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**USE OF THE STATIC-99R  
IN SEX OFFENDER  
RISK ASSESSMENT**

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**Agenda**



- Risk assessment development
- Static-99R development
- Static-99R coding
- Communicating results
- Practice examples, print out cases and score sheets

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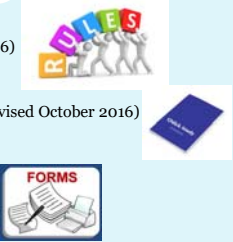
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**Materials on static99.org website**



- [www.static99.org](http://www.static99.org)
- Coding Rules – (Revised 2016)
- Evaluator's Workbook – (Revised October 2016)
- Coding Form (2016 version)



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**Risk Assessment Development**

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The illustration shows two white, stylized human figures standing on a light blue background. They are working together to assemble a large, multi-colored puzzle. The puzzle pieces are in shades of blue, green, orange, purple, red, and yellow. One figure is on the left, pushing a blue piece into place, while the other is on the right, pushing an orange piece. The puzzle is partially assembled, with several pieces already in place.

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**Generations of Risk Assessment**

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- Unstructured professional judgment (first generation)
  - Examples (intuition, clinical judgment)
  - Sexual abuse as a child, victim empathy, and low self-esteem

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**Generations of Risk Assessment**

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- Static actuarial instruments (second generation)
  - Examples (Static-99R, RRASOR, SORAG)
  - Empirically validated combined into a total score using explicit rules
  - Little attention to clinical utility

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### Generations of Risk Assessment

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- Criminogenic needs (third generation)
  - Examples (SRA-FV, STABLE-2007)
  - Unstable lifestyle
  - Impulsivity
  - Social influences (aggression, impulsivity, antisocial attitudes)
  - Empirically-validated factors intended to be clinically useful
- Fourth generation
  - Integrate systematic intervention and monitoring with assessment of broader range of offender risk factors, i.e., LS/CMI
  - To date there are no fourth generation sex offender specific risk measures

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### Domains Associated with Sexual Reoffense

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- Youth (young age)
- General criminal behavior
- Sexual criminal behavior
  - Components

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### Effect Size Indicator

9

#### Cohen's *d* (standardized mean difference)

|          |     |
|----------|-----|
| Small    | .20 |
| Moderate | .50 |
| Large    | .80 |

- <http://tinyurl.com/static99cohend>

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Hanson and Morton-Bourgon (2009)  
Meta-Analysis of Approaches to Prediction of Risk

10

| Designed for Sexual Recidivism                                 | <i>d</i> |
|--|----------|
| <b>Empirical-actuarial</b><br>Static-99R                       | .67      |
| <b>Structured professional judgment</b><br>SVR-20              | .46      |
| <b>Unstructured professional judgment</b><br>Clinical Judgment | .42      |

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Choosing an Actuarial Instrument

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- Development
- Validations
- Predictive accuracy
- Ease of scoring
- Standardized manual
- General acceptance in court

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Sexual Recidivism “Base Rates”

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- Percentage of people who will commit a detected sexual offense in a given number of years
- The “true” base rate of sexual recidivism is unknowable largely due to unreported offenses
- What percentage of sex offenses are reported
- Convictions vs. arrests/charges

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**Sexual Recidivism Base Rates**

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- Hanson and Bussiere (1998)
- 10% - 15% over 5 years
- 20% over 10 years
- Rarely over 40% to 50%
  - Rapists are similar to child molesters
- Newer data is much lower

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**Risk Factors for Offenders**

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- Compared to other sexual offenders, which individual characteristics increase or decrease their chances of recidivism over the long term?



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**Types of Risk Factors**

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- Static, historical
  - Prior sex offenses
  - Extrafamilial victims
  - Prior sentencing dates

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**Types of Risk Factors**

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- Dynamic Risk Factors /Criminogenic Needs/  
Long-Term Vulnerabilities
  - Stable (Stable-2007)
  - Acute (Acute-2007)
  - Structured Risk Assessment – Forensic Version
    - Sexual Interests
    - Relational Style
    - Self-Management

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Hanson & Bussiere (1998)  
Predicting relapse: A meta-analysis of sexual offender recidivism studies

17

- Identified static risk factors for sexual recidivism from 61 samples

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**Hanson & Bussiere (1998) Demographics**

18

- 28,972 sex offenders
- 4-5 year follow-up
- Countries:
  - 30 United States
  - 2 Australia
  - 16 Canada
  - 2 Denmark
  - 10 England
  - 1 Norway

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Hanson & Bussiere (1998)  
Outcome Variables

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- > Sexual recidivism
- > Nonsexual violent recidivism
- > General (any) recidivism

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Static Risk Factors for Sexual Reoffense  
Identified in the Meta-Analysis

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| Factor                            | r+                   |
|-----------------------------------|----------------------|
| PPG children                      | .32 (moderate)       |
| Deviant sexual preference         | .22 (moderate)       |
| Prior sex offenses                | .19 (small)          |
| Treatment drop out                | .17 (small)          |
| Any personality disorder          | .16 (smaller)        |
| Negative relationship with mother | .16 (this went away) |

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Static Risk Factors for Sexual Reoffense  
Identified in the Meta-Analysis

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| Factor                          | r+  |
|---------------------------------|-----|
| Victim stranger                 | .15 |
| Antisocial personality disorder | .14 |
| All prior offenses              | .13 |
| Anger problems                  | .13 |
| Young age                       | .13 |
| Early onset of offending        | .12 |

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Static Risk Factors for Sexual Reoffense Identified in the Meta-Analysis

22

| Factor             | r+  |
|--------------------|-----|
| Single             | .11 |
| Victim male child  | .11 |
| Unrelated victims  | .11 |
| Diverse sex crimes | .10 |

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Risk Factors Not Empirically Related to Recidivism

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| Factor                       | r+  | n     | Studies |
|------------------------------|-----|-------|---------|
| Empathy                      | .03 | 4,670 | 3       |
| Denial                       | .02 | 762   | 6       |
| Employment instability       | .07 | 762   | 5       |
| Low motivation for treatment | .01 | 435   | 3       |
| Sexual abuse as a child      | .01 | 5,051 | 5       |

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Actuarial Risk Assessments

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- Considers a number of variables
- Provides a specific statistical weight for each variable
- Give a total risk score
- Give a measure of relative and absolute risk

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### Uses for an Actuarial Risk Scale

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- > Levels of community notification
- > Level of supervision
- > Assigning GPS monitoring (and removal)
- > More intensive mandated sex offender treatment
- > Public notification on the Internet
- > Duration of registration requirements

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### Static-99R Development

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### Static-99R Items

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| Item # | Risk Factor   | Codes    | Score |
|--------|---|----------|-------|
| 1      | Age at release  | 18-34.9  | +1    |
|        |   | 35-39.9  | 0     |
|        |   | 40-59.9  | -1    |
|        |   | 60 and > | -3    |
| 2      | Married/Lived With Continuous Romantic Relationship ≥ 2 years | Yes      | 0     |
|        |   | No       | 1     |
| 3      | Index Non-sexual Violence (Convictions)                       | Yes      | 1     |
|        |   | No       | 0     |
| 4      | Prior Non-sexual Violence (Convictions)                       | Yes      | 1     |
|        |   | No       | 0     |

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### Static-99R Items

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| Item # | Risk Factor        | Codes   |             |       | Score |
|--------|--------------------|---------|-------------|-------|-------|
|        |                    | Charges | Convictions | Score |       |
| 5      | Prior Sex Offenses | None    | None        | 0     |       |
|        |                    | 1-2     | 1           | 1     |       |
|        |                    | 3-5     | 2-3         | 2     |       |
|        |                    | 6+      | 4+          | 3     |       |
|        |                    |         |             |       |       |

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### Static-99R Items

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| Item # | Risk Factor                                  | Codes     |   | Score |
|--------|--|-----------|---|-------|
| 6      | Prior Sentencing Dates                       | 3 or less | 0 |       |
|        |  | 4 or more | 1 |       |
| 7      | Any Convictions for Non-Contact Sex Offenses | Yes       | 1 |       |
|        |  | No        | 0 |       |
| 8      | Any Unrelated Victims                        | Yes       | 1 |       |
|        |  | No        | 0 |       |
| 9      | Any Stranger Victims                         | Yes       | 1 |       |
|        |  | No        | 0 |       |
| 10     | Any Male Victims                             | Yes       | 1 |       |
|        |  | No        | 0 |       |

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### Basic Descriptive Information (99R)

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- Most offenders released 1990 or later (80%)
- Samples primarily treated (only one untreated sample)
- Mean age 40
- 13 samples used charges and 15 used convictions as recidivism criteria
- About half offenders were CM (53%) and Rapists (37%)

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### Predictive Accuracy of the Static-99R

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- Validation of a sample
- “Shrinkage” of the predictive accuracy
- 100 or more cross-validations of the Static-99 have been conducted beyond the one that produced new norms

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### Validated (tested) on 23 samples of sex offenders from

32

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>➤ US</li> <li>➤ Denmark</li> <li>➤ Canada</li> <li>➤ UK</li> <li>➤ New Zealand</li> </ul> | <ul style="list-style-type: none"> <li>➤ Netherlands</li> <li>➤ Austria</li> <li>➤ Sweden</li> <li>➤ Germany</li> </ul> |
|--|---|

