

# CALIFORNIA

## SEX OFFENDER MANAGEMENT BOARD

### Annual Report | 2020



CASOMB

In accordance with Penal Code Section 9001, subdivision (b), the membership of the board consist of:

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Representing Office of the Attorney General

**Vacant**

Representing California Department of Corrections and Rehabilitation

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Representing the Division of Adult Parole Operations

**Kimberly Nystrom-Geist**

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Representing California State Judges

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Representing the Department of State Hospitals

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Representing Law Enforcement with Investigative Experience

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Representing Experts in Sexual Assault Victim Advocacy

**Tina Rodriguez**

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## Executive Summary

The vision of CASOMB is to decrease sexual victimization and increase community safety. This is accomplished by addressing issues, concerns and problems related to the management of adult sex offenders and by developing data driven recommendations to improve policies and practices. Over the last fourteen years, CASOMB has identified ways to provide stronger safeguards and support for convicted sex offenders to re-enter our communities successfully.



As with all of California and the world, COVID-19 had an impact on our society. Those providing treatment to sex offenders were challenged in how they would continue this vital and important work. Victims of sexual assault crimes were impacted as well. In-person engagement, both with those in sex offender treatment programs as well as victims in counseling, was not possible in many situations. Society, and especially those tasked with carrying out the important work providing therapeutic treatment to sex offenders in our community and in the State Prison system, as well as providing counseling and notification to victims of sexual assault crimes, were required to pivot from in-person to digital engagement quickly.

In spite of the challenges of COVID-19, the CASOMB continued to meet monthly. We work through Committees and each Committee continued the projects identified before the COVID outbreak. We have paid particular attention to focused research, as discussed below.

CASOMB has identified an area of focus involving juveniles who offend sexually and appropriate juvenile justice interventions, therapeutic models for juveniles and issues, such as registration as sex offenders. In 2019, Assembly member Reginald Jones-Sawyer authored legislation, AB 2713, which was sponsored by CASOMB. AB 2713 would add to the Board a licensed mental health professional with experience treating juveniles who have offended sexually and the Director of the Department of Youth and Community Restoration or a designee who has expertise in the treatment or supervision of juveniles who have offended sexually. With the addition of two new experts in the field, the Board's total membership would be 19. The bill would have required the Board, on or before July 1, 2022, to develop and update standards for certification of professionals and management programs for juveniles who offend sexually and would require those standards to be published on the Board's internet website. The bill would require programs for juveniles who offend sexually to be provided only by professionals certified by the Board. The bill would also extend the exemption from civil liability to certified professionals and programs that provide treatment or supervision to juveniles who offend sexually. Unfortunately, COVID-19 also affected the

legislative process and the bill was suspended due to the truncated legislative cycle. However, CASOMB is working to find an author for a bill that adopts the language in AB 2713.

In spite of the challenges in 2020, CASOMB finished the very unique yet productive year. This Report provides detail in these areas and highlights this year's accomplishments.

However, CASOMB was not without tragedy. One incredibly valued Board member, Judge Brett Morgan, passed away from a non-COVID illness on August 28, 2020. Judge Morgan was an active, contributing member of CASOMB. He was a wonderful judge, a loving husband and father. He will be missed.

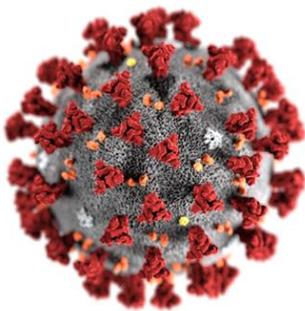
### **Race, Power and Privilege**

In 2020, there was a national awakening, outcry and calls for social introspection. Addressing racial inequities in our society and the criminal justice system in particular, is one of the most critical issues challenging all of us and particularly those in leadership.

As a “woke” Board, we remain committed to justice, fairness, equity and equality throughout our work and our leadership. We are firmly committed to research-based decision and policy making. CASOMB engaged in our own self-reflection of policies and procedures we have enacted.

### **Impact of COVID-19 on Service Providers**

#### **Probation Supervision during the Pandemic**



In June 2020, CASOMB developed a survey that was designed to collect information from Probation Departments in California about how supervision services for sex offenders was impacted during COVID-19. The survey revealed that probation officers were able to adopt new methods to maintain important contact and provide treatment with clients through increased telephone contact, FaceTime through cell phones, and other online communication tools.

Though not without challenges, the Probation Departments have incorporated new ways to engage, supervise and provide services to sex offenders, without sacrificing public safety and respecting victims of those sex crimes.

## Treatment and Evaluation

Like all mental health services, the delivery of sexual offender treatment quickly and dramatically changed in 2020 due to COVID-19 restrictions. Due to the rapidity with which these changes occurred, there is little research regarding the impact on sexual offender treatment.

CASOMB determined that sex offender treatment was being provided in innovative and mostly effective ways. Providers continued treatment through the use of telephones, and a smaller percentage utilized the internet for treatment. The survey revealed that a majority of the responding providers continued with group therapy, in spite of the pandemic.

CASOMB has identified recommendations for telehealth moving forward. These recommendations are based on research, review of accepted literature as well as guidance from the American Psychological Association (APA).

## Survivors of Sexual Assault and Access to Services

There are 84 funded Rape Crisis Centers in California. Every county has a Center dedicated to providing direct support services to sexual assault victims, their significant other and families, especially children. They are also important providers of community education. Due to the Shelter in Place Orders, the health challenges in hospital and clinic settings, and the transition to “work from home” policies, the service and support to victims of sexual assault crimes has been significantly impactful.

Because of COVID-19, rape crisis advocates were not allowed in the emergency departments or Sexual Assault Response Team (SART) Centers. Therefore, victims were required to navigate a medical and forensic examination, interaction with a SART examiner and initial statement to Law Enforcement without an advocate present.

Rape Crisis Centers and District Attorney Victim-Witness Advocacy Centers reported a decline in calls for help as a result of sexual assault and child abuse. Individuals were sheltered in place with offenders and had no option for reporting the assault or abuse. Innovative efforts were put in place to inform victims that services and help were available.

Lastly, there was a reported decline in people volunteering to be Rape Crisis Advocates and challenges in training of volunteers, which is required by law for confidentiality.

## Sex Offender Registration

More than 81,000 sex offenders are required to register with their local law enforcement agencies annually. Due to COVID-19, it became near impossible to conduct that registration in person. The Governor signed an Emergency Order creating alternative ways for individuals

to meet their annual registration requirements. Not without challenges, but most police agencies were able to adjust to remote registration.

## **Sex Traffickers and Buyers of Commercially Sexually Exploited Children**

It is estimated between 100,000-300,000 American born children and women are trafficked for sex in the United States each year. Trafficking is one of the fastest growing criminal enterprise in the United States.

CASOMB has incorporated the topic of sex traffickers and buyers in its research and review. Research indicates that sex traffickers have a high percentage of psychopathy and antisocial behaviors. Critical research is needed of buyers of children for sex, including online advertisers and purchasers. Research is essential to determine motivations and psychology of these individuals and guide treatment options, if appropriate.

## **Detainment of Sexually Violent Predators**

Welfare and Institutions Code Section 6000 et seq., provides the criteria for being declared a Sexually Violent Predators (SVP). There are a growing number of individuals detained as SVP as well as those who have been declared SVP, currently held by the Department of State Hospitals in Coalinga, California. The large portion and long duration of detainees, those who have yet to have a SVP trial, has been identified as a major issue in California, understanding the efficacy of the SVP law. In 2020, at the request of the CASOMB, the SVP Committee completed an investigation of SVP detainee issues, which was ratified by the Board with recommendations. The Board will continue to review the Report in 2021.



## **Research on Dynamic Risk Instrument**

CASOMB promotes empirically supported interventions and educates its stakeholders on current and relevant research about what works in managing and preventing sexual re-offense. CASOMB is committed to research so CASOMB stakeholders can maximally reduce the likelihood of sexual re-offending among California sexual offenders.

In 2020, in cooperation with the State Authorized Risk Assessment Tools for Sex Offenders (SARATSO), CASOMB has begun its research “The Utility of the STABLE-2007 as a Measure of Criminogenic Needs and Treatment Progress in Male Sexual Offending Individuals.” The research will give focus to the efficacy of CASOMB certified treatment programs in facilitating change in the risk factors of sexual offending individuals. It will include a review of the STABLE-2007 at detecting change in sexual offenders treated in CASOMB certified programs. The results of this study will be invaluable in furthering the effectiveness of treatment programs in California and across the country.

### **Certification and Complaints**

In 2012, CASOMB introduced the Certification Program for Sex Offender Treatment Providers. California law requires convicted sex offenders to participate in a Sex Offender Treatment Program for a minimum of one year and longer if determined by the sex offender treatment therapist. Over the last eight years, CASOMB has grown in its role as a certifying entity. By 2018, CASOMB had 538 certified treatment providers.

In 2019, CASOMB introduced compliance reviews and audits of treatment providers certified by CASOMB. In 2020, CASOMB expanded its review to include provider agencies. In 2020, CASOMB completed compliance reviews on 20 treatment providers. With the exception of one, all providers were in compliance.

In addition to certification of both treatment providers and provider agencies, CASOMB also receives and addresses complaints. Not all complaints fall within the purview of CASOMB; but of those that do, Board members assigned to the Committee complete the investigation. Once the investigation is completed, findings are presented to the Board and decisions are made.

As the number of providers and agencies increases, it is anticipated that the number of complaints will increase as well. Clearly, the current model for investigating and overseeing sanctions is a short-term solution that is not sustainable. Additional staff is needed to allow CASOMB to conduct the investigations at the Board’s direction and to oversee the implementation of sanctions.

