



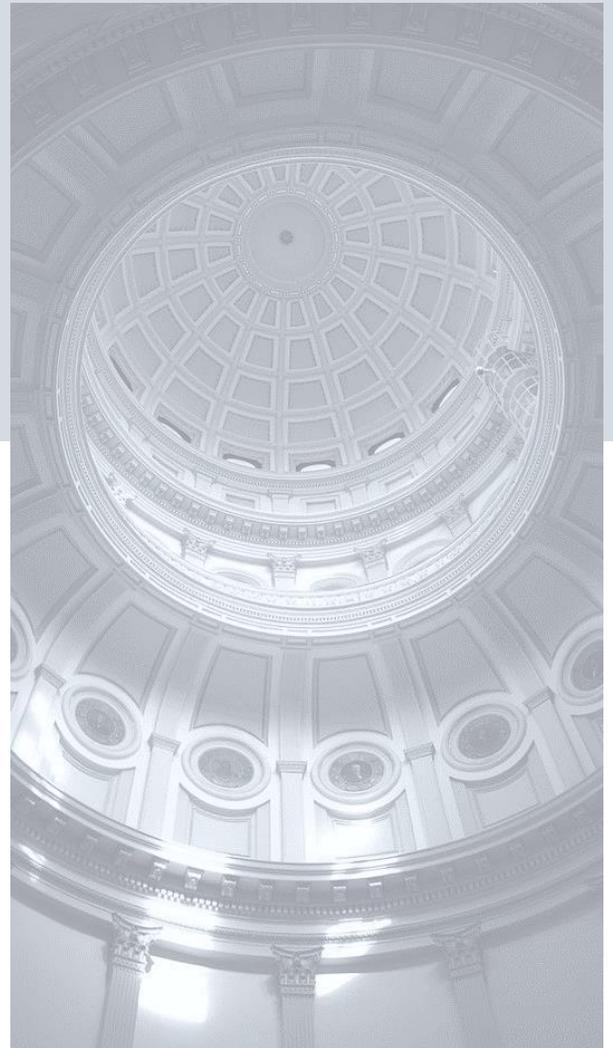
**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

# 2022 Sunset Review

Sex Offender Management Board



---

October 14, 2022



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 14, 2022

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Sex Offender Management Board. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2023 legislative committee of reference.

The report discusses the question of whether there is a need for the program provided under Article 11.7 of Title 16, C.R.S. The report also discusses the effectiveness of the Department of Public Safety in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit [coprrr.colorado.gov](http://coprrr.colorado.gov).

Sincerely,

Patty Salazar  
Executive Director





## Sunset Review: Sex Offender Management Board

### Background

#### *What is regulated?*

The 25-member Sex Offender Management Board (SOMB), in the Department of Public Safety (DPS), develops standards and guidelines (S&Gs) that are applied in the state's judicial and correctional systems to oversee adult sex offenders and juveniles who have committed sexual offenses. The SOMB also approves the treatment providers, evaluators, clinical supervisors and polygraph examiners who work with sex offenders.

#### *Why is it regulated?*

The SOMB endeavors to reduce the possibility that a sex offender will reoffend.

#### *Who is regulated?*

In fiscal year 20-21, the SOMB listed:

- 315 adult treatment providers
- 211 juvenile treatment providers
- 105 adult clinical treatment supervisors
- 63 juvenile clinical treatment supervisors
- 124 adult evaluators
- 62 juvenile evaluators
- 46 adult clinical evaluator supervisors
- 24 juvenile clinical evaluator supervisors
- 28 adult polygraph examiners
- 17 juvenile polygraph examiners

#### *How is it regulated?*

The SOMB approves providers by ensuring they satisfy certain educational requirements, supervised experience and successful completion of a background check.

#### *What activity is there?*

During the period examined for this sunset review, the

SOMB provided 308 training sessions attended by 15,029 individuals, implemented a data collection initiative and revised portions of the S&Gs, among other activities.

#### *What does it cost?*

The SOMB is funded through a sex offender surcharge and the General Fund. In fiscal year 20-21, DPS expended \$641,716 and allotted 6.4 full-time equivalent employees to program administration.

#### *What disciplinary activity is there?*

During the years reviewed, 12 providers successfully completed compliance action plans and none were delisted.

### Key Recommendations

- Continue the SOMB for seven years, until 2030.
- Clarify that supervising officers are required to follow the S&Gs and direct those agencies that employ supervising officers to collaborate with the SOMB to hold accountable those who fail to do so.
- Repeal the limitation on the number of treatment providers given to offenders and provide every available listed treatment provider.
- Require standards compliance reviews on at least 10 percent of providers every two years.

# Table of Contents

Background .....	1
Sunset Criteria .....	1
Sunset Process .....	3
Methodology .....	3
Profile of the SOMB .....	5
Legal Framework .....	11
History of Regulation .....	11
Legal Summary .....	12
Program Description and Administration .....	18
Committees.....	20
S&G Development .....	21
Listings .....	22
Treatment Provider Listing.....	23
Evaluator Listing .....	25
Clinical Supervisor Listing .....	26
Polygraph Examiner Listing .....	27
Standards Compliance Reviews.....	30
Complaint and Disciplinary Activity .....	32
Educational Functions .....	34
Data Collection .....	35
Collateral Consequences - Criminal Convictions .....	36
Analysis and Recommendations .....	37
Recommendation 1 - Continue the Sex Offender Management Board for seven years, until 2030. ....	37
Recommendation 2 - Clarify that supervising officers are required to follow the S&Gs when working with sex offenders and direct those agencies that employ supervising officers to collaborate with the SOMB in developing procedures to hold accountable those who fail to do so. ....	39
Recommendation 3 - Repeal the limitation on the number of treatment providers given to offenders and provide every available listed treatment provider. ....	43
Recommendation 4 - Require standards compliance reviews on at least 10 percent of approved providers every two years. ....	44
Recommendation 5 - Modernize the language related to criminal history record checks and fingerprinting requirements. ....	47

Recommendation 6 - Repeal the requirement that the Department of Regulatory Agencies participate in the publication of the list of approved providers. .... 47

Appendix A - 2019 Sunset Review Survey..... 48

Appendix B - 2022 Customer Service Survey ..... 56

---

## Background

### Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether a particular regulatory program is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To ascertain a second aspect of the first sunset criterion--whether conditions that led to initial regulation have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the third sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the tenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

---

<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

**Table 1  
Application of Sunset Criteria**

Sunset Criteria	Where Applied
(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;	<ul style="list-style-type: none"> <li>• Profile of the SOMB</li> <li>• History of Regulation</li> <li>• Program Description</li> <li>• Recommendations 1 and 2</li> </ul>
(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;	<ul style="list-style-type: none"> <li>• Legal Summary</li> <li>• Program Description</li> <li>• Recommendation 3</li> </ul>
(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;	<ul style="list-style-type: none"> <li>• Legal Summary</li> <li>• Program Description</li> <li>• Recommendation 4</li> </ul>
(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;	<ul style="list-style-type: none"> <li>• Program Description</li> <li>• Recommendations 5 and 6</li> </ul>
(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;	<ul style="list-style-type: none"> <li>• Legal Summary</li> <li>• Program Description</li> </ul>
(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;	<ul style="list-style-type: none"> <li>• Profile of the SOMB</li> </ul>
(VII) Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;	<ul style="list-style-type: none"> <li>• Program Description</li> <li>• Recommendation 2</li> </ul>
(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage affirmative action;	<ul style="list-style-type: none"> <li>• Program Description</li> </ul>

Sunset Criteria	Where Applied
(IX) Whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> <li>• Program Description</li> </ul>
(X) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> <li>• Recommendations 1 - 6</li> </ul>

## Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR’s website at [coprrr.colorado.gov](http://coprrr.colorado.gov).

The functions of the Sex Offender Management Board (SOMB), as enumerated in Article 11.7 of Title 16, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2023, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the SOMB pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the SOMB should be continued and to evaluate the performance of the Department of Public Safety, Division of Criminal Justice (Department and DCJ, respectively). During this review, DCJ must demonstrate that the program serves the public interest. COPRRR’s findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

## Methodology

As part of this review, COPRRR staff attended SOMB and committee meetings; interviewed SOMB members, DCJ staff, practitioners, and officials with state advocacy organizations; and reviewed Colorado statutes and rules.

---

The major contacts made during this and the 2019 sunset review of the SOMB include, but are not limited to:

- Advocates for Change
- Association for the Treatment of Sexual Abusers
- Citizens United for Rehabilitation of Errants
- Coalition for Sexual Offense Restoration
- Colorado Coalition Against Sexual Assault
- Colorado Department of Corrections
- Colorado Department of Human Services
- Colorado Department of Public Safety
- Colorado Department of Regulatory Agencies
- Colorado District Attorneys' Council
- Colorado Judicial Branch
- Colorado Organization for Victim Assistance
- Colorado Municipal League
- County Health & Human Services Association
- County Sheriffs of Colorado
- Office of the Colorado Attorney General
- Office of the Colorado State Public Defender
- REMERG
- Rocky Mountain Victim Law Center
- Sex Offender Management Board members
- SOMB Independent Parliamentary Assessor
- WINGS Foundation

COPRRR staff also conducted two surveys of SOMB-approved providers: one as part of the 2019 sunset review and one as part of the current sunset review:

- In April 2019, COPRRR staff conducted a survey of all providers who were approved by the SOMB at that time. The survey was sent to 684 email addresses; 44 emails were returned as undeliverable. The survey received 146 responses, which is a 23 percent response rate. Survey results may be found in Appendix A.
- In June 2022, COPRRR staff conducted a survey of all providers who are approved by the SOMB. The survey was sent to 362 SOMB-approved providers; 23 emails were returned as undeliverable. The survey received 102 responses, which is a 30 percent response rate. Survey results may be found in Appendix B.

---

## Profile of the SOMB

In a sunset review, COPRRR is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation.

In order to understand the need for regulation, it is first necessary to understand what the SOMB does, how it works, who it serves, the underlying philosophy, and the circumstances under which it operates.

The SOMB makes public policy with regard to sex offenders,<sup>2</sup> in a clinical, objective manner to protect Colorado's public. Nevertheless, the subject matter invites constant scrutiny and controversy.

The legislative declaration of the statutes creating the Standardized Treatment Program for Sex Offenders (Act) reads, in part:

[I]t is necessary to create a program that establishes evidence-based standards for the evaluation, identification, treatment, management, and monitoring of adult sex offenders and juveniles who have committed sexual offenses at each stage of the criminal or juvenile justice system to prevent offenders from reoffending and enhance the protection of victims and potential victims. The General Assembly does not intend to imply that all offenders can or will positively respond to treatment.<sup>3</sup>

In that vein, the SOMB is the body established to reduce the possibility that a sex offender will victimize someone else. The SOMB has developed systems, standards, and guidelines for the management and treatment sex offenders in Colorado.

According to the Act, treatment is, "...therapy, monitoring, and supervision of any sex offender which conforms to the standards created by the [SOMB] . . ."<sup>4</sup> The SOMB standards and guidelines are, with little exception, the principles and policies employed by multiple governmental agencies, the courts, nonprofits and professionals who work with offenders.

---

<sup>2</sup> Generally, the term "sex offender" is used in this sunset report to refer to both adult sex offenders and juveniles who have committed sexual offenses.

<sup>3</sup> § 16-11.7-101(2), C.R.S.

<sup>4</sup> § 16-11.7-102(4), C.R.S.

---

The SOMB, through the *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* and the *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses* (collectively S&Gs), developed policies that affect:

- The Colorado Judicial Branch via court decisions and probation practices;
- Department of Corrections (DOC) decisions and practices concerning the treatment of individuals both incarcerated and on parole;
- Department of Human Services, Division of Youth Services (DYS) policies concerning the treatment of juveniles who have committed sexual offenses;
- County, municipal and citizen processes and plans for offenders to live in their communities; and
- Other sex offender-related processes.

The S&Gs represent an attempt at standardizing individualized treatment. They are policies that are applied individually but normalized across a wide spectrum of ages, personalities, and pathologies. Considering that laws, research, and public opinion are dynamic, the SOMB and the S&Gs attempt to make sound public policy in an ever-changing environment by standardizing processes and protocols. Through several SOMB committees, the S&Gs are continually scrutinized and revised to keep them up to date.

The current treatment philosophy mandated by the Act and embodied in the SOMB is the risk-need-responsivity (RNR) model. The RNR model is applied internationally during the assessment and treatment of sex offenders. Developed in the 1980s, the RNR model is based on three principles:<sup>5</sup>

- The *risk principle* asserts that criminal behavior can be reliably predicted and that treatment should focus on higher risk offenders;
  - Match the level of service to the offender's risk to re-offend.
- The *need principle* highlights the importance of criminogenic needs in the design and delivery of treatment; and
  - Assess criminal traits, problems and issues and target them in treatment.
- The *responsivity principle* describes how the treatment should be provided.
  - Tailor the intervention to the learning style, motivation, abilities and strengths of the offender.

The RNR model provides the basis for treatment of sex offenders and is the foundation of the S&Gs.

---

<sup>5</sup> Public Safety Canada. *Risk-need-responsivity model for offender assessment and rehabilitation 2007-06*. Modified January 31, 2018. Retrieved March 23, 2022, from [www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rsk-nd-rspnsvty/index-en.aspx](http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rsk-nd-rspnsvty/index-en.aspx)

---

After conviction of a sex crime,<sup>6</sup> an SOMB-listed evaluator conducts an offense-specific evaluation of the offender. The evaluation assesses the risk for re-offense and recommends appropriate protocols for treatment and supervision. The court considers the evaluation when imposing a sentence.

If an adult offender is sentenced to prison, he or she will undergo treatment while under the supervision of the DOC or parole. If an adult is placed with probation, parole or community corrections, the supervising agency assigns a supervising officer<sup>7</sup> who forms a community supervision team (CST). If a juvenile is adjudicated, the supervising officer or case manager forms a multidisciplinary team (MDT). The CST and MDT are teams established specifically for an individual offender, whose members collaborate on the offender's treatment. The Act requires the supervising agency to provide two options for treatment providers to an offender. Once determined, the treatment provider cannot be changed by the offender without the approval of the CST, MDT or the court.<sup>8</sup>

The CSTs and MDTs are designed to work collaboratively so that offenders in treatment are capable of living in Colorado communities while lowering the chances that they re-offend. The core CST typically consists of a supervising officer, a treatment provider, an evaluator, a polygraph examiner, and a victim advocate. An MDT typically will also have family involved in the treatment. The objective of the supervision team is to individualize therapy, supervision and monitoring to the offender in treatment. The goal of the collaborative efforts

is to engage offenders in treatment and supervision in order to decrease risk, enhance protective factors, and increase their intrinsic motivation for positive behavioral change.<sup>9</sup>

Field operationalization of the S&Gs and the RNR model occurs through the CSTs and MDTs in what has become known as the Treatment, Engagement, Assessment, Management and Supervision (TEAMS) model.

This system is not without controversy. There are some who posit that the supervision team approach is a relic from the containment model and “no known cure” mindset. The “containment model” is the nomenclature used to describe the previous system used to control sex offenders. A major reason the containment model evolved is the tenet that incarcerating lower risk sex offenders is a drain on taxpayer dollars. While less controlling and more therapeutic, the TEAMS model, which is supported by the RNR

---

<sup>6</sup> “Convicted,” as used in this sunset report, generally means both adults convicted of sex offenses and juveniles adjudicated for sexual offenses.

<sup>7</sup> The term “supervising officer” is one of general applicability, for the purposes of this sunset report. It includes, but is not limited to, probation officers in the Department of Corrections, parole officers in the Judicial Branch, case managers in the Division of Youth Services and community corrections, as well as others.

<sup>8</sup> § 16-11.7-105(2), C.R.S.

<sup>9</sup> § 5.005, Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022).

---

model, has, in theory, replaced the containment model, but the dominant structure of the containment model is still in place: the supervision team.

Still others maintain the supervision teams are the best therapeutic means for this population to positively exist among the general population. COPRRR conducted a survey of approved providers for the 2019 sunset review. Seventy-two percent of the respondents felt the supervision team structure allows for treatment according to best therapeutic practices and of those, 49 percent strongly agreed. The thought is that if the team is allowed to be innovative and determine management based on the evaluation and treatment of the individual, the system will be more successful.

The disagreement in opinion toward supervision teams partially illustrates the difficulty some people and institutions have when working with sex offenders. For many people punishment, rather than treatment, is a safe fallback position, while others accept that treatment and collaboration work.

There are also those who are critical of the SOMB itself. The 25-member SOMB is comprised of members from a broad section of the state's population and governmental organizations. It has representatives from the courts and probation, prisons and parole, county administrations, state governmental agencies, prosecuting and defense attorneys, victim advocates, polygraph examiners and mental health therapists. With so many differing interests, it is not always easy to reach a consensus on issues. Entertaining so many perspectives leads to criticisms that the SOMB does not always employ evidence and research to make decisions. There are also those who see the SOMB as effective.

