

Are Actuarial Risk Data Used to Make Determinations of Sex Offender Risk Classification? An Examination of Sex Offenders Selected for Enhanced Registration and Notification

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Abstract

This study examined whether evaluators use actuarial risk scores and risk information to make determinations about sex offender risk status for the purpose of enhanced registration and notification. Although it was expected that sexual offenders selected for enhanced registration and notification would have higher scores on actuarial risk assessment tools than those who were not selected, few differences were found between groups with regard to risk factors associated with sexual offense recidivism. Given that actuarial tools enhance the prediction of sexual recidivism, this study may shed light on problems in the implementation of sex offender policy measures. Results are discussed as they pertain to the assessment and application of registration and community notification statutes for sexual offenders.

Keywords

sex offender, assessment, sexually violent predator, community notification

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During the past two decades, policy makers and legislators have increasingly developed and enacted new laws that attempt to prevent sexual offense recidivism, including enhanced sentencing, registration and community notification, residence restrictions, and civil commitment (Levenson & Cotter, 2005; Zimring, 2004). As a result of this increased focus, clinicians are increasingly tasked with evaluating recidivism risk among sex offenders (Harris, Rice, & Cormier, 2002). Evaluators' ability to identify those sex offenders at highest risk for recidivism depends, however, on their ability to accurately assess risk (Lucken & Bales, 2008).

Sex Offender Legislation

In 1994, the United States Congress enacted the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act following the abduction of 11-year-old Jacob Wetterling. In allowing law enforcement agents to track and maintain the addresses of known sex offenders, it was hoped that this legislation would allow for the more rapid apprehension of suspects in sexually related crimes. In 1996, following the rape and murder of 7-year-old Megan Kanka in New Jersey by a twice-convicted sex offender, the Jacob Wetterling Act was amended, allowing communities to be notified of known offenders in their vicinity. This federal legislation, commonly known as Megan's Law, mandates that all 50 states maintain a database available to the public containing information on convicted sex offenders. Although "Megan's Laws" vary from state to state with regard to the amount and type of information available to the public, these notification statutes allow community members to be made aware of a sex offender's presence in their neighborhoods.

Although national guidelines for sex offender registration in the United States were established in 1994 when the Jacob Wetterling Act was enacted, more recently the Sex Offender Registration and Notification Act (SORNA) has set forth a new set of minimum standards for sex offender registration and notification. These standards were developed in an attempt to standardize separate amendments that have been made to the Jacob Wetterling Act since its implementation in 1994.

Enhanced Registration and Community Notification

Enhanced registration and community notification are forms of sex offender-specific policy implemented to increase public protection by enhancing registration and notification requirements for a subset of high-risk sex offenders. Although they are not as well known as standard registration and notification statutes, these enhanced requirements often include a longer registration period, mandated treatment, and also determine the method of mandated community notification for a subset of high-risk sex offenders. States typically use either an offender- or offense-based approach to determine the additional requirements to which offenders are subject under this legislation.

Approximately 20 states currently use an offender-based approach (Terry, 2006). In these states, a board, committee, or agency is called on to use their discretion in

deciding whether the public would be better protected if a sex offender was subject to enhanced registration or community notification. This decision is made by considering the risk the offender poses to the community and in some states a risk assessment tool is used to aid in this decision.

Enhanced registration and community notification may also be applied in states with civil commitment legislation (i.e., Sexually Violent Predator [SVP]) in place. In these states, high-risk sex offenders who do not meet criteria for SVP commitment may be subject to enhanced registration and community notification in the community. Therefore, states that have implemented civil commitment statutes often utilize some degree of evaluation or risk assessment to make recommendation for community notification and registration for the non-SVP population.

Although SORNA was implemented to set forth a minimum set of standards for sex offender policies, states are not precluded from implementing guidelines above and beyond the minimum standards set forth by SORNA. Moreover, although the recommendation set forth by SORNA is an offense-based approach, states are not precluded from using an offender-based approach to make recommendations for more enhanced registration and community notification.

