

Is Institutional Sexual Misconduct Predictive of Sexual Recidivism Amongst Male Sex Offenders?

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IS INSTITUTIONAL SEXUAL MISCONDUCT PREDICTIVE OF SEXUAL
RECIDIVISM AMONGNST MALE SEX OFFENDERS?

by

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ABSTRACT
IS INSTITUTIONAL SEXUAL MISCONDUCT PREDICTIVE OF SEXUAL
RECIDIVISM AMONGST MALE SEX OFFENDERS?

Angela M. Fleck, B.S., M.A.

Marquette University, 2011

There has been a large body of research conducted on establishing a valid set of predictors of sexual offender recidivism in the past 20 years. However, despite findings that indicate that prior history of sexual offenses serves as a primary predictor of sexual offense recidivism, there has been little focus on the impact of institutional sexual misconduct on sexual offense recidivism rates. This study aimed to investigate the relationship between institutional sexual behavior and sexual offense recidivism rates amongst a sample of male offenders who received a sexual misconduct report while incarcerated and/or was convicted of a sexual offense. Additionally, this study explored whether instances of institutional sexual misconduct added to the variance accounted for by actuarial measures commonly used in Sexually Violent Predator Civil Commitment evaluation procedures. Results revealed that there is little association between sexual offense recidivism rates and receipt of institutional sexual conduct reports unless an offender is issued multiple sexual conduct reports during the same period of incarceration. Additionally, the actuarial measures used in the study were not found to be predictive of sexual offense recidivism. Implications for conducting Sexually Violent Predator Civil Commitment evaluations, identifying institutional sexual offender treatment needs, and identifying community supervision practices are discussed, and future research directions are proposed.

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TABLE OF CONTENTS

ACKNOWLEDGMENTS	i
TABLE OF CONTENTS.....	iii
LIST OF TABLES	vii
CHAPTER I: INTRODUCTION.....	1
Recidivism of Sexual Offenders	1
Prevalence of Sexual Offender Recidivism Rates	1
Risk Assessment and Sexually Violent Predator Civil Commitment.....	2
Actuarial Measures for Sexual Offender Recidivism Risk.....	3
Risk Assessment Strategies.....	6
Importance of Institutional Sexual Misconduct.....	7
Statement of the Problem.....	8
Purpose of Study.....	9
Research Questions.....	11
Overview of the Remainder of the Study	11
CHAPTER II: LITERATURE REVIEW	13
Overview.....	13
Value of Recidivism Research.....	13
Overview of Sexual Offense Recidivism Research	14
Comparison of General Criminal and Sexual Offense Recidivism Rates	14
Overview of Studies Specific to Sexual Offense Recidivism.....	15
Types of Sexual Offenses	16
Sexual Recidivism Rates in Studies Using a Heterogeneous Sample Group	17

Recidivism Base Rates for Rapists	18
Recidivism Base Rates for Child Molesters	19
Issues in the Measurement of Sexual Offender Recidivism	21
Public Perception of Sexual Offenders in Relation to Recidivism Rates.....	24
Brief Overview of Sexually Violent Predator Laws	25
Sexual Psychopath Laws.....	25
Transition to Contemporary Sexual Offender Civil Commitment Laws.....	26
Constitutional Challenges to SVP Laws.....	27
Risk Assessment	28
Risk Factors	29
Harm	31
Risk Level	32
Risk Assessment Strategies.....	33
Review of Risk Assessment Methods.....	33
Comparison of the Accuracy of Clinical versus Mechanical Methodologies.....	34
Arguments Against the Use of Actuarial Measures in SVP Civil Commitment Evaluations.....	35
Actuarial Measures Used in Sexual Offender Risk Assessment	36
Rapid Risk Assessment for Sexual Offense Recidivism	37
Static-99	39
Minnesota Sex Offender Screening Tool – Revised.....	42
Review of the Predictive Validity of the RRASOR, Static-99, and MnSOST-R	44

Limitations of Actuarial Measures in SVP Civil Commitment Evaluations.....	45
Benefits of Using the Clinically Adjusted Actuarial Method in SVP Evaluations.....	46
Institutional Sexual Misconduct	48
Prevalence of Institutional Sexual Behavior.....	48
Relationship between Institutional Sexual Misconduct and Sexual Offender Recidivism	50
Conclusion.....	51
CHAPTER III: METHOD	52
Overview.....	52
Participants.....	53
Informed Consent.....	58
Measures.....	58
Rapid Risk Assessment for Sexual Offense Recidivism	58
Static-99	59
Minnesota Sex Offender Screening Tool – Revised.....	60
Procedure.....	62
Data Collection	62
Measuring Recidivism	63
Follow-Up Data	64
CHAPTER IV: RESULTS.....	65
Overview.....	65
Significance of Findings	65
Demographic Information.....	66

Research Questions	66
Preliminary Analyses	66
Logistic Regression Results	67
Relationship between the Independent and Dependent Variables	69
Relationship between Age, Instant Offense, Race, and Recidivism.....	70
Relationship between Actuarial Scores, Receipt of Sexual Conduct Reports, and Recidivism	72
Question One	73
Question Two.....	77
Question Three.....	79
Question Four.....	81
CHAPTER V: DISCUSSION.....	85
Introduction.....	85
Institutional Sexual Misconduct and Recidivism Rates.....	85
Multiple Institutional Sexual Conduct Reports and Recidivism	89
Institutional Sexual Misconduct and Offender Type	91
Institutional Sexual Misconduct and Actuarial Measures	93
Summary.....	94
Limitations.....	95
Implications and Future Directions.....	98
Conclusion.....	101
REFERENCES	102
APPENDIX A.....	111
APPENDIX B.....	113

LIST OF TABLES

Table 1: Summary of Variables Included in the Logistic Regression Analysis to Predict Recidivism Type in the Non-Sexual Offender with Sexual Conduct Report Group.....	68
Table 2: Summary of Correlations of Independent and Dependent Variables in the Non-Sexual Offender with Sexual Conduct Report Group	70
Table 3: Summary of Correlations of Independent and Dependent Variables in the Sexual Offender with Sexual Conduct Report Group.....	71
Table 4: Summary of Correlations of Independent and Dependent Variables in the Sexual Offender with No Sexual Conduct Report Group.....	72
Table 5: Summary of Correlations of Independent and Dependent Variables in the Non-Sexual Offender with Sexual Conduct Report Group	73
Table 6: Summary of Chi-square Observed and Expected Frequencies for Type of Offender Group and Recidivism Type	75
Table 7: Frequency of Recidivism Type 5-Years Post Release for Each Offender Group.....	76
Table 8: Summary of Chi-square Observed and Expected Frequencies for Number of Sexual Conduct Reports Received and Recidivism Type	78
Table 9: Frequency of Sexual Conduct Report Type for Each Offender Group	80
Table 10: Summary of Static-99, RRASOR, and MnSOST-R Predictor Variables in the Logistic Regression Analysis to Predict Type of Recidivism	84
Table 11: Summary of Static-99, RRASOR, and MnSOST-R, and Institutional Sexual Misconduct Predictor Variables in the Logistic Regression Analysis to Predict Type of Recidivism	84

Chapter I: Introduction

Recidivism of Sexual Offenders

Prevalence of Sexual Offender Recidivism Rates

Sexual offenses are considered one of the most heinous types of crimes and invariably evoke strong public reaction and concern. Consequently, it is not surprising that a significant focus of the criminal justice system has been on the prediction and prevention of sexual offender recidivism. Evidence of this impetus may be seen in increasing research (e.g., Hanson, 1998; Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004) on sexual offender characteristics that serve as predictors of future acts of sexual offenses. In addition, numerous preventative measures, such as specialized treatment programs, civil commitment, long-term community supervision, and community notification and public registries, have been implemented to regulate the behavior of individuals who have been convicted of committing a sexual offense in an effort to reduce recidivism risk (Hanson & Morton-Bourgon, 2004).

Although these preventative efforts have likely led to the decrease in sexual offender recidivism rates that has been observed over the last two decades (Greenfeld, 1997; Langan, Schmitt, & Durose, 2003), the prevalence of sexual reoffense continues to remain sobering. Langan, Schmitt, and Durose (2003), for example, tracked 9,691 released male sex offenders over a three-year period following their release and found that 5.3% (517 of the 9,691) of the sample was rearrested for a new sexual offense, and alarmingly, 40% of the new offenses were committed within one year of release. The need to continue focusing on sexual offense recidivism was further emphasized by Langan and colleagues' finding that convicted sexual offenders were four times more

likely to be rearrested for a sexual offense after release compared to non-sexual offenders. Similarly concerning results were found in a large scale meta-analysis that found a sexual offender recidivism rate of 13.4% from a sample of nearly 24,000 sexual offenders tracked over a four to five year span following release from prison (Hanson & Bussière, 1998). Concern about sexual offender recidivism is even more clearly warranted when considering that in the United States alone, almost 5% of all incarcerated offenders were convicted of a sexual offense and approximately 60% of all sexual offenders are on some form of community supervision (Greenfeld, 1997).

Despite these already sobering statistics, sexual offender recidivism researchers (e.g., Koss, 1993; Langton, 2003; Rennison, 2002) agree that the true prevalence of recidivism rates is likely even higher due to the significant rates of underreporting. Given this knowledge, along with the unequivocal considerable emotional and physical sequelae experienced by victims of sexual assault, the importance of improving risk assessment models to allow for more accurate prediction and prevention of sexual assault, especially by convicted sexual offenders, is taking on a greater urgency and has placed an onus on psychologists to develop empirically grounded methodologies to assist the legal system in the endeavor to enhance community safety.

Risk Assessment and Sexually Violent Predator Civil Commitment

Increased attention to sexual offender recidivism risk assessment models seems even more necessary when considering the central role of risk in the legal realm and in policy-making decisions (Borum, 1996; Doren, 2002; Langton, 2003). Risk assessments in an increasing number of jurisdictions, for instance, are used to inform post-sentence civil commitment procedures of sexually violent offenders (Langton, 2003; Witt,

DelRusso, Oppenheim, & Ferguson, 2006). Civil commitment laws of sexual offenders, frequently referred to as Sexually Violent Predator (SVP) Laws, permit for the involuntary confinement of individuals deemed likely to engage in future acts of sexual violence by a court. In this regard, these laws aim at protecting the public and rehabilitating sexual offenders through treatment. Since 1990 to date, twenty states have enacted SVP commitment laws including: Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin (Davey & Goodnough, 2007; Deming, 2008). In addition, the Adam Walsh Child Protection and Safety Act, which authorizes the federal government to initiate civil commitment proceedings for prisoners in the custody of the Federal Bureau of Prisons, was signed into law in 2006 (Deming, 2008).

As a consequence of the increasing implementation of SVP commitment laws over the past twenty years, a burgeoning debate has emerged regarding the constitutionality of SVP commitment (see Zander, 2005, for discussion of the constitutional challenges against SVP commitment laws). Regardless of this controversy, however, the fact remains that a number of states now mandate risk assessment of offenders who have committed a sexually “violent” offense (both risk level and “violence” are defined by state statute) to be considered eligible for civil commitment. Precision in risk assessment, especially in this context, therefore, is indisputably crucial.

Actuarial Measures for Sexual Offender Recidivism Risk

Several studies (e.g., Doren, 2002; Gardner, Lidz, Mulvey, & Shaw, 1996; Janus & Prentky, 2004) have found actuarial prediction to be more accurate than clinical

judgment alone. For example, Gardner et al. (1996) found actuarial prediction of violence to have lower rates of false-positive and false-negative errors than clinical prediction. In addition, two meta-analyses on the predictive effectiveness of actuarial measures (Grove & Meehl, 1996; Grove, Zald, Lebow, Snitz, & Nelson, 2000) each concluded that actuarial predictions are equal or superior to clinical prediction for a variety of sexually violent behaviors.

In the context of sexual offender civil commitment, some (e.g., Barbaree, Langton, & Blanchard, 2007; Doren, 2002; Hanson, 1998) contend that the development of actuarial instruments is the most important advancement in risk assessment of sexual reoffense over the past two decades. The attention in the sexual offender recidivism literature devoted to the development and use of these actuarial scales (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Epperson et al., 1998; Hanson & Morton-Bourgon, 2004; Hanson & Thornton, 1999) clearly reflects this belief. In a meta-analysis of sexual offender recidivism studies, Hanson and Morton-Bourgon (2004) identified the regular use of five particular actuarial risk assessment measures. These instruments included the Violence Risk Appraisal Guide (VRAG; Quinsey, Harris, Rice, & Cormier, 1998), the Sex Offender Risk Appraisal Guide (SORAG; Quinsey et al., 1998) the Rapid Risk Assessment of Sexual Offense Recidivism (RRASOR: Hanson, 1997), the Static-99 (Hanson & Thornton, 1999), and the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R: Epperson et al., 1998). The former two instruments were designed to assess the risk of general violence, including sexual violence while the latter three were designed to specifically assess for sexual offender recidivism risk (Doren, 2002).

The abundance of empirical support found for the predictive validity of actuarial instruments in assessing sexual offender recidivism has resulted in the Association for the Treatment of Sexual Abusers (ATSA; 2001) and a number of professionals (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Doren, 2000; Janus & Prentky, 2004) strongly endorsing the use of actuarial measures to aid SVP evaluators in their assessments. Despite this fervent support, however, a major limitation of most of these instruments is that they primarily assess for static, or historical factors. Static predictors are factors that are not amenable to change with intervention or are personality characteristics that are unlikely to change over time (Beech, Fisher, & Thornton, 2003). Examples of static factors include prior charges and convictions for sexual offenses, general criminal history, victim characteristics, and antisocial lifestyle (Beech, Fisher & Thornton 2003; Quinsey, Rice, & Harris, 1995). In recent years, however, dynamic factors have received increased attention as predictors of sexual offender recidivism. Dynamic factors are those which may be amenable to intervention, such as substance use or deviant sexual interest (Beech, Fisher, & Thornton, 2003). The importance of attention to dynamic factors may be seen in the development of the STABLE-2000 and ACUTE-2000 (Anderson, 2006), which collectively focus on significant social influences, intimacy deficits, sexual self-regulation, attitudes, cooperation with supervision, and general self-regulation. Also important to consider in SVP commitment evaluations are protective factors, such as completion of sexual offender or substance abuse treatment.

Since most actuarial instruments commonly used in SVP commitment evaluations do not consider dynamic variables, the clinically adjusted actuarial approach, which is described in further detail below, is recommended as the most accurate method when

evaluating for sexual offender recidivism risk (Beech, Fisher, & Thornton, 2003; Doren, 2002). Continued improvement of actuarial risk instruments, however, would further enhance the accuracy of this method. For instance, an important area that receives little attention from current actuarial instruments is institutional misbehavior, which is considered any behavior by the inmate that is in violation of the correctional institution's policies and procedures. Examples of institutional misbehavior include disobeying rules, fighting, and any form (e.g., forced or non-forced) of sexual conduct. While the MnSOST-R includes an item assessing major instances of misconduct (which may vary according to correctional institution), no actuarial instruments specifically address institutional sexual misconduct. Review of the literature base on the impact of institutional sexual misconduct on sexual offender recidivism rates, furthermore, yielded only one published study.

Risk Assessment Strategies

While there is strong support for the use of actuarial measures to aid SVP civil commitment evaluations, other risk assessment strategies may also be used. In fact, Doren (2000) identifies six different models for assessing sexual offender recidivism risk in SVP commitment evaluations. These models include unguided clinical judgment, guided clinical judgment, clinical judgment based on an anamnestic approach, research-guided clinical judgment, clinically adjusted actuarial approach, and purely actuarial approach. Unguided clinical judgment involves review of case materials "without any significant a priori list or theory prioritizing the relative importance of the data obtained" (p. 104). Guided clinical judgment, in contrast, involves use of an a priori list of risk and predictive factors derived from the clinician's own theories about sexual recidivism that

may have no empirical basis. The anamnestic approach is essentially a variation of both the unguided and guided clinical approaches. This method involves using the history of the subject being evaluated to identify risk factors of importance and then examining the degree to which those same conditions still exist.

In comparison to these three approaches, the latter three are supplemented by an empirically derived basis. Research-guided clinical procedures, for instance, involve use of an a priori set of risk factors that are supported by research. The last two methods involve use of actuarial instruments. Actuarial risk assessments provide guidance on the risk level (e.g., low, medium, high) that an offender falls within, and development of measures is based on empirically derived risk factors for sexual offender recidivism. The clinically adjusted actuarial approach entails use of one or more actuarial instruments “followed by potential adjustments to the actuarial results based on clinically derived considerations” (p. 105). The purely actuarial approach, on the other hand, identifies risk level based solely on actuarial results without inclusion of clinical or subjective considerations.

Importance of Institutional Sexual Misconduct

As previously stated, there is only one published study examining the impact of institutional sexual misconduct on sexual offender recidivism risk. This study (Heil, Harrison, English, & Ahlmeyer, 2009) found that perpetrators of institutional sexual assault pose an increased risk to community safety. More specifically, Heil and colleagues’ (2009) findings indicated that “prison sexual offenders” (offenders who were incarcerated on a non-sexual offense but committed institutional sexual misconduct) were significantly more likely to be rearrested for a violent offense after release and also posed

a similar risk to commit a new sexual offense as compared to the sample of convicted sexual offenders who did not commit any known institutional sexual misconduct. The implications of this study suggest that institutional sexual misconduct may be an important predictor of sexual offender recidivism in the context of SVP commitment evaluations. At the very least, the impact of institutional sexual misconduct warrants further empirical investigation.

Statement of the Problem

There has been a large body of research conducted on establishing a valid set of predictors of sexual offender recidivism in the past 20 years, and prior history of sexual offenses has emerged as a primary predictor (Hanson & Bussière, 1998). Despite this finding, however, there is a substantial lack of empirical research on the impact of institutional sexual misconduct on sexual offender recidivism. In fact, at the date of this writing, only one study (Heil, Harrison, English, & Ahlmeyer, 2009) has investigated the relationship between institutional sexual misconduct and recidivism. The current lack of empirical research in this area could be interpreted as suggesting that prison only sexual offenders are not considered to pose a significant risk for sexual reoffense upon release. Heil et al.'s finding of a positive correlation between institutional sexual misconduct and sexual offender recidivism rates, however, provides evidence supporting the necessity for additional empirical research in this matter. Greater knowledge of the impact of institutional sexual misconduct on sexual offender recidivism rates could have important implications for risk assessment, particularly actuarial measures, used in SVP civil commitment proceedings. Furthermore, improving the accuracy of SVP procedures is of

paramount concern since both the civil liberty interests of an individual and the safety of the community are at stake.

