

SEX OFFENDER MANAGEMENT BOARD

# ANNUAL LEGISLATIVE REPORT

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



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

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# Executive Summary

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

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

## *Section 1: Research and Evidence-Based Practices*

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

- *Research Evaluation Procedures:* The utilization of research and incorporation of the findings of research is an essential function of maintaining best practice. This research is used to create and back evidence-based practices and policies. Studies are cited and quoted consistently throughout the work of the Board and its committees; however, there is often much work that goes on in the background during the search and selection of the research that is used. To address this process and better inform the members of the Board, one of the SOMB's Strategic Action Plan groups has worked to develop and implement a research basics training. This training aims to inform the Board on conditions of research that are often overlooked, and considerations that must be weighed when discussing the efficacy of research designs. Topics such as the validity (internal and external) of research designs, biases, and types of studies are all crucial to consider when making decisions based on the findings of research studies and articles. One of the ways to address this issue is to utilize more than one study to corroborate and reinforce recommendations or policy changes, a tactic utilized by the Board and its respective committees. Another vital practice is the selection of the most contemporary research, not only in regards to the year of publishing but also the most comprehensive and strongest from a design standpoint. The world of research and policy making is not perfect; however, maintaining training on the basics and utilizing these tools aids in the continued effort of following best practices and retaining an evidence-based process.
- *Meta-Analyses on Treatment and Recidivism:* Meta-analysis is one of the two main categories of research where empirical data can be gathered from as it pertains to recidivism and the efficacy of treatment for those who sexually offend. Meta-analyses typically result from a large search of articles that address specific issues or research questions that those conducting the meta-analysis are interested in studying. This amalgamation of studies results in the use of statistical tools to create one study with a large number of subjects. Meta-analysis is often viewed as the gold standard, given that it addresses many of the concerns and problems of methodology, such as small sample sizes or the use of different measures across single studies.

In regards to the questions of recidivism or treatment efficacy, this is helpful as these meta-analyses can generate average rates across multiple studies. There are still research concerns that can be applied to these meta-analyses, but the information they provide can prove beneficial for providing averages and standardized information across a wide range of studies. One of the most important factors of meta-analyses is that when new research is published, if it meets the parameters of the meta-analysis, it can be updated to reflect the new research and the impact it may have on the original findings. Meta-analyses often evaluate a variety of research questions, but the most common in the sex offender management field focus on the effectiveness of treatment and recidivism. There is a myriad of meta-analyses that focus on this specific topic of study for both juvenile and adult offenders. Examples of these meta-analyses for adult populations include: Hanson, Bourgon, Helmus, & Hodgson (2009); Schmucker & Lösel (2017); and Gannon, Olver, Maillion, & James (2019). Examples of those for juvenile populations include: Reitzel & Carbonell (2006) and Caldwell (2016). These meta-analyses provide a wealth of information and an accessible source of synthesis of research conducted around a specific research question. These studies are useful in the process of making evidence-based policy as they can serve to provide guidance on a larger scale regarding what research shows. In addition, these studies help assuage one of the difficulties regarding research use in that they allow the Board and its committees to utilize the synthesis of more than just one research study at a time.

- *Sexually Explicit Material Use and Use of the Internet:* The SOMB Best Practices Committee was asked to craft a white paper to provide guidance for SOMB Approved Evaluators related to the changes to the Additional Special Conditions of Supervision. Effective November 1, 2018, these changes eliminated the blanket prohibitions for internet or social media use, along with no longer prohibiting the use of sexually oriented and stimulating material for adults without a specific court order. Research was gathered and analyzed on this issue; however, the results of this review included a caveat that current research does not provide specificity regarding whether dynamic risk increases with internet access. In regard to pornography use and offending, use alone does not increase the likelihood that an individual will commit a sexual offense or acts of sexual aggression. It is an interaction of a series of risk factors and the use of pornography that is harmful, abusive, or illegal that may increase this level of risk (Malamuth, 2018). Additionally, the viewing of sexually explicit material (SEM) can lead to an increase in propensity for sexual aggression in those who have previously committed an act of sexual aggression or assault (Foubert, Brosi, & Bannon, 2011). Evaluators are encouraged to assess how/if the use of social media or the internet was at play in the commission of the offense or in the commission of problematic or illegal behavior. Evaluators are also recommended to consider if access to SEM will exacerbate the individual's risk factors identified in the evaluation. Restrictions on internet use and social media should be considered based on the totality of the circumstances to include how it was involved in the offense, if at all, and if access could exacerbate risk factors. This is in keeping with the principle of individualizing treatment following a model of Risk, Needs, and Responsivity (RNR) (Andrews & Bonta, 2006).

## *Section 2: Relevant Policy Issues and Recommendations*

Relevant Policy Issues and Recommendations consist of a literature review of the empirical research on issues in sex offender management, policies, and practices. Specific policy issues are examined to highlight areas that may be of particular interest to the members of the general assembly. Two examples of this are the recommendations regarding sex offender registration and notification (SORN) for juveniles, and sexually violent predator (SVP) policies. Both of these topics are once again pertinent topics for this year. Per the 2019 SOMB Sunset Report there is a recommendation regarding the classification of “sexually violent predator,” (SVP) and replacement with a risk classification system. This recommendation came about as a result of a change in federal SORN law, which no longer requires states to designate SVPs. Likewise, there are current legislative initiatives related to the issue of juvenile registration in the form of bills that have been proposed. A legislative committee has been studying this issue for the past several years and requested input from the SOMB on the matter. As a result, the SOMB prepared a white paper regarding juvenile registration and have included the findings in its legislative report several times including this year as the committee has proposed bringing forth legislation in this area. For these reasons these two topics are once again relevant policy issues for the SOMB Legislative Report.

### **Sexually Violent Predator Designation**

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

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

### **Juvenile Registration**

Research has suggested that public access to juvenile registries can lead to issues with the therapeutic goals set by the multidisciplinary team supervising the juvenile through disruptions of the juvenile’s life at home and in school (Batastini et al, 2011; Harris et al, 2016; Stevenson et al, 2013). Research has also suggested that general juvenile sexual recidivism rates are approximately 3% (Caldwell, 2016) with some research citing rates as low as less than 1% (Batastini et al, 2011). Research has also been presented in previous years that suggests that juveniles are at greater risk for suicide, mental health issues, loss of protective factors, and labelling concerns when they are required to register (Batastini et al, 2011; Stevenson et al, 2013; Harris et al, 2018; Letourneau et al, 2018). Based on the research the SOMB again makes the following recommendations for juvenile registration:

1. Make juvenile registry information a law enforcement only tool that is non-public (do not include juveniles on the lists provided by law enforcement)
2. For those who are eligible, a hearing for discontinuation from the registry will automatically be set at the time of successful completion from supervision. All notifications including those required by the Victim Rights Amendment must be made with time allowed for responses prior to vacating the hearing. This hearing can be vacated if there are no objections.
3. Change the threshold for release from registration - instead of “more likely than not,” release from registry should be contingent on being found to be low risk to commit a sex offense as evidenced by clinical indicators. Clinical indicators are anything which provides information regarding the individual’s clinical presentation, such as interviews, level of participation in treatment, risk assessment scores, evaluation, etc.
4. Improve sentencing procedures to increase the information provided and expand judicial discretion concerning registration, including developing criteria that an evaluator can use to make a recommendation for no registration
5. Remove the ineligibility to petition for release after additional adjudication for non-sex offense
6. Remove requirement for out-of-state juveniles to register if the originating state has already relieved the juvenile from registration requirements
7. Consider allowing a juvenile access to court-appointed counsel for relief from registration

## Future Roadmap

As the work of the SOMB and its committees continue to progress, and as research continues to develop pertinent to the work of the Board, it is worthwhile to begin to look at the future of the work of the Board. Along with this future roadmap of an ideal system of work, it is also important to highlight some of the work currently being undertaken by the Board in order to achieve these future goals. As a Board that is mandated to utilize research and evidence in implementation, it is a priority to outline the most effective system possible. With this in mind the future roadmap of work of the Board begins to take shape. By way of its thorough and comprehensive review of research, the Board has made substantial changes to its Standards, and produced recommendations and white papers for guidance that reflect the best practice that is evidenced by research. Moving forward this is a process that will continue to ensure that the Board is reviewing all that it does including its recommendations, while evaluating whether they are reflective of its mandate to be evidence and research-based. An example of this mindset is the Board’s continued implementation of Standards and practices that are reflective of the principles of RNR. By utilizing the Board’s research process, the principles of RNR have continued to be incorporated into the work of the Board, and this process is going to continue for other pertinent modalities or interventions.

## SONICS

The Sex Offending Need Integrated Classification System (SONICS) process is an example of the SOMB’s continued effort towards the creation and implementation of research and evidence-based practices

for the field for providers. This process is being developed by the SONICS Work Group, which was created as a Work Group by the Best Practices Committee. The SONICS is being developed to help evaluators provide clear and understandable explanation of a client's risk to assist decision making for other stakeholders. The process of developing this tool has followed the Board's research procedure through its development. The conception of the tool is based on the creation of a five-level system of risk for risk communication (Hanson, Bourgon, McGrath, Kroner, D'Amora, Thomas, & Tavarez, 2017) and its subsequent review and standardization in 2018 (Hanson, Harris, Letourneau, & Helmus, 2018). This system was created to help identify and develop common language for risk that can be used across the system to ensure that communication between involved parties is clearly defined when discussing an individual's risk.

### *Section 3: Milestones and Achievements*

In 2019, the SOMB completed the final item from the SOMB Strategic Action Plan created and approved in 2014. For a comprehensive summary of the work of the SOMB, please refer to Appendix A.

Section 3 addresses the SOMB Strategic Action Plan in depth, highlighting its accomplishments and continued progress towards achieving its goals. The following highlights some of the many additional achievements of the SOMB in 2019:

- Managed 10 SOMB committees that functioned at some point during 2019. Several of these committees were convened in 2014 to address specific projects related to the strategic plan, such as the Adult Standards Revision Committee and Best Practices.
- Hosted two On-The-Road Board meeting in 2019 to reach stakeholders outside of the Denver Metro area. Meeting were held in Grand Junction and Breckenridge.
- Finished the revisions to section 5.740 regarding clarification, contact, and reunification with victims.
- Made and approved changes to the Juvenile Guiding Principles, and made changes to the Juvenile polygraph sections
- Conducted 68 trainings to over 2,600 attendees from across Colorado in calendar year 2019. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses. The SOMB also held its 13<sup>th</sup> annual statewide conference in Breckenridge, Colorado that offered three consecutive days of training for providers, probation officers, law enforcement, victim representatives, and many other stakeholder groups. Presentations were conducted on a variety of topics, including domestic violence and sex offending cross-over, clarification and reunification, interventions for sexually abusive youth, restorative community justice for sexual offenses, and juvenile sexting in Colorado.
- Implemented monthly Lunch and Learns. On a monthly basis, SOMB staff hosts a virtual, one-hour technical assistance session for approved providers. This allows staff to update providers on recent changes to the *Standards and Guidelines* as well as allowing providers to have questions answered.

- Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement around the state.
- The Application Review Committee conducted four Standards Compliance Reviews in 2019, which review pertinent provider files to assess service provider compliance with the *Standards and Guidelines*.
- Developed a white paper providing guidance for SOMB Approved Evaluators regarding the special additional terms and conditions of probation (see Appendix C)
- Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines* revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.
- Published the 2020 SOMB Annual Legislative Report and the 2019 Lifetime Supervision of Sex Offenders Annual Report.

# Introduction

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## ***Purpose***

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

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

Additionally, this report documents the 2019 achievements and current efforts being undertaken by the SOMB.

## ***Background of the Sex Offender Management Board***

In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107, C.R.S.) that created a Sex Offender Treatment Board to develop *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (henceforth referred to as the *Adult Standards and Guidelines*). The General Assembly changed the name to the Sex Offender Management Board (SOMB) in 1998 to more accurately reflect the duties assigned to the SOMB. The *Adult Standards and Guidelines* were originally drafted by the SOMB over a period of two years and were first published in January 1996. The *Adult Standards and Guidelines* applied to convicted adult sexual offenders under the jurisdiction of the criminal justice system. From the beginning, the *Adult Standards and Guidelines* were designed to establish a basis for systematic management and treatment of adult sex offenders. The legislative mandate to the SOMB and the primary goals of the *Adult Standards and Guidelines* are the safety of the community and the protection of victims. The *Adult Standards and Guidelines* were revised in written form in 1998, 1999, 2008, 2011, and 2017.

In 2000, the Colorado General Assembly amended and passed legislation (16-11.7-103, C.R.S.) that required the SOMB to develop and prescribe a standardized set of procedures for the evaluation and identification of juveniles who committed sexual offenses. The *Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses*

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

(henceforth referred to as the *Juvenile Standards and Guidelines*) was first published in 2003, and subsequently revised in 2008, 2011, 2014, and 2017. As with the *Adult Standards and Guidelines*, the *Juvenile Standards and Guidelines* continue to hold public safety as a priority, specifically the physical and psychological safety of victims and potential victims.

Both the *Adult* and *Juvenile Standards and Guidelines* are now continuously revised in real time on the SOMB website, updating each section with new changes as they are approved. Between 2017 and 2019, a number of revisions have been made to each document. These revisions address omissions in the prior versions and continue to incorporate the growing literature on sex offender treatment and management.

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

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

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

In part, the SOMB stays current on research through the work of its active committees. These committees meet on a regular basis and report back to the SOMB to inform potential modifications to the *Adult* and *Juvenile Standards and Guidelines*. The following is a list of the SOMB committees:

1. Adult Standards Revisions Committee



2. SOMB Executive Committee
3. Juvenile Standards Revision Committee
4. Best Practices Committee
5. Victim Advocacy Committee
6. Application Review Committee
7. Training Committee (in Collaboration with the Domestic Violence Offender Management Board)
8. Family Support and Engagement Committee
9. SONICS Workgroup
10. Sex Offender Registration Legislative Work Group

## ***Report Organization***

This annual legislative report consists of four sections. The first section provides a summary of the current and relevant literature concerning research and evidence-based practices. The second section highlights relevant policy issues. The third section highlights the 2019 achievements of the SOMB. This section will include priorities identified by the SOMB, which will be addressed in 2020. The fourth and final section provides the future goals and directions of the SOMB.

# Section 1: Research and Evidence-based Practices

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## ***Research Evaluation Procedures***

The SOMB utilizes best practices and evidence-based decision-making when conducting its work, as well as the work of its sub-committees. A vital piece of this process is the collection, review, and use of research relevant to the field and the policy topic at hand. This work is often presented to the Board and committees in the form of literature reviews that synthesize the research that has been gathered; however, there is a wealth of work that occurs behind the scenes prior to this form of presentation. To aid in the training of these Board and committee practices and in consideration of one of the Board's Strategic Action Plan workgroups, a training was created on an Introduction to Research for the Board (see Appendix B). The Board will implement this training in 2020.

## ***Research Process***

One of the primary steps in the work of the SOMB and its committees is the research process, which guides the decisions and recommendations from the Board. This process typically begins with the request for research on a specific topic or issue, a request that often begins at the committee level from the members of the committee, or from the Board itself during discussion at a meeting. When these requests for research are made, there is an invitation to committee members and attendees to provide any pertinent research for the topic to be reviewed. The staff then begins an additional search for research through a variety of repositories for research articles such as: Google Scholar, the Association for the Treatment of Sexual Abusers (ATSA), Research Gate, Academic Search Complete, and other similar search engines. The research is then reviewed by the staff and a synthesis of the literature and its findings is compiled for presentation to the applicable committee or the Board. Research is incorporated if it meets criteria for inclusion, which includes a review of the research design for the study. If a study has a strong design and is of a high quality it meets this inclusion criteria, if the study does not meet these criteria it is not included in the summary/review. On occasion this part of the process is also accompanied by a formal presentation in the form of PowerPoint for the committee/Board; however, the formal presentation does not always occur and it depends on the topic or issue that is being discussed. If a formal presentation does not take place, then the information is provided in a literature review document that is distributed to the Board/committee and an overview is given at the meeting prior to any discussion.

One of the questions that the Board often faces regarding research is about how contemporary the research is that is being used for decision-making. While "contemporary" research is often referred to as the most recent research in the timeframe, this is not always the case. Research into topics is an ongoing process and oftentimes there are occasions where there is no "recent" research in terms of date of publication. In these cases, older research is utilized and this is also where the use of meta-analyses become an important piece of the process. It is important to note that there is older research that is still seminal to the field and the topic being reviewed. This research is still considered in these

cases, even if there is newer research, and is used in conjunction with the newer studies. These meta-analyses are very comprehensive bodies of research that utilize an amalgam of research articles and study them as one massive sample size. These types of studies are useful in that they not only include recent research but also older pieces of work that might be comprehensive studies. There is also the chance that there may not be contemporary or any research conducted on a specific topic. In the instances where there is a lack of research, steps are taken to seek out any old research that may have been conducted to be used as a source of information for the topic and any decision-making.

