

# Assessing Risk for Sexual Violence

Assurance Behavioral HealthCare

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# New Jersey Sexually Violent Predator Act

- Civil commitment of sexual offenders has thus far withstood constitutional challenge
- NJ SVP law has same underlying logic of traditional civil forensic commitment
- Seeks to protect society from dangerous individuals who because of mental disease present a substantial risk of harming themselves or others

# Statutory Elements

## *Qualifying Offense*

- Person must be convicted, adjudicated delinquent, NGRI, or have been charged with a “sexually violent offense” but found to be incompetent to stand trial.
- Offenses that meet the criteria:

- Aggravated sexual assault
- Sexual assault
- Aggravated criminal sexual contact
- Criminal sexual contact
- Kidnapping where victim <16 and the crime is accompanied by an act of aggravated sexual assault, sexual assault, criminal sexual contact, or endangering the welfare of a child

# continued

- Murder if the underlying crime is sexual assault
- An attempt to commit any of the above crimes
- A criminal offense with substantially the same elements as the above offenses
- Any offense for which the court makes a specific finding that the offense should be considered a sexually violent offense

# *Mental Abnormality*

- A mental condition that affects a person's emotional, cognitive or volitional capacity in a manner that predisposes that person to commit acts of sexual violence
- Or a current substantial disturbance of thought, mood, perception, or orientation which significantly impairs judgment, capacity to control behavior or capacity to recognize reality which causes the person to be dangerous

# *Mental Abnormality* **(continued)**

- DSM-IV diagnosis
- Axis I or Axis II
- No V codes

# *Likelihood*

- The mental abnormality makes the person likely to engage in acts of sexual violence if not confined in a secure facility for control, care, and treatment.



# Differences from New Jersey Sex Offender Act

- At sentencing offenders are evaluated to determine whether they fall under the NJ sex offender act
- If determined that their behavior was “repetitive and compulsive” than they do a portion of their sentence at ADTC
- SVP law deals with the end of the offenders sentence and is focused on future behavior
- Likely some correlation between the two but not a perfect one

# Referral Process

- The process by which offenders are referred and possibly committed under NJ's SVP law

# Static-99 R

- Scores range from  $-3$  to 12
- Classifies subjects into four risk categories: LOW ( $-3$  through 1), LOW-MODERATE (2, 3), MODERATE- HIGH (4, 5), and HIGH (6 and above)

# What is a sex offense on the Static-99?

- Officially recorded sexual misbehavior or criminal behavior with sexual intent
- Offenses that directly involve illegal sexual behavior are counted as sex offenses even if the charge leads to a non-sexual conviction

# Validity

- Demonstrated predictive validity for males 18 years and older who have been charged or convicted of at least one sex offense
- Of some utility in assessing inmates whose sexual offenses occurred as juveniles but important to consider age of juvenile offense

# “Young”

- Age at exposure to risk- age at release
- weighted based on offender age

# **“Ever lived with an intimate partner for 2 years”**

- This is the only item that may be omitted
- If no information is available then this item is scored “0”
- Must be 2 years of continuous cohabitation
- May use self-report

# “Index non-sexual violence- any convictions”

- Convictions for non-sexual violent offenses at the same time they are convicted of the index offense
- Index offense: Generally the most recent sexual offense
- Index cluster: Most recent sexual offenses that together represent a chain unbroken by detection or legal sanction
- For example: Crime spree, historical factors detected after current conviction



## **“Prior non-sexual violence- any convictions”**

- Score 1 if the record shows a separate legal conviction for a non-sexual offense prior to the index offense

# “Prior Sex offenses”

- The only item on which more than one point can be awarded
- Remember, the Index cluster is the most recent sexual offenses that together represent a chain unbroken by detection or legal sanction

# “Prior sentencing dates”

- Count the number of distinct occasions where the offender was sentenced for criminal offenses
- Must be of a minimum level of seriousness but only truly trivial offenses do not count
- “Technical” parole violations don’t count

# **“Any convictions for non-contact sex offenses”**

- Self explanatory
- Examples: making obscene telephone calls, exhibitionism, possessing obscene materials, etc.

- Final 3 items on the Static-99 refer to characteristics of the victims
- Only real, live victims count (pornography for example)
- Consider *intention*
- May use all information available for these items including self-report

# Communicating Risk: Report Guidelines

- Guidelines for conducting the evaluation and documenting its results

# Adjusting Actuarially Generated Risk Levels

- “Clinical adjustments to base-rate estimates have the least chance of introducing error when the factors used to justify the adjustments have strong empirical support” (Hanson, 1998).
- Given the empirical data supporting the superiority of actuarial predictions of risk over clinical ones, the onus falls on the evaluator to demonstrate that any factor or combination of factors warrant an adjustment.

# Adjusting Upward

- Deviant sexual preferences
- Knowledge of previously undetected victims
- Police investigations that did not result in formal charges
- Stated intention to re-offend
- Any combination of factors specific to the individual that when considered together suggest higher risk



# Adjusting Downward

- USE EXTREME CAUTION
- Subjects is physically unable to re-offend (e.g. terminally ill and bed-ridden, paralyzed, unconsciousness)
- Period of time with opportunity to re-offend without re-offending
- Treatment

# Paraphilias

- Paraphilia refers to intense fantasies, urges, or behaviors that are deviant in either target (e.g. children) or content (e.g. fetish objects, humiliation, etc.)
- Paraphilia NOS refers to paraphilias that do not meet the criteria for any of the specific categories

# Personality Disorders

- Most common diagnosed personality disorder in SVP commitments is ASPD
- Not limited to ASPD but remember that the statute requires that the mental disorder manifests itself in risk

# Sexual Disorders

- Sexual disorder NOS refers to a sexual disturbance that does not meet criteria for any specific sexual disorder and is neither a sexual dysfunction nor a paraphilia
- Diagnostically, it is the individual's distress about their sexuality as opposed to fantasies, urges, or behaviors

# Impulse Control Disorders

- Refers to someone who seems unable to control his impulses including, but not solely, the sexual ones
- Typical pattern is of someone who shows impulsive actions in multiple life areas including the sexual