Purpose of Study

A primary focus of this study is to describe the impact of institutional sexual misconduct on sexual offender recidivism rates. From a clinical perspective, identifying the impact will provide SVP evaluators additional guidance in determining whether instances of institutional sexual misconduct should be considered when assessing an inmate's risk to commit a new sexual offense. In addition, since most inmates' need for institutional sexual offender treatment is based primarily on conviction of a sexual offense, empirical support of a positive correlation between institutional sexual misconduct and sexual offender recidivism rates could allow prison officials and clinicians to identify the need for sexual offender treatment for prison only sexual offenders. Making treatment available to this group of sexual offenders could potentially lower the sexual offender recidivism rates given the empirical findings that indicate successful completion of sexual offender treatment serves as a protective factor against recidivism risk (Hanson et. al., 2002; Heil, Harrison, English, & Ahlmeyer, 2009; Lösel & Schmucker, 2005). Furthermore, indication that institutional sexual misconduct increases risk for sexual reoffense could also be useful in designating the appropriate level of sexual offender treatment for inmates who have convictions for sexual offenses and who have also engaged in sexually inappropriate behavior in the prison setting. Identification of risk to commit a sexual offense could further be informative for community supervision officials supervising both offenders with sexual offense convictions and prison only sexual offenders. Given these potential benefits and the

possible impact on how prison and community supervision resources are allocated, a secondary focus of this study is to compare the rates that sexual misconduct occurs between convicted sexual offenders and non-sexual offenders. In addition, the rates of recidivism for sexual offenses following release from incarceration will also be examined for each offender group.

From an empirical standpoint, this study will add to the newly established literature base currently consisting of one study that examines the relationship between institutional sexual misconduct and sexual offender recidivism rates. This study will also add to the existing literature that aims to identify risk factors associated with sexual offense recidivism. Actuarial measures used in sexual offender civil commitment proceedings are comprised of risk factors empirically obtained, and as such, this study has the potential to determine whether the inclusion of an item specifically assessing institutional sexual misconduct could enhance the predictive validity of commonly used actuarial measures. Given that most SVP evaluators utilize actuarial measures in civil commitment evaluations (Barbaree, Seto, Langton, & Peacock, 2001; Doren, 2000; Janus & Prentky, 2004) and considering the colossal task involved in making legal recommendations about an individual's civil liberties, precision is imperative. As such, this study will also examine whether the rate of institutional misconduct found in the current research sample adds to the variance accounted for by the RRASOR, Static-99, and the MnSOST-R, which are three commonly used actuarial measures by SVP evaluators across the nation and the preferred measures used by the Wisconsin Department of Corrections SVP evaluators.

Research Questions

Considering the stated problem and purpose of this investigation, this study will address the following research questions:

- (1) Is there a difference in the sexual offense recidivism rates amongst sexual offenders who receive an institutional sexual conduct report, those who do not receive a sexual conduct report, and non-sexual offenders who receive a sexual conduct report?
- (2) What is the relationship between institutional sexual misconduct and sexual offense recidivism rates?
- (3) Does institutional sexual misconduct occur at different rates for incarcerated sexual offenders compared to non-sexual offenders?
- (4) Does the rate of institutional sexual misconduct add to the variance accounted for by the RRASOR, STATIC-99, and the MnSOST-R when assessing for sexual offense recidivism risk?

Overview of the Remainder of the Study

Chapter II begins with an overview of sexual offender recidivism research that includes a focus on the prevalence of sexual crimes as well as limitations in measuring recidivism. This section is followed by a brief history of the origin and evolution of the SVP civil commitment laws and then focuses on identified risk factors associated with sexual offender recidivism. The chapter concludes with a review of risk assessment methodologies and discussion of the prevalence of sexual misconduct in correctional settings.

Chapter III describes the methodology of this study including a detailed description of the sample and assessment measures. Chapter IV describes the statistical

procedures and outlines the current study results, while Chapter V discusses the implications of these findings, limitations of the study, and future research directions.

Chapter II: Literature Review

Overview

This section begins with a brief overview of the purpose of recidivism research followed by a focus on sexual offender recidivism research that includes a review of major findings and implications, with an emphasis on the prevalence of sexual crimes, relationship between sexual offender types and recidivism rates, and limitations in measuring recidivism. The focus then shifts to the history of the origin and evolution of the SVP civil commitment laws followed by an overview of predictors of sexual offender recidivism. The section concludes with a review of risk assessment methodologies and discussion of the prevalence of sexual misconduct in correctional settings.

Value of Recidivism Research

The study of recidivism is important to how the criminal justice system responds to any type of criminal offending. Namely, recidivism research investigates factors associated with the subsequent commission of a new criminal act, and in turn, these identified factors provide the underlying basis for understanding how to reduce recidivism. The factors identified typically include offender demographic characteristics, type of offense committed, length of prison term, type of reoffense, and length of time it took the offender to recidivate (Gendreau, Little, & Goggin, 1996; Hanson & Morton-Bourgon, 2004; Langan, Schmitt, & Durose, 2003). When particular factors are continually found to be associated with the commission of a new offense in recidivism studies, these factors are typically referred to as “predictors” of recidivism and are used to determine the likelihood, or risk, of an offender recidivating following release from prison (Gendreau, Little, & Goggin, 1996; Hanson & Morton-Bourgon, 2004). Common

methods of measuring recidivism involve examining rates of rearrest, reconviction, and reincarceration of an offender on community supervision based on supervision violations and/or a new sentence (CSOM, 2001; Langan & Levin, 2002; Langan, Schmitt, & Durose, 2003). The ability to identify the risk that an offender poses of recidivating is invaluable to public safety and protection, and as such, influences how lawmakers and individuals involved in the management and treatment of criminal populations respond to offenders and crime. For example, recidivism studies may aid in determining policies and measures related to sentencing guidelines, release decisions, risk assessment, and legislation and community programs aimed at reducing crime.

Overview of Sexual Offense Recidivism Research

Comparison of General Criminal and Sexual Offense Recidivism Rates

If recidivism studies on general criminal behavior yielded the same results as those on sexual offending, one would expect universal policies on sentencing guidelines, legislation, and the like. With this line of reasoning, given the legislation aimed at sexual offenders, such as the Adam Walsh Child Protection and Safety Act and the increasing number of states adopting sexual offender civil commitment laws, compared to the lack of similar legislation directed at other offender types, it would be reasonable to expect that sexual offenders recidivate far more than other offender types. However, general recidivism studies (e.g., Beck & Shipley, 1989; Langan & Levin, 2002) found that sexual offenders were among the offender groups with the lowest rates of rearrest after release from prison. For instance, in a study that followed nearly 300,000 prisoners released across fifteen different states in 1994 for a three year period post-release, Langan and Levin (2002) found that rapists had a 46.0% rearrest rate and other sexual offender types

had a 41.4% rearrest rate in comparison to rearrest rates for robbers, burglars, larcenists, and motor vehicle thieves which were, 70.2%, 74.0%, 74.6%, and 78.8%, respectively.

These rearrest rates, though, were not necessarily for the same type of crime (e.g., the 46.0% of rapists who were rearrested were not necessarily rearrested for another sexual offense). In fact, of the 46.0% rapists that were rearrested, only 2.5% were rearrested for another rape. This data, in other words, indicates that sexual offenders are more likely to recidivate in a non-sexual rather than sexual manner. However, what Langan and Levin (2002) along with other researchers (e.g., Hanson & Bussiere, 1998; Hanson, Steffy, & Gauthier, 1995) also found was evidence supporting the idea of “specialists,” or offenders who commit the same type of crime after released from prison for which they were just incarcerated. For example, when the rate of rearrest for sexual assault was examined amongst all offender types, sexual offenders were found to be four times more likely to be rearrested for sexual assault compared to non-sexual offenders, suggesting a degree of specialization among sexual offenders (Hanson & Bussiere, 1998; Hanson et al., 1995; Langan & Levin, 2002). In other words, although sexual offenders may be rearrested for other types of criminal offenses, non-sexual offenders are rarely rearrested for sexual assault.

Overview of Studies Specific to Sexual Offense Recidivism

The notion of specialization can also be seen when examining studies specific to sexual offender recidivism. Sexual offenders are a highly heterogeneous group and not all types of sexual offenders are equally likely to recidivate (CSOM, 2001; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Harris et al., 2003). For instance, although the observed recidivism rate amongst typical sexual offender groups is in the

range of 10%-15% five years following release from prison (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004), there are particular subgroups whose observed recidivism rates are much higher (CSOM; 2001; Doren, 2002; Harris et al., 2003). The following sections provide an overview of different types of sexual offenses as well as a comparison between overall sexual offender recidivism rates and those specific to certain sexual offender subgroups.

Types of Sexual Offenses

The manner in which a sexual offense is defined will vary in the United States since criminal behavior is defined by state statutes. However, generally speaking, sexual offenses can be categorized into the following broad groups: “violent,” “non-violent,” and “commercialized” (Langan, Schmitt, & Durose, 2003). A “violent” sexual offense is generally interpreted as meaning that the perpetrator used or threatened use of force during the assault or the victim was unable to sufficiently provide consent due to being incapacitated or vulnerable due to age, mental illness, physical disability, or developmental limitations (Epperson et al., 1998; Langan et al., 2003). Violent sexual offenses may also be referred to as “hands-on” offenses, meaning that there was sexual contact with an identifiable victim. Examples of names given to violent sexual offenses have included sexual assault, forcible rape, sexual abuse, sexual battery, child molestation, statutory rape, incest with a child, and indecent liberties with a minor (Langan et al., 2003).

“Non-violent” sexual offenses are generally distinguished from “violent” sexual crimes by the former typically being a “hands-off” or immoral offense. Examples of “hands-off” offenses include exhibitionism, voyeurism, possession of child pornography,

and lewd and lascivious acts, while examples of immoral offenses are adultery, bigamy, and incest between consenting adults (Langan, Schmitt, & Durose, 2003).

Commercialized sexual offenses, on the other hand, are considered criminal sexual acts that are done for monetary gain such as, prostitution, pimping, and production of child pornography (Langan et al., 2003). Given the stark differences in these types of sexual offenses, it is clear that sexual offenders are a heterogeneous group.

Sexual Recidivism Rates in Studies Using a Heterogeneous Sample Group

A number of recidivism studies (e.g., Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Langan & Levin, 2002; Langan, Schmitt, & Durose, 2003; Milloy 2003) include a mixture of sexual offender types (e.g., rapists, child molesters, exhibitionists) in their sample populations and report an overall sexual offender recidivism rate. Frequently, in such studies that use a heterogeneous sample population to identify an overall sexual offender recidivism rate, there may be wide variation in the results. For example, Langan, Schmitt, and Durose (2003) found a 3.5% sexual offense recidivism rate in their mixed sample of 9,691 sexual offenders over a three year follow-up period post-release whereas Hanson and Bussiere (1998) found a 13.4% recidivism rate in their sample of nearly 24,000 sexual offenders over a four to five year follow-up period. Even greater variation in results is seen when comparing these studies to the Tennessee Bureau of Investigation (2007) and Milloy (2003) studies which found sexual offender recidivism rates of 25.5% and 23%, respectively. While differences in research design likely account for some of the variance in these examples, there is strong evidence suggesting that recidivism rates vary by sexual offender type and that using a homogeneous sample group will yield more precise sexual offender recidivism rates

(CSOM, 2001; Doren, 1998; Harris et al., 2003; Marshall & Barbaree, 1990; Quinsey, Lalumiere, Rice, & Harris, 1995; Quinsey, Rice, & Harris, 1995).

In fact, several studies supporting the notion that recidivism rates vary by sexual offender subgroups have found higher base rates among certain categories of sexual offenders (CSOM, 2001; Marshall & Barbaree, 1990; Prentky, Lee, Knight, & Cerce, 1997; Quinsey, Lalumiere, Rice, & Harris, 1995; Quinsey, Rice, & Harris, 1995). A base rate is used to describe the overall rate of a defined behavior for a specific population (Doren, 1998). Knowing the base rate of a specific group, for example, rapists, allows predictions to be made with a specified level of accuracy about the likelihood that an identified rapist will recidivate by committing another sexual assault. Since base rates have been identified across types of sexual offenses, the following sections focus on the recidivism research for two well researched sexual offender subgroups – rapists and child molesters.

Recidivism Base Rates for Rapists

There has been considerable research conducted on the recidivism rates of rapists that have varied in research design in terms of the length of follow-up periods and measurement of recidivism. Several studies using a follow-up period of four to five years and rearrest and reconviction as the measurement for recidivism found recidivism rates ranging from 11%-28% for rapists (Marques, Day, Nelson & West, 1994; Rice, Harris, & Quinsey, 1990; Romero & Williams, 1985; Sturgeon & Taylor, 1980). This range overlaps the recidivism range found by Quinsey, Lalumiere, Rice, and Harris (1995) in their summary research on the recidivism rates of rapists and is comparable to the overall recidivism rate of 18.9% for rapists found by Hanson and Bussiere (1998) in their meta-

analysis. Clearly, however, there is considerable variation in the recidivism rates across the research. Some of this variation may be related to differences in the offenders being studied, such as, offenders who are mentally disordered, on probation, or institutionalized (Quinsey, Lalumiere, Rice, & Harris, 1995).

Less variation is found between the two only known studies to employ a follow-up period of more than twenty years. Using a sample of 136 rapists followed for 25 years, Prentky, Lee, Knight, and Cerce (1997) found a sexual offense reconviction rate of 24% whereas Soothill and Gibbens (1978) found a reconviction rate over a 22-year follow-up period of approximately 23%. Unlike the latter study, the former also measured recidivism by looking at new sexual charges and found a recidivism rate of 39% over the 25-year follow-up period. Including new sexual charges as a recidivism measure allows for a more accurate base rate since some sexual offenders may never be reconvicted for a new sexual offense or their original charge may be plea bargained down to a less serious charge (Doren, 1998). Thus, some researchers, like Doren (1998; 2002), consider 39% to be the true base rate for rapists, particularly given the strength of the Prentky et al. (1997) research design.

Recidivism Base Rates for Child Molesters

Extrafamilial Child Molesters. The study by Prentky et al. (1997) also examined sexual offense recidivism rates for extrafamilial child molesters over a 25-year period and when again defining recidivism as receipt of a new sexual offense charge, a recidivism rate of 52% was found. Doren (1998) found that the Prentky et al. (1997) results were similar to those found in the Hanson, Scott, and Steffy (1995) study, which employed a 31-year follow-up period. Although the latter study found a recidivism rate of only 35.1%

for extrafamilial child molesters, Doren (1998) contends that this rate actually ranges from 44.6%-51.6% when accounting for Hanson et al.'s (1995) conservative definition of recidivism as reconviction.

Studies using shorter follow-up periods also supported the Prentky et al. (1997) findings. For example, Radzinowicz (as cited in Doren, 1998) followed a sample of child molesters over four years and found a sexual offense reconviction rate of 11.3% whereas Prentky et al. (1997) identified a 12% reconviction rate when looking at their sample after a four year at risk period. Hanson and Bussiere (1998) also found similar results in their meta-analysis, finding a 12.7% sexual offense recidivism rate in a sample that included 9,603 child molesters over a four to five year follow-up period.

Review of other studies employing similar follow-up periods of four to six years (e.g., Barbaree & Marshall, 1988; Rice, Quinsey, & Harris, 1991; Sturgeon & Taylor, 1980), however, found considerably higher sexual offense recidivism rates for child molesters that ranged from 25%-43%. Yet, there are also some studies (e.g., Berlin et al., 1991; Romero & Williams, 1985) that yielded considerably lower sexual offense recidivism rates ranging from 6%-7%. In order to make sense of these contradictory findings, it is essential to examine the research methodology employed across the studies, and doing exactly this, significant differences in sampling, how recidivism is defined, and/or how the follow-up period was measured (i.e., using an average follow-up time rather than a fixed time period) were found, making an equal comparison across studies varying in research design impossible. However, given the strength of the Prentky et al. (1997) research design and the similar findings from studies with comparable research designs (e.g., Hanson & Bussiere, 1998; Hanson, Scott, & Steffy, 1995; Doren (1998)

concluded that the Prentky et al. (1997) finding of a 52% sexual offense recidivism rate is representative of the true recidivism base rate for extrafamilial child molesters.

Incest Offenders. Unlike the recidivism research on extrafamilial child molesters, there is little variance in the recidivism studies on incest offenders. This offender group has consistently been found to have lower sexual offense recidivism rates than other offender types (Hanson & Bussiere, 1998; Marshall & Barbaree, 1990; Sturgeon & Taylor, 1980). In fact, in their review of recidivism studies, Marshall and Barbaree (1990) found that the recidivism rate for incest offenders only ranged from 4%-10%. The significant difference in recidivism rates found between incest offenders and extrafamilial child molesters is the reason why researchers (e.g., Doren, 1998; Sturgeon & Taylor, 1980) recommend against combining the two offender groups into a more inclusive category. In exploring the reasons why incest offenders have significantly lower recidivism rates compared to not only child molesters but also to rapists, Doren (2002), suggested the following three possibilities: (1) the low recidivism rates are representative of the true base rate for incest offenders; (2) the offender's family members are less likely to report additional instances of sexual assault; (3) the offender loses access to his victim due to an imposed separation (i.e., by incarceration or family members) and the offender must wait until the next generation of children becomes available to victimize.

Issues in the Measurement of Sexual Offender Recidivism

No matter the reason, recidivism researchers (e.g., Ahlmeyer, Heil, McKee, & English, 2000; CSOM, 2001; Doren 1998; Kilpatrick, Edmunds, & Seymour, 1992; Langan, Schmitt & Durose, 2003; Marshall & Barbaree, 1990) generally assume that all recidivism base rates, regardless of the offense type, are underestimates due to the

limitations of recidivism research. This problem is known as the “low base rate problem,” and there are three identifiable shortcomings to the recidivism research on male sexual offenders resulting in it (Doren, 1998; Quinsey, 1980).

Given that recidivism researchers can only define recidivism in terms of known instances of criminal behavior, one major limitation affecting all sexual offender recidivism research is that not all sexual offenders get caught for their crimes (CSOM, 2001; Doren, 1998; 2002). Sexual assault, for an array of reasons, is a vastly underreported crime (CSOM, 2001). In fact, a U.S. Department of Justice report (Rennison, 2002) summarizing findings from surveys conducted by the National Crime Victimization Survey from 1992-2000 found that only 36% of rapes, 34% of attempted rapes, and 26% of other sexual assaults were reported to police. Even more alarming conclusions were found in a three-year longitudinal study (Kilpatrick, Edmunds, & Seymour, 1992) that surveyed over 4,000 adult women and found that of the respondents who identified themselves as rape victims, only 16% reported their assault to authorities. Additional evidence supporting the belief that sexual offense recidivism rates are underestimated was also found in studies that focused on samples of sexual offenders. For instance, using information generated through polygraph examinations on a sample of convicted sexual offenders with an average of two known victims, Ahlmeyer, Heil, McKee, and English (2000) found that these offenders actually had an average of 110 victims. Similar results were found by Abel and colleagues (1987) who, relying on self-report of undetected sexual crimes from a sample of 561 convicted sexual offenders, concluded that 126 offenders admitted to having committed a cumulative total of 907 undetected rapes that involved 882 different victims.