### **SB 384 Implementation for Law Enforcement Agencies**

In the 2016-17 Legislative Year, CASOMB sponsored legislation, SB 384, which was carried by Senator Scott Weiner. After extensive research, CASOMB proposed a new Sex Offender Registration system, eliminating lifetime registration for all convicted sex offenders. The bill was signed into law on October 6, 2017 by then Governor Jerry Brown. The law begins on

January 1, 2021. All aspects of preparation for the implementation of SB 384 have been completed, including CASOMB, the Attorney General's Office, the Judicial Council, Law Enforcement, District Attorneys, Defense Attorneys, and other allied professionals.

## **Report of the State Authorized Risk Assessment Tools for Sex Offenders (SARATSO) Committee**

Included with the Year End Report of CASOMB is the Year End Report of SARATSO. The SARATSO Committee is a *separate* state committee that is integrally related to and aligned with CASOMB. Nevertheless, each have separate roles and statutory mandates. The SARATSO Committee selects reliable risk instruments for determining the risk of sexual re-offense by a person convicted of a sexual offense. SARATSO retains experts on sex offender risk assessment to teach SARATSO-certified California trainers and scorers. The SARATSO Report focuses on three main areas: research, training for individuals who score the instruments, and submission of scores to the Department of Justice. SARATSO requests ongoing funding to support research, and increased funding to support remote training initiatives.

### **SARATSO Review Committee Training**

The SARATSO Review Committee selected the Static-99R for adults and the Juvenile Sex Offender Recidivism Risk Assessment Tool-II (JSORRAT-II) for juveniles to predict risk of sexual re-offense; the STABLE-2007/ACUTE-2007 to assess dynamic risk factors related to sexual re-offense; and the Level of Services/Case Management Inventory (LS/CMI) for assessing violence potential. All scorers and trainers must be trained every two years on the instrument(s) they use. Due to COVID-19, in-person trainings were halted. However, SARATSO continues to host web-based trainings.

### **Score Submission**

The SARATSO risk instrument scores must be submitted to the Department of Justice (DOJ). DOJ and SARATSO work collaboratively to compile score submission rates on all mandated risk instruments, and provide feedback to the scoring department and agencies. The Static-99R has consistently had a high score submission rate from probation departments over the last few years. Score submission rates for the dynamic and violence risk instrument are increasing. In order to facilitate ongoing change, SARATSO has increased communication and reporting among probation departments, parole agencies, and treatment providers who score the instruments.

## **Research**

SARATSO has two active research projects. A SARATSO-sponsored recidivism study is in progress on the JSORRAT-II. The study will assess sex offense recidivism of juvenile males in California who have offended sexually and analyze the validity of the JSORRAT-II. SARATSO is co-sponsoring research with CASOMB on the inter-rater reliability of the STABLE-2007. The study will provide insight into field scoring and inform the needs and successes of the current training procedures.

# California Sex Offender Management Board Annual Report, 2020

## **Race, Power and Privilege**

2020 has been an unprecedented year, requiring flexibility and calls for change. Across the country, the death of black men and women during a law enforcement encounter has



highlighted the issue of racial inequality in our country. The Board chose to have CASOMB-certified treatment providers present on the impact of race, power and privilege on the evaluation and treatment of individuals who have sexually offended. Research on the Static-99R, which measures

risk of sex offense recidivism, with California offenders, confirmed that the instrument measures risk accurately across all ethnicities.

Probation officers, parole agents and treatment providers are the holders of power and privilege in the interactions with offenders. The presentation highlighted areas for increased awareness of the unwitting use of power and privilege. Cultural awareness of ethnicity and race is often taught in graduate mental health programs, but the presenters discovered a need for ongoing training and support for clinical staff in these areas.

The Board is committed to explore race, power, and privilege in greater depth in the coming year and beyond. Seeking greater understanding of current practices, and emphasizing the respectful and ethical treatment of all individuals.

## **Impact of COVID-19 on Key Stakeholders**

### **Probation Supervision during the Pandemic**

The supervision of sex offenders is a specialized assignment, requiring specific training, and collaboration with treatment providers and other stakeholders in the containment model. Sex offenders are often assigned to intensive caseloads, and their supervision during COVID-19 is a priority for probation departments. Since the COVID-19 pandemic, probation officers and treatment providers adopted new methods to maintain contact and provide treatment

with clients, through increased telephone contact, FaceTime, and other online communication tools. Many departments also developed procedures for officers in these assignments to safely conduct field contacts to monitor their clients.

In June of 2020, CASOMB developed a survey designed to collect information from probation departments across California about how supervision services for sex offenders have been impacted during the COVID-19 Pandemic. Additional information was gained based on numerous discussions with chief probation officers during the pandemic. The information was useful in determining how supervision practices were impacted and what changes were made to those practices to maintain community safety and ensure treatment compliance.

Starting in March 2020, in response to the COVID-19 Pandemic, county probation departments adhered to state and local orders of Shelter in Place (SIP) for the protection of the health and safety of the community and staff. Probation officers, in the course of their duties as peace officers and government employees, are considered essential workers and exceptions were made to SIP allowing probation departments to continue to safely operate and provide services, albeit with certain modifications and utilization of personal protective equipment (PPE). Departments across the state adopted numerous new practices that allowed them to continue to supervise probationers and protect public safety.

In the first two months of the COVID-19 SIP, nearly all departments across California suspended routine fieldwork, office visits, urinalysis testing, and other duties that are routine in nature. Response to immediate public safety threats were the exception.

Based on the survey results, the restrictions imposed to protect the health of the community, caused concern for probation officers supervising sex offenders due to limitations placed on levels of supervision. These limitations also impacted the containment model. The concerns from the viewpoint of probation officers included the possibility of increased pornography use, access to victims, and unemployment. The initial stages of the shutdown limited probation officers' ability to conduct searches of probationer's homes and electronic devices. Probation officers reported that their top challenges during COVID-19 have been an inability to conduct face-to-face interviews, place individuals in custody (\$0 bail order) and an inability to conduct forensic searches. The survey results showed that some of the top concerns around the containment model during this time were decreased contact with containment team members and postponed polygraph exams.

Community based agencies, which probation departments rely upon for treatment and intervention services, also suspended in-person operations and quickly pivoted to online platforms to ensure continuity of services.

### *Adapting Supervision Practices to COVID-19 Conditions:*

In adapting to the new COVID-19 environment, and to facilitate continuity of services, probation departments immediately followed best practices and guidelines determined by their local health departments and acquired all PPE necessary to continue to serve clients in the office and in the community. Social distancing practices were immediately put into effect with staff working remotely from home in some form. Some departments rotated and staggered staff coming to the office every other day; others required some staff to work exclusively from home. The need for laptops, Wi-Fi, and other equipment to facilitate telework and communication with clients and service providers was significant. Most departments were able to quickly deploy these necessary tools. With many departments employing a phased gradual reopening of services by mid-summer, office and field visits, face-to-face contacts, searches, and supervision levels increased, with staff taking all necessary precautions. Not all departments were equal in the amount of fieldwork, office visits and work being conducted remotely; among most counties, modified routine fieldwork resumed in limited form by June.

Many challenges already existed for sex offenders' pre-COVID-19. In some regions, there are a limited number of treatment providers and some probationers have had to travel long distances to access and participate in treatment. In many cases, reliable transportation is an issue, as is money to pay for gas and other travel expenses. The cost of treatment has long been an issue for probationers. Virtual treatment has eliminated some of these barriers, and the hope is that the new and more efficient practices can be sustained post pandemic. Lessons learned during COVID-19 have allowed probation to engage clients more effectively in treatment by removing barriers such as travel.

### *New Opportunities:*

The COVID-19 crisis has created an opportunity and space to consider and adopt new and innovative ways to engage with clients that are more effective than traditional "in person office visit" requirements, that have been a big part of supervision. In person office visits require clients to take time off work to travel to and from appointments, some commute travel distances can last two or more hours on congested freeways, while the actual appointment may last 20 minutes. Virtual face-to-face contacts have worked well for most clients, and save both clients and staff time by reducing the unnecessary burden of commuting, and interruptions to work or family obligations.

Most, if not all sex offender treatment providers shifted to telephonic and video platforms to continue treatment with clients. To ensure the success of remote contacts, it has been necessary to ensure clients have the technology to engage in telehealth services with providers. While most clients had this capacity, there were instances where access to the right technology posed challenges, while others were reluctant to appear on video screens. Some departments supported clients with the technology, even providing spaces and tools,

such as computers and tablets at their offices, to connect with providers. Ideally, in the post pandemic world, a mix of supervision methods and options can be made available that combine face-to-face contacts with remote supervision and treatment options, in an effort to eliminate barriers and increase the chances of greater success for clients.

## **Impact of COVID-19 on Treatment**

### Introduction

Like all mental health services, the delivery of sexual offender treatment has quickly and dramatically changed in 2020 due to COVID-19 restrictions. Due to the rapidity with which these changes have occurred, there is little research regarding the impact of these restrictions. CASOMB will outline specific recommendations regarding sexual offender treatment based on changes made during the pandemic.

In December 2019, the World Health Organization (WHO) reported the identification of a new coronavirus. On February 11, 2020, WHO officially named the virus COVID-19. The virus is highly contagious, and although many individuals will only experience mild symptoms when exposed, infection can cause severe illness and even death in some individuals. As a result, treatment providers were compelled to apply alternative methods of treatment delivery outside of face-to-face group and individual therapy. The alternative methods revolve around the use of telehealth<sup>1</sup>. Although most treatment providers are familiar with the use of such media, most were unaware of standardized protocols when utilizing telehealth. This report will review CASOMB survey results regarding the application of sexual offender treatment during COVID-19, and provide recommendations regarding the implementation of treatment.