Another controversy is the prominent use of polygraph in adult treatment. Each CST has a polygraph examiner. Some people contend that the polygraph presents a false premise for enforcement while others assert it adds a measure of accountability to the treatment process.

According to research conducted by the Colorado Legislative Council Staff, polygraph use has been researched extensively. However, not many peer-reviewed studies measure its usefulness in sex offender treatment and recidivism. The study further found:<sup>10</sup>

The majority of states reviewed do not mandate polygraphs, but instead allow clinicians or the supervising officer to request one if they feel it would be useful in better managing the sex offender. Although Tennessee explicitly discontinued polygraph tests as a supervision tool in 2012 due to legal concerns, they are allowed for treatment purposes. Georgia, Maine, and Minnesota also let treatment providers determine if they want to use a polygraph and, if so, under what circumstances. Nevada, West Virginia,

---

<sup>10</sup> Legislative Council Staff. *Memorandum November 6, 2018. Overview of Post-Conviction Sex Offender Polygraph Testing*. Retrieved March 23, 2022, from [leg.colorado.gov/sites/default/files/polygraphs\\_and\\_sex\\_offenders\\_10032018\\_0.pdf](http://leg.colorado.gov/sites/default/files/polygraphs_and_sex_offenders_10032018_0.pdf)

---

and Wisconsin allow a supervising parole or probation officer to request a polygraph test.

While the Act does not mandate the use of polygraph, it directs the SOMB to develop an application and review process for polygraph examiners to be listed.<sup>11</sup> To this end, the SOMB reviewed the available research in crafting the S&Gs, and polygraph continues to be a major component of treatment.

Fueled in part by events in the news, there are some people who insist that many offenders are wrongfully accused. Others counter that all sex offenders are incapable of change. However, while the SOMB plays no role in whether an individual is convicted, the philosophy underlying the existence of the SOMB is that the majority of people in the system have committed serious crimes but with some degree of treatment, they are able to live in society.

Finally, even the term “sex offender” can be controversial. In November 2021, the SOMB tentatively voted to abandon the use of the term in favor a term that is more consistent with a person-first approach: “adults who commit sex offenses.” However, after significant backlash from various sectors, the issue was returned to committee for further review and stakeholder input.

These are but a few examples of the contrasting thoughts and opinions stakeholders have concerning sex offenders and sex offender treatment. There are also more moderate opinions that lie between the edges. However, considering all the conflicting opinions and attitudes, the controversies drive constant scrutiny. Since 2009, the SOMB has undergone two external evaluations, an internal evaluation, four sunset reviews, a performance audit and it makes annual reports to the General Assembly.

The sixth sunset criterion inquires as to the economic impact of regulation. One way to examine this criterion is to explore the economic impact of sexual violence, which the U.S. Centers for Disease Control and Prevention estimate to exceed \$122,000 over the lifetime of the survivor, including medical costs, lost productivity, criminal justice activities and others.<sup>12</sup> Of course, these economic costs do not include the physical and emotional toll sexual violence can have on survivors.

---

<sup>11</sup> § 16-11.7-106(2)(a), C.R.S.

<sup>12</sup> Centers for Disease Control and Prevention. *Fast Facts: Preventing Sexual Violence*. Retrieved September 22, 2022, from [www.cdc.gov/violenceprevention/sexualviolence/fastfact.html](http://www.cdc.gov/violenceprevention/sexualviolence/fastfact.html)

---

Additional economic costs include those incurred by the sex offenders themselves (or the state when the offender is unable to pay), in terms of offense-specific evaluations, polygraph examinations and treatment. These costs also translate into income for the practitioners involved. These expenditures, and corresponding revenues, can vary greatly:<sup>13</sup>

- Offense-specific evaluation: \$700 to \$1,650 per evaluation
- Group treatment: \$35 to \$85 per session
- Individual treatment: \$45 to \$130 per session
- Polygraph examination: \$250 per examination

---

<sup>13</sup> Colorado Department of Corrections, Colorado Department of Public Safety and State Judicial Department, *Lifetime Supervision of Sex Offenders: Annual Report*, November 1, 2021, p. 33.

---

## Legal Framework

### History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset criterion questions whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less or the same degree of regulation.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

In 1992, the General Assembly created the Sex Offender Management Board (SOMB) as the 12-member, Sex Offender Treatment Board. Its fundamental charge is to develop standards for the treatment of sex offenders. The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (Adult S&Gs) was first published in 1996 and has been modified on an ongoing basis. The SOMB first developed the *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses* (Juvenile S&Gs, collectively, S&Gs) in 2002. Like the Adult S&Gs, the Juvenile S&Gs are subject to constant revision.

What began as a 12-member board, now consists of 25 members who represent interests from various governmental and nongovernmental entities. As new duties were assigned to the SOMB, new seats were added. For example, because the SOMB disseminates information in schools, a seat was allotted to a representative from the Colorado Department of Education.

In recent history, as with the S&Gs, the SOMB itself has been under constant examination. This sunset review is the fifth in the last 22 years. This 2022 review follows reviews conducted in 2000, 2009, 2015 and 2019. The bill reauthorizing the SOMB following the 2009 review was vetoed by the Governor because of the addition of a last-minute amendment. The veto triggered the windup and sunset of the SOMB. However, the SOMB was reauthorized in the 2011 legislative session. The recommendations from the 2015 review included a data collecting measure to gauge policy efficacy, which the General Assembly funded in 2018, and a measure to streamline intragovernmental communication.

The bill implementing the 2019 sunset recommendations fell victim to the COVID-19 pandemic-impacted 2020 legislative session. As a result, the SOMB was continued for one year, with no new sunset review required. During the 2021 legislative session, House Bill 1320 would have implemented several of the 2019 sunset recommendations, but it was amended in the final days of the session to remove any substantive changes;

---

it simply continued the SOMB for two years, until 2023, and required the production of this sunset report.

Finally, in June 2020, the Colorado Office of the State Auditor released a relatively critical report of the SOMB, highlighting:<sup>14</sup>

- The S&Gs failed to adequately cite supporting evidence,
- Inconsistent verification of provider qualifications,
- Failure to adequately investigate complaints and follow SOMB policies surrounding the complaint process, and
- Actual and perceived conflicts of interest among several SOMB members.

While this sunset review is not the proper vehicle through which to ascertain the steps the SOMB has taken to address the concerns raised in the audit, the Office of the State Auditor determined that the SOMB has satisfactorily responded to all required recommendations.

## Legal Summary

The second and third sunset criteria question

Whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent; and

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The powers and duties of the SOMB are outlined in the statutes creating the Standardized Treatment Program for Sex Offenders (Act), which can be found in Article 11.7 of Title 16, Colorado Revised Statutes (C.R.S.). The main purpose of the SOMB is to determine evidence-based standards for the evaluation, identification, treatment, management and monitoring of adult sex offenders and juveniles who have committed sexual offenses. The standards are to be employed at each stage of the criminal and

---

<sup>14</sup> Colorado Office of the State Auditor, Performance Audit: Department of Public Safety, Sex Offender Management Board, June 2020, "Report Highlights."

---

juvenile justice systems to enhance public protection, prevent the reoccurrence of sex-offense crimes and enhance the protection of victims and potential victims.<sup>15</sup>

The Act defines a sex offense as:<sup>16</sup>

- Sexual assault;
- Unlawful sexual contact;
- Sexual assault on a child;
- Sexual assault on a child by one in a position of trust;
- Sexual assault on a client by a psychotherapist;
- Enticement of a child;
- Incest;
- Aggravated incest;
- Human trafficking of a minor for sexual servitude;
- Sexual exploitation of children;
- Procurement of a child for sexual exploitation;
- Indecent exposure;
- Soliciting for child prostitution;
- Pandering of a child;
- Procurement of a child;
- Keeping a place of child prostitution;
- Pimping of a child;
- Inducement of child prostitution;
- Patronizing a prostituted child;
- Class 4 felony internet luring of a child;
- Internet sexual exploitation of a child;
- Public indecency, if a second offense is committed within five years of a previous offense or a third or subsequent offense is committed;
- Invasion of privacy for sexual gratification;
- Unlawful electronic sexual communication;
- Unlawful sexual conduct by a peace officer; and
- Criminal attempt, conspiracy, or solicitation to commit any of these offenses.

Upon conviction of one of these offenses, an offender is subject to the provisions of the Act.

The fifth sunset criterion questions whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

One way that COPRRR addresses this is by examining the composition of the SOMB.

---

<sup>15</sup> § 16-11.7-101, C.R.S.

<sup>16</sup> § 16-11.7-102(3), C.R.S.

---

The 25-member SOMB consists of individuals who represent multiple interests, including:<sup>17</sup>

- A member who represents the Colorado Department of Corrections (DOC), appointed by its Executive Director;
- A member who has experience with juveniles who have committed sexual offenses and who are in the public school system, appointed by the Commissioner of Education;
- A member who represents prosecuting attorneys with recognizable expertise in prosecuting sexual offenses, appointed by the Executive Director of the Colorado District Attorneys' Council;
- Three members appointed by the Chief Justice of the Supreme Court:
  - A member who represents the Judicial Department,
  - A member who is a District Court Judge, and
  - A member who is either a Juvenile Court Judge or a Magistrate;
- Three members appointed by the Executive Director of the Colorado Department of Human Services (DHS):
  - A member who represents DHS and has recognizable expertise in child welfare and case management,
  - A member who represents the Division of Youth Services (DYS), and
  - A member who is a provider of out-of-home placement services with recognizable expertise with juveniles who have committed sexual offenses;
- 16 members appointed by the Executive Director of the Colorado Department of Public Safety (DPS):
  - A member who represents the Division of Criminal Justice;
  - A member who represents law enforcement with recognizable expertise in addressing sexual offenses and victimization;
  - A member of a community corrections board;
  - A public defender with recognizable expertise related to sexual offenses;
  - A county director of human or social services;
  - A clinical polygraph examiner;
  - A private criminal defense attorney with recognizable expertise related to sexual offenses;
  - Two licensed mental health professionals with recognizable expertise in the treatment of adult sex offenders;
  - Two licensed mental health professionals with recognizable expertise in the treatment of juveniles who have committed sexual offenses;
  - Two county commissioners or members of the governing council for a jurisdiction that is a contiguous city and county, one from an urban or suburban county and one from a rural county; and
  - Three representatives from sexual abuse victims and victims' rights organizations.

---

<sup>17</sup> § 16-11.7-103(1), C.R.S.

---

The SOMB promulgates policies encompassing all phases of sex offender treatment. It must develop standards for identifying a sex offender and evaluating the risk they might present to the community; collaborate with the Colorado Judicial Branch, DOC and the State Board of Parole on policies for sentencing and releasing offenders from incarceration; establish offender community living guidelines; and research and analyze the effectiveness of policies and procedures it has developed.<sup>18</sup>

The SOMB also has prevention- and education-related duties. It is directed to develop a process so people in the community may obtain information about registered sex offenders. This includes a statement, to be used in each public school for the parents of children attending the school, describing procedures by which community members may obtain law enforcement agency information. It also develops general information about adult sex offenders and juveniles who have committed sexual offenses, including safety concerns, and other relevant materials.<sup>19</sup>

In addition to policymaking, the SOMB approves, or “lists”, the individuals responsible for offender treatment in the community and in the DOC.

The Act defines treatment as “...therapy, monitoring, and supervision of any sex offender which conforms to the standards created by the [SOMB] . . .”<sup>20</sup> The Act also states that any sex offender considered for probation must be evaluated for treatment and risk to the community.<sup>21</sup> A conviction carrying a sentence of probation, community corrections, or incarceration with the DOC, commitment to DHS, placement on parole, or out-of-home placement requires an evaluation and treatment by an approved provider. However, the supervising agency with jurisdiction over the offender may alter that treatment through subsequent recommendations.<sup>22</sup>

Unless there are specific circumstances which can limit treatment provider options, the supervising agency must provide two options to an offender. When a treatment provider has been selected, it cannot be changed by the offender without the approval of the Community Supervision Team (CST) for adults, the Multidisciplinary Team (MDT) for juveniles or the court.<sup>23</sup> The CST and MDT are teams established specifically for an individual offender, the members of which collaborate on the offender’s treatment.

All evaluations, as well as any treatment or polygraph services, must be provided by individuals who conform to the S&Gs and who are listed with the SOMB.<sup>24</sup> To be listed, the Act directs the application and review process consist of three parts:

- A criminal history record check that includes a fingerprint investigation. The SOMB must forward the fingerprints to the Colorado Bureau of Investigation for

---

<sup>18</sup> § 16-11.7-103(4), C.R.S.

<sup>19</sup> § 16-11.7-103(4)(l), C.R.S.

<sup>20</sup> § 16-11.7-102(4), C.R.S.

<sup>21</sup> § 16-11.7-104(1), C.R.S.

<sup>22</sup> § 16-11.7-105(1), C.R.S.

<sup>23</sup> § 16-11.7-105(2), C.R.S.

<sup>24</sup> § 16-11.7-106(1), C.R.S.

---

a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check.<sup>25</sup>

- A verification of qualifications and credentials.<sup>26</sup>
- Any background investigation deemed necessary beyond the scope of the initial criminal history record check. In conducting this background investigation, the SOMB must acquire information and recommendations applicable to the applicant's fitness to provide services.<sup>27</sup>

The SOMB also determines a renewal process for all listed providers<sup>28</sup> and has the authority to determine the criteria for an individual to be re-listed once they have been delisted.<sup>29</sup>

Among the specific qualifications required of an individual who wants to become a listed evaluator or treatment provider is that they possess a Department of Regulatory Agencies (DORA)-issued professional credential as a psychologist, social worker, marriage and family therapist, professional counselor, certified addiction specialist or licensed addiction counselor, or unlicensed psychotherapist; or be a candidate for a license.<sup>30</sup> Psychiatrists and clinical psychiatric nurse specialists may also qualify.<sup>31</sup>

Because of the dual qualification, there are provisions for interagency notification. Complaints and grievances must be sent to DORA for investigation by a provider's credentialing board and DORA must notify the SOMB of the receipt of any complaint or grievance against a listed provider so the SOMB may investigate. Notwithstanding any action by DORA, the SOMB has the authority to delist a listed provider for a violation of the S&Gs.<sup>32</sup>

Much of the policy-oriented work is accomplished by the development of the S&Gs. These are the foundation of sex offender treatment in Colorado. They lay out the SOMB's philosophies toward offender treatment in the "Guiding Principles," as well as defining who, what, where, when, and how treatment proceeds.

---

<sup>25</sup> § 16-11.7-106(2)(a)(I), C.R.S.

<sup>26</sup> § 16-11.7-106(2)(a)(II), C.R.S.

<sup>27</sup> § 16-11.7-106(2)(a)(III), C.R.S.

<sup>28</sup> § 16-11.7-106(5), C.R.S.

<sup>29</sup> § 16-11.7-106(4), C.R.S.

<sup>30</sup> §§ 4.300(B), 4.310(A) and 4.600(A). Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and §§ 4.300(B), 4.310(A) and 4.600(A). Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>31</sup> §§ 4.100(B), 4.200(B), 4.300(B), 4.310(A), 4.600(A), 4.610(A), and 4.700(B). Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and §§ 4.100(B), 4.200(B), 4.300(B), 4.310(A), 4.600(A), 4.610(A), and 4.700(B). Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>32</sup> § 16-11.7-106(7), C.R.S.

---

The Adult S&Gs address:<sup>33</sup>

- Guidelines for Pre-Sentence Investigations;
- Standards for Sex Offense-Specific Evaluations;
- Standards of Practice for Treatment Providers;
- Qualifications of Treatment Providers, Evaluators, and Polygraph Examiners Working with Sex Offenders;
- Standards and Guidelines for Community Supervision Teams Working with Adult Sex Offenders;
- Contact with Victims, Children and At-Risk Adults;
- Standards of Practice for Post-Conviction Polygraph Testing;
- Continuity of Care and Information Sharing;
- Victim Impact and a Victim Centered Approach; and
- Standards for Plethysmography.

The Juvenile S&Gs address:<sup>34</sup>

- Presentence Investigations of Juveniles Who Have Committed Sexual Offenses;
- Evaluation and Ongoing Assessment of Juveniles Who Have Committed Sexual Offenses;
- Standards of Practice for Treatment Providers;
- Qualifications of Treatment Providers, Evaluators, and Polygraph Examiners Working with Juveniles Who Have Committed Sexual Offenses;
- Establishment of a Multidisciplinary Team for the Management and Supervision of Juveniles Who Have Committed Sexual Offenses;
- Polygraph Examination of Juveniles Who Have Committed Sexual Offenses;
- Continuity of Care and Information Sharing;
- Victim Impact and a Victim Centered Approach;
- Victims and Potential Victims: Clarification, Contact and Reunification;
- Additional Conditions of Community Supervision; and
- Supervision Protocol.

