

# Key Facts from 2021

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- C.R.S. §16-11.7-102.(3) lists **26** different sex offenses that can be charged as misdemeanor or felony offenses. Any person convicted/adjudicated under one or more of these **26** offenses is defined by §16-11.7-102.(2) as a "sex offender" or "juvenile who committed a sexual offense".
- In FY2019, **2.8%** of all court filings were for a sex offense. Of the **2.8%**, felony filings were **58%**, juvenile filings **15%**, and misdemeanor filings **27%**.
- There are currently an estimated **9,700** adults and juveniles under community supervision, incarceration, commitment, or detention for a sex offense conviction/adjudication. This includes convictions/adjudications where the underlying factual basis involved a sex offense –
  - **95%** are adults, **5%** are juveniles
  - **55%** are serving their sentences in the community under supervision.
- The **FY2020 Judicial Department Annual Statistical Report** noted that of the **1,401** probationers on Regular Non- Sex Offender Intensive Supervision Probation, **45%** were minimum risk, and **17%** were medium risk. The remaining 38% were divided, 18% high risk and 20% administrative, e.g., jail or inpatient treatment facility. For the **403** juveniles on Juvenile Regular Probation for Juveniles Who Have Committed Sexual Offenses (JSO), the percentages were **35%** minimum risk, **41%** medium risk, 21% maximum risk and 2% administrative. The **Report** does **not** contain a breakdown by risk level for the **1,456** adults on Sex Offender Intensive Supervision Probation (SOISP) or the **2** (est.) juveniles on Juvenile Intensive Supervision Probation for a sexual offense.
- It is not unusual for those adults and juveniles who fall under the purview of the SOMB's **adult** and **juvenile** standards and guidelines (collectively S&Gs) to spend upwards of **\$25K** on treatment, evaluations, polygraph examinations, web-enabled device monitoring and other ordered services, during their sentence. For those deemed unable to pay, or on parole, this obligation falls to the state.
- As of the March 28, 2021 SOMB provider **listings**, there were **50** SOMB approved treatment providers and evaluators who were **not** licensed mental health professionals. These individuals held only a registration or certification type of credential.
- Without a choice of providers, clients can be stuck with less qualified professionals who lack the training and education needed to furnish efficient and effective treatment. The client suffers and there are no competitive pressures for the provider to improve.
- The current, uneven, imbalanced power dynamic between client and therapist creates an environment conducive to unethical mental health treatment. Treatment providers hold the

golden ticket – a successful discharge letter. Consequently, clients are less likely to file complaints and the absence of SOMB regular and systemic reviews of its providers leads to situations that fail to achieve the goals of effective treatment and community safety.

- Presently, there is no statutory avenue for a client to file a complaint against a provider's agency. This is problematic as the SOMB has reported that the majority of received complaints are filed against agencies.
- A recent national [survey](#) conducted by YouGov found that **8%** of Americans, representing **20.4M** people over the age of 18, reported being falsely accused of domestic violence, child abuse, sexual assault, or other forms of abuse. **"According to the National Registry of Exonerations, false allegations and perjury are the most common contributing factor to wrongful convictions, constituting 59% of such cases."**

#### Department of Corrections (DoC) Specific:

- The DoC reported in its [Inmate Population Profile](#), that as of December 31, 2020, **4,342 (28%)** inmates were identified "Needs Level: Sex Offender." This suggests that **1 in 4** DoC inmates falls in the "sex offender" category.
- Per the DoC's [Inmates Serving Life Sentences](#), on December 31, 2020, **1,649** "sex offender" inmates had been sentenced under Colorado's Lifetime Supervision Act (LSA) and were serving indeterminate sentences. LSA- sentenced inmates **cannot** be paroled without showing "progress in treatment."
- From FY2018 through FY2020 the DoC spent **\$12.0M** for its Sex Offender Treatment Monitoring Program (SOTMP). The funding source for **99%** of the SOTMP cost was the State's General Fund.
- From March 2020 through March 2021 (13 months), the DoC reported on its Dashboard Measures [Prison Inmates Program Completions](#) \*\*that –
  - **95** inmates completed SOTMP Track I, averaging **7 inmates per month**
  - **39** inmates completed SOTMP Track II, averaging **3 inmates per month**
  - **185** inmates completed SOTMP Criteria, averaging **14 inmates per month**
  - **63** inmates completed SOTMP Maintenance, averaging **5 inmates per month**. (The SOTMP Maintenance completions do not include transfers to parole/community transfers.)
- The DoC reported, as of April 30, 2021, there were **1,101** inmates on the DoC SOTMP Global Referral List (GRL) awaiting treatment. **153** of those inmates, sentenced under the LSA, were past their parole eligibility dates (PEDs). At the FY2019-2020 [cost](#) per day (Level I-V) of **\$128.05**, Colorado is spending **\$595,913. each month** to house prisoners who may have been released to parole had DoC had the requisite number of providers to offer timely access to SOTMP, or other statutory options.

- Again, as of April 30, 2021, DoC reported that of the **285** inmates on the SOTMP GRL sentenced under the LSA, **50%** had been assessed average risk or below. **14%** had been assessed above average/well above average and **36%** had **not** been assessed.
- Since the enactment of [HB18-1040](#): Incentives for Mental Health Professionals, the Department of Corrections (DoC) has stated in its last three statutorily required annual [reports](#), that the Department has **not** been able to attract SOMB approved treatment providers even with the possibility of incentives.
- In a March 2017 analysis, Advocates for Change found that **only 3.5%** of all eligible Colorado mental health professionals were SOMB approved treatment providers and evaluators.
- The SOMB's voluminous and overly prescriptive [S&Gs](#) do **not** allow providers the flexibility to treat the client in front of them. The possibility of individualized treatment does not truly exist. This has been an obstacle to more qualified mental health professionals from the larger community becoming SOMB approved providers.
- In [Thomas Tillery v. Executive Director of the CDoC et al.](#), the State of Colorado paid **\$50,000** to one inmate who was sentenced under the LSA, past his PED, and was unable to obtain punctual entry into the DoC SOTMP. (The litigation was Case No. 1:16-CV-00282-WJM-STV filed in the U.S. District Court for the District of Colorado.) Further and continuing civil lawsuits are expected from similarly situated inmates.
- If an inmate is granted parole from DoC, parolees who committed sexual offenses are treated, polygraph examined, arousal/sexually interest tested, etc., all over again. The DoC Adult Parole costs for these services, again paid from the General Fund, were **\$3.5M** for FY2020.

### Final Points:

- Despite the Sex Offender Management Board, its [S&Gs](#), and tens of millions of state dollars being spent each year, Colorado's sexual re-offense rates are no different than states without a management board, and the SOMB's notoriously cumbersome and complicated [S&Gs](#), which, in their existence, have undergone only **one** external [evaluation](#).
- In November 2017, the internationally recognized Association for the Treatment of Sexual Abusers (ATSA) [stated](#) that it would no longer use the term "sex offender" in its practice guidelines and materials. Person-first language research is well established and eliminating "sex offender" from statute helps to further the Legislature's objective of the successful adoption of prosocial behavior and attitudes for this deeply marginalized population. The same is true for the term "sexually violent predator" which is often applied inappropriately and works against an individual's successful reintegration into the community and reduction of risk. **"On average, 95% of people who sexually offend once never do so again (Langan, Schmitt, and Durose, 2003; Sample and Bray, 2003)."**