUS	CURRENT IMPLEMENTATION DATE
1-A	Agree	December 2020	Implemented	11/20/2020
1-B	Agree	June 2021	Implemented	08/20/2021
1-C	Agree	September 2020	Implemented	09/22/2020
2-A	Agree	December 2020	Implemented	11/20/2020
2-B	Agree	September 2020	Implemented	11/20/2020
2-C	Agree	December 2020	Implemented	11/20/2020
2-D	Agree	December 2020	Implemented	11/20/2020
3-A	Agree	December 2020	Implemented	11/20/2020
3-B	Agree	December 2020	Implemented	11/20/2020
3-C	Agree	September 2020	Implemented	11/20/2020
3-D	Agree	December 2020	Implemented	11/20/2020
3-E	Agree	September 2020	Implemented	11/20/2020
3-F	Agree	December 2020	Implemented	11/20/2020
3-G	Agree	September 2020	Implemented	11/20/2020
4-A	Agree	December 2020	Implemented	10/21/2020
4-B	Agree	December 2020	Implemented	11/20/2020
4-C	Agree	December 2020	Implemented	11/20/2020
4-D	Agree	December 2020	Implemented	01/15/2021
5-A	Agree	December 2020	Implemented	12/07/2020
5-B	Agree	December 2020	Implemented	12/07/2020
5-C	Agree	December 2020	Implemented	09/22/2020
5-D	Agree	December 2020	Implemented	09/22/2020
6-A	Agree	December 2020	Implemented	11/20/2020
6-B	Agree	December 2020	Implemented	11/20/2020

SECTION II: NARRATIVE DETAIL

RECOMMENDATION 1-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Adult Standards) and the Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Juvenile Standards) and its process to revise standards align with statutory requirements by:

- A. Implementing policies and procedures to guide the standards revision process, including (i) how committees should document their consideration of evidence; (ii) how committees should apply the Board’s evidence hierarchy when assessing available research, including how they should document that no relevant or reliable research is available; (iii) the extent to which meeting minutes should reflect committees’ deliberations about specific wording changes; (iv) which sections of the standards do not require supporting research; and (v) how the standards should inform readers of which sections are not based on evidence and why.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed a research standard operating procedure (SOP) to be used by the Board and its Committees in deliberation related to the Standards revisions process. The research SOP directs the Board and its Committees on the use of research in the Standards revisions process, and this guidance addresses each of the items listed in the recommendation. Further, the Board developed Committee charters for each Committee in terms of the functioning of the Committee.

RECOMMENDATION 1-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Adult Standards) and the Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Juvenile Standards) and its process to revise standards align with statutory requirements by:

- B. Based on the policies and procedures implemented in response to PART A, revising the standards to clearly indicate, for each standard, which is evidence-based and which lacks supporting evidence, and why. Revisions could include adding footnotes, an appendix, and/or other explanatory language so readers can easily reference supporting evidence or understand why certain standards are not based on evidence.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	08/20/2021
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AGENCY UPDATE

The Board reviewed recently completed Standards revisions and assessed the evidence gathered in terms of its applicability to each section of the Standards (for older revised sections, the Board completed a new research review). The Board then completed a summary document for each section of the Standards highlighting which Standards are supported by research and which are not. This information is now included as a part of each section of the Standards and copies of the reference list will be accessible to the reader. All sections have been ratified by the Board as of August 20, 2021.

RECOMMENDATION 1-C

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Adult Standards) and the Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Juvenile Standards) and its process to revise standards align with statutory requirements by:

- C. Requiring the Best Practices Committee to have more substantial involvement in every standards revisions process.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	09/22/2020
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AGENCY UPDATE

The Board developed a standard operating procedure (SOP) for the Best Practices Committee that highlights the substantial involvement of the Committee in Standards revisions process. The Board also developed a Best Practices Committee charter to guide the work of the Committee.

RECOMMENDATION 2-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it approves only qualified providers to work with sex offenders by:

- A. Implementing processes, and changing Board policies as needed, to request and check references for first-time applicants to help assess their fitness to provide services. This could include, for example, accepting non-professional references, such as from the applicant's educational institution or community service.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) application review Standard Operating Procedure (SOP) and an ARC charter. The SOP reviews the required process for application review including first-time applicants. The Application 1 process was also updated to require professional or non-professional letters of reference as part of the process.