Pennsylvania Megan's Law

The current study examines evaluations conducted as part of Megan's Law in Pennsylvania. Pennsylvania does not currently have postsentence civil commitment for sex offenders convicted as adults, but like other states, Pennsylvania does use the term *sexually violent predator* (SVP) for the purpose of categorizing adult sex offenders for enhanced registration and notification. Pennsylvania's statutory code defines an SVP as "a person who has been convicted of a sexually violent offense" and who suffers from "a mental abnormality or personality disorder that makes him or her likely to engage in predatory sexually violent offenses" (42 Pa. Cons. Stat. § 9792). Although the sexually violent predator label and the statutory language used by Pennsylvania for enhanced registration and notification are strikingly similar to the criteria used in many states for postsentence civil commitment legislation (typically referred to as SVP commitment or SVP legislation), the difference in the result (indefinite civil commitment vs. enhanced sanction or requirements) is important. To avoid confusion, offenders in the present study determined to be sexually violent predators under Pennsylvania Megan's Law will be referred to as Pennsylvania sexually violent predators (PSVPs).

According to Pennsylvania Megan's Law, following conviction of a sexually violent offense but before sentencing, the court must order the offender to undergo an assessment by the Sexual Offenders Assessment Board (SOAB), an independent board of psychiatrists, psychologists, and criminal justice experts appointed by the governor. Only sex offenders convicted of an offense requiring registration under Pennsylvania Megan's Law undergo such an assessment (42 Pa. C.S. § 9795.1). If an offender is determined to be a PSVP, the sentencing court may impose enhanced registration and notification requirements on the offender. These enhanced requirements include

lifetime registration, quarterly verification of address, community notification, and lifetime therapy. If the offender is convicted of a second sexually violent act, he may be subject to a term of life in prison.

It should be noted that since its effective date in 1996, the SVP portion of Megan's Law in Pennsylvania has been challenged several times. Prior to July 8, 2000, all sex offenders convicted of a Megan's Law offense were designated as SVPs, leaving the burden on the offender to refute this designation in court (for a thorough review of the changes see *Commonwealth v. Williams*, 1999).

Risk Assessment

Policy makers and legislators have enacted sex offender legislation and policies in an attempt to promote the goal of public safety. For these public policies to function effectively, it is necessary to accurately identify the highest risk offenders (Janus & Prentky, 2004a), whether it be for sexually violent predator commitment designation, enhanced sentencing, or in the case of the present study, heightened notification and community monitoring. Evaluators play an integral role in this process because the effectiveness of these laws depends on their ability to assist policy makers by identifying those offenders who are indeed at highest risk of sexual recidivism (Lucken & Bales, 2008).

Risk assessment is often categorized in the following manner: (a) unstructured clinical judgment, or the informal, impressionistic manner of arriving at a decision about risk; (b) pure actuarial risk assessment, or the structured, algorithmic approach that provides estimates of risk typically based on a weighted combination of empirically derived risk factors; (c) structured professional judgment (SPJ), which highlights theoretically or empirically validated risk factors for consideration but provides no formula for the weighting of those factors; or (d) the adjusted actuarial approach, which relies on the actuarial approach but allows clinicians to make upward or downward estimates of risk (Hanson, 2009; Quinsey, Harris, Rice, & Cormier, 2006).

Research has consistently shown that actuarial risk assessment outperforms clinical judgment, resulting in more accurate decision making about risk for reoffending (Gardner, Lidz, Mulvey, & Shaw, 1996; Grove & Meehl, 1996; Monahan, 1981; Rice & Harris, 1997). In addition, a more recent meta-analysis examining the accuracy of various approaches to the prediction of sex offender risk specifically demonstrated that a pure actuarial approach not only outperforms clinical judgment but also performs more accurately than structured clinical judgment, resulting in more accurate decisions about who is at greatest risk to reoffend (Hanson & Morton-Bourgon, 2009). Although this meta-analysis can only offer broad comparisons, there indeed seems to be increasing agreement that actuarial risk tools should form the basis for sexual offender risk assessments (Barbaree, Seto, Langton, & Peacock, 2001; Hanson & Morton Bourgon, 2009; Jackson & Hess, 2007; Seto, 2005).