Research is incorporated into the Standards based on the discussions held at the committee and Board levels. This research typically is cited when it pertains to a point of policy or a revision of a practice standard that is necessary due to new research findings. These statements of fact are cited with research to reflect that they are based in evidence and research, and that they have been evaluated by the Board from this frame of perspective. There are also certain policies and decisions made by the Board to be used as standards that do not have research citations as these standards for practice are procedural and not something that requires a research citation. One such example is the degree requirements for SOMB approved providers, as this is simply a procedural standard and there is no research present that suggests a difference in capabilities or skills between a therapist with a Bachelors' or Masters' degree.

Another topic that must be considered in the use of research for decision and policy making by the Board is the presence of conflicting research. Research is a fluid field with new studies and research designs on topics occurring quite frequently, and often the findings from these studies are in conflict with previously published work or other contemporary pieces of research. The research summaries provided to the Board/committees often include these conflicting studies along with commentary and information to help in the decision making process. One of the steps that comes into play when looking at new research with conflicting findings is the analysis and evaluation of the research design of the study and its findings. This information can help assist in the decision-making process because a study may have findings that conflict with previous findings; however, if the design of the study is less than adequate or its findings are non-significant it can demonstrate that simply conflicting findings is not enough to reverse previous work done on a topic.

## ***Research Design Validity***

Two common questions applied to research are: "is it reliable?" and "is it valid?". These two questions are one the first things to consider when reading research, specifically the question of validity. Validity in this case refers to accuracy, and this validity is most commonly measured through two different forms: internal and external validity. Internal validity refers to the extent that a study establishes an accurate relationship between an intervention and outcome, while also eliminating alternative explanations for a finding. If a study measures with a strong level of internal validity it is less likely to experience a confounding variable, which is an external variable that influences both the dependent and independent variables of a study, thus increasing the confidence that can be drawn from the findings presented in the study. There are factors within research designs that can be looked to in order to strengthen the internal validity of the study. One of the most common factors of a design that bolsters the internal validity is the practice of randomization, or the random assignment of participants to either the treatment or control groups. This assignment process helps bypass any bias in the assigning of specific persons to specific groups in a study. An additional, yet similar, factor to consider is the use of random selection of the participants of a design. This random selection is a step before random assignment, and is a way to ensure that the total population for the study is representative of

the actual population being studied. Both of these methods are beneficial as they help ensure that your population is representative while avoiding systematic bias of placement.

Just as there are factors to consider for increasing the strength of a design, likewise there are a myriad of factors to be wary of that weaken the study. When gathering research for the purpose of Board or committee work, these threats to internal validity are extremely important as they can influence the results of a study, and render them potentially invalid. One of these common threats is the process of maturation, which refers to the impact of time as a variable in a study, and how the longer a study progresses the greater the possibility the participants naturally change (i.e., aging). This is a concern as this creates the confounding variable of time, as this maturation due to time passing could present as an alternate explanation for the findings. This is particularly relevant in studies related to juveniles who are going through normal maturational processes. Another common threat to internal validity can be found in the process of study attrition. This occurs when a study's participants leave or drop out of the study over time, ultimately leaving the results or findings being gathered from a biased sample containing only the people who did not choose to exit the study and who often have common characteristics that led them to stay. Such threats to internal validity are often focused on when creating a research design; however, they are still important factors to consider when drawing conclusions and recommendations from findings.

External validity is often referred to as the “generalizable nature” of a study and its designs, or if the study would produce the same results when duplicated in a different place or location. One of the first steps to improving external validity begins at the inception of the study by ensuring that inclusion and exclusion criteria are utilized. These criteria are used to make a clear definition what exactly the population looks like in the study (i.e., adult males who have committed a sexual offense), and then drawing a fair sample from that population which can be generalized back to the population. Replication is another process that is useful in the strengthening of external validity, which is the process of conducting the same study again with different samples or in different settings, and evaluating if the results are the same. Meta-analysis is a further step in the replication process as it can be useful in the identification of reliable independent variables based on the findings of many studies on a particular topic. Selection bias is a very common threat to the external validity of a study, which refers to differences between groups in a study that may be related to the independent variable. For example, specific demographics of people may make them more likely to participate in a survey online as opposed to other people. This threat is often one of the most pervasive as it is also a threat to internal validity. Falling into this same realm of threat is the issue of sampling features, which refers to a feature of the sample being responsible for the effect thus limiting generalizability of the findings of the study.

These examples of threats and strengths are not the only ones; however, they are some of the most common. These factors are a noteworthy source of attention prior to compiling research for presentation, as following evidence-based procedures also requires ensuring the best research is utilized and understood. Most often research published in a scholarly journal will contain a section where limitations are discussed, and this can serve as an excellent starting point for evaluation; however, it is important that thorough reading and understanding is conducted as well.

## ***Significance of Findings***

After properly evaluating a research design for its construction and validity, the next focus is the results and ultimately the findings. Most studies published in scholarly journals will contain a section near the end containing graphics and tables of the numerical results or findings of the study. These tables and fields are a good source of finding the distillation of the information included in the following discussions and findings sections; however, it is important to understand how to interpret these findings. The question of statistical significance becomes an incredibly vital tool at this point in the process, and can change the way in which a study's results can be interpreted and used. Statistical significance has its roots in a relatively simple process that considers the hypothesis questions of a study, the normal distribution, and a value known as a p-value. What this process aims at addressing is the likelihood or probability of a result of a studying occurring by chance. Results of a study are tested at certain levels known as a p-value, with the higher this value the more accepting a researcher is of having greater likelihood of chance influencing the findings of a study. Most commonly results of a study are tested against a p-value of less than or equal to 0.05, as this captures a 5% likelihood of chance effecting findings. This 5% threshold is where statistical significance begins, and the lower the value gets the stronger the level of significance of a finding.

This concept of statistical significance is something that is necessary to consider when synthesizing research findings for Board and committee work. If a study provides some new information regarding the effects of an intervention (i.e., offense specific treatment), it is imperative to examine the data and look for significance prior to making decisions based on the new findings. The process of evidence-based programming does not simply mean basing decisions on results of research, but basing it on the best available research and the research that is most valid and reliable. A way to ensure that this is the research being used is to identify research from multiple sources that provides the same valid information, and focusing on the available research that is the most comprehensive. These concepts are those which come into play whenever research is used for the purposes of decision-making for the Board and its committees to retain a best practice and evidence-based approach.

## ***Meta-Analyses on Treatment and Recidivism***

Meta-analyses are the amalgamation of many different studies, focusing on a specific topic or research question, and evaluating the results of those studies. The essential idea behind this practice is to take many different studies, often those of a smaller single scale, to create one large study with a large sample size and a wide variety of variables taken into consideration. One of the most common topics of meta-analyses that are pertinent to the work of the Board are those that focus on the effectiveness of treatment and the recidivism of those who commit sexual offenses. These are often some of the most seminal and comprehensive pieces of literature in the field and focus on studies done for both juvenile and adult populations. These studies are able to bypass concerns of single studies such as sample size issues or sampling issues, which often leads them to being identified as a sort of gold standard in the world of research. Additionally, the structure of meta-analyses allows them to be updated as new research is produced, which allows them to continue in the position of a highly comprehensive resource. These studies do still have issues and concerns to contend with, but they are more often stronger in design than single studies and as such are used quite frequently to aid in making decisions from an evidence-based perspective.

One such example is the work done by Hanson, Bourgon, Helmus, and Hodgson (2009), which is a meta-analysis focusing on the use of effective treatments for general offenders that incorporate the

principles of risk-need-responsivity (RNR) as an applicable practice for treatment of those who commit sexual offenses. The initial search yielded a pool of 129 identified studies, which were then rated on a basis of study quality, with those that did not meet the quality threshold being rejected from the final analysis. The authors finished the search of articles with a total of 23 accepted articles that studied the intended topic of the meta-analysis. One of the strengths of this meta-analysis is the identification of overlapping studies, and the use of the strongest research design from these overlaps. Additionally, the geographic locations that are the basis of the individual studies is not too varied, with the majority being from Canada and the United States (Hanson et al, 2009). The results are consistent with those from meta-analyses from the year prior, in that treated offenders had a lower recidivism rate for both general and sexual recidivism than the untreated sample (Hanson et al, 2009). The study found that sexual recidivism rates for the treated groups were 10.9%, whereas the untreated groups were at 19.2% (Hanson et al, 2009). Additionally, the recidivism rates for any offense were also lower in the treatment groups (31.8%) as opposed to the 48.3% in the untreated groups (Hanson et al, 2009). The results of this meta-analysis must be taken with a sense of caution as there was a large number of studies that were identified as having a weak research design. The use of the principles of RNR in treatment had a significant effect on the outcome of treatment. Specifically, the study found that when all three pieces of RNR were in place there was the most significant outcomes, with a decrease in positive outcomes when only one or two principles of RNR were incorporated (Hanson et al, 2009). Due to these findings the RNR principles are recommended as a primary consideration in the creation of effective intervention programs (Hanson et al, 2009).

The meta-analysis from Schmucker and Lösel (2017) is a primary example of the elasticity of meta-analyses. This study was originally published in 2005 and has continued to undergo updating as new research pertinent to the study has been produced. The focus was on the effects of treatment on the recidivism of adult males who had committed a sexual offense. The initial search provided 440 studies that were assessed for their eligibility into the meta-analysis, 413 of these were excluded due to inadequacies of their design. Of the 27 studies utilized in this meta-analysis over half came from the United States and the majority addressed cognitive-behavioral treatment (Schmucker & Lösel, 2017). Overall the results demonstrated that treatment had a statistically significant effect on reducing sexual and general recidivism (Schmucker & Lösel, 2017). The study found that for general recidivism the rates of treated individuals were 32.6%, whereas the untreated individuals were at 41.2% (Schmucker & Lösel, 2017). For sexual recidivism the study found that treated individuals had a mean rate of 10.1% and the untreated individuals recidivated at 13.7% (Schmucker & Lösel, 2017). The studies that focused on cognitive-behavioral programming for treatment showed that this type of treatment had a statistically significant effect (Schmucker & Lösel, 2017). One of the weaknesses of this study is clear in the findings, and that is the heterogeneity of these results. This means that the analysis found significant variation between the research designs of the various studies. Although the findings of the meta-analysis are promising, this heterogeneity means that there must be caution in general results from the specific findings. Schmucker and Lösel (2017) conclude that while this meta-analysis demonstrates the progress of use of treatment as an evidenced-based practice, it is not fully conclusive and that more high-quality research needs to continue on the topic. The meta-analysis also concludes that future research should focus on what works with whom and the contexts, conditions, and outcomes.

One of the most recent examples of meta-analyses on the effects of treatment on recidivism for adults is the work published by Gannon, Olver, Mallion, and James (2019). This meta-analysis is an especially large example containing 70 different studies; however, not all of these studies apply to treatment for

sexual offenses, as the authors also looked at other specialized treatment such as domestic violence and general violence. Overall, the articles studying treatment for sexual offenses demonstrated a significant treatment effect with the treated individuals having a recidivism rate 4.6% lower than the untreated individuals, 9.5% versus 14.1%. (Gannon et al, 2019). The study also focused on moderating factors such as the type of treatment and the type of staffing for the program. From this research, the findings concluded that treatment is most effective when there is constant presence from a licensed psychologist during the facilitation (Gannon et al, 2019). Additionally, the study found that group-based treatment is more effective in producing greater reductions in recidivism; however, this conclusion changed when one specific study was controlled for in the model (Gannon et al, 2019). One of the issues that this meta-analysis experiences is the presence of a study by Mews, Di Bella, and Purver (2017). This study, in particular, is of a very large scale, having a sample size of nearly 16,000, and serves as an outlier that had a significant effect on the data. The study by Mews and colleagues (2017) has such a large sample size, compared to the total sample size, that their findings had an over-riding impact on the findings that the meta-analysis was studying. To combat this effect of a single study impacting the findings, the meta-analysis reports models with this single study both included and removed. Even including the aforementioned study in the model, the treated individuals still had a significantly lower recidivism rate than the untreated group; however, this effect was smaller than the model without the study by Mews and colleagues (2017). It is also worth noting that the authors of this study utilized a modeling structure known as random effect and fixed effect in their analysis. These are two relatively new forms of statistical modeling for meta-analyses that weigh effect sizes against sample sizes of studies, and as such any findings produced under the random effects model were less impacted by the inclusion of the Mews and colleagues (2017) study.

The meta-analysis includes a conclusion on the use of the polygraph in treatment, and warns of cautious use of polygraph as the results of its analysis suggested that positive treatment effects were reduced by the inclusion of the polygraph. This conclusion illuminates one of the methodological concerns for meta-analysis that Schmucker and Lösel (2017) address, that if the studies included in meta-analysis have a weak research design the results of the meta-analysis must be considered with an air of caution. In the case of the polygraph conclusions from Gannon and colleagues (2019) this is an applicable concern as there are only six studies included that examined polygraph use in treatment. Of these articles the majority of these are research prior to the year 2000 and four of these articles are specifically mentioned as excluded from the meta-analysis from Schmucker and Lösel (2017) due to concerns for their research design. The findings from this study also have an issue in that they did not clearly delineate in their analysis the effects from non-professionals conducting treatment and professionals. When studying the effects on the data, treatment run by unsupervised non-psychologists receives worse treatment results. In the context of the SOMB, for example, these findings would not be generalizable to the population of SOMB approved providers as they receive training and supervision. As the most recent meta-analysis on treatment effectiveness and recidivism, this is an important piece of comprehensive research and contains conclusions pertinent to the field. This meta-analysis also demonstrates how even though these types of studies are considered a gold standard for research, there are still considerations to make when using their findings for decision-making processes.

Research on juveniles who commit sexual offenses tends to be less prolific than research for their adult counterparts, and as such meta-analyses on this topic are less frequent as well. There are still a small handful of pertinent meta-analyses on the topic of recidivism and treatment for juveniles who commit sexual offenses, and these studies serve an equally important and identical purpose as those specific to the adult field. One such example is the meta-analysis by Reitzel and Carbonell (2006) on the effectiveness of treatment and recidivism of juveniles who have committed a sexual offense. While this

study is older it is included as one of the first seminal studies/meta-analyses on treatment effectiveness and juvenile recidivism. The results of this study found that there is a positive effect of treatment on recidivism in juveniles, specifically recidivism for sexual offenses (Reitzel & Carbonell, 2006). The results for sexual recidivism in this meta-analysis were statistically significant and the treated juveniles had a recidivism rate over 11% less than the untreated group (Reitzel & Carbonell, 2006). The study found that the treated juveniles sexually recidivated at a rate of 7.37%, whereas the untreated juveniles had a rate of 18.93% (Reitzel & Carbonell, 2006). The study also provided average recidivism rates for non-sexual violent recidivism (24.73%), non-sexual non-violent recidivism (28.51%), and unspecified non-sexual crimes (20.40%); however, these rates were averages across both the treated and untreated groups (Reitzel & Carbonell, 2006). The authors note that one of the concerns with this study is that there is less research than with adults and as such there is a chance that additional articles could make the results not significant (Reitzel & Carbonell, 2006). This means that due to small number of studies published at the time of the meta-analysis on this topic, the findings would possibly be more likely to be influenced by new research than if there was a large breadth of studies already established at the time of analysis. To contend with this issue there is an additional measure added to the results to estimate the number of articles required to change the results of the analysis to make the findings not significant. The calculation indicated approximately 44 studies with no significance would need to be added to alter the significance of the meta-analysis (Reitzel & Carbonell, 2006). As an older meta-analysis on juveniles there has been more research conducted since its publication; however, this specific study serves as a good baseline for meta-analyses focused on the treatment of juveniles and is one of the first seminal studies on this topic.

Michael Caldwell (2016) conducted a meta-analysis on the recidivism rates of juveniles who have committed a sexual offense. This study focused on both general and sexual recidivism; however, the primary purpose of the study was to examine the sexual recidivism rates of juveniles over a period of approximately 30 years. The findings of this study indicated a base rate of detected sexual recidivism at just under 5% following a 62-month follow-up period (Caldwell, 2016). The study also found that follow-up times produced higher sexual recidivism rates up to a threshold of 36 months, and anything over this threshold did not generate significantly higher rates of sexual recidivism (Caldwell, 2016). This means that the sexual recidivism rates increased over time, but after three years of follow-up the rates were no longer statistically significant meaning that the three-year rates were statistically the highest rates. Caldwell (2016) also studied the data based on the timeframes of publication and determined that all research from 2000 to the time of publication found an average sexual recidivism rate of 2.75%, and from this it is suggested that the most current rates are likely below 3% for treated individuals. The research prior to 2000 had reported sexual recidivism rates of 10.30%, meaning the post-2000 research suggested a decrease in sexual recidivism by 73% from the prior studies (Caldwell, 2016). In regard to general recidivism the study found a decrease from 34.5% from pre-2000 studies to 30% for all studies after 2000; however, these results were not statistically significant (Caldwell, 2016).