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### US Samples (n=1,959 of 8,139/24%)

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| Sample            | State         | Setting                  | N   |
|-------------------|---------------|--------------------------|-----|
| Bartosh           | Arizona       | Corrections              | 186 |
| Epperson          | North Dakota  | Corrections<br>Probation | 178 |
| Johansen          | Washington    | Corrections<br>Treatment | 273 |
| Knight & Thornton | Massachusetts | Mixed                    | 466 |
| Saum              | North Dakota  | Corrections              | 175 |
| Swinburne et al   | Minnesota     | Corrections              | 681 |

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Cohen's d/r+/AUC  
Rice & Harris 2005 (comparing AUC with Cohen's d)

34

|               | Cohen's d | r+       | AUC  |
|---------------|-----------|----------|------|
| Small effect  | .2        | >.3      | .556 |
| Medium effect | .5        | .2 to .3 | .639 |
| Large effect  | .8        | <.2      | .714 |

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- Receiver Operator Characteristic Curve
- 35
- > What is the likelihood that a randomly selected recidivist would have a higher score on Static-99R than a randomly selected non-recidivist
  - > Advantages
    - > Widely used and understood
    - > Limited Data Required
    - > Not significantly affected by base rates
    - > <http://tinyurl.com/static99roc>

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Meta-analysis of Prediction AUC Areas for Static-99R and Static-2002R  
(Babchishin, Hanson, & Helmus, 2012)

36

|              |     |
|--------------|-----|
| Static-99R   | .68 |
| Static-2002R | .68 |
| RRASOR       | .66 |
| Static-99R   | .69 |
| RRASOR       | .65 |
| Static-2002R | .68 |

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Incremental Validity for the Statics  
(Babchishin, Hanson, & Helmus 2011)

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- RRASOR, Static-99R and the Static-2002R all add incrementally to the prediction of recidivism among sex offenders
- N=7,491, K=20
- Static-99R and Static-2002R outperformed RRASOR
- Averaging best estimate of absolute probability

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Difference between the  
Static-99 and Static-99R

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- Item 1, Age now has four categories rather than two
- Contemporary reoffense rates have decreased (court issue)
- Base rates vary significantly based on factors outside the Static-99R or the sample (court issue)
- What about very advanced age?
  - How recent was the offense (doesn't matter per Thornton)
  - Consider the stable relative risk for older offenders
  - Consider physical condition and mobility outside the Static

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Changes in Normative Samples

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- Updated norms in 2008, Helmus thesis in 2009, 2015
  - Significant variability
  - 60% decrease in risk in contemporary samples
  - See Helmus, Hanson, Thornton, Babchishin and Harris in Criminal Justice and Behavior (2012)
  - No need in reports to trace history of norms, just use current and reference Evaluators Handbook which will continue to change

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### Strengths of the Static-99R

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- Repeatedly cross validated on a large number of samples, many in the U.S.
- Widely used and accepted
- Empirically derived risk factors for sexual recidivism
- Explicit rules for scoring the factors and getting a total risk score
- Can rank offenders in terms of relative risk, robustly
  - Rely on relative risk for older offenders, not absolute risk
- Relatively objective instrument scoring

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### Daubert / Frye Considerations for Admissibility of Actuarials in Court

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- Whether the technique has been or can be tested
- Whether it has been subjected to peer review and publication
- The known or potential error rate
- The existence and maintenance of standards and controls
- Whether it has been generally accepted by the scientific community
  - Frye admits novel scientific testimony if it is based on principles generally accepted in the relevant scientific community

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### Limitations of the Static-99R

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- Moderate Predictive Accuracy (AUC .70), higher in California (.76)
- Does not include all factors that predict sex offending
- Absolute recidivism rates associated with specific risk scores vary across samples making estimates "more difficult"
- Does not adequately measure general or violent recidivism (use BARR).

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The Use of Static Risk Scales in the Community Management of Sex Offenders

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- > Provides initial estimate of risk once released to the community
- > Provides a way to divide sex offenders into risk levels (I, II, III, IVa, IVb)
- > Provides a scientific rationale for management plans for sex offenders
- > Is defensible in court

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Static-99R Publication

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- > Helmus, Thornton, Hanson, & Babchishin (2011) Improving the Predictive Accuracy of the Static-99 and Static-2002 with older offenders: revised age weights

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Static-99R California Study (2014)

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- > The Field Validity of Static-99/R Sex Offender Risk Assessment Tool in California, Hanson, Lunetta, Phenix, Neeley, & Epperson
- > 2,164 offenders released between June 2006-2007
  - > 475 randomly selected
- > 48.4% charged with any offense
- > 4.8% charged with a sex offense during 5 year fixed follow-up

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### Static-99R California Study

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- Average Static-99R score was 2.2 (renorming sample 2.0)
- Any sexual recidivism AUC .82
- Contact sexual recidivism AUC .80
  
- Overestimated risk for low risk offenders
  - Observed 1.6% vs. Expected 3.0%
  
- Underestimated risk for high risk offenders
  - Observed 29.4% vs. Expected 19.2%

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### Static-99R California Study\* (2016)

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- The Predictive Validity of Static-99/R for Sex Offenders in California: 2016 Update, Lee, Restrepo, Satariano, & Hanson
  
- 1,626 offenders
  - 1,198 parolees and 428 probationers
  
- 45.1% charged with any offense
  
- 4.8% charged with a sex offense during 5 year fixed follow-up (probationers 6.1%, parolees 4.3%).

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### Static-99R California Study (2016)

48

- Average Static-99R score was 2.26
- Any sexual recidivism AUC .76
- Overall recidivism rates lower than expected
  
- Overall good discrimination for all ethnic groups (n = 2,097, combined with original study)
  - Whites AUC .827
  - Blacks AUC .78
  - Hispanics AUC .70

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Static-99R California Study (2016)

49

- California distribution was similar to the normative distribution supporting the use of the percentile ranks for California sex offenders

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General Scoring Issues

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- Stick to the Coding Rules even if they may not make sense to you. They are written that way for a reason to match the data sets on which the instrument was developed.
- Consider external risk factors in a structured tool (SRA-FV, VRS-SO, or STABLE-2007)
- Over-rides not related to sexual recidivism or already considered will decrease predictive accuracy
- Recidivism Criteria-new charge or conviction

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Coding Instructions Static-99R

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- Phenix, A., Fernandez, Y., Harris, A., Helmus, M., Hanson, R.K., & Thornton, D. (2016). Static-99R Coding Rules [On-line]:[www.static99.org](http://www.static99.org)
- New Introduction and most appendices have been removed
- New Risk Categories

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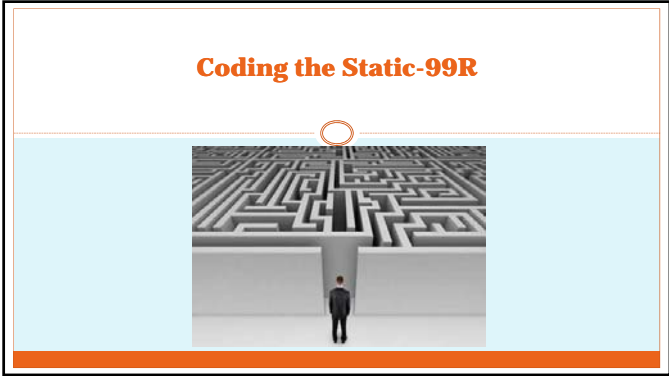
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**Static-99R**

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- Static-99R is intended to position offenders in terms of their relative and absolute degree of risk for sexual recidivism based on commonly available demographic and criminal history information that has been found to correlate with sexual recidivism in adult male sex offenders.
- Baseline estimate of risk

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**Timeframe/Scope**

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- Static-99R assesses risk of recidivism on the day the offender is released from the index sex offense
  - Everything that happens after that day is not considered for scoring purposes although can be considered outside the instrument (exception: time free effects)

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### What Do You Need?

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- Demographics
  - Age at release from index sex offense; relationship history
- Official Criminal History
  - Prior sex offenses; index non-sexual violence; prior non-sexual violence; prior sentencing occasions; convictions for non-contact sex offenses
- Victim Information
  - Use all credible information (except polygraph)
  - Any unrelated victims; any stranger victims; any male victims

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### Standards of Proof

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- Balance of probabilities (BOP) – more likely than not (at least 51%)
- Clear and convincing evidence (CCE) – between BRD and BOP – Highly confident
- Beyond a reasonable doubt (BRD) – near certainty

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### Standards of Proof

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- Two general decisions
  - Does the crime count as a conviction/sentencing occasion?
    - Equivalent CCE
  - All other decisions
    - E.g., victim a stranger? Sexually motivated? Would the offender be sanctioned if not on parole?
    - Use BOP

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### The Origin of the 2016 Coding Rules

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- > Based on definitions used in original datasets
- > Validation studies
- > Coding Rules (2003, 2016)
- > Discussion among scale manual authors
  - > Increase conceptual consistency, clarity
- > Feedback from users
- > Extrapolations (what we would have scored if we had encountered such cases)
  - > i.e., internet crimes

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### Special Issues

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- > Missing Items-Ever Lived With a Lover for 2 Years
  - > No information - score 0 (zero)
  - > As if the offender HAS lived with lover
- > Recidivism Criteria

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### Static-99R Sample Includes

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- > Developmentally Delayed Offenders
- > Minority Offenders
- > Mental Health Issues
  - > Mentally Disordered Offenders

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### Coding the Static-99R

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- > 1 = Risk Factor Present
- > 0 = Risk Factor Not Present
- > Exception - Age Item (-3 to 1)
- > Exception - Prior Sex Offenses (0, 1, 2, 3)

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### Who Can You Use the Static-99R With?

