SEX OFFENDER MANAGEMENT BOARD

Sex Offender Management Board (SOMB)/Department of Corrections (DOC) Treatment Solutions Work Group Report

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Section 1: Introduction

The Colorado Sex Offender Lifetime Supervision Act (LSA) of 1998 (18-1.3-1001 through 18-1.3-1011 in the Colorado Revised Statutes (C.R.S.)) has the following Legislative Declaration (18-1.3-1001 C.R.S.):

"The general assembly hereby finds that the majority of persons who commit sex offenses, if incarcerated or supervised without treatment, will continue to present a danger to the public when released from incarceration and supervision. The general assembly also finds that keeping all sex offenders in lifetime incarceration imposes an unacceptably high cost in both state dollars and loss of human potential. The general assembly further finds that some sex offenders respond well to treatment and can function as safe, responsible, and contributing members of society, so long as they receive treatment and supervision. The general assembly therefore declares that a program under which sex offenders may receive treatment and supervision for the rest of their lives, if necessary, is necessary for the safety, health, and welfare of the state."

The LSA indicates the following with regard to those who are sentenced to incarceration (18-1.3-1006 (1)(a) C.R.S.):

"On completion of the minimum period of incarceration specified in a sex offender's indeterminate sentence, less any earned time credited to the sex offender pursuant to section 17-22.5-405, C.R.S., the parole board shall schedule a hearing to determine whether the sex offender may be released on parole. In determining whether to release the sex offender on parole, the parole board shall determine whether the sex offender has successfully progressed in treatment and would not pose an undue threat to the community if released under appropriate treatment and monitoring requirements and whether there is a strong and reasonable probability that the person will not thereafter violate the law. The department shall make recommendations to the parole board concerning whether the sex offender should be released on parole and the level of treatment and monitoring that should be imposed as a condition of parole. The recommendation shall be based on the criteria established by the management board pursuant to section 18-1.3-1009."

During the 2023 Colorado State Legislative session, the Sex Offender Management Board (SOMB) received a Sunset Review conducted by the Colorado Department of Regulatory Agencies (DORA). As a result of this review and deliberations related to the Sunset Bill (SB23-164), the SOMB was required to:

"...form a sub-committee with representatives from the Board, community sex offender treatment providers, the Department of Corrections, the Division of Adult Parole in the Department of Corrections, and the State Parole Board created pursuant to Section 17-2-201. The purpose of the subcommittee is to develop solutions to address treatment resources for sex offenders who are incarcerated or in the custody of the Department of Corrections, including a legal and evidence-based analysis of inmates who are required to progress in treatment in the Department of Corrections prior to any release pursuant to section 18-1.3-1006 and those who are classified by the Department of Corrections as an inmate who is required to participate in treatment."

This report is a product of the Sex Offender Management Board (SOMB)/Department of Corrections (DOC) Treatment Solutions Work Group. This report and any information herein does not represent the views of Colorado's Governor's Office, Office of State Planning and Budgeting, the Colorado Department of Public Safety, or other state agencies.

Establishment of the SOMB/DOC Treatment Solutions Work Group

In accordance with Senate Bill 23-164, the SOMB created the SOMB/DOC Treatment Solutions Work Group. The SOMB Executive Committee appointed the following members of the Work Group:

- Kimberly Kline, Chief of Behavioral Health, Colorado Department of Corrections. SOMB representative to the Work Group and Work Group Chair.
- Amanda Retting, Program Administrator, Sex Offender Treatment and Monitoring Program (SOTMP), Colorado Department of Corrections. DOC representative to the Work Group.
- Megan Zimmerman, Community Parole Manager, Division of Adult Parole, Department of Corrections. Division of Adult Parole Representative to the Work Group.
- Michelle Geng, Board Member, Colorado State Board of Parole. State Parole Board representative to the Work Group.
- Lauren Rivas, Executive Director, Teaching Humane Existence. Community sex offender treatment provider representative to the Work Group.

The Work Group held five meetings between August 30, 2023 and November 15, 2023. All meetings were conducted in person and also provided a virtual and recorded attendance option via WebEx. The agenda, including the Webex link, was sent to Work Group members and the members of the public one week prior to each meeting. The SOMB also created a webpage on its website with information regarding the Work Group (https://dcj.colorado.gov/somb/doc-treatment-solutions-subcommittee).

Each meeting was scheduled for two hours in length except for the final meeting which was scheduled for four hours.

The following is a summary of each of the five Work Group meetings (for more information regarding specific agendas, minutes, and work product reviewed, see https://app.awesome-table.com/-LnP9EGNWYwkNxMn8ABd/view):

August 30, 2023: The focus for this meeting was to review the goals and objectives for the Work Group, and review the data provided by the DOC (for more information regarding the data, see the data collection section below in this report). The Work Group and members of the public identified other potential data to collect as part of the Work group's review.

September 6, 2023: This meeting provided an opportunity for members of the public to offer public testimony to the Work Group in person or virtually. In addition, the Work Group provided a form where members of the public could provide written testimony. The Work Group requested that all public testimony be specific to the goals and objectives of the Work Group, and not include requests for assistance with individual cases. Public testimony could include discussion of individual experiences to highlight thoughts related to the goals and objectives. The written public testimonies have been uploaded to the SOMB public Document Repository (https://app.awesome-table.com/-LnP9EGNWYwkNxMn8ABd/view).

September 20, 2023: This meeting included a review of additional data collection, initiatives already undertaken by DOC to address treatment solutions, and to begin discussing additional potential treatment solutions.

October 18, 2023: This meeting included a review of additional data collection, and further discussion related to potential treatment solutions.

November 15, 2023: This meeting completed the review of potential treatment solutions.

Section 2: Data Collection for the SOMB/DOC Treatment Solutions Work Group

Introduction

Senate Bill 23-164 (b) (VI) requires the creation of a SOMB/DOC Work Group, and the DOC to identify all inmates within the DOC on an indeterminate sentence who are classified to receive and are eligible for treatment per DOC policy and have not been provided with the opportunity to participate in treatment while incarcerated. Specifically, (1.5) (a) requires DOC to provide the relevant data to the Sex Offender Management Board (SOMB) on or before July 31, 2023 (b)(VI).

The Work Group is tasked with analyzing the data provided by the DOC, as described above. Therefore, this section of the report will present and analyze data provided by the DOC and identify the status of all inmates who are eligible to receive treatment. More specifically, the Work Group identified inmates who are past their parole eligibility date (PED) and have not been provided a treatment opportunity within the DOC, as well as identify barriers DOC faces in providing timely access to treatment. In doing so, the Work Group is to review any Standards and Statutes (e.g., Lifetime Supervision Act of Sex Offenders, C.R.S. 18-1.3-1004 and C.R.S. 18-1.3-1006) that are barriers to providing timely access to treatment and offer potential treatment solutions.

Research Questions

The following research questions were addressed through the data collection process. Questions one through five below were based on the request of the Legislature in Senate Bill 23-164, while question six is an additional research question from the Work Group:

1. Identify inmates who are eligible to receive treatment.
2. Among them, identify inmates who are past parole eligibility date (PED) and have not been provided a treatment opportunity within the DOC.
3. Identity all barriers the DOC faces in providing timely access to treatment.
4. Identify which, if any, Standards and Statutes are barriers to providing timely access to treatment and offer potential solutions.
5. Review the DOC policies and administrative regulations to prevent unnecessary backlog
6. Identify probation revocation and Code of Penal Discipline (COPD) history, as well as court case appeal status, for inmates in need of treatment.

Methodology

The DOC provided the required data as requested from the Legislature by July 31, 2023. In addition, further data was solicited from the State Judicial Department regarding probation revocations leading to a prison sentence, which was cross-referenced with the DOC data. Further, DOC staff gathered additional data to further contextualize the initial information provided to the Work Group. Finally, DOC data was gathered related to prior community and SOTMP (Sex Offender Treatment and Monitoring Program) treatment opportunities, institutional behavioral issues violating the Code of Penal Discipline (COPD), and court case appeal status for those inmates on the GRL who were past their PED.

Data Collection

DOC Data Collection Required by the Legislature

The DOC provided data by July 31st, 2023, as required by legislation. The following describes the data requested by the Legislature and provided to the Work Group from the DOC.

1) Inmate data for those with indeterminate sentences including:
    a. DOC identification number
    b. Date of sentence
    c. Crime of conviction
    d. Length of the sentence, including parole
    e. Parole revocation
    f. Date the inmate was placed on the GRL
    g. PED and mandatory release date
    h. DOC S5 qualifier code
2) Aggregate validated static risk assessment scores of the inmates in 1 above, separated by indeterminate and determinate sentences
3) The frequency of SOTMP treatment groups, and the frequency of cancelation of such groups in all facilities
4) The treatment program capacity and the phases or tracks of treatment offered
5) The names of all SOMB approved providers employed by or contracting with the DOC, the amount of time each provider or contractor has been working with the DOC, and at which location each provider or contractor is providing services each month
6) The number of open positions for any SOTMP providers, including group therapy positions, polygraph providers, or any other positions necessary to operate the program
7) All efforts made by the DOC in the past five years to increase the capacity of the SOTMP, fill and maintain the allocated full-time or contract positions, and any data available to address any hiring challenges identified by the department

Additional Data Provided by DOC to Provide Context to Data Requested by the Legislature

In order to answer certain questions implicated in the initial data submitted to the Work Group, DOC collected additional data on admissions into DOC including those who may ultimately end up on the GRL. They also provided data on SOTMP treatment census and program capacity.

State Judicial Data on Probation Revocations Leading to Prison Sentence

Data was provided by State Judicial on indeterminate felony sex offense cases, sentenced to probation between November 1, 1998, and July 31, 2023, where probation was revoked, and the individual was re-sentenced to the DOC. To link probation data with the DOC data, the data included name, case number, SID, date of birth, termination type, and date of termination from probation.

DOC Data on Community and SOTMP Treatment History, and COPD History for Indeterminately Sentenced Inmates in DOC on the GRL and Past PED

Data was collected on the 132 inmates on the GRL who were past their PED regarding their history of community and SOTMP treatment participation history, and COPD history while in the DOC. The data was gathered using the following DOC data management systems: Department of Corrections Intranet (DOCNET), Colorado Web-Based Integrated Support Environment (CWISE) and Offender Management Information System (eOMIS).

DOC Data on History of Parole Revocation Based on a New Criminal Offense, and Those on the GRL who are Appealing Their Case

Data was collected on 187 inmates on the GRL who were past their PED as of August 30, 2023, and identified the history of parole revocation based on a new criminal charge for this population, as well as those whose court cases are currently under appeal.

Results

DOC Data Collection Required by the Legislature

Inmates on the GRL

According to the DOC Administrative Regulation (AR 600-10), Sexual Violence Needs Classification by the Denver Reception and Diagnostic Center (DRDC) and the SOTMP Intake Unit, inmates with a judicial determination of a sex crime that are within 4 years of their PED are prioritized for treatment in SOTMP based on, but not limited to: 1) PED, 2) recidivism risk;

3) prior treatment opportunities; and 4) institutional behavior. These inmates are then eligible to be placed on the DOC Global Referral List (GRL). According to the DOC Administrative Regulation on SOTMP (Regulation #700-19),[1] only S5 inmates are recommended for treatment with SOTMP. On the other hand, S1 inmates require no treatment, and S2-S4 inmates may be referred to an alternative, non-sex offense-specific psychoeducational treatment. As a result, the data provided by the DOC was for only S5 clients. As shown in Table 1, there were 618 inmates on the GRL as of July 31, 2023. The GRL includes 357 inmates on determinate sentences and 261 on indeterminate sentences.

The data provided includes the most serious crime conviction and all other convictions for the 618 inmates on the GRL. The initial data provided by the DOC did not include inmates currently in the SOTMP, but this was subsequently provided. Each inmate was classified as either LSX (lifetime sex offender), MXL (indeterminate minimum to life maximum), or WIP (life with parole). Mandatory release dates were included for the determinately sentenced offenders, but indeterminately sentenced offenders have no mandatory release date. The SXO Level qualifiers include 5ARMs (i.e., inmates who require advanced risk management based on having received and successfully progressing in treatment at SOTMP, being paroled, and then being returned to prison for a parole violation), 5P (i.e., inmates who were in SOTMP but were terminated from the program), and 5R (i.e., ready for treatment with no prior SOTMP involvement).

