

September 12, 2025

**SOPB's recommendations on  
Special Sex Offender  
Sentencing Alternative  
(SSOSA) reforms and  
treatment alternatives for  
certain sex offenses.**

Brad Meryhew, Chair  
Sex Offender Policy Board



# Sex Offender Policy Board (SOPB): Who We Are

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There are 13 board members that make up the SOPB. These organizations are designated in [RCW 9.94A.8673](#) and each organization selects their representative(s) to serve on the board:

- Brad Meryhew, Chair, **Washington Association of Criminal Defense Lawyers**
- Daniel Davis, **DSHS Special Commitment Center**
- Gunner Fulmer, **Washington State Association of Counties**
- Jill Getty, **Indeterminate Sentence Review Board**
- Jimmy Hung, **Washington Association of Prosecuting Attorneys**
- Hon. Nelson Lee, **Superior Court Judges Association**
- Michael O'Connell, **WA Association for the Treatment & Prevention of Sexual Abusers**
- Jedd Pelander, **DCYF Juvenile Rehabilitation Administration**
- Terrina Peterson, **Washington Association of Sheriffs and Police Chiefs**
- Mac Pevey, **Department of Corrections**
- Donald Redfield, **Association of Washington Cities**
- Shawn Sant, **Washington Association of Prosecuting Attorneys**
- Trisha Smith, **Office of Crime Victims Advocacy**
- Sherrie Tinoco, **Washington State Coalition Against Domestic Violence**

# Assignment by the House Community Safety, Justice & Reentry Committee

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On March 29, 2022, the House Community Safety, Justice & Reentry Committee convened the SOPB on assignment including the following request:

- *Conduct a current review of the [Special Sex Offender Sentencing Alternative \(SSOSA\)](#) and make recommendations for improvements to the SSOSA process, including the current eligibility criteria, judicial discretion and barriers to accessibility. These recommendations should address any shortages in sex offender treatment or other services employed by this alternative sentence.*
- *Review research and make recommendations regarding best practices related to [sentencing alternatives for individuals with sexual offenses](#), including “non-contact” sex offenses.*
- *Make recommendations regarding [sex offender policies and practices](#) related to the above referenced policies, and make recommendations as appropriate regarding improvements to treatment, housing, community re-entry and other relevant policies.*

# Assignment Overview

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The SOPB created subcommittees made up of diverse stakeholders and experts on each topic:

- SSOSA & Sentencing Alternatives Subcommittee
  - Reviewed and made recommendations to the full board on assignment items (1,2,&6 seen on previous slide)
- The subcommittees presented to the board throughout the project and made final recommendations for the board's consideration and deliberation.
- The SOPB finalized 26 recommendations that were submitted to the Legislature for consideration including recommendations to SSOSA and the establishment of a new sentencing alternative for certain sex offenses