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- > Use with adult males arrested (charged) of at least one category A sex offense
- > Males with sex offenses at age 17
  - > AND which were adult like in nature (not antisocial with a sexual component)
  - > AND are now an adult
- > Can be used for mental health commitments




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### Who Can You Not Use the Static-99R With?

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- > Not for female offenders
- > Not for juvenile offenders
  - > With caution if committed offence at age 17 and released at age 18+
- > Not for consenting sex among similar aged peers, regardless of conviction
- > Not scored for offenders only convicted of only Category "B" offenses
- > Risk assessment valid for approximately 2 years
  - > This represents a change from 2003 coding manual

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### Category "A" and "B" Offenses

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- If the offender has any category "A" offenses - all category "B" offenses are counted
- The index sex offense can be a category "B" offense
- The STATIC-99 should not be used with offenders who have only category "B" offenses
- Category "B" offenses do not count for the purpose of scoring victim type items
  - With 1 exception

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### Category "A" and "B" Offenses

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- Category "A" offenses includes all child and non-consenting adult victims
  - i.e., exhibitionism, voyeurism, sex with animals and dead bodies
- Category "B" offenses are illegal but the parties are consenting or no specific victim is involved

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### Category "A" Offenses

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- Aggravated Sexual Assault
- Attempted Sex Offenses (Attempted Rape, Attempted Sexual Assault)
- Compelling the commission of any sex offenses (bestiality, incest, or sexual assault) or other sexual behavior (e.g., flashing on a webcam), regardless of whether it is compelled in person or via the internet

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### Category "A" Offenses

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- Conspiracy to commit a Category "A" offense
- Contributing to the delinquency of a minor (with sexual motivation)
- Distributing obscene materials to minors (no economic motive; presume that intent is sexual unless there is clear economic motive)

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### Category "A" Offenses

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- Covert photography (victim is person being photographed) for sexual purpose
- Facilitating a sex offense with a controlled substance/Giving a noxious substance (when the purpose of giving the substance is to facilitate a sex offense)

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### Category "A" Offenses

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- Forced Oral Copulation
- Forced Penetration with a Foreign Object
- Incest
- Indecent Exposure
- Invitation to Sexual Touching
- Internet Luring
- Juvenile Sex Tourism
- Lewd or Lascivious Acts with a Child

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**Category "A" Offenses**

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- > Molest Children
- > Obscene Phone Calls
- > Online Solicitation
- > Paying for the sexual service of a minor/developmentally delayed person
- > Rape (includes in concert)
- > Requesting feces or urine for the purpose of masturbation
- > Sexual Assault

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**Category "A" Offenses**

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- > Sexual Assault Causing Bodily Harm
- > Sexual Battery
- > Sexual Communication with a Minor
- > Sexual Homicide
- > Sex offenses against animals (Bestiality)
- > Sex offenses involving dead bodies (Offering an indignity to a dead body)
- > Sodomy (includes in concert and with a minor, excludes consenting sexual activity with adults)

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**Category "A" Offenses**

72

- > Unlawful Sexual Intercourse with a minor (unless it falls under the category of consenting sex among similar age peers)
- > Voyeuristic activity (Trespass by Night)

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### Category "B" Offenses

73

- Sexual behavior is illegal
- Parties are consenting
- No specific victim is involved
- Exception: Non-disclosure of HIV positive status is Category B
- Category B offenses CAN be the index sex offense if he has a prior Category A offense

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### Category "B" Offenses

74

- Consenting sex in public places (gross indecency)
- Crimes relating to CP (possessing, selling, transporting, creating where only pre-existing images or digital creation of CP are used)
- Indecent behavior without a sexual motive (e.g., urinating in public)
- Possession of CP
  - Digital, child bots, written stories not shared, drawings without a live child model, avatars

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### Category "B" Offenses

75

- Not informing a sexual partner of HIV status (even if name is Category A offense like Aggravated Sexual Assault)
- Polygamy
- Revenge or anger motivated behaviors with a sexual aspect (e.g., distributing obscene images without consent, such as "revenge porn")
- Exposure (with no sexual motive)

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Category "B" Offenses

76

- > Prostitution-related offences
  - > Offering prostitution services
  - > Pimping/Pandering
  - > Profiting from child prostitution
  - > Coercing other into sex trade
  - > Seeking/hiring prostitutes (unless paying a minor for sex)
  - > Solicitation of a prostitute (unless soliciting a minor for prostitution)
  - > Selling pornography to minors (giving porn to minors for free is assumed to have sexual motivation and be Category "A")

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Category "A" or "B" Offenses  
Child Pornography

77

- > Manufacturing/Creating Child Pornography where an identifiable child victim was used in the process is Category "A"
  - > Offender participates in the creation of CP with human child, physically present or via internet watching sexual abuse live – Category A
  - > Remote creation of the child sexual abuse images without the offender present or watching abuse live is Category "A" if offender directed or asked for specific photos or scenes to be created and they were shared with him or others.

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Category "A" or "B" Offenses  
Child Pornography

78

- > Obscene written stories with sexual abuse of identifiable child are Category "A" *if shared with others*
- > If obscene written stories for offenders *own use* then is a Category "B" offense
- > Digital creation of child abuse images (super-imposing photos of a real child onto existing CP images) is a Category "B" offense

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### Category "A" or "B" Offenses

79

- Sexting
  - Similar-age sexting (i.e., sending sexually explicit photos or messages, typically by phone between underage peers that results in a criminal charge is scored as a Category "B" offense *if the sexting is shared with other peers*, e.g., other boys).
  - Not a sexual offense at all if the sexts are consensual and remain solely between two underage peers ("sender" and "receiver")

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### Category "A" or "B" Sexual Threats Online

80

- Category A
  - Credible threats against identifiable victim
- Category B
  - Impersonal/generic threats where there is doubt that the threat could realistically be carried out, e.g., anonymous rape threats online
- Not an offence
  - Non-criminal behaviours that normally would not attract a criminal charge for someone not involved in the criminal justice system, even if the offender gets institutional violation, e.g., "suck my dick" to a female prison guard

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### Neither Category "A" or "B" Offenses

81

- Annoy (not molest) children\*
- Consensual sexual activity in prison
- Failure to register as a sex offender
- Presence of children, having child lures or clothing, loitering at schools
- Stalking (unless sexual offense is imminent)
- Reports to CPS without criminal charges

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Neither Category "A" or "B" Offenses

82

- Questioning by police no formal arrest
- Non-sexual technical violations of parole and probation such as alcohol or drug use
- Statutory Rape when there is no victim
  - Requires very specific criteria
- Public Obscenities, even if they result in criminal charges
  - E.g. rude comments made into female journalist's microphone

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Gender Transformation

83

- Male to female transgender clients are considered male until near end of the process. Specifically, to be considered no longer a male for Static-99R purposes, the individual must not have a penis and have lived for at least two years as a woman.
- Static-99R does not apply to female to male transgender offenders as they are outside the sampling frame of the scale.

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Sexual Motivation vs. Economic Gain

84

- May or may not have sexual motivation
- Economic Gain:
  - An offender arranges for another offender to molest a child but did not participate in the act for sexual motivation, it was economic (Not a Sex Offense)
  - Human trafficking / Pimping / Pandering for economic gain
- Sexual Motivation:
  - An offender wants to watch a video of the molestation for sexual arousal or he pimps a minor for economic gain and engages in sex with minor

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### Sexual Motivation

85

- To count a charge or conviction as a sex offense there should be sexual motivation for the offense, or it should be clearly part of the commission of the sex offense.
  - Non-Sexual Motivation
    - Forcible confinement-locked victim's boyfriend in bathroom so he can sexually assault the victim, not sexual motivation
    - Break and Enter, burglary is not a sex offense unless it had a sexual motivation

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### Sexual Motivation

86

- Sexual Motivation
  - Offender followed a woman home and broke into her house, stole items and sexually assaulted her. Charged with Breaking and Entering, Theft and Rape. The B&E and Rape had sexual motivation and both count as sex offenses.

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### Conviction but Not a Sex Offense

87

- Consensual sexual behavior prohibited by statute (Unlawful Sexual Intercourse, Statutory Rape) where the following three conditions are met:
  - The "alleged victim" states the sex was cooperative and has never claimed otherwise
  - The offender had no pre-existing power relationship (e.g., swim instructor, therapist), AND
  - No more than 3 year age difference between offender and "victim" (5 years if offender is obviously of lesser cognitive developmental capacity than victim)

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### Item 1 - Age

88

#### Offender's age at the time of release From the Index Sex Offense

|                  |    |
|------------------|----|
| Aged 18 to 34.9  | 1  |
| Aged 35 to 39.9  | 0  |
| Aged 40 to 59.9  | -1 |
| Aged 60 or older | -3 |

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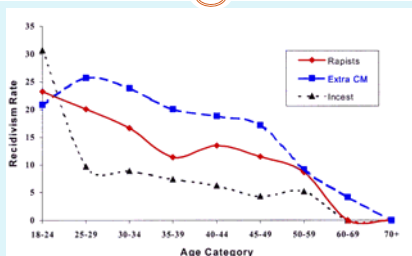
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### Age and Sexual Reoffense

89



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### What Does "Release" Mean?