Research has further demonstrated that adjusting actuarial risk scores dilutes the predictive accuracy of actuarial risk tools (Gore, 2007; Vrana, Sroga, & Guzzo, 2008).

Gore (2007), who examined the use of clinical overrides on the Minnesota Sex Offender Screening Tool–Revised (MnSOST-R; Epperson et al., 1998), an actuarial risk assessment tool, found that predictive accuracy was increased when using pure actuarial scores alone rather than using clinical adjustments to actuarial scores. Although actuarial tools certainly do not come without criticism, their use provides a standardized measure to predict sexual offense recidivism, reducing clinical error (Craig, Browne, Stringer, & Beech, 2005) and bringing transparency and accountability to the risk assessment process (Janus & Prentky, 2004b).

When assessing a sex offender, the SOAB in Pennsylvania is directed to consider, but “is not limited to, a number of criteria including detail of the index offense, prior offense history and characteristics of the offender” (42 Pa. C.S. § 9795). Although not statutorily required, evaluators regularly rely on actuarial risk tools and may, at times, make adjustments to actuarial scores based on other information. Thus, the determination of risk may vary by evaluator based on which factors are deemed most highly relevant (Doren, 2002; Watson & Vess, 2007). Evaluators may choose to include certain factors but not others in their own calculus of risk and may give more weight to certain risk factors over others. An evaluator’s background, training, or varying perspectives could lead to contrasting assessments of risk for the same offender (Center for Sex Offender Management, 2007). DeClue (2005) found that although evaluators’ scores on actuarial tools were generally consistent in the sex offender civil commitment context, opinions as to likelihood of future sexual violence varied. DeClue attributed this evaluator disagreement to rater adjustment of actuarial risk scores on the basis of weakly supported dynamic risk data, noting that when evaluators adjust actuarial scores it may lead to overspeculation and thus dilute the accuracy of the tools.

Some states require the use of specific actuarial tools in their assessments (e.g., Texas Health & Safety Code § 841.023, 2000); however, most statutes do not define specific guidelines for decision making after these tools are scored (Hanson, 1999; Quinsey, Harris, Rice, & LaLumiere, 1993), thereby permitting a considerable amount of discretion to the evaluator (Miller, Amenta, & Conroy, 2005). Evaluators may also use more than one actuarial risk tool to make a determination of risk (Doren, 2002; Jackson & Hess, 2007), though research suggests that this practice does little to improve accuracy in decision making (Elkovitch, Viljeon, Scalora, & Ullman, 2008; Seto, 2005). Consequently, it is not clear how particular risk scores translate into decisions about specialized commitment or supervision for sex offenders.

Some researchers have examined whether offenders selected for particular policies or sanctions are in fact those who have higher scores on risk assessment tools, or in other words, those considered to be most at risk of reoffending. Levenson (2004) compared offenders designated as SVPs with those not designated as SVPs under Florida’s civil commitment statute, finding that those sex offenders who were civilly committed had significantly higher actuarial risk assessment scores on the Static-99 (Hanson & Thornton, 1999, 2000) than those not selected for civil commitment. Levenson (2004) further found that those designated SVPs scored higher than the group recommended for release on other risk factors empirically linked to sexual offense recidivism.