# **Special Sex Offender Sentencing Alternative (SSOSA)**

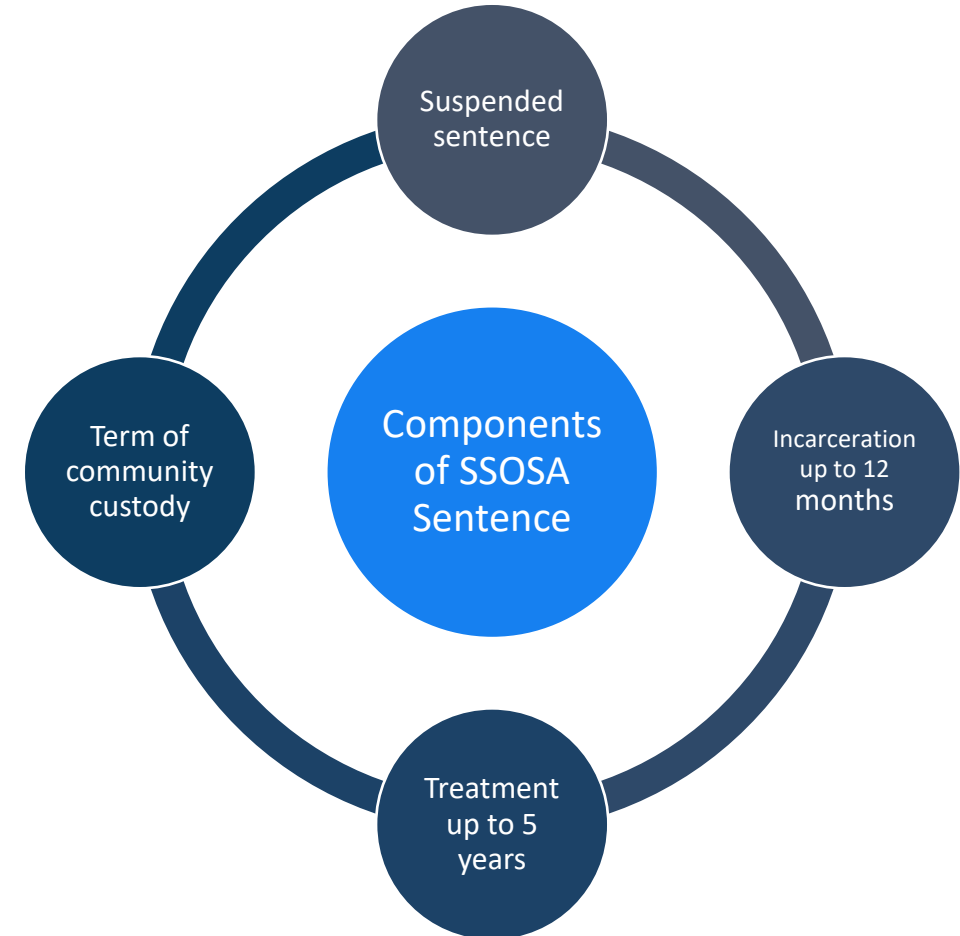


# SSOSA: Background & History

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SSOSA was authorized in 1984 with the original purpose to encourage victims to engage in the criminal justice system with an opportunity for the offender to receive treatment without lengthy incarceration. [RCW 9.94A.670](#)

- Establishment of alternative championed by victims'/victim services communities and continues to have widespread support today
- **Involvement and support from the victim(s) in the criminal process**
- Intended to allow for accountability & to encourage victims to disclose without fear that the individual known to them, and who caused them harm, be subject to a lengthy term of incarceration (ex: parents, guardians, grandparents, etc.)



\*Decision of whether to grant SSOSA is made by the Court.

# SSOSA: Eligibility Criteria

Determination for SSOSA eligibility includes the following requirements:

## 1984: Establishment of SSOSA criteria



- The individual was convicted of a sex offense other than Rape 1 or Rape 2
- The individual had no prior convictions for felony sex offenses in this or any other state; and
- The standard sentence range for the offense includes the possibility of confinement for less than 11 years.

## 2004: ESHB 2400 Eligibility Expansion



- The individual has no prior violent offenses within five years of the current offense
- The current offense did not cause substantial bodily harm to the victim; and
- The individual has an **established relationship** or connection to the victim.