As seen in Table 1, among the 261 indeterminate inmates on the GRL, 223 were classified as 5R based on being ready and eligible to participate in SOTMP, but not having been able to be admitted to SOTMP.[2]

Table 1. Sentencing Type by SXO Level Qualifier

Sentencing Type	5ARMs*	5P**-Pending	5R-Ready	Total
Indeterminate	2	36	223	261
Determinate	0	4	353	357
Total	2	40	576	618

*ARMs: Advanced Risk Management. Offenders who have returned to DOC after successfully completing SOTMP.

**5P meaning that client already had an opportunity at treatment but treatment was terminated.

[1] This draft AR is currently awaiting final approval by DOC.

[2] It should be noted that inmates who do not take accountability for the referral sex crime, for whatever reason, are not eligible to be placed on the GRL. Per SOMB Standard, taking responsibility for a sexual offense is a prerequisite to participation in sex offense-specific treatment, and those in categorical denial should be referred to a denier intervention prior to beginning treatment. Those classified as in denial due have the ability to be re-assessed for treatment participation and being placed on the GRL if they decide to take responsibility for their sexual offending behavior.

Among the 223 indeterminate inmates who are classified as 5R, there were ten who also had a parole revocation and were therefore removed from a more in-depth analysis of those who meet 5R criteria.[3] As a result, a review of the current PED status for those who are classified as 5R includes 213 inmates. Each inmate's time until PED was calculated in comparison to the date of July 31, 2023, as that is when the GRL list was provided. As shown in Table 2, 132 of the 213 (62%) were past their PED, including 38 (17.8%) were less than 1 year past PED, 49 (23%) who were 1-2 years past PED, 36 (16.9%) who were 2-4 years past PED, and 9 (4.2%) who are 4 years or more past PED. It should be noted that a follow-up review was completed by DOC on the 9 who are more than four years past PED and this found that there were extenuating circumstances (e.g., behavioral issues, physical incapacitation, or other more profound treatment needs) for their inability to participate in SOTMP.

Table 2. Years Until PED for Treatment Eligible Inmates (Indeterminate, 5R, No Parole Revocation; n=213)

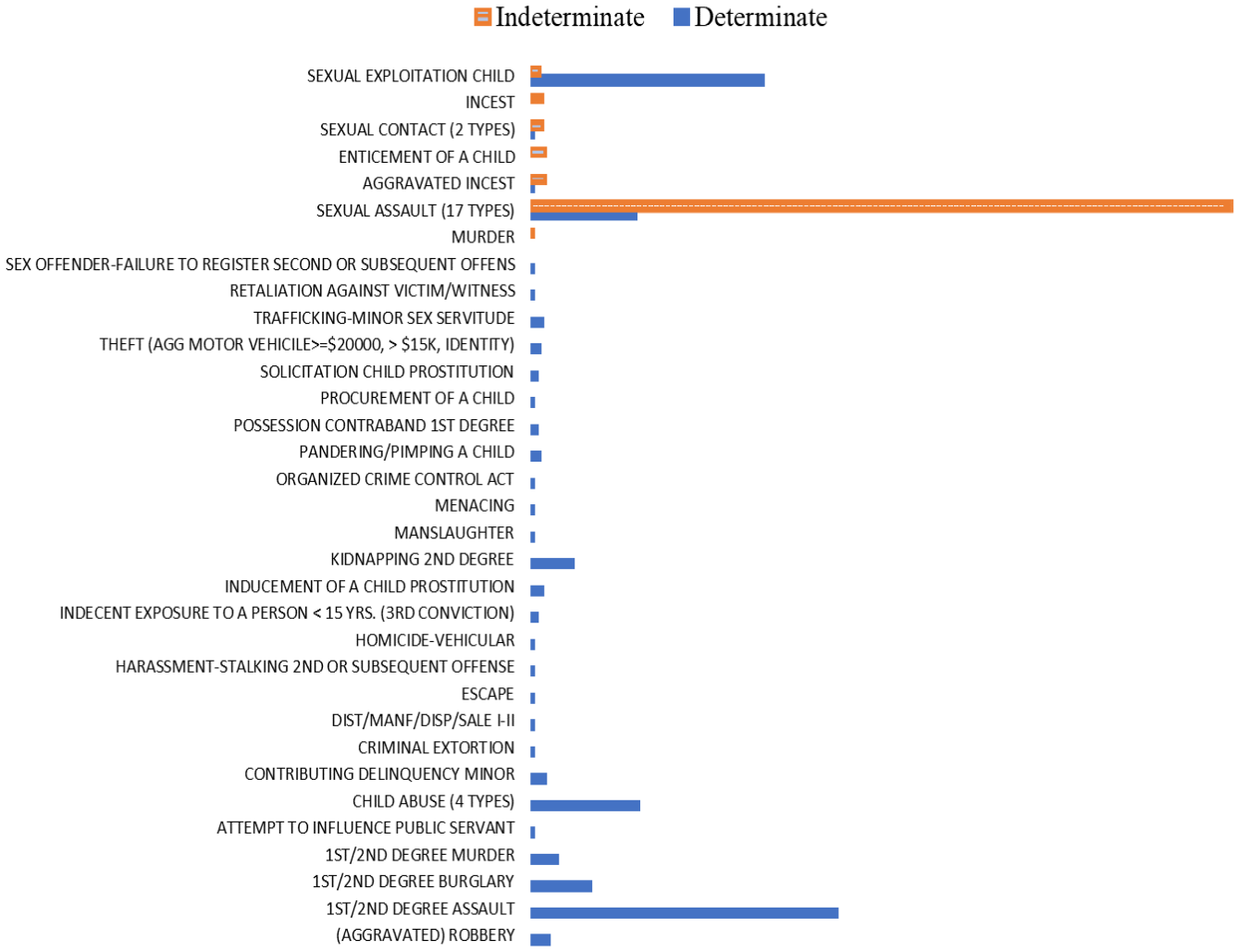
	Frequency	Percent
0-1 year	34	16
1-2 years	22	10.3
2-4 years	25	11.7
past 0-1 Year	38	17.8
past 1-2 years	49	23
past 2-4 years	36	16.9
past 4+ Years	9	4.2
Total	213	100

Figure 1 displays the most serious crime committed for determinately and indeterminately sentenced inmates on the GRL. Among the determinate inmates, there is a more varied spectrum of sexual and non-sexual crimes including other crimes of violence that may be a result of a plea bargain, while for the indeterminate inmates, 85% of the most serious crimes were sex crimes, including a majority (66%) involving sex crimes against children.[4]

[3] DOC is in the process of reviewing the GRL to ensure that all inmates are properly classified, as some have been placed in the wrong SXO Level Qualifier.

[4] This includes Sexual Assault on a Child, Sexual Assault on a Child by One in a Position of Trust, and Sexual Exploitation of a Child as the three most common sex crime types against children.

Figure 1. Major Crime Types for Indeterminate and Determinate Inmates

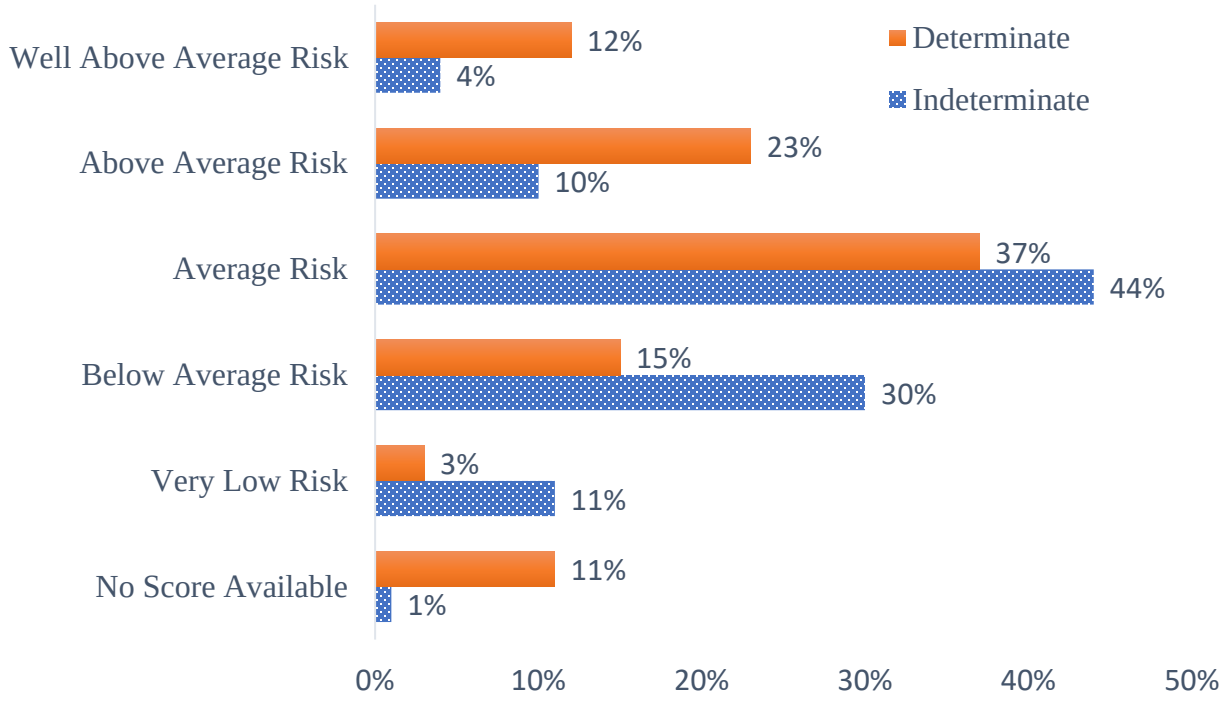


Inmates on the GRL have been classified as to their risk for future sexual offense recidivism based on scoring from the Static 99-R,[5] a validated risk assessment instrument. Figure 2 shows the aggregate risk levels for the 618 inmates comparing the 261 indeterminate and 357 determinate inmates on the GRL. Approximately 4% of indeterminate inmates were well-above average risk and 10% were above-average risk, as compared to 12% and 23% respectively for the determinate inmates. On the other end of the risk spectrum, 30% of the indeterminate inmates were below-average risk and 11% were very low risk, as compared to 15% and 3%

[5] The Static 99-R is one of the actuarial risk assessment tools recommended by the SOMB for measuring risk of re-offense and readiness for treatment with adult males with a history of sexual offending who are at least 18 year of age. For other details, please see https://saarna.org/static-99/.

respectively for the determinate inmates. Finally, 44% of indeterminate clients were average risk compared to 37% of determinate inmates.

Figure 2. Determinate And Indeterminate By Static 99 Risk Level



There are limitations related to the risk assessment data, as this does not include dynamic risk information and these inmates have not had contact with SOTMP yet. Therefore, the true risk for these inmates may be different than that reported here.

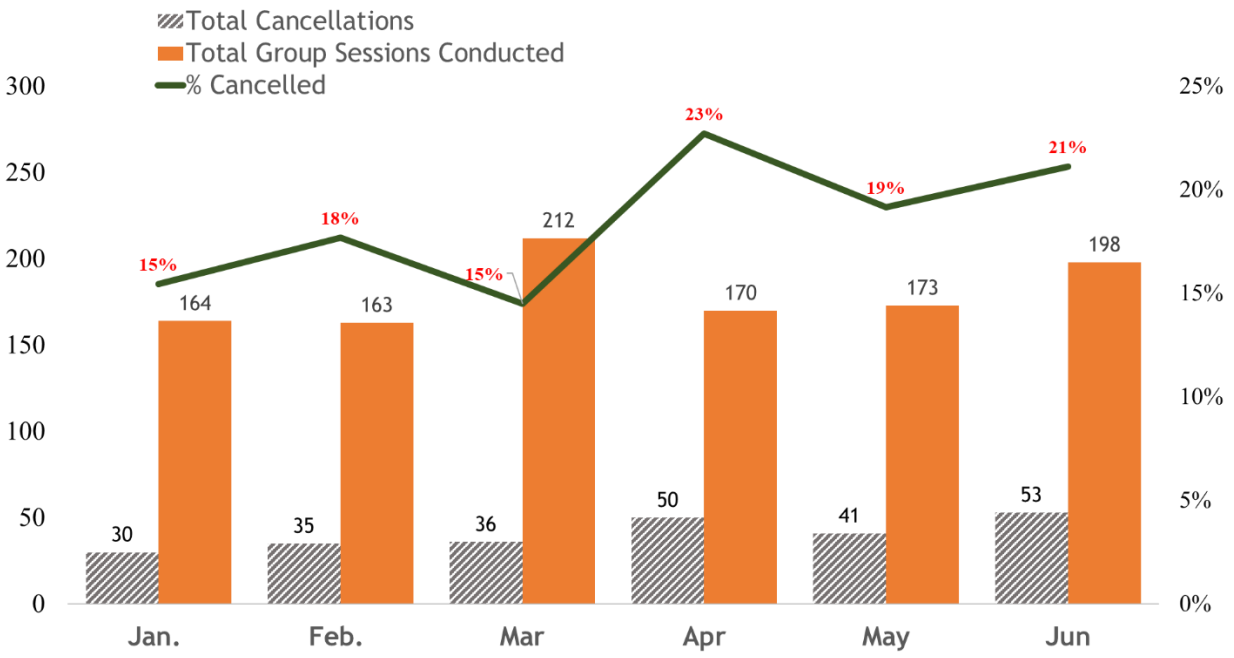
Overall, data for the 618 inmates on the GRL indicates that 213 inmates are ready for treatment and have had no prior opportunity at treatment in SOTMP. Of these 213, 62% are past PED. A profile of the indeterminately sentenced offenders on the GRL suggests their primary and most severe crime type is a sex crime, typically involving children, and they are most likely to present with an average static risk level.