Lucken and Bales (2008), who also examined differences between sex offenders referred for an SVP evaluation and those not referred under Florida's SVP civil commitment law, found that those offenders referred for an evaluation scored higher on actuarial risk assessment scores than those who were not referred. Watson and Vess (2007), who examined whether offenders with higher risk scores were subject to increased supervision under New Zealand's Parole Act of 2004, found that the dynamic risk-based Sex Offender Need Assessment Rating (Hanson & Harris, 2000a) predicted recommendation for extended supervision, though groups selected and not selected for extended supervision did not differ in terms of static actuarial risk scores. Although these findings seem to generally suggest that clinicians utilize actuarial risk information to make judgments about sex offender civil commitment, at least some data suggest that clinicians may fail to use actuarial risk data in making judgments about extended supervision for sex offenders (Watson & Vess, 2007).

Although some research has examined empirical evidence underlying risk decisions in alternative contexts (e.g., SVP decision making, extended supervision), no research has yet examined whether those offenders selected for enhanced registration and notification have higher risk scores on actuarial tools than those not selected for this particular form of increased community supervision within the United States. The purpose of this study was to examine whether evaluators rely on empirically validated risk information to determine SVP status in a state where SVP statutes do not result in postsentence civil commitment but rather provide for lifetime registration and enhanced community notification provisions. This study is especially timely given recent passage of the Sex Offender Registration and Notification Act (SORNA), which strengthens and expands registration and notification statutes. SORNA sets minimum standards for enhanced registration and notification; however, states are still able to recommend notification and registration requirements above and beyond the minimum standards. Individual states, therefore, must decide whether to adopt the minimum standards or develop a more enhanced decision-making scheme. In doing so, individual states might evaluate the consistency of their decision-making process, particularly given that these selections can result in serious consequences for both public safety and the sex offender population.

Method

Participants

The present study included archival record review of 76 male offenders incarcerated at the time of data collection. All sex offenders were convicted of a sexual offense requiring evaluation by a SOAB member to determine eligibility for PSVP designation under Pennsylvania Megan's Law. Sex offenders convicted of a noneligible sex offense (requiring no evaluation) were excluded from the sample. Selected offenders were convicted between July 8, 2000 (reinstitution of PSVP legislation), and December 31, 2005, and were serving a state sentence at the time of data collection. Two offenders

were excluded as they were found not to be PSVPs by the court despite an evaluator recommendation for PSVP status.

Although the majority of offenders ($n = 45$, 59%) had exclusively extrafamilial child victims, 24% ($n = 18$) had exclusively adult victims whereas 17% ($n = 13$) had exclusively intrafamilial child victims. Offenders convicted of strictly noncontact sexual offenses were excluded from this analysis. A majority of the offenders had female victims ($n = 59$, 78%), although some ($n = 15$, 20%) had male victims and fewer ($n = 2$, 3%) had both male and female victims. The mean age of the sample was approximately 38 years, with an age range between 21 and 69 years. The mean age of PSVPs was 38.95 years ($SD = 11.90$), whereas the mean age of non-PSVPs was 37.47 years ($SD = 10.95$). In examining criminal history of the sample, it was found that 36% of the 76 sex offenders had at least one prior conviction for a violent, nonsexual offense. The mean number of prior violent, nonsexual convictions for non-PSVPs was 4.40 ($SD = 7.93$), whereas the mean number of prior violent, nonsexual convictions for PSVPs was 2.91 ($SD = 2.90$).

The majority of the offenders in this sample were White ($n = 44$, 58%), although African American ($n = 26$, 34%), Latinos ($n = 5$, 7%), and Asians ($n = 1$, 1%) were also represented.

Procedure

Data were collected via full review of electronic and paper case files provided by the Department of Corrections. A graduate-level intern and Department of Corrections evaluator assessed risk of reoffending for each participant using the Static-99 (Hanson & Thornton, 2000). Both the intern and staff member scored the Static-99 for each offender record. When there was disagreement, a consensus score was reached. The two scorers disagreed on the score of two cases; therefore, the average percentage agreement (97%) and Cohen's kappa ($\kappa = 0.95$) were used as an estimate of reliability, demonstrating a high level of interrater reliability.

Power Analysis

A power analysis was conducted to determine the appropriate sample size needed for detecting an effect size of moderate level using an alpha level of .05. A power of .81 was achieved, which is considered acceptable (Cohen, 1988).