In addition to these topics, each volume contains extensive appendices and discussion notes that provide guidance as to how to interpret and implement the S&Gs.

---

<sup>33</sup> Table of Contents. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022).

<sup>34</sup> Table of Contents. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

---

## Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The third, fourth and fifth sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures practices and any other circumstances, including budgetary, resource and personnel matters;

Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Sex Offender Management Board (SOMB) is a 25-member Board with representatives from the Colorado Judicial Branch; Departments of Corrections, Education, Human Services, and Public Safety; local governments; the treatment community; prosecuting and defense attorneys; and victim advocates. Members serve four-year terms and must reflect urban and rural areas. The SOMB develops standards and guidelines (S&Gs) to treat both adult sex offenders and juveniles who have committed sexual offenses and who are subject to the Colorado criminal and juvenile justice systems. The Department of Public Safety, Division of Criminal Justice (DPS and DCJ, respectively) provides staff to the SOMB.

The SOMB meets monthly to deliberate on many issues relating to sex offenders. It brings a wide range of perspectives from several facets of Colorado's government and advocacy communities including stakeholders from the courts, prisons, the defense bar, mental health fields, several governmental agencies, as well as advocates for both victims and offenders. Meetings are generally well attended by both SOMB members and members of the public.

The program has multiple revenue streams. A sex offender surcharge, charged to each sex offender, finances the Sex Offender Surcharge Fund. The surcharge varies by category of the crime committed.

Those who provide services to sex offenders (i.e., treatment providers, evaluators, clinical supervisors and polygraph examiners) also pay \$125 at the time of application

for initial and renewal approvals. These funds are deposited into the Sex Offender Treatment Provider Fund.

The remainder of program operations use General Fund dollars allocated to DPS.

Table 2 itemizes the revenue, expenditures, and the full-time equivalent (FTE) employees used to maintain SOMB activities during the period under sunset review.

**Table 2  
SOMB Program Fiscal Information**

Fiscal Year	Sex Offender Treatment Provider Fund	Sex Offender Surcharge Fund	General Fund	Total Program Expenditure	FTE
16-17	\$12,511	\$142,023	\$396,088	\$550,623	5.0
17-18	\$13,530	\$159,410	\$397,903	\$570,843	5.3
18-19	\$16,682	\$142,034	\$512,543	\$671,258	6.1
19-20	\$14,209	\$159,395	\$504,035	\$677,639	6.2
20-21	\$11,741	\$155,243	\$474,732	\$641,716	6.4

Table 2 shows that the program expenditures and staffing increased in fiscal year 18-19. This can be attributed to the General Assembly funding the SOMB's Provider Data Management System, which included not only a new computer system, but also additional staff.

Staff performs several support activities. Activities include staffing committees, performing research, training and coordinating educational activities (which includes explaining the S&Gs to providers), and any other administrative tasks which arise. The staff positions are currently allotted as follows:

- Program Management II - 1.0 FTE, this position serves as the leading authority in the DCJ regarding sex offender research, laws, policy development, statewide collaboration, standards, and treatment.
- Program Coordinator - 1.0 FTE, this position provides high-level operations management of the SOMB.
- Administrator IV - 1.0 FTE, this position serves as the Adult Standards Coordinator and the Community Notification Coordinator concerning presence of sexually violent predators in the community.
- Administrator IV - 1.0 FTE, this position serves as the Juvenile Standards Coordinator.
- Administrator IV - 0.15 FTE, this position completes background checks on provider applicants.

- 
- Statistical Analyst II - 0.8 FTE, this position is responsible for data collection and analysis for the purpose of recommending necessary policy changes, standards changes, and training.
  - Statistical Analyst II - 1.0 FTE, this position is responsible for data collection, analysis, technical assistance, and development of a Phase II data collection process for tracking clients over time and across providers.
  - Program Assistant I - 0.7 FTE, these two positions provide administrative support.

## Committees

One way in which the SOMB completes its charges and obtains outside perspective is through its committees. In 2022, it had 11 committees:<sup>35</sup>

- Adult Standards Revision Committee - Ensures effective implementation and adherence to research and statutory requirements in the Adult S&Gs, reviews new research and addresses technical assistance concerns;
- Application Review Committee (ARC) - Reviews listing applications and complaints regarding treatment providers, evaluators and polygraph examiners, and conducts standards compliance reviews;
- Best Practices Committee - Consists of at least 80 percent treatment providers and attempts to ensure that the S&Gs remain current with emerging research;
- Community Corrections Lifetime Supervision Criteria Work Group - By working with other agencies, such as the Department of Corrections (DOC) and the Colorado Judicial Branch, creates criteria for those who fall under the lifetime supervision act to ensure consistency throughout the state for those in other agencies assessing individuals seeking release to community corrections;
- Executive Committee - Maintains the focus on the mission of the SOMB and formulates the agenda for SOMB meetings;
- Family Education, Engagement and Support Committee - Provides ways to educate the families of adult sex offenders about the journey the sex offender will travel, offers resources for families who want to know what they can do and where they can go for assistance and acknowledges the impacts that sex offenders have on their families;
- Juvenile Standards Revision Committee - Reviews and revises the Juvenile S&Gs based on emerging research and best practices;
- Sex Offender Registration Legislative Workgroup - Ensures the effectiveness of the sex offender registration and notification system;
- Sex Offender Surcharge Committee - Coordinates expenditures from the Sex Offender Surcharge Fund to identify, evaluate and treat adult sex offenders and juveniles who have committed sexual offenses;

---

<sup>35</sup> Division of Criminal Justice, Sex Offender Management Board: Annual Legislative Report, January 2022, Appendix A.

- 
- Training Committee - Identifies training topics and objectives, provides support in the planning of training events, defines and assesses training needs of stakeholders and develops trainers through collaboration with other agencies; and
  - Victim Advocacy Committee - Ensures that the SOMB and the S&Gs remain victim-centered by addressing victim needs and including victim perspectives.

The SOMB uses this committee system to provide expertise and recommendations concerning specific subjects on which the SOMB must act. Importantly, these various committees comprise many non-SOMB members, thereby broadening the perspectives and input provided.

## **S&G Development**

The primary statutory duty assigned to the SOMB is the development of the S&Gs. The S&Gs outline the values and principles that guide sex offender treatment.

While the S&Gs have been in place for several years, they undergo constant scrutiny and revision to keep current in an ever-changing field. The process by which the revisions take place is often criticized as being non-scientific and unnecessarily lengthy in terms of time.

Regardless of those opinions, during the five-year period covered by this sunset review there have been multiple changes made to the S&Gs and associated policies. Including revisions to:

- Guiding Principles (Adult and Juvenile S&Gs);
- Introduction (Adult and Juvenile S&Gs);
- Definitions (Juvenile S&Gs only);
- Section 2.000 - Evaluations (2.100 G) (Juvenile S&Gs only);
- Section 3.000 - Standards of Practice for Treatment Providers (Adult 3.162, and Juvenile 3.000, 3.130 C, and 3.420) (Adult and Juvenile S&Gs);
- Section 4.000 - Provider Qualifications (Adult and Juvenile S&Gs);
- Section 6.000 - Polygraph (Adult S&Gs only);
- Appendix A - Administrative Policies (Adult and Juvenile S&Gs);
- Appendix R - Sexual Offenses Identified in Colorado Revised Statutes (Adult S&Gs only);
- Appendix U - Use of Tele-Therapy with Adult Offenders (Adult S&Gs only); and
- All sections of both the Adult and Juvenile S&Gs now include research citations.

---

Additionally, the SOMB has taken steps recently to address considerations related to equity, diversity and inclusivity (EDI), such as:

- For its annual conference in 2021, the SOMB specifically requested presentations that included EDI components, sought information about the diversity of the presenters and sought information about how the presenters would represent EDI issues during their presentations;
- Bringing speakers to the SOMB and committee meetings that represent diverse groups and perspectives;
- Passing a new guiding principal related to EDI;
- Placing greater emphasis on recruiting SOMB and committee members to address EDI; and
- Reviewing research related to EDI with respect to the S&Gs, resource documents and the implications of labeling.

Finally, in Fall 2021, the SOMB explored the use of person-first language for the Adult S&Gs. While this effort ultimately ended in no permanent changes, it reflects the SOMB's dedication to the continued evolution of the S&Gs.

## Listings

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The SOMB is directed by statute to “list” the individuals responsible for offender treatment, as well as evaluators and polygraph examiners. The list is forwarded to the office of the State Court Administrator, DPS, the Department of Human Services and DOC. Offenders under the jurisdiction of one of these agencies may access a listed provider.<sup>36</sup>

To facilitate the listing process, DCJ has implemented an online application process whereby providers can submit applications, pay fees (\$125 for initial and renewal listings) and change their provider status themselves.

There are two tiers of listing for treatment providers, evaluators and polygraph examiners: associate level and full operating level. All applicants begin at the associate level.

---

<sup>36</sup> § 16-11.7-106(2)(b), C.R.S.

---

## Treatment Provider Listing

### ASSOCIATE LEVEL TREATMENT PROVIDER

Once a candidate has met the basic requirements for listing, he or she is listed at the associate level and serves an apprentice-like period under a supervisor. Among the qualifications to provide sex offender treatment at this level are:<sup>37</sup>

- A baccalaureate degree or above in a behavioral science with training or professional experience in counseling or therapy;
- A professional mental health credential from the Department of Regulatory Agencies (DORA) as an Unlicensed Psychotherapist, Certified Addiction Specialist or Licensed Addiction Counselor, Licensed Professional Counselor or Candidate, Licensed Marriage and Family Therapist or Candidate, Licensed Psychologist or Candidate or Licensed Clinical Social Worker;
- No conviction, deferred judgment or plea of guilty or *nolo contendere*, involving a municipal ordinance, misdemeanor or felony related to the ability of the individual to practice;
- Successful criminal and administrative background investigations; and
- Compliance with S&Gs and SOMB policies.

The initial listing is good for one year and must include a supervision agreement signed by an SOMB-approved clinical supervisor.<sup>38</sup> To renew the associate level listing for three years after the initial year, an applicant must have documented specific clinical contact and supervision hours, taken S&G and other SOMB-directed training within the previous five years, and demonstrate competency, among other qualifications.<sup>39</sup> Continued listing at this level requires S&G booster training at least every three years, ongoing competency and compliance with standards of practice.<sup>40</sup>

In 2021, there were 139 associate level treatment providers approved to work with adults, 26 of whom were also qualified to treat clients with developmental (DD) or intellectual disabilities (ID). That same year there were 103 associate level treatment

---

<sup>37</sup> § 4.100. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.100. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>38</sup> § 4.100. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.100. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>39</sup> § 4.200. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.200. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>40</sup> § 4.210. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.210. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

---

providers approved to work with juveniles, 9 were also qualified to treat clients with DD or ID.<sup>41</sup> This is the most recent year for which the DCJ provided COPRRR these data.

#### FULL OPERATING LEVEL TREATMENT PROVIDER

While employed at the associate level, an individual may qualify for and become listed at the full operating level. This allows a provider to work independently. An associate level provider wishing to become listed at the full operating level must:<sup>42</sup>

- Have been listed in good standing as an associate level provider;
- Attain the underlying licensure credential as a Psychiatrist, Licensed Psychologist, Licensed Clinical Social Worker, Licensed Professional Counselor, Licensed Marriage and Family Therapist, Clinical Psychiatric Nurse Specialist, Certified Addiction Specialist or Licensed Addiction Counselor, and be in good standing; or maintained an associate listing, in good standing, for 10 years;
- Complete any required clinical contact and supervision hours;
- Complete S&G introductory or booster training within five years;
- Adhere to professional standards of practice; and
- Submit to a current background check.

The listing is valid for three years. Continued listing requires booster and professional training as well as continued compliance with all professional standards and policies.<sup>43</sup>

In 2021, there were 188 full operating level treatment providers approved to work with adults, 35 of whom were also qualified to treat clients with DD or ID. That same year, there were 122 full operating level treatment providers approved to work with juveniles, 21 of whom were also qualified to treat clients with DD or ID.<sup>44</sup> This is the most recent year for which the DCJ provided COPRRR these data.

The tables below represent the number of practitioners in the enumerated categories. A single individual may be listed in multiple categories, e.g., as a provider to both adults and juveniles.

Table 3 catalogues the total listed treatment providers (both associate and full operating level) by the type of client he or she is approved and listed to treat.

---

<sup>41</sup> Division of Criminal Justice, Sex Offender Management Board, Annual Legislative Report, January 2022, p. 33.

<sup>42</sup> § 4.300. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.300. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>43</sup> § 4.310. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.310. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>44</sup> Division of Criminal Justice, Sex Offender Management Board, Annual Legislative Report, January 2022, p. 33.

**Table 3  
Total SOMB Listed  
Treatment Providers**

Fiscal Year	16-17	17-18	18-19	19-20	20-21
Adult treatment providers	287	299	309	280	315
Adult DD/ID providers	56	62	60	56	64
Juvenile treatment providers	202	230	230	211	211
Juvenile DD/ID providers	35	39	39	36	42

Table 3 indicates that the number of treatment providers has steadily increased regardless of the treatment concentration. Despite the increases, some rural parts of the state have no access to treatment providers.

### Evaluator Listing

Evaluators are the individuals who assess the risk that a sex offender will offend again. Qualification for listing as an associate evaluator is the same as for an associate treatment provider with one major exception; to be an evaluator an applicant must be listed as a treatment provider.<sup>45</sup> Beyond this provision, the requirements for initial and continued listing for evaluators, both associate and full operating level, are substantially similar to those of treatment providers.

In calendar year 2021, there were:<sup>46</sup>

- 43 listed associate level adult evaluators, 8 of whom were qualified to work with clients with DD;
- 24 listed associate level juvenile evaluators, 3 of whom were qualified to work with clients with DD;
- 80 listed full operating level adult evaluators, 17 of whom were qualified to work with clients with DD; and
- 43 listed full operating level juvenile evaluators, 11 of whom were qualified to work with clients with DD.

This is the most recent year for which the DCJ provided COPRRR these data.

Table 4 indicates the total number of evaluators (both associate and full operating level) listed to assess sex offender risk for the fiscal years indicated.

<sup>45</sup> § 4.400(A). Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.400(A). Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>46</sup> Division of Criminal Justice, Sex Offender Management Board, Annual Legislative Report, January 2022, p. 33.

**Table 4  
Total SOMB Listed  
Evaluators**

Fiscal Year	16-17	17-18	18-19	19-20	20-21
Adult evaluators	123	95	122	117	124
Adult DD/ID evaluators	17	18	19	22	24
Juvenile evaluators	57	68	68	66	62
Juvenile DD/ID evaluators	12	12	12	13	18

Table 4 indicates that while there have been fluctuations, the number of evaluators has only slightly increased over time.

### Clinical Supervisor Listing

The clinical supervisor listing was created in 2017 as a safeguard to ensure that those listed to provide direct service to clients are competent. Clinical supervisors are full operating level treatment providers or evaluators who supervise associate level treatment providers and evaluators.

A listed clinical supervisor must rate a clinical supervisor applicant. The rating is submitted with an application, which must also include: a letter of recommendation that demonstrates that the applicant stayed current on the literature and research in the field, including research that supports the applicant’s philosophy and how the applicant’s practice has evolved based on research.<sup>47</sup>

Clinical supervisors must maintain a provider or evaluator listing in the areas they supervise and maintain compliance with the S&Gs.<sup>48</sup>

Table 5 indicates the number of approved clinical supervisors for each of the fiscal years indicated.

---

<sup>47</sup> § 4.700. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.700. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>48</sup> § 4.700(G). Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.700(G). Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

**Table 5  
SOMB Listed  
Clinical Supervisors**

Fiscal Year	16-17	17-18	18-19	19-20	20-21
Adult clinical treatment supervisor	82	88	96	99	105
Adult clinical evaluator supervisor	34	40	43	46	46
Juvenile clinical treatment supervisor	64	64	66	63	63
Juvenile clinical evaluator supervisor	27	25	25	27	24

While the number of adult clinical supervisors, both for treatment providers and evaluators, increased over the time cohort, the number of juvenile supervisors actually declined slightly. No definitive explanation for this decline is readily available, but it may be due to supervisors retiring or simply not renewing as such.

### Polygraph Examiner Listing

The use of polygraph is controversial in this field. While the Act does not mandate the use of polygraph, it directs the SOMB to develop an application and review process for polygraph examiners to be listed.<sup>49</sup> The Adult S&Gs state that a polygraph examiner is included on the Community Supervision Team<sup>50</sup> and both Adult and Juvenile S&Gs contain standards for polygraph examinations.<sup>51</sup>

#### ASSOCIATE LEVEL POLYGRAPH EXAMINER

To become initially listed as an associate level polygraph examiner, a candidate must submit a signed supervision agreement with a full operating level polygraph examiner and a fingerprint card.<sup>52</sup>

<sup>49</sup> § 16-11.7-106, C.R.S.