Frequency of SOTMP Groups Including Group Cancellations

Data provided was broken down by frequency of groups conducted and cancelations by DOC facility and SOTMP Tracks[6] in weekly, monthly, quarterly and half-year formats. The frequency data for SOTMP groups conducted and canceled are very detailed and allow for analysis by facility or Track.

Figure 3 shows the total number of monthly SOTMP groups conducted and canceled in the first half of calendar year 2023. The cancelation rate is the percentage of canceled groups compared to the total number of scheduled groups. There was a slightly upward trend in the cancelation rate from 15% in January 2023 to 21% in June 2023.

Figure 3. Total SOTMP Group Sessions Conducted, Cancelled and % Cancelled in First Half of 2023



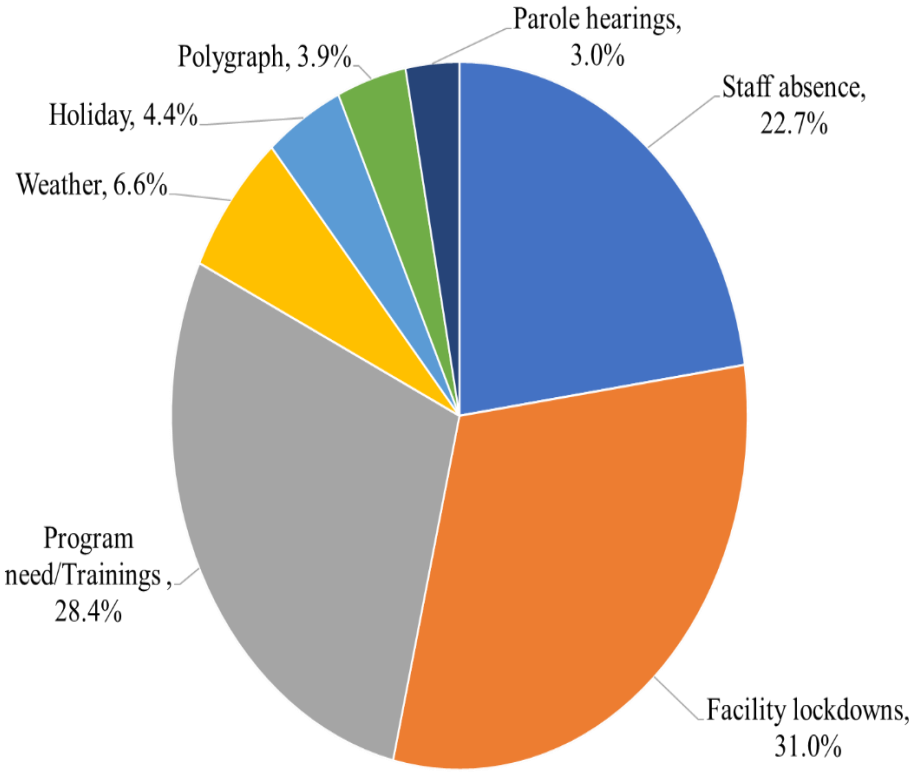
DOC data provided the reasons for SOTMP group treatment cancelations,[7] as displayed in Figure 4, including:

[6] Track I Groups, Track II Entry Groups, Transition/ARMS Groups, Maintenance Groups, Modified - Track I Groups, and Additional Groups

[7] It should also be noted that SOTMP clients attend group more frequently than community-based treatment programs and therefore, missing one of multiple groups during a given week may not cause significant delay in treatment progress.

- 31% of cancelations were due to facility lockdown or need. These were cancelations due to a lockdown, modified operations, or any additional services needed per the facilities request.
- 28.4% of cancelations were due to program need/training. These are cancelations due to offense specific training, DOC training, or SOTMP specific meetings.
- 22.7% of cancelations were due to staff absence. These are cancelations due to staff sickness, injuries, and other approved absences.
- 6.6% were due to weather related closures.
- 4.4% of cancelations were due to holiday closure.
- 3.9% were due to proctoring polygraph examinations.
- 3% of cancelations were due to Parole Board hearing

Figure 4. Reasons for SOTMP Treatment Cancellations



SOTMP Track by DOC Facility

Facility	**Treatment Offered**
Centennial Correctional Facility (CCF)	Track III treatment
Colorado Territorial Correctional Facility (CTCF)	All tracks for IDD/DD/Medical needs clients. They also assist with the mental health program when needed
Denver Complex (DWCF/DRDC)	Offers treatment for women, and Track II and III for a small group of clients. The Denver Complex also completes all intakes and participation assessments
Fremont Correctional Facility (FCF)	Provides Track I and II treatment as well as covers all crisis, intakes, restrictive housing, telehealth support for MH, and Psych Clinic for the Mental Health Program
San Carlos Correctional Facility (SCCF)	Provides all Tracks of treatment to those who are seriously mentally ill. The clinician that provides these services splits their time between 3 facilities providing offense specific treatment
Youthful Offender Services (YOS)	Provides offense specific treatment to youthful offenders who are convicted as adults. The clinical that provides these services splits their time between 3 facilities providing offense specific treatment

SOTMP Staffing and Vacancies

Data provided by the DOC included the names of all SOMB approved providers employed by or contracting with the DOC, the amount of time each provider or contractor has been working with the DOC, and at which location each provider or contractor is providing services each month, as of July 10, 2023. The data also includes staff member classification, working title, position number, name, employee number, date of hire, and their SOMB listing by primary facility where the staff member works. Finally, the DOC provided data on the number of SOTMP vacancies as of June 30, 2023. It should be noted that current SOTMP sex offender therapists have typically been in their positions for 5-7 years on average, indicating a very seasoned staff.

There is currently a 53% vacancy rate for SOTMP staff with 32 vacancies and 28 filled positions. The 28 filled positions include 12 therapists, 5 facility coordinators, 5 staff who provide other services for SOTMP, 2 administrative assistants, 2 evaluators, 1 SOTMP trainer, and 1 program administrator. It is important to note that all facility coordinators, evaluators, and trainers also provide offense-specific treatment in addition to their assigned duties. As shown in Table 3,

some of the DOC positions have been vacant for more than seven years. More specifically, 90% of the vacant positions were therapist positions.

Table 3. Staff Filled/Vacated by Positions

Classification	Working Title	Vacant Positions	Current Filled Positions	% Filled	Average Year in Current Position
ADMINISTRATIVE ASSISTANT III	ADMINISTRATIVE ASSISTANT	1	2	67%	3.3
HEALTH PROFESSIONAL I	MENTAL HEALTH PROFESSIONAL	-	1	100%	0.2
HEALTH PROFESSIONAL II	SEX OFFENDER THERAPIST	11	7	39%	6.9
HEALTH PROFESSIONAL IV	SOTMP QUALITY ASSURANCE COORDINATOR/SOTMP TRAINER	-	2	100%	15.6
HEALTH PROFESSIONAL VI	SOTMP PROGRAM ADMINISTRATOR	-	1	100%	6.7
PSYCHOLOGIST CANDIDATE	SEX OFFENDER THERAPIST	1	1	50%	0.7
PSYCHOLOGIST I	PSYCHOLOGIST	1	1	50%	5
SOCIAL WORKER/COUNSELOR I	SEX OFFENDER (FAMILY) THERAPIST/COMMUNITY LIAISON	2	-	0%	-
SOCIAL WORKER/COUNSELOR III	SEX OFFENDER FAMILY THERAPIST	15	8	35%	5.6
SOCIAL WORKER/COUNSELOR IV	SOTMP MENTAL HEALTH COORDINATOR	1	5	83%	6.8
Total		32	28	-	-

The DOC provided data related to recruitment efforts it has undertaken to address the staffing issues. These have included the following:

- College and university career fairs both in- and out-of-state at local community events and military bases; monthly virtual clinical fast track hiring events nationwide; and positions posted on handshake (utilized by most Colorado university students), and on Connecting Colorado (Colorado's unemployment network website)
- Annual conference booth at the SOMB conference
- Social media marketing
- Television commercials and digital search advertisements in Colorado, Wyoming, and New Mexico
- Advertisements at the Broadmoor World Arena

- Recruitment flyers emailed to licensed recipients through the Department of Regulatory Agencies (DORA)
- Hiring bonuses/incentives have been promoted over the last five years
- Salary adjustments to become more competitive
- Attending the Colorado State Fair in August 2023 for 11 days to provide clinical brochures

Overall, staffing is a significant issue for SOTMP. While they have an experienced staff with many who have worked for DOC for a long time, there are a number of vacancies the DOC has been unable to fill. The DOC has taken a number of proactive steps to improve staffing but continues to have trouble filling staff positions.

Data on Admissions

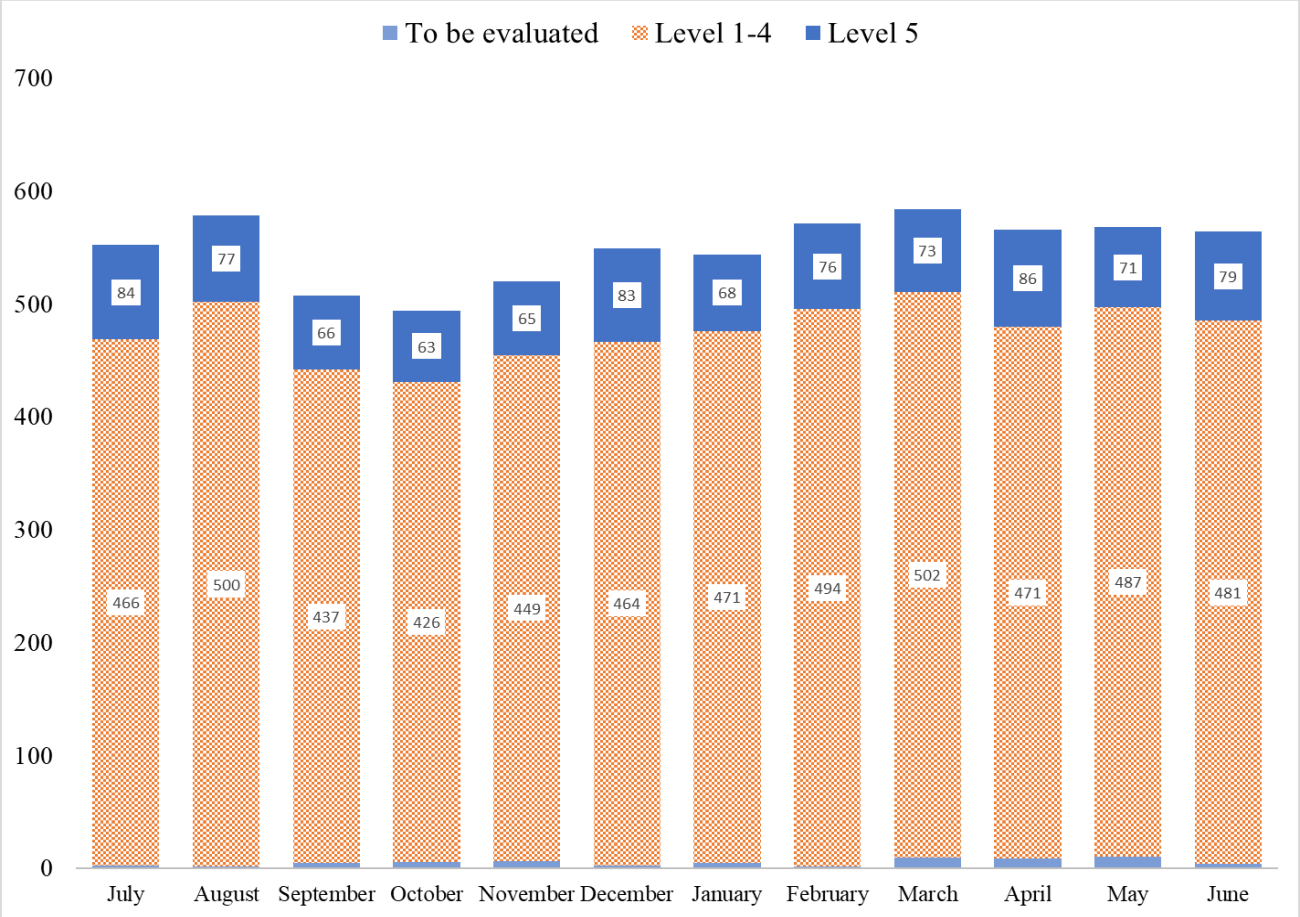
The DOC provided data on admissions and the current census of inmates in SOTMP. Figure 5 shows the monthly Sex Offender Admissions by SXO Levels in Fiscal Year (FY) 2023. Of the FY 2023 admissions, 10-15% (about 74 inmates on average) monthly were inmates classified as S5 who will ultimately need to be placed on the GRL, while over 80% were classified as S1-S4. This demonstrates the continued and anticipated need for the SOTMP as the GRL continues to grow steadily based on new admissions.