Measures

PSVPs and non-PSVPs were compared using demographic information, offense characteristics, static risk factors derived from the Static-99 (Hanson & Thornton, 2000), and other risk factors (deemed individual risk factors) found to be associated with sexual recidivism.

Demographic Information

Basic demographics and general offender characteristics were collected from examination of both the offender's paper case file and the offender's DOC electronic file. These items included factors such as age, ethnicity, and other background variables.

Individual Risk Factors Selected From Actuarial Tools

A number of individual items, some of which have an established relationship with sexual recidivism, were also collected. Using the SVR-20 (Boer, Hart, Kropp, & Webster, 1997) as a guide for the selection of individual items, the following information was collected: victim type (i.e., adult or child), degree of sexual contact, offender sexual deviance, victim of child abuse, major mental illness, substance abuse problems, suicidal ideation, employment problems, past supervision failure, multiple offense types, uses weapons or threats of death, and extreme minimization or denial of offense.

Static-99 (Hanson & Thornton, 1999, 2000)

The Static-99 (Hanson & Thornton, 2000) is an actuarial risk instrument consisting of 10 items. This instrument is used to measure the risk of adult male sex offenders at the time of release to the community. Hanson and Thornton (1999) found that the Static-99 had moderate to high accuracy in predicting both sexual and violent recidivism. The Static-99 has been cross-validated in approximately 60 studies and it is used extensively in the United States, Canada, the United Kingdom, Australia, and many European nations (Nunes et al., 2002; Stadtland et al., 2005).

Analysis Plan

To determine whether there were statistically significant differences between PSVPs and non-PSVPs on selected risk factors, independent sample *t* tests were used to compare the means of continuous dependent variables. Chi-square tests were used for dependent variables that were categorical. As performing multiple *t* tests may increase the chance of Type I error, multiple analyses of variance (MANOVAs) were utilized to simultaneously explore group differences on Static-99 (Hanson & Thornton, 2000) items.

Results

Of the 76 sex offenders examined as part of this study, 20 (26%) received a PSVP designation whereas 56 (74%) were not found to meet PSVP criteria. As seen in Table 1, there were no statistically significant differences found between those determined to be PSVPs and those not determined to be PSVPs on any demographic variables.

Results indicated that a greater number of PSVPs had a past conviction for a non-contact sexual offense, $\chi^2(1, N = 76) = 7.76, p < .01$ (see Table 2). Chi-square analyses

Table 1. Descriptive Information on Sample and Offense Characteristics

	PSVP (<i>n</i> = 20)	non-PSVP (<i>n</i> = 56)
Ethnicity		
White	13 (65)	31 (55)
Black	5 (25)	21 (38)
Hispanic	2 (10)	3 (5)
Asian	0 (0)	1 (2)
Age (years), <i>M</i> (<i>SD</i>)	38.95 (11.90)	37.47 (10.95)
Education (years), <i>M</i> (<i>SD</i>)	10.68 (2.03)	11.26 (1.80)
Type of offender		
Adult rape	4 (20)	14 (25)
Intrafamilial child (aged <18 years)	2 (10)	32 (57)
Extrafamilial child (aged <18 years)	13 (65)	10 (18)
Multiple victim types	1 (5)	0 (0)
Victim age (years), <i>M</i> (<i>SD</i>)	15.37 (18.35)	20.57 (23.21)
Codefendant	2 (10)	6 (11)
Number of victim(s), <i>M</i> (<i>SD</i>)	1.89 (1.15)	1.43 (0.81)

Note: Values are *n* (%) unless otherwise mentioned. PSVP = Pennsylvania sexually violent predator.