Considering the high rate of underreporting of sexual crimes, reconviction rates are presumed to be lower since a large number of sexual assaults are never prosecuted. Reconviction rates are also affected when sexual offenders accept plea bargains reducing their original charge to a less serious one that may not reflect a sexual crime or when an offender's probation or parole is revoked for a sexual behavior without a new charge being filed. In spite of these considerations, however, many researchers (e.g., Hanson, Steffy, & Gauthier, 1993; Soothill & Gibbens, 1978; Sturgeon & Taylor, 1980) use reconviction rates as their measure of recidivism, which serves as another major limitation affecting recidivism research resulting in the low base rate problem. This viewpoint of reconviction rates representing a diluted measure of true recidivism rates is, in fact, widely supported by recidivism researchers (e.g., Doren, 1998; CSOM, 2001; Hanson, Scott, & Steffy, 1995). Although using proxy measures for recidivism, such as, new arrests, charges, or probation or parole revocation, may lead to offenders being falsely labeled as recidivists, the aforementioned research on underreporting suggests that these offenders are still likely being labeled accurately given the high rate of undetected sexual offenses.

The final limitation affecting sexual offender recidivism research is the typically short nature of the follow-up periods after offenders are released from prison. For instance, several recidivism researchers (e.g., Barbaree & Marshall, 1988; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Milloy, 2003; Rice, Quinsey, & Harris, 1991; Sturgeon & Taylor, 1980) report recidivism rates within a follow-up period ranging from three to six years. However, researchers (e.g., Hanson, Steffy, & Gauthier 1993; Prentky, Lee, Knight, & Cerce, 1997) who used considerably lengthier follow-up

periods have shown sexual offenders to reoffend for the first time (or at least were apprehended for the first time) more than 20 years after their release from prison. Given this finding and the absence of studies examining the recidivism risk of sexual offenders through the death of the entire sample, it is likely that all current recidivism research underestimates the true base rate for sexual reoffense (Doren, 1998).

Public Perception of Sexual Offenders in Relation to Recidivism Rates

Despite these limitations to sexual offender recidivism research resulting in the low base rate problem, the fact still remains that sexual offenders recidivate at considerably lower rates compared to non-sexual offenders (Beck & Shipley, 1989; Langan & Levin, 2002). In addition, as previously pointed out, while there is special legislation allowing for civil commitment of sexual offenders, there are no similar measures in place for robbers or burglars, who were found to rank amongst those with the highest rearrest rates. There is no comparable legislation even for murderers whose crime is arguably equal, if not more heinous than that of sexual offenders. So the question is what accounts for this discrepancy? There is no doubt of the media's potent influence in shaping public perception, attitude, knowledge, opinion, and studies indicate that media attention on sexual crimes is the primary conduit for providing the public and lawmakers with information about sexual predators, victims, sexual offender management strategies, and preventative measures (CSOM, 2010; Proctor, Badzinski, & Johnson, 2002; Sample & Kadleck, 2008). Certainly, media portrayals of sexual offenders and their crimes are not always based on accurate information, research, or current statistics, which in turn, creates a public perception that is not necessarily well-informed but, nonetheless, may lead to expectation of a specific response from lawmakers or demand for new public

policies with regard to the management of sexual offenders. As a matter of fact, many sexual offender specific laws have been developed in reaction to high profile sexual crimes covered by the media (CSOM, 2010; Proctor, Badzinski, & Johnson, 2002; Sample & Kadleck, 2008).

Reaction to the public perception that sexual offender recidivism rates are markedly higher than they truly are (CSOM, 2010; Scheela, 2001) undoubtedly serves as a driving force behind the support and demand for sexual offender civil commitment laws. This perspective seems supported by the twenty states that have implemented SVP laws as well as the enactment of the federal Adam Walsh Child Protection and Safety Act. The introduction and acceptance of this legislation despite the research on sexual offender recidivism rates, furthermore, suggests that regardless of whether the base rates of sexual recidivism are determined to be high or low, sexual offenses will likely continue to remain as one of the crimes that invoke the most public concern. As such, the expectation is that more states will continue to adopt sexual offender civil commitment laws. The existence of civil commitment for sexual offenders, though, is not a novel idea in the United States, but in fact, dates back to several decades although there are significant differences in the modern day laws. In the following section, an overview of the inception and metamorphosis of SVP civil commitment proceedings is provided.

Brief Overview of Sexually Violent Predator Laws

Sexual Psychopath Laws

The SVP civil commitment laws originated from the “Sexual Psychopath Laws” of the 1930s, which provided for the civil commitment of violent sexual offenders as an alternative to incarceration (Janus, 2000; Pratt, 1996). By the 1970s, however, many

states with “Sexual Psychopath Laws” repealed these laws after coming under heightened criticism by prominent organizations, including the American Bar Association’s Criminal Justice Mental Health Standards Committee and the Group for the Advancement of Psychiatry. These groups suggested that the criteria established to meet the sexual psychopath laws lacked scientific validity, inaccurate prediction methods, and ineffective treatment (Janus, 2000; 2007; Zander, 2005). An additional problem involved application of the law to nonviolent offenses that included commitment for masturbation, voyeurism, and consensual homosexual intercourse (Zander, 2005). Public outrage over sexual offenders who were civilly committed and released earlier than they would have been if they had been sentenced to prison also motivated repeal of the law in some states (Zander, 2005).

Transition to Contemporary Sexual Offender Civil Commitment Laws

Renewed interest in sexual offender civil commitment, though, emerged in the late 1980s and early 1990s resulting in a “second generation” of laws. Janus (2000) identified three factors as encouraging this resurgence with the first being the sentiment that each state is responsible for protecting its constituents from violence. The second factor was a transition to standardized sentencing guidelines across several states. This factor was perceived as problematic since in many instances, convicted sexual offenders were found ineligible for institutional treatment due to their sentence structure. The third factor involved the feminist position that seemed to evolve from dissatisfaction with the transition to standardized sentencing guidelines. This factor involved the perception that criminal sentences for violent sexual recidivists were too short resulting in a bid for a

supplement to the sentencing if an offender was deemed too dangerous to return to society after incarceration.

This last factor came to represent a critical difference between the first and second generation of sex offender civil commitment laws. While the first generation of laws used a commitment standard of “too sick” for punishment, the new laws focused on those who were deemed “too dangerous” to be released from confinement (“Developments – Civil Commitment,” 1974; Janus, 2000; Pratt, 1996; Zander, 2005). Thus, one critical difference became that the new laws emphasized the concept of “dangerousness” rather than incompetence in determining eligibility for commitment. A second critical difference was that civil commitment was now intended for those individuals who were about to be released from imprisonment or an insanity commitment rather than as an alternative to penal punishment (Zander, 2005). The new laws, by all appearances, seemed to merge the need to protect the general interests of society with those of the offender (Janus, 2000).

In 1990, Washington State became the first to enact the new generation of sexual offender civil commitment laws (Davey & Goodnough, 2007). Washington introduced the law in response to public outrage to two highly publicized sexually violent offenses committed by sexual offenders recently released from prison. And as of 2008, as previously mentioned, 19 additional states followed suit in addition to the implementation of the federal Adam Walsh Child Protection and Safety Act (Deming, 2008).

Constitutional Challenges to SVP Laws

The emergence of the contemporary SVP laws, though, did not go unchallenged, but rather, has been confronted by a number of legal cases challenging the

constitutionality of the laws. Two such landmark cases, *Kansas v. Hendricks* (1997) and *Kansas v. Crane* (2002), served to create the legal underpinnings for SVP commitments. *Kansas v. Hendricks* addressed whether SVP commitment was punitive in nature and therefore in violation of double jeopardy and ex post facto clauses. Both *Kansas v. Hendricks* and *Kansas v. Crane* focused, in brief, on the legitimacy of the SVP commitment criteria. While these cases specifically challenged the Kansas SVP statutes, the U.S. Supreme Court's rulings, however, resulted in case laws pertaining to all SVP laws. In both cases, the U.S. Supreme Court ruled SVP commitment proceedings constitutional and also concluded that states have considerable discretion to define the commitment criteria. These decisions, in essence, served to establish a general statutory framework for SVP commitment (Zander, 2005).

Risk Assessment

Regardless of the debates on the constitutionality of SVP civil commitment laws, the fact remains that a number of states and the federal government have enacted the laws, and given the enormity of the task to make decisions about an individual's civil liberties, precision in the assessment method is essential. In general, SVP assessments involve determining whether the subject has a relevant mental condition that is related to a specified degree of risk for committing future acts of sexual violence. Both the mental condition and risk level are statutorily defined (Doren, 2002). While both diagnostic issues are equally important, the purpose of the current study focuses on the risk assessment portion rather than on the mental condition, and therefore, this section will also focus on the same. When assessing for risk, Monahan and Steadman (1994)

suggested evaluating the following three components: risk factors, harm, and risk level; an overview of each is provided in the ensuing sections.

Risk Factors

Risk factors are empirically derived variables identified in a specified group of people that have been found to be associated with a defined behavior (Monahan & Steadman, 1994). In the context of sexual offender recidivism, risk factors are considered features of sexual offenders that are useful in predicting future instances of sexual offending behavior. These features are generally categorized into two categories – static and dynamic factors (CSOM, 2001; Hanson, 1998; Hanson & Morton-Bourgon, 2004).

Static Factors. Static factors, also referred to as fixed or historical factors, are variables that typically cannot be altered with intervention or are characteristics of an offender that are unlikely to change over time. In general, static factors provide for identification of a baseline of risk to sexually reoffend and also help provide insight into the etiology of a sexual offender's behavior (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004). Given the utility of this information in risk assessment and the ease of identifying static factors from file review, sexual offender recidivism researchers (e.g., Hanson 1997; Hanson & Bussiere, 1998; Hanson & Thorton, 1999; 2000; Prentky, Knight, Lee, & Cerce, 1995) have largely focused on identifying static factors.

Commonly identified static factors widely supported by several recidivism studies include history of prior sexual offenses, deviant sexual interests (e.g., rape or pedophilia), sexual preoccupation (e.g., frequent masturbation or pornography use), antisocial personality features, age at release from prison, and intimacy deficits, such as frequent conflict in intimate relationships or difficulty relating to other adults and instead feeling

emotionally closer to children (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Quinsey, Lalumiere, Rice & Harris, 1995). Additional identified static factors that have been found to have a strong positive correlation with risk to sexually reoffend focus on victim characteristics. Specifically, sexual offenders whose victim profile contained stranger, extrafamilial, male, or minor victims were identified as posing a higher risk to sexually reoffend (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004). As a result of the strong emphasis on static factors in the sexual offender recidivism research, several currently used sexual offender recidivism risk assessment measures (e.g., Static-99, SORAG, RRASOR, MnSOST-R) are consequently comprised of many of the aforementioned static factors (Barbaree, Langton, & Blanchard, 2007; Barbaree, Seto, Langton, & Peacock, 2001; Epperson et al., 1998; Hanson & Thorton, 1999).

Dynamic Factors. In contrast to the abundance of studies on static risk factors, there has been a far lesser emphasis on dynamic factors, which are considered behaviors, circumstances, and attitudes that can be changed through interventions such as cognitive behavioral therapy, provision of structure, or enforcement of particular consequences. The lesser emphasis on dynamic factors in research is due, in part, to static factors being found to be better predictors of long-term sexual offense recidivism (Hanson & Bussiere, 1998). Focus on dynamic factors as useful predictors of sexual offense recidivism, however, has been gaining more attention given the amenability of these factors to intervention, which allows for factors that may increase the likelihood of sexual reoffending to be directly addressed, managed, and perhaps prevented (Hanson & Harris, 2000). Dynamic factors with an empirically derived association with sexual offense recidivism risk include substance abuse, deviant sexual preference, poor social support,

sexual entitlement or an attitude tolerant of sexual assault, and an antisocial disposition (CSOM, 2001; Hanson & Harris, 2000). These dynamic factors are referred to as stable factors given the tendency for these characteristics to be enduring over time and typically difficult to change over a short time period (Hanson & Harris, 2000). Acute dynamic factors, on the other hand, are considered conditions that usually immediately precede a reoffense that can be changed or easily managed over a short period of time. Empirically derived acute dynamic factors that increase risk to sexually reoffend include intoxication, sexual arousal, victim access, poor compliance with community supervision rules, and an increase in anger or subjective distress prior to reoffending (CSOM, 2001; Hanson & Harris, 2000).

Harm

Once risk factors are identified in a risk assessment evaluation, the level of harm that an individual poses to potential victims can be assessed. Monahan and Steadman (1994) define harm as being both the type and seriousness of violent behavior that one is predicted to commit based on the identified risk factors. In other words, certain types of violent behaviors, including sexual violence, have distinct predictors (Langton, 2003; Monahan & Stedman, 1994). For example, consider a sexual offender whose conviction history involves multiple instances of befriending adolescent males and manipulating them into sexual contact. If it were discovered that this offender was watching television shows that are primarily geared toward adolescents and is frequenting an arcade, his identified risk factors (demonstrating continued preoccupation and emotional connection with children and increasing victim access) can predict the type and seriousness of sexual offending behavior he is likely to commit. From this scenario, it can be predicted that this

offender will try to befriend another male adolescent at the arcade in an effort to engage him in non-forced sexual contact given that his identified risk factors are empirically associated with child molestation. Recognizing the degree of harm that a sexual offender poses is essential as it allows for identification of particular methods or levels of management, such as civil commitment, that are necessary to prevent future sexual offenses (Langton, 2003).

Risk Level

Following identification of risk factors and degree of harm, Monahan and Steadman (1994) contend that assessing the risk level is the last component of a risk assessment. The risk level is the probability that harm will occur and central to its concept is consideration of the base rate for the particular behavior and group that is of focus (i.e., rates of child molestation amongst a group of known child molesters) (Monahan & Steadman, 1994). As previously discussed, base rates are concerned with the amount of time that a risk is considered relevant as well as the context in which the risk for recidivism occurs. Returning to the earlier example of the sexual offender who has a history of sexually assaulting male adolescents, his assessment of harm as predicted by his identified risk factors suggests that he poses a likely risk to sexually reoffend given the known base rates of extrafamilial child molesters.

In effect, while independent identification of risk factors, degree of harm, and risk level are important in conducting a thorough risk assessment, the manner in which each of these components interrelates is also important to being able to provide an accurate estimate of the current risk that an offender poses to reoffend. Now that the fundamental

elements of risk assessment have been discussed, the next section focuses on different methods of conducting risk assessments.

Risk Assessment Strategies

The manner in which a risk assessment is conducted is as important as identifying the risk factors, degree of harm, and level of risk involved since how this data are interpreted may arguably impact the accuracy of the risk assessment. As previously discussed in Chapter 1, there are six models for assessing sexual offender recidivism risk, including the unguided clinical judgment, guided clinical judgment, clinical judgment based on an anamnestic approach, research-guided clinical judgment, clinically adjusted actuarial approach, and purely actuarial approach (Doren, 2002). A brief review of the models along with a discussion of the accuracy of the different methodologies are provided in the following sections.

Review of Risk Assessment Methods

To review, the unguided clinical judgment involves review of case materials without use of any “significant a priori list or theory prioritizing the relative importance of the data obtained” (Doren, 2002, p. 104) whereas guided clinical judgment utilizes an a priori list of risk and predictive factors derived from the evaluator’s own theories about sexual offense recidivism that may have no empirical basis. Variations of both of these approaches form the basis for the anamnestic approach, which involves focusing on the history of the subject being evaluated in order to identify risk factors of importance and then examining the degree to which those same conditions still exist. In contrast to these three methods, the research-guided clinical procedure relies on an a priori set of empirically derived risk factors to determine the risk level but allows the examiner to

determine how much weight to give to any factor in any specific case. The clinically adjusted actuarial approach includes elements of all of the prior methods by combining actuarial instruments that are developed from empirically derived risk factors with subjective adjustments based on clinical considerations. Finally, the last method, called the purely actuarial approach, identifies risk level based solely on actuarial results (Doren, 2002).

The first four models may be broadly categorized as clinical and the latter two as mechanical (i.e., involving use of actuarial measures) approaches. In general, the clinical approach involves the selection of factors pertinent to the criterion of concern (e.g., sexual reoffending) for a given population (e.g., adult male sexual offenders), and the decision-making process by which these factors are integrated to make a prediction (e.g., probability of sexual reoffending) is done subjectively to varying degrees. The mechanical or actuarial approach, in contrast, uses a rule-based formula that involves calculation of statistical risk to consider the significance of all the available information (e.g., risk factors of sexual offense recidivism) to identify the probability that an event (e.g., sexual reoffense) may occur (Doren, 2002).

Comparison of the Accuracy of Clinical versus Mechanical Methodologies

While arguments can be made about the relative strengths and weaknesses of each of the methods from a theoretical standpoint, empirical findings have consistently found mechanical methods are equal or superior to clinical judgment (Grove & Meehl, 1996; Meehl, 1954). For example, a meta-analysis of 136 studies on the utility of clinical judgment versus mechanical prediction in the psychology and medical fields found that mechanical methods were 10% more accurate at predicting the criterion of interest

compared to clinical judgment alone in nearly half of the studies examined (Grove, Zald, Lebow, Snitz, & Nelson, 2000). In the context of sexual offender recidivism risk assessments, support for the use of mechanical approaches can be found in professional groups such as ATSA (2001) and the legal system (e.g., *Illinois v. Simons*, 2004).

Arguments Against the Use of Actuarial Measures in SVP Civil Commitment Evaluations

Despite this support along with the strong empirical support for the predictive accuracy of actuarial measures, Wollert (2006) argues against its general use by contending that sexual offense recidivism rates decline with age, and therefore, actuarial measures are only effective when used to assess risk in sexual offenders aged 18 to 24. His contention is based on the application of Bayes's theorem to age-wise sexual offense recidivism rates (see Wollert, 2006 for a full discussion on Bayes's theorem). Wollert further contends that actuarial measures, in general, are inaccurate for identifying sexual offense recidivists and often misclassifies non-recidivists as recidivists. However, Doren (2010) refuted Wollert's claim in his assessment that Wollert made improper assumptions in his calculation of risk reduction based on age and had the proper assumptions been made, Wollert would have concluded that actuarial measures are indeed accurate and appropriate in the use of SVP civil commitment proceedings.

Campbell (2000) also argued against the use of actuarial measures, although for a reason different than Wollert. Campbell based his argument on the contention that actuarial instruments fail to meet the testing standards established by the American Psychological Association (APA; 1985). More specifically, Campbell (2000) claims that actuarial assessments demonstrate poor interrater reliability, poor validity, and poor sensitivity and specificity resulting in a high rate of false positives and false negatives.