<sup>50</sup> Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), p.14.

<sup>51</sup> § 6.000. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 6.000. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>52</sup> § 4.900. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.900. Sex Offender Management Board, Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

---

Among the requirements an associate level polygraph examiner must satisfy are:<sup>53</sup>

- A baccalaureate degree from a four-year college or university and graduated from an American Polygraph Association (APA)-accredited school; or alternatively, a high school diploma, graduated from an APA-accredited school, and maintained an SOMB listing as an associate level polygraph examiner in good standing for at least 10 years;<sup>54</sup>
- Completion of 50 polygraph examinations on post-conviction sex offenders while operating under the associate level status, 25 of which must be juvenile examinations for those polygraph examiners seeking to work with juveniles who have committed sexual offenses;
- Compliance with all S&Gs and SOMB policies; and
- A satisfactory criminal and administrative history.

The initial associate level listing is valid for one year and subsequent listings must be renewed every three years. Continued placement necessitates completion of the above requirements plus:<sup>55</sup>

- Completion of 40 hours of continuing education; and
- Submission of quality assurance protocol forms from three separate polygraph examinations.

In 2021, there were five adult and two juvenile associate level polygraph examiners listed with the SOMB. None of the associate level polygraph examiners were approved to examine individuals with DD or ID.<sup>56</sup> This is the most recent year for which the DCJ provided COPRRR these data.

---

<sup>53</sup> § 4.900. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.900. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>54</sup> This alternative was added when a baccalaureate degree became a prerequisite. It allowed those who had been practicing to continue practicing.

<sup>55</sup> § 4.930. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.930. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>56</sup> Division of Criminal Justice, Sex Offender Management Board, Annual Legislative Report, January 2022, p. 33.

---

## FULL OPERATING LEVEL POLYGRAPH EXAMINER

Listing as a full operating level polygraph examiner for a person who has been an associate level polygraph examiner requires:<sup>57</sup>

- Completion of 200 post-conviction, sex offender polygraph examinations, 25 of which must be juvenile examinations for those polygraph examiners working with juveniles who have committed sexual offenses; and
- A letter from the applicant’s supervisor indicating the readiness to move to full operating level polygraph examiner. The letter must include documentation of professional supervision component completion and compliance with the S&Gs.

Continued listing at this level requires compliance with all the above provisions and a re-application every three years.<sup>58</sup>

In 2021, there were 23 adult and 13 juvenile full operating level polygraph examiners listed with the SOMB. Five of the juvenile examiners and 11 of the adult examiners were approved to examine individuals with DD or ID.<sup>59</sup> This is the most recent year for which the DCJ provided COPRRR these data.

Table 6 enumerates the total listed polygraph examiners (both associate and full operating level) by the category in which they are listed for each fiscal year examined for this sunset review.

**Table 6**  
**Total SOMB Listed**  
**Polygraph Examiners**

<b>Fiscal Year</b>	<b>16-17</b>	<b>17-18</b>	<b>18-19</b>	<b>19-20</b>	<b>20-21</b>
Adult Polygraph Examiners	29	28	26	27	28
Adult DD Polygraph Examiners	13	13	12	13	12
Juvenile Polygraph Examiners	20	22	22	20	17
Juvenile DD Polygraph Examiners	8	8	8	7	5

Generally, the number of listed polygraph examiners remained steady except for the slight decline in the number of polygraph examiners approved to work with juveniles.

---

<sup>57</sup> § 4.950. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.950. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>58</sup> § 4.970. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (Revised April 2022), and § 4.970. Sex Offender Management Board. Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses (Revised April 2022).

<sup>59</sup> Division of Criminal Justice, Sex Offender Management Board, Annual Legislative Report, January 2022, p. 33.

---

## Standards Compliance Reviews

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

One mechanism used to ensure continued compliance with the S&Gs by providers, is the standards compliance review (compliance review) process, in which selected providers are required to submit samples of their work product for the ARC to review.

The ARC would like to randomly select treatment providers to participate in the compliance review process but has recently lacked the resources and capacity to do so. As a result, providers have generally been selected for cause (i.e., the ARC has concerns about a provider's practice based on previous complaints or a review of initial or renewal provider applications, or when DCJ staff has been notified of potential violations of the S&Gs). The actual number of compliance reviews conducted fluctuates depending on staff resources and incoming complaints.

As part of the compliance review process, the provider submits samples of their work for review by the ARC. The ARC then reviews the work product, and if there are no problems, the provider is notified that they successfully completed the compliance review.

The ARC may seek additional information when it identifies problems with the work product. When the ARC identifies problems that can be remediated, the provider may be placed on a Compliance Action Plan (CAP) in order to bring them into compliance with the S&Gs. Successful completion of a CAP results in the successful completion of the compliance review.

However, if remediation seems unlikely, the compliance review is considered unsuccessfully completed and the ARC may seek to delist the provider.

Table 7 demonstrates, for the fiscal years indicated, the number of compliance reviews performed along with the results.

**Table 7  
Compliance Reviews**

Type	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Compliance Reviews	0	3	4	7	4
Successful Reviews	0	3	4	7	4
CAP Required	0	1	1	7	4
Successful CAPs	0	1	0	7	4
CAP Failed/Delisted	0	0	0	0	0

No compliance reviews were conducted in fiscal year 16-17 because listing applications were changed that year, resulting in additional work for the ARC and staff, leaving insufficient resources to conduct any compliance reviews.

In fiscal year 17-18, two of the three providers who underwent compliance reviews did so as part of the application process. As a result, feedback was provided to the providers as part of that process and no CAPs were required. The one provider who was placed on a CAP that year successfully completed it.

In fiscal year 18-19, one provider was required to complete a CAP. That requirement was appealed to the full SOMB, which modified the ARC’s requirement following a hearing held in Spring 2022. The length of this particular case can be attributed to several factors, including a lengthy review process, the provider agreeing to a CAP and then rescinding that agreement and the provider requesting several time extensions to prepare the appeal. As a result, as of this writing, the CAP remains incomplete.

In fiscal year 19-20, the noticeable increase in the number of compliance reviews can be attributed to a new computer system that enabled DCJ staff and the ARC to better document deficiencies in renewal applications. Those deficiencies resulted in staff offering more targeted training, which helps to explain the subsequent drop in compliance reviews the following year. Additionally, the subsequent decline can be attributed to staff reviewing renewal applications with an eye for what ARC was now looking for and working with the provider, thus enabling providers to correct any deficiencies before the application even reached the ARC.

Whereas in fiscal years 17-18 and 18-19, 33 percent and 25 percent, respectively, of providers who were subject to a compliance review were placed on CAPs, 100 percent of those who were subject to compliance reviews in fiscal years 19-20 and 20-21 were placed on CAPs. While these figures are somewhat high, it must be remembered that all of the compliance reviews conducted during this time cohort were for cause; they were not random. As such, it is not terribly surprising that deficiencies were identified.

Regardless, save for the one provider who appealed the ARC’s finding and has yet to complete the CAP, all CAPs were successfully completed; none of the providers who

---

underwent a compliance review during the five-year reporting period failed the compliance review.

From the time a letter is sent to a provider notifying them of the compliance review to the point the ARC has made a disposition, the compliance review process can take from four to six months to complete. If a CAP is required, the monitoring process may add an additional 6 to 12 months until a CAP is resolved and the provider is determined to be in compliance.

## Complaint and Disciplinary Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Treatment providers and evaluators must be DORA-credentialed providers. Every treatment provider and evaluator must, at all times, conform to the standards of practice mandated as a condition of that credential. Notwithstanding, listing as an SOMB treatment provider, evaluator or polygraph examiner requires that each listed professional must also conform to the standards of practice detailed in the S&Gs. The SOMB has jurisdiction only over compliance with the S&Gs but must report any issue of which it is aware to the relevant DORA credentialing authority. Likewise, DORA reports any issues to the SOMB that may affect a professional's listing.

The S&Gs contain the standards of practice for Colorado's sex offender mental health practice specialty and polygraph administration specialty. Complaints that come into the SOMB concerning listed professionals are sent to the ARC for consideration. The ARC appraises the complaints for violations of the S&Gs and may hold a hearing to determine if a complaint is "founded," meaning it is a violation of the S&Gs.

When a complaint is "founded," the ARC may recommend practice oversight, additional training, or delist the provider from the approved list. All ARC complaint findings may be appealed to the full SOMB.

Table 8 catalogs the total complaints filed with the SOMB and the number of actions taken in the fiscal year listed.

**Table 8  
Standards of Practice  
Complaints and Actions**

Fiscal Year	16-17	17-18	18-19	19-20	20-21	Total
Complaints Reviewed	19	16	24	41	26	126
Complaints Out of Jurisdiction	18	13	6	5	6	48
Complaints Founded	2	3	1	1	3	10
Delistings	0	0	0	0	0	0

The number of complaints considered in each fiscal year does not match the number that are acted upon because an action may not occur in the same fiscal year as the filing of the complaint.

The data in Table 8 reveal a sizeable spike in the number of Complaints Reviewed in fiscal year 19-20. Several factors may explain this. First, during this timeframe, DCJ launched its new Provider Data Management System, so these data became easier to capture, compared to the old system that involved manual counting.

Second, prior to this time, if the SOMB received a complaint that involved a practitioner’s licensing board at DORA only, and not the S&Gs, staff did not count this in the number of cases reviewed. However, during this timeframe, DCJ staff revised this process so that such cases are counted and tracked for possible SOMB implications.

Finally, prior to this timeframe, when DCJ received inquires that were not necessarily complaints but more or less raised concerns, staff considered such inquiries to be requests for technical assistance, not complaints. However, during this timeframe, DCJ revised this process such that these inquiries are now considered complaints to be reviewed.

While these are all plausible explanations for an increase in Complaints Reviewed, they do not necessarily explain a single year spike. While DCJ staff could offer no definitive explanation for the spike, they speculate it may be attributed to a drop in Complaints Reviewed in fiscal year 20-21 due to the COVID-19 pandemic.

Additionally, Table 8 illustrates a sizable decrease in the number of Complaints out of Jurisdiction. SOMB staff offered several possible explanations for this. First, prior to the launch of the SOMB’s Data Management System in 2019, these types of data were tracked manually. Due to a changeover in the staff tasked with tracking these data, the decrease could be partially attributable to different staff members utilizing different methodologies to track and record these data.

Second, in response to a finding in the 2020 audit report that the SOMB was not doing enough to ascertain the facts of cases prior to dismissing them, DCJ staff revised its operating procedures, and in fact likely revised such practices as a result of the audit

---

process, but prior to the issuance of the final audit report. Current practice involves multiple attempts to contact non-responsive complainants for additional information. This has enabled the SOMB to better identify a nexus between the complaint and the S&Gs, so fewer complaints are now found to be outside of the SOMB’s jurisdiction.

In 2021, the average amount of time between the opening of a case and final disposition was 166 days. That number fell to 88 days in the first 10 months of 2022.

## Educational Functions

The SOMB has a specific mandate to provide educational materials for schools. It also provides training and performs research. The materials educate children, policy makers, treatment providers and anyone in the community who wants instruction in various related topics.

The subject matter in this field is continually evolving and the staff presents opportunities for the SOMB and other interested parties to attend classes, seminars and other educational opportunities. Table 9 lists the number of trainings conducted and the total number of attendees at those trainings during the fiscal years examined for this sunset review.

**Table 9  
Training Opportunities**

Fiscal Year	Number of Trainings	Number of Attendees
16-17	65	3,293
17-18	63	3,256
18-19	55	2,924
19-20	88	4,208
20-21	37	1,348

Table 9 illustrates the impact of the COVID-19 pandemic. The number of trainings and attendees increased significantly in fiscal year 19-20, as the SOMB and DCJ staff increased the number of offerings (including weekly lunch-and-learn sessions) to provide guidance and information relating to, among other things, variances for telehealth which became necessary due to the COVID-19 pandemic. Additionally, DCJ utilized an entirely virtual platform for the delivery of trainings during this period, which likely increased provider participation due to the ease of access.

The decline in the number of trainings and attendees in fiscal year 20-21 can be attributed to the cancellation of the SOMB’s annual conference due to restrictions necessitated by the COVID-19 pandemic.

---

## Data Collection

The first and second sunset criteria ask

Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;

If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;

This section of the report is intended to at least partially address these two criteria.

The efficacy of the S&Gs has long been a subject of debate.

As a result of the 2015 sunset review of the SOMB, and the resulting bill (House Bill 16-1345), the General Assembly required the SOMB to develop a plan to collect data from approved providers to ascertain the effectiveness of the S&Gs, and to begin collecting that data when funding became available.

The data collection plan was completed in 2017. It required approved providers to submit service information regarding the evaluation, treatment and polygraph examinations for each offender.

In 2018, the General Assembly funded what would become the SOMB Provider Data Management System, and between September and December 2019, DCJ staff provided training to the provider community on the new system.

Phase I of the Provider Data Management System went live in January 2020. The goal of this first phase is to use collected data to assess the extent to which the S&Gs implement the risk-needs-responsivity (RNR) model to individualize treatment. Phase II will follow offenders longitudinally and track recidivism.

While it remains too early to draw definitive conclusions from the data, the SOMB's annual report to the General Assembly in both 2021 and 2022, found that, "Based on . . . preliminary review, Approved Providers appear to be following the [S&Gs] and utilizing RNR to individualize treatment."<sup>60</sup>

---

<sup>60</sup> Department of Public Safety, Division of Criminal Justice, *SOMB Annual Legislative Report*, January 2021, p. 18; Department of Public Safety, Division of Criminal Justice, *SOMB Annual Legislative Report*, January 2022, p. 23.

---

In collecting the data, the SOMB is committed to making the data entry process as stress-free and user-friendly as possible.<sup>61</sup>

## **Collateral Consequences - Criminal Convictions**

The ninth sunset criterion requires COPRRR to examine whether the agency under review, through its licensing processes, imposes any sanctions or disqualifications based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Act requires every applicant for any listing to undergo criminal history record checks, conducted by the Colorado Bureau of Investigation and the Federal Bureau of Investigation.<sup>62</sup> It also requires that any person who applies for continued listing must, “submit to a current background investigation that goes beyond the scope of the criminal history record check . . . .”<sup>63</sup>

Staff began collecting this information in January 2020, with the launch of the Provider Data Management System. Since that time, no provider has been sanctioned or denied a listing due to criminal history. One candidate who had a conviction for a crime involving personal violence might have been precluded from listing, but never completed the application process.

Prior to 2020, staff did not recall the ARC sanctioning a provider or denying a listing based on criminal history.

---

<sup>61</sup> Department of Public Safety, Division of Criminal Justice, *SOMB Annual Legislative Report*, January 2022, p. 23.

<sup>62</sup> § 16-11.7-106(2)(a)(I), C.R.S.

<sup>63</sup> § 16-11.7-106(2)(a)(III), C.R.S.

---

## Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

### **Recommendation 1 - Continue the Sex Offender Management Board for seven years, until 2030.**

Article 11.7 of Title 16, Colorado Revised Statutes (C.R.S.), creates the Standardized Treatment Program for Sex Offenders (Act) and the Sex Offender Management Board (SOMB). Among its primary duties, the SOMB is required to develop evidence-based standards and guidelines for the evaluation, identification, treatment, management, and monitoring of sex offenders. The General Assembly directs, through the Act, that the SOMB use the risk-need-responsivity (RNR), or similar, model as the basis for the standards and guidelines. The *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* and the *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses* (collectively S&Gs) are the product of that mandate.

The S&Gs are regulatory documents that govern treatment providers, evaluators and polygraph examiners. They also provide guidance to the courts and other governmental entities. The goal is to have the S&Gs developed by subject matter experts, based on research and evidence.

S&G development is a highly democratic process influenced by multiple perspectives. The SOMB is a 25-member deliberative body which is affected by its members' backgrounds and agendas. Resulting polemics can cause board inefficiency. Committee recommendations are often set aside and reargued at the SOMB meetings and at times sent back to committee for further modification. This occurs even though the committee membership typically has the requisite specific subject matter expertise. Expertise is seemingly discounted. Nonetheless, a survey of treatment providers conducted in conjunction with the 2019 sunset review showed that 86 percent of the respondents believe that the S&Gs have a solid foundation in the RNR model.

Treatment, according to the Act, is “[T]herapy, monitoring, and supervision of any sex offender which conforms to the standards created by the [SOMB].”<sup>64</sup> Treatment is, in many ways, a local issue based on culture, courts, local government and other environmental factors. The environment is constantly shifting, which means that it can be difficult to develop and implement the S&Gs. The S&Gs must account for a field that is dynamic and where research is constant. They affect treatment providers and

---

<sup>64</sup> § 16-11.7-102(4), C.R.S.