Currently, there are 3,522 S5 inmates at the DOC, including 1,437 with determinate sentences and 2,085 with indeterminate sentences. The sheer number of inmates creates a significant challenge for the DOC and SOTMP, as well as other stakeholders in the criminal justice system. Data provided by the DOC indicated that a number of inmates eligible for release, either on parole or to community corrections, often are unable to be released. There are a number of reasons why an inmate may not be accepted into community corrections or placed on parole, including the lack of access to treatment for indeterminate inmates who have reached their initial parole release eligibility date.[8] Certain community corrections programs have specialty sex offense beds and have accepted inmates into their programs, but 88 inmates who applied for community corrections for placement in the year prior to August 31, 2023 were denied placement.[9] In addition, 80 of the 217 inmates participating in SOTMP have met the criteria for progressing in treatment and are currently awaiting parole in the maintenance phase. Of these 80, seven were granted parole, while some of the remaining were not paroled by the Parole Board based on a number of factors including being deferred, not having met criteria when they saw the Parole Board or needing to see the Full Board for a decision. In addition, some inmates may have been granted Conditional Discretionary Release (CDR) status but remain in

[8] Please note that indeterminately sentenced inmates who have not entered into SOTMP are not eligible for community corrections, and some of these denials may be due to the inmate not having participated in treatment.
[9] Note that information on the reason for denial was not available, and this could be an area of further study.

the institution awaiting completion of required conditions, such as finishing treatment and an approved plan.

Figure 5. Monthly Sex Offender Admissions by SXO Levels in FY 2023



Additional Data Request for Probationers with a Sex Offense Conviction Revoked to Prison

Based on a request from the Work Group to review possible mitigating factors for inmates past their PED, data was requested from State Judicial on all of those who were on probation for a sex crime and were subject to a revocation to prison between November 1, 1998, and July 31, 2023. This included both indeterminate and determinate sentenced offenders. To link probation data with the DOC data, personal identifying information was requested as the DOC does not have access to the probation case identifiers in their database. The probation revocation data was then matched to the DOC GRL data to identify the numbers of those on the GRL who had a prior probation revocation.

Table 4 provides an overview of 3,123 revocations received from State Judicial on probationers with a felony sex offense who have been revoked and resentenced to DOC from November 1, 1998, to July 31, 2023. As shown in Table 4, 708 (22.6%) of the 3,123 cases were indeterminately sentenced offenders.[10] Further as shown in Table 5, of the 618 inmates on the GRL, 82 had probation revocation records resulting in a sentence to DOC, and of these 44 were indeterminate inmates and 38 were determinate inmates. More specifically related to the 44 indeterminate inmates, 27 (62%) of them had their probation revoked due to a technical violation, 10 (23%) were revoked due to other reasons, 5 were revoked due to new felony offense, 1 was revoked due to new misdemeanor offense, and 1 was revoked due to absconded, warrant outstanding (administrative closure).

Table 4. Probationers with a Felony Sex Offense that have been revoked and resentenced to DOC (11/1/1998 to 7/31/2023)

Term Type	Description	Total Cases	LSX Cases	Lifetime Cases on GRL
AWO	Absconded, Warrant Outstanding (Administrative Closure)	140	30	1
DEPO	Deported (Closed due to confirmed deportation, warrant is typically issued)	9	0	-
OTHER	Includes: concurrent sentences with other agencies, data entry errors, and other case, sentence, or data anomalies	597	79	10
RNOF	Revoked, New Offense felony	304	77	5
RNOM	Revoked, New Offense misdemeanor	143	26	1
RTEC	Revoked, Technical Violations	1930	496	27
Grand Total		3123	708	44

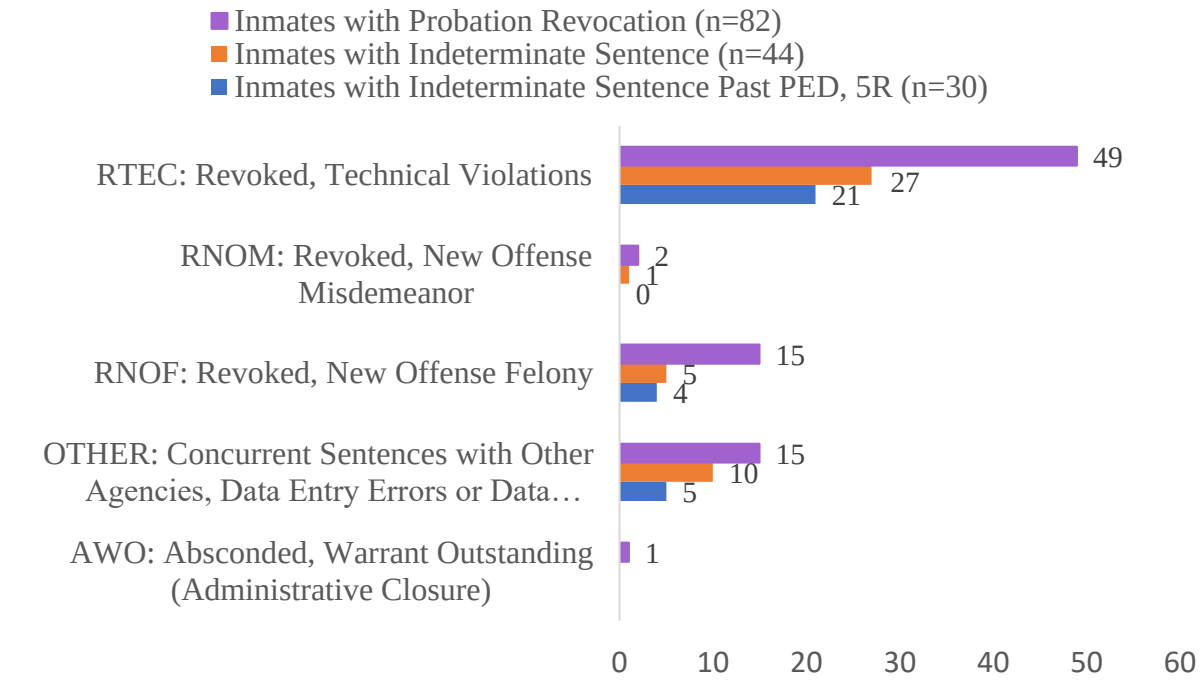
[10] An individual probationer could have multiple cases.

Table 5. Sentencing Type by SXO Level Qualifier for Inmates with Probation Revocation History (in red)

Sentencing Type	5ARMs*	5P**-Pending	5R-Ready	Total
Indeterminate	2 (2)	36 (9)	223 (33)	261 (44)
Determinate	0	4	353 (38)	357 (38)
Total	2 (2)	40 (9)	576 (71)	618 (82)

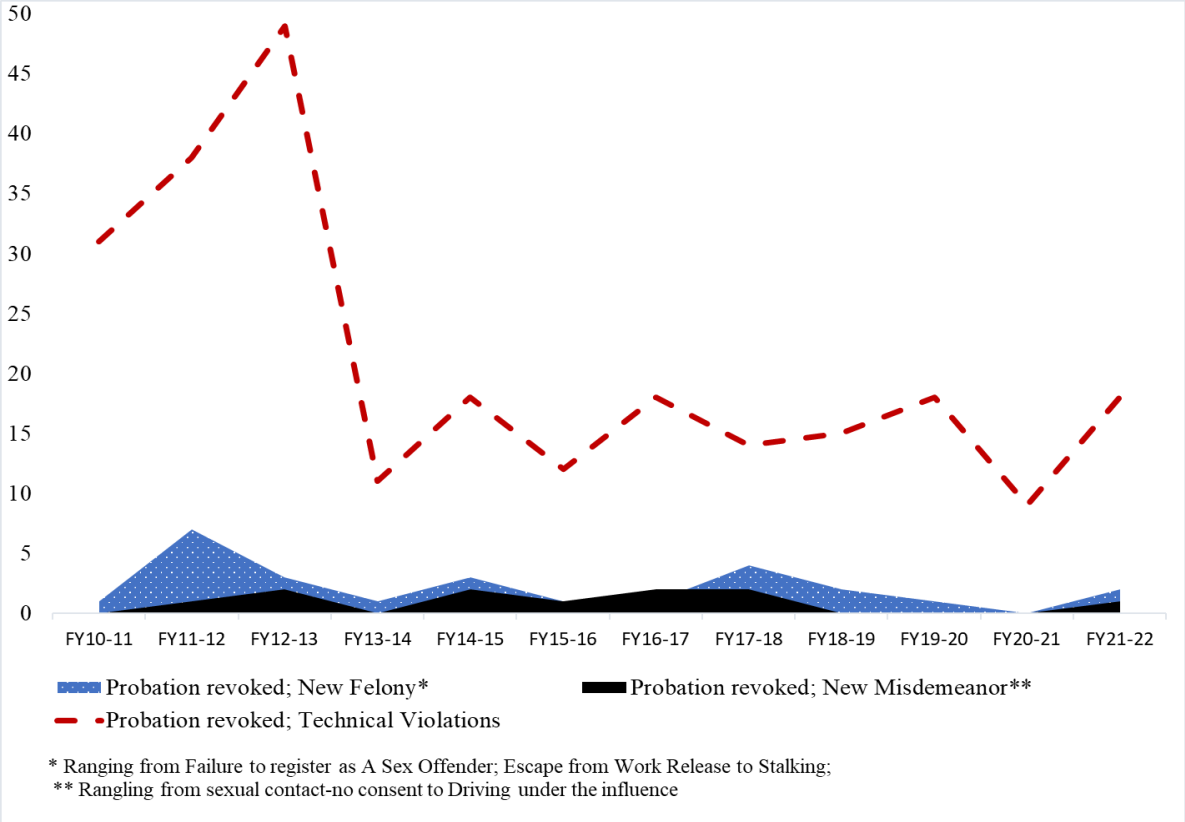
Figure 6 compares the probation revocation type among all 88 inmates who were matched with the DOC data, including the 30 inmates who were indeterminate 5R. Of the 132 5R inmates who are past PED, 30 inmates (23%) had an opportunity to receive treatment while under probation and were revoked and sentenced to the DOC.

Figure 6. Probation Termination Type



For comparison purposes, a summary of probation revocations from the Annual Lifetime Sex Offender Supervision Reports between FY 2010 and FY2022 were also reviewed. Figure 7 displays probation revocations reasons for lifetime sex offenders with Colorado Sex Offender Intensive Supervision Program (SOISP). Probation collects revocation data based on the termination, and as shown in Figure 7, technical violation was the most common reason for probation revocation.

Figure 7. Probation Revocations Reasons for Lifetime Sex Offenders with Colorado Sex Offender Intensive Supervision Program (SOISP)



In summary, many of those on the GRL, including 25% who are past PED, had at least one prior opportunity at treatment while on probation and were revoked and resentenced to DOC. This could be considered as part of their consideration of parole and also may mitigate the concern for some inmates being past PED. However, and of concern, the DOC has no way of knowing who has had prior probation and treatment due to the State Judicial and DOC databases not being compatible.