He further suggests that evaluators who include actuarial instruments in their risk assessment approaches violate the APA's (1992) ethical standards and code of conduct. The basis for Campbell's argument, however, appears unsubstantiated considering the empirical support for the predictive accuracy of particular actuarial instruments, and instead, seems to reflect a disapproval of SVP civil commitment laws.

Actuarial Measures Used in Sexual Offender Risk Assessment

In contrast to Campbell's (2000) and Wollert's (2006) arguments against the use of actuarial instruments for assessing risk of sexual offense recidivism, many researchers (e.g., Barbaree, Langton, & Blanchard, 2007; Doren, 2002; Hanson, 1998) consider the development of actuarial measures as one of the most significant and valuable advancements in sexual offense recidivism risk assessment. This latter perspective is supported by Hanson and Morton-Bourgon's (2004) meta-analysis of 95 sexual offense recidivism studies that found actuarial instruments to consistently be more accurate in predicting sexual reoffending than clinical judgment alone. The most commonly used actuarial measures across the studies included the Violence Risk Appraisal Guide (VRAG; Quinsey, Harris, Rice, & Cormier, 1998), the Sex Offender Risk Appraisal Guide (SORAG; Quinsey et al., 1998) the Rapid Risk Assessment of Sexual Offense Recidivism (RRASOR: Hanson, 1997), the Static-99 (Hanson & Thornton, 1999), and the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R: Epperson et al., 1998). Hanson and Morton-Bourgon (2004) found the predictive accuracies of these measures to be in the acceptable to high range in the prediction of sexual offense recidivism. For the purposes of the current study, the RRASOR, Static-99, and MnSOST-R are utilized, and therefore, a description of these instruments is provided.

Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)

Description. The RRASOR is a brief actuarial instrument designed by Hanson (1997) to predict the risk for sexually reoffending among adult male sexual offenders. It is comprised of four items that assess the offender's prior sexual history, age at release, victim gender, and the offender's relationship to the victim (i.e., related or non-related). The RRASOR was developed using results of a meta-analysis of predictors of sexual offender recidivism (Hanson & Bussiere, 1998), with the instrument's four items comprising the best independent predictors of sexual offender recidivism from among seven predictors that had at least the low correlation value of .10 with sexual offender recidivism. The development sample consisted of 2,592 offenders derived from seven samples of sexual offenders in the United States and Canada. A variety of follow-up periods ranging from 2.4-23 years was used in the development and validation samples. These periods were grouped in the final analysis of the RRASOR into five- and 10-year risk estimates. In the majority of the samples, reconviction for a new sexual offense was used as the measure of recidivism, but some samples included rearrests as well. The instrument provides scores ranging from 0 to 6, with almost no offenders scoring 6. A score of 6 would only be possible if an offender less than age 25 had an unusually high number of previous charges or offenses and had offended against a male victim. Scores of 4 and 5 are considered to suggest high risk (more than 41% group recidivism), and scores of 3 are associated, in general, with high moderate risk (31 to 40% group recidivism). Scores of 0-2 are associated with low risk. The RRASOR had a low correlation of .28 with reconviction for a sexual offense and at best a fair Receiver Operating Characteristic (ROC) value of .71 (Hanson, 1997). ROC curves are used

determine the overall accuracy of a prediction by identifying the rate of true positives compared to false positives (Swets, Daws, & Monahan, 2000). Thus, a ROC value of .71 means that the RRASOR predicts with 71% accuracy whether a given individual will or will not reoffend. In other words, the RRASOR misclassifies the risk level of offenders 29% of the time. The instrument correlates well with sexual deviance (e.g., pedophilia, paraphilia) but has been found to be particularly sensitive to identifying actual risk with male-oriented pedophiles but less sensitive to other types of sexual offenders, such as rapists. For this reason, the RRASOR should not be used as a sole predictor of individual risk for sexual reoffense.

Reliability studies. There is clear evidence supporting high interrater reliability for the RRASOR. Sjöstedt and Långström, in two separate studies (2001; 2002), found a mean kappa score ranging from .87 to .91 whereas Barbaree, Seto, Langton, and Peacock (2001) found an interrater reliability coefficient of .94. In contrast to the evidence supporting a high interrater reliability, several studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Hanson, 1997; Harris et al., 2003; Langton, 2003; Sjöstedt & Långström, 2001) found the predictive validity of the RRASOR to be rather small, with estimates of correlation coefficients ranging from .22 to .26 for sexual offense recidivism, and ROC values typically being fair to moderate, with estimates ranging from .70 to .77.

Validation studies. Barbaree, Seto, Langton, and Peacock (2001) evaluated the predictive validity of the RRASOR using a sample of 215 sexual offenders released from a federal penitentiary in Canada with an average follow-up time of approximately 4.5 years after release. Barbaree et al. (2001) reported small correlations between RRASOR score and any type of recidivism ($r = .14$), serious (sexual and violent) recidivism ($r =$

.20), and sexual offense recidivism ($r = .26$), with corresponding fair to good ROC values of .60, .65, and .77, respectively. Sjöstedt and Långström (2001) found similar results when using a sample of 1,400 sex offenders released from Swedish prisons with an average follow-up period of 3.7 years after release. Results of the study found correlations of .17 for serious (sexual and violent) recidivism and .22 for sexual offense recidivism, with corresponding ROC values of .63 and .72, respectively. Despite the small correlation found between RRASOR scores and sexual offense recidivism, the RRASOR has been cross-validated in seven countries, including Canada, England, Ireland, Sweden, the United States, and Wales (Doren, 2002). In the United States, the RRASOR has been cross-validated in samples in California, Ohio, Vermont, Wisconsin, and Minnesota. Empirical support for the RRASOR's predictive validity in assessing for sexual recidivism risk was considered to be demonstrated in each study in spite of the small correlation values found (Doren, 2002).

Static-99

Description. The Static-99 is an actuarial risk instrument designed primarily to predict sexual reoffending with a secondary aim of predicting violent recidivism among adult male sexual offenders (Hanson & Thornton, 1999, 2000). This measure is similar to the RRASOR, but incorporates additional factors that examine more antisocial types of behavior. It consists of the following ten items: number of prior charges or convictions for sexual offenses; age upon release from prison or anticipated exposure to risk for reoffending in the community; any male victims; any unrelated victims; number of prior sentencing dates; any convictions for non-contact sexual offenses; non-sexually violent index offense dealt with at sentencing for index sexual offense; prior non-sexually violent

offenses; any stranger victims; and cohabitation status (e.g., ever lived with a lover for at least two years). The development sample of offenders included 1,086 rapists, extrafamilial child molesters, and incest offenders from four of the samples that were used to standardize the RRASOR. All of the offenders were from Canada and the United Kingdom with two of the sample groups incarcerated in prisons and the other two groups institutionalized in prison psychiatric hospitals. The Static-99 offers 5, 10, and 15 year estimates of sexual reoffending for groups of individuals with the same scores. Scores can range from 0 to 12. The highest possible score is 12, but there is no published research that has described any offenders with a score that high. Scores of 6 and above are considered high risk (greater than the 88th percentile), and scores of 4 and 5 are classified as high moderate (between the 62nd and 88th percentile).

The Static-99 has been found to assess sexual offense recidivism equally well in groups of rapists, extrafamilial child molesters, and incest offenders, but tends to best reflect risk among sub-groups with higher frequencies of antisocial behaviors (Hanson & Thorton, 1999, 2000). A small correlation of .33 was found between Static-99 scores and sexual offense recidivism, as measured by reconviction for a sexual offense. A small correlation of .32 was also found between Static-99 scores and violent (including sexual) recidivism. The corresponding ROC values of .71 and .69, respectively, were in the fair range. In comparison to the RRASOR, the Static-99 demonstrates greater sensitivity for identifying individual risk for sexual reoffending. However, due to the small sample of offenders in the standardization sample with scores of 6 or above, scores of 6 or more were combined into one category, which means that 52% is the highest rate of detected reoffense that was described by the developers of the scale. In other words, it is not

empirically known whether groups of individuals with scores of 7 or higher would reoffend at a higher rate than a group with scores of 6.

Reliability studies. The Static-99's interrater reliability has been consistently supported by empirical studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Harris et al., 2003; Langton, 2003; Sjöstedt & Långström, 2001) with interrater reliability coefficients ranging from .81 to .96. Several studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Hanson & Thornton, 2000; Harris et al., 2003; McGrath, Cumming, Livingston, & Hoke, 2003; Sjöstedt & Långström, 2001; Thornton, 2002), however, found the predictive validity of the Static-99 to fall within the small to fair range, with estimates of correlation coefficients ranging from .22 to .38 for sexual offense recidivism and ROC values typically ranging from .70 to .89.

Validation studies. Barbaree, Seto, Langton, and Peacock (2001) evaluated the predictive validity of the Static-99 with the same sample of offenders used to determine the predictive validity of the RRASOR. Results of the study found that scores on the Static-99 correlated .34 with any type of recidivism, .28 with serious (sexual and violent) recidivism, and .18 with sexual recidivism. Corresponding ROC values were .71, .70, and .70, respectively. Sjöstedt and Långström (2001) reported similar scores using the same sample of Swedish sexual offenders that they used to investigate the predictive validity of the RRASOR. They reported correlations of .30 for serious (sexual and violent) recidivism and .22 for sexual offense recidivism. Corresponding ROC values were .74 and .76, respectively. Despite these studies finding the correlation scores between the Static-99 and sexual offense recidivism to be in the small range and the ROC values to be in the fair to moderate range, the authors concluded that predictive validity in

assessing for sexual offense recidivism risk was established. Similar to the RRASOR, the Static-99 has also been cross-validated in seven countries, including Canada, England, Ireland, Sweden, the United States, and Wales. Specifically in the United States, the Static-99 has been cross-validated in samples in California, Texas, Vermont, and Wisconsin (Doren, 2002). Empirical support for the Static-99's predictive validity in assessing for sexual offense recidivism risk was considered to be demonstrated in each study in spite of the small correlation values found.

Minnesota Sex Offender Screening Tool – Revised (MnSOST-R)

Description. The MnSOST-R (Epperson et al., 1998) was designed to predict sexual offense recidivism risk among adult male sexual offenders with extrafamilial (no relation) victims. It contains 16 items, 12 of which are static variables and the remaining 4 are dynamic or institutional variables. The static items are: number of sexual/sexual-related convictions; length of sexual offending history; offender under supervision at time of any sexual offense; any sexual offense committed in a public place; force or threat of force used in any sexual offense; any sexual offense within a single incident that involved multiple acts perpetrated on a single victim; number of different age groups victimized across all sexual offenses; victim aged 13-15 years and offender is five or more years older; victim was stranger in any sexual offense; adolescent antisocial behavior; substantial drug or alcohol abuse in year prior to arrest; and employment history. The institutional items are: discipline history while incarcerated; involvement in chemical dependency treatment while incarcerated; involvement in sex offender treatment while incarcerated; and age at time of release. Scores can range from -14 to +30 with individuals being assigned to one of three risk levels based on total score: level 1 (low

risk, scores of 3 and below), level 2 (moderate risk, scores of 4 to 7), and level 3 (high risk, scores of 8 and above).

The MnSOST-R was developed using a sample of 256 sexual offenders that included rapists and extrafamilial child molesters that were followed for a minimum of six years following their release. A statistically significant difference in MnSOST-R scores was found to exist between individuals with a history of sexual assault who reoffend (7.07) and those with a history of sexual assault who did not reoffend (1.55). MnSOST-R scores were found to have statistically significant correlation with sexual offense recidivism, with correlation values ranging from .37 to .45, and a moderate ROC value of .77.

Reliability studies. The MnSOST-R's interrater reliability is less established than the RRASOR and Static-99. The limited studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003; Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander, 2003) available concerning the MnSOST-R's interrater reliability found interrater reliability coefficients ranging from .76 to .90. There are also limited studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003; Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander, 2003) available examining the MnSOST-R's predictive validity that produced mixed results. Whereas some studies (Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander) found moderate correlations ranging from .35 to .45 and ROC values ranging from .73 to .77, other studies (Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003) did not find a statistically significant relationship between MnSOST-R scores and sexual offense recidivism.

Validation studies. The MnSOST-R has been found to be a useful measure to the extent to which an individual's predisposition toward antisocial and/or violent behavior contributes to their risk of sexual offense recidivism (Epperson et al., 1998). However, in comparison to the RRASOR and Static-99, there have been few empirical studies conducted that support the use of the MnSOST-R. Another criticism of the MnSOST-R is its small sample size. Epperson and colleagues (as cited in Langton, 2003) conducted a cross-validation on an additional 95 sexual offenders and found a correlation of .39 with sexual offense recidivism. The corresponding ROC value was .76. Barbaree, Seto, Langton, and Peacock (2001), however, using a sample of 150 rapists and extrafamilial child molesters followed for an average of 4.5 years after release, found that scores on the MnSOST-R were not significantly correlated with serious (sexual and violent) or sexual recidivism, nor were the ROC values for these outcomes significantly above chance. Barbaree et al. (2001) did find though that the MnSOST-R total score was significantly correlated with general recidivism ($r = .25$), with a corresponding fair ROC value of .65.

Review of the Predictive Validity of the RRASOR, Static-99, and MnSOST-R

Although review of several studies examining the predictive validity of the RRASOR, Static-99, and MnSOST-R, as described above, found each of the measures to have statistical significance in the prediction of sexual offense recidivism, the established correlation and ROC values were generally small to moderate at best and do not meet the typical standards (e.g., Hinkle, Wiersma, & Jurs, 2003) for measures considered to have strong predictive validity. However, these actuarial measures are considered some of the best available in the literature on prediction of sexual offense recidivism and are widely used in such research (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Doren, 2002;

Hanson & Morton-Bourgon, 2004). Furthermore, given that the use of actuarial instruments in predicting sexual reoffending has consistently been found to be more accurate than clinical judgment alone (Barbaree, Seto, Langton, & Peacock, 2001; Doren, 2002; Hanson & Morton-Bourgon, 2004), the value in using them in SVP civil commitment evaluations is clear.

Limitations of Actuarial Measures in SVP Civil Commitment Evaluations

While Beech, Fisher, and Thornton (2003) contend that actuarial measures, such as the RRASOR, Static-99, and MnSOST-R, are empirically the most accurate form of risk prediction currently available for assessing risk for sexual reoffense, they also caution that there are limitations to using a strictly mechanical approach and identify six reasons to supplement the approach with clinical adjustment. One reason identified is that the majority of actuarial measures are comprised of static risk factors and fail to account for dynamic variables that might indicate a more imminent rather than long-term risk, potentially resulting in a misclassification of immediate risk. Secondly, because current actuarial measures generally ignore dynamic risk factors, treatment interventions that could serve to reduce risk are not identified. Thirdly, total reliance on actuarial results may ignore factors specific to an individual case that may serve to either mitigate or increase the estimate of risk. For instance, many actuarial measures do not account for completion of an effective sexual offender treatment program although this has been found to reduce risk for sexual reoffense (McGrath, Cumming, Livingston, & Hoke, 2003). On the other hand, an individual whose actuarial score indicates a low risk to sexually reoffend but expresses intent to sexually reoffend is clearly at a higher risk than indicated by actuarial score alone. A fourth limitation is that actuarial estimates of risk

for sexual offenders with characteristics that were not well represented in the instrument's standardization sample may lead to misclassification of risk level. Fifth, actuarial scales can only yield a probability, not a certainty, of recidivism and lastly, since the development of actuarial scales is based on identified sexual recidivism rates, the probabilities associated with each risk factor is likely an underestimate of true reoffending rates. In other words, some sexual offenders' risk level may be misclassified, as in the example of an incest offender who has continuing access to his victim.

Beech et al.'s (2003) criticisms of actuarial measures appear to suggest that while these instruments can be helpful in assessing sexual offense recidivism risk, additional factors beyond those included on actuarial scales must also be addressed. In other words, the clinically adjusted actuarial approach, which allows actuarial results to be adjusted or supplemented by clinical judgment, would provide for a more comprehensive risk assessment evaluation than the purely actuarial approach. Although there has been very little empirical research on the clinically adjusted actuarial approach (Langton, 2003), it is recommended as the most accurate method when evaluating for sexual offender recidivism risk (Beech, Fisher, & Thornton, 2003; Doren, 2002).

Benefits of Using the Clinically Adjusted Actuarial Method in SVP Evaluations

The value of using the clinically adjusted actuarial approach can particularly be seen when there is empirical evidence suggesting that additional information would significantly add to the predictive accuracy of the actuarial measure compared to just using the measure alone (Doren, 2002). For example, commonly used actuarial measures (e.g., MnSOST-R, Static-99, RRASOR) indicate a negative correlation between recidivism risk and age-at-release, however, many researchers (e.g., Doren, 1998;

Hanson, 2002; Prentky, Lee, Knight, & Cerce, 1997) agree that recidivism is prevalent even among older child molesters.

Another instance in which the clinically adjusted approach would improve the accuracy of measuring recidivism risk is when there are factors unique to a case that are not measured by an actuarial scale that might be expected to influence the offender's risk level (Doren, 2002). McGrath, Cumming, Livingston, and Hoke (2001), for instance, found that treatment completion significantly lowered recidivism risk although this factor is not accounted for by the RRASOR or Static-99.

Yet a third instance when a clinical adjustment might be appropriate is when there are case characteristics beyond what the actuarial instrument measures, but for which the degree of associated risk with sexual recidivism is obvious although not empirically researched (Doren, 2002). For example, sexual deviance combined with the presence of psychopathy is believed to increase recidivism risk although psychopathy has not been empirically related to sexual offender recidivism (Olver & Wong, 2006).

Based on these examples, it seems that clinical adjustment to actuarial results would also be appropriate when a sexual offender being examined for SVP civil commitment has a history of institutional sexual misconduct since existing actuarial measures do not specifically account for this variable. The absence of this factor from actuarial measures is likely due to the limited research on the impact of institutional sexual misconduct on sexual offender recidivism rates. In fact, Heil, Harrison, English, and Ahlmeyer (2009) have conducted the only known published study to date that examines the relationship between sexual conduct in prison and risk to sexually reoffend post-release. The next section provides an overview of this study; however, in order to

fully comprehend its implications, it is necessary to first discuss the prevalence of sexual misconduct in the prison system.

Institutional Sexual Misconduct

Although institutional sexual misconduct is defined by institutions, it typically is considered any form of sexual contact, whether forced or consensual, as well as solicitation for sexual activity. Inmates who are caught engaging in such activity are typically sanctioned for their behavior regardless of whether the behavior is considered nonconsensual or consensual. While there is actually fairly little known about the perpetrators of prison sexual assaults (Beck & Harrison, 2007; Beck, Harrison, & Adams, 2007; Mariner, 2001), considering the highly structured environment common to most prisons, institutional sexual misconduct may emerge from inability to self-regulate behavior, antisocial orientation (e.g., poor impulse control), or sexual preoccupation.