---

offenders directly, they affect the courts and probation, they affect the Department of Corrections (DOC) and parole, they affect community corrections and the Department of Human Services' Division of Youth Services and the legislature weighs in with input.

How successful the SOMB is at standardizing treatment is a matter of perspective. The goal of the RNR model is to treat each offender based on their personal attributes. Consequently, in somewhat of a paradox, the SOMB and the S&Gs standardize uniqueness. Nonetheless, the S&Gs prompted evolution in a positive direction. Without them, the system would likely be more punitive. The SOMB engages in important discussions that would likely not occur otherwise and the multiple forums that it sponsors allow ample opportunity for people, of all walks of life, to provide input. The Division of Criminal Justice (DCJ) staff also perform primary research and develop annual reports for the General Assembly.

The SOMB works diligently on the subjects under its charge. Much of that work is performed in committees. The committees are tasked with working on single subjects, such as family reunification, or broader subjects, such as developing a handbook for families who have a family member who is an offender. The committee system is necessary because the SOMB consists of 25 members with many different perspectives, which causes inefficiency in decision-making. Many of the perspectives overlap, some are duplicative, while others are juxtaposed. An independent parliamentary examiner, hired to examine SOMB processes, submitted a report in Spring 2019. Among the conclusions in the report, were that the SOMB is too large to be efficient and should be 11 members or 15 members at the most.<sup>65</sup> While the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) concurs with that assessment, COPRRR lacks the insight to determine which positions the General Assembly believes vital enough to the SOMB's deliberative processes to recommend reducing its membership 45 to 50 percent.

With all of its moving parts, personalities, subjects, interests and research, the SOMB somehow achieves much of the standardization for which the Act calls. The goal of all of the activities is reducing the occurrence of sex offenses in Colorado communities. While there are no data verifying the efficacy of treatment, given sufficient time, the data now being collected by DCJ may shed more light on the efficacy of the S&Gs and provide direction for potential reforms.

Regardless, the costs associated with sexual victimization in individual wellbeing, community wellbeing, incarceration, and tax dollars spent are likely higher than the costs of treatment and attempting to prevent sexual crimes.

One major topic of discussion during this and the prior sunset review surrounded the Sex Offender Treatment Management Program (SOTMP) at the DOC, which is the program through which those in DOC custody receive sex offender treatment. Assertions of unreasonably long wait times and questionable prioritization of who receives treatment and when abound. While the SOMB promulgates the S&Gs with

---

<sup>65</sup> Trent Bushner, Sex Offender Management Board, 2019 Report, Decision Making Processes, Conflict of Interest, p. 3.

---

which the SOTMP must adhere, there is no apparent nexus between the SOMB and how the SOTMP operates or how DOC allocates its resources, which in turn determines which offenders receive treatment and when. As such, and as with the prior sunset report, this sunset report offers no recommendations in this regard, despite the significance of the issue.

The first sunset criterion requires COPRRR to determine if a program is necessary to protect the public health, safety and welfare. The SOMB and the program created under the Act are necessary to protect the Colorado public's health, safety and welfare. However, because the field is so dynamic and this sunset review recommends some major changes, the General Assembly should reauthorize the SOMB for only seven years, until 2030. This will give enough time for the changes to be instituted, normalized, and be reflected in program data.

**Recommendation 2 - Clarify that supervising officers are required to follow the S&Gs when working with sex offenders and direct those agencies that employ supervising officers to collaborate with the SOMB in developing procedures to hold accountable those who fail to do so.**

The purpose of the Act is to standardize treatment of sex offenders. This is accomplished by ensuring the people who treat them follow the RNR model and any standards developed by the SOMB.

A main tenet of the RNR model is to treat individual offenders based on the risk of re-offense that they present to the community. Section 16-11.7-103(4)(a), C.R.S., states that the SOMB must develop a process to determine,

[O]n a case-by-case basis, reliably lower-risk sex offenders whose risk to sexually reoffend may not be further reduced by participation in treatment.

However, there is concern that regardless of the risk determination and therapeutic advice, offenders in the system are sometimes required to undergo a higher level of treatment and monitoring than may be necessary according to best therapeutic practices or be in jeopardy of incarceration.

The "Profile" section of this report explained that the supervision teams, Community Supervision Team (CST) for adults and the Multidisciplinary Team (MDT) for juveniles, collaborate to determine the best way to treat offenders through supervision, evaluation and assessment, treatment and a support system.

---

The objective of the supervision team is to individualize therapy, supervision and monitoring to the offender in treatment. The goal of the collaborative efforts

is to engage offenders in treatment and supervision in order to decrease risk, enhance protective factors, and increase their intrinsic motivation for positive behavioral change.<sup>66</sup>

The DOC, Department of Human Services (DHS), community corrections or a judicial district typically monitor offenders in the community. Depending upon the stage at which an offender may be in the system, one of these supervising agencies assigns a supervising officer to the offender (e.g., a parole or probation officer, or a case manager). Though it is not a statutory directive, the supervising officer typically forms the supervision team. This is in part due to a statutory provision that requires the supervising agency to provide the offender with the contact information of two treatment providers from whom to choose. Additionally, supervising officers are notified when someone is placed on parole or probation.

During the course of this and prior sunset reviews, several stakeholders asserted that there are problems with some supervising officers who do not follow the S&Gs. During a Spring 2019 SOMB meeting, a probation officer gave a presentation that compared sex offenders to people with substance use disorder, claiming substance abuse treatment should inform sex offender treatment. This is clearly counter to the S&Gs and the RNR model. At an SOMB meeting during the 2015 sunset review, a panel of therapists claimed, on the record, that some supervising officers demand that they write recommendations according to the supervising officer's wishes. If they refuse, they claimed, they would not receive referrals from those supervising officers and others in the applicable judicial district. This assertion has been made many times over the years and again during the current sunset review.

In reaction to these issues and others, COPRRR reached out to the DOC's Division of Adult Parole (Parole) and the Colorado Judicial Branch's Division of Probation Services (Probation Division), as part of the 2019 sunset review, to ascertain the extent to which this actually occurs. The Probation Division does not receive complaints concerning probation officers. The state's probation departments are independent to each of the state's judicial districts and the Probation Division has no authority or data concerning complaints.

Staff at Parole commented that complaints against supervising officers are rare. All complaints, regardless of the category of the offender, are handled through the chain of command. Any complaints concerning sex offender parolees would consider the S&Gs in the investigation.

COPRRR also conducted an email survey of every SOMB-listed treatment provider in Spring 2019. The response rate was 23 percent, which is a satisfactory sample of a

---

<sup>66</sup> § 5.005. Sex Offender Management Board. Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (April 2022).

---

homogenous population such as this to be representative. The survey asked participants to respond to the statement, “Some supervising officers with whom I work attempt to direct how I must report treatment progress, regardless of my professional assessment.” Twenty-nine percent of the providers who specialize in adult treatment, 36 percent of the treatment providers who specialize in juvenile treatment and 31 percent of the treatment providers who work with both adults and juveniles agreed that the supervising officers attempted to influence treatment progress reports. Overall, 36 percent agreed with the statement and 14 percent strongly agreed, while only 23 percent of the respondents were neutral. In other words, more than one-third of the treatment providers feel pressure to act contrary to what they believe is professionally appropriate. Such a high ratio is a concern.

There 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.

The General Assembly can solve this problem by clarifying its position that all of the core supervision team must follow whichever set of S&Gs is applicable, adult or juvenile. If a therapist, evaluator or polygraph examiner chooses to ignore the S&Gs or not adapt individual treatment, he or she can be delisted by the SOMB. The same cannot be said for a supervising officer.

The General Assembly is quite clear that sex offenders are a unique class of offender. It directs that sentencing by the courts and treatment in the community must follow standards promulgated by the SOMB. This special class of offender requires specialized treatment. Only qualified individuals may treat this population and unqualified individuals may not.

The Act defines treatment as, “therapy, *monitoring, and supervision* of any sex offender which conforms to the standards” [emphasis added].<sup>67</sup> The Act further states that the DOC, the Judicial Department, DCJ or DHS shall not employ or contract with a person or entity to provide treatment unless the treatment conforms with the S&Gs and the individual is listed with the SOMB.<sup>68</sup> Thus, no person shall monitor or supervise a sex offender unless the monitoring and supervision comply with the S&Gs. However, since supervising officers are not listed or otherwise approved by the SOMB (as are evaluators, treatment providers and polygraph examiners), it is unclear whether the SOMB has any ability to enforce these provisions.

The General Assembly is also clear that the SOMB and DCJ are the entities that enforce the S&Gs. It follows that if any individual providing, “therapy, monitoring, and supervision of any sex offender” does not follow the S&Gs, a grievance can be filed with the SOMB. The intent should be clarified that the agencies responsible for the supervision of sex offenders should work with the SOMB to ensure that their officers are following the S&Gs, and, in collaboration with the SOMB, develop processes to hold

---

<sup>67</sup> § 16-11.7-102(4), C.R.S.

<sup>68</sup> § 16-11.7-106(1), C.R.S.

---

supervising officers accountable for failing to do so. Just as with listed professionals, if a violation occurs, then the violator may lose the ability to work with this statutorily unique population. This clarification would standardize the conduct of the supervision team and treatment.

All supervision team members should be accountable to the same standards and the same implementing authority when working with this statutorily-acknowledged unique population. To be clear, this recommendation only addresses those supervising and monitoring sex offenders. The SOMB does not issue standards concerning any other individual in the criminal justice system.

Some argue that since Probation is part of the judicial branch of government and SOMB is part of the executive branch of government, this recommendation raises questions pertaining to separation of powers. However, they remain only questions. The policy objective of this recommendation is to ensure that treatment is standardized in the manner intended by the General Assembly, and the key to that standardization seems to lay with the supervising officer.

The seventh sunset criterion directs the General Assembly to consider, in part, whether complaint, investigation and disciplinary procedures adequately protect the public interest. In this case, having team members held to different standards creates imbalance that could result in unwarranted treatment decisions that may lead to adverse consequences for offenders. In such cases, the public interest is not protected.

The first sunset criterion asks if conditions have arisen which would warrant more, less or the same degree of regulation. What has changed is that more than one-third of the treatment providers who responded to the 2019 COPRRR survey indicated that they perceive undue pressure to act against their best professional predilections. Current interpretation of the law does not serve the intent and the mission of the Act to standardize treatment. When members of the supervision teams are not obligated to follow the Act and the S&Gs, there is no standardization.

Consequently, the General Assembly should clarify that supervising officers are required to follow the S&Gs when working with sex offenders and direct those agencies employing supervising officers to collaborate with the SOMB in developing procedures to hold accountable those who fail to do so.

---

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

The second sunset criterion asks if current regulation presents the least restrictive environment consistent with protecting the public interest. The sixth statutory criterion contemplates the economic impact of regulation and if operations restrict or stimulate competition.

The Act states that each sex offender must undergo treatment; the supervising agency of any convicted person living in the community must provide a choice of two appropriate treatment provider agencies;<sup>69</sup> and the offender must pay for the treatment when able.<sup>70</sup>

As of July 2022, there were 340 listed treatment providers qualified to treat sex offenders in Colorado. However, the law states that only two treatment provider agencies must be provided as options to any individual offender.<sup>71</sup> Often, justification for providing only two choices is that a supervising officer will develop working relationships with certain agencies or providers. While it is possible that limiting the number of treatment providers will benefit those treatment providers receiving the referrals, it may also work to the detriment of those treatment providers who do not.

Another justification offered to counter this recommendation is that treatment matching is key to successful treatment and that supervising officers often have a better sense of which treatment providers might be a better match for the needs of a particular offender. However, the General Assembly added this provision to the Act as a means of ensuring that there was a choice in treatment so that an offender would not be forced into treatment in an intolerable situation. In this case, the paying customer has the market for services limited by the statute.

There could be legitimate reason to limit the market. For example, if the provider is not qualified to treat the offender, the provider chooses not to treat the subject, the provider is not within a certain geographical region, the cost is too high, or a similar reason. Those issues alone could markedly limit the universe of available listed treatment providers, but they are market-based variables. When Colorado law limits the number of providers to 0.6 percent of all of the listed providers, it unduly restricts competition and opens possibilities for the issues addressed in Recommendation 2.

Section 16-11.7-105(2), C.R.S., states, “Once selected, the treatment provider agency may not be changed by the offender without the approval of the [CST], the [MDT], or the court.” This provision is important to ensure continuity in treatment and prevent “treatment provider shopping” when treatment becomes uncomfortable or challenging. It should remain in statute.

---

<sup>69</sup> § 16-11.7-105(2), C.R.S.

<sup>70</sup> § 16-11.7-105(1), C.R.S.

<sup>71</sup> § 16-11.7-105(2), C.R.S.

---

The solution is to provide the offender with every available listed treatment provider. Therefore, the General Assembly should repeal the limitation on the number of treatment providers given to offenders and require that every available listed treatment provider be provided.

**Recommendation 4 - Require standards compliance reviews on at least 10 percent of approved providers every two years.**

There are several ways the SOMB can assist approved providers in complying with the S&Gs. The first is by providing them with the information they need to understand the S&Gs. The SOMB accomplishes this by providing training and technical assistance to providers.

The SOMB also ensures provider compliance through the complaint process, which is an important part of nearly all regulatory programs and critical for public protection. If a complaint is filed against a provider, the SOMB's Application Review Committee (ARC) can investigate the complaint and determine whether any remedial or enforcement action is necessary to protect the public.

Another way the SOMB works to ensure provider compliance is through standards compliance reviews (compliance reviews), in which the ARC selects a provider for cause and requires the provider to submit samples of his or her work product. The ARC then evaluates the work product based on the S&Gs. If the ARC finds that the work product is consistent with the S&Gs, the provider successfully completes the compliance review. If not, the ARC must determine whether to place the provider on a Compliance Action Plan (CAP) or whether the problems with the work product rise to the level of delisting.

One downside of the current process, however, is the fact that DCJ lacks the staff resources to enable the SOMB to conduct random compliance reviews; at this point, all compliance reviews are conducted for cause, meaning the ARC has reason to believe, either through a complaint or some other mechanism, that the practice of the providers selected for review may in some way be deficient.

This is borne out by examining the percentage of compliance reviews conducted between fiscal years 16-17 and 20-21, and the number of CAPs subsequently required, as depicted in Table 7 and reproduced here.

**Table 7  
Compliance Reviews**

Type	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Compliance Reviews	0	3	4	7	4
Successful Reviews	0	3	4	7	4
CAP Required	0	1	1	7	4
Successful CAPs	0	1	0	7	4
CAP Failed/Delisted	0	0	0	0	0

Although only 18 compliance reviews were conducted, the ARC identified deficiencies sufficient to require a CAP in 16 (88.9 percent) of them. Admittedly, the small sample size and the fact that all were conducted for cause mitigates the magnitude of this figure substantially. Regardless, it is difficult to ignore such a high ratio.

Random compliance reviews could play an important role in ensuring adherence to the S&Gs because they do not rely on offenders or others, who may be unfamiliar with the S&Gs, to file complaints in order to uncover potential problems with a provider’s practice.

Once a provider has status as a full-operating level provider, they are no longer required to be supervised or to work alongside other providers. Providers in this situation can easily fall into patterns, which once established are difficult to change even when the standards of practice have evolved.

The third sunset criterion questions whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource, and personnel matters.

The purpose of the S&Gs is to promote the consistent provision of services throughout the state in order to lower the incidence of reoffence. While the SOMB has other methods to help ensure providers comply with the S&Gs, the compliance review process represents yet another, provider-focused tool.

The SOMB’s current goal is to conduct random compliance reviews, but it has been unable to do so due to a lack of resources. Statutorily requiring an established minimum ratio of compliance reviews will enable DCJ to secure the necessary resources to better ensure compliance with the S&Gs.

The SOMB is tasked with conducting research and analyzing the effectiveness of the S&Gs. If providers are providing services according to the S&Gs, then the SOMB can more accurately measure the incidence of recidivism among offenders who have

---

received standardized services. However, the SOMB cannot know that providers are providing services according to the S&Gs if no one is checking.

It is imperative for the SOMB to analyze the effectiveness of S&Gs.

For the most part, offenders are expected to pay out of pocket for evaluations and treatment. Offenders must also take time away from their lives, which may include time off from work, to attend treatment sessions. If treatment providers are not conducting evaluations according to the S&Gs, an offender may be required to undergo more treatment than is necessary to protect the public. Not only that, but with appropriate treatment, it is possible that an offender may change their behavior. If not, the consequences for an offender can be severe.

More importantly, the SOMB was created to protect victims and potential victims. If offenders are receiving inadequate treatment, such individuals are at an increased risk of harm.