90

- Parole
- Probation
- Supervised/conditional release
- Under GPS monitoring
- Bail
- Released under own recognizance
- Living in psychiatric facility or rehab on a voluntary basis

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### Possible Exception to "Release"

91

- If an offender was "released" from the index sex offense, was returned to custody for a technical violation quickly so that the case is comparable to someone who has been continually incarcerated with no release at all. You can score their age based on their current anticipated age of re-release. **This decision should only be made in extreme circumstances and is a judgment call if:**
  - the offender was in the community for a short period of time after the initial release from the index offence (no more than 6 months)
  - he was returned to custody for a technical violation, **AND**
  - since the revocation, the offender has been in custody for 10 or more years without any kind of release.
- If this decision is made, the evaluator should clearly explain why he or she did not count the initial release.

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### Item 1 - Age

92

Name: Mr. Abarth  
 DOB: 11-1-81  
 Assessment Date: Today

| Date    | Charge(s)                 | Disposition                               | Release Date |
|---------|---------------------------|---|--------------|
| 6-1-10  | Sexual Assault (3 counts) | Convicted on all counts<br>2 years prison | 12-31-11     |
| 1-29-12 | Robbery                   | Convicted, 5 years prison                 | 11-2-16      |

2010 - Mr. Abarth molested his 4 year old niece over a period of 1 year

| Risk Factor       | Codes      | Score |
|-------------------|------------|-------|
| 1. Age at Release | 18 to 34.9 | 1     |
|                   | 35 to 39.9 | 0     |
|                   | 40 to 59.9 | -1    |
|                   | 60 and >   | -3    |

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### Item 1 - Age

93

Name: Mr. Acura  
 DOB: 8-27-97  
 Assessment Date: Today

| Date   | Charge(s)          | Disposition                         | Release Date |
|--------|--------------------|-------------------------------------|--------------|
| 9-1-14 | Obscene Phone call | Convicted, 6 months Youth Authority | 7-30-15      |
| 8-1-16 | DUI                | Convicted, 1 year jail              | 8-1-17       |

On 9-1-14 Mr. Acura, who is developmentally delayed, made a lewd phone call to his basketball coach's wife after he was benched in the prior evening's game.

| Risk Factor       | Codes      | Score |
|-------------------|------------|-------|
| 1. Age at Release | 18 to 34.9 | 1     |
|                   | 35 to 39.9 | 0     |
|                   | 40 to 59.9 | -1    |
|                   | 60 and >   | -3    |

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### Item 1 - Age

94

Name: Mr. Audi  
 DOB: 12-31-76  
 Assessment Date: Today

| Date    | Charge(s)                      | Disposition            | Release Date |
|---------|--------------------------------|------------------------|--------------|
| 4-7-12  | Suspected of indecent exposure | Questioned by police   | N/A          |
| 11-1-16 | Indecent Exposure              | Arrest only, dismissed | N/A          |

Mr. Audi often masturbated in his car, a 2011 2 door Audi TT.

| Risk Factor       | Codes      | Score |
|-------------------|------------|-------|
| 1. Age at Release | 18 to 34.9 | 1     |
|                   | 35 to 39.9 | 0     |
|                   | 40 to 59.9 | -1    |
|                   | 60 and >   | -3    |

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### Item 2 - Ever lived with a lover for at least two years

95

➤ The Basic Rule:

- If the offender has never had a live-in intimate adult relationship of two years duration you score the offender a "1" on this item.
- If the offender has had a live-in intimate adult relationship of two years duration you score the offender a "0" on this item.

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### Item 2 - Ever lived with a lover for at least two years

96

- Only item which can be omitted
  - Can be scored both ways if there is no information
  - Can use self-report if reliable
- Judge on the "Balance of Probabilities" if they have lived with an intimate partner for two years
- Try to find collateral source
- Male or female for at least two years
  - Non-traditional relationships (poligamy) can count
- Must be continuous
- Must have engaged in sexual activity at least once during live-in relationship

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Item 2 - Ever lived with a lover  
for at least two years

97

- Nature/quality of relationship is not assessed (unless the partner is sex offense victim)
- Do not count male lovers in prison, homelessness or occasional casual sex in a relationship
- What about prison marriages?
- What about young offenders who have not had an opportunity to have a relationship?

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Item 2 - Ever lived with a lover  
for at least two years

98

- If offender lives with a minor, cannot count time until they cohabit for 2 years as adults
- Live-in relationships with "once child" victims do not count
- Illegal (incestuous) relationships do not count
- Relationships with adult sex offense victims do not count unless lived together for two years before the sexual offending
- If the offender offended against his partner's children the relationship can still count if it lasted at least 2 years

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Item 2 - Ever lived with a lover  
for at least two years

99

- Honest attempt at a long-term committed relationship
- Extended absences
  - Employment of familial obligation (not incarceration)
  - 4 to 6 month absences require 3+ year relationship
- Absences of 32 days or more, a break in the relationship, restarts the clock
- One point for not having lived with lover for 2 years

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### Criminal History Items

100

- > Item 3 – Index Non-sexual violence
  - > Any convictions?
- > Item 4 – Prior Non-sexual violence
  - > Any convictions?
- > Item 5 – Prior sex offenses
  - > Count charges and convictions
- > Item 6 – Prior sentencing dates
- > Item 7 – Non-contact sex offense
  - > Any convictions?

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### Self Report

101

- > For immigrants and refugees from third world countries and *old out-of-state records* where confirmation is not possible you can use self report for criminal history
- > Self-report information in all other cases can not be used to substitute criminal record, it can be used to clarify behavior (he admitted the theft involved stealing women’s underwear)
- > Self-report for noted charge on criminal history but no outcome, youth conviction without clear notation of crime, (or other circumstances, where events may constitute a conviction e.g., for priests, military, etc. but not necessarily appear on the criminal record)
- > Must meet “Clear and Convincing Evidence” for self report of criminal history (i.e., consistent with his known criminal history)

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### What Counts as a Conviction/Sentencing Date Versus a Charge?

102

- > General Principles
  - > What qualifies as conviction/sentencing date are the same, but they are ‘counted’ differently
    - > Number of convictions
    - > Number of sentencing dates/occasions (can have multiple convictions included)

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Conviction/Sentencing Date:  
General Definition

103

- Offender attends court, admits to the offence (or is found guilty), and receives some form of sanction (fine, prison, conditional sentence).
- A conviction requires ALL of the following
  - A court or administrative tribunal using due process, resulting in....
    - An admission or finding of guilt, and
    - Beyond a reasonable doubt OR clear and convincing evidence if not in criminal court
    - Can be found not criminally responsible if there is a sanction (institutional or mandated community care)
    - A sanction (fine, prison, community supervision)

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Count as Sanctions

104

- Alternative dispositions (e.g., restorative justice)
- Community supervision
- Conditional/absolute discharges
- Fines
- Imprisonment
- Community-based Justice Committee Agreement

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Count as Convictions/Sentencing occasions

105

- Probation before judgement
- Consent decree
- Suspended sentences
- Misdemeanors
- Do not count very minor offences for which it would be impossible to go to jail or to receive a community sentence (e.g. most municipal codes, parking infractions, zoning infractions).

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**Count as Convictions**

106

- Adjudication withheld
- Clergy/military and other professions have special rules
- Conditional/absolute discharges
- Extension of sentence by parole board
- Fail to register as sex offender
  - Remember this is not a sex offense
- Graduated penalty offences

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**Count as Convictions**

107

- NGRI
- Official cautions
- Pardoned offences
- PINS judgement
- Stayed charges/sentences
- Suspended sentences

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**Special Coding Cases**

108

- Juveniles
  - Do not count any offenses of children 11 or under
  - Do not count if 12 or older at time of offense but still below the absolute threshold for criminal responsibility in that jurisdiction, e.g., California has a Gladys R Hearing to determine if child knew right from wrong
  - Crimes committed by juveniles between 12 and 17 dealt with through the criminal justice system and given juvenile charges, convictions, sentencing occasions are counted the same way as an adult

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### Special Coding Cases

109

#### > Juveniles Continued

- > Crimes addressed through juvenile care systems (e.g., social services can be one charge)
- > Age 12 to 15, placement in secure setting or transfer to more secure setting counts as a charge (social service intervention)
- > For age 16 and older, each intervention is counted as a separate charge (up to the usual maximum of 3 points, social service intervention)
- > Transfers can count as charges if the criminal behavior is sufficiently serious that someone outside the juvenile system would be charged, if the transfer was in response to criminal behavior AND it is to a more secure setting

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### Special Coding Cases

110

#### > Juveniles continued

- > Home containment or other informal sanctions and conditions can be counted as a charge but not a conviction if there is "Clear and Convincing Evidence" the informal sanction was a direct result of the misbehavior and the sanction is punitive in nature
- > Juvenile offenders may have alternative sanctions like "petition sustained" and "adjudicated delinquent." These are equivalent to an adult charge and conviction.