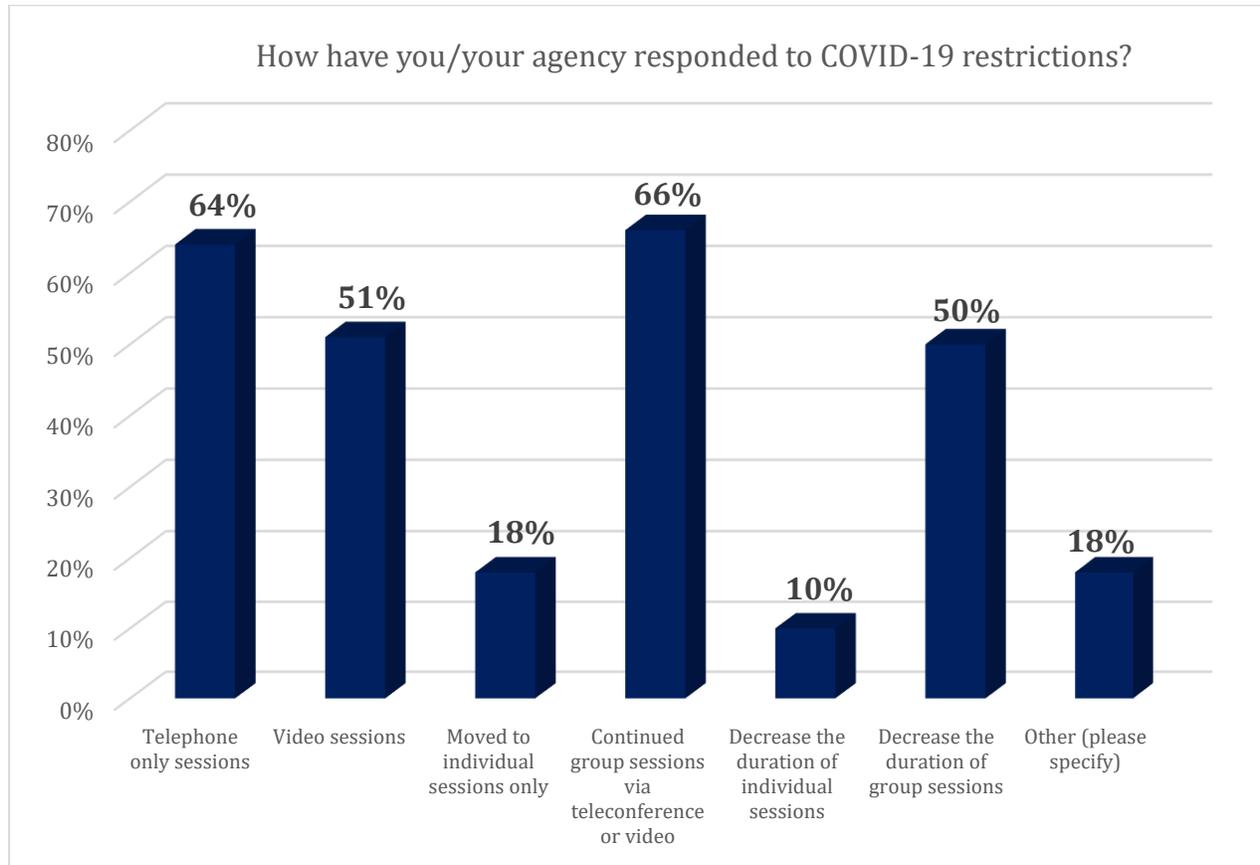
### CASOMB Provider Survey Results

On June 4, 2020, CASOMB provided a survey to treatment providers regarding the impact of COVID-19 restrictions on the delivery of sex offender treatment services. Sixty-one individuals responded to the survey. Twenty-eight percent (28%) were sole providers, and seventy percent (70%) provided services at agencies. Sixty-four percent (64%) of the individuals stated that they provided “telephone only sessions;” fifty-one percent (51%) provided video sessions; eighteen percent (18%) moved to individual sessions only; and sixty-six percent (66%) continued to do group sessions (see Chart A).

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<sup>1</sup> Telehealth in this document refers to the provision of therapeutic services via telephone and/or video interfaces.

Chart A



In terms of understanding the challenges of implementing services under Covid-19 restrictions. Eight percent (8%) of individuals indicated that the client was not responsive to telehealth sessions; fifteen percent (15%) identified difficulty finding a private location to perform confidential services; two percent (2%) identified a decrease in the frequency and duration of sessions; ten percent (10%) identified less cooperation during telehealth sessions; eleven percent (11%) identified a decrease in contact with supervision agents; seven percent (7%) identified the completion of evaluations or risk assessment as more difficult; five percent (5%) identified not having in-person containment model meetings; eighteen percent (18%) identified a limited or lack of use of the polygraph. Under the other category, therapist identified challenges in setting up systems to contact and communicate with clients, including issues with internet connectivity/technical problems (see Chart B and Table B).

Chart B

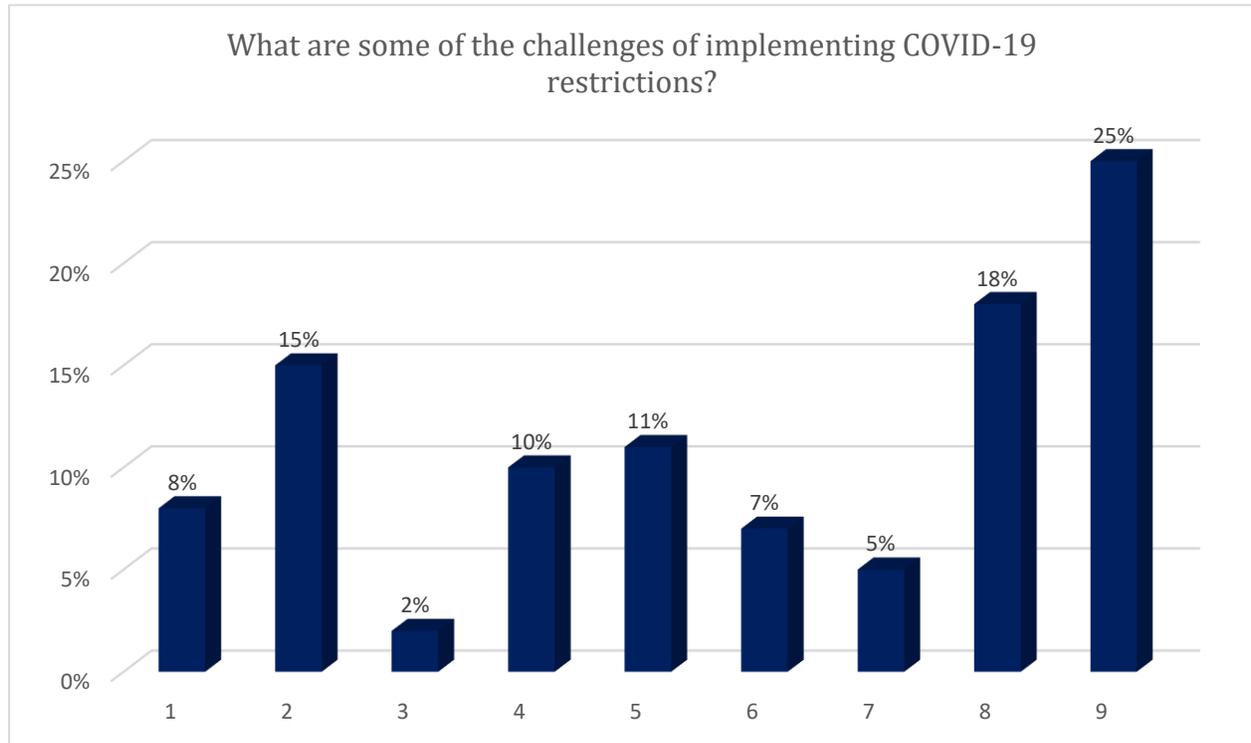
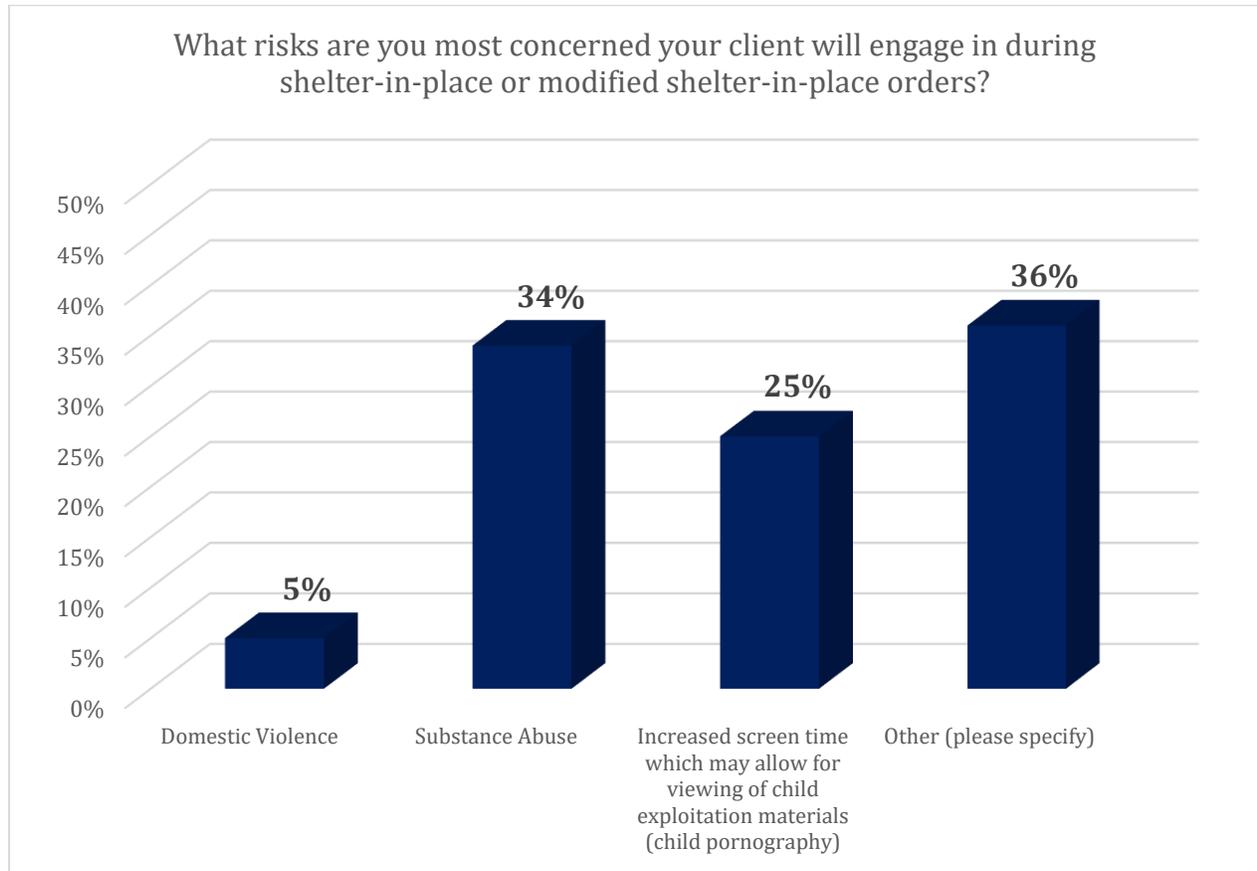