Providers are already, technically, subject to compliance reviews, so undergoing a compliance review once every 20 or so years should not be overly burdensome. Moreover, compliance reviews are not intended to be punitive. In fact, they should be beneficial to providers. During a compliance review, the SOMB may uncover issues unknown to the provider. The provider's practice could thus be improved, which may reduce the prospect of costly and time-consuming complaints and public disciplinary action later on.

It is fair to compare SOMB-approved providers to other professionals who are not subject to random compliance reviews. Indeed, treatment providers themselves hold mental health credentials and are not subject to compliance reviews, or any similar process, through that system. However, sex offenders are not typical consumers. If the client of a mental health professional feels they are not advancing in treatment, they can change providers. Sex offenders, however, must obtain the permission of the supervision team or the court to change providers and even then, may do so only one time per year.

A more appropriate comparison, however, would be to a treatment provider approved by the Domestic Violence Offender Management Board, and 10 percent of such providers are subject to random compliance reviews every two years.

Prior to the SOMB, sex offenders were being ordered by the courts to undergo treatment, but, at the time, sex offender treatment was inconsistent from jurisdiction to jurisdiction. By increasing compliance reviews, the SOMB increases the likelihood that treatment is being employed consistently throughout the state, which should reduce the risk of harm to victims and the wider community.

Therefore, the General Assembly should require the SOMB to review 10 percent of providers every two years.

---

**Recommendation 5 - Modernize the language related to criminal history record checks and fingerprinting requirements.**

Section 16-11.7-106(2)(a)(I), C.R.S., requires an applicant to be a provider to submit fingerprints directly to the SOMB for state and national criminal history record checks. However, the statutory language is no longer consistent with current practices.

Today, DCJ works with a third-party vendor to take and forward fingerprints to the Colorado Bureau of Investigation and the Federal Bureau of Investigation, so the SOMB no longer collects fingerprints with the application.

The fourth sunset criterion questions whether the agency performs its statutory duties efficiently and effectively. It is more efficient for the third-party vendor to manage fingerprints rather than the agency itself.

For this reason, the General Assembly should update the language related to criminal history record checks and fingerprinting.

**Recommendation 6 - Repeal the requirement that the Department of Regulatory Agencies participate in the publication of the list of approved providers.**

Section 16-11.7-106(2)(b), C.R.S., states that “[t]he [SOMB] and the Department of Regulatory Agencies shall jointly publish at least annually a list of approved providers.”

In addition to actual lists, the SOMB’s website contains a searchable database of approved providers. This database is regularly updated and can be used to identify providers by name, location, those who work with specific offender populations and those who offer treatment in languages other than English.

However, the Department of Regulatory Agencies (DORA) plays no part in the compilation or the publication of the list. When the SOMB receives a complaint against a provider with a credential issued by DORA, DCJ staff forwards the complaint to the appropriate credentialing authority for investigation. Thus, DORA need not be involved in the publication of the list.

The fourth sunset criterion questions whether the agency performs its statutory duties efficiently and effectively. It is more efficient for the SOMB to publish the list on its own, rather than needlessly involve another state agency.

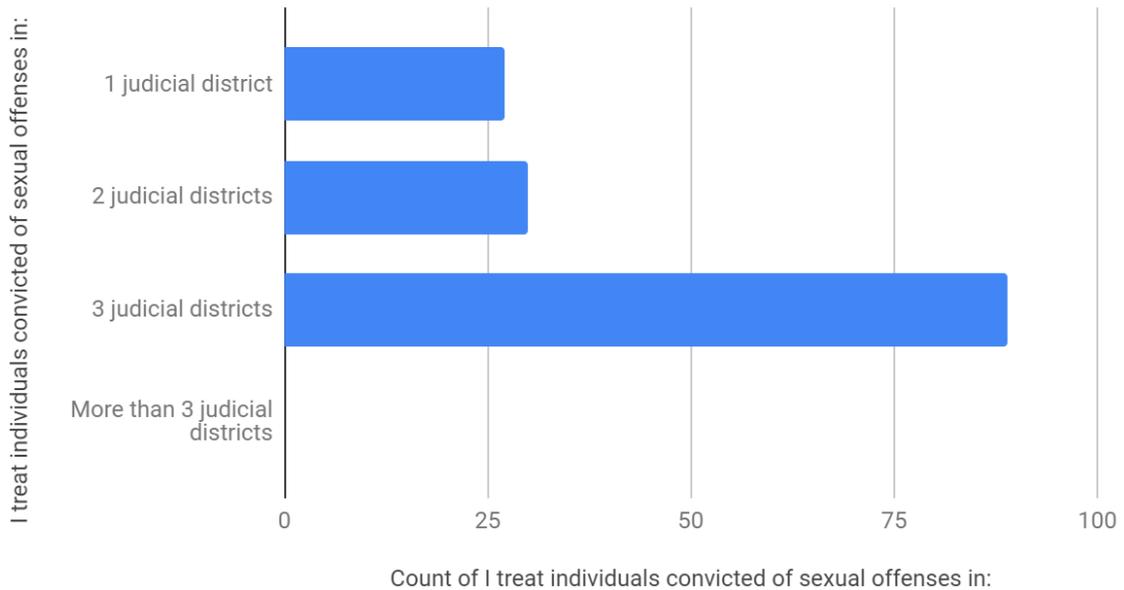
Therefore, the General Assembly should repeal the requirement that DORA participate in the publication of the list of approved providers.

---

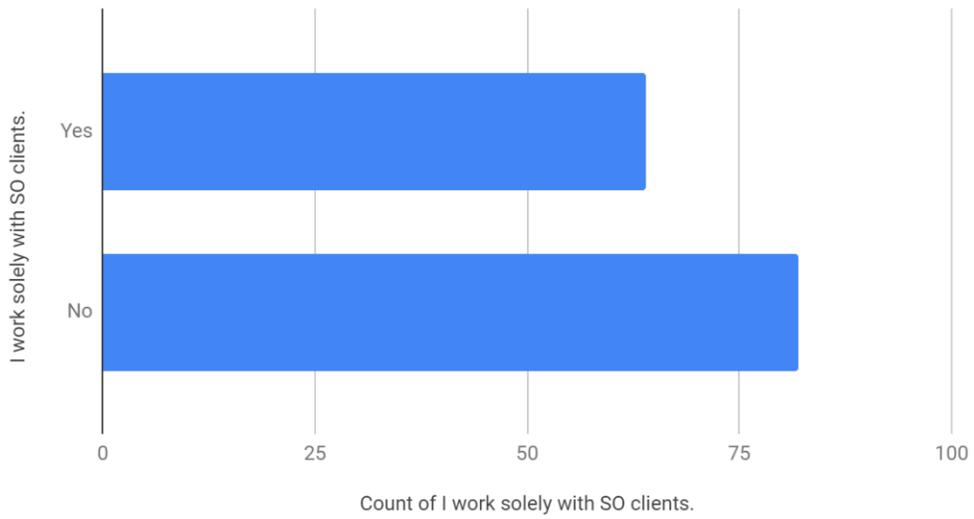
## Appendix A - 2019 Sunset Review Survey

In April 2019, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all providers who approved by the Sex Offender Management Board (SOMB) at that time. The survey was sent to 684 email addresses; 44 emails were returned as undeliverable. The survey received 146 responses, which is a 23 percent response rate. Survey result may be found in this Appendix A.

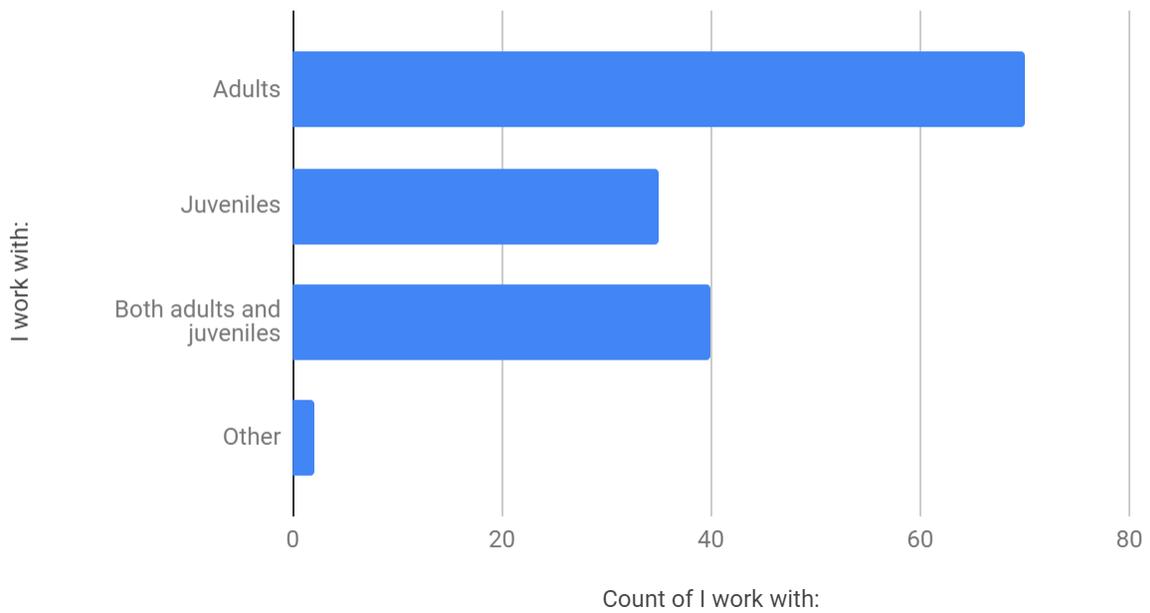
Count of I treat individuals convicted of sexual offenses in:



Count of I work solely with SO clients.

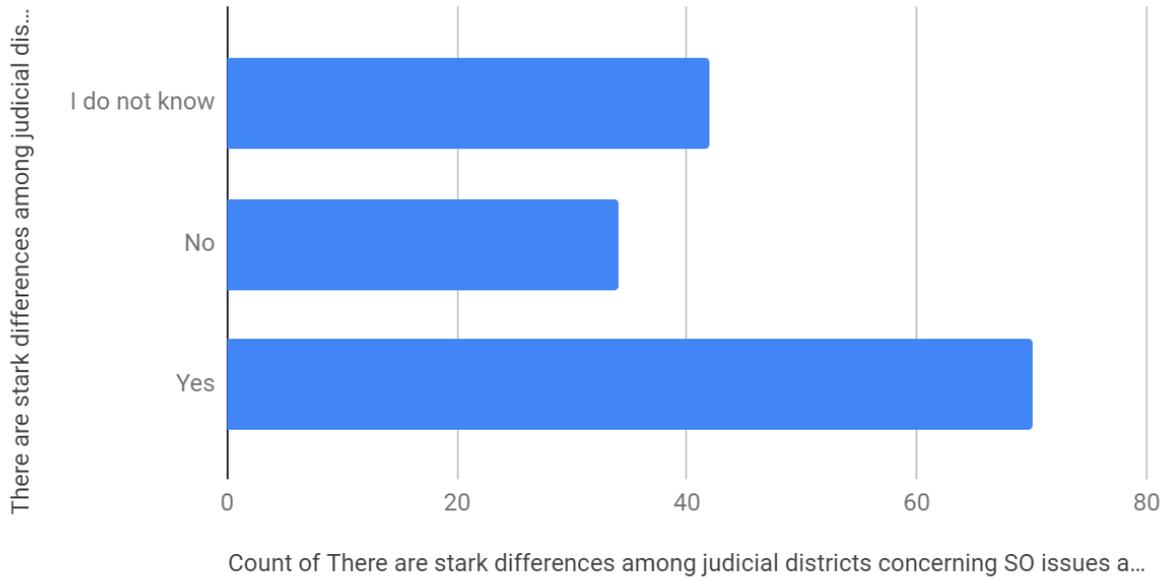


Count of I work with:



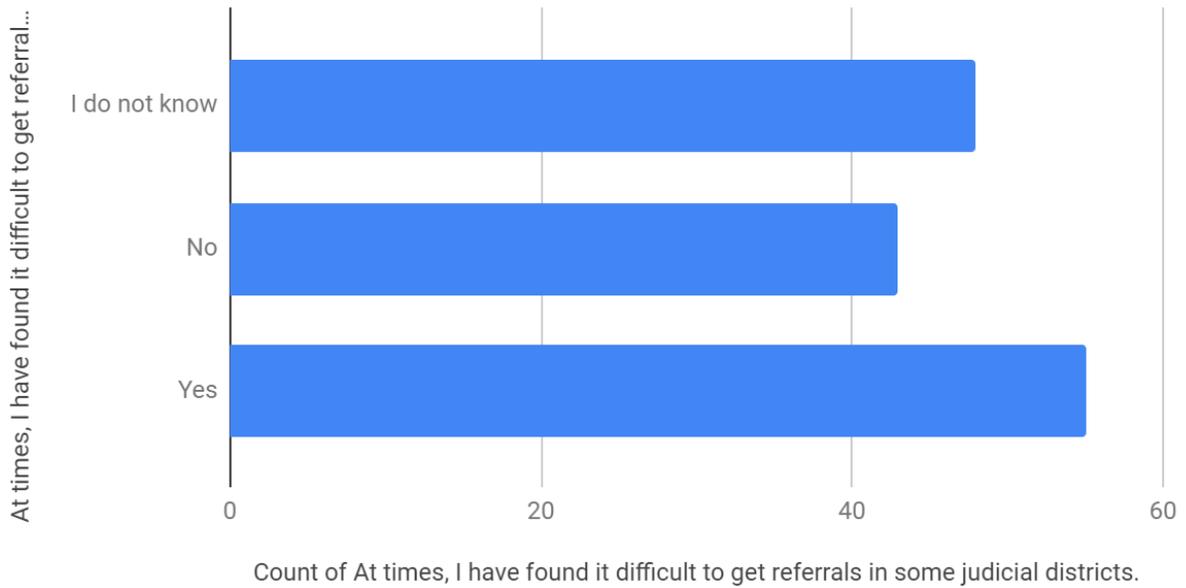
---

Count of There are stark differences among judicial districts concerning SO issues and treatment.

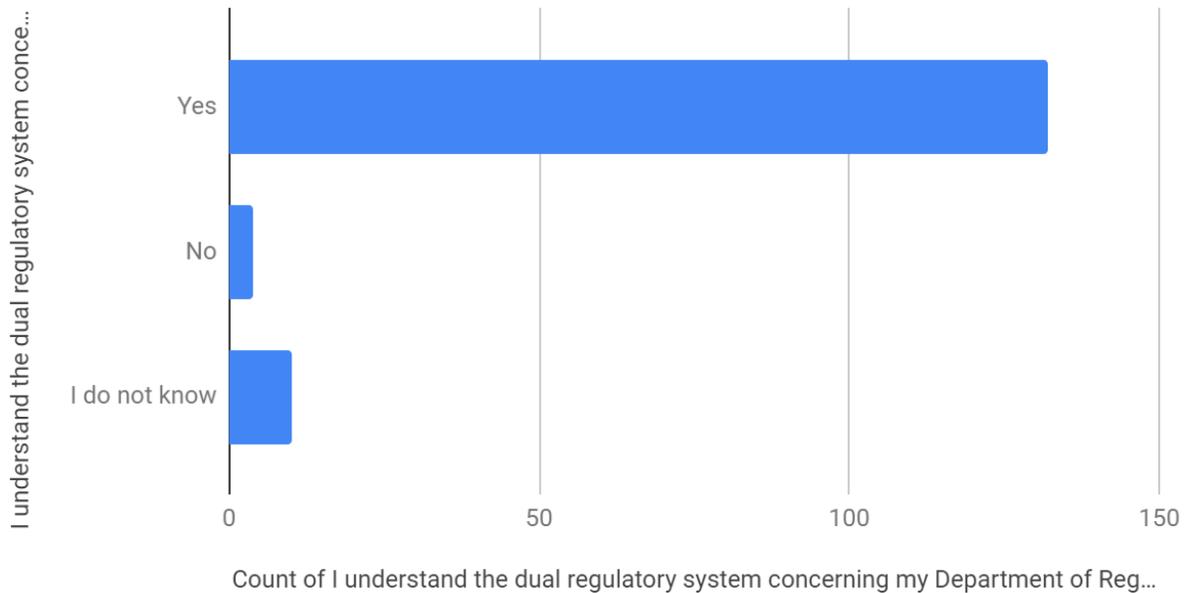


---

Count of At times, I have found it difficult to get referrals in some judicial districts.