One of the limitations of this meta-analysis comes from the large variety of sampling designs for the studies included in the analysis (Caldwell, 2016). This study utilizes an incredibly large sample of over 100 studies, which were pulled from a total sample of 98 reports consisting of 33,783 juveniles, and while there are concerns with sampling processes there is still generalizable information to be gathered from such a large study. Due to the large nature of this analysis there was a wide variety of sampling methods, which leads to large diversity in the sample and can make it difficult to definitively apply the findings to one specific population. This study, like many, is not perfect; however, the information provided from the study suggests that sexual recidivism for this population is low and has steadily

declined over the last 30 years. Caldwell (2016) suggests that the expansion and improvement of effective and empirically-based treatment and supervision programs for sexual offenses is one of the only explanations for this decline that does not have contradictory evidence. Caldwell (2016) also suggests that the data provided from the meta-analysis illuminates the need for expanded research for the development of effective prevention programs, as this is potentially the best way for a further reduction of sexual violence in society.

## ***Sexually Explicit Material and Use of the Internet***

The SOMB Best Practices Committee was asked to craft a white paper to provide guidance for SOMB Approved Evaluators (see Appendix C) related to the changes to the Additional Special Conditions of Supervision. Effective on November 1, 2018, these changes eliminated the blanket prohibitions for internet or social media use, along with no longer prohibiting the use of sexually oriented and stimulating material for adults without a specific court order. Research was gathered and analyzed on this issue; however, the results of this included a caveat that current research does not provide specificity on dynamic risk increasing with internet access. In response to this the white paper outlines research on the effects that use of sexually explicit material (SEM) can have and provides recommendations for evaluators to consider in regards to the use of internet and SEM for clients. SEM is defined as pornographic images, videos, and narratives that may be viewed in print or electronic devices such as a computer, television, gaming system, DVD player, VCR, video camera, voice recorder, pager, telephone, or cellular or smart phone. These materials are developed and viewed specifically for sexual gratification purposes. SEM is different from sexually stimulating materials, which are non-pornographic materials that may lead to sexual interest or arousal but are not developed with that goal in mind. The paper also includes a list of dynamic risk factors associated with recidivism that may be exacerbated by use of SEM.

Currently there is no known published research that specifically demonstrates internet access increasing risk of re-offense for both juveniles and adults who have committed a sexual offense. There is specific research that suggests prohibition from certain websites, such as adult-child sex advocacy websites, as these sites increase risk through the rationalization of offenses against minor victims (D'Ovidio, Mitman, El-Burki, & Shumar, 2009). Research suggests that there are harmful repercussions for the use of pornography by juveniles, such as higher levels of delinquent behavior, lower degrees of social integration, and decreased emotional bonding (Owens, Behun, Manning, & Reid, 2012). The use of SEM by itself is not indicative of an increase in likelihood of committing acts of sexual aggression. It is the interaction of a web of risk factors that predispose individuals to commit these acts and the use of SEM that is harmful, abusive, or illegal that may lead to an increase in risk (Malamuth, 2018). Most adults who commit a sexual offense also require moderating factors to be present for this effect to occur, which include things like negative attitudes towards women, general criminality, and violent behaviors (Davis, Norris, George, Martell, & Heiman, 2006; Hald, Malamuth, & Yuen, 2009; Kingston, Fedoroff, Firestone, Curry, & Bradford, 2008). Adults who are high risk and previously convicted of a sexual offense or committed an act of sexual aggression have a higher risk for an effect between SEM that is harmful, abusive, or illegal and re-offending (Foubert, Brosi, & Bannon, 2011).

Research also suggests that the use of SEM can reinforce cognitive distortions that objectify and degrade victims through the increased acceptance of violence against women and rape myths (Seto, Maric, & Barbaree, 2001; Hald et al, 2009; Foubert et al, 2011; Malamuth, Hald, & Koss, 2011; Wright, Tokunaga, & Kraus, 2015). Although the research does not specifically identify which risk factors have an effect on SEM use and recidivism, there are many dynamic risk factors identified by research that

may be exacerbated by the use of SEM. The following list is not a completely comprehensive list of dynamic risk factors; however, it is some of the dynamic risk factors to consider (Hanson, R. K., & Morton-Bourgon, K. E. 2005; Långström, N., & Hanson, R. K. 2006; STABLE 2007 Manual; Kingston, D. A., Fedoroff, P., Firestone, P., Curry, S., & Bradford, J. M. 2008; Thornton 2013; Tanner, J. 2019):

- Risk-Related Sexual Interests - interest in pre/pubescent children, multiple paraphilia, sexualized violence
- Sexual Preoccupation
- Hyper sexuality
- Sexual Compulsivity
- Sexual Coping
- Offense-Supportive Attitudes - Distorted beliefs towards victims, sexual partners, pornography, or sex that are conducive to sexually assaultive behavior
- Callousness/Hostility towards women
- Dysfunctional Relational Style
- Impulsivity

The SOMB will continue to follow and review new research specific to this topic, and will incorporate the research findings into its ongoing work on this topic in order to provide further guidance to evaluators.

# Section 2: Relevant Policy Issues and Recommendations

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## ***Background***

Beginning in 2011 with the SOMB Sunset renewal, policies were put into place requiring the SOMB to make policy recommendations along with implementation of standards based on evidence and research. Every year in the annual legislative report the SOMB has made policy recommendations based on research, and has identified current research trends on pertinent or emerging topics in the field. Some of these recommendations have gained traction and been followed; however, some have not gotten the same amount of response and have been a reoccurring topic or point of concern. Two examples of the latter are the recommendations regarding sex offender registration and notification (SORN) for juveniles, and sexually violent predator (SVP) policies. Both of these topics are once again pertinent topics for this year. Per the 2019 SOMB Sunset Report there is a recommendation regarding the classification of “sexually violent predator,” (SVP) and replacement with a risk classification system. This recommendation came about as a result of a change in federal SORN law, which no longer requires states to designate SVPs. Likewise, there are current legislative initiatives related to the issue of juvenile registration in the form of bills that have been proposed. A legislative committee has been studying this issue for the past several years and requested input from the SOMB on the matter. As a result, the SOMB prepared a white paper regarding juvenile registration and have included the findings in its legislative report several times including this year as the committee has proposed bringing forth legislation in this area. For these reasons these two topics are once again relevant policy issues for the SOMB Legislative Report.

## ***Process***

The process of policy recommendations for the Legislative report follow a similar path as the process for general Board and committee work. At the onset of the process research is sought out and compile from a myriad of sources such as Google Scholar, ResearchGate, Academic Search Complete, and other criminal justice search engines. This research is again synthesized into a presented format, either as a formal written literature review or put together as a Board presentation. This material is sent out to the committee or the Board for member review, and then is either formally presented at a meeting, or in some cases is given an informal overview and discussion begins on the topic. The implications of the research findings are then reviewed and discussed, and the Board reviews these from a best practice and evidence-based policy perspective. Recommendations are then drafted based on the conclusions of the Board and the implications of the research on the specific policy or in question. This process meets both of the statutory requirements of the Board in regards to policy recommendations and evidence- and research-based implementation.

## Recommendations

### *Sexually Violent Predator Designation*

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

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

### *Juvenile Registration*

Research has suggested that public access to juvenile registries can lead to issues with the therapeutic goals set by the multidisciplinary team supervising the juvenile through disruptions of the juvenile's life at home and in school (Batastini, Hunt, Present-Koller, & DeMatteo, 2011; Harris, Walfield, Shields, & Letourneau, 2016; Stevenson et al, 2013). Research has also suggested that general juvenile sexual recidivism rates are approximately 3% (Caldwell, 2016) with some research citing rates as low as less than 1% (Batastini et al, 2011). Research has also been presented in previous years that suggests that **juveniles are at greater risk for suicide, mental health issues, loss of protective factors, and labelling concerns when they are required to register** (Batastini et al, 2011; Stevenson et al, 2013; Harris et al, 2016; Letourneau et al, 2018). Based on the research the SOMB again makes the following recommendations for juvenile registration:

1. Make juvenile registry information a law enforcement only tool that is non-public (do not include juveniles on the lists provided by law enforcement)
2. For those who are eligible, a hearing for discontinuation from the registry will automatically be set at the time of successful completion from supervision. All notifications including those required by the Victim Rights Amendment must be made with time allowed for responses prior to vacating the hearing. This hearing can be vacated if there are no objections.
3. Change the threshold for release from registration - instead of "more likely than not," release from registry should be contingent on being found to be low risk to commit a sex offense as evidenced by clinical indicators. Clinical indicators are anything which provides



information regarding the individual's clinical presentation, such as interviews, level of participation in treatment, risk assessment scores, evaluation, etc.

4. Improve sentencing procedures to increase the information provided and expand judicial discretion concerning registration, including developing criteria that an evaluator can use to make a recommendation for no registration
5. Remove the ineligibility to petition for release after additional adjudication for non-sex offense
6. Remove requirement for out-of-state juveniles to register if the originating state has already relieved the juvenile from registration requirements
7. Consider allowing a juvenile access to court-appointed counsel for relief from registration

## ***Future Roadmap***

As the work of the SOMB and its committees continue to progress, and as research continues to develop pertinent to the work of the Board, it is worthwhile to begin to look at the future of the work of the Board. Along with this future roadmap of an ideal system of work, it is also important to highlight some of the work currently being undertaken by the Board in order to achieve these future goals. As a Board that is mandated to utilize research and evidence in implementation, it is a priority to outline the most effective system possible. With this in mind the future roadmap of work of the Board begins to take shape.

### ***Research Based Models and Interventions***

As time has progressed, the Board has become increasingly proactive on supporting valid evidence-based practices and modalities in the implementation and revision of its Standards. This process begins with the Board's research review process and presentation of findings to the applicable committee or the Board (for a full explanation of this process please see Section 1 of the report). By way of this thorough and comprehensive review of research, the Board has made substantial changes to its Standards, and produced recommendations and white papers for guidance that reflect the best practice that is evidenced by research. Moving forward this is a process that will continue to ensure that the Board is reviewing all that it does including its recommendations, while evaluating whether they are reflective of its mandate to be evidence and research-based. An example of this mindset is the Board's continued implementation of Standards and practices that are reflective of the principles of RNR. By utilizing the Board's research process, the principles of RNR have continued to be incorporated into the work of the Board, and this process is going to continue for other pertinent modalities or interventions. Ideally the work of the Board will continue to make sure that all of its implementations are founded in the best possible research and evidence-based programming. In an effective system, this would be reflected through continued high success rates for treatment, innovative and effective treatment modalities, new tools or instruments for providers to use, and continued cooperation across stakeholder groups.

## SONICS

The Sex Offending Need Integrated Classification System (SONICS) process is an example of the SOMB's continued effort towards the creation and implementation of research and evidence-based practices for the field for providers. This process is being developed by the SONICS Work Group, which was created as a Work Group by the Best Practices Committee. The SONICS is being developed to help evaluators provide clear and understandable explanation of a client's risk to assist decision making for other stakeholders. The process of developing this tool has followed the Board's research procedure through its development. The conception of the tool is based on the creation of a five-level system of risk for risk communication (Hanson, Bourgon, McGrath, Kroner, D'Amora, Thomas, & Tavaréz, 2017) and its subsequent review and standardization in 2018 (Hanson, Harris, Letourneau, & Helmus, 2018). This system was created to help identify and develop common language for risk that can be used across the system to ensure that communication between involved parties is clearly defined when discussing an individual's risk.

As a result, when an evaluation is conducted, the evaluator will be able to clearly define a risk level for the client that is easily understandable and clear to other parties involved in the treatment and supervision of that individual. Due to Colorado's specific legislative and policy guidelines, however, there are limits to the applicability of this risk system. These limits come from the fact that in Colorado a low risk client will still be assigned to some form of treatment, and in the case of the system created by Hanson and colleagues (2018) their lowest category requires no treatment. This leads to the need to incorporate the research from Hanson and colleagues' work (2018) along with additional research to create a process that is reflective of the policy guidelines in Colorado. Thus, the creation of the SONICS is based on this prior research while incorporating additional research in different stages of the process. The SONICS uses the research from Hanson and colleagues (2018) as the baseline for its structure, and that additional research was pulled in to aid in development via the SOMB's research process (see Section 1). The SONICS is based on the ideas of the RNR model as an empirically-supported approach and is designed to address the totality of a client's risk, need, and responsivity factors when making an evaluation of their overall risk level.

The SONICS is not a scoring instrument for risk but rather evaluators are able to use their current risk instruments and incorporate them into the SONICS with other factors and considerations to create an overall risk profile through use of the SONICS. The goal of the SONICS is to ensure that offenders are properly classified and that their interventions meet all aspect of their risks and needs, while looking at all factors of consideration. The SONICS will be a process to do such classification and intervention matching on a consistent statewide basis. The SONICS designation of an individual can also be designed to assist other stakeholders in sentencing and supervision decisions through providing information about certain important variables, such as recidivism estimates, reassessment timeframes, and general profile descriptions. There are still other variables (i.e., severity of crime and victim impact) that are essential to consider; however, these are considered separately from a SONICS designation. Risk categories and recidivism ranges have been identified through the use of validated risk assessment tools and research related to recidivism and the use of risk assessment tools (Duwe & Freske, 2012; Helmus, Hanson, Thornton, Babchishin, & Harris, 2012; Scoones, Willis, & Hart, 2012; Singh, Fazel, Gueorguieva, & Buchanan, 2012; Hanson, Harris, Helmus, & Thornton, 2014; Rettenberger, Briken, Turner, & Eher, 2014; Vargen, Jackson, & Hart, 2019). The information from this research was synthesized and presented to the Work Group to make an informed decision based on the research present.

The SONICS is still being developed with revisions being actively made, and there is still more topics of research that are being looked into during this development phase. The SONICS will next be piloted in early 2020. This pilot will help gauge the effectiveness of the SONICS, and the response by evaluators to the process as a whole. Based on the results of the pilot study the SONICS could be implemented into policy for guidance to the field. A process such as this is a representation of the steps that the SOMB is taking to continue down a path of evidence-based and research-oriented development and implementation. The work being conducted by this Work Group is an example of the way in which the Board will continue to function and focus on policy and procedure that is reflected in research, while engaging stakeholders in the process.

# Section 3: Milestones and Achievements

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## *Overview of 2019 Accomplishments*

The SOMB established the SOMB Strategic Action Plan in March, 2014. Over the last four years, the SOMB Strategic Action Plan has driven change and enhanced collaboration between stakeholders. Throughout 2019, the SOMB has accomplished all of its strategic goals through collaboration with multiple stakeholders. As of December 2019, all strategic action items identified were completed. The Board created a new Strategic Action Plan in 2018, and has been working on advancing towards accomplishment of the new goals created by this plan. Throughout 2019 the SOMB has worked on the expansion of person-first language, where appropriate, throughout all of the work that it produces. Additionally, the Board has finished revisions to the Adult Standards Section 5.740, along with changes to the Juvenile Standards Guiding Principles and the Juvenile polygraph sections. Moving forward, the Board intends to focus on Board and committee procedure to ensure a consistent and streamlined process. To help with this, the Board retained an outside party to observe and make recommendations on the Board decision making process, specifically. Additionally, the Board has focused on incorporating the directives made by House Bill 18-1198<sup>2</sup>, as well as Governor Hickenlooper in his veto letter regarding House Bill 18-1427, including having Board members sign a conflict of interest disclosure agreement, Board training, evaluating the Board decision making process, and ensuring adherence to best practices.

## *SOMB Strategic Action Plan Work Groups*

Following the completion of the majority of the items from the SOMB 2014 Strategic Action Plan, the Board decided to take time to evaluate their processes and identify areas that could be worked on to improve the functions of the Board. This review identified a large number of internal Board processes that also have an impact externally to the field. From these identified areas the Board crafted the 2018 Strategic Action Plan. The SOMB Strategic Action Plan developed in October of 2018 created five strategic work groups, each with their own specific objectives and identified key deliverables. These work groups meet during specified times on the SOMB agenda to work on their key deliverables.

1. Mission/Purpose Alignment
2. Board Engagement
3. Process Consistency
4. Communication & Information

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<sup>2</sup> Best Practices for State Boards and Commissions, Colorado House Bill 18-1198 (2018)

## 5. Research-Based Decision Making

For a full comprehensive summary of the SOMB Strategic Action Plan from 2018, please refer to Appendix D.