## 2004: Judge's Required Consideration Expansion

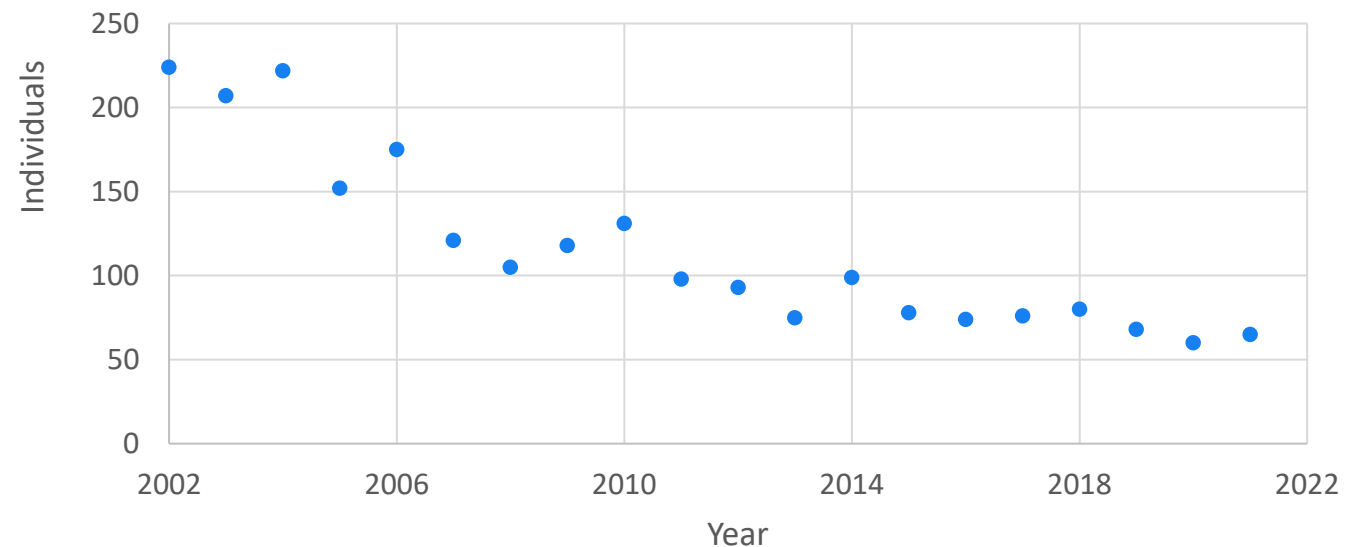


- An examination report provided by a treatment provider.
- The victim's opinion must be given great weight in considering whether to grant a SSOSA.
- Whether the individual and the community will benefit from the SSOSA
- Whether the individual had multiple victims
- Whether the individual is amenable to treatment
- The risk the individual poses. (\*must be assessed as low risk to be eligible)
- Whether the SSOSA is too lenient in light of the circumstances.

# SSOSA: What We Know About SSOSA's Usage

- Research has shown that SSOSA works ([WSIPP report](#)): individuals granted a SSOSA have lower rates of recidivism than those meeting the criteria for the alternative but sentenced to prison
- The use of SSOSA has declined even though the data shows SSOSA is an effective sentencing alternative
  - Early 2000s, approximately 200 SSOSAs granted/year
  - Now, approximately 70 SSOSAs granted/year (less than 15% of those eligible)

Number of people who received a SSOSA in last 20 years





# SSOSA: Data 2002-2020

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| SSOSA Cases Per Year           |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Year                           | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| # of Cases Eligible for SSOSA  | 822  | 857  | 861  | 769  | 773  | 702  | 632  | 682  | 622  | 587  | 606  | 547  | 579  | 584  | 522  | 553  | 570  | 635  | 547  |
| # of Cases Granted SSOSA       | 224  | 207  | 222  | 152  | 175  | 121  | 105  | 118  | 131  | 98   | 93   | 75   | 99   | 78   | 74   | 76   | 80   | 68   | 60   |
| % of Individuals Granted SSOSA | 27%  | 24%  | 26%  | 20%  | 23%  | 17%  | 17%  | 17%  | 21%  | 17%  | 15%  | 14%  | 17%  | 13%  | 14%  | 14%  | 14%  | 11%  | 11%  |

# SSOSA: Barriers to Usage

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## ○ Costs

- Individuals granted SOSSA sentence are expected to pay for own treatment
- Treatment includes group and/or individual therapy sessions and polygraph testing on regular basis

## ○ Shortage of certified Sex Offense Treatment Providers (cSOTP) in the state

- Have approximately 80 cSOTPs across the state for both adults and juveniles

## ○ Lifetime Supervision

- Defendant may take plea for a lesser charge (Class B or C) with a prison term instead of SSOSA if SSSOSA would result in Class A conviction with lifetime supervision
- Prior to 2001, SSOSA cases involving Class A offenses were supervised for period of suspended sentence or 36 months, whichever was longer
- After 2001, SSOSA sentences for Class A sex offense resulted in lifetime supervision with no pathway off

# SSOSA: SOPB Recommendations

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## **We unanimously recommend that the SSOSA statute be protected and preserved.**

- The evidence is strong that this sentencing alternative is an effective tool to resolve many cases and has proven itself over the decades.
  - We recommend that RCW 9.94A.670 be clarified to include language that requires an individual to enter a plea of guilty prior to trial in order to be eligible.
- We recommend addressing financial disparities by implementing a sliding fee schedule for evaluations and treatment and establishing low-cost treatment options.
  - We further recommend designating funding for work release for individual's on SSOSA as individuals who are incarcerated and who cannot continue employment, and therefore cannot pay for treatment, are not eligible.