RECOMMENDATION 2-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it approves only qualified providers to work with sex offenders by:

- B. Requiring staff to document, in the applicant's file, when they rely on work conducted by the Department of Regulatory Agencies (DORA) to satisfy the Board's requirements. As needed, the Board should modify its policies to reflect when and how staff may rely on work conducted by DORA to confirm an applicant met the Board's qualification requirements.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) application review standard operating procedure (SOP) and an ARC charter. The SOP reviews the required process for application review including staff to verify first-time applicant education requirements to satisfy Board requirements, and no longer rely on DORA for this information. A checklist has been developed to track required information and all application review work is documented in the provider data management system.

RECOMMENDATION 2-C

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it approves only qualified providers to work with sex offenders by:

- C. Implementing processes to ensure that Division staff and the Application Review Committee review and verify applicants' qualifications, and document their completion of this review, prior to approving the applicants for inclusion on the Approved Provider List. This should include verification and documentation of required training, work product examples, evidence of work with specific populations, and completed supervision agreements.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) application review standard operating procedure (SOP) and an ARC charter. The SOP reviews the required process for application review including applications where training, work product, experience with specific populations, and supervision agreements are required. An application staff checklist has been developed to track required information for each application type, and all application review work is document in the provider data management system.

RECOMMENDATION 2-D

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it approves only qualified providers to work with sex offenders by:

- D. Implementing a process for the Board and Division to evaluate requirements that may be unrealistic and modifying or removing those requirements as needed.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board has reviewed and will continue to regularly review the Application Review Committee (ARC) application review standard operating procedure (SOP), and updated the requirements that were unrealistic, and modified or removed those requirements through the SOP and application requirements.

RECOMMENDATION 3-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- A. Accept anonymous complaints and carry out review or investigative actions to the extent such complaints contain sufficient information to do so. Alternatively, if the Board believes that no anonymous complaints should be addressed and does not agree to change its policy to include these complaints, it should seek statutory change to exempt the Board from this responsibility.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP specifies the receipt and review of all complaints including anonymous complaints. The complaint form and process have also been modified to allow for anonymous complaints.

RECOMMENDATION 3-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- B. Define or explain what constitutes a complaint that: (i) has not been completed properly or does not contain sufficient information, to guide staff's initial review of complaints, and (ii) sufficiently alleges a standards violation, to guide the Application Review Committee in its early review process.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP explains what constitutes a complaint including whether it has been completed properly or does not contain sufficient information, and what the criteria is for sufficiently alleging a complaint. The SOMB Provider Administrative Policies also provide information to complainants and providers on the complaint process. The SOMB Bylaws provide information on the way in which the ARC conducts its business.

RECOMMENDATION 3-C

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- C. In instances when a complaint is deemed to have insufficient information, notify complainants and allow them the opportunity to provide additional information prior to dismissal.

CURRENT
IMPLEMENTATION
STATUS

Implemented

CURRENT
IMPLEMENTATION
DATE

11/20/2020

AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP identifies what happens if a complaint does not have sufficient information, the request for additional information, and notifying the complainant what will happen if additional information is not provided.

RECOMMENDATION 3-D

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- D. Include guidance on the minimum type and amount of information the Application Review Committee should obtain to come to a determination on a complaint.

CURRENT
IMPLEMENTATION
STATUS

Implemented

CURRENT
IMPLEMENTATION
DATE

11/20/2020

AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP identifies what information is necessary to sufficiently allege a complaint in order for ARC to proceed with a review of the complaint and make a final determination.

RECOMMENDATION 3-E

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- E. Establish a clear sequence of steps the Application Review Committee must follow in managing complaints, as well as any activities the committee may take at its discretion.

CURRENT
IMPLEMENTATION
STATUS

Implemented

CURRENT
IMPLEMENTATION
DATE

11/20/2020

AGENCY UPDATE

The Board updated its SOMB Provider Administrative Policies to identify the clear sequence of events that will occur within a complaint investigation including initial staff review, ARC review, and what options the ARC has for an outcome during its review.

RECOMMENDATION 3-F

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- F. Specify (i) that all parties must be involved in negotiating the terms of a mutual agreement (i.e., the complainant, provider, and Board); (ii) the circumstances that would prompt an effort to resolve a complaint through agreement; (iii) what information mutual agreements should contain, such as the types of corrective actions that might be suitable for an agreement; and (iv) how the public will be made aware of a provider's standards violations and the action taken to correct these violations.

CURRENT
IMPLEMENTATION
STATUS

Implemented

CURRENT
IMPLEMENTATION
DATE

11/20/2020

AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP identifies terms of the mutual agreement including that both parties must agree to the mutual agreement and what information will be made public as part of the mutual agreement. In preparing for this review, it was noted that the SOMB Provider Administrative Policies do not comport with the SOP in terms of public disclosure of the mutual agreement, and this was resolved at the August 20, 2021 SOMB meeting.

