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Document Title: A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act

Author: Kristen M. Zgoba, Michael Miner, Raymond Knight, Elizabeth Letourneau, Jill Levenson, David Thornton

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COMPLETED BY:

Kristen M. Zgoba, PI

New Jersey Department of Corrections

Michael Miner, Co-PI

University of Minnesota Medical School

Raymond Knight, Co-Investigator

Brandeis University

Elizabeth Letourneau, Co-Investigator

Johns Hopkins University

Jill Levenson, Co-Investigator

Lynn University

David Thornton, Co-Investigator

Sand Ridge Secure Treatment Center

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ABSTRACT

THIS STUDY seeks to examine important components of our nation's sex offender tracking and monitoring systems, with a focus on risk assessment and sexual recidivism (measured by re-arrest). The principal aims of this study were fourfold: (1) to compare the nationally recommended Adam Walsh Act (AWA) classification tiers with actuarial risk assessment instruments in their respective abilities to identify high risk individuals and recidivists; (2) to evaluate the predictive accuracy of existing state risk assessment classification schemes; (3) to examine the distribution of risk assessment scores within and across tier categories as defined by the AWA; and (4) to examine the role of offender age in recidivism risk across the adult lifespan.

Data were collected from 1,789 adult sex offenders in four states (Minnesota, New Jersey, Florida and South Carolina) to inform these analyses. Variables including offender demographics and criminal history information, coded from state criminal justice records, were used

to score actuarial risk assessment instruments and sex offender registry information. On average, we found that the recidivism rate was approximately 5% at five years and 10% at 10 years. AWA tier was unrelated to sexual recidivism, except in Florida, where it was inversely associated with recidivism. Actuarial measures and existing state tiering systems both showed better predictive validity than AWA tiers. Finally, offender age was found to have a significant protective effect for sexual reoffending, with older offenders showing a decreased risk for sexual recidivism.

The findings indicate that the current AWA classification scheme is likely to result in a system that is less effective in protecting the public than the classification systems currently implemented in the states studied. Policy makers should strongly consider substantial revisions of the AWA classification system to better incorporate evidence-based models of sex offender risk assessment and management.

EXECUTIVE SUMMARY

Although managing sex offender risk has been a law enforcement initiative since the 1930s, exceptionally heinous sex crimes perpetrated by offenders during the 1990s brought forth intense public scrutiny and demands for more rigorous monitoring of sex offenders. Legislators responded by enacting national standards and procedures for sex offender registration and community notification, passing the Jacob Wetterling Act in 1994 and Megan's Law in 1996. Stricter registration requirements and public access to offenders' residence information initially assuaged some of the public's fear, as parents felt empowered to minimize the risk posed to their children. As media reports surfaced concerning sex offender registration violations, however, fear was reignited. Consequently, sex offender management and policy measures remained a priority for lawmakers.

Legislators responded on July 27, 2006 with passage of The Adam Walsh Child Protection and Safety Act, which resulted in more stringent registration requirements and established a standardized, offense-based classification system. Enforcement of this legislation has undoubtedly shaped states' criminal justice responses to sexual

crimes and sexual offenders. The proposed offense-based classification system was fashioned, however, without reliance on or guidance by empirical validation. The essential question, therefore, is whether this classification system accurately represents the risk of re-offense and leads to more effective sex offender management. Critics have argued that the AWA classification system relies too heavily on circumstances of the offense, not overall recidivism risk posed by the offender. Some states have used this reasoning to resist AWA adoption, contending that existing classification methods based on actuarial risk assessment would provide a better means of ensuring public safety.

In an effort to identify best practices and to inform public policy, this study sought to assess the relative effectiveness of various classification schemes used in sex offender management. Although this research attempts to address several research questions, the overarching goal is to compare the nationally recommended Adam Walsh Act (AWA) classification tiers to actuarial risk assessment instruments in their respective abilities to identify high risk individuals and recidivists.

METHODS

- ◆ To answer the research questions we randomly selected 500 formerly incarcerated sex offenders from four states: New Jersey, Minnesota, Florida, and South Carolina. Eligible cases were convicted sex offenders who had been released from prison into the community between January 1, 1990 and December 31, 2004. Sexual offenses were defined as any index crime requiring registration and/or end of confinement review. Additionally, offenders must have been released after confinement to the community and not to a civil commitment program.
- ◆ Data were collected using available automated databases, supplemented by a review of prison and probation records. The study proceeded in two phases. Phase 1 included coding data from each offender's available archival records in order to calculate recidivism risk scores for two commonly used actuarial risk assessment instruments--the Static- 99R and Static- 2002R--and extracting relevant demographic and criminal (including juvenile justice) history data at time of release

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into the community. Each criminal contact was categorized by the most serious charge. Phase 2 involved the coding of recidivism data for each offender. Variables collected and coded during Phase 2 were based on charge information. Where available, sex offender registry information was also collected, including the registry status at the time of the charge (registered vs. not registered), registration requirement (number of times per year required to register), and registry start date of initial registration.