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### Count as Convictions

111

#### > Mentally Disordered and Developmentally Delayed Offenders

- > Criminal justice intervention is unlikely
- > Informal hearings and sanctions (placement in treatment facilities or residential moves) could be counted as a charge and could count as a conviction.

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Parole/probation/  
conditional release violations

112

- > Offending behavior must be something that could count as an offence for those not under sanction
- > Parole violation
  - > Finding of guilt from quasi-judicial body and offender remains in custody after determination of guilt (**more than time served**)
- > Separate violation occasions count as charges only (but multiple charges laid at same time are condensed to 1 charge)

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Count as Charges

113

- > Anything that counts as a conviction
- > Arrests
  - > If the offender was arrested or knows a warrant has been issued for his arrest, this counts as an arrest even if the offender flees the jurisdiction before he can be arrested.
- > Charges resulting in: acquittal, withdrawn, dismissed, stayed, not guilty
- > Convictions overturned on appeal

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Neither Charges nor Convictions

114

- > Detected by child protection services/True Finding
- > Fail to appear
- > Juvenile extension of detention
- > Questioned by police

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**Sexual versus non-sexual violence**

115

|   |   |
|---|---|
| <ul style="list-style-type: none"><li>➤ <b>Sexual offence</b></li><li>➤ Sexual motivation</li><br/><li>➤ Name of the offence does not matter</li><br/><li>➤ Charges, convictions (item 5)</li></ul> | <ul style="list-style-type: none"><li>➤ <b>Non-sexual violent offence</b></li><li>➤ Motivation does not matter</li><li>➤ Sexual or non-sexual motivation</li><br/><li>➤ Name of the offence must indicate violence, but does not necessarily indicate sex</li><br/><li>➤ Convictions only (items 3 and 4)</li></ul> |
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**Items 3 & 4  
Coding Non-Sexual Violence Convictions**

116

- Convictions only
- Juvenile\* and adult convictions
- The same victims as the sex offense or different
- Offence definitions for crimes not listed require: intentional force, touching, threats, or intentionally causes concern for one's safety
- Do not count convictions overturned on appeal

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**Items 3 & 4  
Included Offenses**

117

- P. 53 Coding Rules
- Abduction
- Aggravated Assault
- Arson
- Assault
- Assault Causing Bodily Harm
- Assault Peace/Police Officer
- Attempted Abduction
- Attempted Child Stealing
- Attempted Robbery

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Items 3 & 4  
Included Offenses

118

- > Any Attempt at a Violent Offense
- > Battery
- > Car Jacking
- > Child Abuse
- > Compelling the Commission of an Offense
- > Criminal harassment
- > Cruelty to Animals/Animal Neglect
- > Extortion
- > False Imprisonment

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Items 3 & 4  
Included Offenses

119

- > Forcible Confinement
- > Give Noxious Substance
- > Grand Theft Person (is a variation on Robbery and may be counted as non-sexual violence)
- > Home Invasion
- > Juvenile Non-Sexual Violence Convictions
- > Kidnapping
- > Manslaughter
- > Murder
- > Felonious Assault

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Items 3 & 4  
Included Offenses

120

- > "PINS" (Person in need of supervision) a juvenile has been removed from his home by judicial action under a petition due to violent actions, counts as a conviction (based on Clear and Convincing Evidence that this removal was directly due to the criminal behavior).
- > Robbery
- > Threatening/Menacing
- > Stalking (non-sexual)

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Items 3 & 4  
Included Offenses

121

- > Violation of a Domestic Violence Order (Restraining Order)(a conviction for)
- > Wounding
- > Using/Pointing a Weapon/Firearm in the Commission of an Offense
- > Attempted Assault Cause Bodily Injury

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Items 3 & 4  
Included Offenses

122

- > If a conviction is not listed, review the relevant legal definition of the offence.
  - > If it includes some level of intentional force, touching, threat, and/or behavior intentionally leading to the concern for one's safety (except in the cases of dangerous driving or negligence), then count as violent.
  - > See P. 54 coding rules

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Items 3 & 4  
Excluded Offenses

123

- > P. 54 coding Rules
- > Arrests and Charges
- > Convictions Overturned on Appeal
- > Non-Sexual Violence after the Index Sex Offense Cluster
- > Institutional Rules Violations
- > Driving Accidents or Convictions for Negligence Causing Death or Injury

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Items 3 & 4  
Excluded Offenses

124

- > P. 55 Coding Rules
- > Weapons Offenses (unless used in the commission of a violent or sexual offense)
- > Resisting Arrest
- > Sexual Offenses (sexual in name – e.g. sexual battery, sexual assault with a weapon, assault with intent to commit rape)

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Non-sexual Violence

125

- > Military
  - > If “undesirable discharge” as a result of a violent offense
  - > Must have received “undesirable discharge” and left military because of the violent offense

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Both a Sex Offense and NSV  
“Double Dipping Rule”

126

- > If the behavior was sexual (based on the balance of probabilities) but the offender was convicted of non-sexual violence, the same conviction counts as both a sexual offense and non-sexual violence offense
  - > Murder
  - > Kidnapping
  - > Battery
  - > Assault
  - > False Imprisonment

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### Prior or Index Non-sexual Violence

127

- Prior offences can be particularly tricky when the index offence is historical in nature
  - In these cases, the offender may accumulate an extensive criminal history after the index sex offence is **committed**, but before he is **detected** for it
- If the offender’s criminal record shows a conviction for a non-sexual violent offence that is part of the index sex offence (or index cluster), **or occurred after the index sex offence behavior but before detection for the index sex offence, you score the offender a “1” on item 3.**

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### Prior or Index Non-sexual Violence

128




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### Separating Index, Priors, and Post-Index Offences

129

➤ Joe Smith sexually offends against his daughter between 2000 and 2005 and is charged and sentenced in 2006. He commits a sexual assault against another victim in 2001 and is sentenced in 2001. He commits a non-sexual assault in 2004 and is charged and convicted in 2004.

| Item | Risk Factor | Codes     | Options | Score |
|------|-------------|-----------|---------|-------|
| 3    | Index NSV   | Yes or No | 1 or 0  |       |
| 4    | Prior NSV   | Yes or No | 1 or 0  |       |

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Separating Index, Priors, and Post-Index Offences

130

- John Johnson sexually offends against his daughter between 2000 and 2004 and is charged and sentenced in 2006. He commits a sexual assault against another victim in 2001 and is charged in 2001. He commits a non-sexual assault in 2005 and is charged and sentenced in 2005

| Item | Risk Factor | Codes     | Options | Score |
|------|-------------|-----------|---------|-------|
| 3    | Index NSV   | Yes or No | 1 or 0  |       |
| 4    | Prior NSV   | Yes or No | 1 or 0  |       |

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Separating Index, Priors, and Post-Index Offences

131

- John Johnson sexually offends against his daughter between 2000 and 2004 and is charged and sentenced in 2006. He commits a sexual assault against another victim in 2001 and is charged in 2001. He commits a non-sexual assault in 2005 and is charged and sentenced in 2005

| Item | Risk Factor | Codes     | Options | Score |
|------|-------------|-----------|---------|-------|
| 3    | Index NSV   | Yes or No | 1 or 0  | 1     |
| 4    | Prior NSV   | Yes or No | 1 or 0  | 0     |

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Separating Index, Priors, and Post-Index Offences

132

- The 2001 charge is a prior sexual offence because he continued the index sexual behaviour after being sanctioned for the 2001 offence. The nonsexual assault becomes part of an index cluster because even though he was charged and sentenced for the assault before being detected for the index sexual offence, the assault occurred after the index sexual offence was committed.
- The offender did not choose to commit the index sexual offence after being detected for the non-sexual assault. So the non-sexual assault would be part of the index cluster**
- Separate Behavior, Detection, and Sanction dates

| Behavior Dates     | Detection Date | Sanction Date |
|--------------------|----------------|---------------|
| 2001 (Sex offense) | 2001           | 2001          |
| 2005 (NSV)         | 2005           | 2005          |
| 2000-2004 (incest) | 2006           | 2006          |

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Item 3 – Index Non-Sexual Violence  
Any Convictions

133

- The Basic Rule:
  - If the offender's criminal record shows a conviction for a non-sexual violent offence that is part of the index sex offence (or index cluster), you score the offender a "1" on this item.
  - If the offender's criminal record does not show a conviction for a non-sexual violent offence with the index offence cluster, you score the offender a "0" on this item.

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Item 4 – Prior Non-Sexual Violence  
Any Convictions

134

- The Basic Rule:
  - If the offender's criminal record shows a separate conviction for a non-sexual violent offence prior to detection for the Index Offence, you score the offender a "1" on this item.
  - If the offender's criminal record does not show a separate conviction for a non-sexual violent offence prior to detection for the Index Offence, you score the offender a "0" on this item.