DOC Data on Community Supervision and Treatment Opportunities, Prior SOTMP Participation, and COPD History for Indeterminately Sentenced Inmates in DOC on the GRL and Past PED

Given the Work Group's interest in the 136[11] indeterminate inmates classified as 5R who are past their PED (as shown in Table 2), further review of these clients using the DOC data systems

[11] This number included 4 inmates who had a parole revocation due to some GRL data inconsistencies.

[6.] The Class I COPDs include assault on an offender, fighting, solicitation of staff, and unauthorized possession of a media device. Three inmates were convicted for them in 2023 with two of those inmates being placed in Close

were conducted to determine whether there were other factors that may be inhibiting their ability to participate in SOTMP.

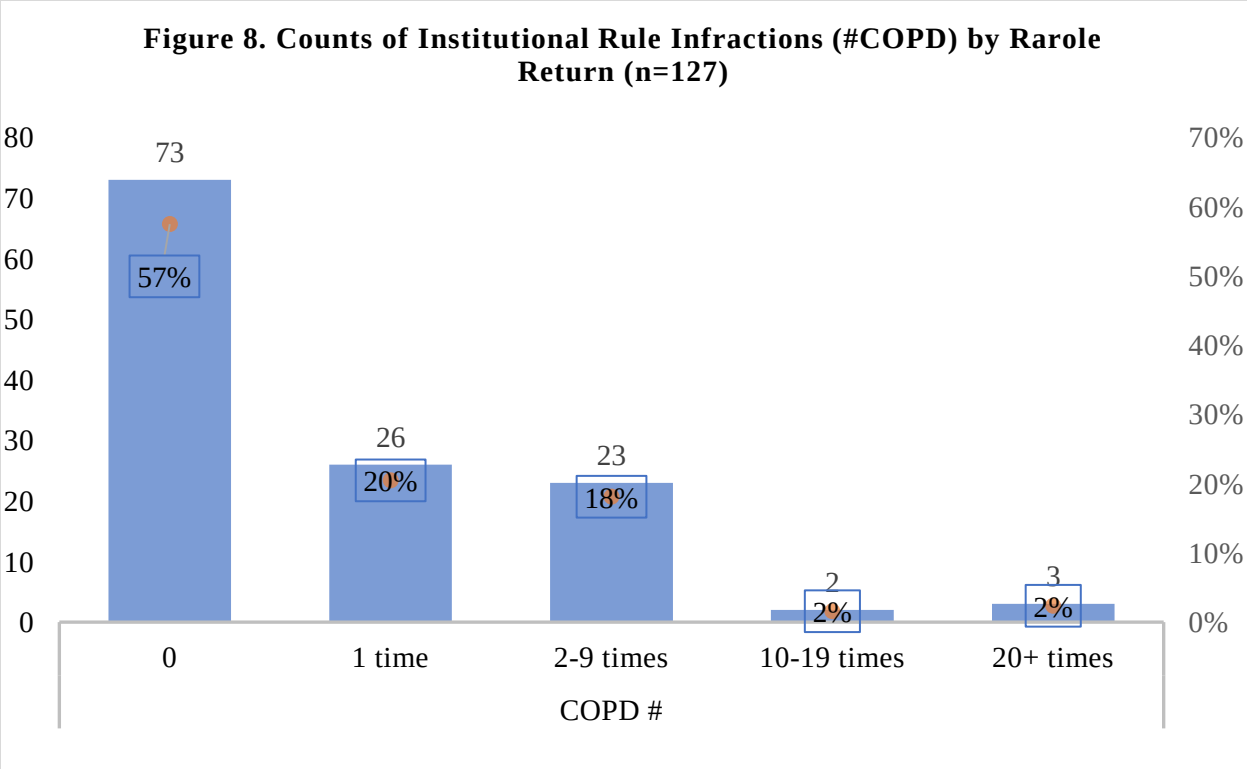
According to information pulled from DOCNET, CWISE and eOMIS for the 136 5R indeterminate inmates who are on the GRL and past PED as of July 31, 2023, 22% (n=30) had at least one opportunity for community-based supervision and treatment. These 30 inmates accounted for a total of 53 opportunities to complete probation and treatment successfully. Opportunities refer to the number of times a person was granted a deferred sentence, probation, or community corrections placement. If granted community corrections as part of a condition of probation, this was counted as one separate opportunity. These findings were consistent with the DOC data provided to the Work Group, as noted earlier.

Of the 136 inmates past their PED who are not currently assigned to SOTMP, there were five unsuccessful terminations from SOTMP (consisting of 3 individual inmates), while eight previously completed SOTMP but are now back on the GRL because of a parole revocation or are awaiting a favorable outcome from the Parole Board.

Of the 136 inmates past their PED and on the GRL, seven were parole returns including three who were on parole for a non-sex crime case when revoked and four who were on parole for a sexual offense when revoked. Of the four inmates revoked while on parole for a sexual offense, all four were enrolled in sex offense-specific treatment while on parole and two had completed SOTMP criteria prior to their parole. The four who were revoked had a total of 14 combined opportunities (pre, during and post-incarceration) to benefit from sex-offense specific treatment and are now in DOC awaiting an additional opportunity.

Of the 136 inmates, 62 (45.6%) have been convicted of institutional rule infractions (i.e., COPDs). They account for a total of 292 infractions with an average of 4.7 per inmate. In 2023, 7 inmates received Class I COPDs[6]. As shown in Figure 8, 73 (57%) had 0 COPDs, 26 (20%) had 1 COPD, 23 (18%) had 2-9 COPDs, 2 had 10-19 COPDs, and 3 had 20+ COPDs. The history of COPDs may impact the inmate's security risk level and subsequent facility placement, preventing them from accessing treatment in certain facilities.

custody and one in a Medium custody setting. The other Class I COPDs were received between 2016 and 2019. Four are in Medium custody settings and one is in Minimum Restrictive setting.



In summary, a number of the 5R indeterminate inmates currently on the GRL and past PED have a history of community-based treatment and supervision, had a prior opportunity in SOTMP treatment, or have COPDs. DOC can and should use this information to prioritize inmates for participation in DOC and can also consider prior treatment opportunities in the findings related to progressing in treatment.

DOC Data on History of Parole Revocation Based on a New Criminal Offense, and Those on the GRL who are Appealing Their Case

The DOC provided additional data for 187[12] inmates that allowed for a case-by-case analysis of appellate status, and crime(s) committed while on parole. Further analyses were conducted on these clients using the DOC and court data to determine whether there were other factors that may be inhibiting their ability to participate in SOTMP.

Of these 187 inmates, 108 (57%) of them had a current active appeal that may impact their treatment participation.[13] The DOC indicated that some inmates may inform them of their appeal, while others may not alert the DOC to the case status at the time of referral to the GRL.

[12] This data includes 22 inmates who had parole revocations and all inmates with indeterminate sentence on the GRL who were past PED as of August 30, 2023.

[13] Appeals can be for the conviction or the sentence, which may impact whether the inmate can talk about the crime of conviction.

In terms of those inmates under appeal, some may be unwilling to speak about the offense of conviction in treatment, while others may be unwilling to discuss the offense. Decisions on whether inmates whose cases are under appeal can participate in treatment are made on a case-by-case basis depending on the inmate's willingness or ability to discuss the offense of conviction in treatment.

Finally, among the 187 inmates, there were 22 total parole returns, which include 15 new felony offenses. Of these, three involved new felony child sex offenses and three involved a new violent or firearm offense.

Data Limitations

In terms of data limitations, the DOC is still cleaning the data regarding the GRL, but there were still some inconsistencies found in prior treatment and parole experiences for those on the GRL. In addition, State Judicial and the DOC data have different client identifiers requiring a hand comparison of the databases. State Judicial data should be interpreted with caution given the length of time since some cases were recorded and changes in termination code criteria, particularly within the other category. These codes were not reviewed further or verified and may represent different data requirements. Further, all data contained in this report is point in time data and does not demonstrate trends. Given the different data collection systems utilized by DOC and State Judicial, it is possible that some of those revoked from probation may have been under dual supervision with parole, or may also be counted in the parole revocation category due to a later stint on parole, leading to a possible double counting of the number of inmates who have previously been revoked from supervision. Finally, in terms of COPDs, all of the 136 5R inmates were looked up in DOCNET, however, the COPD data was not linked to deferrals of treatment opportunities because of access issues. Nonetheless, the multiple DOC datasets and the State Judicial dataset reviewed did appear to have consistent information once matched.

Summary and Conclusion

The DOC SOTMP does appear to lack sufficient resources to expedite participation in treatment for all of those who are approaching or past PED. In fact, of the 213 5R inmates eligible for treatment, 132 (62%) are past PED. There are multiple reasons for this problem including the volume of admissions, inability to fill staffing positions, and the high level of need present in some inmates on the GRL (i.e., COPDs and appeal status). In addition, some of these inmates have had prior opportunities to participate in treatment either in the community, while in prison, or both. This indicates both that they have not been denied an opportunity at treatment, and also that this information could be used as part of assessing progressing in treatment. However, this information may not be available to SOTMP staff due to database

access issues, and the inability of the DOC, the Parole Board, and State Judicial databases to have consistent client identifiers.

Those on the GRL present with a broad spectrum of risk and while many indeterminate inmates awaiting treatment present with average or below-average static risk, there is also a significant community and public safety concern given that these crimes often involve sexual assault of children and the fact that dynamic risk has not been calculated into the assessment as the inmates have not yet been seen in SOTMP. Therefore, these inmates may present with a significant treatment needs that may present a community safety interest.

The staff at SOTMP are attempting to clean up the GRL by limiting access to who can enter data for the list and are considering all factors in the inmate's status and place on the GRL. It is hoped that by better prioritizing 5R indeterminate inmates, those who are ready for treatment can access SOTMP in a timely fashion.

Finally, this data is point-in-time data and DOC would benefit from continuing to collect this data and track it over time. This would allow better monitoring of the status of treatment needs, and progress based on the current initiatives being implemented.

Section 3: SOMB/DOC Work Group Treatment Solution Options

The SOMB/DOC Treatment Solutions Work Group reviewed several treatment solution options. The Work Group did not reach sufficient consensus to formally recommend treatment solutions due to differing perspectives related to community safety, victim protection, and offender rehabilitative needs. As a result, the Work Group is sharing its review of these options and corresponding risks, electing to present all of the options reviewed rather than making recommendations. The Work Group recognizes that the ultimate decision related to these options lies with DOC and the Legislature. Therefore, each potential treatment solution option will be presented, along with specific barriers identified by the Work Group, as applicable, for future consideration by DOC and the Legislature. Finally, this report (see Appendix B) contains work by the State Board of Parole and SOMB regarding release guidelines for sex offenders with determinate sentences.

SOMB Standards

The Work Group reviewed the following SOMB Standards regarding the impact Standards revisions might have on the availability of treatment in DOC:

- Section 3.600 Treatment of Clients Within the Department of Corrections, and
- Section 4.000 Qualifications of Treatment Providers, Evaluators, and Polygraph Examiners Working with Sex Offenders.

The Work Group received information from DOC and the SOMB regarding the work to revise Section 3.600 regarding discharge status and continuity of care. The goal of the revision is to make the transition from SOTMP to community-based treatment more seamless. It was noted that treatment progress can be measured in SOTMP for Parole consideration, but ultimate successful completion of treatment can occur while on Parole and with a community-based provider, based on treatment that was completed in both settings.

Regarding Section 4.000, the Work Group discussed whether additional changes needed to be made to the provider qualifications to allow better recruitment of providers by DOC. No changes were recommended at this time, but the discussion will be ongoing.

In terms of barriers, the Work Group discussed the need to provide ongoing training and technical assistance to entities responsible for measuring progress in treatment including community-based treatment providers and the Parole Board, particularly once the Standards are revised. The SOMB can provide training and support to assist stakeholders with better understanding of what is expected by the Standards regarding DOC treatment, what constitutes

progress, and continuity of care to the community. There may still be some misunderstanding of these requirements, and further education may be helpful.

SOTMP Treatment Tracks/Curriculum/Administrative Regulations (ARs)

DOC has revised the tracks within the SOTMP and the treatment curriculum for each track. In addition, DOC has updated its Administrative Regulations (ARs) to coincide with these changes. The goal of the changes was to streamline treatment; have greater adherence to the Risk, Need, Responsivity (RNR) Principles; and ultimately, move lower risk clients more quickly through SOTMP. The hope is that by having a quicker time frame for treatment in Track 1 for lower risk clients, more of those on the Global Referral List (GRL) will be able to access treatment. However, as always, progress in treatment is contingent upon the client's motivation.