### ***Expansion of Person-First Language***

In 2017, concerns were raised by stakeholders to the SOMB regarding the language used in the Standards, and it was suggested that the Board focus on the incorporation of person-first language in its work. Person-first language is language that focuses on not labeling people based on their offenses, and focusing on them as an individual rather than an offender. This issue was taken up by the Board in 2018 and at this time the SOMB delegated the task of addressing this topic to the Adult Standards Revision Committee. From 2018 through 2019, the Board has worked to change the language in its work to promote a person-first perspective where applicable. An example of person-first language is the use of “adult/individual/person who has committed a sexual offense” as opposed to the term “sex offender,” and a very recent example of this can be found in the Board’s most recent white paper (see Appendix C). There are certain areas where non-person first language is still used, such as the use of the term “sex offender” when discussing the statutory definition of a person convicted of a sexual offense. The Board will continue to incorporate a person-first strategy when it or its committees produce work or make revisions to its standards.

### ***Juvenile Standards Changes***

In 2019, the SOMB made changes to the Guiding Principles of its Juvenile Standards, as well as revisions to the section on polygraph use. The changes to the Guiding Principles were made to act as clarification to prevent any misunderstanding or misinterpretation of the standards. One such example of this is the clarification added to Guiding Principle 6 regarding risk assessment measures. This clarification was added to demonstrate that these measures have limitations and it is necessary to only use the findings within their empirical limits. These changes were brought to the Board through the work of the Juvenile Standards Revision committee. The changes to the juvenile polygraph section were initiated as a topic based on concerns from the Board, stakeholders in the field, and from the Best Practices Committee. Based on changes that were made to the Adult Standards, the Juvenile Standards Revision committee took on the task of seeing if these changes were appropriate for the Juvenile Standards and made further revisions to this section along with expanding on the revisions that were done in 2017. One of the main revisions from the work done to this section focused on shifting the norm of the Standards away from a position of always using the polygraph. This revision no longer requires providers to use the polygraph for all suitable juveniles with documentation of the cases in which it is not being used, and rather switches the decision-making so that use is not required and documentation has to occur to explain why it is being used. This revision also aids in the demonstration of the polygraph as a supplemental tool to treatment and not the sole tool of treatment. This means that polygraph is only an additional tool used in conjunction with the other processes of treatment and not a tool which the rest of treatment hinges on the results from.

### ***Section 5.740 Revisions***

The finishing of revisions to section 5.740 was the last remaining item of work from the 2014 SOMB Strategic Action Plan. These revisions were delegated by the Board to the Adult Standards Revisions committee which in turn sent the revisions to the Victim Advocacy committee for work on the victim

section. The purpose of these revisions was to bolster and update the existing section in the Standards. The committee looked specifically at what clarification looks like with and without the victim's participation. The committee also laid out the path for reunification based on the principles of RNR. With the completion and ratification of the revisions to section 5.740 in the beginning of 2019, the SOMB successfully completed all of the goals from the 2014 Strategic Action Plan.

## ***Board Review and Conflict of Interest Policy***

In 2019 the SOMB sought out an independent party to observe the processes of the Board and its committees. This independent party was responsible for writing a report (Appendix E) that gives a full review of the processes of the Board and making recommendations on its decision-making processes. This review was sought out as way of incorporating directives from the veto of House Bill 18-1427 into the functions of the Board. The results of this review included a conflict of interest disclosure statement and policy, and the SOMB revised this based on the specific needs of the Board with guidance from the Attorney General's Office (Appendix F). This policy has been finalized and incorporated into the SOMB's business for all members, and the Board is continuing to evaluate and consider the recommendations regarding the Board's structure, decision making process, and other methods of conducting business. The Board has also incorporated additional changes based on the evaluators recommendations, one such example is that the chair of the SOMB now votes.

## ***Policy Updates***

### ***Committees***

The majority of the work conducted by the SOMB occurs at the committee level. Within these committees, a variety of policy and implementation related work is proposed, discussed, and reviewed by relevant stakeholders. These committees then make proposals for the SOMB to consider. The SOMB staffed 10 active committees during the course of 2019, which were open to all stakeholders in order to work on statutorily mandated duties. These committees included the following:

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

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



Figure 1. Organizational chart of the SOMB committees and workgroups.

## Current Availability of Providers

Table 1 provides the current statistics on the availability of service providers approved to operate in Colorado. Currently, there are **315 adult treatment providers and 237 juvenile treatment providers** approved by the SOMB in Colorado. As of December 2019, there are **27 adult polygraph examiners and 20 juvenile polygraph examiners**. Treatment providers may choose to pursue an addition of services onto their status. For example, a full operating treatment provider may also be approved as a full operating treatment provider Developmental

Disabled/Intellectually Disabled (DD/ID), a full operating evaluator, a full operating evaluator DD/ID, a clinical supervisor for treatment providers, and a clinical supervisor for evaluators.

On average, providers operated in three different counties. In total, the SOMB has approved providers located in all 22 judicial districts in the state, as depicted in Figure 2 through Figure 4.

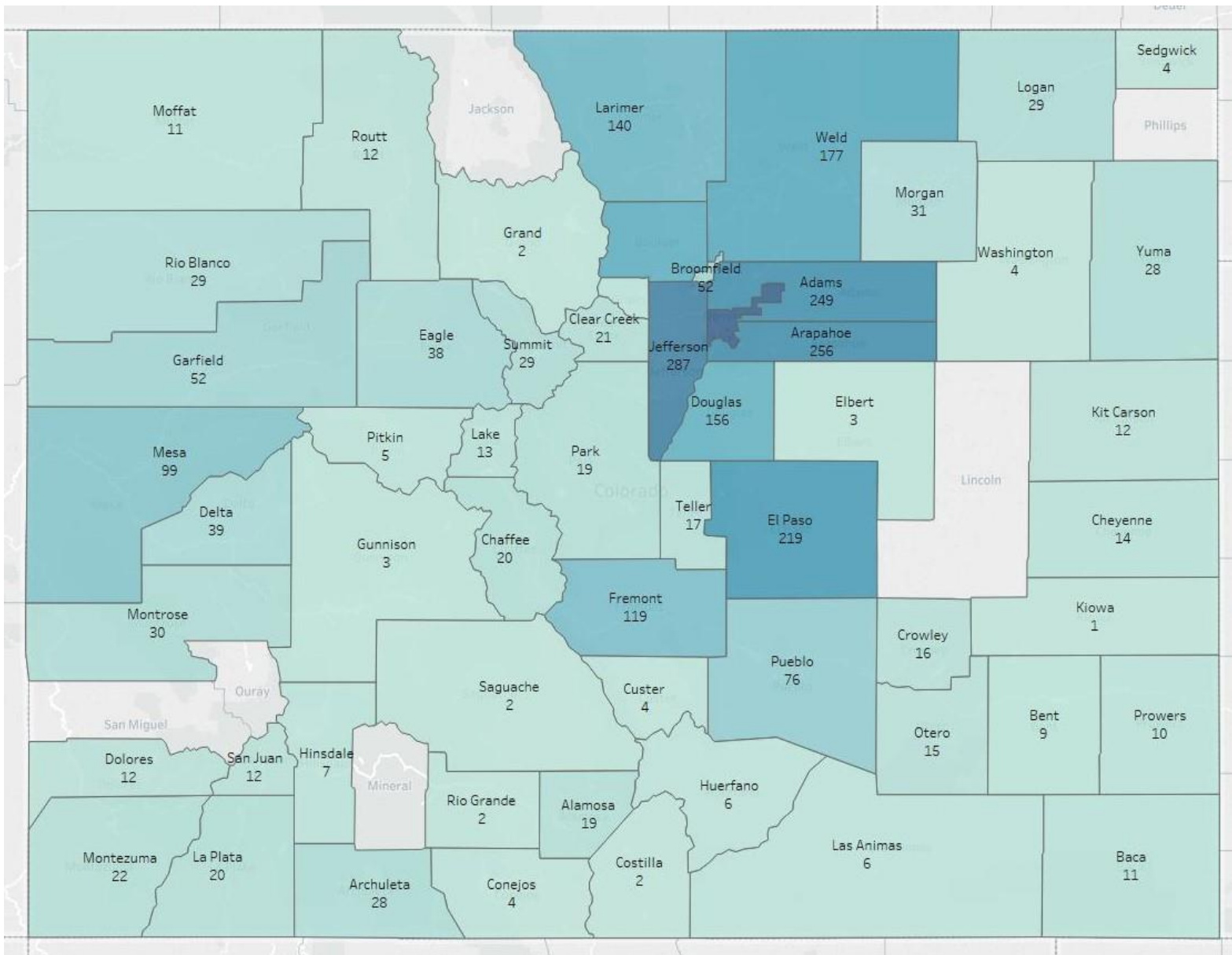
**Table 1. Number of approved sex offender service providers in Colorado, 2019<sup>3</sup>**

		Service Level		
Population	Service	Associate	Full Operating	Total
Adult	<b>Treatment Provider</b>	<b>111</b>	<b>169</b>	<b>280</b>
	<i>Treatment Provider DD/ID<sup>4</sup></i>	<i>20</i>	<i>36</i>	<i>56</i>
	<i>Clinical Treatment Provider (Supervisor)</i>	<i>N/A</i>	<i>99</i>	<i>99</i>
	<b>Evaluator</b>	<b>45</b>	<b>72</b>	<b>117</b>
	<i>Evaluator DD</i>	<i>8</i>	<i>14</i>	<i>22</i>
	<i>Clinical Evaluator (Supervisor)</i>	<i>N/A</i>	<i>46</i>	<i>46</i>
	<b>Polygraph Examiner</b>	<b>5</b>	<b>22</b>	<b>27</b>
	<i>Polygraph Examiner DD/ID</i>	<i>1</i>	<i>12</i>	<i>13</i>
Juvenile	<b>Treatment Provider</b>	<b>98</b>	<b>113</b>	<b>211</b>
	<i>Treatment Provider DD/ID</i>	<i>15</i>	<i>21</i>	<i>36</i>
	<i>Clinical Treatment Provider (Supervisor)</i>	<i>N/A</i>	<i>63</i>	<i>63</i>
	<b>Evaluator</b>	<b>23</b>	<b>43</b>	<b>66</b>
	<i>Evaluator DD</i>	<i>3</i>	<i>10</i>	<i>13</i>
	<i>Clinical Evaluator (Supervisor)</i>	<i>N/A</i>	<i>27</i>	<i>27</i>
	<b>Polygraph Examiner</b>	<b>4</b>	<b>16</b>	<b>20</b>
	<i>Polygraph Examiner DD/ID</i>	<i>N/A</i>	<i>7</i>	<i>7</i>

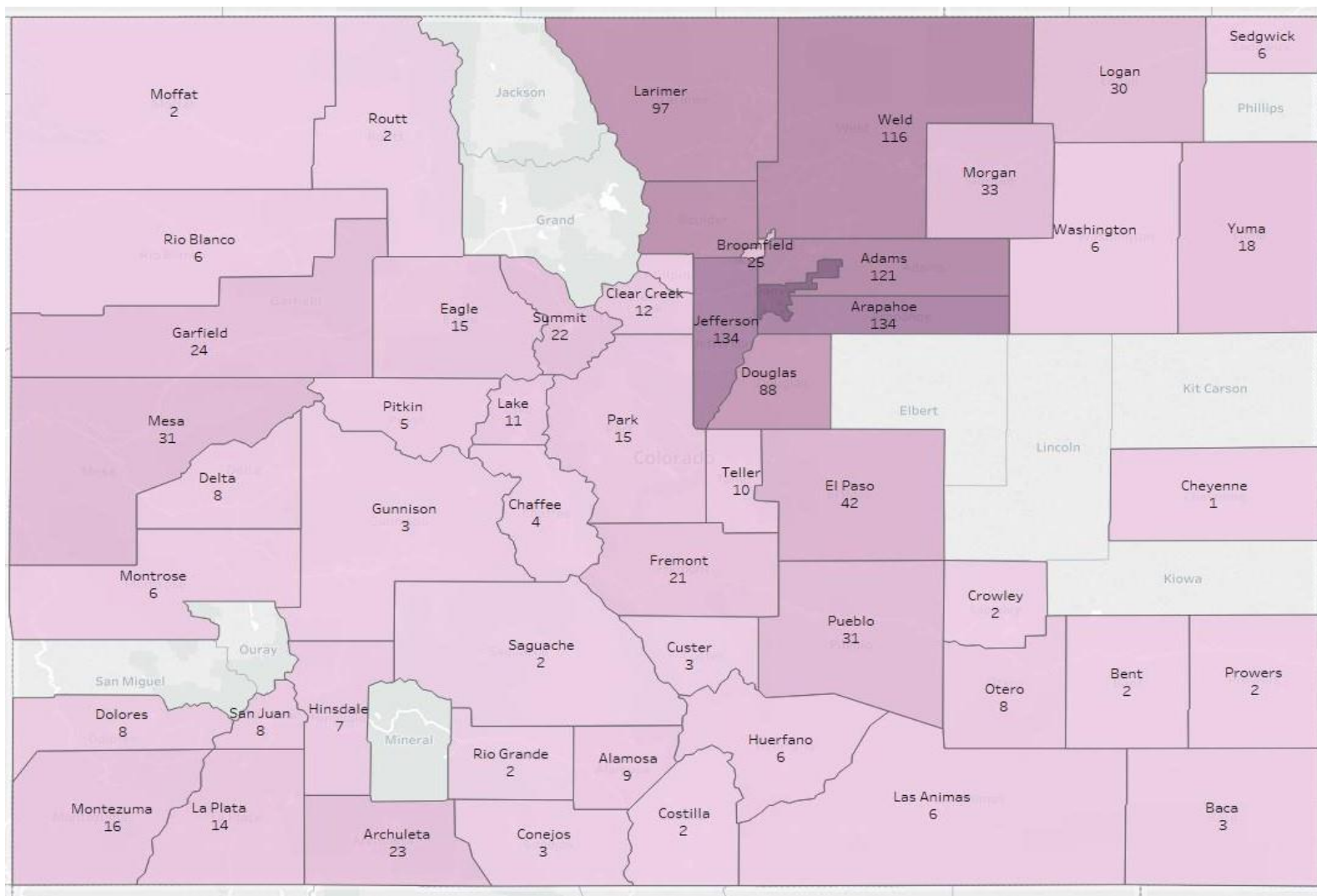
Note: *Italicized categories contain providers who may be approved to provide multiple services and are not used to calculate the sum.*

<sup>3</sup> The numbers in the following table come from the new SOMB Provider Database which is still being finalized, any major discrepancies between these numbers and those from reports earlier in the year can be attributed to the new system

<sup>4</sup> Developmentally Disabled/Intellectually Disabled



**Figure 2. Number and Location SOMB Treatment Providers by County, 2019**



**Figure 3. Number and Location SOMB Evaluators by County, 2019**



- **Managed 10 SOMB committees** that functioned at some point during 2019. Several of these committees were convened in 2014 to address specific projects related to the strategic plan, such as the Adult Standards Revision Committee and Best Practices.
- Hosted two On-The-Road Board meeting in 2019 to reach stakeholders outside of the Denver Metro area. Meeting were held in Grand Junction and Breckenridge.
- Finished the revisions to section 5.740 regarding clarification, contact, and reunification with victims.
- Made and approved changes to the Juvenile Guiding Principles, and made changes to the Juvenile polygraph sections
- **Conducted 68 trainings to over 2,600 attendees** from across Colorado in calendar year 2019. These trainings covered a range of topics related to the treatment and supervision of individuals convicted of or adjudicated for sexual offenses. The SOMB also held its 13<sup>th</sup> annual statewide conference in Breckenridge, Colorado that offered three consecutive days of training for providers, probation officers, law enforcement, victim representatives, and many other stakeholder groups. Presentations were conducted on a variety of topics, including domestic violence and sex offending cross-over, clarification and reunification, interventions for sexually abusive youth, restorative community justice for sexual offenses, and juvenile sexting in Colorado.
- **Implemented monthly Lunch and Learns.** On a monthly basis, SOMB staff hosts a virtual, one-hour technical assistance session for approved providers. This allows staff to update providers on recent changes to the *Standards and Guidelines* as well as allowing providers to have questions answered.
- Supported several community notifications of Sexually Violent Predators (SVP's) by providing ongoing technical assistance to law enforcement around the state.
- The Application Review Committee conducted **four Standards Compliance Reviews in 2019**, which review pertinent provider files to assess service provider compliance with the *Standards and Guidelines*.
- Developed a **white paper providing guidance for SOMB Approved Evaluators regarding the special additional terms and conditions of probation** (see Appendix C)
- Continued to provide SOMB members and other interested stakeholders with research and literature, including literature reviews in preparation for any *Standards and Guidelines* revisions, trainings by national leaders in the field for Colorado stakeholders, and research and best practice presentations as part of SOMB meetings.
- Published the 2020 SOMB Annual Legislative Report and the 2019 Lifetime Supervision of Sex Offenders Annual Report.