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Item 5 - Prior Sexual Offenses

135

"The best predictor of future behavior is past behavior" (Thorndike, 1911)




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### Item 5 - Prior Sexual Offenses

136

- The Basic Rules:
  - Not scored on a simple "o" or "i" dichotomy (score 0 to 3)
  - Charges and convictions are summed separately
  - Charges which do not result in a conviction are counted
  - Each conviction is also counted as a charge
  - This is one of the most difficult items to score
  - Critical to identify the index offense correctly
  - Develop strategy so as to not count index offense

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### Item 5 - Prior Sexual Offenses

137

- Officially recorded sexual behavior or criminal behavior with sexual motivation
  - Immigrants, refugees, old out-of-state records
  - Supplement official records
- Non-sexual behavior can be counted as a sexual offense if there was a sexual motive
- Resulted in some form of criminal justice intervention or official sanction
- If on community supervision or in custody must be serious enough they could be charged with new sex offense if not under legal sanction

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### Item 5 - Prior Sexual Offenses

138

- Some sex offenses do not have sex in the name of the crime
  - Rape and false imprisonment
  - Rape and kidnap
  - Rape and battery
  - Murder (with a sexual motivation)
  - Kidnap (with a sexual motivation)
  - Assault (with a sexual motivation)
  - Theft (of underwear)

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### Special Coding Cases, Sex Offenses

139

- Behavior must be equivalent to a criminal code offense
- Board or regulatory body can determine an offense occurred and impose a sanction against the member-would be a charge not conviction

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### Special Coding Cases, Sex Offenses

140

- Conditional/Absolute Discharges
  - Offender charged with an offense and received a conditional or absolute discharge. Counts as a charge and conviction
- Consent Decree is a conviction
- Court Supervision
  - Court provides a sentence of court supervision for a period of time. Similar to probation and counts as charge and conviction.

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### Special Coding Cases, Sex Offenses

141

- Diversion
  - Alternative sanction to be determined and for formal criminal justice processing to be deferred to a later date
- Major mental illness
  - Informal hearings and sanctions –placement treatment facility, residential moves count as a charge and conviction
  - Not criminally responsible due to mental disorder (or equivalent) is conviction if sent to institution or mandated community sanction/care
  - Unfit to stand trial charge(s) only

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### Special Coding Cases, Sex Offenses

142

- Pardoned/ "Expunged" offenses count as charge and conviction
- Military
  - If an "undesirable discharge" were given to a member of the military as the direct result of a sexual offence
  - If an offender is given a sanction (Military Brig, lowered rank or it's equivalent)

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### Special Coding Cases, Sex Offenses

143

- Stayed charges/sentences count as charges and convictions, similar to other forms of alternative measures unless no finding or admission of guilt and no associated sanction
- Acquittals, convictions overturned on appeal and dismissed charges count as charges
- Finding of "not guilty" counts as a charge

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### Parole/probation/conditional release violations as sex offences

144

- Can be considered sexual offences when the behavior could have resulted in a charge/conviction for a sexual offence if the offender were not already under legal sanction, and the behavior results in a sanction
  - E.g., suspension or revocation. NOT just an investigation or report.
  - Exception: When sex offence is **TRULY IMMINENT**

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### Scoring Truly Imminent Offending

145

- A sex offense would have occurred as part of the same behavioral sequence but for the detection and intervention from others
- Some Parole/Probation violations can be counted as a sex offenses if offending is imminent
- Established by “Clear and Convincing Evidence”
- Impending (minutes to hours)
  - A real case in the Static-99 research samples involved an offender who was convicted for a technical violation for bringing a mattress into a ladies’ washroom. Here, the intent was clearly to rape a woman, but he was interrupted by security officials

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### Institutional Rule Violations

146

- May or may not count as a sex offence. Requires behavior anyone could be charged with, and institutional punishment clearly in response to the sexual behavior
- Prison misconducts count as one charge per sentence, even if there are multiple incidents and sanctions
  - Even if offender released and returned to prison under same sentence

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### Determining the Index Sex Offense

147

- Most recent sexual offense
  - Can be an arrest, charge, conviction, parole or probation violation, institutional rule violation (CDCR 115)
  - Can be a Category “B” Offense if he has a prior Category “A” offense
  - Can include a sexual related offense while out on bail
  - May include multiple victims
  - Acquittals count
  - Convictions overturned on appeal count
  - To be a new offense the offender must have been detected AND then commit a NEW offense
  - Watch out for Index Clusters and Pseudo-Recidivism
    - To be a SEPARATE offense: Did the offender reoffend after being detected (charge or equivalent) for previous behaviour?

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### Index Cluster Sex Offense

148

- Index Cluster (3 types)
  - Spree of offending at the same time or over a period of time with sentencing as a group at the same time or over
  - PSEUDO-RECIDIVISM: Historical offenses detected after conviction for more recent offense
  - Multiple Sexual Institutional Rule Violations on same sentence collapse together as a cluster or Probation/parole violations collapse together on same violation date
- Count charges for offenses overturned on appeal or dismissed as: 1 charge, 0 conviction
- Do not count anything AFTER the index sex offense

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### Pseudo-Recidivism

149

- Pseudo-Recidivism
  - Charged with old offenses for which they have never before been charged
  - Versus
  - Offender has to be detected for previous misbehaviors and then "chose" to ignore that detection and re-offend anyway
- Pseudo-Recidivism and index clusters are an area where many scoring errors occur

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### A Prior Sex Offense Can Be

150

- Sexual institutional rules violation(s) (depending on circumstances)
  - "One charge" per term
- Probation, parole or conditional release violation(s)
  - "One charge" per violation
- Arrests/charges
- Convictions
- Based on sexual misbehavior occurring PRIOR to the index offense
- Includes juvenile and adult offenses
  - Exception to juvenile conviction?

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Item 5 -  
Scoring Procedures

151

- Use most recent charging document, arrest report, Information or Felony Complaint
  - Only use the charges that ultimately go to court
- Sex offenses pled down to non-sex charge or conviction still count
- Acquittals count (as a charge)
- Number of victims irrelevant
- Charges or convictions may be on a single victim
- Arrest with no formal charges = 1 charge

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Item 5 -  
Scoring Procedures

152

- Do not count index sex offense
- Count **prior** sex offenses
- Final score is based on the highest tally between charges/convictions
- Count convictions overturned on appeal or charges which are dismissed as 1 charge, 0 convictions
- Do not count anything AFTER index sex offense

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Identify the Index Offense

153

| Behavior             | Date       | Detection Date | Conviction          | Conviction Date | Sentence          |
|----------------------|------------|----------------|---------------------|-----------------|-------------------|
| 1. Exposes in public | July, 1990 |                |                     |                 |                   |
|                      |            | Oct, 1990      | 1. Indecent Act     | Oct, 1990       | 2 years probation |
| 2. Molests Suzi      | Jan, 1992  |                |                     |                 |                   |
| 3. Internet CP       | 1988-2000  | May, 2000      | 2. Lewd Acts        | May, 2000       | 1 year prison     |
|                      |            | May, 2000      | 3. CP               | May, 2000       | 1 year prison     |
| 4. Alcohol Use       | Sep, 2001  |                |                     |                 |                   |
|                      |            | Sept, 2001     | 4. Parole Violation | Sept, 2001      | Return to custody |

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Identify the Index Offense

154

| Behavior               | Date       | Detection Date | Conviction               | Conviction Date | Sentence           |
|------------------------|------------|----------------|--------------------------|-----------------|--------------------|
| 1. Sex assault<br>Jill | Aug, 1995  |                |                          |                 |                    |
| 2. Sex assault<br>Joan | Sept, 1996 |                |                          |                 |                    |
| 3. Sex assault<br>Sue  | Dec, 1996  |                |                          |                 |                    |
|                        |            | March, 1997    | 3. Sexual Assault (Sue)  | March, 1997     | 3 years prison     |
|                        |            | Sept, 1998     | 1. Sexual Assault (Jill) | Sept, 1998      | 2 years concurrent |
|                        |            | Jan, 2000      | 2. Sexual Assault (Joan) | Jan, 2000       | 3 years probation  |

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Item 5 – Scoring Procedures

155

**Charges**

|         |            |                              |
|---------|------------|------------------------------|
| Count 1 | PC 288(a)  | L and L                      |
| Count 2 | PC 288(a)  | L and L                      |
| Count 3 | PC 288(a)  | L and L                      |
| Count 4 | PC 286     | Sodomy                       |
| Count 5 | PC 288a(c) | Forced Oral Copulation       |
| Count 6 | PC 459     | (Burglary no sex motivation) |

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Item 5 – Scoring Procedures

156

**Convictions**

|         |            |                              |
|---------|------------|------------------------------|
| Count 1 | PC 288(a)  | L and L                      |
| Count 4 | PC 286     | Sodomy                       |
| Count 5 | PC 288a(c) | Forced Oral Copulation       |
| Count 6 | PC 459     | Burglary (no sex motivation) |

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Item 5 –  
Scoring Procedures

157

| Item # | Risk Factor        | Codes   |             |       | Score |
|--------|--------------------|---------|-------------|-------|-------|
|        |                    | Charges | Convictions | Score |       |
| 5      | Prior Sex Offenses | None    | None        | 0     |       |
|        |                    | 1-2     | 1           | 1     |       |
|        |                    | 3-5     | 2-3         | 2     |       |
|        |                    | 6+      | 4+          | 3     |       |
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Example

158

- > Over a 20-day period an offender breaks into 5 homes, each of which is the home of an elderly female living alone
- > One he rapes, one he attempts to rape but she gets away, and three more get away, one with a physical struggle (he grabs her wrists, tells her to shut up).
- > The offender is subsequently charged with Sexual Assault, Attempted Sexual Assault, B & E (X2), and an Assault.
- > Do all the charges count as sexual offenses, or just the two charges that are clearly sexual? Or, does the evaluator score the two sex charges as sex charges and the assault charges as Non-sexual Violence?