Prevalence of Institutional Sexual Behavior

There is also little known about the exact rates that sexual assault occurs within the prison system due to relatively limited research available on the issue although it has garnered more attention since the passage of the Prison Rape Elimination Act (PREA) in 2003. This law mandates that the U.S. Department of Justice produce an annual report of the incidence and prevalence of sexual violence within the federal and state correctional facilities (Beck, Harrison, & Adams, 2007). In their review of studies examining the prevalence of institutional sexual misconduct, Gaes and Goldberg (2004) found prevalence rates to vary widely over the past few decades, with rates ranging from 1% to 41%. This rather large variance is likely related to the difficulty in assessing institutional sexual misconduct, which can clearly be seen when examining the reported rates of

sexual misconduct by correctional authorities compared to that by inmates. For instance, a Department of Justice study (Beck, Harrison, & Adams, 2007) estimated that nationally there were 6,528 allegations of institutional sexual misconduct as determined by a 2006 survey of administrative records in adult correctional facilities whereas a Department of Justice survey of inmates in 2007 (Beck & Harrison, 2007) estimated that “60,500 inmates experienced one or more incidents of sexual victimization” (p. 2).

This gap in reporting may be related to prison officials perceiving prison sexual offenses as seldom or unimportant, and therefore, dismissing inmate sexual conduct as “unique to the prison environment or a result of deprivation and not indicative of risk in the community” (Heil, Harrison, English, & Ahlmeyer, 2009, p. 892). The gap is also likely due to inmates underreporting sexual victimization. As previously indicated, sexual offenses in the general population are underreported, and factors that preclude victim reporting in the community are likely exacerbated in prison (Heil et al., 2009). For instance, in a prison survey investigating the rate of inmate sexual assault, Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, and Donaldson (1996) found that 50% of offenders who admitted to being sexually victimized did not disclose the assault until the time of the survey. Participants cited fear of the perpetrator, shame, embarrassment, and poor treatment by staff as reasons for not disclosing their victimization.

However, even when inmates report incidents of sexual victimization to correctional staff, the perpetrators have historically only received institutional disciplinary sanctions, even when outside charges were filed since prosecuting crimes against people who are already incarcerated tends to be a lower priority (Heil et al., 2009; Mariner, 2001). This tendency is highly problematic given that the absence of charges

and potential subsequent convictions for institutional sexual misconduct results in substantial difficulty in identifying institutional sexual offender treatment needs and evaluating risk to sexually reoffend within the institutional sexual perpetrator population (Heil et al., 2009).

Relationship between Institutional Sexual Misconduct and Sexual Offender Recidivism

As previously mentioned, Heil et al. (2009) conducted the only known published study examining the impact of institutional sexual misconduct on sexual offender recidivism risk. Results of their study found that sexual misconduct in prison, regardless of whether the offense was hands-on or hands-off, was a significant risk factor for new sexual, violent, and general recidivism. More specifically, the Heil et al. (2009) findings determined that convicted sexual offenders who also engaged in institutional sexual misconduct were found to have the highest rate of sexual offense recidivism while non-sexual offenders whose first sexual offense was in prison had the lowest rate. However, this latter group was found to be significantly more likely to be rearrested for a violent offense after release and also posed a similar risk to commit a new sexual offense as compared to the sample of convicted sexual offenders who did not commit any known institutional sexual misconduct. The implications of this study suggest that institutional sexual misconduct may be an important predictor of sexual offender recidivism and recognizing the significance of this implication could allow for identification of appropriate treatment needs to help minimize recidivism risk and could also aid in risk assessment in SVP civil commitment evaluations.

Conclusion

Over the last two decades there has been an increasing amount of research on determining risk factors related to sexual offender recidivism. However, despite this increase, there continues to remain a substantial lack of empirical research on examining institutional sexual behavior as a risk factor for recidivism. As mentioned, there is only one published study that examines the relationship between institutional sexual misconduct and sexual offender recidivism, and the results of this study (Heil et al., 2009) determined that there is a positive correlation between incidents of prison sexual behavior and sexual offender recidivism rates. As such, additional empirical research exploring this relationship is timely and important in an effort to continue to improve recidivism risk assessments, which could have significant implications in the assessment of institutional treatment needs, community supervision practices, and SVP civil commitment proceedings. The significance of conducting additional research to improve sexual offender recidivism risk assessment measures is even more evident when considering that both the civil liberty interests of individuals and the safety of the community are at risk. For this reason, the current study attempted to investigate the relationship between institutional sexual misconduct and sexual offender recidivism.

Chapter III: Method

Overview

The primary purpose of this chapter is to describe the methodology employed in the current study examining group differences in the rates of receipt of institutional sexual misconduct within an incarcerated sample, the relationship between institutional sexual misconduct and sexual offender recidivism rates, and whether inclusion of institutional sexual misconduct as an item on the RRASOR, Static-99, and MnSOST-R actuarial measures can enhance their predictive validity in assessing risk for sexual offense recidivism. In essence, this study seeks to determine whether there is empirical support to identify instances of institutional sexual misconduct as a risk factor for sexual offense recidivism. Identifying risk factors of sexual offender recidivism has been an important task in the development of actuarial measures used in risk assessment of sexual offenders, particularly when considering that actuarial prediction has been found to be more accurate than clinical judgment alone resulting in the regular use of actuarial measures to aid SVP evaluators. Descriptions of the study sample, assessment instruments, and data collection procedures are provided. This project was retrospective in nature as all data obtained were archival, collected from existing records from the Wisconsin Department of Corrections and public domain. This study was carried out in an effort to assist evaluators who are involved in conducting evaluations as part of civil commitment proceedings under SVP laws to further refine the assessment process through additional empirical findings. While some SVP evaluators may already consider instances of institutional sexual misconduct as a factor from a clinical standpoint when conducting civil commitment evaluations, developing an understanding of the

relationship between institutional sexual misconduct and sexual offender recidivism from an empirical basis may strengthen an evaluator's conclusions, especially in the courtroom. Improving the accuracy of the SVP civil commitment evaluation procedure is of paramount concern given that both the civil liberty interests of an individual and the safety of the community are at risk.

Participants

The initial sample consisted of 385 adult male offenders who served an incarceration sentence in the Wisconsin Department of Corrections (DOC) system between 1984 and 2005 and met one of the following conditions: 1) was incarcerated on a sexual conviction; 2) was incarcerated on a sexual conviction and received a conduct report for sexual misconduct; 3) was incarcerated on a non-sexual conviction and received a conduct report for sexual misconduct. The incarceration period under examination was identified as the offender's first discharge during the specified time frame.

Participants were identified from lists provided by the Data Services Division of the Wisconsin DOC Bureau of Technology Management for the purposes of this study. The Data Services Division provided two separate lists. One list identified male inmates, convicted of both nonsexual and sexual offenses, who served an incarceration sentence between 1984 and 2005 and had received a conduct report for sexual behavior during their first incarceration during the aforementioned time period. The second list identified male inmates who served an incarceration sentence during the same time period for a conviction of sexual assault and had not received a conduct report for sexual behavior during their first incarceration during the specified time period. Conduct reports for

sexual behavior were defined by the following Wisconsin DOC disciplinary codes: DOC 303.13, DOC 303.14, and DOC 303.15. Each code is defined as follows:

DOC 303.13 Sexual Assault – Intercourse: Any offender who has sexual intercourse with another person without that person's consent. Sexual intercourse is considered penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration by any part of the body or an object into the anus or vagina of another person.

DOC 303.14 Sexual Assault – Contact: Any offender who has sexual contact with another person. Sexual contact is considered the following unless otherwise previously approved: kissing, handholding, the offender's intimate parts touching the clothed or unclothed areas of another person, any touching of body parts between the offender and another person that results in sexual arousal or gratification.

DOC 303.15 Sexual Conduct: Any offender who has sexual intercourse, sexual contact, requests, hires, or tells another person to have sexual intercourse or contact, exhibitionism of intimate parts for sexual arousal or gratification, contact with or performs acts with an animal that would be sexual intercourse or sexual contact if with another person, clutches, and fondles or touches self whether clothed or unclothed while observable by others.

An additional disciplinary code, DOC 303.26 – Soliciting Staff, was included to account for any misconduct of a sexual nature that was directed toward staff but not documented as sexual misconduct. For example, an offender writing a letter to a staff member indicating a desire for a sexual or intimate relationship would be considered solicitation of staff.

Offenders who received a conduct report for Soliciting Staff were only included in the sample for the current study if there was evidence indicating that the offender's behavior resulting in the issuance of the conduct report had a clear sexual undertone. The

Wisconsin DOC defines Soliciting Staff as follows:

DOC 303.26 Soliciting Staff: Any offender who offers or gives anything to a staff member or acquaintance or family member of staff, requests or accepts anything from a staff member or acquaintance or family member of staff, buys anything from or sells anything to a staff member or acquaintance or family member of staff, requests another person to give anything to a staff member or agrees with another person give anything to a staff member or acquaintance or family member of staff, or conveys affection to or about staff verbally or in writing.

From the initial sample of 385, a total of 97 were excluded from the current study for one of the following reasons: (1) 84 were excluded because of incomplete file material that prevented the ability to sufficiently complete the actuarial measures utilized in this study; (2) 13 were excluded because it was determined that they had been civilly committed under the SVP law following release from prison, which meant that they were not released to the community and hence, not at risk to sexually reoffend during the follow-up period of concern. Therefore, data on sexual offense recidivism outcomes were obtained for 288 male offenders who were either convicted of a sexual offense and/or had been issued a conduct report for sexual misconduct when incarcerated. All were released to the community following release from prison and were consequently at risk to reoffend during the five-year follow-up period invoked in this study. Of the total sample of participants included in the current study ($N=288$), age at release from prison ranged

from 17 to 71 years old ($M = 31.79$; $SD = 9.53$). With regards to ethnicity and race of the obtained sample, 57.3% identified as Caucasian, 31.6% as African American, 6.3% as Hispanic, 3.5% as Native Americans, and 1.4% of the sample's ethnicity and race was categorized as other or unknown. Participants from the obtained sample were classified into one of the following categories:

- 1). Non-sexual offender with a sexual conduct report: individuals serving an incarceration sentence for a non-sexual offense who received a conduct report for sexual behavior while incarcerated ($n = 100$). Ages of participants in this group were between 19 and 49 years old ($M = 26.68$, $SD = 6.52$), and 55.0% identified as Caucasian, 30.0% as African American, 10.0% as Hispanic, 4.0% as Native American, and 1.0% as other or unknown. With regard to instant offense, 43% were convicted of a violent (e.g., homicide, battery, armed robbery) offense whereas 57% were convicted of a nonviolent offense.
- 2). Sexual offender with a sexual conduct report: individuals serving an incarceration sentence for a sexual offense who also received a conduct report for sexual behavior while incarcerated ($n = 90$). Ages of participants in this group were between 17 and 55 years old ($M = 33.64$, $SD = 9.19$), and 51.1% identified as Caucasian, 41.1% as African American, 5.6% as Hispanic, and 2.2% as Native American. With regard to instant offense, 31.1% were convicted of a sexual offense against an adult, 37.7% were convicted of a sexual offense against a child, and 31.1% were convicted of a sexual offense of an unknown nature.
- 3). Sexual offender with no sexual conduct report: individuals serving an incarceration sentence for a sexual offense who did not receive a sexual conduct

report during that period of incarceration ($n = 98$). Ages of participants in this group were between 19 and 71 years old ($M = 35.30$, $SD = 10.26$), and 65.3% identified as Caucasian, 24.5% as African American, 3.1% as Hispanic, 4.1% as Native American, and 3.1% as other or unknown. With regard to instant offense, 32.7% were convicted of a sexual offense against an adult, 37.8% were convicted of a sexual offense against a child, and 29.6% were convicted of a sexual offense of an unknown nature.

To investigate for any differences between the three groups, chi-square analysis was conducted for race. For the purposes of this procedure, the racial groups other than Caucasian and African American were clubbed together to assess the association. One-way analysis of variance (ANOVA) was conducted for age. The chi-square analysis was nonsignificant, $\chi^2(4, N = 288) = 8.35, p = .08$. The ANOVA, however, suggested that the difference in mean ages of the three offender groups at release was statistically significant, $F(2, 285) = 26.8, p < .001$. Post hoc comparison of means found the difference between age at release of the non-sexual offender group to be less than both of the sexual offender groups. There was no difference between age of release for the two sexual offender groups. Additionally, as there was suggestion of lack of homogeneity of variances in the three groups, Levene's test was used to assess the equality of variances in the three groups, $F(2, 285) = 6.2, p = .002$. Welch test was also carried out followed by post-hoc comparisons without assuming equality of variance, but there was no difference in the overall findings. The difference between age of release for non-sexual offenders compared to both sexual offender groups is not unusual given that most sexual offenders receive longer sentences than non-sexual offenders.

Informed Consent

Although no official informed consent was obtained from the sample group due to the retrospective nature of this study, all offenders admitted into the Wisconsin DOC prison system are provided with a written disclaimer about their limits of confidentiality (see Appendix A for copy of form used). The document states that all treatment staff (defined as including the prison warden, unit manager, social workers, health staff (mental health and medical), probation and parole officers, and the parole board) may document all contacts with offenders. The document also specifies that privileged information about offenders can be granted to any Wisconsin DOC employee if reasonable cause exists for the employee to have access to the information of interest. The Wisconsin DOC considers release of privileged data for the purposes of research reasonable although all requests to use privileged data for research purposes are subject to approval. This writer, who is also an employee of the Wisconsin DOC, was granted authorization to use information collected and gathered by the Wisconsin DOC for the purposes of the current study; however, considerable measures were taken to protect the privacy of the participants.

Measures

Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)

The RRASOR (Hanson, 1997) is a four-item actuarial instrument rated from official records that is designed to predict the risk for sexual offense recidivism among adult males known to have committed at least one sexual offense. The four items assess the following: prior sexual offense history (excluding the instant offense), age at release from incarceration, victim gender, and relationship to victim. The items are weighted

according to ability to predict the likelihood of sexual offense recidivism over periods of five to ten years. Total scores can range from 0 (low risk) to 6 (high risk).

There is clear evidence supporting high interrater reliability for the RRASOR. Sjöstedt and Långström, in two separate studies (2001; 2002), found a mean kappa score ranging from .87 to .91 whereas Barbaree, Seto, Langton, and Peacock (2001) found an interrater reliability coefficient of .94. Several studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Hanson, 1997; Harris et al., 2003; Langton, 2003; Sjöstedt & Långström, 2001) have also established the predictive validity of the RRASOR with estimates of correlation coefficients ranging from .22 to .26 for sexual offense recidivism and ROC values typically being above .70 and ranging as high as .77.

Static-99

The Static-99 (Hanson & Thornton, 1999; 2000) is a ten-item actuarial instrument rated from official records that is designed to primarily predict the risk for sexual reoffense with a secondary aim of predicting violent (sexual and non-sexual) reoffense among adult males known to have committed at least one sexual offense. The Static-99 combines items from two scales, the RRASOR (Hanson, 1997) and the Structured Anchored Clinical Judgment Scale developed by David Thornton (SACJ; Grubin, 1998). Beyond the RRASOR's four items, the Static-99 also includes the following six items: number of prior sentencing dates (excluding the instant offense), convictions for non-contact sexual offenses (e.g., child pornography, exhibitionism), conviction for a non-sexual violent offense at the same time as the instant sexual offense, any stranger victim in a sexual offense, and cohabitation status (i.e., ever lived with a lover for at least two

years). Total scores can range from 0 (low risk) to 12. The highest risk category is represented by the score range 6 to 12.

The Static-99's interrater reliability has been consistently supported by empirical studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Harris et al., 2003; Langton, 2003; Sjöstedt & Långström, 2001) with interrater reliability coefficients ranging from .81 to .96. Several studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Hanson & Thornton, 2000; Harris et al., 2003; McGrath, Cumming, Livingston, & Hoke, 2003; Sjöstedt & Långström, 2001; Thornton, 2002) also support the predictive validity of the Static-99 with estimates of correlation coefficients ranging from .22 to .38 for sexual offense recidivism and ROC values typically being above .70 and ranging as high as .89.

Minnesota Sex Offender Screening Tool – Revised (MnSOST-R)

The MnSOST-R (Epperson et al., 1999) is a 16-item actuarial instrument coded from official records that is designed to predict the risk for sexual offense recidivism among adult males with at least one conviction for sexual assault (including the instant offense). Twelve of the 16 items pertain to historical or static factors and four pertain to institutional factors that occurred during the most recent incarceration period. The twelve static items are: number of sexual/sexual-related convictions, length of sexual offending history, offender under supervision at the time of any sexual offense, any sexual offense committed in a public place, force or threat of force used in any sexual offense, any sexual offense within a single incident that involved multiple acts perpetrated on a single victim, number of different age groups victimized across all sexual offenses, victim aged 13-15 years and offender is five or more years older, victim was stranger in any sexual offense, adolescent antisocial behavior, substantial drug or alcohol abuse in year prior to

arrest, and employment history. The four institutional items are as follows: discipline history while incarcerated, involvement in chemical dependency treatment while incarcerated, involvement in sexual offender treatment while incarcerated, and age at time of release. Total scores can range from -14 to +30. Unlike the RRASOR and Static-99, the interpretation of MnSOST-R scores is done by score categories instead of individual scores. The MnSOST-R total score is assigned to one of three risk levels with level 1 (scores of 3 and below) being low risk, level 2 (scores of 4 to 7) being moderate risk, and level 3 (scores of 8 and above) being high risk.

The MnSOST-R's interrater reliability is less established than the RRASOR and Static-99. The limited studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003; Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander, 2003) available concerning the MnSOST-R's interrater reliability found interrater reliability coefficients ranging from .76 to .90. There are also limited studies (e.g., Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003; Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander, 2003) available examining the MnSOST-R's predictive validity that produced mixed results. Whereas some studies (Epperson et al., 1999; Epperson, Kaul, Huot, Goldman, & Alexander) found significant results with correlation coefficients ranging from .35 to .45 and ROC values ranging from .73 to .77, other studies (Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003) did not find a statistically significant relationship between MnSOST-R scores and sexual offense recidivism.

Procedure

Data Collection

As previously noted, the study participants were identified from two lists provided by the Data Services Division of the Wisconsin DOC Bureau of Technology Management. One list contained information on offenders, convicted of both sexual and non-sexual offenses, who had served a prison sentence at some point during the timeframe of 1984-2005 and were issued an institutional conduct report for sexual misconduct. The sample group consisting of non-sexual offenders was determined to have no known prior convictions for sexual assault in Wisconsin preceding the incarceration period of interest as determined by review of Wisconsin DOC records and the public domain database Consolidated Court Automation Programs (CCAP), which provides a history of criminal charges and convictions that occurred in Wisconsin. Aside from any information noted in available Wisconsin DOC records, it could not be determined whether this sample group had prior out-of-state convictions for sexual assault. The second list contained information on offenders convicted of a sexual offense who were incarcerated during the same time period but who did not receive any institutional conduct reports for sexual misconduct during the incarceration period of interest. Of note, of the sexual offenders involved in the study, only those who were convicted of a sexual offense found eligible under the Chapter 980 Civil Commitment of Sexually Violent Persons law as defined by the Wisconsin State Statutes were included (see Appendix B for complete list of Wisconsin Chapter 980 eligible offenses).