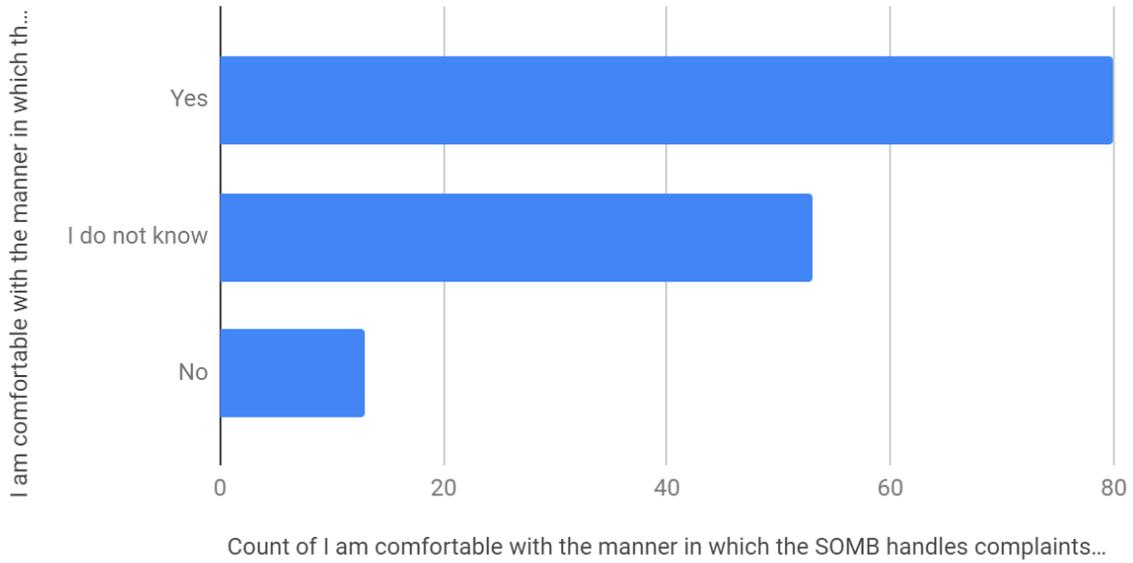


Count of I understand the dual regulatory system concerning my Department of Regulatory Agencies license and my SOMB listing.

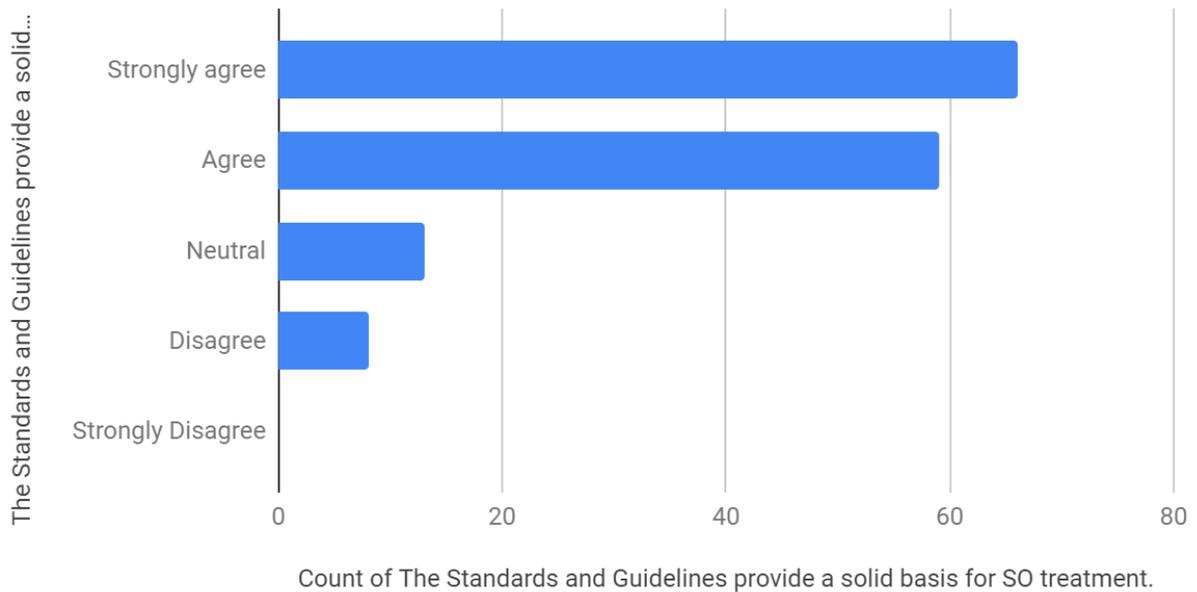


---

Count of I am comfortable with the manner in which the SOMB handles complaints and discipline.

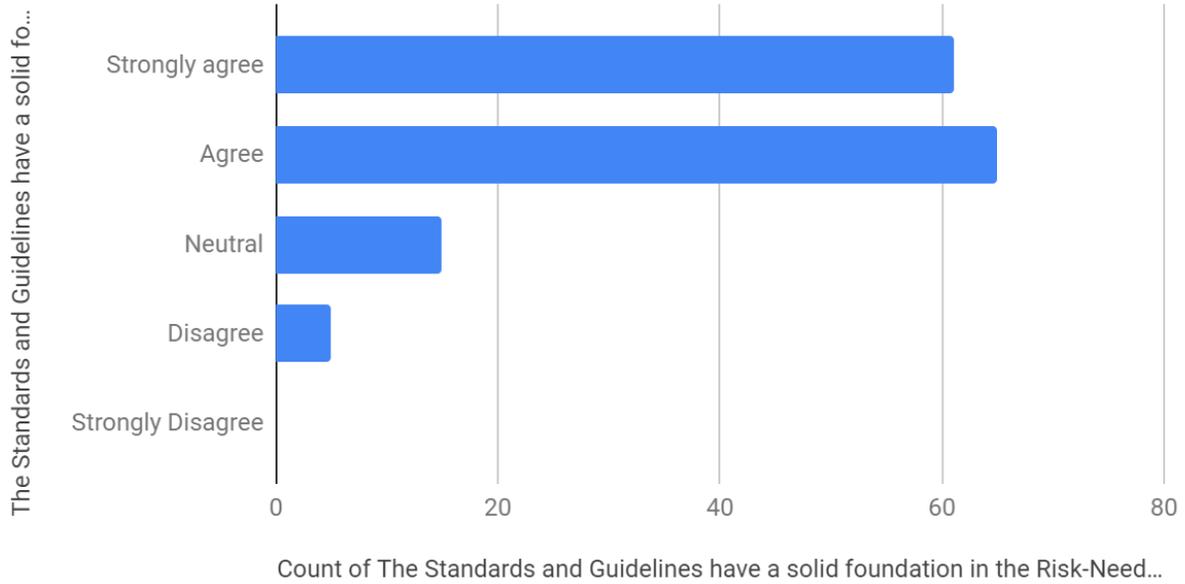


Count of The Standards and Guidelines provide a solid basis for SO treatment.



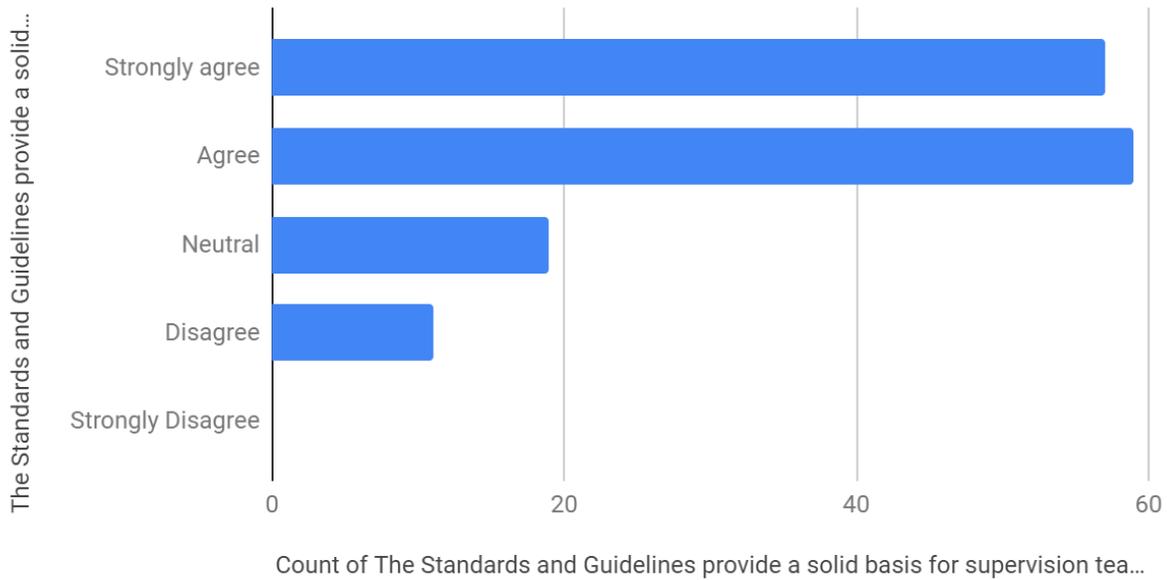
---

Count of The Standards and Guidelines have a solid foundation in the Risk-Needs-Responsivity model.

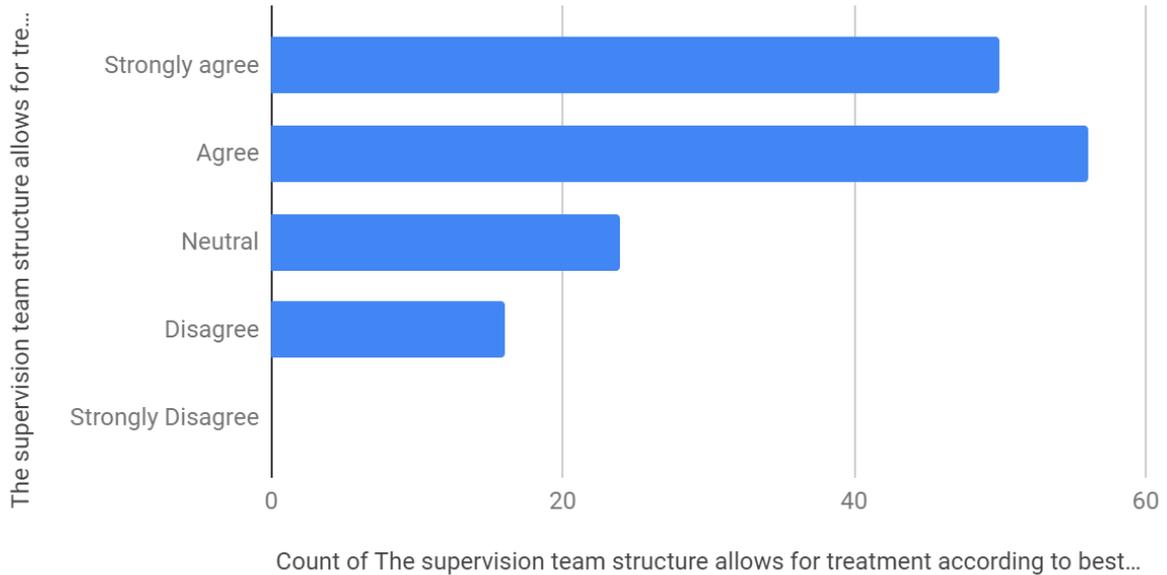


---

Count of The Standards and Guidelines provide a solid basis for supervision team collaboration in treatment.

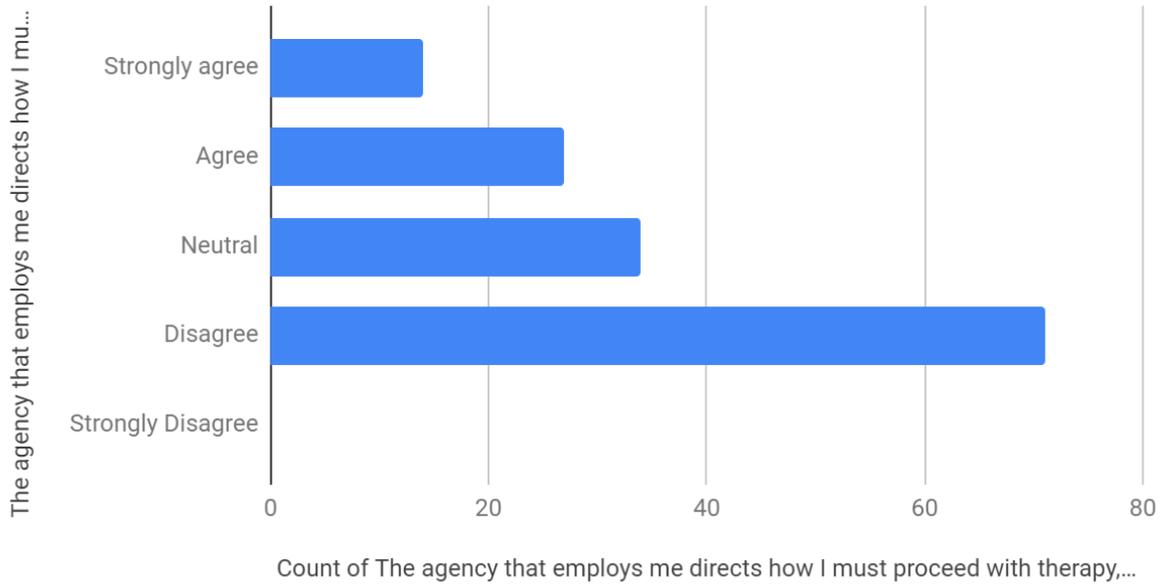


Count of The supervision team structure allows for treatment according to best therapeutic practices.

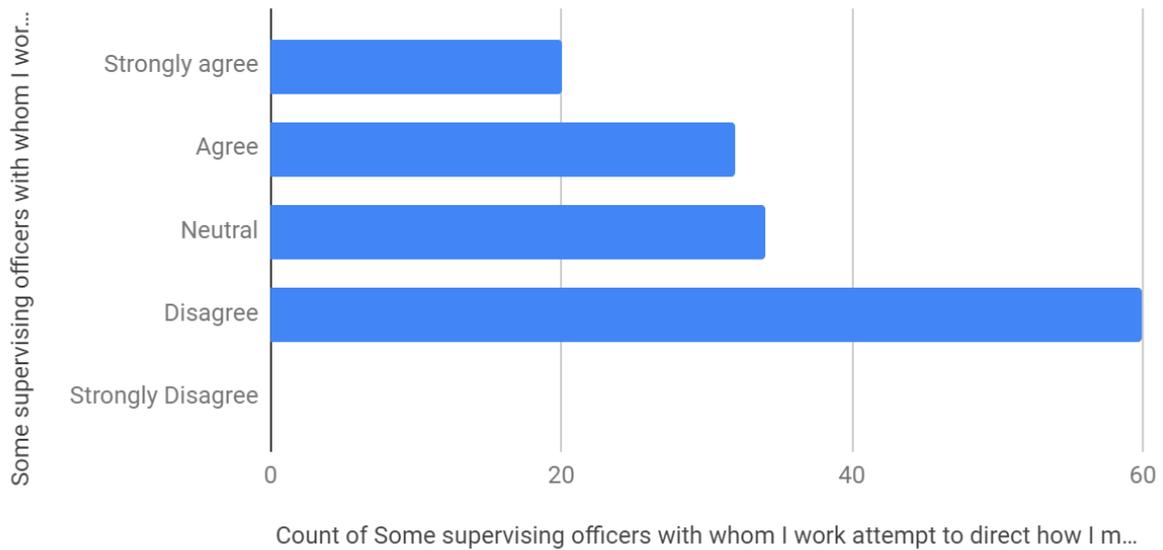


---

Count of The agency that employs me directs how I must proceed with therapy, regardless of my professional assessment.



Count of Some supervising officers with whom I work attempt to direct how I must report treatment progress, regardless of my professional assessment.



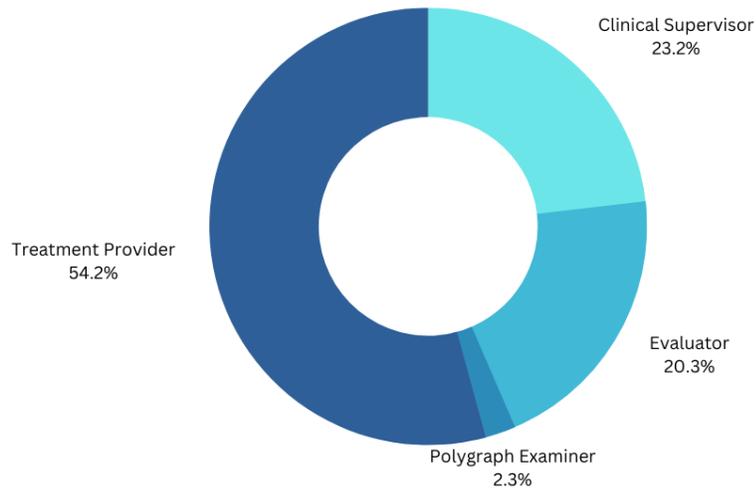
---

## Appendix B - 2022 Customer Service Survey

In June 2022, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all providers who are approved by the Sex Offender Management Board (SOMB). The survey was sent to 362 SOMB-approved providers; 23 emails were returned as undeliverable. The survey received 102 responses, which is a 30 percent response rate. Survey results may be found on the pages that follow.