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Item 6 – Prior Sentencing Dates

159

- > The Basic Rule:
  - > If the offender's criminal record indicates four or more separate sentencing dates prior to the Index Offense, the offender is scored a "1" on this item
  - > If the offender's criminal record indicates three or fewer separate sentencing dates prior to the Index Offense, the offender scores a "0" on this item.

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Item 6 – Prior Sentencing Dates

160

- Number of distinct sentencing occasions for criminal offenses before index sex offense
- Exclude index sex offense
- Do not count charges, acquittals
- Do not count court appearances overturned on appeal
- Driving offenses not count unless possibility of probation (DUI, reckless driving with injury)

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Item 6 – Prior Sentencing Dates

161

- Parole or probation violations do not count (unless sentence extended)
- Do not count prison misconducts, technical parole violations
- Mental Health commitments count as a sentencing date (NGI)
- Juvenile offenses, informal probation, and Diversion count
- Suspended Sentences
- Misdemeanors

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Item 6 – Prior Sentencing Dates

162

- Minimum level of seriousness
- Do not count
  - Driving offenses that could not result in probation sentences
  - Convictions after the index sexual offense do not count
  - Scoring 3 or less=0, 4 or more=1

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Item 7 – Any Convictions for  
Non-contact Sex Offenses

163

- The Basic Rule:
  - If the offender's criminal record indicates a conviction for a non-contact sexual offence, the offender is scored a "1" on this item
  - If the offender's criminal record does not show a conviction for a non-contact sexual offence, the offender is scored a "0" on this item

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Item 7 – Any Convictions for  
Non-contact Sex Offenses

164

- Any illegal sexual act where the offender did not touch the victim (or touching was incidental to the offence), **AND either**
  - A) victim coerced into nothing beyond perceiving the offence, **OR**
  - B) No attempt made by the offender to make the victim aware that they were being victimized

\*Note: this definition applies to all sex offences - in person or online

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Item 7 – Any Convictions for  
Non-contact Sex Offenses

165

- Look at behavior-not the name of the offense
- Can be the index sex offense
- Convictions only
  - Exhibitionism
  - Possessing child porn
  - Obscene telephone calls (Sexual harassment)
  - Voyeurism
  - Illicit sexual use on Internet (Similar to obscene phone call) with no attempt to meet
  - Category B offenses count here

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Item 7 – Do Not Count

166

- > Do not count
  - > Attempted contact offenses i.e. attempted rape
  - > Soliciting/prostitution
  - > Charges and arrests
  - > Self-reported offenses
  - > Non-contact sexual offence convictions as the result of a plea bargain
  - > Institutional rules violations, charges, arrests, and self report
- > Scoring No convictions = 0, Any convictions = 1

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Item 7 – Standards of Proof

167

- > Balance of Probabilities - to determine if the offense was sexually motivated, i.e. burglary, trespassing
- > Clear and Convincing Evidence - to determine if the offender’s motivation was to manipulate the victim into engaging in a physical sexual event through threats, coercion, or, in the case of children under the age of 16 years, manipulation should be considered a contact/attempted contact offence

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Items 8, 9, and 10  
The Three Victim Questions

168

- > 8. Unrelated victim
- > 9. Stranger victim
- > 10. Male victim

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Items 8, 9, and 10  
The Three Victim Questions

169

- > Official Records
- > Collateral Sources (CPS Reports)
- > Offender Self-Report
- > Victims Reports
- > Based on all credible information
- > If acquitted or found Not Guilty and you believe it is more likely than not true then you can use the information
  - > Review cases in which the offender was acquitted or found "Not Guilty"

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Items 8, 9, and 10  
The Three Victim Questions

170

- > Applies if victims were children or non-consenting adults
- > Accidental victims do not count
- > Do not score victim information for Category B offenses
  - > Except victims of non-disclosure of HIV+ status
- > Do not score victim information for sex of the animal
- > Use Balance of Probabilities as the standard of proof

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Polygraph Information

171

- > Information from polygraph interviews or examinations is not used to score Static-99R (unchanged)
  - > Not used in the developmental and validation of Static-99R
  - > Polygraph-assisted disclosures give greater diversity of victim types and numbers leading to higher scores on Static-99R
  - > Voluntary admissions are scored if deemed credible ("Balance of Probabilities"). If you believe they are disclosing information because of upcoming polygraph then do not use it

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Item - 8 Any Unrelated Victims

172

- > The Basic Rule:
  - > If the offender has victims of sexual offenses outside their immediate family, score the offender a "1" on this item
  - > If the offender's victims of sexual offenses are all within the immediate family score the offender a "0" on this item

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Item - 8 Any Unrelated Victims

173

- > Relationship too close for marriage
- > Step-relationships lasting less than two years are unrelated
- > Wives and common-law marriage - more than 2 years related
- > Category "B" victims do not count
  - > Except victims of non-disclosure of HIV+ status
- > Accidental victims do not count
- > Scoring - 1 point for unrelated victim
- > If offender is unaware victim is family member, victim counts as unrelated

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Item - 8 Any Unrelated Victims

174

- > See tables below, relationships in **red** and underlined are considered related for scoring purposes

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### Item - 8 Any Unrelated Victims

175

|          | 1st degree             | 2nd degree   | 3rd degree          | 4th degree                |                       |
|----------|------------------------|--------------|---------------------|---------------------------|-----------------------|
|          |                        |              |                     | great-great grandparents  | generation 4          |
|          |                        |              | great-grandparents  |                           | generation 3          |
|          |                        | grandparents |                     | great uncle/aunt          | generation 2          |
|          | parent/parent's spouse |              | uncle/aunt          |                           | generation 1          |
| offender |                        | sibling      |                     | first cousin              | offender's generation |
|          | child/child's spouse   |              | nephew/niece        |                           | generation 1          |
|          |                        | grandchild   |                     | great nephew/niece        | generation 2          |
|          |                        |              | great-grandchildren |                           | generation 3          |
|          |                        |              |                     | great-great grandchildren | generation 4          |

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### Item - 8 Any Unrelated Victims

176

|                   | 1st degree             | 2nd degree   | 3rd degree        |                       |
|-------------------|------------------------|--------------|-------------------|-----------------------|
|                   |                        |              | great-grandparent | generation 3          |
|                   |                        | grandparents |                   | generation 2          |
|                   | parent/parent's spouse |              | uncle/aunt        | generation 1          |
| offender's spouse |                        | sibling      |                   | offender's generation |
|                   | child/child's spouse   |              | nephew/niece      | generation 1          |
|                   |                        | grandchild   |                   | generation 2          |
|                   |                        |              | great-grandchild  | generation 3          |

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### Item - 8 Any Unrelated Victims

177

|                             | 1st degree | 2nd degree   |                       |
|-----------------------------|------------|--------------|-----------------------|
|                             |            | grandparents | generation 2          |
|                             | parents    |              | generation 1          |
| offender's sibling's spouse |            | sibling      | offender's generation |
|                             | child      |              | generation 1          |
|                             |            | grandchild   | generation 2          |

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### Item - 8 Any Unrelated Victims

178

Borderline cases (e.g., not listed in the tables above) are guided by the psychological relationship existing prior to the sexual assault. If an offender has been living with the victim in a family/paternal/fraternal role for two years prior to the onset of abuse, the victim and the offender would be considered related. E.g., great-grandchildren are not generally considered related, but if the offender and victim lived together for two or more years before the sexual offending started, then the victim is considered related.

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### Item - 9 Stranger Victim

179

- The Basic Rule:
  - If the offender has victims of sexual offenses who were strangers at the time of the offence, score the offender a "1" on this item.
  - If the offender's victims of sexual offenses were all known to the offender for at least 24 hours prior to the offence, score the offender a "0" on this item.