The supplied lists provided information on the participants that included their name, Wisconsin DOC identification number, date of birth, instant offense, incarceration

admission and release dates, and as relevant, the nature of the rule violation resulting in receipt of a conduct report for sexual misconduct and subsequent disposition. Only individuals who were found guilty of the violation alleged in the issued conduct report were considered for this study. The participants' race was identified through the Wisconsin DOC Offender Locator database.

The RRASOR, Static-99, and MnSOST-R measures were only scored on the two sexual offender groups given that the measures were designed to be used on individuals convicted of a sexual offense. The measures were scored retrospectively from file information that specified offense dynamics (e.g., nature of sexual offense, victim characteristics), offender demographics (e.g., marital status at time of offense), institutional conduct history, assigned treatment needs, and treatment participation. This file information was obtained from review of available clinical files and the Wisconsin Integrated Corrections System (WICS) database maintained by the Wisconsin DOC. The RRASOR, Static-99, and MnSOST-R raw scores were entered into the logistic regression analyses as continuous variables.

Measuring Recidivism

Recidivism was measured as a new conviction. This conservative measure was used due to limited availability of file information for all participants that might describe instances of probation or parole violations, charges that were later dismissed, and rearrests for allegations of criminal behavior without charges being filed. Recidivism was coded as a categorical variable (yes or no). It was also coded categorically into the following five types of recidivism: Sexual Assault of a Child, Sexual Assault of an Adult,

Sexual Solicitation/Prostitution, Non-Sexual Violent Offense, and Non-Sexual and Non-Violent Felonies and Misdemeanors.

Follow-Up Data

Follow-up data for a period of five years post-release were gathered. Recidivism data for new convictions that occurred in Wisconsin were obtained from CCAP, clinical files, and the WICS and Offender Locator databases maintained by the Wisconsin DOC. Data for new convictions that occurred out-of-state could not be obtained. There were a total of 132 (non-sexual and sexual) recidivists. The average time to reoffense was 2.20 years ($SD = 1.38$, range = 1 to 5 years). For the entire sample of 132 recidivists, the recidivism rate for sexual reoffense was 44.7% and for non-sexual reoffense was 55.3% (59 sexual recidivists and 73 non-sexual recidivists).

Chapter IV: Results

Overview

The primary purpose of this chapter is to detail the results of this investigation. It begins with an explanation of the p value used as the standard for significance followed by a brief description of the study sample. Preliminary analyses are then presented followed by a description of the research questions, statistical analyses conducted, and subsequent results. All statistical analyses were completed using SPSS Version 19.0.

Significance of Findings

The more liberal p value of .05 was selected as the standard to accept significant results for the current study for three primary reasons. First, given the considerably limited research on the relationship between institutional sexual misconduct and sexual offense recidivism rates, using a liberal p value allowed for sensitivity to new findings that were important to the exploratory nature of the current study. Second, the primary dependent variable of interest in this study is dichotomous, resulting in concern of restriction of range. More specifically, sexual offense recidivism is measured by “yes” or “no” responses, and as a result, does not represent a full range of possible values. As such, the more liberal p value of .05 was selected to support the exploratory nature of this study (Gravetter & Wallnau, 2004). Third, since the sample sizes employed within each of the analyses were relatively small, using a more liberal p value supports the exploratory nature of this study although it increases the likelihood of a Type I error, which occurs when a statistically significant relationship was concluded although no relationship truly exists (Gravetter & Wallnau, 2004).

Demographic Information

As detailed in the previous chapter, the current study included 288 offenders that were categorized into the three groups consisting of non-sexual offenders who received a sexual conduct report while incarcerated ($n = 100$), convicted sexual offenders who received a sexual conduct report while incarcerated ($n = 90$), and convicted sexual offenders with no institutional sexual conduct reports ($n = 98$). Given that descriptive statistics on age, race, and type of instant offense are described for each sample group in detail in Chapter III, they will not be repeated here.

Research Questions

Preliminary Analyses

Prior to the main analyses, an investigation was completed to determine whether certain demographic variables across each offender group (sexual offenders who received an institutional sexual conduct report, those who did not receive a sexual conduct report, and non-sexual offenders who received a sexual conduct report) were predictive of type of recidivism (sexual versus non-sexual) observed upon subsequent release to the community. Because the dependent variable of interest is type of recidivism, only offenders who recidivated, either in a sexual or non-sexual manner, ($n = 132$) within five years post-release from prison were examined. The independent variables examined were age at release (measured as 24 and under, 25-30, and 31 and up), race (categorized as Caucasian, African American, and other), and type of instant offense (categorized as sexual assault of an adult, sexual assault of a child, other/unknown sexual offense, violent non-sexual offense, and non-violent non-sexual offense). Because the dependent and independent variables are categorical, logistic regression was selected. Logistic

regression gives each predictor, or independent variable, a beta weight, which measures its contribution to variations in the dependent variable, and then produces a model that indicates all predictor variables that are useful in predicting the dependent measure (Menard 2002; Pampel 2000; Peng, Lee, & Ingersoll, 2002). In completing this analysis, the stepwise method was selected since this method is used when the most important independent variables are not known and associations with the dependent variable are not well understood (Menard 2002; Pampel 2000). This method produces the most parsimonious model by only including the predictor variables that are statistically significant in predicting the dependent measure (Menard 2002; Pampel 2000). To report how much of the variability in the dependent variable is successfully explained away by the logistic regression model, Nagelkerke R^2 rather than Cox and Snell's R^2 was used since the former is considered a more reliable measure (Menard 2002; Pampel, 2000).

Logistic Regression Results

Non-Sexual Offender with Sexual Conduct Report Group. The logistic regression conducted to predict recidivism type in the group of non-sexual offenders with a sexual conduct report indicated that a test of the full model against a constant only model was statistically significant, indicating that the predictor variables of age at release and type of instant offense reliably distinguished between non-sexual and sexual offense recidivists, $\chi^2(3, n = 54) = 19.13, p < .000$. The predictor variable of race was not included in the full model. The Nagelkerke R^2 of .594 indicated a moderately strong relationship between prediction and grouping. Prediction success overall was 92.6% (97.9% for non-sexual recidivism and 50.0% for sexual recidivism). The Wald statistic, which has a chi-square distribution and provides an index of significance of each predictor variable in the

equation, demonstrated that neither of the predictor variables included in the full model, age at release and type of instant offense, made independent significant contributions to prediction. Results of the Wald statistic for the variables included in the full model are summarized in Table 1.

Table 1: *Summary of Variables Included in the Logistic Regression Analysis to Predict Recidivism Type in the Non-Sexual Offender with Sexual Conduct Report Group*

Independent Variable	β	SE	Wald's χ^2	df	Sig.	Exp(β)
Age \leq 24	NA	NA	3.00	2	.223	NA
Ages 25–30	-19.14	9228.55	.00	1	.998	.00
Age \geq 31	2.30	1.33	3.00	1	.083	10.00
Non-SO, Violent	20.50	6768.87	.00	1	.998	7.97E8
Constant	-21.70	6768.87	.00	1	.997	.00

Note. SO = Sexual Offender; NA = Not Applicable.

Sexual Offender with Sexual Conduct Report Group. The logistic regression conducted to predict recidivism type in the group of sexual offenders with a sexual conduct report produced no full model, indicating that the predictor variables of age at release, race, and type of instant offense did not reliably distinguish between non-sexual and sexual offense recidivists. The overall correct prediction rate of the constant model was 50.0% in predicting sexual offense recidivism.

Sexual Offender with No Sexual Conduct Report Group. The logistic regression conducted to predict recidivism type in the group of sexual offenders with no sexual conduct report produced no full model, indicating that the predictor variables of age at release, race, and type of instant offense did not reliably distinguish between non-sexual and sexual offense recidivists. The overall correct prediction rate of the constant model was 85.0% in predicting sexual offense recidivism.

Summary of Logistic Regression Analyses. In sum, the results of the logistic regression analyses found that the predictor variables of age at release, type of instant offense, and race did not significantly contribute to the overall correct prediction rate of sexual offense recidivism in the three offender groups.

Relationship between the Independent and Dependent Variables

The relationship between the independent variables and dependent variables of interest in the logistic regressions described above as well as the logistic regressions conducted for research question four were examined through a series of Spearman Rank correlation coefficients. This analysis is the non-parametric alternative to the Pearson correlation coefficient and used when variables are measured on an ordinal scale (Gravetter & Wallnau, 2004). To complete this analysis, all nominal variables were transformed into ranked variables. The results for each correlation are described in the following sections. The first section describes the relationship between age, instant offense, race, and recidivism for each of the offender groups while the second section describes the relationship between the Static-99 scores, RRASOR scores, MnSOST-R scores, receipt of a sexual conduct report, and recidivism for the two sexual offender groups.

Relationship between Age, Instant Offense, Race, and Recidivism

Non-sexual offender with sexual conduct report group. The results of the Spearman Rank correlation conducted for the group of non-sexual offenders who received a sexual conduct report is presented in Table 2 and shows that the variable of type of instant offense had a significant negative correlation with type of recidivism. To understand the meaning of this negative correlation, the frequency of each instant offense for the non-sexual offender group, which was categorized as “violent” or “non-violent,” was compared to type of recidivism, which was categorized as “non-sexual” or “sexual.” This comparison found that violent offenders had higher instances of sexual offense recidivism compared to non-violent offenders. As such, the negative correlation found between type of instant offense and type of recidivism indicates that offenders with violent instant offenses were more likely to recidivate in a sexual manner than those with non-violent instant offenses. The variables of age and race were not found to be significantly correlated with type of recidivism and there was no evidence suggesting covariance among the independent variables.

Table 2: *Summary of Correlations of Independent and Dependent Variables in the Non-Sexual Offender with Sexual Conduct Report Group*

Variable	1	2	3	4
1. Age	—	-.093	-.212	-.147
2. Instant Offense		—	.153	-.381**
3. Race			—	-.164
4. Recidivism				—

Note. * $p < .05$. ** $p < .01$

Sexual offender with sexual conduct report group. The results of the Spearman Rank correlation conducted for the group of sexual offenders who received a sexual conduct report is presented in Table 3. This table shows that there were no significant correlations between the independent variables and the dependent variables, suggesting no immediate relationship between age and type of recidivism, type of instant offense and type of recidivism, or race and type of recidivism. Additionally, there was no evidence suggesting covariance between the independent variables.

Table 3: *Summary of Correlations of Independent and Dependent Variables in the Sexual Offender with Sexual Conduct Report Group*

Variable	1	2	3	4
1. Age	—	-.163	-.057	.243
2. Instant Offense		—	-.234	-.169
3. Race			—	.024
4. Recidivism				—

Sexual offender with no sexual conduct report group. The results of the Spearman Rank correlation conducted for the group of sexual offenders with no sexual conduct reports is presented in Table 4. This table shows that there were no significant correlations between the independent variables and the dependent variables, suggesting no immediate relationship between age and type of recidivism, type of instant offense and type of recidivism, or race and type of recidivism. Additionally, there was no evidence suggesting covariance between the independent variables.

Table 4: *Summary of Correlations of Independent and Dependent Variables in the Sexual Offender with No Sexual Conduct Report Group*

Variable	1	2	3	4
1. Age	—	-.049	-.168	-.073
2. Instant Offense		—	.041	-.095
3. Race			—	.071
4. Recidivism				—

Relationship between Actuarial Scores, Receipt of Sexual Conduct Reports, and Recidivism

The results of the Spearman Rank correlation conducted for the group of non-sexual offenders who received a sexual conduct report is presented in Table 5 and shows that the variable of receipt of a sexual conduct report had a significant negative correlation with type of recidivism. To understand the meaning of this negative correlation, instance of receipt of a sexual conduct report, which was categorized as “no” or “yes,” was compared to type of recidivism, which was categorized as “non-sexual” or “sexual.” This comparison found that sexual offenders with no sexual conduct reports had higher rates of sexual offense recidivism rather than non-sexual recidivism whereas the offenders (convicted of both sexual and non-sexual offenses) who received sexual conduct reports had equal rates of non-sexual and sexual offense recidivism. The latter finding suggests that non-sexual offenders who receive sexual conduct reports are sexually reoffending upon release to the community at the same rate as sexual offenders who receive sexual conduct reports, indicating that receipt of a sexual conduct report is

associated with sexually reoffending. The nature of the correlation being negative appears to be caused by the high rate of sexual offense recidivism committed by the group of sexual offenders with no sexual conduct reports.

In addition to this significant correlation, the results of Table 5 also indicate significant correlations between the Static-99, RRASOR, and MnSOST-R scores, suggesting that these actuarial scales measure the property. The MnSOST-R was also found to be significantly correlated with receipt of a sexual conduct report, which is likely given that the MnSOST-R contains an item assessing receipt of major institutional conduct reports of which sexual conduct reports are typically categorized under.

Table 5: *Summary of Correlations of Independent and Dependent Variables in the Non-Sexual Offender with Sexual Conduct Report Group*

Variable	1	2	3	4	5
1. Static-99	—	.810**	.568**	-.204	.090
2. RRASOR		—	.466**	-.080	.026
3. MnSOST-R			—	.360**	.144
4. SCR				—	-.375**
5. Recidivism					—

Note. SCR = Sexual Conduct Report.

* $p < .05$. ** $p < .01$

Question One

The first research question investigated whether there is a difference in the rates of sexual versus non-sexual offense recidivism among groups of sexual offenders who received an institutional sexual conduct report, those who did not receive a sexual

conduct report, and non-sexual offenders who received a sexual conduct report. This question only examined offenders known to have recidivated, either in a sexual or non-sexual manner, ($n = 132$) within five years post-release from prison. As previously stated, the average time to reoffense during the five-year follow-up period was 2.20 years ($SD = 1.38$). The purpose of this investigation is to determine whether there is a consistent, predictable relationship between rate of sexual offense recidivism and type of offender group. As such, group differences were examined among the sample groups of non-sexual offenders who received a sexual conduct report, sexual offenders who received a sexual conduct report, and sexual offenders who did not receive a sexual conduct report. The chi-square test for independence was selected to explore group differences in the sexual offense recidivism rates since this analysis is preferred when measuring the association between two categorical variables (Gravetter & Wallnau, 2004).

The two study variables examined were type of offender group and recidivism type. The former was categorized into (1) non-sexual offender with a sexual conduct report, (2) sexual offender with a sexual conduct report, and (3) sexual offender with no sexual conduct report. The latter variable was categorized as “non-sexual” or “sexual.” Results of the chi-square indicated that the type of offender group is significantly associated with recidivism type, $\chi^2(2, n = 132) = 51.36, p < .001, V = .62$. The results are presented in Table 6, which presents both the observed and expected values to indicate whether the probability of sexual offense recidivism occurring for each of the offender groups is greater than would be expected by chance alone. Examination of Table 6 shows that sexual offenders with no sexual conduct report reoffended in a sexual manner at a higher rate than expected and had the highest rate of sexual reoffending among all

offender groups. Examination of the sexual offender group with sexual conduct reports found that this group sexually reoffended at only a slightly higher rate than expected while the non-sexual offender group with sexual conduct reports sexually reoffended at a much lower rate than expected. In sum, these results indicated that receipt of an institutional sexual conduct report was not significantly associated with sexual offense recidivism. Rather, previous conviction of a sexual assault served as a stronger predictor of sexual reoffending.

In light of this finding, a summary of the specific recidivism type for each offender group is provided in Table 7. The results of this table show that the most frequent type of sexual reoffending involved child victims, with the sexual offender group with no institutional sexual conduct reports committing this offense at a higher rate than the other two offender groups. This occurrence suggests that the sexual offender group with no sexual conduct reports may have a strong sexual deviance for children or may be less antisocial and therefore less prone to violate prison rules.

Table 6: *Summary of Chi-square Observed and Expected Frequencies for Type of Offender Group and Recidivism Type*

Type of Recidivism 5-Years Post-Release				
Offender Group		Sexual Recidivism	Non-Sexual Recidivism	Frequency
Non-SO with SCR	Observed	6	48	54
	Expected	24.1	29.9	54

SO with SCR	Observed	19	19	38
	Expected	17	21	38
SO with No SCR	Observed	34	6	40
	Expected	17.9	22.1	40
Frequency		59	73	132

Note. SO = Sexual Offender; SCR = Sexual Conduct Report.

Table 7: Frequency of Recidivism Type 5-Years Post Release for Each Offender Group

Type of Recidivism 5-Years Post Release	Type of Offender Group		
	Non-SO with SCR (n = 54)	SO with SCR (n = 38)	SO with no SCR (n = 40)
SA of Child	2 (3.70%)	9 (23.08%)	22 (55.00%)
SA of Adult	1 (1.85%)	8 (20.51%)	10 (25.00%)
Solicitation/Prostitution	3 (5.56%)	2 (5.13%)	2 (5.00%)
Violent Non-SA	12 (22.22%)	2 (5.13%)	2 (5.00%)
Non-Violent, Non-SA	36 (66.67%)	17 (44.74%)	4 (10.00%)

Note. SO = Sexual Offender; SCR = Sexual Conduct Report; SA = Sexual Assault.

Question Two

Whereas the first research question examined whether there was an association between the type of offender group and type of recidivism (non-sexual versus sexual), the second research question specifically investigated whether there is an association between the number of institutional sexual conduct reports received and the type of recidivism for the 132 recidivists within five years post-release from prison. The purpose of this investigation is to examine group differences in recidivism types when comparing the number of institutional conduct reports issued to each subject to determine whether there is a consistent, predictable relationship between the number of institutional sexual conduct reports received by an offender and the type of recidivism observed upon subsequent release from prison.