RECOMMENDATION 3-G

The Sex Offender Management Board (Board), within the Department of Public Safety, should strengthen its complaints handling process to comply with statute and implement adequate controls to ensure fairness and consistency by implementing revised written policies to:

- G. Require staff and committee members to document their activities in dealing with complaints, including the basis for decisions and actions such as dismissing a complaint, seeking a resolution through agreement, and how the terms of an agreement address a provider’s lack of compliance with the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Adult Standards) or the Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Juvenile Standards).

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The Board developed an Application Review Committee (ARC) complaint process standard operating procedure (SOP) and Committee charter. The SOP identifies how the staff of the SOMB will document the findings of the complaint process including the basis for decisions and actions through meeting minutes, correspondence, and the provider data management system. The SOMB Provider Administrative Policies provide information regarding the complaint process.

RECOMMENDATION 4-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should improve its controls over the identification and management of conflicts of interest among its members by:

- A. Obtaining a written legal opinion from the Attorney General that clarifies how the State Code of Ethics applies to Board members, including (i) what types of official actions constitute use of the Board’s discretionary authority, (ii) employment situations that create financial interests for members, (iii) whether a supervisory relationship must exist for Board members to have a conflict involving providers who work for the same organization, and (iv) whether Board members who are state employees have financial interests that could create conflicts.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	10/21/2020
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AGENCY UPDATE

The Board obtained a written legal opinion from the Attorney General that clarifies how the State Code of Ethics applies to Board members. The SOMB highlighted its response to the written legal opinion in an audit response memo.

RECOMMENDATION 4-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should improve its controls over the identification and management of conflicts of interest among its members by:

- B. Based on the legal opinion obtained in response to PART A, implementing written guidance that provides specific examples of how statutory definitions and provisions apply to the Board (e.g., official acts, direct economic benefits, businesses or other undertakings, and financial interests) to help members identify when they have conflicts, or the potential appearance of conflicts, that should be disclosed.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

Based on the results of the written legal opinion from the Attorney General, the Board reviewed its Bylaws and Conflict of Interest Policy to implement the written guidance that provides specific examples of how statutory definitions and provisions apply to the Board to help members identify when they have conflicts of interest. In addition, a frequently asked questions document was prepared for Board members to provide them with practical guidance on conflicts of interest.

RECOMMENDATION 4-C

The Sex Offender Management Board (Board), within the Department of Public Safety, should improve its controls over the identification and management of conflicts of interest among its members by:

- C. Revising the bylaws and/or conflicts of interest policy to ensure that both contain clear, precise, and consistent direction related to (i) which provisions of the State Constitution and statutes apply to Board members, (ii) what types of actions are considered to be the exercise of “discretionary authority,” (iii) what types of situations are considered other undertakings that members should consider when identifying conflicts, (iv) what is meant by the terms “direct” and “substantial” when referring to direct economic benefits, (v) whether members are required to abstain from voting when the appearance of a conflict exists, and (vi) whether Board members can be present and answer questions during discussions of matters with which they have conflicts.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

Based on the results of the written legal opinion from the Attorney General, the Board reviewed its Bylaws and Conflict of Interest Policy to implement the written guidance that address i-vi above. In addition, a frequently asked questions document was prepared for Board members to provide them with practical guidance on conflicts of interest.

RECOMMENDATION 4-D

The Sex Offender Management Board (Board), within the Department of Public Safety, should improve its controls over the identification and management of conflicts of interest among its members by:

- D. Expanding the bylaws or policy to identify responsible parties and processes for (i) ensuring that Board members submit the required annual disclosures, (ii) communicating the annual disclosures to the entire Board, and (iii) reminding Board members during meetings to disclose their conflicts.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	01/15/2021
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AGENCY UPDATE

The Board revised its Conflict of Interest Policy and Bylaws to ensuring that Board members submit their annual required disclosures, communicate their annual disclosures to the entire Board, and remind members during meetings to disclose their conflicts. Sample minutes from Board meetings demonstrate the Board meeting this requirement.

RECOMMENDATION 5-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it has effective controls over the funding allocations it recommends from the Sex Offender Surcharge Fund (Surcharge Fund) by:

- A. Implementing processes for the Allocation Committee to use more comprehensive financial information to inform its proposed allocations, such as by asking agencies to submit written requests or statements related to their need for allocations, provide some historical expenditure information, and offer a rationale for the amount of funds needed.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	12/07/2020
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AGENCY UPDATE

The Board developed a Sex Offender Surcharge Allocation Committee standard operating procedure (SOP) and charter, and the SOMB Bylaws were updated to provide formal requirements for the work of the Board and Committee in making proposed allocations of the funds. A Sex Offender Surcharge Allocation Form has been developed for each impacted agency to provide the required information.