- ◆ This project used several analytic strategies aimed at addressing primary questions. These strategies included: (1) detailed review of statutory codes for

each state; (2) assignment of baseline tiers for each type of offense across three age groups – 12 and under, 13-17, and 18+; (3) review of both instant offense and most serious offense fields and assignment of initial tiers based on this information; (4) review of supplemental fields in the dataset to identify other cases in which the offender has a history of two or more sexual offenses, history of victimizing children under 12, and/or history of use of force in commission of offenses; and (5) as applicable, adjustment of initial tiers based on this review.

- ◆ To evaluate the degree to which classification systems correctly classified or accurately predicted offender risk, measures were assessed using the Receiver Operating Curve (ROC) analyses. At different risk times, the significance of Area Under the Curve (AUC) was calculated for the three different criteria: actuarial risk scores, Adam Walsh Level, and state determined tier level. Because key data required to accurately calculate actuarial risk scores was sometimes missing in the available archival files, a reduced actuarial predictor was created based on the items that were most commonly available. This modified measure is referred to as the Available Predictor (AP). This simplified actuarial scale was used in cases where missing data for standard actuarial risk assessment instruments would have greatly reduced the sample size available for analysis.
- ◆ There were differences across states in the information that was available in the prison records and in other criminal justice records accessed for this study. Minnesota and New Jersey had less systematically missing information than either Florida or South Carolina.
- ◆ Static-99R scores were not computed for South Carolina due to missing data. Static-99R scores were calculated for the other three states and differences were evaluated by one-way ANOVA.
- ◆ The predictive accuracy of state-specific risk assessment classification schemes was also evaluated. Florida and South Carolina both distinguish between sex offenders and those designated as predators. In states that go beyond distinguishing offenders and predators, such as New Jersey and Minnesota, there are substantial differences in the methodology used for determining an individual's tier status.

RESULTS

- ◆ The racial background of the sample was 51% White, 31% Black, 7% Latino, and 2% Native American. The mean age of the sample was 33 years at sentencing, and the age of the sample at release was 37 years.
- ◆ The majority of offenders had no prior conviction for a sexual crime, but two-thirds had prior involvement in the criminal justice system for a criminal offense. For the cases in which victim characteristics were available, three-quarters of these offenders had unrelated victims, and about one-fifth had stranger victims. Nearly half of all victims were age 12 or under.
- ◆ The overall recidivism rate for the sample was 5.1% over five years and 10.3% over ten years. The doubling between 5 and 10 years indicates some suppression occurring during the first five years, possibly due to effects of formal supervision (e.g., parole). There was an apparent trend for sexual recidivism rates to differ among states after five years, but this trend failed to reach significance. The trend reached significance after 10 years follow-up, with the highest rate occurring in Florida and the lowest rate in South Carolina.
- ◆ Sex offenders were assigned to an AWA tier according to the procedures outlined in the Methods section. A frequency distribution of AWA tier levels revealed that the majority of offenders met the criteria for AWA Tier 3, the highest risk level. Specifically, 69% of the sample was classified as AWA Tier 3, whereas 29% was classified as Tier 2. Less than one percent of offenders met the criteria for the Tier 1 category. This lowest tier includes offenses that are eligible for a sentence of less than one year in prison, and qualify as misdemeanor offenses rather than felony offenses. Consequently, most Tier 1 offenders would not have been sentenced to a state prison from which samples were pulled.
- ◆ The mean Static-99R score was computed for the full sample (2.58, $sd = 2.29$) and for each state (i.e. Florida, Minnesota, and New Jersey). ANOVA testing (one-way analysis of variance) revealed significant differences in Static-99R risk scores across the states. On average, higher scores were



identified in the Minnesota sample (3.12, $sd = 2.11$), followed by New Jersey (2.37, $sd = 2.49$), and Florida (1.97, $sd = 1.96$). Consistent with the Static-99R results, mean Static 2002 risk scores were significantly higher for the Minnesota sample than the New Jersey sample.

- ◆ We examined whether risk levels varied by AWA tier designation. If tier designations identify higher risk offenders, cases with Tier 3 designations should also, on average, have higher risk scores. Concordance between risk scores and tier designation was not, however, consistently identified. Specifically, Tier 2 offenders were associated with higher actuarial risk scores, on average, and accounted for a greater proportion of cases falling into the upper end of the risk distribution.
- ◆ The association between state and AWA tier designations and the 10-year recidivism rate was examined. Results indicated that a higher state assigned tier was significantly associated with sexual recidivism in the expected, positive direction, but a higher AWA tier was significantly associated with sexual recidivism in the unexpected negative direction. In other words, AWA tier 3 was associated with lower odds of sexual recidivism. The comparable analysis for 5-year sexual recidivism yielded similar results but was statistically significant only for AWA tier.
- ◆ Our results indicated that the distribution of AWA tiers differed across states, with two states, Minnesota and New Jersey, having very few Tier 2 offenders and no Tier 1 offenders. Moreover, higher