The study variables examined were number of sexual conduct reports received and recidivism type. The former was categorized as (1) no conduct report, (2) one conduct report, and (3) two or more conduct reports whereas the latter was categorized as “non-sexual” or “sexual.” The chi-square test for independence was used to explore group differences and results of the analysis indicated a significant relationship between number of sexual conduct reports received and recidivism type, $\chi^2(2, n = 132) = 42.68, p < .001, V = .57$. The results are presented in Table 8, which presents both the observed and expected values to indicate whether the probability of sexual offense recidivism occurring based on number of sexual conduct reports received is greater than would be expected by chance alone. Examination of the values in Tables 7 and 8 show that offenders with no institutional sexual conduct reports, all of whom were incarcerated for a sexual offense ($n = 98$), displayed an overall rate of recidivism of 41% (34 sexual

recidivists, 6 non-sexual recidivists). This group displayed a higher rate of sexual offense recidivism than expected (45%), with sexual offense recidivism accounting for 85% of the total recidivism. The proportion of offenders (convicted of a sexual or non-sexual offense; $n = 190$) who received only one conduct report for sexual behavior ($n = 77$) also displayed an overall rate of recidivism of 41% (17 sexual recidivists and 60 non-sexual recidivists). This group displayed a lower rate of sexual offense recidivism than expected (44%), with 22% of the total recidivism coded as sexual. In contrast, there were a total of 15 recidivists from the offenders (incarcerated for a sexual or non-sexual offense) who received two or more institutional sexual conduct reports. This group had slightly higher rates of sexual reoffending than expected (45%), with 53% of the total recidivism being sexual. These results indicate that offenders who receive only one sexual conduct report while incarcerated are more likely to recidivate in a non-sexual manner whereas offenders who receive two or more sexual conduct reports are more likely to recidivate in a sexual manner when released to the community. In sum, these results suggest that there is an association between the number of sexual conduct reports received by offenders while incarcerated and sexual reoffending when released.

Table 8: *Summary of Chi-square Observed and Expected Frequencies for Number of Sexual Conduct Reports Received and Recidivism Type*

Type of Recidivism 5-Years Post-Release				
Number of SCR		Sexual Recidivism	Non-Sexual Recidivism	Frequency
0	Observed	34	6	40

	Expected	17.9	22.1	40
1	Observed	17	60	77
	Expected	34.4	42.6	77
2 or More	Observed	8	7	15
	Expected	6.7	8.3	15
Frequency		59	73	132

Note. SCR = Sexual Conduct Report.

Question Three

The third research question investigated whether institutional sexual misconduct occurred at different rates for sexual offenders compared to non-sexual offenders. The expectation was that offenders with a known sexual offending history would be more likely to sexually act out in a structured institutional setting rather than offenders with no known sexual offending history. The independent samples *t*-test was selected to evaluate the mean difference between the number of sexual offenders who received a sexual conduct report and the number of non-sexual offenders who received a sexual conduct report. The *t*-test was carried out without assuming equal variance since Levene's test for equality of variance indicated that the variance in the two groups was significantly different, $F = 28.53, p < .001$. It may be noted that the assumptions of both normality and equality of variance is not met in this case and the associated *p*-value should be interpreted with caution. The results of the *t*-test indicated that the sample of sexual

offenders were issued conduct reports for sexual behavior significantly more than the sample of non-sexual offenders, $t(98.64) = 2.92, p = .004$. The sample of convicted sexual offenders ($n = 90$) was issued a total of 142 conduct reports for sexual behavior with a range of receipt of 1 to 12 conduct reports per offender ($M = 1.09; SD = 0.38$) whereas the sample of non-sexual offenders ($n = 100$) was issued a total of 109 conduct reports for sexual behavior with a range of receipt of 1 to 3 conduct reports per offender ($M = 1.58; SD = 1.54$). As previously noted, the four different types of conduct reports issued for sexual behavior in the Wisconsin DOC vary in severity, ranging from solicitation of a sexual or romantic relationship to forced sexual assault. Table 9 provides an account of the frequency of each conduct report for the sexual offender group compared to the non-sexual offender group. Interestingly, Table 9 indicates that although the sexual offender group was issued more sexual conduct reports than the non-sexual offender group, the latter was issued a higher number of conduct reports for more severe sexual behavior.

Table 9: *Frequency of Sexual Conduct Report Type for Each Offender Group*

Type of Sexual Conduct Report	Type of Offender		Frequency
	Non-SO Group ($n = 100$)	SO Group ($n = 90$)	
SA-Intercourse	5	2	7

SA-Contact	18	8	26
<hr/>			
SA-Conduct	86	127	213
<hr/>			
Soliciting Staff	0	5	5
<hr/>			
Frequency	109	142	251
<hr/>			

Note. SO = Sexual Offender; SA = Sexual Assault.

Question Four

The final research question investigated whether the rate of institutional sexual misconduct added to the variance accounted for by the RRASOR, Static-99, and MnSOST-R scores when assessing for sexual offense recidivism risk. The purpose of this investigation was to determine whether receipt of an institutional sexual misconduct report increased a known sexual offender's risk to reoffend in a sexual manner beyond the risk level estimated by the aforementioned actuarial measures. It was hypothesized that receipt of an institutional sexual conduct report would be a specific predictor that would significantly predict above the variance that can be accounted for by the RRASOR, Static-99, and MnSOST-R scores. The following sections provide a description of the sample group of interest as well as a description of the primary analysis conducted and subsequent results.

Descriptive statistics of sexual offender groups. Because the aforementioned actuarial measures could only be scored on known sexual offenders, this investigation

focuses only on the two sexual offender groups ($n = 188$). The average RRASOR, Static-99, and MnSOST-R scores for the sexual offender group with no sexual conduct reports ($n = 98$) were 2.19 ($SD = 1.48$), 3.57 ($SD = 2.34$), and 1.73 ($SD = 6.55$), respectively, whereas the average RRASOR, Static-99, and MnSOST-R scores for the sexual offender group with sexual conduct reports ($n = 90$) were 2.74 ($SD = 1.35$), 4.31 ($SD = 2.00$), and 6.00 ($SD = 5.82$), respectively. There were a total of 78 recidivists within a five-year follow-up period post-release, with 53 sexual offense recidivists and 25 non-sexual offense recidivists, meaning that this sample had an overall recidivism rate of 41%, with 28% of the recidivism being sexual. Additionally, the majority of the sexual offense recidivists ($n = 34$) were comprised of sexual offenders who had not received a sexual conduct report.

Logistic regression. To determine whether the rate of institutional sexual misconduct adds to the variance accounted for by the RRASOR, Static-99, and MnSOST-R scores when assessing for sexual offense recidivism risk, logistic regression was utilized. This analysis is the statistical tool of choice when there are two categories of the dependent variable and when there is a mixture of continuous and categorical independent variables (Menard 2002; Pampel 2000; Peng, Lee, & Ingersoll, 2002). The dependent measure of recidivism is measured as “non-sexual” or “sexual” offense recidivism and the independent variables are the raw actuarial scores and receipt of an institutional sexual conduct report (categorized as “yes” or “no”). Given the direction of the research hypothesis, the hierarchical method was utilized, with the RRASOR, Static-99, and MnSOST-R scores entered into the first block to control their variance and

instance of institutional sexual misconduct entered into the second block to determine whether it is predicting above the variance that is accounted for by the actuarial scores.

Using the hierarchical method, the results of the first model that included the actuarial scores as the predictor variables was not significant, $\chi^2(3, n = 78) = 2.47, p = .480$, indicating that the RRASOR, Static-99, and MnSOST-R scores did not significantly predict sexual offense recidivism in the sample of sexual offenders examined. The Nagelkerke R^2 of .044 indicated a weak relationship between prediction and grouping. Table 10 provides a summary of the predictor variables. When the second block with the predictor variable of institutional sexual conduct report was added, however, the results of the model was found to be significant, $\chi^2(4, n = 78) = 11.62, p = .020$, indicating that receipt of an institutional sexual conduct report significantly predicted type of recidivism. The Nagelkerke R^2 of .194, however, indicated a weak relationship between the prediction and grouping. Prediction success overall was 69.2% (81.1% for non-sexual recidivism and 44.0% for sexual recidivism). The Wald statistic, which has a chi-square distribution and provides an index of significance of each predictor variable in the equation, demonstrated that receipt of an institutional sexual conduct report significantly contributed to the prediction model. Results of the Wald statistic for the variables included in the full model are summarized in Table 11. In sum, these findings indicate that the actuarial measures were not significant in predicting the type of recidivism in a sample of convicted sexual offenders with a 28% sexual offense recidivism rate, however, receipt of a sexual conduct report while incarcerated was significant in predicting type of recidivism.

Table 10: *Summary of Static-99, RRASOR, and MnSOST-R Predictor Variables in the Logistic Regression Analysis to Predict Type of Recidivism*

Independent Variable	β	SE	Wald's χ^2	df	Sig.	Exp(β)
Static-99	.131	.220	.358	1	.550	1.140
RRASOR	-.282	.329	.732	1	.392	.755
MnSOST-R	.051	.047	1.182	1	.277	1.52
Constant	-.980	.581	2.841	1	.092	.375

Table 11: *Summary of Static-99, RRASOR, and MnSOST-R, and Institutional Sexual Misconduct Predictor Variables in the Logistic Regression Analysis to Predict Type of Recidivism*

Independent Variable	β	SE	Wald's χ^2	df	Sig.	Exp(β)
Static-99	.063	.233	.074	1	.786	1.065
RRASOR	-.162	.350	.216	1	.642	.850
MnSOST-R	.011	.053	.042	1	.838	1.011
SCR	1.670	.585	8.140	1	.004	5.312
Constant	-1.673	.694	5.814	1	.016	.188

Note. SCR = Sexual Conduct Report.

Chapter V: Discussion

Introduction

In an effort to reduce sexual offense recidivism rates, research has focused on identifying risk factors predictive of sexual offending. This study sought to add to the existing research by examining the relationship between institutional sexual behavior and sexual offense recidivism rates among adult male offenders, an area that has received little attention. Results revealed that there is little association between sexual offense recidivism rates and receipt of institutional sexual conduct reports unless an offender is issued multiple sexual conduct reports during the same period of incarceration. Offenders who received multiple sexual conduct reports while incarcerated demonstrated similar rates of sexual offending upon release to the community as convicted sexual offenders, suggesting that institutional sexual behavior is an important factor to consider when assessing an offender's risk to sexually reoffend. The results also revealed that actuarial measures commonly used in assessing sexual offender recidivism risk were not predictive of sexual reoffending in the study sample. This chapter will explore the meaning of those results, identify the limitations that accompany these findings, and discuss implications for practice and research.

Institutional Sexual Misconduct and Recidivism Rates

Sexual offenders with no sexual conduct reports were more likely to sexually reoffend within five years of being released to the community compared to sexual and non-sexual offenders who received sexual conduct reports while incarcerated. Examination of the type of recidivism committed by each group found that the sexual offender group with no sexual conduct reports had the highest rate of sexual reoffending

against children whereas the sexual offender group with institutional sexual conduct reports demonstrated more generalized reoffending that included equal measures of sexual and non-sexual recidivism. In contrast, the non-sexual offender group had the lowest rate of sexual reoffending but the highest rate of violent reoffending, committing violent offenses four times more than the sexual offender groups.

These findings, which are consistent with those found by Heil, Harrision, English, & Ahlmeyer (2009), may be explained by considering offender pathways. For instance, two primary pathways used to explain sexual offending are the sexual preference hypothesis (Lalumiere & Quinsey, 1994) and the antisocial or psychopathic disposition hypothesis (Hare, 1991). The sexual preference hypothesis proposes that individuals who engage in sexually deviant behaviors do so because they prefer them to socially acceptable sexual practices (Lalumiere & Quinsey, 1994; Ward, Polaschek, & Beech, 2006). Typically, such individuals are considered to have a paraphilia, which the DSM-IV-TR defines as “recurrent intense sexually arousing fantasies, sexual urges or behaviors, generally around children or non-consenting persons, the suffering or humiliation of oneself or others, or non-human objects” (American Psychiatric Association, 2000, p. 522). For instance, when considering an offender identified as a pedophile, this person is generally conceptualized as being sexually aroused to prepubescent children and more likely to pursue sexual contact with children rather than adult peers (Ward, Polaschek, & Beech, 2006). In this sense, it would not be unusual for offenders with a deviant sexual preference for children to not engage in inappropriate sexual behavior when incarcerated because they have no access to their preferred sexual partner. In other words, the urge to engage in sexual behavior is strongest when sexually

arousing stimuli is present. This notion might be true of the group of sexual offenders with no institutional sexual conduct reports that were examined in this study, especially since this group demonstrated such a high sexual offense recidivism rate against children, suggesting that the majority of this group may have a specific deviant sexual interest in children. In accordance with this finding, research has shown that child molesters with extrafamilial victims have a high rate of sexual reoffending that is similar to that found in the sexual offender with no sexual conduct report group (Barbaree & Marshall, 1988; Prentky et al., 1997; Rice, Quinsey, & Harris, 1991; Sturgeon & Taylor, 1980). Furthermore, other research on the idea of “specialists,” or offenders who reoffend by committing the same offense also supports a high sexual offense recidivism rate in known sexual offenders, particularly those who demonstrate a specific sexual deviance (Hanson & Bussiere, 1998; Hanson, Steffy, & Gauthier, 1995; Langan & Levin, 2002). Therefore, if the sexual preference hypothesis was employed to conceptualize the behavior of the sexual offender group with no institutional sexual conduct reports, it may be hypothesized that sexual offenders with specific deviant interest in children are less likely to act out in a sexual manner in an environment where they have no access to their preferred sexual target.

In contrast to the sexual preference hypothesis, the antisocial or psychopathic disposition hypothesis proposes that such personality features are general predictors of violent recidivism, which may include both sexual and non-sexual offenses (Hare, 1991; Ward, Polaschek, & Beech, 2006). Hare (1991) suggests using this hypothesis to explain sexual offending by offenders who have a versatile criminal history that includes both general and sexual offenses. Sexual offending in this sense may be understood as

resulting from a strong penchant to violate the rights of others, poor self-regulation skills, and an opportunistic attitude (Hare, 1991). In considering the sexual and non-sexual offender groups with institutional sexual conduct reports examined in this study, versatility in criminal behavior is more apparent in these groups than the sexual offender group with no sexual conduct reports. In this regard, the heterogeneous nature of the recidivism rates of the sexual and non-sexual offenders who received sexual conduct reports while incarcerated might be explained by these offenders having a more antisocial disposition and weaker ability or perhaps, desire to regulate their impulses in a variety of setting and situations.

A different way to potentially better understand why sexual and non-sexual offenders might fail to regulate their sexual urges while incarcerated is by considering a combination of the sexual preference and antisocial or psychopathic disposition theories. In fact, the combination of risk factors related to psychopathy and sexual deviance have been found to be associated with a significantly high risk for general, violent, and sexual reoffending among sexual offenders (Harris et al., 2003; Rice & Harris, 1997; Roberts, Doren, & Thornton, 2002). This combination of theories can be especially useful when considering offenders who receive multiple sexual conduct reports. Such offenders may be exhibiting a combination of antisocial and sexually deviant features, resulting in frequent episodes of both sexual and non-sexual offending. In this regard, the group of non-sexual offenders who received sexual conduct reports while incarcerated may actually more closely resemble the group of sexual offenders with institutional sexual conduct reports than is evident by their offense history alone, meaning that the former group may have undetected sexual offenses. For example, researchers (e.g., CSOM,

2001; Doren, 1998; 2002; Heil, Harrison, English, & Ahlmeyer, 2009; Kilpatrick, Edmunds, & Seymour, 1992; Rennison, 2002) found that a number of sexual offenders do not get apprehended for their crime due to vast rates of underreporting. Additionally, sexual offenses may be pled down to a violent non-sexual offense by the legal system to ensure a conviction. As such, violent offense recidivism rates, which are defined in the extant literature as a combination of both sexual and non-sexual violent offenses, are important to focus on given the strong possibility of there being a sexual component or motivation to these criminal offenses (Heil, Harrison, English, & Ahlmeyer, 2009; Quinsey, Harris, Rice, & Cormier, 1998). In the present study, the group of non-sexual offenders with institutional sexual conduct reports displayed a high rate of violent recidivism. It is possible, however, that they were apprehended by authorities but charged with offenses that did not reflect the full extent of their sexual offending behaviors (Heil, Harrison, English, & Ahlmeyer, 2009). As such, when these offenders engage in sexually inappropriate behavior while incarcerated, this tendency may be more reflective of their true level of sexual deviance.

Multiple Institutional Sexual Conduct Reports and Recidivism

Sexual offenders with no institutional sexual conduct reports were also more likely to sexually reoffend upon release to the community compared to the offenders who received a sexual conduct report while incarcerated. Offenders (convicted of both sexual and non-sexual offenses) who received only one sexual conduct report while incarcerated were the least likely to sexually reoffend. In contrast, offenders (convicted of both sexual and non-sexual offenses) who received multiple sexual conduct reports while incarcerated were found to have a higher rate of sexual reoffending than expected. After

incurring two or more sexual conduct reports, these offenders began to more closely resemble the group of convicted sexual offenders with no institutional sexual conduct reports in terms of sexual offense recidivism rates. Of note, however, the number of recidivists who received multiple sexual conduct reports while incarcerated was fairly small, and consequently, this finding needs to be interpreted with caution.

As suggested above, these findings may be explained in a similar way, by again, considering offender pathways. For instance, the high rate of sexual offense recidivism displayed by the sexual offender group with no institutional sexual conduct reports is likely due to a deviant sexual preference, most likely for children given this group's high sexual reoffense rate against minors. In this sense, these offenders, who may be regarded as "specialists," sexually act out based on their sexual deviance rather than based on an antisocial attitude (Ward, Polaschek, & Beech, 2006). As such, it would be fairly unusual for this group to display inappropriate sexual behavior while incarcerated unless access to children or images of children was obtained.

In comparison, the offenders (convicted of both sexual and non-sexual offenses) who received only one sexual conduct report while incarcerated are likely best conceptualized using the antisocial or psychopathic disposition theory. In this regard, the institutional sexually inappropriate behavior displayed by these offenders might be more characteristic of impulsive behavior or a blatant disregard for the prison rules rather than sexual deviance. As this offender group begins incurring multiple institutional sexual conduct reports, however, the pattern that emerges suggests evidence of sexual deviance. Such offenders might then be best understood using a hybrid of the sexual preference and antisocial disposition theories. Acknowledging the presence of possible sexual deviance

in these offenders is important even in the absence of historical sexual criminal behavior because, as previously noted, sexual offending behavior may be undetected for various reasons. The results of the present study suggest that offenders, regardless of their criminal background, who receive multiple sexual conduct reports while incarcerated, might pose a moderate risk to sexually or violently reoffend when released to the community. Heil, Harrison, English, and Ahlmeyer (2009) support this position in their conclusion that institutional sexual misconduct is a “significant risk indicator” for sexual and violent reoffending as do other researchers who found empirical support to indicate that the presence of both psychopathy and sexual deviance is significantly associated with violent and sexual reoffending (Roberts, Doren, & Thornton, 2002; Harris et al., 2003; Rice & Harris, 1997).