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### Item - 9 Stranger Victim

180

- If the offender has a "stranger" victim, he likely has an unrelated victim
- Victims contacted over the Internet are not normally considered strangers unless met within 24 hours
- Accidental victims do not count
- Becoming a stranger again – If the offender thinks the victim is a stranger
- Perpetrator does not know victim or vice versa

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### Item - 9 Stranger Victim

181

- The criteria for being a stranger are very high
  - Even a slight degree of knowing is enough for a victim not to be a stranger
- The criteria for know/knew is quite low but does involve some level of interaction
  - They do not need to know each other's names or addresses
  - Simply knowing of someone but never having interacted with them would not be enough

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### Item - 9 Stranger Victim

182

- If the victim was a convenience store clerk and recognized the perpetrator as someone who had been in on several occasions to buy cigarettes, the victim would no longer be a stranger victim
- If a child victim can say they recognize the offender from around the neighborhood and the perpetrator has said "Hi" to them on occasion, the child is no longer a stranger victim

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### Item - 9 Stranger Victim

183

- The evaluator must determine whether the victim "knew" the offender 24 hours before the assault took place
  - If so the victim is not a stranger

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Item - 10 Male Victim

184

- The Basic Rule:
  - If the offender has male victims of sexual offenses, non-consenting adults or child victims, score the offender a "1"
  - If the offender's victims of sexual offenses are all female, score the offender a "0" on this item

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Item 10 - Male Victim

185

- Do not count
  - Possession of male child pornography
  - Accidental victims
- Count attempt to contact male victims over Internet
- Transvestite or transgender victim and offender thought victim was a female (may be wearing female clothing), do not score male victim. If the offender knew or thought he was assaulting a male (or if he continued to sexually assault him after discovering he was a male), score a male victim

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Communicating Results

186




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Reporting Risk on Static-99R

187

- > Percentiles
- > Relative Risk Ratio
- > Risk Level
- > Absolute Risk Estimates
- > Normative Groups

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Selecting the Correct Norms

188

- > **Routine Norms**-not subject to any special selection/no evidence of unusually high levels of external factors
- > **High Risk/Need Norms**-have been subject to special process thought to select for highest levels of external risk factors (need exceptional measures to manage)

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Selecting the Correct Norms

189

- > Consider
  - > Observable levels of dynamic needs
  - > The most credible external risk factors are relatively enduring psychological risk factors (long-term vulnerabilities, dynamic risk factors)

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### Ethnicity and Static-99R

190

- > Aboriginal, African-American offenders and African-Asian offenders score higher on Static-99R than Caucasian offenders
- > Latino offenders score lower on Static-99R than Caucasian offenders.
- > This does not mean that Static-99R predicts differently between these groups.
- > Note in your report that it predicts better for Caucasian offenders (AUC=.76) than non-Caucasian offenders (AUC=.70) Not a statistically significant difference

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### Percentile Ranks

191

**Estimated Percentiles for Canadian Sex Offenders**

| Static-99R Score | Percentile Rank defined as mid-point average |              | Observed Percentages |      |        |
|------------------|--|--------------|----------------------|------|--------|
|                  | Percentile                                   | 95% CI       | Below                | Same | Higher |
| -3               | 1.3  | 0 - 2.9      | 0                    | 2.7  | 97.3   |
| -2               | 4.2  | 2.4 - 6.1    | 2.7                  | 3.0  | 94.3   |
| -1               | 9.7  | 5.7 - 13.9   | 5.7                  | 7.9  | 86.4   |
| 0                | 18.7   | 13.4 - 24.1  | 13.6                 | 10.3 | 76.1   |
| 1                | 31.7   | 23.8 - 39.7  | 23.9                 | 15.7 | 60.4   |
| 2                | 48.3   | 39.5 - 57.1  | 39.6                 | 17.5 | 42.9   |
| 3                | 65.7   | 57.0 - 74.3  | 57.1                 | 17.2 | 25.7   |
| 4                | 79.6   | 74.0 - 85.1  | 74.3                 | 10.7 | 15.0   |
| 5                | 88.7   | 84.6 - 92.5  | 85.0                 | 7.4  | 7.6    |
| 6                | 94.2   | 91.9 - 96.2  | 92.4                 | 3.6  | 4.0    |
| 7                | 97.2   | 95.6 - 98.6  | 96.0                 | 2.5  | 1.5    |
| 8                | 99.1   | 98.2 - 99.8  | 98.5                 | 1.2  | 0.3    |
| 9                | 99.9   | 99.5 - 100.0 | 99.7                 | 0.28 | 0.02   |
| 10+              | 99.99  | 99.8 - 100.0 | 99.98                | 0.02 | 0      |

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### Percentile Ranks

192

- > Scores are not intuitive to layperson
  - > Explain ranges and meanings
  - > Below and Above do not equal 100%
- > Based on four Canadian samples, n= 2,011
  - > Also compared to a California sample (2008-2010) n = 37,600
  - > Also Compared to a Swedish sample (1993-1997) n = 1,278
  - > Substantially similar results

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### Relative Risk Ratios

193

| Static-99R Score | Frequency (n) | Relative Risk Ratio |
|------------------|---------------|---------------------|
| -3               | 73            | 0.19                |
| -2               | 105           | 0.26                |
| -1               | 384           | 0.37                |
| 0                | 473           | 0.52                |
| 1                | 565           | 0.72                |
| 2                | 599           | 1.00                |
| 3                | 598           | 1.39                |
| 4                | 491           | 1.94                |
| 5                | 333           | 2.70                |
| 6                | 209           | 3.77                |
| 7                | 120           | 5.25                |
| 8+               | 87            | 7.32                |

Note: Risk ratios were calculated from hazard ratios based on Cox regression coefficients derived from entering the continuous (i.e., unclumped) Static-99R scores ( $\beta = 0.332$ ; SE = .022), with sample as strata ( $k = 8$ ,  $n = 4,037$ ). Due to small sample size, risk ratios are not presented for Static-99R scores greater than 8. The analyses were based on routine (i.e., relatively unselected) correctional samples.

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### Relative Risk Ratios

194

- > Requires explanation
- > State what it is not
- > Based on 8 routine samples,  $n = 4,037$

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### Absolute Risk Estimates

195

| STATIC-99R ROUTINE SAMPLE<br>Estimated 5-year and 10-year annual recidivism rates |                               |          |                                | STATIC-99R HIGH RISK/NEED GROUP<br>Estimated 5-year and 10-year annual recidivism rates |       |                               |          |                                |          |
|---|-------------------------------|----------|--------------------------------|---|-------|-------------------------------|----------|--------------------------------|----------|
| Score   | 5-Year Annual Recidivism Rate |          | 10-Year Annual Recidivism Rate |   | Score | 5-Year Annual Recidivism Rate |          | 10-Year Annual Recidivism Rate |          |
|   | Point Estimate                | 95% C.I. | Point Estimate                 | 95% C.I.  |       | Point Estimate                | 95% C.I. | Point Estimate                 | 95% C.I. |
| -3  | 0.0                           | 0.0      | 0.0                            | 0.0   | -3    | —                             | —        | —                              | —        |
| -2  | 1.9                           | 1.0      | 1.9                            | —   | -2    | —                             | —        | —                              | —        |
| -1  | 1.9                           | 1.4      | 2.5                            | —   | -1    | 5.6                           | 3.0      | 8.1                            | 10.6     |
| 0   | 2.0                           | 2.2      | 3.5                            | —   | 0     | 7.2                           | 4.7      | 10.7                           | 13.0     |
| 1   | 3.0                           | 3.3      | 4.7                            | —   | 1     | 8.0                           | 6.0      | 12.5                           | 15.0     |
| 2   | 3.0                           | 4.3      | 4.9                            | —   | 2     | 10.3                          | 8.0      | 14.0                           | 18.1     |
| 3   | 7.0                           | 7.0      | 8.0                            | —   | 3     | 14.0                          | 11.0     | 17.2                           | 22.0     |
| 4   | 10.2                          | 10.0     | 12.1                           | —   | 4     | 19.2                          | 14.0     | 20.0                           | 27.1     |
| 5   | 10.2                          | 13.0     | 16.0                           | —   | 5     | 20.2                          | 16.0     | 24.0                           | 30.1     |
| 6   | 20.1                          | 18.4     | 22.0                           | —   | 6     | 26.7                          | 21.0     | 30.0                           | 36.0     |
| 7   | 27.2                          | 24.0     | 30.7                           | —   | 7     | 30.7                          | 26.1     | 37.0                           | 43.0     |
| 8   | 30.1                          | 30.3     | 40.0                           | —   | 8     | 36.3                          | 28.0     | 40.0                           | 51.1     |
| 9   | 43.0                          | 37.0     | 50.1                           | —   | 9     | 40.2                          | 32.0     | 52.1                           | —        |
| 10  | 53.0                          | 45.0     | 60.3                           | —   | 10    | 46.4                          | 38.0     | 60.0                           | —        |
| 11  | —                             | —        | —                              | —   | 11    | —                             | —        | —                              | —        |

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### Absolute Risk Estimates

196

- > Requires explanation
- > State the number of offenders who did not have new charges or convictions
- > Least stable
- > Consider not using with advanced aged offenders or, at the very least, provide a cautionary statement commenting on the potential for over-prediction

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### New Nominal Risk Categories

197

- > Interpretive ranges (estimated percentages for routine Canadian sexual offenders)
  - > -3 to -2: Level I (Very low risk) (5%)
  - > -1 to 0: Level II (Below average risk) (16%)
  - > 1 to 3: Level III (Average risk) (49%)
  - > 4 to 5: Level IVa (Above average risk) (21%)
  - > 6+: Level IVb (Well above average risk) (8%)

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### Percentile Ranks

198

- > Which of the following are true?
  - > Percentile ranks describe risk in comparison to other sexual offenders
  - > There are different ways of reporting percentile ranks (% higher, % lower, mid-point average)
  - > For Static-99R, percentile ranks are based on routine/complete correctional samples from Canada, which have shown to be reasonably stable in international comparisons with Sweden and California

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### Relative Risk Ratios

199

- > Which of the following are true?
  - > Relative risk ratios are based on routine samples
  - > If Mr. X has a Static-99R score of 2, on average, offenders with this score have a sexual recidivism rate that is the same as the rate of offenders in the middle of the risk distribution

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### Absolute Risk Estimates

200

- > Which of the following are true?
  - > There are three normative risk groups to select from based on the Static-99R authors' recommendations
  - > The high risk and high needs samples are the most appropriate for individuals being evaluated for SVP commitment
  - > The determination for the appropriate normative group is based on the density of external risk factors not measured by the static-99R

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