# **New Treatment Alternatives for Certain Sex Offenses**



# New Treatment Alternatives: Background

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- SSOSA is effective for low-risk individuals; however, it is restricted to individuals whose sexual offense involved a victim with whom they had an established relationship.
- 2 groups of individuals were identified by SOPB for potential treatment alternatives:
  - Individuals whose offense is limited to downloading, copying, or viewing illegal depictions of minors unknown to them on the internet
  - Individuals convicted of a sexual offense as a result of a law enforcement sting conducted online
    - These groups are currently ineligible for SSOSA under current law since they do not have an established relationship with the victim

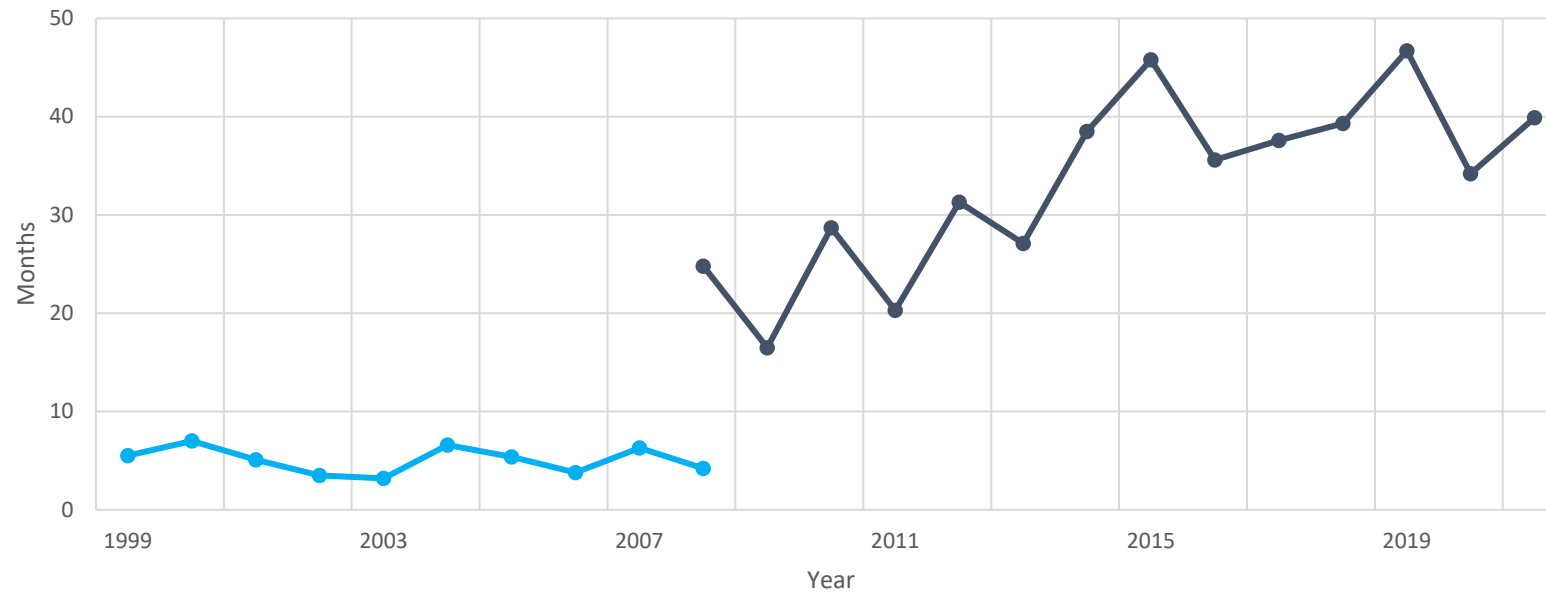
# History of Depiction Laws in WA

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- 1984: WA enacts Sexual Exploitation of Children Act, [Chapter 9.68A](#), with intent of preventing sexual exploitation & abuse of children
- Act created multiple new offenses, including the following involving depictions of minors engaged in sexually explicit conduct
  - *Dealing* in depictions of a minor engaged in sexually explicit conduct - Class C felony for people duplicating, disseminating, exchanging, or buying the illegal photos or copies of photos
  - *Sending or bringing into the state* depictions of a minor engaged in sexually explicit conduct – Class C felony for people who bring illegal photos or copies into the state for sale or distribution
  - *Possession* of depictions of a minor engaged in sexually explicit conduct – gross misdemeanor for people who knowingly possess illegal photos or copies of photos
- 1990: Seriousness of possession offense was increased from gross misdemeanor to unranked class C felony
- 2006: Possession offense was reclassified from non-sex offense to sex offense requiring individuals to register as sex offenders; seriousness level increased from Class C felony to seriousness level 6 class B felony ([2SSB 6172](#))
  - With this change, average length of incarceration greatly increased