Table 2. Means, Standard Deviations, and Frequencies for Static-99 Related Items According to PSVP Status

Risk factor ^a	PSVP (<i>n</i> = 20)	non-PSVP (<i>n</i> = 56)
Relationship stability	12 (60)	30 (53.6)
Noncontact offense convictions	9 (45)**	8 (14)
Index offense violence	3 (15)	12 (21.4)
Past nonsexual violence	11 (55)	16 (46.4)
Prior convictions, <i>M</i> (<i>SD</i>)	4.40 (7.93)	2.91 (2.90)
Stranger victim(s)	4 (20)	11 (19.6)
Related to victim(s)	5 (25)	12 (21.4)
Victim gender		
Female only	15 (75)	44 (79)
Male only	5 (25)	10 (18)
Both	0 (0)	2 (3)

Note: Values are *n* (%) unless otherwise mentioned. PSVP = Pennsylvania sexually violent predator.

a. As defined by Static-99 (Hanson & Thornton, 2000) coding rules.

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

were used to compare groups on the remaining categorical variables (including stranger victims, juvenile history, past drug convictions, relation to the victim, penetration, index violence, past nonsexual violence, suicide history, weapon in index offense, prior recidivism, and presence of codefendant); however, no statistically significant differences were found between groups (see Table 2).

The Static-99 items were entered into a one-way MANOVA, a statistical procedure that is appropriate when multiple dependent measures are used to test group differences. No significant differences were found between groups ($F = 1.38$, $df = 5, 61$, $p = ns$). An inspection of Table 2, which presents mean raw scores and standard deviations for Static-99 items, indicates that PSVPs and non-PSVPs show very similar risk profiles.

Static-99 Scores

Although Static-99 scores for PSVPs ($M = 3.50$, $SD = 1.89$) were found to be greater than those of non-PSVPs ($M = 3.30$, $SD = 1.78$), these differences were not significant ($t(76) = 0.418$, $p = ns$).

Individual Risk Factors Selected From Other Tools

Means, standard deviations, and frequency of occurrence of other selected risk factors for PSVPs and non-PSVPs are presented in Table 3. Chi-square tests showed that PSVPs were more likely to admit guilt for their crime at the time of incarceration, $\chi^2(2, N = 76) = 6.14$, $p < .05$, than were non-PSVPs, with 85% of PSVPs admitting to their crime at initial classification. PSVPs were also more likely than non-PSVPs to report being sexually abused as a child, $\chi^2(1, N = 76) = 4.26$, $p < .05$. However, no significant differences were found between groups for either childhood verbal or physical abuse.

There were no significant differences between groups with regard to the following factors: employment stability, supervision failure, degree of sexual contact, substance abuse before incarceration, mental health before incarceration, mental health or substance abuse diagnosis, weapon used in offense, suicidal ideations, and number of institutional misconducts and separations from other inmates while incarcerated.

Discussion

This study examined the extent to which actuarial risk data, including actuarial risk tools and individual risk factors, are used to make determinations of sex offender risk classification for the purposes of enhanced registration and notification. Scores on the Static-99 (Hanson & Thornton, 2000) were examined to determine whether they predicted selection for enhanced notification and registration. In addition, individual risk factors were examined to determine whether they were predictive of selection. Although some preliminary research has examined differences among sex offenders selected and those not selected for postsentence commitment as SVP (Levenson, 2004; Levenson & Morin, 2006) and enhanced sentencing schemes (Watson & Vess, 2007), this study is the first to examine whether risk data are used in the selection of sex offenders for enhanced registration and community notification in the United States.