The treatment curriculum developed by the SOTMP is consistent with the Standards and implements evidence-based practices (EBPs) to the extent possible in the Program. One consideration to move clients more quickly through the process at DOC is the consideration of prior community-based treatment before the client was placed in DOC as contributing to what constitutes treatment progress for Parole Board decision-making on eligibility for release. Overall, the Work Group appreciated the changes made by DOC and is hopeful this will help with the treatment backlog.

In terms of barriers, the need for mental health sex-offense specific evaluations including risk assessment is needed to make decisions regarding client readiness and progress for release consideration. In particular, both static and dynamic risk measures are needed to best determine community risk and suitability for release. DOC is looking at how to better utilize resources to meet these needs.

Finally, while these changes are anticipated to lead to a greater number of clients having access to treatment, it will take time to measure progress in this regard. The Work Group recognized the need to give DOC time to implement the changes, and measure progress. Further reporting by DOC at a later date might be helpful in that regard.

Use of Outside Providers

The Work Group explored the option of utilizing community-based providers to provide treatment and evaluation services, either in-person or through telehealth methodologies. Utilizing these providers on a contracted or client self-pay basis might allow additional service provision that cannot currently be provided by DOC staff. In particular, this would allow clients who have the ability to pay to seek out their own services to be delivered while they are in prison. Finally, telehealth can provide access to treatment resources in the Denver metro area as providers may be reluctant to travel to prisons to provide such services.

In terms of barriers to providing non-DOC treatment and evaluation services to clients in prison, the staffing limitations that impact the inability to provide more treatment services would also impact the use of non-DOC services. Any services provided to a client in DOC would require staff involvement in terms of security and oversight, as well as awareness of the services by DOC staff to monitor client mental health needs and safety. In fact, services provided on an individual client basis may actually make for a less efficient use of DOC resources due to the 1:1 staffing needs that would be required to provide such services, as compared to a group therapy that can be provided by a smaller number of staff in DOC.

There are also significant technology and confidentiality concerns that would be presented by the use of telehealth. Clients in facilities with treatment services are often housed together and have some level of anonymity from the general population. To provide telehealth or other services across all facilities could jeopardize the safety of the client. In addition, many facilities do not have secure internet connections or confidential locations to participate in telehealth. While the technology is evolving, it does not appear to sufficient to deliver large-scale services in a prison setting. Finally, there are limited community resources to meet DOC needs, which may lead to scarcity and shortage for community clients who present a more immediate risk to the community. Community based providers may also not wish to provide DOC services due to having sufficient community clientele or being uncomfortable with the prison setting. Finally, there may also be vetting requirements for providers who are providing services to clients in prison that may be an impediment for some, including needing to attend an in-person training academy and the requirement to use the SOTMP curriculum.

Use of Peer Mentors to Support Treatment

Existing and former clients from the SOTMP can be utilized to support treatment progress for those currently in the program. DOC currently has programming to allow for this and sees the benefit of supporting clients through the use of peers. This can assist clients with making better progress in treatment and can prevent dropouts and non-compliant discharges. An option for the use of a self-paced curriculum for inmates awaiting treatment was discussed, and peer mentors may be able to provide support for such a curriculum. The Work group appreciated the work DOC is doing to utilize peer mentors.

In terms of barriers, mentors are not able to provide treatment services themselves due to limitations on who can provide treatment based on the Mental Health Practice Act regulations and SOMB Standards. Any such services would not qualify as suitable for consideration in Parole decision-making per statute. There are no current options to use peer mentors in lieu of approved providers, and this would be problematic on both regulatory and ethical levels. However, nothing prevents the use of peer mentors in support of treatment provided by licensed and approved providers.

Increasing DOC Staff Resources

DOC has experienced significant challenges related to staffing in general, and in SOTMP more specifically. Working in prison settings is difficult and the locations of the facilities are not places where many professionals want to live and work. DOC has taken a number of steps to increase its staffing resources including an active staff recruitment campaign. They have done an excellent job of trying to reach job seekers, and interest prospective in a career in corrections. They have also offered support for employee retention and maintain a number of long-term staff members. This institutional knowledge is invaluable for the program.

DOC has cited the changes in the SOMB provider approval process as being helpful in hiring clinicians and having them become approved providers almost immediately. DOC has not identified any specific changes to recommend regarding the provider approval process.

In terms of barriers to hiring staff members, as noted above, it is difficult to find clinicians in rural areas and even more difficult to interest them in working in a prison setting. Clients in prison are some of the highest risk offenders and can present safety concerns. Working for the prison requires a number of steps in the approval process which can also be challenging. The Work Group understands this need and was impressed with the overall work being done by DOC to hire new clinicians. Finally, the SOMB is currently working on communication messaging and processes to enhance provider recruitment in general and will specifically work with DOC to try to attract additional staff.

Parole Board Decision Making

The Parole Board is the entity responsible for making the decision to release a client from DOC if they have adequately progressed in treatment, pursuant to §18-1.3-1006(1)(a), C.R.S. Parole Board members have a difficult job and need as much information as possible to make informed decisions. The SOTMP provides written summaries on client progress in treatment and is available to provide more in-depth clinical impressions and answer specific questions at hearings. The Board has also sought to educate itself about the risk posed by clients returning to the community, and what information is helpful in terms of risk assessment and treatment progress, among other things, to make such a decision. It is recognized that making a decision to release a client on parole must weigh out the balance between client rehabilitation interests and community safety and victim protection, including the statutorily prescribed requirement to consider the risk posed by the client and readiness of the client for community placement.

In terms of barriers for the Parole Board, public safety and community challenges, in terms of the actual or perceived risk posed by the client, to the decision to release a client the community can inhibit the ability of the Parole Board to make a decision based on clinical evidence and other additional criteria listed in §17-22.5-404(4)(a) C.R.S.

The Parole Board also needs to be able to make a judgment regarding ‘progressing’ in treatment. This criteria is not completely clear in statute and further guidance might be helpful

to address these concerns. As a result, the Parole Board defaults to completion of all SOTMP criteria in making this decision. The inability of the Corrections and Judicial databases to talk to each other is also a barrier in that DOC does not have access to probation and treatment information from the inmate's time in the community. There could also be some consideration by the Colorado State Legislature to using a different term than 'progressing', keeping in mind that clients leaving treatment have not successfully completed sex offense-specific treatment in general, even if they have completed the SOTMP. Language related to risk and treatment progress might be helpful in this regard. Finally, using the term 'progressing' may inhibit parole for those who have completed treatment but are awaiting a parole decision. Operationalizing this term may be helpful. The SOMB and DOC could work to include an operational definition of 'progressing' in treatment in the DOC treatment section of the Standards, or in the Lifetime Supervision Criteria, or both.

Wait List Transparency

One of the challenges in managing those on the Global Referral List (GRL) is for the prospective client to know where they are on the list. Given that the list is constantly changing based on new admissions to DOC, it is difficult to provide specific information, which can lead to a loss of hope for the prospective client. The Work Group talked about different ways to provide information to clients about their general place on the waitlist without, on the other hand, demoralizing them when they move down on the list due to new admissions or other considerations.

In terms of barriers, awareness of status on the GRL can both provide and lead to a loss of hope due to its ever-changing nature. DOC is looking at ways to provide general information about status on the list without misleading prospective clients or their loved ones.

Lifetime Supervision Act

The terms of the Lifetime Supervision Act require participation and progression in SOTMP before parole can be granted. Given that there are more treatment resources available in the community than in DOC, some clients could be successfully treated in the community. However, the DOC treatment requirement prohibits that. The Work Group discussed whether it was feasible for clients assessed at evaluation as low risk to be treated in the community, which would require a statutory change.

There are a number of barriers to providing community treatment for untreated clients. This presents actual or perceived significant public safety, victim protection, and community challenges. It is also noted that risk is not static, and a client deemed low risk for purposes of community treatment may not remain low risk, and risk is not as accurately assessed at the time of evaluation. This would also require an updated evaluation to determine current risk prior to such a recommendation, where there is a lack of resources to do so, as some clients come to the DOC without having had an evaluation at the time of sentencing. Finally, the Work

Group discussed whether there are enough community providers to fill the treatment needs of those in prison.

The Work Group discussed these challenges but did not make a formal recommendation as this is a statutory and legislative issue rather than a DOC or SOMB issue. The Work Group recognizes the difficulties involved in such a decision.

Summary and Conclusion

In summary, this report has documented an issue related to some individuals in prison on a lifetime sentence not being able to access treatment prior to their PED. DOC has already taken a number of steps to address these concerns within existing resources and continues to try to develop additional resources. The steps taken are expected to show measurable progress on this issue. The SOMB and DOC continue to work on this issue and provide as much support as possible to DOC and those in need of treatment. This report highlights some of the steps taken, but remaining work needs to be done. The SOMB and DOC are committed to continuing to work on this issue and look forward to working with the Legislature as well.

APPENDIX A: GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Abbreviation	Full Name Description
ARMs	Advanced Risk Management
CWISE	Colorado Web-Based Integrated Support Environment
COPD	Code of Penal Discipline
CDOC	Department of Corrections (CDOC)
CDR	Conditional Discretionary Release
DOCNET	Department of Corrections Intranet
DRDC	Denver Reception and Diagnostic Center
eOMIS	Electronic Offender Management Information System
GRL	Global Referral List
WIP	Life with parole
LSX	Lifetime sex offender
MXL	Indeterminate minimum to life maximum
PED	Parole Eligibility Date
SOISP	Sex Offender Intensive Supervision Program
SOMB	Sex Offender Management Board
SOTMP	Sex Offender Treatment and Monitoring Program

APPENDIX B: STATE BAORD OF PAROLE AND SOMB GUIDELINES FOR DETERMINATE SENTENCES

Introduction

Pursuant to SB 23-164 the Colorado Sex Offender Management Board is required to collaborate with the Colorado State Board of Parole (aka - Board) to create a structured decision-making tool for sex offenders with determinant sentences. Specifically, the tool shall meet the following requirements:

- Incorporate Risk-Need-Responsivity or other evidence-based correctional principles
- Consider the factors outlined in §17-22.5-404(4)(a).
- Must *not* include the offender's inability to access treatment during incarceration as a basis for not granting discretionary parole.
- The instrument is required to be automated and data is to be reported annually via the Office of Research and Statistics annual report, *Analysis of the Colorado State Board of Parole Decisions*.[14]

Additionally, when developing the instrument, the Board shall consider:

- Static and dynamic risk factors and whether treatment, while incarcerated, will significantly reduce risk before release.
- The most effective use of limited treatment resources within the Colorado Department of Corrections.
- The availability or lack of availability of treatment during incarceration for offenders with determinate sentences who might otherwise be eligible for release pursuant §17-22.5-404(4)(a) (See Attachment A).
- The efficacy of treatment as a condition of community supervision on parole.

Limitations

The Colorado Department of Corrections is transitioning its data management systems. The Governor's Office of Information Technology (OIT) is aware of the automation requirement to allow for data tracking. Currently, there is no estimate for when the automation will occur.

This structured decision-making instrument is separated into three sections based on risk. The sections are delineated as follows:

[14] *Analysis of the Colorado State Board of Parole Decisions* is required pursuant to §17-22.5-404, C.R.S.

VASOR SOTIPS Scoring	Static-99 R & Stable Scoring
Very Low - Moderate Low	Very Low Risk-Below Average Risk
Moderate to Moderate - High	Average Risk
High- Risk	Above Average Risk, High Risk and Well Above Average Risk

This score is the combined static and dynamic risk score as documented in the sex offense-specific evaluation. When that is unavailable to the parole board member, the Static-99R score calculated by the Colorado Department of Corrections (CDOC) staff will be utilized. However, it is important to note that this score assesses risk only based on static factors, resulting in a partial overall picture of risk. Dynamic factors significantly impact risk and along with protective factors are surveyed in the Parole Application Hearing.