## *Ongoing implementation*

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

## *Training*

In calendar year 2019, the SOMB provided 60 trainings to over 2,600 attendees from across Colorado. **The SOMB worked to provide specific trainings to targeted audiences, which effectively increased the total number of attendees.** These trainings covered a range of topics related to the treatment and supervision of individuals convicted or adjudicated for sexual offenses such as:

- Adherence and Application of the Risk, Need and Responsivity Principles
- *Adult and Juvenile Standards and Guidelines* Introduction Trainings
- *Adult and Juvenile Standards and Guidelines* Booster Trainings
- Vermont Assessment of Sex Offender Risk -2 (VASOR - 2) and Sex Offender Treatment Intervention and Progress Scale (SOTIPS) Risk Assessment Trainings
- Informed Supervision in Schools
- Monthly Lunch and Learns
- Trauma Informed Care
- Sex Offender Registration and Notification (funded by the 2015 Adam Walsh Act Grant)
- Juvenile Sexting
- Healthy Juvenile Relationships
- Sex Offense Evaluations
- New SOMB Provider Data Management System

# Section 4: Future Goals and Directions

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

## ***Strategic goals and initiatives***

As of December, 2019, all items on the SOMB Strategic Action Plan were completed. The SOMB plans to continue making progress towards accomplishing the goals developed with the Strategic Action Plan created in 2018. Beginning in 2018 the SOMB began creating a new Treatment Provider database, and as of December, 2019 this database has been created. This database is where information is housed regarding all of the SOMB’s Approved Treatment Providers and the services that they provide. This database also serves as a hub for all other information pertinent to the Board, such as all current complaints against providers and service tracking records for providers. This database will not only serve as a tool for the SOMB’s uses but will also be of great benefit to the public as a centralized and streamlined way to find providers that fulfill certain roles, for example an adult treatment provider who is qualified to work with DD/ID clients and speaks a language other than English. Currently the SOMB has been working to prepare the Board’s Approved Providers for the implementation of this new system to ease the burdens of this transition. To address this there has been a rollout of trainings for the new database as preparation for full implementation of this system begins, and these trainings will continue into 2020 as the system is completely rolled out. Moving forward into 2020, the Board will focus on reviewing the recommendations made by the 2020 Sunset Report and the 2019 Audit findings, and respond accordingly.

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# Appendices

## Appendix A. Committee Updates

Figure 5. Committee Organizational Chart



1. Adult Community Supervision Standards Revisions  
Inactive  
Committee Chairs: Missy Gursky

Purpose: The Committee was tasked in 2018 with revisions to section 5.000, and in 2019 was tasked with finishing the remaining revisions to 5.000 and specifically 5.700 from the previous year.

Major Accomplishments: In 2019 the Committee, with the help of the Victim Advocacy Committee, completed the revisions to section 5.740 thereby completing the last item from the 2014 Strategic Action Plan.

Future Goals: This Committee is currently inactive; however, in the future the committee will respond to new research and developments in the field via revisions to applicable standards to ensure the standards remain evidence-based.

## 2. SOMB Executive Committee

### Active

Committee Chair: Judge Marcelo Kopcow

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

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

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

## 3. Juvenile Standards Revision Committee

### Active

Committee Chair: Carl Blake

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

Major Accomplishments: In 2019 the committee finished revisions to section 6.00 on the use of the polygraph. One specific addition of standard 6.050 which states in part "if utilized, Polygraph testing shall be based on a specific rationale based on individual risk and need...." And "if the MDT concludes polygraph will be utilized, the rationale for use shall be documented." This addition was intended to preserve the use of polygraph as an adjunct tool only to be used when there is a specific reason based on risk and need. The term "deviant/deviance" was removed and replaced with "abusive, harmful and/or illegal." Incorporation of additional language from the practice guidelines published by ATSA, and updates to the introduction and guiding principles to improve clarity and foundational principles.

Future Goals: The Committee will begin revisions of section 2.00 regarding recommendations for registration within evaluations, updating research citations, and referencing ATSA guidelines within section 3.00

#### 4. Best Practices Committee

##### Active

Committee Chair: Tom Leversee, and Colton McNutt

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

Major Accomplishments: In 2019 the Best Practices Committee reviewed the issue of clients on appeal being engaged in treatment, and is working on getting this issue addressed in the Standards in 2020. The Committee also began to make changes to the lifetime supervision criteria for parole and probation to bring these criteria more into line with the principles of RNR. Minor changes were made to language in the Adult Standards related to the clinical supervision section. The Committee also created a white paper providing guidance for SOMB Approved Evaluators regarding the Additional Terms and Conditions of Probation (Appendix C). The Committee conducted a survey regarding Adult and Juvenile jurisdictional issues, specifically looking at issues in guidance for handling clients in different developmental systems. The Committee is also currently looking at the topic of Adult clients who are eligible for registration removal being required to have an Offense Specific Evaluation. The Committee is also currently working on a white paper regarding the issue of juveniles who are transferred into adult court for sexual offenses, to include research on the effects of these transfers and its frequency in Colorado.

Future Goals: The Best Practices Committee will continue to review and provide feedback to the SOMB and other revisions committees. This Committee will continue to review relevant and contemporary research to ensure adherence to evidence-based practices. The Committee will also be addressing future topics such as: clarification letters and input from the parents of a victim, ethical conflict of making sentencing recommendations, and female sex trafficking.

##### 4.1 SONICS Workgroup

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

Major Accomplishments: The workgroup is working on development of a document that provides guidelines for evaluators to accurately designate a client's SONICS

Level. In 2019 the workgroup developed sections that explain the purpose, rationale, and appropriate use of the SONICS tool, along with steps that outline how to designate SONICS Levels. Development of a comprehensive list of relevant risk, protective, and responsivity factors and the applicable needs for each SONICS Level. Compiled recidivism research and created guidelines for applying recidivism estimates from actuarial risk instruments to the SONICS designations.

Future Goals: Moving forward, the workgroup will continue creating narrative examples of typical clients for each SONICS Level and determining guidelines for changing a client's level. In 2020 a pilot study for the SONICS tool is expected to start near the beginning of the year.

## 5. Victim Advocacy Committee

### Active

Committee Chair: Allison Boyd

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

Major Accomplishments: In 2019, the Victim Advocacy Committee finalized the suggested changes for consideration by the SOMB to Section 5.700 regarding contact with children, and clarification, contact, and family reunification with victims. The committee planned a presentation to the full board in April in honor of Sexual Assault Awareness Month, Child Abuse Prevention Month, and National Crime Victims' Rights Week. The committee identified objectives for the year and prioritized these objectives, focusing on the creation of a handout for victims pertaining to the standards, treatment, and supervision. Finally, the committee continues to also provide feedback to various other SOMB committees on their work to ensure it is victim-centered, and to provide education to the SOMB

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

## 6. Application Review Committee

### Active

Committee Chair: Carl Blake

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

Major Accomplishments: ARC continued to review provider applications and complaints. ARC continues to monitor variances and the application process to ensure proper oversight of listed providers.



Future Goals: Continue reviewing applications, complaints, and variances. Review and revise, as needed, the Competency Based Model and the application process.

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

**Active**

Committee Chair: Angel Weant and Jesse Hansen

Purpose: The Training Committee assists with the ongoing identification of training topics and objectives, and provides support in the planning process of long-range and large-scale training events. This Committee also helps define and assess the training needs for stakeholders affiliated in the fields of domestic violence and sex offender management.

Major Accomplishments: The Training Committee has focused on bringing relevant and practical training events to stakeholders across Colorado. This includes developing trainings on recent changes to the Standards, training on risk assessment tools such as the PROFESSOR and VASOR/SOTIPS assessments, as well as Sex Offender Registration and Notification trainings. In addition, online trainings were developed and made available to stakeholders on topics related to the implementation of Standards. The Training Committee supported the planning for the inaugural Domestic Violence and Sex Offender Management Conference where approximately 470 professionals from around the state met in Breckenridge from July 9th through the 12th. The four-day event featured three keynote speakers, two film showings, and 30 educational breakout sessions on a wide variety of topics for professionals at all levels of their careers. In 2019 the SOMB conducted over 68 trainings to over 2,600 individuals across the state of Colorado.

Future Goals: In 2020, the Training Committee is continuing to plan for training events that will be impactful to both SOMB and DVOMB stakeholders to include the 2020 Domestic Violence and Sex Offender Management Conference. The Training Committee is working on a booster training for the VASOR2/SOTIPS to be rolled out in the Spring or early Summer of 2020. Advanced series trainings are currently being planned for both SOMB and DVOMB providers.

**8. Family Education, Engagement and Support Committee**

**Active**

Committee Chairs: Chris Renda and Roberta Ponis

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

Part 3 Agency Information. As reported in earlier updates, Part 1 has been completed which can be viewed on the Advocates for Change (AFC) website where AFC, as a public service only, is providing access for the completed drafts of the Guide for public review.

**Major Accomplishments:** In 2019 the committee completed Chapters 5-6 in Part 2, Serving the Sentence. As with previous chapters in Part 1, the committee sought feedback from a variety of stakeholders on each chapter before its completion and adjusted the content accordingly. For example, for the chapter on Probation, committee chairs were invited to share the draft with regional probation officers to insure accuracy and to get feedback on omissions and additions.

**Future Goals:** The committee will continue working on drafting the remaining chapters in Part 2 Serving the Sentence and the remaining sections in Part 3 Agency Information which should complete the Guide. The committee will then work on distribution of the Guide in multiple formats and among various agencies/sites where the target audience will most likely be able to get the information. The committee is also considering delivering the Guide as an app and translating the Guide into Spanish.

## **9. Sex Offender Registration Legislative Workgroup**

### **Active**

Committee Chair: Jeff Shay

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

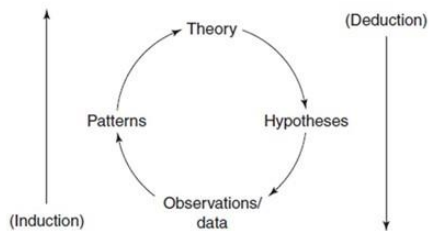
**Major Accomplishments:** In 2019, the Sex Offender Registration Legislative Workgroup provided support to the amendments made to registration requirements for incapacitated offenders. Additionally, the workgroup also helped craft the modifications to the community notification protocol. The Committee continues to identify other key registration issues and concerns while attempting to problem solve within the work group.

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

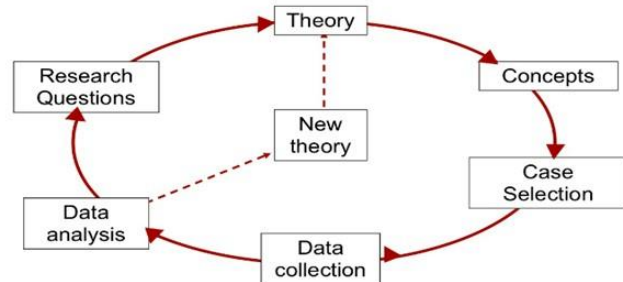
## Appendix B. SOMB Strategic Workgroup Research 101 Presentation

### The Wheel of Research

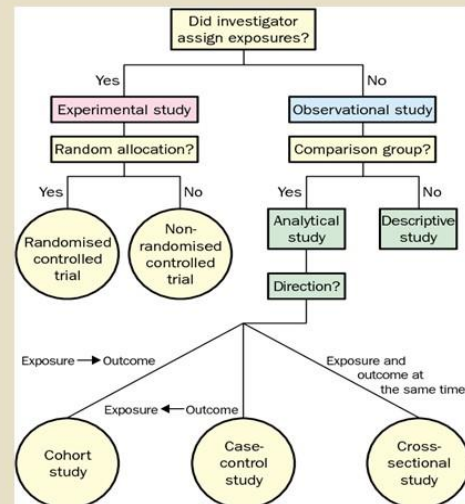
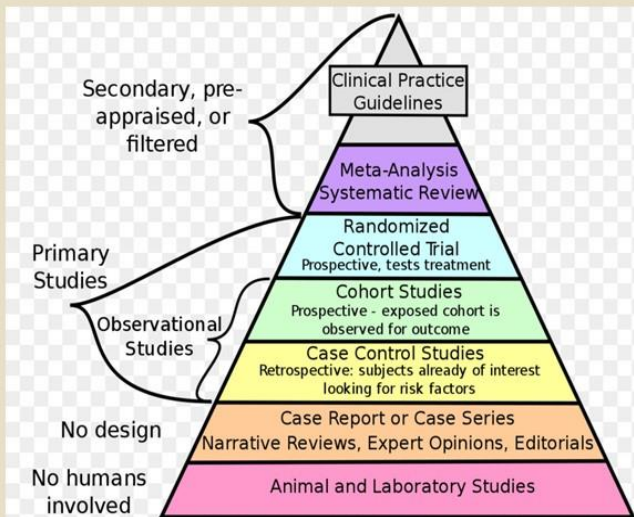
The Wheel of Research



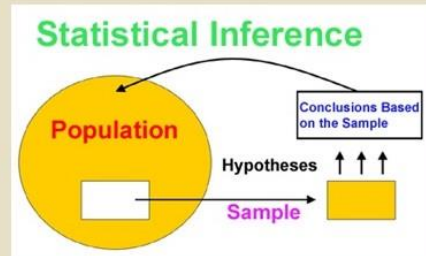
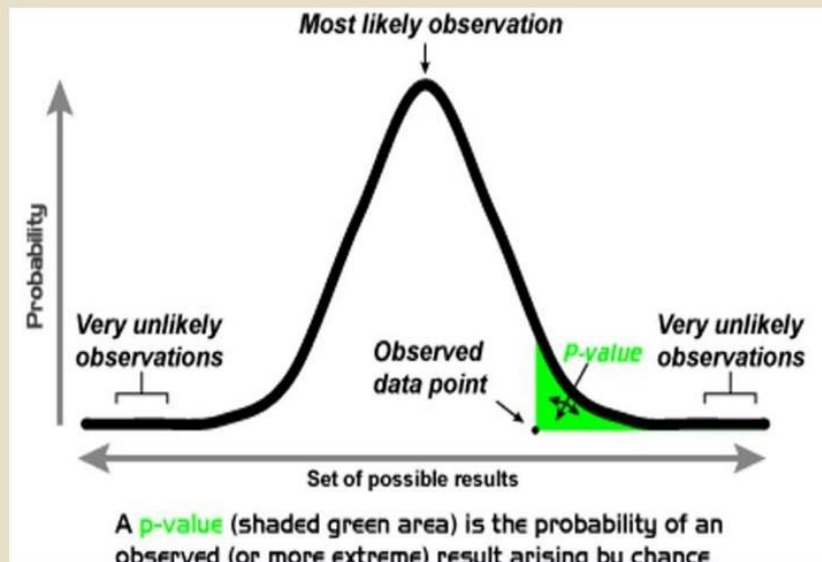
The research labyrinth (or research cycle)



### Research Design—what makes a good research?

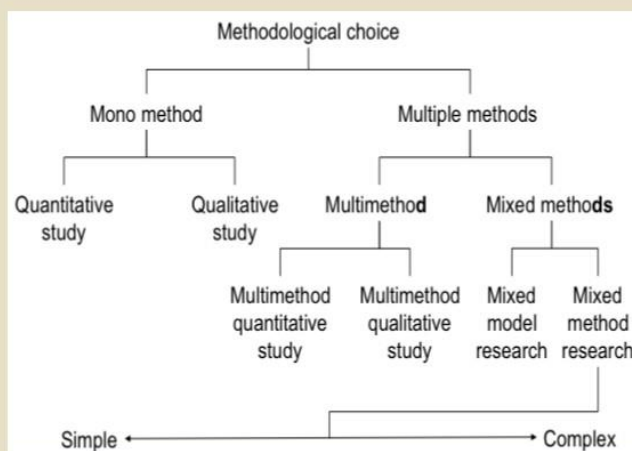
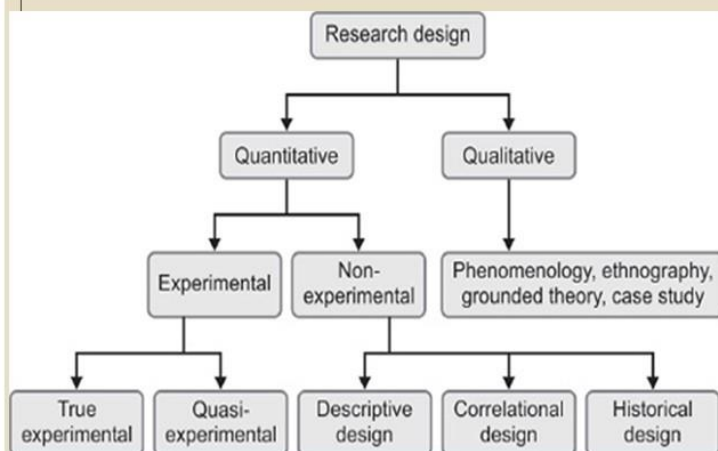


# What does significance mean?



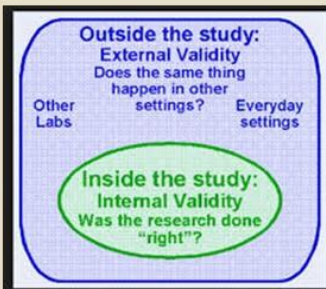
Significance Level	Specification
$p > 0.05$	not significant
$p \leq 0.05$ (5%)	significant
$p \leq 0.01$ (1%)	very significant
$p \leq 0.001$ (0.1%)	highly significant

## Quantitative, Qualitative or Mixed

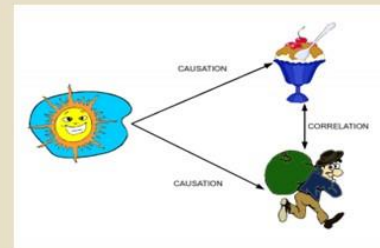


Source: Source: Saunders, N, Lewis & Thornhill, A(2012: 165) Research Methods for Business Students, 6th Ed., Pearson. The above picture was borrowed from Dr. Roslyn Cameron's slides on Mixed Methods Research Workshop

## Reliability vs. Validity



## Correlation and Causation

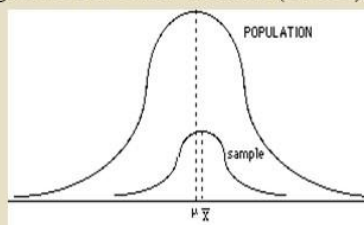
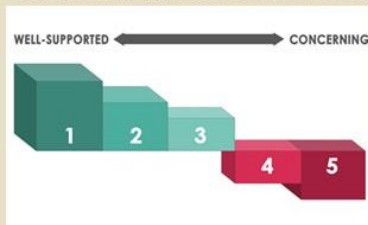


Three conditions you need to consider to determine whether A causes B?