Contrary to expectations, there were no significant differences between sex offenders selected for enhanced registration and notification and those not selected with

Table 3. Means, Standard Deviations and Frequencies for Individual Items

Risk factor	PSVP (<i>n</i> = 20)	non-PSVP (<i>n</i> = 56)
Age at first offense (any), <i>M</i> (<i>SD</i>)	26.95 (13.87)	24.72 (13.02)
Prior institutionalizations, <i>M</i> (<i>SD</i>)	1.21 (1.18)	1.55 (2.02)
Penetration (intrusiveness)	14 (70)	34 (60.7)
Juvenile convictions ^a	7 (35)	24 (42.9)
Drug conviction(s)	8 (40)	13 (23.2)
Employment stability	6 (30)	23 (41.1)
Recidivist (any)	8 (40)	14 (25)
Supervision failure ^b	5 (25)	22 (39.3)
Admit to crime ^b	17 (85)*	32 (57.1)
Substance abuse history	15 (75)	38 (67.9)
Mental health history	6 (30)	23 (41.1)
Mental health diagnosis		
Impulse control disorder	1 (5)	1 (1.8)
Pedophilia	4 (20)	1 (1.8)
Substance abuse diagnosis	3 (15)	13 (23.2)
Separations required while incarcerated	5 (25)	12 (21.4)
Number of misconducts while incarcerated, <i>M</i> (<i>SD</i>)	2.65 (3.36)	4.00 (9.87)
Reported childhood abuse		
Sexual	10 (50)*	9 (16.1)
Physical	6 (30)	9 (16.1)
Emotional	0 (0)	0 (0)
Sexual and physical	0 (0)	4 (7.1)
Physical and emotional	2 (10)	3 (5.4)
Sexual and emotional	1 (5)	0 (0)
Physical, emotional, sexual	0 (0)	1 (1.8)
Reported none	1 (5)	13 (53.6)
Suicidal ideations ^b	6 (30)	15 (26.8)
Weapon used in index offense ^b	3 (15)	12 (23.2)

Note: Values are *n* (%) unless otherwise mentioned. PSVP = Pennsylvania sexually violent predator.

a. As defined by Static-99 (Hanson & Thornton, 2000) coding rules.

b. As defined by SVR-20 (Boer, Hart, Kropp & Webster, 1997) coding rules.

**p* < .05.

regard to pure actuarial risk (i.e., Static-99) scores. Furthermore, there were very few significant differences between groups on a number of other factors selected from risk assessment tools. The use of empirically validated risk information can help to identify those offenders who are most dangerous and thus most suitable for increased supervision or sanction. Using empirically based selection processes to recommend sex offenders at highest risk for recidivism for enhanced registration and notification can ensure that scant resources are used on those offenders that are at highest risk and minimize misjudgments that may pose a risk to public safety. These findings may highlight problems in the implementation of sex offender policy measures.

In an attempt to determine if individual risk factors predicted selection, individual Static-99 items were examined. Few differences were observed on individual Static-99 items; however, it is notable that offenders did differ with regard to one Static-99 item, specifically, having a history of having been convicted of a noncontact sexual offense, with sex offenders designated as PSVPs being more likely to have been convicted of a noncontact sexual offense than those not designated as such. Although this finding may point to the fact that evaluators found a varied (i.e., both contact and noncontact) sexual history to be a particularly relevant risk factor, it is unclear why this particular risk factor might outweigh other important risk factors.

With regard to clinically relevant factors, PSVPs were found to be more likely to accept full responsibility for their crime than non-PSVPs. Although this finding is contrary to expectations, it is notable that Hanson and Bussiere's (1998) meta-analysis found sexual recidivism to be unrelated to clinical presentation variables such as denial, victim empathy, and motivation for treatment. With regard to another clinically relevant factor, those selected for PSVP status were more likely to have reported a history of sexual abuse at the time of incarceration than those not selected as PSVPs. Again, however, there is little to suggest that abuse history is related to sexual recidivism (Hanson & Morton-Bourgon, 2005). Thus, these results suggest that evaluators could at times rely on factors that intuitively seem relevant to reoffense risk but have not been demonstrated to have a relationship with sexual recidivism.