Sex offense-specific actuarial risk assessments vary but typically assess the following domains when predicting risk for a sexual offense:

- Age at community placement
- Male victim(s)
- Relationship to the Victim(s)
- Offense-related sexual fixation
- Adjunct treatment needs
- Time employed or in school
- Sex offender treatment history
- Ever lived with an intimate partner
- Criminal history to include sexual and non-sexual convictions, performance on supervision and number of sentencing dates

People with No Sex Offense on the Current Mittimus: There are people incarcerated for non-sex crimes who we have chosen to exempt from this tool. All persons exempt from this tool are incarcerated for a non-sex crime and not under the purview of a supervising authority for a sex crime. The exempt groups include:

- Adults convicted of a sex offense over 10 years ago and who are no longer under the purview of a supervising authority. This is consistent with research that finds that for adults, the overall risk

for sexual recidivism substantially decreases the longer individuals remain sex offense-free in the community. [15]

- Adults in CDOC who were adjudicated when a teen or pre-teen. There is a large body of research documenting that sexual offending as a juvenile does not necessarily transcend into adulthood. The contributing factors for juvenile offending behavior differ greatly from that of sexual offending in adulthood.[16]

In these above instances, board members will concentrate on the governing crime, the current risk and criminogenic needs as well as the additional factors required to be considered pursuant to §17-22.5-404, C.R.S.[17] When deemed necessary, board members can require a sex offense-specific evaluation and completion of any recommended treatment as a requirement of parole.

Specific Factors Included in the Structured Decision-Making Instrument

Sex Offense-Specific Risk Assessment Scores: As discussed above, this score is the combined static and dynamic risk score as documented in the most recent sex offense-specific evaluation. When that is unavailable to the parole board member, the Static-99R score calculated by the Colorado Department of Corrections (CDOC) staff will be utilized. However, it is important to note that this score assesses risk only based on static factors, resulting in a partial overall picture of risk. Dynamic factors significantly impact risk and along with protective factors are assessed during the interview with the offender.

There are no known validated, normed assessments for female sex offenders. Board members will be referring to the overall risk as documented in the sex offense-specific evaluation to determine where in the decision-making instrument to place the offender.

Colorado Actuarial Risk Assessment Scale (CARAS): The CARAS is a validated risk assessment created by the Office of Research and Statistics pursuant to §17-22.5-404.2(a), C.R.S. that predicts recidivism for adult men and women. This score is calculated at the time the person enters CDOC and annually thereafter.[18] The CARAS score is based on the following items:

- The number of current conviction charges associated with the current incarceration.
- The number of prior revocations.

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[15] Thornton, D., Hanson, R. K., Kelley, S. M., & Mundt, J. C. (2021). Estimating lifetime and residual risk for individuals who remain sexual offense free in the community: Practical applications. Sexual Abuse, 33(1), 3-33. https://doi.org/10.1177/1079063219871573. Hanson, R. K., Harris, A. J., Helmus, L., & Thornton, D. (2014). High-risk sex offenders may not be high risk forever. Journal of Interpersonal Violence, 29(15), 2792-2813. https://doi.org/10.1177/0886260514526062.

[16] Caldwell, M. F. (2016). Quantifying the decline in juvenile sexual recidivism rates. Psychology, Public Policy, & Law, 22(4), 414-426; Lobanov-Rostovsky, C. (2015). Recidivism of juveniles who commit sexual offenses. SOMAPI Research Brief: US Department of Justice, Office of Justice Programs; Lussier, P. McCuish, E., & Corrado, R. R. (2015). The adolescence-adulthood transition and desistance from crime: Examining the underlying structure of desistance. Journal of Life Course Criminology, 1, 87-117; Lussier, P., Van Den Berg, C., Bijleveld, C., & Hendriks, J. (2012). A developmental taxonomy of juvenile sex offenders for theory, research, and prevention: The adolescent-limited and high-rate slow desister. Criminal Justice & Behavior, 39(12), 1559-1581; Ozkan, T., Clipper, S. J., Piquero, A. R., Baglivio, M., & Wolff, K. (2020). Predicting sexual recidivism. Sexual Abuse: A Journal of Research & Treatment, 32(4), 375-399; Schwartz-Mette, Righthand, J. H., Dore, G., & Huff, R. (2020). Long-term predictive validity of the Juvenile Sex Offender Assessment Protocol-II: Research and practice implications. Sexual Abuse: A Journal of Research & Treatment, 32(5), 499-520; Worling, J. R., Littlejohn, A., & Bookalam, D. (2010). 20-year prospective follow-up study of specialized treatment for adolescents who offended sexually. Behavioral Sciences and the Law, 26, 46-57.

[17] Parole guidelines may be accessed at the following link: here.

[18] Additional information on the CARAS and items can be found at https://dcj.colorado.gov/dcj-offices/ors/doc-risk.

- The Level of Supervision Inventory (LSI) score. The LSI is a commonly used assessment tool throughout the criminal justice system. It combines risk and needs factors to calculate an overall risk score. The higher the risk, the more likely one is to commit another crime.[19]
- Scored Custody Level.
- Number of any prior escapes or absconds.
- Most recent SSI-SA Total Score.
- Arrested under the Age of Sixteen (16).
- Current Age.
- Number of Incarcerations.

Prior Escapes/Absconds and One or Fewer Community-Based Supervision Opportunities: Escapes/absconds do not have to be convictions. They do have to be self-reported or recorded in the electronic file to be considered.

Opportunities for community-based supervision refer to the number of times a person received a deferred sentence, probation and/or community corrections. If granted community corrections as part of a condition of probation, this is counted as one opportunity. There is an inherent assumption that each supervision opportunity offers a treatment opportunity. Multiple failures from previous opportunities indicate a pattern of non-compliance with supervision and treatment and raise concerns about future non-compliance.

No Adjunct Treatment Needs or Adjunct Treatment Needs Exist AND Resources are Accessible in the Community: Adjunct treatment needs are identified in a variety of ways (e.g., The Pre-Sentence Investigation Report (PSI-R), CDOC utilized risk and needs assessment, crime descriptions, and self-report). The CDOC utilized coding systems to determine if such needs exist and if those needs can be met by easily identifiable and accessible resources in the community where the person intends to parole. For example, the person is assessed as needing intensive outpatient drug and alcohol treatment vs. Intensive Residential Treatment, which is an extremely scarce, inaccessible resource in the community.

Multiple Existing Prosocial Factors: Prosocial factors mitigate risk. They are positive influencers that will likely increase a person's success in the community, resulting in less reliance on criminal behavior. Board members assess many factors such as:

- Positive, prosocial attitudes, values, and beliefs
- Stable Housing
- Prosocial peers and family
- Consistent employment
- Educational or vocational training
- A lack of reliance on alcohol or other drugs
- Strong self-efficacy

[19] Latessa, E. J., Johnson, S. L., & Koetzle, D. (2020). What works (and doesn't) in reducing recidivism. https://doi.org/10.4324/9780429341366.

- Positive recreational interests and activities
- Positive, prosocial goals

Either Prior or no Prior Sex Offense-Specific Treatment Participation: If a person is directly sentenced to prison, they will not have had a prior opportunity at treatment. The board member has to assess if releasing the untreated sex offender prior to their Mandatory Release Date (MRD) poses an undue risk to the community. There are a multitude of factors that go into that determination, most of which are outlined above. Additionally, board members look to offenders to be accountable for their crime, to demonstrate some form of remorse or empathy for the survivors of their assaultive behaviors, and how they plan to live a restorative, safe life in the community upon release. Board members also try to understand the degree of motivation to participate in sex offense-specific treatment and their attitude towards community-based supervision.

The above also applies to people with prior opportunities in treatment and supervision in the community. However, concern is escalated because the offender was not successful in prior community-based treatment and supervision. Board members have to determine, to the best of their ability, why prior supervision and treatment were unsuccessful[20] and how the factors contributing to that success can be or have been mitigated. Examples of such mitigation during incarceration may include:

- Cognitive based programming
- Interventions to address adjunct treatment needs such as substance abuse treatment or mental health programming
- Development of a structured transition program
- Improved support system

Any person considered for discretionary release must express a willingness to complete sex offense-specific treatment and they must demonstrate insight as to why they failed to take advantage of prior community-based opportunities.

Conclusion

While creating the proposed instrument, the Colorado State Board of Parole learned of a validated, research-based, actuarial risk assessment created and utilized by Georgia's State Board of Pardons and Paroles. The timeframes of SB23-164 prohibit meaningful analysis of the instrument. However, the Board is committed to collaborating with its partners to learn more about the instrument and the feasibility of adapting it to Colorado's sex offender population. Respectfully, it is suggested that the proposed instrument be utilized while additional resources are allocated toward the possible implementation of a robust actuarial risk assessment to assist parole board members when making release decisions for sex offenders.

[20] Unfortunately, official documentation is often lacking due to the barriers to information sharing between the various criminal justice systems. The Board relies on the information CDOC makes available. Often, the CDOC does not receive the most updated PSIRs and sex offense-specific evaluations. The complaints filed by probation officers, which outline the violations of supervision and/or treatment, for example, are not made available to the Board.

Parole Considerations

§17-22.5-404(4)(a)

In considering offenders for parole, the state board of parole shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:

(I) The testimony or written statement from the victim of the crime, or a relative of the victim, or a designee, pursuant to section 17-2-214;

(II) The actuarial risk of re-offense;

(III) The offender's assessed criminogenic need level;

(IV) The offender's program or treatment participation and progress;

(V) The offender's institutional conduct;

(VI) The adequacy of the offender's parole plan;

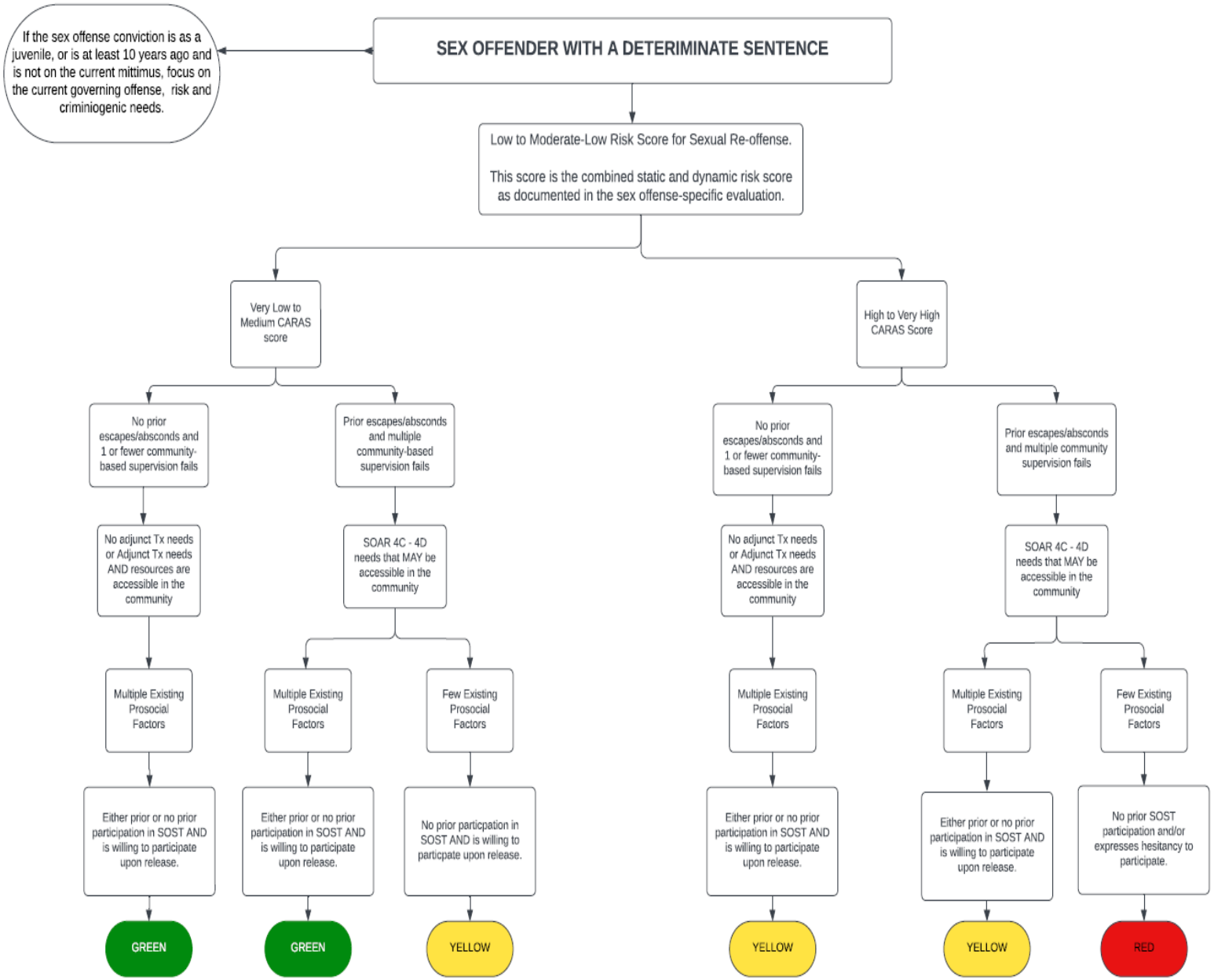
(VII) Whether the offender while under sentence has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be threatened or harassed, either verbally or in writing;