- 1) A, B are correlated
- 2) A happens before B
- 3) A & B correlation is not spurious

## How to evaluate a study or a research article?

- California Evidence-Based Clearinghouse for Child Welfare (CEBC)



1. Well-Supported by Research Evidence (e.g. Timeliness, Representative sample, Rigorous design & methods)
2. Supported by Research Evidence
3. Promising Research Evidence
4. Evidence Fails to Demonstrate Effect
5. Concerning Practice (e.g. Authors' Financial ties)

NR. Not able to be Rated on the CEBC Scientific Rating Scale is based on the level of psychometrics (e.g., sensitivity and specificity, reliability and validity)

# Selection Bias & Adversarial Allegiance



❖ Selection bias is the bias introduced by the selection of sample without proper randomization.

❖ "Adversarial allegiance" is the name of this well-known phenomenon in which some experts' opinions tend to drift toward the party retaining their services.

❖ Example: The researchers duped about 100 experienced forensic psychologists into believing they were part of a large-scale forensic case consultation and trained by "experts" to use PCL-R and Static-99R. . . . Unknown to them, the psychologists were all looking at the same set of four cases. But they were "primed" to consider the case from either a defense or prosecution point of view by a research confederate, an attorney who pretended to work on a SVP unit. As expected, the adversarial allegiance effect was stronger for the PCL-R, which is more subjectively scored. Scoring differences on the Static-99R only reached statistical significance in one out of the four cases.

## Cognitive Biases

### 15 Cognitive Biases Which Influence The Way You Think

@Teacher Toolkit

<b>Groupthink</b>  <small>The team wondered if he would ever fit in.</small>	<b>Belief Bias</b> 	<b>Courtesy Bias</b>  <small>Courtesy</small>	<b>Anchoring Effect</b> 	<b>Availability Heuristic</b>  <small>All information relevant to a design decision.</small> <small>Information we use to make a design decision.</small>
<b>Bandwagon Effect</b> 	<b>Status Quo Bias</b> 	<b>Gambler's Fallacy</b> 	<b>Ostrich Effect</b> 	<b>Illusion Of Validity</b> 
<b>Reactive Devaluation</b> 	<b>Demotivating Effect</b> 	<b>Pygmalion Effect</b> 	<b>Bystanders Uncertainty</b> 	<b>Confirmation Bias</b> 

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[www.TeacherToolkit.co.uk/Bias-Thinking](http://www.TeacherToolkit.co.uk/Bias-Thinking)

# Negativity Bias



- Negativity Bias: Definition : People give more weight to negative experiences over neutral or positive experiences.
- Examples: You get trained in a new evidence-based intervention. You apply this to several clients. Some clients lower their risk scores (**+experiences**) through this, others stay the same, and a few increase their risk scores (**-experiences**). You stop this intervention because of the negative experiences.

# Confirmation Bias



- Confirmation Bias: People have the tendency to interpret new evidence as confirmation of one's existing beliefs or theories.
- Examples: A therapist believes that Christianity is the key to removing deviant sexual interest. A new research with a sample size of 15 come out of a local Christian college found that if someone struggling with deviant sexual urges reads the bible for 30 min everyday their deviant urges will disappear. The therapist adds this intervention to their required curriculum.

# Implicit Bias

## Implicit Bias is...



Attitudes, Stereotypes, & Beliefs that can affect how we treat others.

Implicit bias is not intentional, but it can still impact how we judge others based on factors, such as:



Race



Ability



Gender



Culture



Language

In early childhood settings, implicit biases can affect how providers perceive and respond to children, which can lead to unfair differences in the use of exclusionary discipline practices, such as suspension and expulsion.

## Example

- You read a research article on how the Native American Reservations have a significant issue with alcoholism. When you are doing an intake with a Native America Client you assume that they have struggles with alcoholism despite them stating they don't.

# Anecdotal evidence vs. Professional experience

## Anecdotal Fallacy

- Definition: Using personal experience as evidence instead of logos
- Effect: It can be enough to the right audience as convincing evidence
- Students, be careful about this fallacy being in your writing (inexperience, lack of enough info)
- Fallacy of Insufficiency

### Example

- Anecdotal Evidence Example: A therapist reads research supporting that Denial can be a protective factor for men who have committed offenses, but these men can still benefit from treatment despite being in Denial. The therapist continues to terminate clients who are in denial immediately because of his routine practice experiences.
- Professional Experience Example: A therapist have used an intervention for 20 years and plans to continue using it even though recent research studies have found that the intervention was ineffective.



## ***Appendix C. White Paper for SOMB Approved Evaluators***

### **Colorado Sex Offender Management Board (SOMB) White Paper for SOMB Approved Evaluators Regarding Evaluating Risk Factors for the Additional Special Conditions of Supervision November 15, 2019 Board Meeting**

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#### **Purpose**

This white paper is written to provide guidance to Colorado Sex Offender Management Board (SOMB) approved evaluators in light of recent changes by the Colorado Judicial Department to the additional conditions of supervision for adult sex offenders and juveniles who have committed sexual offenses. The changes, effective November 1, 2018, eliminate the blanket prohibitions for internet or social media use by this subgroup of probationers. Additionally, the changes no longer prohibit the use of sexually oriented and stimulating material and entertainment for adults convicted of a sexual offense(s) unless ordered by the Court.

This white paper is precipitated by many requests to the SOMB by approved evaluators to provide sentencing recommendations related to these three identified issues. The goal of this paper is to provide SOMB approved providers with an understanding of the recently added Special Additional Conditions of Supervision and provide guidance regarding what factors the court may consider related to internet and social media access as well as access by adults convicted of a sexual offense(s) to sexually oriented and sexually stimulating material and entertainment.

The goal of identifying individualized risk factors is to assist a judge or magistrate in decision formulation. It is recognized that the necessary information to discuss each listed factor may not be available at the time of the sex offense-specific evaluation. In those circumstances, it is appropriate to note the limitations of the available information and provide guidance for future direction.

Additionally, when making recommendations this information should be clearly identified in the sex offense-specific evaluation. Please note, the SOMB does not require evaluators to provide a recommendation either for or against the use of the internet, social networking sites or in the case of adults convicted of a sexual offense(s), the use of sexually oriented or sexually stimulating materials and entertainment. The evaluator is encouraged to use professional judgment regarding the ability to extract recommendations based on the information in their possession.

#### **Guiding Colorado Statutes and Probation's Role**

Pursuant to §16-11.7-101 C.R.S, the Colorado Sex Offender Management Board has continuously strived to identify research informed and evidence-based practices to include in the *Standards and Guidelines*. The purpose of this effort is to establish a framework for the systematic assessment, clinical treatment and risk management of adults and juveniles who have committed sexual offenses. Additionally, the Colorado General Assembly requires that all evaluators and therapists

go through an approval process with the SOMB in order to be approved to provide evaluation and treatment services to juveniles adjudicated and adults convicted of a sexual offense.

The goals of probation are outlined in section §18-1.3-204 in that the conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life and to assist the defendant in doing so.

Conditions of supervision must meet two primary criteria to be held constitutionally valid; 1) they must be reasonably related to the offense and 2) they must impose no greater deprivation of liberty than is sensibly necessary to advance the statutory purposes of supervision. The probation conditions must be “reasonably related” to the relevant risk factors, needs of victim and community safety and statutory requirements.

Sentencing considerations for courts are based on multiple criteria. These considerations are often based on but not limited to the severity and nature of the offense, risk and needs assessment information, social history and characteristics of the defendant, amenability to behavior change (treatment), protection of the victim and community and statements/input from the victim. Each factor is an independent consideration by the sentencing judge.

Additionally, per 18 U.S.C. §§ 3563(b) and 3553(a)(2), the terms and conditions of the sentence must also “involve only such deprivations or restrictions of liberty or property as reasonably necessary” for the purposes of deterrence, protection of the public, providing needed correctional treatment, providing just punishment for the offense and promoting respect for the law.

### **Judicial’s Response to Emerging Case Law and SOMB Discussion of the Issue**

Appellate courts have often required individualized justification for the imposition of additional conditions of probation. Emerging case law has trended toward the emphasis of courts making specific findings of fact so not to impose a greater deprivation of liberty and uphold the statutory goals. The information provided to the court to make finding of fact should be individualized and tailored to that individual’s risks, needs, and strengths. The Colorado Judicial Branch’s response to emerging case law was to add several Special Additional Condition(s) to the existing *Additional Conditions of Supervision for Juveniles Who Commit Sexual Offenses* as well as the *Additional Conditions of Supervision for Adult Sex Offenders*. These revised conditions eliminate the blanket prohibition of internet and social media access for juvenile and adult probationers. Additionally, the changes no longer prohibit adults convicted of a sexual offense from accessing sexually oriented or sexually stimulating material and entertainment.

In lieu of the blanket prohibitions, the courts must (1) determine if restricted internet, social media use and, in the case of adults convicted of a sexual offense, use of sexually oriented and sexually stimulating materials and entertainment should be imposed, (2) the degree of restriction and (3) who will manage the imposed restrictions. For example, a judge may allow Multi-Disciplinary

Teams<sup>5</sup> or Community Supervision Teams<sup>6</sup> to use their discretion to modify restrictions or the judge may require that for restrictions to be modified, the issue must be brought in front of the court for a determination to modify existing restrictions.

### **Internet Access**

The Court must determine if adults or juveniles who commit sexual offenses should be subject to a restriction regarding internet access and use. The court must make findings of fact to impose this restriction. If the court is silent, the condition is **not** imposed and therefore **not** restricted. The court may choose the following:

- To allow unrestricted access;
- To restrict all access until approved by the Court;
- To allow limited access for the purposes of employment (including job seeking), school and/or other purposes to be identified at the time of sentencing; or
- To restrict all access until approved in advance of access in writing by the probation officer in consultation with the Multi-Disciplinary Team or Community Supervision Team.

There is currently no known published research that specifically outlines if internet access increases the risk of re-offense for adults and juveniles who have committed a sexual offense. However, research informed practice suggests that decisions regarding internet access should be consistent with the risk, needs and treatment progress of the individual.

Research does exist to suggest that adults and juveniles who have committed sexual offenses should be prohibited from using adult-child sex advocacy websites (e.g., NAMBLA) because these websites increase criminogenic risk by rationalizing offenses against minors.<sup>7</sup>

### **Social Networking Sites**

The court must determine if the adult or juvenile who committed a sexual offense should be subject to a restriction regarding social networking sites. The court must make findings of fact to impose this restriction. If the court is silent, the condition is **not** imposed and therefore **not** restricted. The Court may choose the following:

- To allow unrestricted access.
- To restrict all access until approved in advance of access in writing by the probation officer in consultation with the Multi-Disciplinary Team or Community Supervision Team.

Each case will present with diverse risk factors that should be identified using various assessments and other collateral data along with the interview and clinical judgement to support a link for a factual basis to recommend Special Additional Conditions. There are some commonalities on what might be considered as factual basis when writing the evaluation.

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<sup>5</sup> A Multi-Disciplinary Team is a team of professionals responsible for the evaluation, treatment, care and supervision of juveniles who commit sexual offenses.

<sup>6</sup> A Community Supervision Team is a team of professionals including a minimum of the supervising officer, the treatment provider, and the polygraph examiner who collaborate to make decisions about the offender.

<sup>7</sup> D'Ovidio, R., Mitman, T., El-Burki, I. J., & Shumar, W. (2009). Adult-child sex advocacy websites as social learning environments: a content analysis. *International Journal of Cyber Criminology*, 3(1), 421-440.

A risk, need, responsivity (RNR) approach, compared to indiscriminately prohibiting social media, may be most appropriate, taking into consideration the nature and severity of the sex offense.<sup>8</sup> When making a decision regarding use of social media it is important to note if social media was used to access a victim or facilitate a sexual assault, or if social media was used to identify or groom a potential victim. Additionally, it is important to be mindful of existing website user agreements that prohibit use by adults and juveniles who have committed a sexual offense.

### **Sexually Oriented and Sexually Stimulating Material and Entertainment**

The court must determine if the adult convicted of a sexual offense should be subject to a restriction regarding sexually oriented and stimulating material and entertainment. The court must make findings of fact to impose this restriction. If the court is silent, the condition is **not** imposed and therefore **not** restricted and the Court may choose the following:

- To allow unrestricted access; or
- To restrict all access until approved in advance of access in writing by the probation officer in consultation with Community Supervision Team (CST).

One of the challenges for approved providers and other members of the CST is the lack of consistent definition of the terms sexually oriented or sexually stimulating material. Research typically uses the term pornography, another frequently undefined term. The SOMB, in drafting Appendix D: Guidelines for the Use of Sexually Stimulating Materials in the *Standards and Guidelines* provides the following definitions for sexually oriented or sexually explicit material, as well as a definition for sexually stimulating materials.

**Sexually oriented or explicit material** is defined as pornographic images, videos, and narratives that may be viewed in print or on electronic devices such as a computer, television, gaming system, DVD player, VCR, video camera, voice recorder, pager, telephone, or cellular or smart phone. Such materials are developed and viewed explicitly for sexual gratification purposes.

**Sexually stimulating materials** are non-pornographic materials that may lead to sexual interest or arousal, but were not developed exclusively with that goal in mind. Examples of materials that may be sexually stimulating depending upon the adult or juvenile who have sexually offended include incidental nudity within the context of a non-pornographic movie, sexually suggestive images, and non-sexual images such as underwear advertisements and other material that an individual finds arousing or of sexual interest.

While the SOMB has not adopted a definition to identify pornography, for the purposes of this paper, the following definition from Wright, Tokunaga, and Kraus (2015) will be utilized: "Pornography is defined as media featuring nudity and explicit sexual acts designed to arouse the consumer."<sup>9</sup>

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<sup>8</sup> Sloss, N. M. (2015). Alternative Restrictions of Sex Offenders' Social Media Use & The Freedom of Speech. *Cath. UJL & Tech*, 24, 111; Wynton, J. S. (2011). myspace, yourspace, but not theirs: The constitutionality of banning sex offenders from social networking sites. *Duke Law Journal*, 60(8), 1859-1903.

<sup>9</sup> Wright, P. J., Tokunaga, R. S., & Kraus, A. (2015). A meta-analysis of pornography consumption and actual acts of sexual aggression in general population studies. *Journal of Communication*, 1-23.