Table B

ANSWER CHOICES	
1.	The client/offender was not responsive to the telephone/video sessions
2.	Finding a private location to conduct calls that would maintain confidentiality
3.	Had to decrease the frequency or duration of client/offender contact.
4.	Offender clients seemed less cooperative during telehealth sessions
5.	Contact with supervising agents decreased
6.	Completing evaluation or risk assessment was more difficult
7.	Not having in person containment model meetings
8.	Limited or lack of use of polygraph
9.	Other (please specify)
<b>Total Responses: 61</b>	

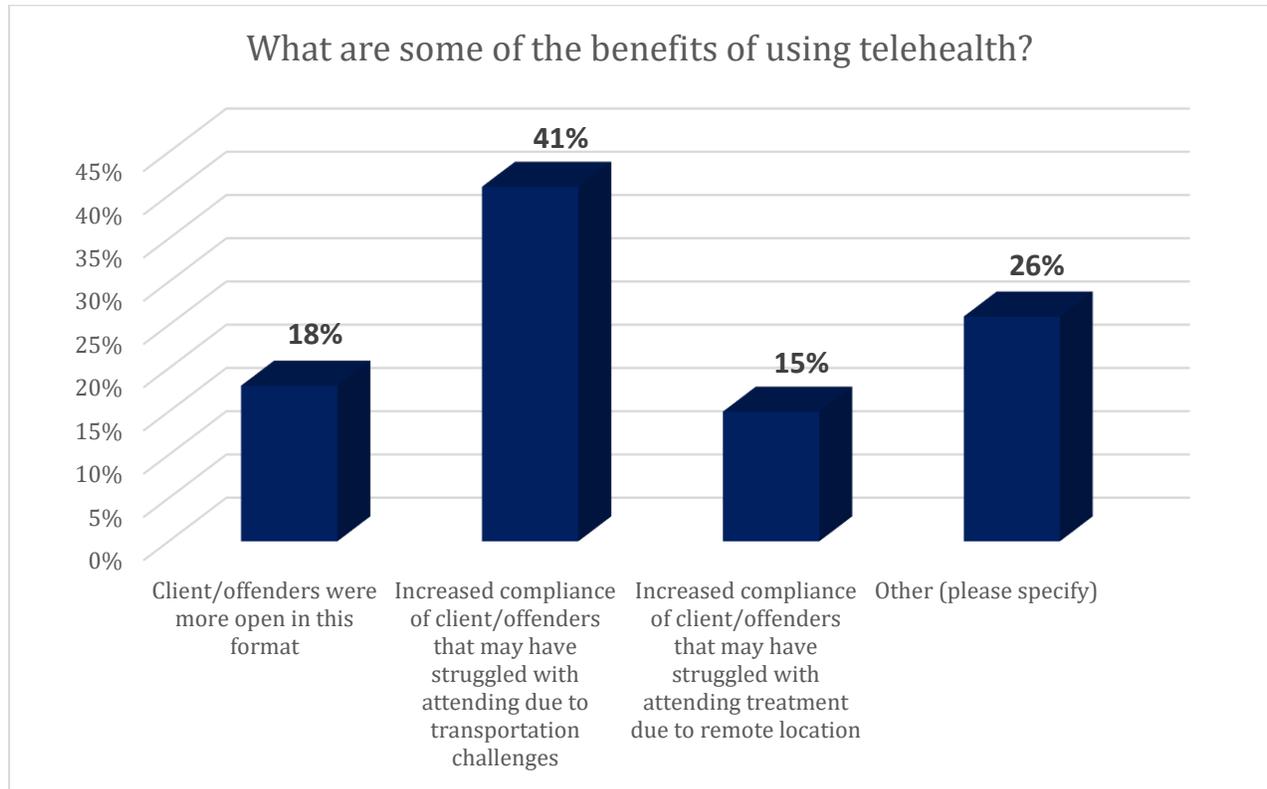
When asked, “What risks are you most concerned your client will engage in during shelter-in-place or modified shelter-in-place orders?” Five percent (5%) of respondents indicated domestic violence; thirty-four percent (34%) identified substance-abuse; twenty-five percent (25%) indicated increased screen time (which may allow for the viewing of child pornography); and thirty-six percent (36%) identified other issues such as boredom, using sex as coping, etc. (see Chart C).

Chart C



The survey also asked respondents, “What are some of the benefits of using telehealth?” Eighteen percent (18%) of respondents indicated that clients were more open in a telehealth format; forty-one percent (41%) identified increased compliance with attendance because they no longer had to struggle with transportation issues; and fifteen percent (15%) noted increased compliance of clients who may have previously struggled with attending treatment due to their remote location. Twenty-six percent (26%) of respondents identified other benefits such as the client being more “attentive and open” (see Chart D).

Chart D



### Current Research: Telehealth

Although the CASOMB survey was based on a relatively small sample of providers (approximately 10%), it provided useful information regarding the challenges and benefits of telehealth. Of particular note is that only eight percent (8%) of the respondents found that their clients were not responsive to telehealth, compared to eighteen percent (18%) who found their clients were more open. We could extrapolate from this information that approximately eighty-two percent (82%) of clients experienced little-to-no change in terms of disclosure and participation in therapy.

There are no large-scale empirical studies regarding the use of telehealth with sex offenders. However, there are some, mostly qualitative, studies involving general psychotherapy. Etzelmueller (2018) found that the majority of clients were able to establish a good working alliance with the therapist when using telehealth.<sup>2</sup> One benefit of telehealth is that it was more individualized and flexible than face-to-face therapy. Poletti et al. (2020) indicated that technical difficulties, such as brief interruptions, or connection issues, tend to be the primary

<sup>2</sup> Etzelmueller, A., Radkovsky, A., Hannig, W., Berking, M., & Ebert, D. D. (2018). Patient's experience with blended video- and internet based cognitive behavioural therapy service in routine care. *Internet Interventions*, 12 (December 2017), 165–175.

drawbacks of videoconferencing psychotherapy.<sup>3</sup> The early and comprehensive management of client expectations was crucial to therapy retention and eventual effectiveness. Overall, the general research suggests that teletherapy can be as effective as face-to-face therapy. Similarly, in the CASOMB survey findings, some providers preferred in-person therapy over telehealth. It is important to note that healthcare providers, including mental health professionals, who have frequent contact with many people may be more vulnerable to contracting COVID-19. Therefore, special precautions should be taken with providing sex offender treatment services. It is, therefore, reasonable to promote telehealth while COVID-19 is an active threat.

### Recommendations

The following recommendations were derived, in part, from a review of the literature and rely heavily on the guidelines for the practice of telepsychology put forth by APA.<sup>4</sup>

1. Treatment providers should assure that they have the competency to understand and utilize the technology related to telehealth.
2. Treatment providers apply the same ethical and professional standards in the process of telehealth as they would with face-to-face services. This includes:
  - a. Informed, written consent, to participate in telehealth.
  - b. A written description of the services to be provided and the conditions under which remote services will occur. Services should be provided in a confidential and stationary location. Provider should perform an evaluation of the environment including an assessment of potential breaches of confidentiality, the potential for distractions, and potential technological obstacles.
  - c. Treatment providers should also assure that the medium in which they are providing services is Health Insurance Portability and Accountability Act (HIPAA) compliant. (Not all video services assure confidentiality per HIPAA. A statement from the service provider is typically available upon request.)
  - d. In addition to maintaining standard professional liability insurance, providers are encouraged to obtain cyber liability insurance.

## **Impact of COVID-19 on Survivors of Sexual Assault and Access to Services**

California's Rape Crisis Center safety net is comprised of 84 programs throughout the state. Each county has a center dedicated to providing direct support services to sexual assault victims and their significant others, as well as education to their communities. COVID-19 has significantly impacted this group of geographically diverse centers. It has long been a best

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<sup>3</sup> Barbara Poletti, Sofia Tagini, Agostino Brugnera, Laura Parolin, Luca Pievani, Roberta Ferrucci, Angelo Compare & Vincenzo Silani (2020) Telepsychotherapy: a leaflet for psychotherapists in the age of COVID-19. A review of the evidence, *Counselling Psychology Quarterly*, DOI: [10.1080/09515070.2020.1769557](https://doi.org/10.1080/09515070.2020.1769557)

<sup>4</sup> American psychological Association, guidelines for the practice of tele-psychology, <https://www.APA.org>

practice for many of these services to be provided to victims' in-person but the pandemic has transformed what victim services look like for the time-being. Centers are looking to the near and distant future about what changes are temporary and which should be considered for permanent change.