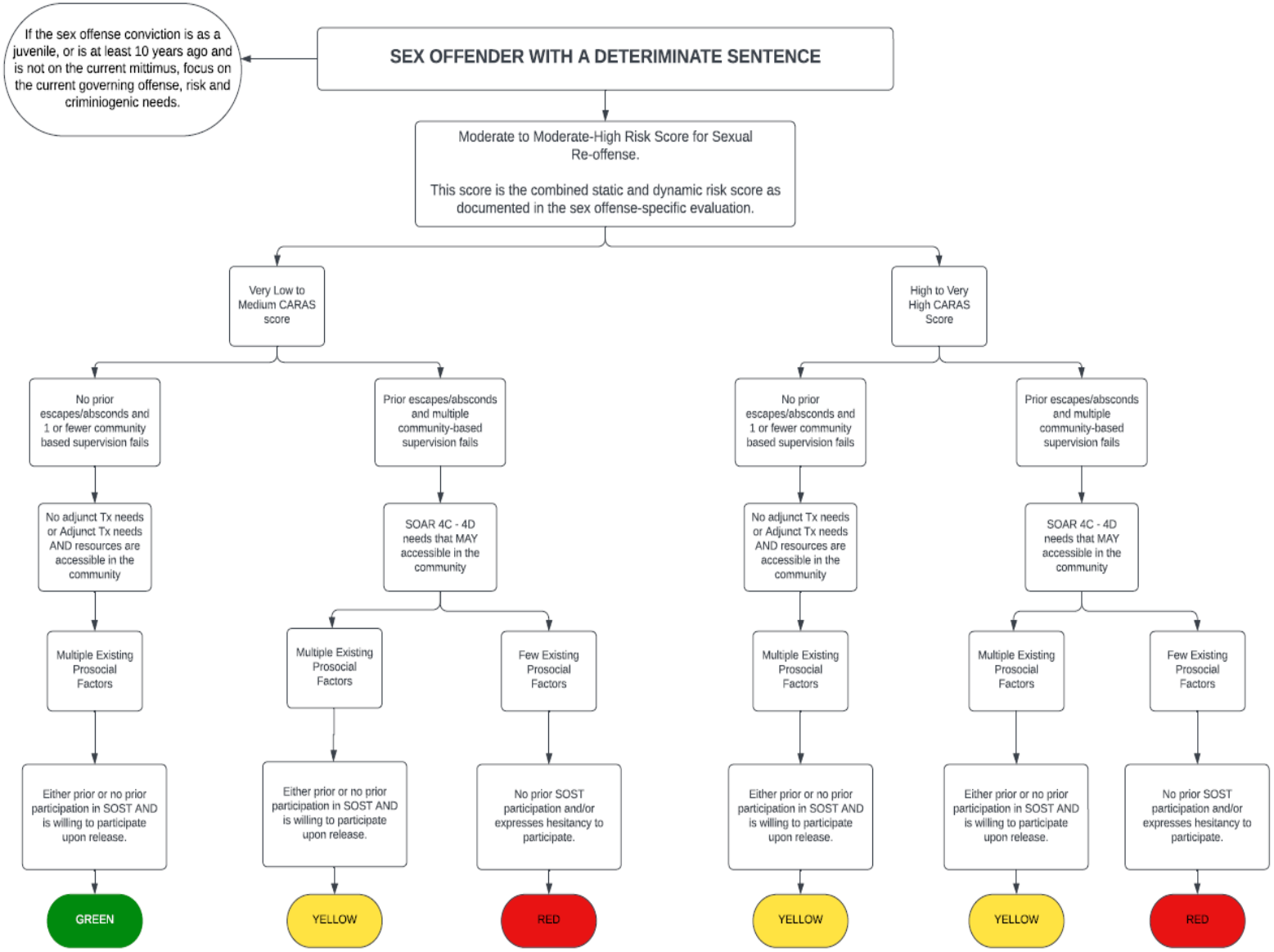
(VIII) Aggravating or mitigating factors from the criminal case;

(IX) The testimony or written statement from a prospective parole sponsor, employer, or other person who would be available to assist the offender if released on parole;

(X) Whether the offender had previously absconded or escaped or attempted to abscond or escape while on community supervision; and

(XI) Whether the offender successfully completed or worked toward completing a high school diploma, a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., or a college degree during his or her period of incarceration.


If the sex offense conviction is as a juvenile, or is at least 10 years ago and is not on the current mittimus, focus on the current governing offense, risk and criminiogenic needs.
SEX OFFENDER WITH A DETERIMINATE SENTENCE
Low to Moderate-Low Risk Score for Sexual Re-offense.
This score is the combined static and dynamic risk score as documented in the sex offense-specific evaluation.
Very Low to Medium CARAS score
High to Very High CARAS Score
No prior escapes/absconds and 1 or fewer community-based supervision fails
Prior escapes/absconds and multiple community-based supervision fails
No prior escapes/absconds and 1 or fewer community-based supervision fails
Prior escapes/absconds and multiple community supervision fails
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
SOAR 4C - 4D needs that MAY be accessible in the community
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
SOAR 4C - 4D needs that MAY be accessible in the community
Multiple Existing Prosocial Factors
Multiple Existing Prosocial Factors
Few Existing Prosocial Factors
Multiple Existing Prosocial Factors
Multiple Existing Prosocial Factors
Few Existing Prosocial Factors
Either prior or no prior participation in SOST AND is willing to participate upon release.
Either prior or no prior participation in SOST AND is willing to participate upon release.
No prior particpation in SOST AND is willing to particpate upon release.
Either prior or no prior participation in SOST AND is willing to participate upon release.
Either prior or no prior participation in SOST AND is willing to participate upon release.
No prior SOST participation and/or expresses hesitancy to participate.
GREEN
GREEN
YELLOW
YELLOW
YELLOW
RED


If the sex offense conviction is as a juvenile, or is at least 10 years ago and is not on the current mittimus, focus on the current governing offense, risk and criminiogenic needs.
SEX OFFENDER WITH A DETERIMINATE SENTENCE
Moderate to Moderate-High Risk Score for Sexual Re-offense.
This score is the combined static and dynamic risk score as documented in the sex offense-specific evaluation.
Very Low to Medium CARAS score
High to Very High CARAS Score
No prior escapes/absconds and 1 or fewer community based supervision fails
Prior escapes/absconds and multiple community-based supervision fails
No prior escapes/absconds and 1 or fewer community based supervision fails
Prior escapes/absconds and multiple community-based supervision fails
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
SOAR 4C - 4D needs that MAY accessible in the community
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
SOAR 4C - 4D needs that MAY accessible in the community
Multiple Existing Prosocial Factors
Multiple Existing Prosocial Factors
Few Existing Prosocial Factors
Multiple Existing Prosocial Factors
Multiple Existing Prosocial Factors
Few Existing Prosocial Factors
Either prior or no prior participation in SOST AND is willing to participate upon release.
Either prior or no prior participation in SOST AND is willing to participate upon release.
No prior SOST participation and/or expresses hesitancy to participate.
Either prior or no prior participation in SOST AND is willing to participate upon release.
Either prior or no prior participation in SOST AND is willing to participate upon release.
No prior SOST participation and/or expresses hesitancy to participate.
GREEN
YELLOW
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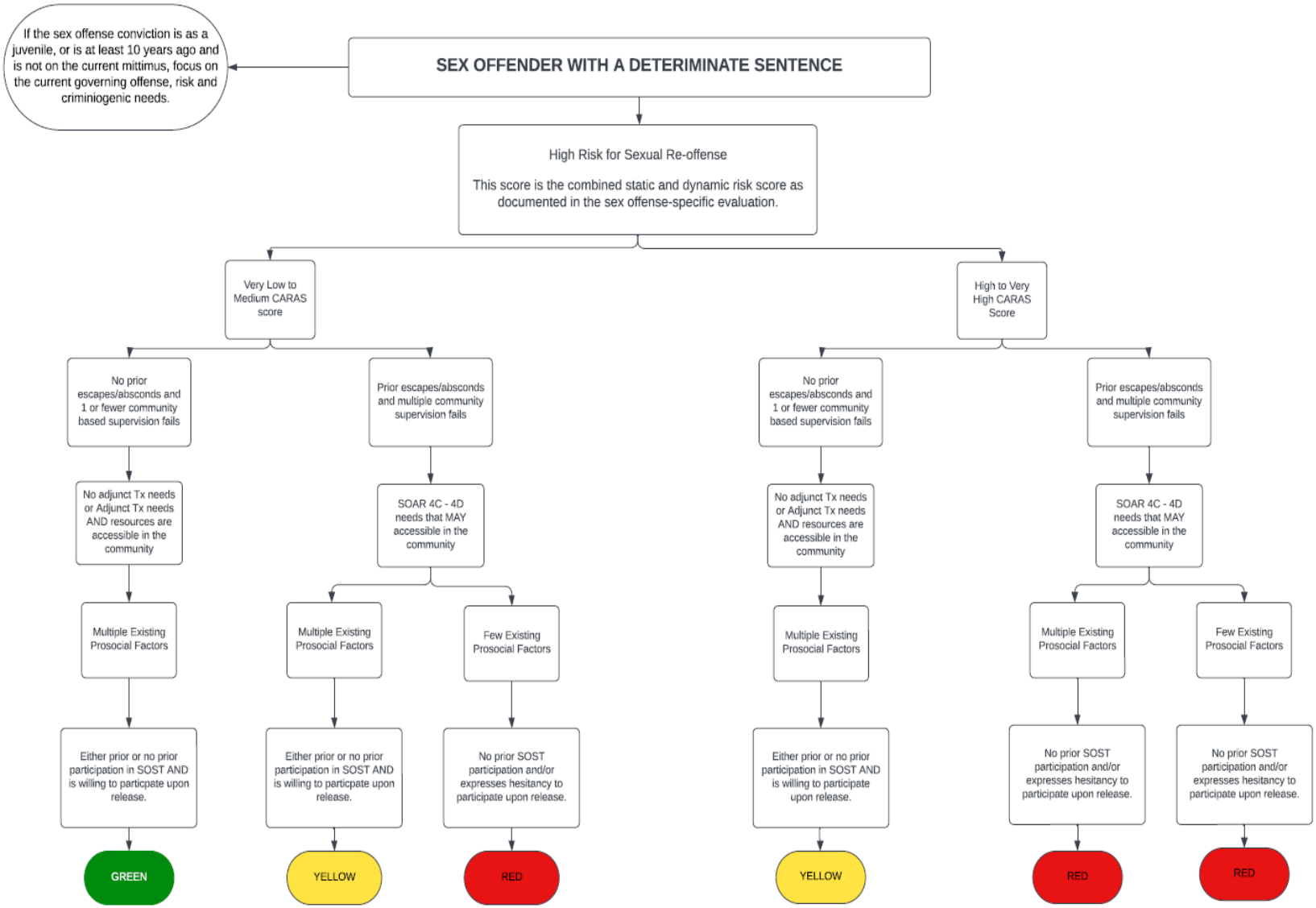
RED


If the sex offense conviction is as a juvenile, or is at least 10 years ago and is not on the current mittimus, focus on the current governing offense, risk and criminiogenic needs.
SEX OFFENDER WITH A DETERIMINATE SENTENCE
High Risk for Sexual Re-offense
This score is the combined static and dynamic risk score as documented in the sex offense-specific evaluation.
Very Low to Medium CARAS score
High to Very High CARAS Score
No prior escapes/absconds and 1 or fewer community based supervision fails
Prior escapes/absconds and multiple community supervision fails
No prior escapes/absconds and 1 or fewer community based supervision fails
Prior escapes/absconds and multiple community supervision fails
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
SOAR 4C - 4D needs that MAY accessible in the community
No adjunct Tx needs or Adjunct Tx needs AND resources are accessible in the community
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Multiple Existing Prosocial Factors
Few Existing Prosocial Factors
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Multiple Existing Prosocial Factors
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GREEN
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