### **Use of Sexually Oriented and Sexually Explicit Materials by Juveniles**

Research suggests that adolescents who use sexually explicit material (SEM), especially that found on the Internet, have lower degrees of social integration, increases in conduct problems, higher levels of delinquent behavior, higher incidence of depressive symptoms, and decreased emotional bonding with caregivers.<sup>10</sup> For this reason, in addition to the use of pornography being illegal for those under the age of 18, the use of sexually explicit materials is not appropriate for juveniles. However, identifying relevant risk factors related to SEM may be helpful in the evaluation process.

### **Use of Sexually Oriented and Sexually Explicit Materials by Adults**

Pornography use by itself does not increase the likelihood of people committing sexual aggression. However, interaction of risk factors predisposing individuals to commit sexual aggression and the use of pornography that is abusive, harmful, or illegal may increase the risk of sexual aggression.<sup>11</sup> For most adults convicted of a sexual offense, there are some moderating factors which need to be present for this effect to exist.<sup>12</sup> Moderating factors for participating in sexual violence most commonly refer to a predisposition for sexual aggression and other anti-social traits, reflected in negative attitudes towards women, general criminality, and violent behavior.<sup>13</sup> For high risk adults convicted of a sexual offense and those who have previously committed an act of sexual aggression, this effect is even greater.<sup>14</sup> Specifically, recidivism was 22% for violent offending and 11% (not statistically significant) for sex offending.<sup>15</sup> This effect is much higher when viewing deviant pornography, increasing violent recidivism by 185% and sexual recidivism by 233%.<sup>16</sup> In addition to increased recidivism rates, pornography reinforces negative cognitive distortions that objectify and degrade victims by increasing acceptance of rape myths and violence against women.<sup>17</sup> As noted above, research indicates that for individuals who already have a propensity for sexual aggression or violent behavior, viewing pornography can lead to an even greater increase in sexual aggression compared to those who do not have a propensity for sexual aggression.<sup>18</sup> This effect is stronger for those who have previously committed an act of sexual aggression or sexual assault.<sup>19</sup>

Additionally, strip clubs and brothels normalize rape myths (e.g., “all women want sex” and “men are entitled to sexual access to women”), promote acceptance of sexual aggression, and abusive

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<sup>10</sup>Owens, Behun, Manning, & Reid, 2012

<sup>11</sup>Malamuth, N. M. (2018). “Adding fuel to the fire”? Does exposure to non-consenting adult or to child pornography increase risk of sexual aggression? *Aggression and Violent Behavior*, 41, 74-89. doi:10.1016/j.avb.2018.02.013

<sup>12</sup>Davis, K. C., Norris, J., George, W. H., Martell, J., & Heiman, J. R. (2006). Men’s likelihood of sexual aggression: The influence of alcohol, sexual arousal, and violence pornography. *Aggressive Behavior*, 32, 581-589; Hald, G. M., Malamuth, N. M., & Yuen, C. (2009). Pornography and attitudes supporting violence against women: Revisiting the relationship in nonexperimental studies. *Aggressive Behavior*, 35, 1-7; Kingston, D. A., Fedoroff, P., Firestone, P., Curry, S., & Bradford, J. M. (2008).

<sup>13</sup> Id.

<sup>14</sup>Foubert, J. D., Brosi, M. W., & Bannon, S. (2011). Pornography viewing among fraternity men: Effects on bystander intervention, rape myth acceptance and behavioral intent to commit sexual assault. *Sexual Addiction & Compulsivity*, 18, 212-231.

<sup>15</sup> Kingston, D. A., Fedoroff, P., Firestone, P., Curry, S., & Bradford, J. M. (2008).

<sup>16</sup> Id.

<sup>17</sup> Foubert, J. D., Brosi, M. W., & Bannon, S. (2011); Hald, G. M., Malamuth, N. M., & Yuen, C. (2009). Pornography and attitudes supporting violence against women: Revisiting the relationship in nonexperimental studies. *Aggressive Behavior*, 35, 1-7; Malamuth, N. M., Hald, G. M., & Koss, M. (2011). Pornography, individual differences in risk and men’s acceptance of violence against women in a representative sample. *Sex Roles*; Seto, M. C., Maric, A., & Barbaree, H. E. (2001). The role of pornography in the etiology of sexual aggression. *Aggression and Violence Behavior*, 6, 35-53; Wright, P. J., Tokunaga, R. S., & Kraus, A. (2015).

<sup>18</sup> Kingston, D. A., Fedoroff, P., Firestone, P., Curry, S., & Bradford, J. M. (2008).

<sup>19</sup> Foubert et al., 2011.

behaviors.<sup>20</sup> Research suggests that sex offenders should be prohibited from visiting such establishments because of these risk factors.

In light of these recent changes, attorneys, probation officers, evaluators and therapists, among others, must determine how to best assist the court in making informed decisions. Courts must balance a probationer's constitutional rights with concerns of posing undue risk to the community.

### **Recommendations**

In order to assist the courts in determining the level and management of restrictions, it is recommended that evaluators include information in the sex offense-specific evaluation discussing the risk posed to the community if the adult or juvenile who has committed a sexual offense has access to the internet and social networking sites. Likewise, evaluators are encouraged to assess the use of sexually oriented or stimulating materials and entertainment by an adult convicted of a sexual offense. Assessment should rely on available research supported evidence regarding risk of sexual re-offense and should identify how access to the three items discussed above will contribute to the overall risk of the juvenile or adult to commit another offense.

When considering internet or social media use for adults and juveniles who have committed sexual offenses, specific issues to consider may include:

1. Previous use of the internet or social media to secure a victim
2. Previous use of the internet or social media to commit a sexual offense or engage in other problematic or illegal sexual behavior.

When considering the use of sexually oriented and explicit materials and entertainment for adults convicted of a sexual offense only, specific issues to consider may include:

3. Use of sexually oriented or sexually explicit material in the commission of a sexual offense, such as grooming behavior or to mimic behaviors observed.
4. If access to sexually oriented or sexually explicit material will exacerbate individual risk factors that were identified in the evaluation process.

For Male Adults: When considering access to sexually oriented or explicit materials (via any medium) it may be helpful to consider how access will interact with the client's known dynamic risk factors. Below is a list of dynamic risk factors to consider when determining possible interactions. Research to date has not clearly identified dynamic risk factors associated with sexual reoffending by juveniles and females.

Note: The following is a list of some dynamic risk factors associated with adult sex offense recidivism. The list is not meant to convey that current research demonstrates an increase in the dynamic risk factors when access is allowed. Current research does not provide that level of

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<sup>20</sup> Houser, K. (2007). Analysis and implications of the omission of offenders in the DoD care for victims of sexual assault task force report. *Violence against women*, 13(9), 961-970; Mancini, C., Reckdenwald, A., Beauregard, E., & Levenson, J. S. (2014). Sex industry exposure over the life course on the onset and frequency of sex offending. *Journal of Criminal Justice*, 42(6), 507-516.

specificity. Evaluators should consider the client's individual and contextual presentation of a risk factor and assess if access to sexually oriented or explicit materials will exacerbate individual risk factors:<sup>21</sup>

- Risk-Related Sexual Interests – interest in pubescent/prepubescent children, sexualized violence, multiple paraphilia
- Sexual Preoccupation
- Hypersexuality
- Sexual Compulsivity
- Sexual Coping
- Offense-Supportive Attitudes – distorted beliefs about victims, sexual partners, pornography, or sex that are conducive to sexually assaultive behavior
- Callousness/Hostility Toward Women
- Dysfunctional Relational Style
- Impulsivity
- Emotional Dysregulation
- Ineffective Coping Skills

In those cases, where the evaluator recommends restrictions on access to sexually explicit materials (including any medium), evaluators may also consider recommending restrictions on internet or social media use to limit access.

Reviewing the following sexual attitudes and beliefs may also be informative when discussing access to the internet, social media, sexually oriented or explicit materials and entertainment:<sup>22</sup>

- History or interest in viewing violent pornography. Pornography, especially violent pornography, has been shown to increase sexually aggressive thoughts and behaviors, including belief in rape myths, likelihoods to commit sexual assault, and increased acceptance of violence towards women.<sup>23</sup>

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<sup>21</sup> Hanson, R. K., & Morton-Bourgon, K. E. (2005). The Characteristics of Persistent Sexual Offenders: A Meta-Analysis of Recidivism Studies. *Journal of Consulting and Clinical Psychology*, 73(6), 1154-1163. <http://dx.doi.org/10.1037/0022-006X.73.6.1154>; Långström, N., & Hanson, R. K. (2006). High Rates of Sexual Behavior in the General Population: Correlates and Predictors. *Archives of Sexual Behavior*, 35(1), 37-52. doi:10.1007/s10508-006-8993-y; STABLE 2007 Manual; Kingston, D. A., Fedoroff, P., Firestone, P., Curry, S., & Bradford, J. M. (2008); Tanner, J. (2019). Report on Colorado Sex Offender Special Additional Conditions. Retrieved from KBSolutions, Inc. website: <http://www.kbsolutions.com/SAC.pdf>; Kafka, M.P. (2010). Hypersexual Disorder: A proposed diagnosis for DSM-V. *Archives of Sexual Behavior*, 39(2), 377-400. doi:10.1007/s10508-009-9574-7. "Based on an extensive review of the literature, Hypersexual Disorder is conceptualized as primarily a non-paraphilic sexual desire disorder with an impulsivity component."

<sup>22</sup> McGrath, R. J., Lasher, M. P., & Cumming, G. F. (2012). The sex offender treatment intervention and progress scale (SOTIPS): Psychometric properties and incremental predictive validity with static-99 R. *Sexual Abuse: A Journal of Research and Treatment*, 24(5), 431-458.

<sup>23</sup> Davis, K. C., Norris, J., George, W. H., Martell, J., & Heiman, J. R. (2006). Men's likelihood of sexual aggression: The influence of alcohol, sexual arousal, and violence pornography. *Aggressive Behavior*, 32, 581-589; Foubert et al., 2011; Hald, G. M., Malamuth, N. M., & Yuen, C. (2009); Malamuth, N. M., Hald, G. M., & Koss, M. (2011); Seto, M. C., Maric, A., & Barbaree, H. E. (2001); Wright, P. J., Tokunaga, R. S., & Kraus, A. (2015).

## ***Appendix D. SOMB Strategic Action Plan Working Document***

During 2019 the SOMB began to work thoroughly within their strategic work groups on their respective strategic initiatives. Each group conducted an environmental scan of the Board as it relates to their strategic initiative using a Strengths, Weaknesses, Opportunity, and Threats (SWOT) Analysis. Each group then came up with an action plan. Although the plans have an ability to be fluid, few groups were able to start executing on their plan. Below is a high-level description of each work groups action plan.

### ***Mission/Purpose Alignment***

The team's goal is to review the statute and compare the work of the Sex Offender Management Board to statutory alignment. The team has provided training to the Board on the statute and initiated discussion regarding statutory alignment. This training will become a part of the new board member onboarding process.

### ***Communication & Information***

This work-group intends on reviewing all communications between the Board, staff and all outside stakeholders. The plan was to utilize Colorado Department of Public Safety's Public Information Officer to analyze current stakeholder communication initiatives through various platforms and come up with a clear direction on how to improve on it or how to implement best practices.

### ***Board Engagement***

This work group's objective is to improve the engagement process of board members from the time they are appointed to the board and throughout their term. This is meant by creating a comprehensive on-boarding process for members with continuous engagement on the Board and subcommittees.

### ***Process Consistency***

The group's goal is to establish and implement core processes to ensure efficient and consistent work of the Board. The group's main focus has been to identify what processes are currently established within the Board and identifying how they need to be improved. The recent focuses of the group have been committee formation and work flow.

### ***Research-Based Decision Making***

The team has been working diligently to come up with a way to continue presenting research from the field and working to deliver it through balanced perspectives. One of the group's action items has been to educate the Board about research methods, delivery and awareness of biased perspectives. This group has worked on creating a presentation for the Board regarding research basics, to offer training to the Board members.

## *Appendix E. Commissioner Bushner's 2019 SOMB Report*

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### SEX OFFENDER MANAGEMENT BOARD 2019 Report Decision Making Processes Conflict of Interest

#### Introduction:

In 1992, the Colorado General Assembly passed legislation to create the Sex Offender Treatment Board, which was, renamed the Sex Offender Management Board. The purpose and duties of the board as delegated in numerous C.R.S is to create a program that establishes evidence-based standards for the evaluation, identification, treatment, management, and monitoring of adult and juvenile sex offenders. As a former certified Parliamentarian and current sitting County Commissioner, I was engaged to conduct an audit to help evaluate the processes the SOMB utilizes in their decision-making and to identify and evaluate any potential conflicts of interest.

As per the bylaws of the SOMB, I utilized the most recent version of Roberts Rules of Order, 11th Edition, for all parliamentary matters. I also utilized attorney Kenneth Fellman of Kissinger and Fellman, P.C. to evaluate and make recommendations for any current or potential conflicts of interests associated with the board.

#### Executive Summary:

The board is comprised of professional stakeholders committed to both victim advocacy and offender treatment and management. This board makes tough decisions that rarely get a full consensus because of the diversity of stakeholders represented. This board might be the most diverse board I have ever evaluated. Board members are professional, dedicated and knowledgeable. Like all boards, some members do appear to be more dedicated to the

process than others. These members tend to carry the load so to speak. My impression is those board members seem to have more of a dog in the fight because they work directly with either the victim or the offender. In some cases, they may work with both. The board utilizes a research-based process for decision making when available. The Standards and Guidelines that have been drafted by the board are quite lengthy and thorough. All guidelines must be changed or adapted periodically based on new research or mandates placed on the board.

My overall impression is the board including the committee structure works quite well. Leadership from the board chair and the committees is quite good. The staff support for the SOMB is professional, knowledgeable, and accessible.

Board meeting tend to be quite long for a couple of reasons. First, the board is very large and diverse. Discussion gets quite lengthy. Secondly, public comment is encouraged which adds to the length of the debate. Committees tend to wordsmith changes in the Standards and Guidelines a bit more than necessary. The public is also encouraged to attend these committee meetings, which can also slow down the process.

## Findings:

### Board Structure

Robert's Rules of Order has been designated as the official guide as outlined in the By-Laws of the Colorado Sex Offender Management Board, Article 12.

Robert's addresses the board make-up in Chapter 1, Section 1 as follows: Boards shall have no minimum size. A board may not function autonomously; its operation is determined by responsibilities and powers delegated to it or conferred upon it by authority outside itself. This authority resides in C.R.S. 16-11.7-103.

The size of the board is quite large. Not being a subject matter expert on sexual offenses, it is hard to evaluate the intent of the legislature to balance the membership of the board. Currently the board is comprised of 25 members, both rural and urban. The board is quite diverse, mostly comprised of experts in adult and juvenile issues

relating to persons who commit sex offenses. In my opinion the board is too large. From my personal experience as a county commissioner, I cannot understand why county commissioners have a seat at the table. Commissioners typically rely on the expert opinions from the other members comprising a board where commissioners do not have a direct relationship with the board's function. This is only one example where a direct relationship may not exist. There also appears to be some duplication of membership on the board as well. (C.R.S. 16-11.7-103)

Recommendation: The state legislature should form a committee to evaluate the size and make-up of the board and strive to reconstitute the board to eleven (11) members, fifteen (15) maximum. The current board is too large to be efficient. An advisory committee could be utilized in order to make sure all stakeholders have a seat at the table.

## Rules

Under general parliamentary law, Robert's, Chapter 1, Section 2, an assembly is free to adopt any rules it may wish providing the procedure for adopting them follows parliamentary law or its own already existing rules. These rules facilitate the smooth functioning of the assembly and provide a firm basis for resolving questions of procedure. When an assembly has adopted these rules, they are binding upon it at all times as long as they are not inconsistent with the by-laws or any special rules of order of the body, or any provisions of local, state, or national law.

The SOMB utilizes a system that includes presentations, reviews, committee reports, public comment review, and most importantly motions on items of business. The format for motions is a bit confusing for anyone who is new to the board process. Robert's is silent on the format the board uses for this process. The terms utilized are "Action Item" and "Decision Item". Upon discovery, "Decision Items" are essentially the main motion. An "Action Item" appears to be more of a concept for discussion that will potentially end up as a "Decision Item" at a subsequent meeting. These terms tend to work well for conducting business, however I was not able to find documentation of rules that outline the use of these terms.

Recommendation: Develop and publish to the website the rules for adopting business. These rules should also contain content that establishes the procedure for public comment and any other meeting rules. Currently public comment appears to be taken at the end of debate on either an action or decision item. Public comment should never to taken during board debate. The board should only answer questions arising from public comment. Do not debate the public. I would recommend that the public comment be limited to time per debate and/or total time for comment. Also there are some rules printed at the bottom of the agenda for each meeting. I would recommend that those rules are published on the web site as discussed previously and they are read before public comment is taken.