The results of this study suggest that evaluators may not be relying primarily on actuarial risk assessment scores to determine eligibility for enhanced registration and notification. There is indeed evidence for the utility of dynamic risk factors for general offenders (Andrews & Bonta, 1995; Gendreau, Little, & Goggin, 1996; Sampson & Laub, 2003); however, the evidence is not as strong for sexual offenders (Hanson & Morton-Bourgon, 2009). Some research (e.g., Hanson & Morton-Bourgon, 2005) does suggest that dynamic variables may show some relationship to sexual recidivism. Furthermore, recent research has suggested that combining certain dynamic risk factors (i.e., psychological markers) with actuarial risk tools can improve predictive accuracy (Craig, Thornton, Beech, & Browne, 2007; Thornton, 2002). Although this research has demonstrated the utility of psychological trait factors in risk assessment, there is still a question concerning just how to adjust actuarial risk scores based on these factors in a way that will not dilute predictive accuracy (Hanson & Harris, 2000b). The results of this study and other research (Jackson & Hess, 2007; Watson & Vess, 2007) suggest that evaluators may be not give much weight to pure actuarial risk scores in making determinations of offender risk, relying more so on adjusted actuarial scores or structured risk assessment. Because research suggests that actuarial risk data can help to more accurately identify those most at risk for recidivism, these findings may warrant some concern. Moreover, results suggest that evaluators may at times rely on factors with no established relationship to sexual recidivism in their determinations of reoffense risk, suggesting that empirical data is not being used to inform the decision-making process.

Risk assessment continues to play an integral role in sex offender decision making. Because, in this study, empirically derived risk factors were not shown to contribute significantly to evaluations, evaluators may be failing to identify those at highest risk for recidivism for inclusion under enhanced monitoring and supervision schemes specifically. Because the utility of sex offender statutes hinges on evaluators' ability to accurately identify those most at risk for sexual recidivism, this study brings attention to problems in the implementation of these statutes that may ultimately have important consequences for public safety and offender liberties.

Limitations and Future Direction

There are limitations to the present study that should be considered when interpreting these findings. First, it was unknown whether the sample was reflective of the entire PSVP evaluatee population in Pennsylvania as sex offenders from only one state institution were examined, though notably this institution houses offenders from across the state. The study was designed to present preliminary findings on the selection of sex offenders for enhanced registration and supervision in the community and the sample size was limited as a consequence of the implementation date of the PSVP statutes. Because of the small sample size, conclusions drawn from this study should be interpreted with caution and replication is warranted. Although one may hesitate to generalize the current findings to other states, more than 20 states currently use an offender-based system (i.e., risk assessment) to recommend sex offenders for enhanced registration or community notification (Terry, 2006). Therefore, this study may contribute to the process of and guidelines for selection of sex offenders for enhanced supervision or registration in other states. Replication of the present study in other states may further contribute to understanding the underlying process behind sex offender risk selection.

In addition, it should also be noted that two of the three variables found to be significantly different between groups were items of self-report (admitting to the crime and reported childhood abuse), raising questions about the validity and accuracy of clinically relevant factors. Last, and perhaps most importantly, no recidivism data was available at the time of the study. Thus, although those with higher actuarial risk scores are estimated to be at higher risk of offending, the authors were unable to test the validity of the risk judgments (i.e., to determine whether those selected as PSVPs were in fact more likely to reoffend than those not selected as PSVPs).

Although common practice in most states may be to use actuarial tools in the assessment of sex offender risk, at present, most states do not mandate actuarial risk assessment tools be used as evidence of risk level. However, in the past decade there has been a great deal of progress in identifying variables that are related to sexual recidivism, and there is growing evidence that risk assessment tools may provide the most accurate assessments of risk. Although it seems intuitive and some research has indicated that factors not included in actuarial risk assessment tools (e.g., Static-99)

may increase or decrease an offender's likelihood for reoffense, to date there is little evidence for an assessment approach that combines these items in a manner that improves predictive accuracy (Hanson & Harris, 2000b; Hanson & Morton-Bourgon, 2009). Thus, evaluation boards may wish to re-examine their practices to ensure that scientific knowledge is being used to inform the decision-making process, specifically, incorporating empirical knowledge so as to ultimately help to enhance community safety and public protection.

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