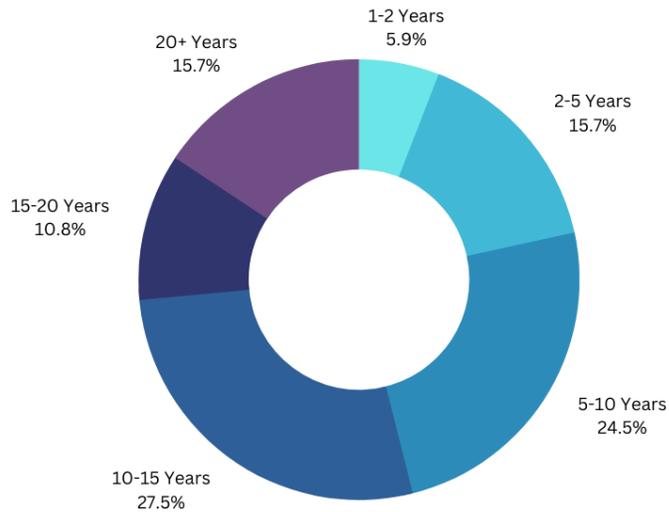
---

**What is your relationship to the Sex Offender Management Board?**



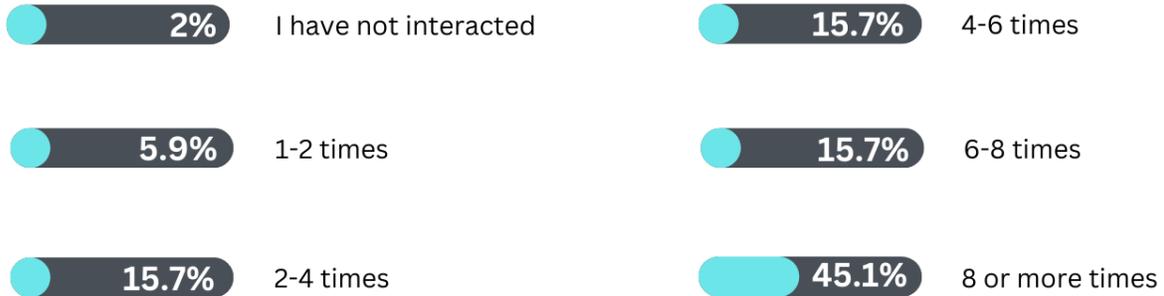
---

**If you are a provider approved by the Sex Offender Management Board, please indicate the number of years since your first approval.**



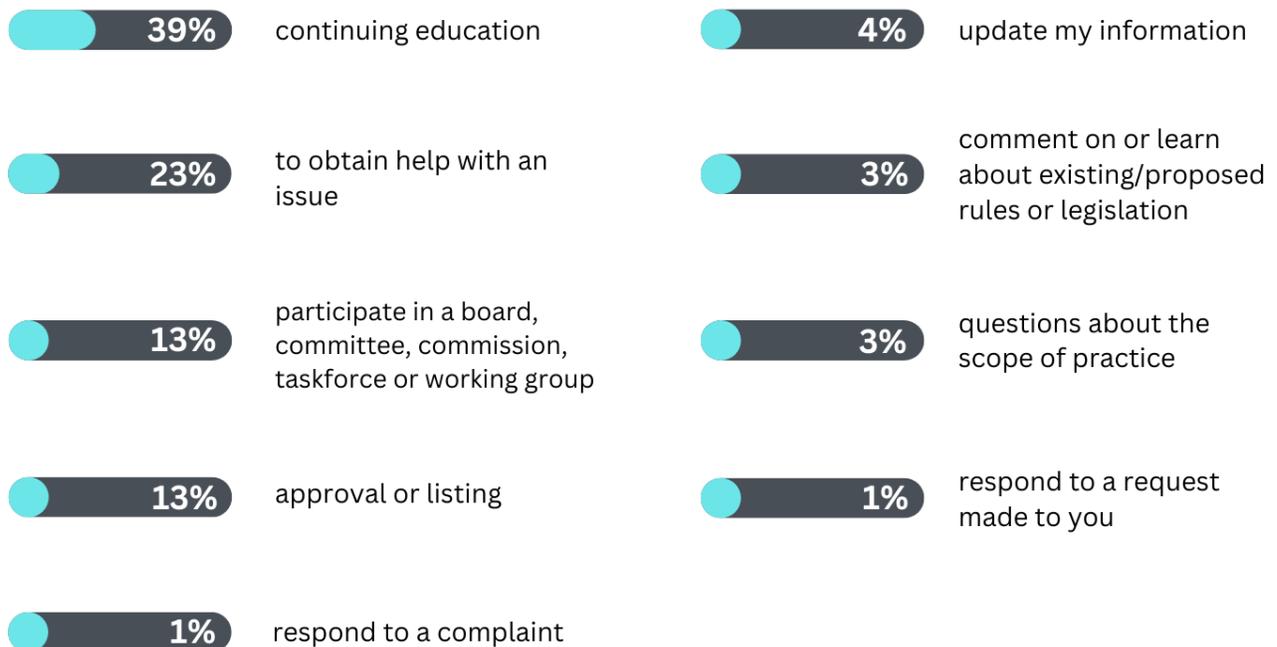
---

**In the past year, how many times have you interacted with the Sex Offender Management Board? Please count all forms of interaction (telephone, e-mail, internet or website, regular mail, in person).**



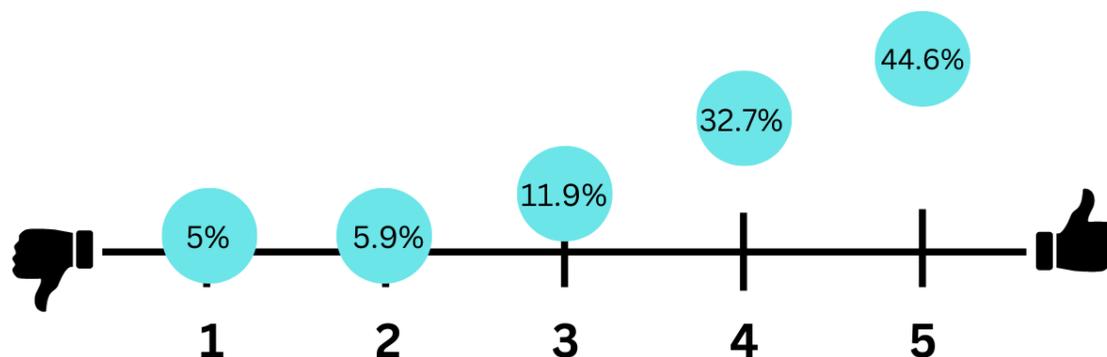
---

**What was your primary purpose in interacting with the Sex Offender Management Board?**



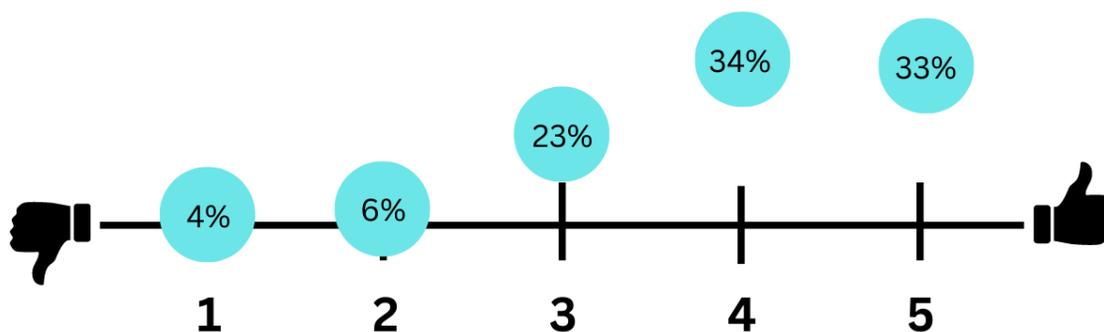
---

Overall please rate the service provided by the Sex Offender Management Board on a scale of 1 to 5 with 1 being unacceptable and 5 being very acceptable.



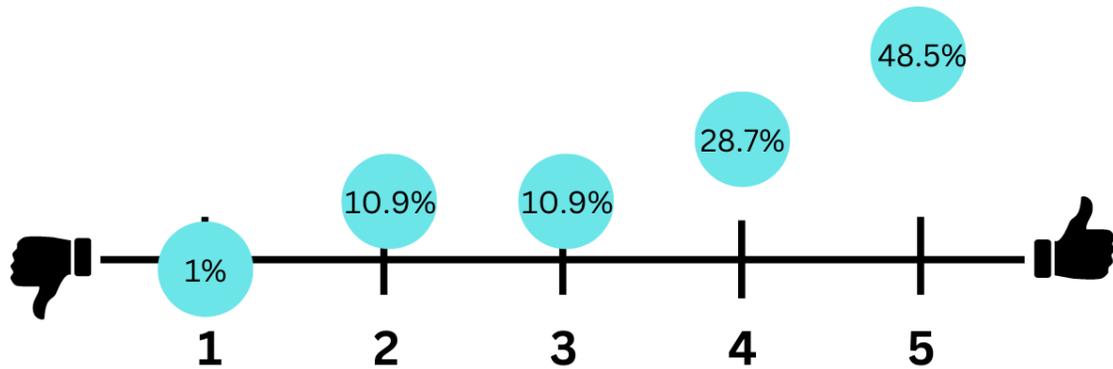
---

Please rate the the usefulness of the Sex Offender Management Board's website in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.



---

Please rate the usefulness of the Sex Offender Management Board's communications in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

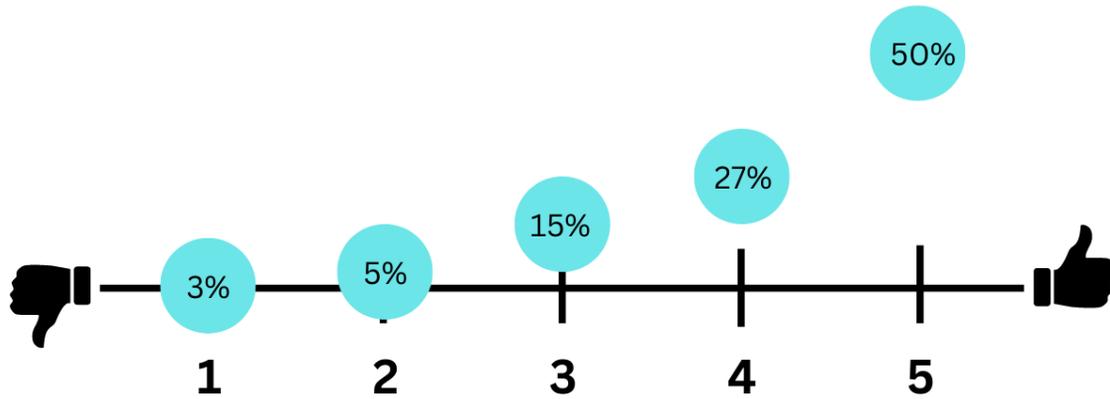


---

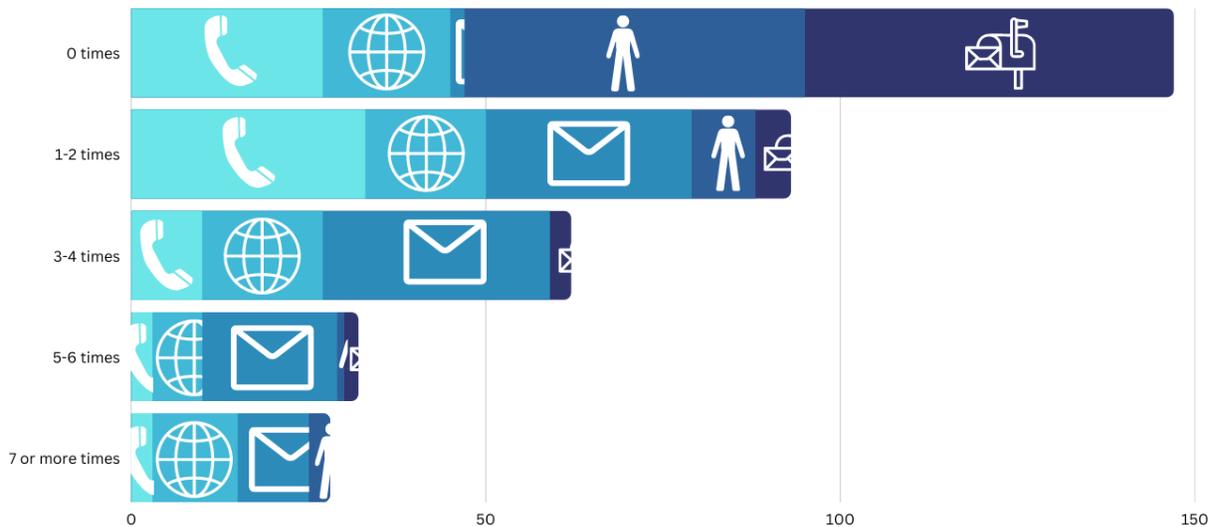
Regardless of the outcome of your most recent issue, do you feel the Sex Offender Management Board listened to your concerns? Please use a scale of 1 to 5, with 1 being none of my concerns were heard and 5 being all of my concerns were heard.



Please rate the timeliness of the Sex Offender Management Board in responding to your issues on a scale of 1 to 5 with 1 being very untimely and 5 being very timely.

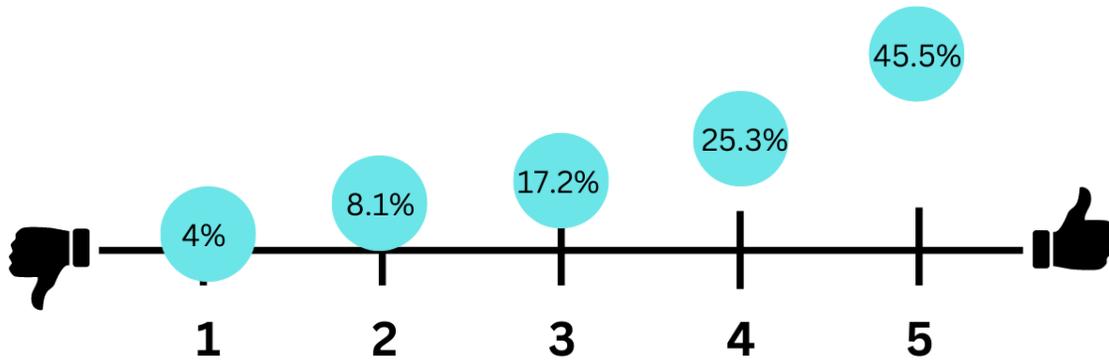


Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type interaction selected.)



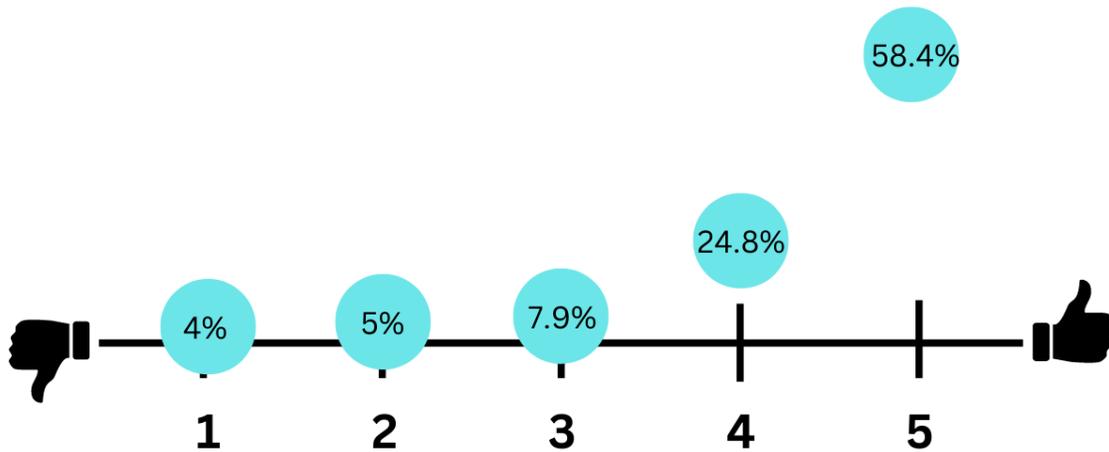
---

Please rate the helpfulness of the Sex Offender Management Board in resolving your issue or need with 1 being not very helpful and 5 being very helpful.



---

Please rate the professionalism of the program's staff on a scale of 1 to 5 with 1 being very unprofessional and 5 being very professional.



---

On a scale of 1 to 5 please rate the accuracy of information provided by the Sex Offender Management Board with 1 being not very accurate and 5 being very accurate.