The SIP requirements created a situation in which services such as individual and group counseling, and accompaniment to law enforcement meetings or hospitals for forensic examinations, all needed to be redesigned. The changes from in-person to virtual have brought both challenges and opportunity. An unexpected outcome has been the increased demand for counseling. While some victims have reported concerns about the confidentiality and privacy associated with virtual sessions, many have noted increased ability to participate in services. Victims have communicated that barriers such as transportation, travel time, and childcare issues associated with attending appointments have been removed, helping to facilitate their access to services.

One core service which has been adversely affected is hospital accompaniment, wherein advocates accompany, educate, and provide support to victims during the forensic evidentiary examination. During this unprecedented time, rape crisis advocates have largely been unable to provide this service in-person, resulting in many rape and sexual assault survivors enduring this process alone. Medical facilities have primarily admitted only patient/victims barring entry to advocates or a support persons. California Penal Code section 264.04 stipulates that a sexual assault survivor has the right to have a sexual assault counselor present for any medical evidentiary or physical examination. While a small number of Rape Crisis Centers have been able to continue this service, the majority have been unable to do so, either because medical facilities have not allowed entry for anyone other than the victim/patient and/or as a result of the advocate's fear of becoming infected or being high-risk. Some temporary, but less than ideal, solutions included showing pre-recorded videos which help survivors understand the evidentiary process which they are about to undergo, offering advocacy by telephone and occasionally videoconferencing, or post exam follow-up by an advocate. Advocates and victims have noted the precedence that is being set and while they have accepted it as a part of the pandemic, have expressed the need to return to in-person support when possible. After many years of advocacy, victims earned the right to in-person services. While compliance of laws that protect and support victims have been relaxed during the pandemic, it is essential that victim's rights that were long fought for and achieved be preserved once the dangers of COVID-19 are addressed.

The 84 Rape Crisis Center programs rely on the ability to train volunteers and new staff to help meet the 24/7 demands on the crisis lines, as well as in-person support for victim survivors. The state certified, 40-Hour Sexual Assault Counselor Training is generally offered in-person by centers twice a year. Since March of 2020, trainings have been held virtually. Advocates are reporting that the virtual option has opened up accessibility for individuals wanting to volunteer. This is another area that could be looked at as a hybrid for the future, which would preserve essential in-person components and add the ability for some portions to be covered

remotely. However, long-term changes would require modifications to the service standards, funding, and committee approval.

Sexual assault advocates have noted a significant drop in the number of calls and reports related to child sexual abuse. Advocates are concerned that the underreporting of child sexual abuse may be due to children being out of school, staying home, and a lack of access to adults to whom they can disclose. This area will need further exploration.

The members of California's Rape Crisis Centers safety net have been preparing to resume work from offices and in-person services. Many have modified workspaces, including individual and group counseling rooms, in order to ensure six feet of physical distance between staff and victim/survivors. With new information surfacing daily about the pandemic, most programs anticipate the need to provide services to sexual assault victims and prevention activities virtually for at least the first two quarters of 2021. Advocates engage in regular conversations to plan for the future and explore potential hybrid approaches.

## **Sex Offender Registration during a Pandemic**

Sex offender registration is conducted in-person and on a regular basis by numerous law enforcement agencies for over 81,000 sex offenders that live throughout the state of California. A registration form is comprised of five pages, requiring 23 sets of initials, five signatures and five thumbprints from the offender. During this process, the offender is in close contact with the registering law enforcement official. An annual update registration also requires a photograph be obtained. On March 4, 2020, Governor Newsome declared a State of Emergency in California due to the COVID-19 pandemic. On May 7, 2020, the Governor signed Executive Order N-63-20. Paragraph 15 of this Executive Order included the following:

*Law enforcement agencies are encouraged to adopt telephonic, remote, or other procedures for registration and reporting under the Sex Offender Registration Act that are consistent with State and local public health guidance regarding physical distancing, and to post or publicize such procedures through means calculated to reach any person subject to the Act.*

The requirement for sex offenders to provide a signature, fingerprints, and a photograph as part of the registration process was initially suspended for 60 days. On May 12, 2020, the California Department of Justice released Information Bulletin No. 20-07-CJIS. This bulletin referenced Executive Order N-63-20 and provided specific instructions regarding telephonic/absentee completion of the sex offender registration forms. On June 30, 2020, the Governor signed Executive Order N-71-20. Paragraph 36 of this Executive Order stipulated that, "The Provisions of Executive Order N-63-20, Paragraph 15, are hereby extended until this order is modified or rescinded, or until the State of Emergency is terminated, whichever occurs sooner." The telephonic, remote, or other procedures for registration that law enforcement

agencies were encouraged to adopt remain in effect in accordance with the extension. While adopting telephonic registration was in the best interest of public health and constitutional policing, pursuing registration violation cases based on absentee registration forms will be virtually impossible, since there are no initials, signatures, or thumbprints to prove identification. Once registration procedures return to normal, sex offenders that registered for the first time telephonically during the pandemic must be contacted by law enforcement and served with their registration requirements.

## **Juvenile Justice Changes**

In September 2020, Governor Newsom signed a bill to close the Department of Juvenile Justice (DJJ) and youth facilities, shifting responsibility of all justice-involved youth to counties. This



population accounts for 800 youth who were placed with DJJ, because they were at a higher risk of re-offending. DJJ will stop the intake of new juvenile offenders on July 1, 2021. County probation departments will have the responsibility to provide services for these high-risk justice involved youth. Accommodating these youth will require counties to expand placement and treatment options. The state's new Office of Youth and Community Restoration will support this transition.

In January of 2019, CASOMB released "Juvenile Recommendations" for the management and treatment of juveniles who have sexually offended. The report included a review of supervision and treatment needs, polygraph use and recommendations for registration of juveniles. A collaborative model of supervision and treatment was presented. Risk, needs, and responsivity were promoted to guide supervision and treatment dosages. A need for standardized treatment for juveniles through the certification of treatment providers was highlighted. The use of the polygraph was limited to those age 16 and older, on rare occasions and for the promotion of community safety. The elimination of registration for those whose only offense was committed as juvenile was endorsed.

CASOMB supported Assembly Bill 2713 that was introduced during the 2019-2020 legislation session. The bill would expand CASOMB's Board to include an experts in treatment of juveniles who have sexually offended, and one expertise in the juvenile justice field and experience with juveniles who have offended sexually. The bill would have required the Board, on or before July 1, 2022, to develop and update standards for certification of professionals and management programs for juveniles who offend sexually and would require those standards to be published on the Board's internet website. The bill would require programs for juveniles who offend sexually to be provided only by professionals certified by the Board. The bill would

also extend the exemption from civil liability to certified professionals and programs that provide treatment or supervision to juveniles who offend sexually. Unfortunately, COVID-19 also impacted the legislative process and the bill was suspended due to the truncated legislative cycle. However, CASOMB is working to find an author for a bill that adopts the language in AB 2713.

## **Sex Traffickers and Buyers of Commercially Sexually Exploited Children**

An estimated 100,000 to 300,000 children and women are trafficked for sex in the United States each year.<sup>5</sup> Trafficking is one of the fastest growing criminal enterprises, yielding billions of dollars annually. The average age a child is coerced into commercial sexual exploitation begins when they are 12 to 14 years of age.<sup>6</sup>

Human sex traffickers and sex buyers of minors are required to register as sexual offenders pursuant to California Penal Code § 290. Under California’s Containment Model, traffickers and buyers are required to participate in sex offender specific treatment and assessment. Often times sex traffickers and the general sex offender population are combined for treatment and given the same risk assessment evaluations without consideration for their unique needs.



The human sex trafficker is the individual who through persuasion, force, fraud, or coercion recruits, harbors, transports, advertises or arranges for the commercial sexual exploitation of another individual. Between 2009 and 2018, a total of 440 convicted sex traffickers that were required to register as sex offenders were released from state prison. On June 1, 2019, an additional 486 sex traffickers with registerable offenses remained incarcerated; 248 of them are scheduled to be released by 2025.<sup>7</sup> This number does not include criminally charged sex traffickers throughout California that have not had their cases adjudicated and sentences handed down, or those sentenced in federal court systems.

<sup>5</sup> O’Malley, N. (2019, February 21). *HEAT Institute Presentation to CASOMB*. Presentation at CASOMB Board Meeting, Board of State and Community Corrections, Sacramento, California.

<sup>6</sup> O’Malley, N., 2019

<sup>7</sup> California Sex Offender Management Board (CASOMB). (2019, February). *CASOMB Annual Report 2019*. Retrieved: [http://casomb.org/pdf/2019\\_Annual\\_Report.pdf](http://casomb.org/pdf/2019_Annual_Report.pdf)

Research informs us that sex traffickers have a high percentage of psychopathy and antisocial behaviors. Their criminal histories may involve intimate partner violence, forcible rape, gang involvement, dealing drugs and substance abuse history.<sup>8</sup> Studies show that approximately 15 percent (15%) of reported victims are trafficked by family members.

Specialized assessment and treatment should be conducted on adults who have been charged or convicted of human sex trafficking. The California Sex Offender Management Board recommends:

1. If the individual's only sexual offense is for sex trafficking that is financially motivated, the Static-99R and STABLE-2007 should not automatically be used to estimate sexual offense recidivism (a trained evaluator should determine if the person is eligible to be scored on the Static-99R or STABLE-2007).
2. The individual's risk for violent recidivism should be evaluated using the LS/CMI.
3. The individual should be assessed for psychopathy, using the Psychopathy Checklist-Revised (PCL-R) or similar instrument.
4. Individuals with sex trafficking related offenses should be in separate treatment groups from individuals with no sex trafficking offenses.
5. Treatment should focus on the unique criminogenic needs of the sex trafficker.
6. A gender-responsive approach should be used when evaluating a female sex trafficker.