# History of Depiction Laws in WA cont.

Figure 2: Average length of incarceration (months) for Possession 1 convictions

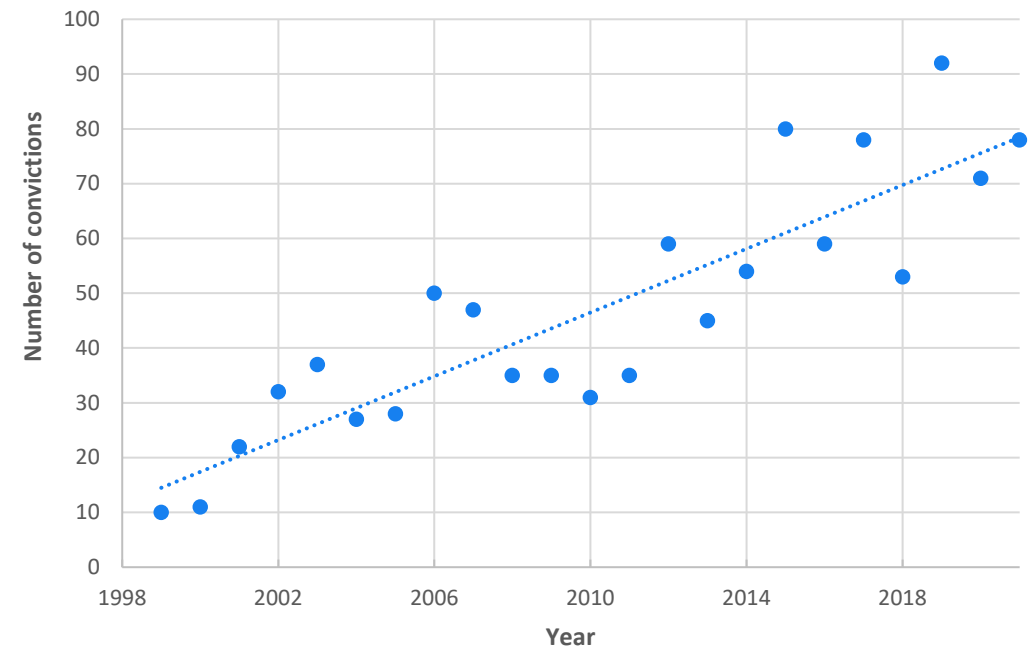


Post enactment of 2SSB 6172, length of incarceration increased more than 9-fold

# History of Depiction Laws in WA cont.

- 2010: ESHB 2424 enacted in response to changing technology. Depiction offenses modified to include 1<sup>st</sup> and 2<sup>nd</sup> degree offenses. 2 new viewing offenses created. 1<sup>st</sup> degree classified as class B sex offense, 2<sup>nd</sup> degree classified as class C sex offense
  - With addition of new 2<sup>nd</sup> degree possession offense and 2 new viewing offenses, number of convictions with most serious offense being possession or viewing of illegal depictions increased

Figure 3: Total convictions with possession or viewing depictions as most serious offense





# Depiction-Only Offenses: Research Overview

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- Extensive research in the field establishes that child sexual abuse image offenders are at low risk to reoffend or commit a hands-on offense, and they are very amenable to specialized treatment.
  - Depiction-only offenders display lower levels of antisocial traits & greater victim empathy than either contact or mixed offenders (Babchishin, Hanson & VanZuylen, 2015)
  - To date, all of literature reviewed during SOPB assignment indicates individuals who restrict offending behavior to depiction-only offenses are distinct subgroup of offenders who pose lower risk of committing a sexual offense in future
  - Individuals who commit depiction-only offenses may be good candidates for sentencing alternative
    - However, mixed offenders pose a higher risk and need different treatment
- Conclusion: available evidence indicates individuals whose behavior is limited to viewing, possessing, duplicating, disseminating or exchanging illegal, internet depictions are at low-risk of reoffending. Consequently, treatment in community can be done at a low risk to community, a risk similar or lower than individuals convicted of a qualifying SSOSA-related offense