RECOMMENDATION 5-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it has effective controls over the funding allocations it recommends from the Sex Offender Surcharge Fund (Surcharge Fund) by:

- B. Seeking guidance from Joint Budget Committee staff about the process to request increased spending authority, and sharing that guidance with agencies that receive money from the Surcharge Fund to help ensure that their annual budget requests align with the Board's recommended allocation amounts.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	12/07/2020
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AGENCY UPDATE

The Board staff met with Department financial staff and a Joint Budget Committee staff member on August 27, 2020. The staff member advised the Board that the Board could make spending allocation recommendations independent of any requests for changes in spending authority from the agencies receiving the funds. The Sex Offender Surcharge Allocation Committee was updated on this advisement and will make recommendations for decisions on spending in the future based on identified need rather than being limited by Department requests for spending authority.

RECOMMENDATION 5-C

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it has effective controls over the funding allocations it recommends from the Sex Offender Surcharge Fund (Surcharge Fund) by:

- C. Directing staff to seek guidance from the Office of the State Controller on accessing accounting data about the Surcharge Fund, including annual reversion amounts, and provide that information to the Board and/or Allocation Committee. The Board should then use that information for analysis as part of the Board's annual decision-making process.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	09/22/2020
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AGENCY UPDATE

The Departmental Budget Director spoke with the Office of the State Controller on June 11, 2020. Information from this conversation is contained in a Departmental Memo, and this data and the process to obtain this data is highlighted in the Sex Offender Surcharge Allocation Committee standard operating procedure (SOP). The accounting data about the Surcharge Fund, including annual reversion amounts, was provided to the Board during its decision-making regarding the funding allocation at its September 17, 2021 meeting, and the Board will be provided this information per SOP for all subsequent funding decisions.

RECOMMENDATION 5-D

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it has effective controls over the funding allocations it recommends from the Sex Offender Surcharge Fund (Surcharge Fund) by:

- D. Establishing a target fund balance in writing and tracking against that benchmark.

**CURRENT
IMPLEMENTATION
STATUS**

Implemented

**CURRENT
IMPLEMENTATION
DATE**

09/22/2020

AGENCY UPDATE

The SOMB Sex Offender Surcharge Allocation Committee established a minimum target fund balance at its meeting on August 20, 2020. This information was then shared with and supported by the SOMB at its meeting on August 21, 2020, and incorporated into the SOMB Sex Offender Surcharge Allocation Committee standard operating procedure (SOP). In addition, information on the functioning the Committee are identified in the Committee charter and SOMB Bylaws. The Board considered the minimum target fund balance as part of the the funding allocation recommendation made at the September 17, 2021 meeting, and will review the minimum target fund balance for all subsequent funding decisions.

RECOMMENDATION 6-A

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it documents all formal votes regarding public policy recommendations and decisions regarding sex offenders in a manner that is transparent to the public and complies with open meetings laws by:

- A. Revising and implementing the Board’s bylaws to specify that tallies of individual votes and clear references to the specific voting positions of individual members present, rather than only final decisions, must appear in full Board and committee meeting minutes.

**CURRENT
IMPLEMENTATION
STATUS**

Implemented

**CURRENT
IMPLEMENTATION
DATE**

11/20/2020

AGENCY UPDATE

The SOMB revised its Bylaws to identify the recording of individual votes for the Board and all Committees where there are appointed members, as well as a consensus decision-making model to be used where possible. The SOMB Application Review Committee, Sex Offender Surcharge Allocation Committee, Best Practices Committee, and SOMB Executive Committee charters were developed to identify the decision-making process.

RECOMMENDATION 6-B

The Sex Offender Management Board (Board), within the Department of Public Safety, should ensure that it documents all formal votes regarding public policy recommendations and decisions regarding sex offenders in a manner that is transparent to the public and complies with open meetings laws by:

- B. Revising and implementing the Board’s bylaws to specify which Division staff or Board members are responsible for ensuring all minutes from full Board and committee meetings contain complete voting information and provide the public a transparent record of its policy recommendations and decisions.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	11/20/2020
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AGENCY UPDATE

The SOMB revised its Bylaws to identify the recording of individual votes by staff for the Board and all Committees where there are appointed members, as well as a consensus decision-making model to be used where possible. The SOMB Application Review Committee, Sex Offender Surcharge Allocation Committee, Best Practices Committee, and SOMB Executive Committee charters were developed to identify the decision-making process.