Many believe the sex buyer is the driving force behind sex trafficking, as they create the demand. The sex buyer is an individual who exchanges something of value, such as money, for commercial sex, which may include child sexual exploitation images or videos (this does not include the individuals who traded or received child sexual exploitation images without the exchange of money). Prosecution of sex buyers is difficult because they may never be identified. A study in Finland found that only about ten percent (10%) of sex buyers who are identified are convicted.<sup>9</sup> Research specifically about adult males who pay to engage in sexual acts with minors is scarce. This population has been subsumed in the research of individuals who sexually offend against minors.

Online advertising and use of phone apps, allows for increased access to buyers and a wider market for sex trafficking, as well as a medium for grooming and recruiting vulnerable women and children into sex trafficking.<sup>10</sup> A study of national commercial sexual exploitation of

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<sup>8</sup> Gotch, K. (2016). Preliminary Data on a Sample of Perpetrators of Domestic Trafficking for Sexual Exploitation: Suggestions for Research and Practice. *Journal of Human Trafficking*, 2(1). <http://doi=10.1080/23322705.2016.1136539>

<sup>9</sup> Niemi, J. & Aaltonen, J. (2017). Tackling Trafficking by Targeting Sex Buyers: Can It Work?. *Violence Against Women*, 23(10). <https://doi.org/10.1177/1077801216657896>.

<sup>10</sup> Skodmin, F., Dunham, R., & Hughes, D.M. (2016). Analysis of Human Trafficking Cases in Rhode Island, 2009-2013. *Sage Open*, 6(2). <https://doi.org/10.1177/2158244016655585>

children estimated that, in 2006 approximately ten percent (10%) of child pornography cases nationally included the exchange of money.<sup>11</sup>

For adult males convicted of offenses related to the purchase of sexual acts with minors (this does not include those convicted for possession of child pornography only), the California Sex Offender Management Board recommends:

- Evaluate the individual using the Static-99R, STABLE-2007, and the LS/CMI.
- Identify and treat the criminogenic needs as identified by the dynamic risk instruments.
- Research on this specific population should be conducted.

It is rare that females are arrested for offenses related to the purchase of sexual acts with minor, but a gender responsive approach to evaluation and treatment is recommended in these cases.

The full report can be viewed on the CASOMB website, "[Sex Traffickers and Buyers of Commercially Sexually Exploited Children.](#)"

## **Detainment of Individuals Pursuant to Sexually Violent Predators Laws**

### Summary

CASOMB recommends several specific changes to improve the problems caused by an excessive number and duration of detainees. These changes will result in wiser use of state funds and improve the safety of California citizens. California's number and duration of detainees make its Sexually Violent Predator (SVP) law implementation highly atypical compared to other states with similar laws, and severely compromises its efficiency and efficacy. It gives rise to procedural due process concerns. It takes an extraordinarily long time for individuals to get processed through SVP commitment proceedings, while being involuntarily detained past their prison sentence, all at an excessive cost. For the portion of detainees that will go on to get committed, the lengthy duration of proceedings is time wasted where they could have applied themselves meaningfully in treatment. For the portion of detainees that eventually do not get committed, the years lost to pending commitment proceedings are an unfair and unnecessary loss of liberty. From a fiscal perspective, for every year one detainee that will eventually not be committed is held pending commitment proceedings, there is a wasted cost of \$211,500 (the cost of detainment plus the two update evaluations); the actual cost is made greater by attorney, court, and other evaluation costs.

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<sup>11</sup> Mitchell, K., Jones, L.M., Finkelhor, D., & Wolack, J. (2011). Internet-Facilitated Commercial Sexual Exploitation of Children: Findings from a Nationally Representative Sample of Law enforcement Agencies in the United States. *Sexual Abuse: A Journal of Research and Treatment*, 23(1), 43-71. DOI: 10.1177/1079063210374347.

## Description

Implemented in 1996, the Sexually Violent Predator Law (SVP, [Welf & Inst. Code, § 6600, et seq.](#)) represents the state's effort to treat and manage its highest risk sex offenders. The total number of individuals ever committed as SVPs represents less than one percent (1%) of all individuals registered as sexual offenders in California (D'Orazio, Azizian, & Olver, 2019). This past year the CASOMB reviewed four components of the California SVP law implementation against empirically based practice standards. This review will continue into next year. Readers are referred to the [SVP Introduction Paper](#) for a summary of the four topic areas. Results from the [Detainee Paper](#) are summarized here.

CASOMB finds the efficacy and efficiency of California's SVP program are severely compromised by having too many detainees that are held for too long pending trials. California has more inpatients than any of the twenty-one states with "Sexually Violent Predator" laws (Schneider et. al, 2018). The current census of nearly 1,000 total SVPs represents roughly fifteen (15%) of the national total and is comprised of detainee (Welf. & Inst. Code, § 6602, Probable Cause) and fully committed (Welf. & Inst. Code, § 6604) categories. California has the highest number of detainees nationally, representing nearly half of its total SVP population. Not just the number of detainees is exceptional, but also the duration of detainee status is much longer than that of other states with SVP programs. Detainees are held at the state hospital and offered treatment until a commitment trial occurs, at which time the detainee is either fully committed as an SVP or released having been determined by the judge or jury not to meet the SVP criteria beyond a reasonable doubt. The detainees at the state hospital awaiting commitment proceedings have been there for an average of six years, and twenty-five percent (25%) have been there more than 10-years (D'Orazio, Azizian & Olver, 2019). Roughly, six out of ten detainees have been eventually fully committed (D'Orazio, Azizian, & Olver, 2019).

## Changes Needed

Immediate actions are needed. These will allow those who meet SVP criteria to be more quickly committed, and those that do not meet commitment criteria to be more quickly released, and with more parole time remaining to assist their community reintegration. Shortening the duration of detainee status will increase the treatment completion rate, the quality of treatment engagement, and the therapeutic milieu in the Department of State Hospital SVP Sexual Offense Treatment Program. It will improve the efficacy of the SVP law by assuring those confined at the state hospital meet commitment criteria. It will cease the undue waste of state resources caused by needlessly detaining those that do not meet the criteria. This will significantly reduce the overall fiscal costs spent on SVP evaluation, commitment, and treatment. This will increase the integrity and credibility of the program.

1. CASOMB takes a stance that the duration of detainee status for individuals with sexual offenses subjected to civil commitment proceedings is excessive and

undermines the efficacy of SVP as an intervention to enhance community safety. Immediate action is needed.

2. The duration from the Probable Cause judicial determination to the commitment trial should not be longer than two years. CASOMB will make known this stance to all SVP stakeholders and provide education to the judicial council and legislators.
3. CASOMB recommends a legislative change to cap the duration for detainee SVP status.
4. CASOMB recommends a statutory modification of Welfare & Institutions Code section 6602(b), to further restrict the use of “good cause” for continuances.
5. Because the case has already gone through full evaluation and Probable Cause hearing by the time detainee’s status (i.e. WIC6602) commences, attorneys have extensive records. Whereas timely proceedings will have a significant net cost savings, attorneys may need additional resources to prioritize case management. It is recommended that District Attorney (DA) and defense attorney organizations conduct an impact analysis of capping the amount of time for commitment proceedings to two years.
6. Intersecting the problem of lengthy detainee status, is the problem area of low treatment enrollment. As described in the Treatment Enrollment Paper, the program should develop and implement ways to increase the treatment enrollment rate and quality of treatment engagement. A multi-disciplinary task force to identify and recommend program implementation changes to enhance treatment enrollment rate and quality is recommended.
7. The Department of State Hospitals (DSH) SVP Program should create and implement a means for routinely tracking detainee duration, detainee versus fully committed outcomes (e.g., number committed, number released, detainee duration of released, released with/without parole), duration of treatment modules, and treatment advancement rates. CASOMB further asks DSH to provide information on parole time of SVPs releasing to the community. Summaries of this information should be made readily available to the various SVP stakeholder groups, including CASOMB. A spirit of transparency of non-HIPAA protected information is suggested.
8. In making determinations for readiness for conditional or unconditional release for those fully committed, courts should be instructed to consider the individual’s progress in treatment. This will result in more SVP individuals getting treatment needed to reduce the likelihood of sexual re-offense rather than protracting detainee status to achieve discharge goals. Lower risk individuals should generally progress through treatment more quickly than higher risk individuals.
9. CASOMB recommends a legislative change to fix the disparity in tolling parole for detainee and fully committed SVPs. Parole should toll (i.e. pause) for both the Welfare & Institutions Code section 6604 and Welfare & Institutions Code section 6602 SVP individuals.
10. Research should occur that determines the duration of status and difference in re-offense rates between 1) those screened at CDCR and not referred for SVP evaluation 2) those evaluated by DSH as not meeting SVP criteria 3) those referred to DAs to file

petitions (evaluated as positive by DSH) 4) Detainees (Welf. & Inst. Code, § 6602) released having never been found to meet the SVP criteria beyond a reasonable doubt and 5) fully committed SVPs released having been determined to no longer meet the criteria. Research should assess the relationship between duration of detainment and treatment participation on future re-offense rates.