### Quorum

Robert's is strict about the loss of a quorum, Chapter XI, Section 40. If a quorum is lost, debate can continue unless someone in the body determines that the quorum was lost. When that occurs, all debate and business is halted. The prohibition against transacting business in the absence of a quorum cannot be waived even by unanimous consent. If a quorum cannot be re-established, then the meeting should be adjourned. Where business must be acted on such as an emergency, the members are acting at their own risk.

Recommendation: Amend Article 5, Quorum of the SOMB By-Laws to strike out the following: "Ratification of provisionally transacted business shall occur at such time as a quorum is present, or at the next regular meeting, or through written or electronic voting coordinated by the staff liaison." That clause in the bylaws is a slippery slope. Full transparency should be the goal of the board.

### Decision and Action Items

Motions tend to be offered at the end of debate on topics introduced from the agenda. Not typically done that way but appears to be an effective way of doing business for the board. Debate on items should be handled in an appropriate way in order to protect the rights of the minority but also streamline the process.

Recommendations:

1. Members should raise hands and be formally addressed by name by the chair in order to offer debate. Speakers should identify themselves by name and title before offering debate. All speakers should speak directly into the microphones provided in the meeting room. These rules would allow for non-board members to determine who is speaking and also help with better identification of speakers when listening to the recorded minutes.
2. No one is entitled to a second debate as long as any other member who has not yet debated desires the floor.
3. Chairs should encourage and ask for discussion from all members on specific topics.
4. The chair should as much as possible alternate between those in favor and those opposed. On contentious issues, the chair can usually tell who is in favor and opposed on an issue.
5. The chair should be aware of direct or potential conflicts of interest. Those in conflict should not participate as per By-Laws. If the chair is uncertain about a direct or potential conflict, they should address the body to determine if a conflict exists. (See Attachments.)
6. The By-Laws should be amended to force the chair to vote on all business. Article 6, Section 6.5. In most cases the chair only votes if their vote will affect the outcome. Robert's, Chapter XIII, Section 44. However, the body can make their own rule on this subject. Transparency is the goal with this recommendation.
7. The term "I move" should be used on all motions. That should also be the written form in the minutes. I realize this is a bit picky, but it is the proper way to present a motion. Robert's Chapter 2, Section 4.
8. A member cannot withdraw a motion after the chair has restated the motion. Robert's, Chapter VI, Section 33. The member who moved the motion can ask for permission before the vote, but any objection will render the motion to the body for consideration. Motions including those with amendments can be withdrawn at any time before voting on the question has begun.

#### Minutes/Agenda

The meeting minutes of the SOMB are written comprehensively and professionally.

Attention to detail especially with debate is quite good.

The agenda should be more comprehensive.

#### Recommendations:

1. All committee reports should be acted upon and minutes of the committee meetings included in the record in full or as an attachment. All committees should have a recording secretary for this purpose.
2. All points of order or appeals should be included in the minutes and the reason for the ruling by the chair.
3. The recording secretary and the chair should sign all minutes, after approval of the board.
4. The chairman and recording secretary should be identified as such in the members and staff section of the minutes.
5. Board meeting minutes after approval by the board are published and available per statute. I recommend not later than 5 working days after the meeting.
6. Establish a link on the website for all meeting materials in advance of any board or committee meeting as per statute or no later than 5 working days before any meeting.
7. An RSVP to attend a public meeting is probably not an appropriate means of doing business. If the public has access to all documents before the meeting, this requirement should be discontinued. If space is the issue, find a bigger meeting room.
8. The electronic/recorded copy of the minutes should also be made available on the website. A link to the recording should be uploaded no less than 5 working days after the meeting.

### New Board Orientation

During the course of my review, several members of the board expressed a desire for additional training for new board/committee members. Several board members also mentioned a board mentorship program. Upon investigation, I was unable to find any documents relating to board member training specific to the SOMB and its operation.

### Recommendation:

1. Develop a board/committee mentor program.
2. Develop a new board/committee member packet, preferably accessible on line.
3. Utilize webinars for board/committee trainings.

### Committee Meetings

The SOMB has utilized as many as 14 committees. These

committees are charged with researching current best practices as they relate to the adult and juvenile standards and guidelines. Much of the heavy lifting so to speak of the board is accomplished in these committees. These committees are comprised of both board and citizen representatives. All board meetings are open to the public. A listing of current committees meeting schedules can be found on the DOJ Public Meetings Calendar.

Upon observation of the committee meeting I have attended, some thoughts:

1. Board members in attendance are really engaged. Phone attendance not as engaged.
2. The committee members appeared to be very prepared.
3. There was a general level of respect for fellow members and the support staff.
4. Most of the members were engaged throughout the meeting.
5. The support staff is very knowledgeable.
6. The strength of the committees lies within the skill of the chair.
7. Wordsmith was a bit overboard.

Recommendations:

1. Develop a tight agenda and stick to it.
2. Members should come prepared. Do not waste time educating members.
3. Do not allow non-member public comment during committee debate. Public comment should be during a set time, not at random times. Public comments should be germane to the discussion at all times.
4. The chair should engage all members by asking for their opinion on the specific topic. This will encourage more participation.
5. The chair should not allow a committee member to dominate the discussion. No one is entitled to a second debate as long as any other member who has not yet debated desires the floor.
6. The chair should as much as possible alternate between those in favor and those opposed. On contentious issues, the chair can usually tell who is in favor and opposed on an issue.
7. Ask for consensus on all topics before moving on. If a consensus cannot be reached, a strong majority is recommended.
8. The SOMB Committee Meeting Norms document should be strictly followed. This document should be available on the website.
9. Committee chairs should always be aware of conflicts or potential

conflicts of interest. Members should strictly adhere to Article 7, section 7.2 of the bylaws. All committee members should fill out and sign a conflict of interest disclosure each year.

## ***Appendix F. SOMB Approved Conflict of Interest Policy and Disclosure***

### **Sex Offender Management Board Conflicts of Interest Policy Approved September 20, 2019**

#### **I. PURPOSE**

The purpose of this policy is to:

- ensure that the activities of the Board remain transparent to the public;
- protect the public's interest when the Board is contemplating a decision or action that would benefit the private interest of a Board Member;
- assure that all individuals who, by virtue of their position, can influence decisions affecting work of the Board, perform their duties in an open and transparent manner;
- acknowledge that the Members of the Board were appointed based upon a balance of their expertise and representation of rural and urban areas – this background should not be considered a conflict so long as the personal financial interests of a particular Board Member do not influence their ability to be objective; and
- clarify the duties and obligations of Board Members in the context of conflicts of interest and, further, to provide such individuals with a method for disclosing and resolving such conflicts of interest.

This policy is intended to supplement state laws that may be otherwise applicable.

#### **II. COMPLIANCE WITH STATE ETHICS LAWS**

**CONDUCT OF BOARD MEMBERS.** The public must have faith and confidence in state government. Board Members must serve with integrity, honesty, and in keeping with the highest standards of ethical conduct in the discharge of their duties.

**ETHICS IN GOVERNMENT.** Each Board Member shares in the responsibility of maintaining the public's trust and confidence in the Board and its conduct. Each Board Member shall conform his/her conduct to the applicable requirements of Article XXIX, Ethics in Government, of the Constitution of the State of Colorado, and Title 24, Article 18 of the Colorado Revised Statutes, Code of Ethics.

#### **III. POLICY STATEMENT**

This Board has been established pursuant to the laws of the State of Colorado pursuant to § 16-11.7-103, C.R.S. It is the policy of this Board that Members of the Board, including its committees and staff, undertake their respective responsibilities with an unbending duty of loyalty and fidelity to the Board and the State of Colorado. Board Members are to perform the affairs of this Board honestly and openly, exercising their best care, skill and judgment for the benefit of the Board and the general public of the State of Colorado.

Board Members have an obligation to make full disclosure of all interests, actions, or relationships which might result in, or have the appearance of, a conflict of interest in satisfying their obligations to this Board. In that regard, it is the policy of this Board to ensure the disclosure of all conflicts of interest in a timely manner.

#### IV. DEFINITIONS

**BUSINESS.** Means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit pursuant to § 24-18-102(1).

**CONFLICT OF INTEREST.** Means Voluntary Disclosure of a Financial Interest pursuant to § 24-18-110, C.R.S. A Conflict of Interest exists where a Board Member's Official Action may have a Direct Economic Benefit on a Business or other undertaking in which such Member has a direct or substantial Financial Interest.

**DIRECT ECONOMIC BENEFIT.** A Board Member has a Direct Economic Benefit if he or she has, or his or her spouse has, any Financial Interest in any entity which may be affected in a direct and substantial way by the actions of the Board.

**FINANCIAL INTEREST.** Means the definition set forth in § 24-18-102, and is a substantial interest held by an individual which is:

- (a) An ownership interest in a Business;
- (b) A creditor interest in an insolvent Business;
- (c) An employment or a prospective employment for which negotiations have begun;
- (d) An ownership interest in real or personal property;
- (e) A loan or any other debtor interest; or
- (f) A directorship or officer position in a Business.

**OFFICIAL ACT OR OFFICIAL ACTION.** Any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

#### V. CONFLICTS OF INTEREST

##### 1. Conflicts in General

The legislature has noted the importance of the participation of the citizens of the State at all levels of government.

It has recognized, however, that, where such participation takes the form of the holding of a public office, conflicts may arise between the citizen's public duty and his or her private interest(s), to wit:

Legislative declaration. The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly

hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances. (§ 24-18-101)

A Member holds a position of public trust and has a fiduciary duty to carry out his/her duties for the benefit of the people of the State in a manner consistent with the applicable standards of conduct of §§ 24-18-101 through 24-18-205, as amended. Each Member shall comply with such standards.

A conflict of interest might occur whenever a Member has privileged information or a financial interest which might influence, or might be reasonably perceived by the public as influencing, his/her conduct.

The legislature has acknowledged that, while some situations may pose conflicts, per se, between public duty and private interest, others may or may not do so, depending upon the surrounding circumstances.

The legislature mandates, in 24-18-108.5(2), that:

A member of a board . . . shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

## 2. Other Conflicts: Voluntary Disclosure

A member of a board... prior to acting in any manner which ". . . may impinge on his/her fiduciary duty and the public trust [a member may] disclose the nature of his private interest".

"Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction" (§ 24-18-110).

### 3. Member Conflict Statement

As a condition of service on the Board, each Member shall subscribe and submit to the Chair a conflict of interest statement. A copy of such statement from each Member shall, in turn, be provided to, and retained by the Division of Criminal Justice (Division) for a period of not less than three (3) years after the end of the Member's service on the Board.

### 4. Annual Disclosure Statement

Each Member shall make disclosure each January of any interest held by him/her or his/her spouse and/or household member which might conflict with his/her duties. The disclosure shall be made on a form prescribed by the Board for such purpose and shall be submitted to the Chair, and filed with the Division, which shall retain all such forms with respect to each Member for a period of not less than three (3) years after the end of such Member's service on the Board.

### 5. Member Duty of Care

The duty of care requires that a Member be 1) an active participant in the affairs of the institution at the level of the Board, i.e., an active participant in board actions and decisions; 2) be reasonably informed; and 3) act in a responsible and prudent manner.

Each Board Member should exercise his or her independent judgment with respect to all decisions made by the Board. No matter what constituency a Member represents, each Member has the same responsibility to share in all the responsibilities and powers of the Board to the benefit of the entire state.

To function effectively, each Board Member must be informed and have an adequate source of information. It is understood that Members must necessarily rely upon information supplied by the Division and Board staff. However, a Member should not hesitate to ask for additional information if the Member believes that the information being supplied is inadequate. The Member should, of course, review the information which is supplied. A Board Member may prudently rely upon information and reports that are received from sources the Member regards as trustworthy. A Board Member is not expected to run the day to day business of the Board.

The Board Member, in collaboration with Board staff, is expected to be informed of the Board's enabling statute and regulations and ensure their regular review for compliance with applicable state law. Board Members are expected to set Board policies and ensure their ongoing review for adequacy, practicality, legality and soundness in cooperation with Board staff.

The Board Member should understand the requirements of the "Colorado Open Records Act" and the Open Meetings Law through annual training. § 24-3.7-102.

The Board and the individual Board Members shall be immune from any liability, whether civil or criminal, for the good faith performance of the duties of the board. § 16-11.7-103(5).

## 6. Duty of Loyalty

The duty of loyalty requires that a Board Member exercise the Board's authority in the interests of the Board and the state, not in the Board Member's own interest or the interest of another entity or person.

The most obvious principle of the duty of loyalty is that the Board Member must not use the position as a Member to further the Member's personal interest.

## VI. PROCEDURES

**DUTY TO DISCLOSE.** In the event of any conflict of interest, the Board Members must disclose the existence and nature of his or her Financial Interest to the Board, and recuse themselves, prior to the consideration of the matter to be considered by the Board.

**FAILURE TO TIMELY DISCLOSE CONFLICTS OF INTEREST.** If the Board, or any Member thereof, has reasonable cause to believe that a Member of the Board has failed to disclose a conflict of interest, it shall inform the Board Member of the basis for such a belief and afford such person an opportunity to explain the alleged failure to disclose.

If, after hearing the response of such person and after making such further investigation as may be warranted in the circumstances, the Board determines that a Board Member has in fact failed to disclose a conflict of interest, it may take appropriate corrective action, including referral to the Board Member's appointing authority or requiring recusal pursuant to Article VII below.

## VII. RECUSALS

**MANDATORY RECUSAL.** A Board Member is disqualified and shall recuse themselves from any official duty, responsibility, or privilege, when a conflict of interest exists.

**PERMISSIVE RECUSAL.** A Board Member may, in their own discretion, recuse themselves from any official duty, responsibility, or privilege, when an appearance of a conflict of interest exists.

- a. A Board Member considering whether to permissively recuse should take into account the particular circumstances giving rise to the appearance of a conflict of interest and whether failure to recuse would erode the public trust or the Board Member's fairness, impartiality, objectivity, and integrity.

MANNER OF RECUSALS. When a Board Member recuses himself or herself, he or she shall do so by making a public announcement of the recusal, if and when possible, or by making an announcement of the recusal to the Board immediately after entering executive session if that is the case. For a recusal occurring during deliberation, the affected Board Member should leave the room in which the deliberation is occurring. In addition to a Board Member's voluntary recusal, the Chair of the Board, or two Board Members, may ask the Board to consider and vote on whether a Member has a conflict of interest that requires recusal, and vote to require recusal of the affected Member in such case.

### VIII. RECORDS OF CONFLICTS OF INTERESTS

The minutes of the Board shall contain the names of all persons who disclosed a Financial Interest in connection with any matter that may be considered by the Board, and the nature of the interest in question including whether the Financial Interest amount to a conflict of interest, and if so whether such conflict of interest requires recusal. The minutes of the Board shall also contain any concerns that were raised regarding any undisclosed conflict of interest and the response of the involved Board Member.

While it is the Board's policy to hold all deliberations and decision making in public view, any matter which may disclose personal information that would fall within the personal information exemption, or other exemption, under the Colorado Open Meetings Act, may result in the Board holding its deliberation (but not decision) in Executive Session. Records of such discussions may also not be available for disclosure under the Colorado Open Records Act.

### IX. STATEMENTS PERTAINING TO CONFLICTS OF INTEREST

The Board shall present each Board Member with a copy of the attached "Statements Pertaining to Conflicts of Interest." The purpose for such statements shall be to accomplish disclosure of all conflicts of interest in advance. If a Board Member becomes aware that a conflict may exist which has not been disclosed previously on such a statement, it shall be the responsibility of that Board Member to disclose the conflict of interest to the Board in a timely manner prior to any further Board discussions or actions with respect to the relevant issue. The Division shall retain all Statements Pertaining to Conflicts of Interest filed by Board Members.

**STATEMENT PERTAINING TO THE  
Sex Offender Management Board  
CONFLICTS OF INTEREST POLICY**

I have received a copy of the Conflicts of Interest Policy, have read and understand the Conflicts of Interest Policy, and in signing this document, I hereby agree to comply not only with the Conflicts of Interest Policy's literal expression, but also with what I believe to be its intent.

My spouse and/or household member and I may have certain financial interests which may give rise to a conflict of interest, as set forth below. The nature of those interests, the specific issues that the Board may consider or is considering to which such conflicts may exist, and the reasons why such interests may give rise to a conflict of interest are as follows:

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Please write "none" if applicable at the time of signing. Please attach additional sheets if additional space is needed.

I also hereby certify that if any possible matter should be considered in the future with respect to which I have a conflict of interest, and which has not been disclosed in this Statement, I will promptly disclose the circumstances to the Board, update this form with a subsequent written disclosure, and will comply with the Conflicts of Interest Policy in all regards with respect to such matter.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_