# Other Internet-Facilitated Offenses: Research Overview

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- There is less research available on internet sting offenders – this is growing field as technology continues to evolve
- Some concern was expressed by some board members during assignment about including the population in the new treatment alternative due to the limited amount of available research
- 2021: Association for Treatment of Sexual Abusers (ATSA) released a [statement](#) on internet-facilitated sexual offending: “studies suggest internet-facilitated cases are less antisocial and therefore at less of a risk to commit a new offense or a probation violation than contact offending cases
- 2022: SOPB consulted with Dr. David Thornton (co-developer of empirically validated risk tools currently used in WA)
  - No data showing these individuals are at higher risk than those who commit hands-on offenses, tools used to assess risk can be used with this population, & no evidence indicating that these individuals would not be amenable to treatment (assuming they were assessed as amenable). ([Appendix E of SOPB report](#))

# New Treatment Alternatives: Our Recommendations

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- Establishment of new sentencing alternative:
  - We unanimously recommend that a sentencing alternative similar to SSOSA be enacted for those convicted of violations of RCW 9.68A. Offenses related to Child Sexual Abuse Images.
  - We recommend by a majority that a sentencing alternative similar to SSOSA be enacted for those convicted of an internet sting or other case not involving an identifiable victim.
- Accountability requirement:
  - We unanimously recommend that SSOSA, and any other alternatives adopted, only be available *to those who are willing to take responsibility for their sexual misbehavior and express a strong willingness to address those behaviors.*
- Use SSOSA as a model for the new treatment alternative(s):
  - We recommend that any treatment alternatives adopted be similar to SSOSA:
    - Eligibility would require no prior sex offenses or violent offenses in the last five years;
    - That there be a suspended standard sentencing range of eleven years or less;
    - That there be annual review hearings with the sentencing Court, as well as a treatment termination hearing;
    - That there be up to five years of specialized sex offender treatment.

# **Lifetime supervision**



# Lifetime Supervision: History in Washington

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- In 2001, Washington reestablished indeterminate sentencing for certain serious sex offenses resulting in lifetime supervision for those convicted of Class A sex offenses.
  - Indeterminate sentences had been abandoned in 1984 with the SRA.
  - This reform was adopted at least in part to avoid costly sexually violent predator (SVP) litigation for high-risk offenders.
- Also included with individuals subject to lifetime supervision were those who were judged low-risk, including individuals given a SSOSA for a Class A offense.
- The number of individuals in the community on lifetime community custody continues to go up.
  - As of 2021, 1457 CCB offenders released by the ISRB.
  - Additionally, there are several hundred offenders on lifetime supervision for SSOSA sentences who have never gone to prison.

# Lifetime Supervision: What the Research Tells Us

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- The purpose of community custody or supervision is to promote the *rehabilitation* and *reintegration* of individuals transitioning from prison to the community.
- The Sentencing Model Penal Code recommends using reliable risk-needs assessment instruments when deciding the length of the supervision term and what conditions of supervision to impose.
- Individuals convicted of a sexual offense present a perceptibly low risk for recidivism in general.
- Individuals assessed at a higher risk level tended to reoffend quickly upon release
  - Those who did not reoffend had a higher chance of being successful and remaining in the community offense free.
- Collateral consequences of lifetime supervision include hopelessness and anxiety. There are impacts to employment, mental health, housing and family systems.

# Lifetime Supervision: Our Recommendations

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- We recommend by a majority that the law allow individuals subject to lifetime community custody to earn the end of that supervision if they meet the eligibility requirements.
- This recommendation is based on the research and application of the Risk/Needs/Responsivity (RNR) principles. *Individual risk is central to this proposal.* A person could still be on supervision for life if they are unable to meet the eligibility requirements.
  - **Level I.** Those who are rated Level I by the End of Sentence Review Committee would be discharged from community custody once they have been in the community for five consecutive years without committing a disqualifying event.
  - **Level II.** Those who are rated Level II by the End of Sentence Review Committee would be discharged from community custody once they have been in the community for ten consecutive years without committing a disqualifying event.
  - **Level III.** Those who are rated Level III by the End of Sentence Review Committee would be discharged from community custody once they have been in the community for fifteen consecutive years without committing a disqualifying event.

# **Sex Offender Policy Board**

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