## **Research on Dynamic Risk Instrument**

CASOMB promotes empirically supported interventions and educates its stakeholders with current and relevant research about managing and preventing sexual re-offense. In 2019, CASOMB completed a research project on "[Homelessness and Transient Status Among Registered Sex Offender in California.](#)"

CASOMB, in cooperation with SARATSO, has begun its next two research project: Inter-rater reliability of the STABLE-2007 (this project is described in the SARATSO research section), and utility of the STABLE-2007 as a measure of criminogenic needs and treatment progress in male sexual offending individuals. This project involves two separate studies designed to assess the utility of the CASOMB and SARATSO standards for treatment providers of sexual offending clients on probation or parole. California requires CASOMB-certified treatment providers to use the STABLE-2007 to identify criminogenic needs, and, in combination with the Static-99R, assess risk for sexual re-offense. The Static-99R and the STABLE-2007 are commonly used for these purposes nationally and internationally.

One of the studies examines the efficacy of CASOMB-certified treatment programs in facilitating change of risk factors of their clients. It does this by examining the usefulness of the Stable-2007 at detecting change in clients treated in CASOMB-certified programs. After identifying each individual's treatment needs through an initial Stable-2007 assessment, treatment programs target the criminogenic needs through the treatment process. The individual's improvement is expected to result in lower ratings later in treatment than at the initial rating. This project will identify the degree to which this change actually occurs. The results of this study will provide practical information on service delivery.

The results of these studies will provide invaluable practical information that can be used by CASOMB and SARATSO leaders to further refine the standards and training for professionals that work with sexual offenders in California. They will further contribute to the body of research about sexual offender interventions, thereby enhancing outcomes and reducing the prevalence of sexual re-offense.

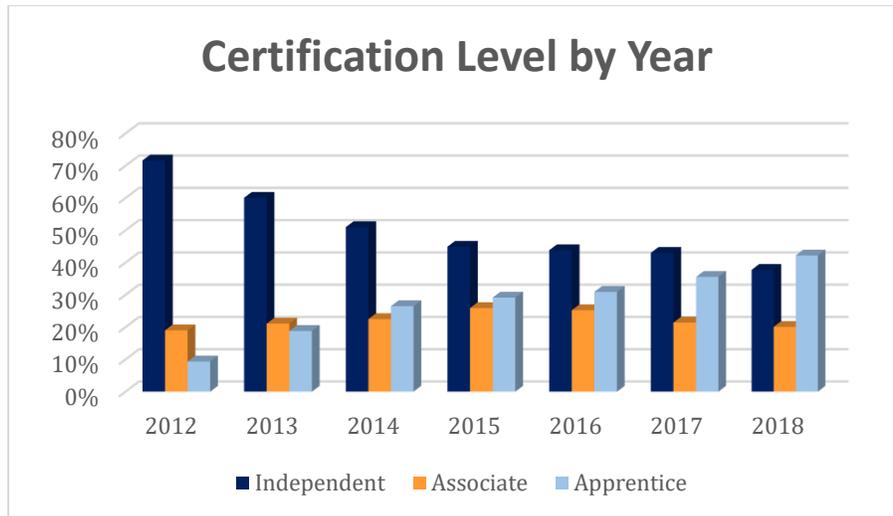
## **Certification and Complaints**

In 2012, CASOMB began certifying treatment providers and treatment provider agencies who provide treatment services to individuals who have committed a sexual offense. Over the past eight years, CASOMB has grown in its role as a certifying entity.

CASOMB began conducting compliance reviews or audits of treatment providers during 2019 and expanded the compliance reviews to include provider agencies in 2020. During 2020 CASOMB conducted compliance reviews on twenty treatment providers, this number represents approximately 3.5 percent (3.5%) of those certified. All except one treatment provider were in compliance. The reviews highlighted deficits in some agencies' documentation of internal training provided to staff and students. Three individuals, approximately thirteen percent (13%) of those contacted were no longer at the agencies listed on their application and were unreachable or responded to the compliance review stating they were no longer providing sex offender services.

Two out of sixty-six treatment provider agencies were reviewed remotely. Neither agency was in full compliance. Compliance issues included a lack of all required forms and a lack of maintaining SARATSO certified scorers for the dynamic and violence risk instruments. The agencies were given sixty days to restore their compliance; both agencies were able to remediate the identified problems. Remote compliance reviews limit the audit to a partial review. Given the findings of the remote audits, more thorough on-site reviews are necessary. CASOMB does not have adequate staff to complete in-person in-depth reviews, nor to increase the number of providers and agencies reviewed annually.

CASOMB has three levels of treatment provider certification: independent, associate, and apprentice. Independent certification is the highest level that can be achieved. The apprentice level is for individuals new to this type of work. The hope is that individuals new to the field begin as an apprentice, matriculate to associate, and grow to independent. A trend analysis of treatment providers between 2012 and 2018 shows that in, 2012, CASOMB certified 343 treatment providers, of which, seventy-seven percent (77%) were independent, sixteen percent (16%) were associate, and seven percent (7%) were apprentice. By December 2018, CASOMB had a record of 583 active treatment providers with thirty-eight percent (38%) independent, twenty percent (20%) associate, and forty-two percent (42%) apprentice. Over the course of the six and half years, approximately twenty percent (20%) of the individuals matriculated to a higher level, and 525 treatment provider's CASOMB certification expired without renewal (this latter number includes all levels of treatment provider).



The number of apprentices appears to exceed the number of independent providers, and many treatment providers do not maintain CASOMB certification. It is apparent that many apprentice providers are students or interns who do not maintain their certification after their training year, even though they are certified for two years. The number of apprentice level clinicians is likely to be higher than the actual number practicing. After 2012, the majority of the new applicants received were apprentice level clinicians; it is unclear why individuals who continued to practice in this field did not matriculate to a higher level of certification.

Along with the increase in compliance reviews, CASOMB has seen an increase in complaints filed. Not all complaints received fall under CASOMB’s jurisdiction. When a complaint received falls under CASOMB’s jurisdiction, the complaint is investigated by Board members, and if necessary the Board will sanction the treatment provide or provider agency. CASOMB staff is responsible for facilitating communication between the Board members and the complainant, and overseeing the implementation of the sanction, which could include probation, oversight, or loss of certification. Given the increase in the number of treatment providers and agencies and the increase in the knowledge and awareness of CASOMB’s requirements by key stakeholders, it is likely that the number of complaints will increase. The current model for investigating and overseeing sanctions is a short-term solution that is not sustainable. Additional staff is needed to allow CASOMB staff to conduct the investigations at the Board’s direction and to oversee the implementation of sanctions.

Based on its history of certification, the complaints received, and the trend analysis conducted, CASOMB has undertaken a review of the current certification requirements, and will propose changes that will lead to improved quality of treatment and increased oversight within agencies.

## **Senate Bill 384 Implementation for Law Enforcement Agencies**

On October 6, 2017, then Governor Brown signed Senate Bill (SB) 384, which becomes effective on January 1, 2021. Once in effect, it will dramatically change how California manages its sex offender population by transitioning from a lifetime requirement for all sex offenders to a tiered registration system. The tiered system will allow removal from the registry, depending on tier assignment. The California Department of Justice will divide registered offenders into three tiers based on their conviction offense(s) and risk of reoffending. Tier 1 will require 10 years on the registry; Tier 2 will require 20 years, and Tier 3 will retain the lifetime requirement. For Tiers 1 & 2, the process of being removed is not automatic. Beginning on July 1, 2021, an individual seeking removal of their registration requirement must file a petition with the court. They must then serve copies of the petition on the local District Attorney's Office and registering law enforcement agency. The District Attorney's Office may file a response to the request if it is felt that the petitioner still poses a concern to the public and warrants for their registration requirement to continue. Each petition filed will require that law enforcement investigate to confirm eligibility and determine whether or not to oppose the petition. A past felony conviction for failure-to-register adds three years and a misdemeanor adds one year to the time required to register. Significant time spent in custody is not counted and effectively extends the amount of time.

Law enforcement agencies statewide have been participating in the California DOJ's SB 384 working group, which began in March of 2018. These regular meetings/training sessions have provided a forum for law enforcement, District Attorney Representatives, and court staff members from throughout California to receive updates, ask questions and provide feedback. It has been estimated that thirty percent (30%) of California's sex offenders will be eligible to petition for removal from the registry. Initially it was expected that the receipt of petitions beginning July 1, 2021, would be something of a Tsunami effect. However, on August 6, 2020, Governor Newsom signed SB 118, which modified procedures related to the Sex Offender Tiering Bill. Specifically, it staggered when registrants can petition so that it must now be in conjunction with their birthdays. Beginning July 1, 2021, registrants will not be able to petition until on or after their next birthday. If their birthday falls in the first half of 2021, they would not be able to petition until 2022. This effectively eliminates the flood of petitions that was anticipated would begin on July 1, 2021, and will make it much more manageable for law enforcement agencies to handle the petitions. Additionally, SB 118 specified that the courts have the ability to summarily deny a petition if the filing requirements are not met or if the person is statutorily ineligible to petition. The local district attorney's office would not have to request a hearing for those cases, which will help law enforcement, since no investigation will be necessary. Also, if a petitioning registrant fails to serve a copy of a filed petition on law enforcement, the court could summarily deny it.

It is recommended that:

1. California law enforcement agencies estimate the number of petitions they will receive and have a system in place to handle these petitions.

2. The on-line California Sex Arson Registry (CSAR) Phase II – End User Training should be mandatory for any law enforcement official that will be conducting verifications and investigations in response to received petitions.
3. Additionally, large agencies should consider internal training for their involved personnel and establish contact with the involved personnel at their local district attorney's office.