Institutional Sexual Misconduct and Offender Type

Sexual and non-sexual offenders differed in the rate that they were issued sexual conduct reports while incarcerated. Results of this study indicated that convicted sexual offenders were more likely to be issued conduct reports for sexual behavior while incarcerated than non-sexual offenders. These results, though, should be interpreted with caution since the assumptions of both normality and equality of variance were not met. However, it may not be surprising that known sexual offenders received more sexual conduct reports than non-sexual offenders. First, prison staff may expect known sexual offenders to engage in inappropriate sexual behavior, and therefore, may monitor their behavior more closely than an offender with no known history of sexual offending. Additionally, prison staff may be less likely to dismiss inappropriate sexual behavior when committed by a known sexual offender. Oftentimes, prison staff dismisses sexual

behavior as being unique to the prison environment (Mariner, 2001), however, staff may view institutional sexual behavior by a known sexual offender as more dangerous when a pattern of sexual offending is evident. The results of the present study, for instance, indicate that the convicted sexual offenders were issued far more sexual conduct reports for infractions falling under the less severe sexual misconduct categories (Soliciting Staff and Sexual Conduct) compared to the non-sexual offenders.

Alternatively, these results may also be explained by offender pathways as suggested in the earlier findings. For example, the sexual conduct reports issued to the convicted sexual offenders may be reflective of sexual deviance and an inability to regulate sexual urges as suggested by the sexual preference theory (Lalumiere & Quinsey, 1994; Ward, Polaschek, & Beech, 2006). This occurrence may also be reflective of a combination of individual characteristics indicative of antisocial proclivity and sexually deviant interests, which might result in the group of convicted sexual offenders to act out more in a sexually inappropriate manner compared to the group of non-sexual offenders. The lower number of sexual conduct reports issued to the non-sexual offenders, in contrast, might be suggesting the presence of an antisocial attitude resulting in a propensity to disregard general prison rules rather than engaging in sexual misconduct. However, the present results also suggest a small subgroup of non-sexual offenders who had received more than one institutional sexual conduct report and subsequently displayed sexual offense recidivism rates equivalent to convicted sexual offenders.

Institutional Sexual Misconduct and Actuarial Measures

The results of the present study found that the RRASOR, Static-99, and MnSOST-R actuarial measures were not predictive of type of recidivism although receipt of a sexual conduct report while incarcerated was found to be associated with predicting type of recidivism, namely general recidivism. Therefore, institutional sexual misconduct was not found to add to the variance accounted for by the RRASOR, Static-99, and MnSOST-R scores when assessing for sexual offense recidivism risk. This study's failure to find a significant relationship between the aforementioned actuarial scores and sexual reoffending is inconsistent with existing literature (e.g., Barbaree, Seto, Langton, and Peacock, 2001; Doren, 2002; Hanson & Morton-Bourgon, 2004). The lack of a significant relationship may be the result of the retrospective design utilized in the present study. As a result, the principal investigator was limited as to available file materials used to score the actuarial measures. Additionally, average scores across all three actuarial measures were found to be lower than average scores as reported by research with similar samples of convicted sexual offenders (e.g., Barbaree, Seto, Langton, and Peacock, 2001; Roberts, Doren, & Thornton, 2002). The low average scores, little dispersion in the actuarial scores, and small sample size of recidivists likely resulted in there being insufficient power to differentiate between sexual and non-sexual recidivists.

Although this study's failure to find a significant relationship between the actuarial scores and sexual reoffending is inconsistent with the existing literature, the finding of an association between receipt of an institutional sexual conduct report and general recidivism is consistent with earlier findings as well as those of Heil, Harrison,

English, and Ahlmeyer (2009). Three explanations are offered for this finding. First, it may again be explained by considering offender pathways, namely the theory of sexual offending that combines risk factors associated with psychopathy and sexual deviance. In this regard, the institutional sexual conduct reports issued to the sexual offenders in the present study might be reflective of both antisocial tendencies and sexual deviance. This combination of factors has been found to be associated with a significant risk for all types of recidivism (Harris et al., 2003; Rice & Harris, 1997; Roberts, Doren, & Thornton, 2002;). Second, as previously discussed, sexual offenders are not always charged with a sexual offense even when there is a clear sexual component or motivation to their offending due to sexually offense being pled down to a violent non-sexual offense. Third, the earlier findings indicated that offenders who received multiple sexual conduct reports while incarcerated displayed rates of sexual offense recidivism that resembled that of convicted sexual offenders. In this sense, if the present research hypothesis had also focused on the number of sexual conduct reports issued to each offender rather than just on whether the offender was issued a sexual conduct report, a significant relationship between institutional sexual misconduct and sexual offense recidivism might have been found.

Summary

Results of this study revealed that there is little association between sexual offense recidivism rates and receipt of institutional sexual conduct reports unless an offender is issued multiple sexual conduct reports during the same period of incarceration. In this instance, non-sexual offenders were found to resemble convicted sexual offenders with regard to sexual offense recidivism rates. The results of this study

also revealed that convicted sexual offenders are issued sexual conduct reports while incarcerated at a higher rate than non-sexual offenders. These results were explained by considering offender pathways that suggest theories of sexual offending. This study also found that actuarial measures commonly used in assessing sexual offender recidivism risk were not predictive of sexual reoffending in the study sample. This finding was explained by discussing limitations of the research design.

Limitations

There were several limitations evident in this study. First, the sexual offenders included in this study were not randomly selected. Instead, the sample of sexual offenders was derived based on the availability of file information retained by the Wisconsin Department of Corrections that was detailed enough to allow for scoring of the majority of the actuarial items. The majority of available files that contained sufficient detail to score the actuarial measures, however, tended to be reflective of sexual offenders with a high level of sexual deviance as evidenced by their designated level of institutional sexual offender treatment need. As a result, the sample groups of sexual offenders had higher rates of sexual offender recidivism than commonly found in the extant literature. Second, the study sample contained variability that was related to the range of the period of incarceration examined, which likely resulted in a cohort effect. For example, variations in how state statutes were defined and in how the Wisconsin DOC recorded information about offenders from 1984 to 2005 were evident. Furthermore, it is likely that prison staff's response to institutional sexual misconduct changed during the examined timeframe, especially with the passage of PREA in 2003. Advances and improvements in sexual offender treatment offered in prisons over time, moreover, might

have affected sexual offense recidivism rates. For these reasons, conducting a cohort analysis could be helpful in an effort to identify the presence cohort effects on the study's results. Third, the sample groups were not controlled for risk factors associated with sexual offender recidivism such as age, type of sexual offense, marital status, or psychopathy. It is likely that these factors influenced the recidivism rates obtained in this study. As a result of these three limitations, the findings of the present study are difficult to generalize.

A fourth and rather significant limitation is that the original conduct reports were not available for review. Instead, only the general category of the conduct type (i.e., sexual conduct) was available and the majority of the offender files did not include a description of the institutional sexual misconduct. This is problematic because a variety of behaviors could be classified under a single category. For instance, sexual contact might be unapproved kissing or touching another person in a sexual manner. Awareness of the exact nature of the behavior could have important implications in relation to recidivism. A fifth limitation involved the lack of available information on the behavior of all of the sample groups upon release into the community. As community supervision files were not available to the principal investigator for all of the sample groups, data on supervision violations and arrests were not examined, resulting in the necessity to use the conservative measure of conviction of a new offense to measure recidivism. Using conviction as the sole measure of recidivism likely resulted in an underestimate of this study's true sexual offense recidivism rate. Furthermore, out-of-state recidivism data was unavailable, which also adds to the likelihood that recidivism rates obtained in this study are underestimated. Sixth, although the follow-up period of five years following release

from prison is a standard period of time utilized in recidivism studies, extending the follow-up period in the current study would likely have increased the relatively small number of recidivists that were observed as well as impacted the recidivism rates.

This study also contained methodological limitations. As previously noted, the relatively small sample size of recidivists creates difficulty in generalizing the findings. Additionally, the assumptions of both normality and equality of variance were not met in question three, so the results of the *t*-test conducted in this question should be interpreted with caution. Furthermore, there are some limitations related to the way variables have been defined. Specifically, the majority of the variables were defined as nominal, requiring the use of non-parametric analyses to analyze the majority of the study hypotheses, resulting in the loss of power. Defining the majority of the study variables as categorical, moreover, served to minimize their complexity, which in turn minimized the robustness of the study. For example, there are several factors to consider when measuring sexual offense recidivism that could result in wide variation in research results, such as, how to define recidivism, difficulty in obtaining access to records to assess for recidivism, and the heterogeneity of the sexual offender types in the sample population (CSOM, 2001; Doren, 1998, Heil, Harrison, English, & Ahlmeyer, 2009; Langan, Schmitt, & Durose, 2003; Marshall & Barbaree, 1990). Similarly, there are several factors that may influence prison staff's response to instances of institutional sexual misconduct. For instance, prison staff members may dismiss sexual behavior as being unique to the prison environment, may be biased in how they respond to prison sexual behavior committed by known sexual offenders compared to non-sexual offenders, or the political nature of the prison may also serve to influence staff response

(Mariner, 2001). The important issue to consider is that the officially documented rates of institutional sexual misconduct amongst convicted sexual offenders compared to non-sexual offenders found in this study may be inaccurate due to inconsistencies in staff response for the aforementioned reasons. Yet another example illustrating the complexity of the variables in this study is when considering the actuarial scores, which were certainly affected by difficulty in obtaining complete records as well as inconsistencies in how data were recorded. Additionally, an inherent problem with using actuarial measures to assess recidivism risk is that idiosyncratic factors of a specific case that might be indicative of elevated risk are ignored, resulting in an underestimate of the risk level (Beech, Fisher, & Thornton, 2003; Doren, 2002; Langton, 2003).

Implications and Future Directions

Notwithstanding the study limitations, these findings have implications in assessing and managing risk to sexually reoffend in the prison environment and community. First, given the finding that non-sexual offenders who receive multiple institutional sexual conduct reports resemble convicted sexual offenders in regard to sexual offense recidivism rates, proactive measures can be implemented in the prison system to manage reoffense risk. Considering the need for institutional sexual offender treatment for non-sexual offenders with institutional sexual misconduct, for instance, is especially important in view of research findings indicating that violent offending may serve as a proxy for sexual offending (Hare, 1991; Harris et al., 2003; Heil, Harrison, English, & Ahlmeyer, 2009; Rice & Harris, 1997; Roberts, Doren, & Thornton, 2002). In other words, non-sexual offenders whose criminal history involves violent offenses might actually be undetected sexual offenders. Making treatment available to this population

could potentially lower the sexual offender recidivism rates given the empirical findings that indicate successful completion of sexual offender treatment serves as a protective factor against recidivism risk (Hanson et. al., 2002; Heil, Harrison, English, & Ahlmeyer, 2009; Lösel & Schmucker, 2005). Additionally, the number of episodes of institutional sexual misconduct for an individual can help treatment facilitators in designating the appropriate level of treatment. However, research is needed to establish the effectiveness of prevention and intervention programs that address institutional sexual behavior.

A second implication of this study is that the association between institutional sexual misconduct and sexual offender recidivism rates can help clinicians increase the accuracy of their assessment of an offender's risk to sexually reoffend. The ability to more accurately assess risk is essential for civil commitment evaluations of sexual offenders, especially given that an individual's civil liberties are at risk. However, given this study's findings that the RRASOR, Static-99, and MnSOST-R were not found to significantly predict sexual offense recidivism, which is inconsistent with the existing literature, more research on the relationship between actuarial measures and institutional sexual misconduct is needed. When exploring this relationship more, it is recommended that future research directions address this study's limitations. For instance, this study only examined a relatively small sample of offenders who were incarcerated in the Wisconsin Prison System. Expanding the sample size and including offenders from other states would help clarify this study's findings and would also likely help improving the generalizability of the results. Also, there is a need to control the sample groups for risk factors associated with sexual offender recidivism to further improve the generalizability of the results.

A third implication of this study is the ability to increase the accuracy of identifying an offender's risk to sexually reoffend. This in turn, can help inform community supervision officials determine appropriate supervision rules as well as determine appropriate treatment needs in the community. For instance, an offender who has no convictions for a sexual offense but has a pattern of sexual misconduct while incarcerated may benefit from being supervised with rules often used with convicted sexual offenders. Similar to the need for research to establish the effectiveness of institutional prevention and intervention programs to address institutional sexual misconduct, there is also a need to establish the effectiveness of supervising non-sexual offenders with a history of institutional sexual misconduct as convicted sexual offenders in the community.

Additional future research suggestions directly relate to limitations of this study. For instance, it became apparent when completing this study that access to the sexual conduct reports could enhance the study's findings. It will be important to determine what specific instances of institutional sexual misconduct are suggestive of sexual reoffending when released to the community. In addition, given that the few research studies (e.g., Prentky, Lee, Knight, & Cerce, 1997; Soothill & Gibbens, 1978) that have implemented follow-up periods of over twenty years found rates of sexual reoffending within that time frame, it is suggested that if this study were to be replicated that a longer follow-up period be used to determine whether there is any association between institutional sexual misconduct and sexual reoffending several years following release to the community. It is further suggested that more contemporary data be used if this study were to be replicated. The retrospective design of this study created difficulty in

obtaining data to sufficiently score the actuarial measures. It also created difficulty in using less conservative measures of recidivism beyond conviction. These difficulties were related to the limited availability of dated file material, which could be avoided by using contemporary data to conduct a longitudinal study. Finally, it is suggested that the study variables be coded on an interval level given that the complexity of the variables is overlooked when using a nominal measurement scale, which in turn affects the robustness of the results.

Conclusion

This study focused on the prevalence of institutional sexual misconduct among convicted sexual offenders and non-sexual offenders incarcerated in the Wisconsin Prison System as well as the relationship between institutional sexual misconduct and sexual offense recidivism rates upon release to the community. Additionally, this study examined whether institutional sexual misconduct added to the variance accounted for by commonly used actuarial measures in the assessment of sexual reoffense risk. Although this study did not find that this occurred, it did establish that offenders who have a pattern of institutional sexual misconduct begin to resemble convicted sexual offenders in terms of rates of sexual reoffending. Hopefully, these results will serve as a catalyst for future research on sexual offense recidivism risk factors in an effort to improve the accuracy of risk prediction.

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Appendix A

DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
DOC-1923 (Rev. 10/2010)

WISCONSIN
Wisconsin Statutes
§ 48.981, 51.30, 146.81-84, 252.15, 938.78
Federal Regulations
42 CFR Part 2
45 CFR Parts 160, 162 and 164

LIMITS OF CONFIDENTIALITY OF HEALTH INFORMATION

NOTE: DAI uses WICS ORPT170/DOC-2468 for inmates upon admission to a DAI facility. DAI Psychological Services Units, DJC facilities and DCC may use this form, as appropriate.

OFFENDER NAME

DOC NUMBER

THIS FORM EXPLAINS YOUR CONFIDENTIALITY RIGHTS FOR HEALTH CARE INFORMATION. READ IT CAREFULLY

1. Department of Corrections (DOC) health care providers include physicians, nurses, psychiatrists, psychology staff, dentists, physical therapists, other health professionals, and staff supervised by those providers.
2. Health care providers document every interaction with you in your Health Care Record such as your Medical Chart, Dental Record and Psychological Services Unit Record, and in limited circumstances in your Social Services File and Field Case File.
3. You have a right to **limited** confidentiality of your health information within the DOC. DOC staff with a job-based “need to know” may have access to health information contained in your Health Care Record, Social Services File, and Field Case File.
4. Health care providers have the right to access your health information to meet your health care needs.
5. Non-health care staff such as wardens/superintendents, members of the Earned Release Review Commission, probation/parole agents, Inmate Complaint Examiners and others involved in processing inmate complaints, social workers, Bureau of Offender Classification and Movement specialists, and security staff may have access to limited health information in order to make decisions related to your custody level, safety, movement and release, and to resolve your complaints.
6. Health care providers must report information to the appropriate DOC authorities if it raises concern about a threat to you, a correctional facility, community corrections operations, and/or public safety. This may include the following:
 - a. Overt/covert threats or harm to yourself or others.
 - b. Reports of any alleged sexual activity between an inmate and any other person.
 - c. Reports of any sexual assault or intimidation between an inmate and any other person.
 - d. Plans to riot or escape and possession of drugs or weapons.
 - e. Suspicious or unexplained deaths (homicides, suicides).
 - f. Unknown past criminal conduct that increases the potential risk to a facility, community corrections operations and/or the public, including self-reported acts of homicide, attempted homicide, or 1st/2nd degree sexual assault.
7. DOC shall **not** permit individuals outside the DOC to access health information about you unless one of the following applies:
 - a. You sign an Authorization for Use and Disclosure of Protected Health Information

(DOC-1163A), or equivalent form, authorizing the disclosure.

- b. A judge issues a valid court order authorizing the DOC to disclose the information.
- c. A Wisconsin or federal law permits the access without a signed authorization from you.

I have read (or had read to me) the above information and have been given the opportunity to ask questions. I understand the limits of confidentiality of my health information explained in this document.

OFFENDER SIGNATURE

DATE SIGNED

WITNESS SIGNATURE (DOC or Contract Agency Staff)

DATE SIGNED

WITNESS JOB CLASSIFICATION / TITLE

DOC LOCATION or CONTRACT AGENCY NAME/ LOCATION

DISTRIBUTION: **Original (DCC)** - Field Case File; Copy (DCC) – Contract Agency File (if applicable); Copy - Offender
Original (DJC) - Social Services File; Copy - Offender
Original (DAI PSU) - PSU Record, Legal Documents/Consents/Outside Records Section; Copy - Offender

Appendix B

Chapter 980 Offenses**Sexually Motivated Offenses**

- 940.01 First Degree Intentional Homicide
- 940.02 First Degree Reckless Homicide
- 940.03 Felony Murder
- 940.05 Second Degree Intentional Homicide
- 940.06 Second Degree Reckless Homicide
- 940.19(2), (4), (5) or (6) Felony Battery; Aggravated Battery
- 940.195(4) or (5) Felony Battery; Aggravated Battery to an Unborn Child
- 940.30 False Imprisonment
- 940.305 Taking Hostages
- 940.31 Kidnapping
- 941.32 Administering Dangerous or Stupefying Drug
- 943.10 Burglary
- 943.32 Robbery
- 948.03 Physical Abuse of Child

Sexually Violent Offenses

- 940.225(1) First Degree Sexual Assault
- 940.225(2) Second Degree Sexual Assault
- 940.225(3) Third Degree Sexual Assault
- 944.01 Rape (old)
- 944.06 Incest
- 944.10 Sexual Intercourse with a Child (old)
- 944.11 Indecent Behavior with a Child (old)
- 944.12 Enticing a Child for Immoral Purposes (old)
- 948.02(1) First Degree Sexual Assault of a Child
- 948.02(2) Second Degree Sexual Assault of a Child
- 948.025 Repeated Acts of Sexual Assault of the Same Child
- 948.06 Incest with a Child
- 948.07 Child Enticement
- 971.17 Not Guilty by Reason of Mental Disease or Defect (for a sexually violent offense)
- 975.06 Sex Crimes Law Commitment