### **Senate Bill 384 Implementation**

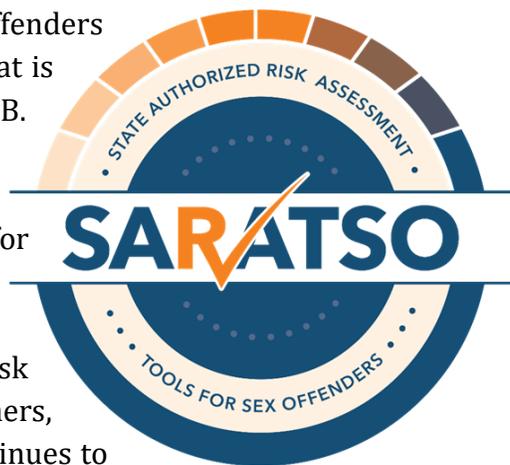
As a result of SB 384, the California DOJ has been diligently working to transition from lifetime sex offender registration to tiered registration. Since the start of the SB 384 project in 2017, DOJ has filled ninety positions to assist with tiering. DOJ anticipates bringing on approximately fifty additional staff throughout the life of the project to assist with petitions for termination.

In addition to increasing staffing to assist with the SB 384 workload, DOJ has made several technological updates to support local law enforcement, the District Attorney's Offices, and the courts as they transition to tiered registration. DOJ has completed development of the tiering updates within the CSAR and will be releasing the updates to law enforcement in January 2021. Additionally, DOJ is finalizing updates related to petitions for termination in CSAR to assist law enforcement agencies and District Attorney's Offices once eligible registrants are able to petition for termination beginning on July 1, 2021. DOJ has also been updating other criminal history databases in preparation for tiered registration.

In 2020, DOJ began conducting SB 384 information sharing sessions for law enforcement, the courts, and the District Attorney's Offices. To date, DOJ has completed over fifty information sessions. DOJ is preparing to offer additional training to CSAR end-users, District Attorney's Offices, probation, and parole in 2021. DOJ has also been conducting outreach to local custodial facilities and courts to obtain additional disposition and custodial data to assist local law enforcement in determining whether registrants are eligible to petition for termination pursuant to SB 384.

## **State Authorized Risk Assessment Tools for Sex Offenders Review Committee**

The State Authorized Risk Assessment Tools for Sex Offenders (SARATSO) Committee is a separate state committee that is integral to, related to, and aligned with CASOMB. Nevertheless, each have separate roles and statutory mandates. The SARATSO Committee was established in California in 2006 to select reliable instruments for determining the risk of sexual re-offense for persons convicted of a sexual offense. The Committee retains experts at the top of their field, sex offender risk assessment, to train SARATSO-certified California trainers, provide advice, and develop curriculum. SARATSO continues to request funding for research and training needs.



### **Training**

The SARATSO Review Committee selected the Static-99R for adult males and JSORRAT-II for juvenile males to predict risk of sexual re-offense; the STABLE-2007/ACUTE-2007 to assess dynamic risk factors related to sexual re-offense; and the Level of Services/Case Management Inventory (LS/CMI) for assessing violence potential. All scorers and trainers must pass an initial training and then be recertified every two years on the instrument(s) they use. Many departments and agencies rotate staff through different positions or hire new staff, which requires ongoing training. In addition to providing training on how to score the instruments, SARATSO also certifies trainers.

The COVID-19 pandemic halted all in-person trainings in April of 2020. SARATSO responded by transitioning to live web-based trainings and temporarily extending recertification grace periods. SARATSO increased the number of trainings it typically conducts, while agency based trainings significantly decreased. SARATSO continues to host web-based trainings, while departments and agencies have the option of holding web-based or in-person trainings if they comply with state and county guidelines. The number of participants that can attend an in-person training is approximately half of what it was in the past. Both live and on demand web-based trainings have been commonplace for the past 10 years. Concerns around engagement, comprehension, and accurate execution of the scoring rules for web-based trainings has historically been the impetus for in-person trainings. While in person trainings are still preferred, web-based trainings decrease commute and travel times for participants, removing some of the barriers for attending in person trainings.

In 2020, SARATSO hosted 24 trainings. SARATSO certified trainers conducted 28 agency-hosted trainings in 2020, compared to 44 trainings in 2019. In 2020, forty-two percent (42%) were in person and fifty-eight percent (58%) were web-based trainings.

### Score Submission

The SARATSO risk instrument scores must be submitted to the Department of Justice (DOJ). DOJ shares the submission rates with the SARATSO Review Committee annually. In 2019, the score submission rate for the Static-99R was ninety-five percent (95%) for county probation departments. Through an effort of ongoing communication, training and accountability, probation departments' awareness and compliance with this mandate has consistently increased each year.

Score submission for the dynamic (STABLE-2007) and violence (LS/CMI) risk instruments are more difficult to track due to the constantly fluctuating numbers of offenders participating in sex offender treatment in the community. SARATSO requested data from county probation and state parole to help track the number of dynamic and violence risk assessments that should be completed. SARATSO received data from 51 counties and parole for the 2019 year. In 2019, 9,580 parolees received sex offender treatment with CASOMB-certified treatment providers. Based on the data that was submitted, over 5,200 probationers and over 970 on Post-Release Community Supervision (PRCS) were supervised for a sexual offense. Of those on probation and PRCS, approximately fifty-six percent (56%) were enrolled in treatment during 2019. Thirty-nine counties provided data on why individuals were not enrolled in treatment, which included: completed treatment; warrant/at large; treatment was not ordered; could not pay or was indigent; deported; never reported to treatment; and various other reasons.

SARATSO reviewed the data indicating which agencies submitted scores and found that twenty percent (20%) of the CASOMB-certified agencies did not provide any dynamic or violence risk scores during 2019. Follow-up is being conducted with these agencies. For the first time, SARATSO will provide a letter to treatment providers, which includes information about agency submission to DOJ. Increased communication and training with the key stakeholders, including parole, county probation departments, and CASOMB-certified provider agencies, and software specifically designed for this purpose will improve the ability to accurately track this information.

### Research

#### *STABLE-2007 Inter-Rater Reliability*

A collaborative research project is being conducted by SARATSO and CASOMB. To assure user competency, as part of CASOMB and SARATSO mandates, users of the STABLE-2007 undergo an initial two-day certification training plus recertification trainings every two years. This

training method is designed to yield reliable ratings. However, the degree to which different raters arrive at the same scores for the same case is not yet known. This portion of the project will shed light on this by assessing the inter-rater reliability of SARATSO certified STABLE-2007 users. The results of the STABLE-2007 inter-rater reliability study will provide valuable information that will allow improved training of scorers. This will ultimately result in improved services and enhanced community safety.

*Juvenile Sex Offender Recidivism Risk Assessment Tool-II and Juvenile Recidivism Study*

A SARATSO-sponsored recidivism study is in progress on the JSORRAT-II. The JSORRAT-II, has been validated in Utah and Iowa, and is the actuarial tool selected by SARATSO to assess sex offense recidivism of juvenile males who have offended sexually. The study will analyze the validity of the JSORRAT-II on a California population. The study will determine recidivism rates of juvenile males released from CDCR's Division of Juvenile Justice over a 10 year-period. Over 700 files have been reviewed for inclusion in the study. Results of this research project should be available during 2021.

## Appendix A

### Data on Registered Sex Offenders in California

Sex Offender Registration In Community	Registered	Listed on Megan's Law Website
January 2008	67,710	Unknown
December 2020	82,432	58,822*

Sex Offenders In Custody	In State Prisons	In Civil Commitment (SVP)
January 2008	22,474	655
December 2020	19,697	937 **

Sex Offenders On Community Supervision	On State Parole	On Conditional Release (SVP)
January 2008	8,019	Unknown
December 2020	11,263	15**

\* Numbers as of January 1, 2021 from Megan's Law website.

\*\* Numbers reported as of January 1, 2021.

Not all sex offenders who have committed a sexual offense have been detected.

## Appendix B

### Data on Registered Sex Offenders by County

COUNTY	Estimated Population	Active Sex Offender Registrants in the Community	COUNTY	Estimated Population	Active Sex Offender Registrants in the Community
Alameda	1,746,401	2,348	Orange	3,333,397	3,016
Alpine	1,149	2	Placer	395,978	592
Amador	37,988	101	Plumas	18,242	66
Butte	221,521	831	Riverside	2,748,573	4,393
Calaveras	45,085	124	Sacramento	2,046,531	4,145
Colusa	28,217	50	San Benito	61,513	137
Contra Costa	1,150,621	1,430	San Bernardino	2,386,606	4,901
Del Norte	27,127	158	San Diego	4,768,912	4,533
El Dorado	190,018	391	San Francisco	891,021	1,091
Fresno	1,557,207	2,588	San Joaquin	769,700	1,902
Glenn	28,695	79	San Luis Obispo	324,292	489
Humboldt	133,996	459	San Mateo	877,800	726
Imperial	208,185	267	Santa Barbara	543,947	714

Inyo	18,572	45	Santa Clara	2,082,234	3,337
Kern	908,405	2,202	Santa Cruz	337,742	409
Kings	152,995	409	Shasta	177,891	825
Lake	64,268	335	Sierra	3,210	10
Lassen	29,173	103	Siskiyou	44,592	220
Los Angeles	14,197,548	14,928	Solano	438,832	981
Madera	223,333	437	Sonoma	508,111	816
Marin	262,240	158	Stanislaus	554,018	1,392
Mariposa	18,066	75	Sutter	102,914	311
Mendocino	88,388	264	Tehama	65,085	355
Merced	366,816	803	Trinity	13,637	71
Modoc	9,637	59	Tulare	543,045	1,207
Mono	13,517	19	Tuolumne	54,532	173
Monterey	469,296	689	Ventura	846,050	1,115
Napa	219,700	198	Yolo	220,896	392
Nevada	97,820	196	Yuba	77,342	364
			<b>Total:</b>	<b>47,752,627</b>	<b>68,431</b>

State of California, Department of Finance, E-1 Population Estimates for Cities, Counties, and the State with Annual Percentage Change – January 1, 2019 and 2020. Sacramento, California, May 2020

Active Sex Offender Registrants by County made available by the California Department of Justice as of January 1, 2021.



[www.CASOMB.org](http://www.CASOMB.org)