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## Short Term Reoffending by Child Victim Sex Offenders in New Zealand: A Comparison of Those With and Without Extended Supervision

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### Abstract

Sexual offenders with child victims in New Zealand who are considered at high risk for reoffending are subject to an Extended Supervision Order. This allows for a period of supervision of up to ten years following release to the community. The present study examined 89 offenders given Extended Supervision Orders over the 33 month period since the legislation was enacted. All types of reoffending resulting in criminal convictions by this group were included. A matched sample of sexual offenders with child victims released prior to this legislation and a sample of offenders judged to be lower risk were compared to those under extended supervision. Offenders under extended supervision reoffended faster and at a higher rate for both sexual and general offences than those deemed lower risk, but at a lower rate than pre-extended supervision high risk offenders. The relationship between specialist treatment programme attendance and completion, actuarial risk level, and recidivism in the extended supervision sample were also investigated. These variables were found not to be significant predictors of sexual recidivism.

### Introduction

There has been a proliferation of legislative initiatives in recent years aimed at protecting the public from high risk sex offenders, especially those with child victims. In 2004 seventy-three percent of all contact sexual offence convictions in New Zealand involved a victim under the age of 16-years. There were 1,219 convictions that year for contact sexual offences against a child victim (Lash, 2006). It is possible that this high percentage of offences against children corresponds to a lower rate of reporting such incidents against adult victims, but an unknown number of unreported sexual offences against child victims is also acknowledged. Low arrest and conviction rates for sexual offences have been reported internationally and in New Zealand, so that official reconviction rates are not likely to reflect the actual prevalence of sexual offending (Bass & David, 1988; Briere, 1992; McLean & Rush, 1990). However, the ongoing consequences for childhood victims of sexual

offending are well documented, from increased incidence of adult depression, substance abuse and isolation from peers, to anxiety and problematic sexual behaviours (Fergusson, Lynskey, & Horwood, 1996). Linehan (1993) refers to childhood sexual abuse as "one of the most traumatic invalidating experiences" a human being can undergo (p 4). Understanding the risk factors for sexual reoffending has important implications for judicial decision making with high risk sexual offenders.

The use of actuarial measures and assessment tools designed to predict risk based on dynamic variables is not without controversy. There is an ongoing debate in the literature about the optimal use of static actuarial indices of recidivism compared to structured clinical judgement (Berlin, Galbreath, Geary, & McGlone, 2003; Dvoskin & Heilbrun, 2001; Harris & Rice, 2003). Actuarial measures have been presented by some as the only legally defensible method for sexual risk prediction (e.g. Heilbrun, Dvoskin, Hart & McNiel, 1999). It has been argued that when diluted by clinical judgement, actuarial measures are open to systematic error that places society, potential victims and the rights of the offender at risk (e.g. Campbell, 2000; Harris, 2003).

However, the exclusive use of static actuarial measures does not allow for an etiological understanding of an individual's risk for reoffending. Static historical variables have been shown in many studies to be successful in predicting risk (Stadtland et al., 2005), but used in isolation they are most useful if the outcome measure is a simple dichotomy of recidivism or no recidivism. When using purely actuarial measures of risk, the specific contingencies leading to recidivism are not identified.

Decision making about release from prison, and the level of risk posed by sexual offenders after release, has moved towards consideration of various interventions for managing risk while an offender is in the community, as opposed to simple prediction of further offences occurring or not (Abracen, et al., 2004; Simourd, 2004). Risk prediction using actuarial measures that have been shown to be reliable and valid,

in combination with clinical judgement assessing dynamic risk factors applicable to individual offenders, is seen by some as the best way of informing judicial and offender management decisions (Dvoskin & Heilbrun, 2001; Roberts, Doren, & Thornton, 2002; Watson & Vess, 2007).

Using a combination model of actuarial risk and structured clinical judgment allows for greater clarity not only for the clinician, but also for judicial decision makers (Webster, Hucker and Bloom, 2002). When important decisions are made about the release of sexual offenders, or imposition of any special conditions upon release, it is no longer considered sufficient to base assessments of risk on this large, heterogeneous population. Specific information about the likelihood of reoffending for distinct subgroups of offenders is now available. Increasingly, more refined risk analysis and a more complete picture of offenders is being requested by criminal justice professionals and decision makers (Monahan, 2004).

Concern about sexual recidivism by offenders with child victims has led to the development of new legislation specifically targeted to this population in various jurisdictions in North America, the UK, and Australia (Roberts, Doren, & Thornton, 2002; Sample & Bray, 2006; Stalans, 2004; Vess, 2005). New Zealand recently introduced the Parole (Extended Supervision) Amendment Act 2004 ([www.legislation.govt.nz](http://www.legislation.govt.nz)), which allows for the supervision in the community of high risk sexual offenders with child victims for up to ten years after release from prison. When making determinations regarding extended supervision, the rights of the offender must be weighed against the rights of potential victims and potential harm to society. Some have argued that supervision of an offender after their release from prison is punishment for possible future wrongdoings. On one hand, there is currently no method of precisely predicting the future behaviour of any offender; this is seen as an ethical dilemma that society is yet to resolve (Pratt, 2001). However, assessing risk is one of the most important tasks in the criminal justice system, one which is unavoidable in judicial decision making. Actuarial risk assessment methods have consistently shown a useful level of predictive accuracy for sexual reoffending. The emerging consensus in the field seems to be that it is no longer an issue of whether risk can be predicted, but rather an issue of identifying and validating the best available methods to do so (Abracen et al., 2004; Borum, 1996; Miller, Amenta, & Conroy, 2005).

Under the Parole (Extended Supervision) Amendment Act 2004, any offender considered eligible for an Extended Supervision Order must be assessed by a clinician experienced in the field of forensic risk assessment. The clinician must provide the Court with a

report that specifies an offender's risk of sexually reoffending against children under the age of 16-years once they are released from prison. The report must stipulate "the nature of any likely future sexual offending by the offender, including the age and sex of likely victims, the offender's ability to control his or her sexual impulses, the offender's predilection and proclivity for sexual offending, the offender's acceptance of responsibility and remorse for past offending, and any other relevant factors" (Parole (Extended Supervision) Amendment Act, 2004, section 107 (F) (2)). The writing of this report is informed by the use of an actuarial measure, the Automated Sexual Recidivism Scale (ASRS). The ASRS was developed by the New Zealand Department of Corrections and normed on large samples of sexual offenders released to the community for periods of up to 15 years. It has shown levels of predictive validity similar to other internationally recognized actuarial measures (Skelton, Wales, Riley, & Vess, 2006). The risk assessments for extended supervision also routinely include a measure of dynamic risk factors, the Sex Offender Need Assessment Rating, or SONAR (Hanson & Harris, 2000, 2004).

An issue in many risk assessments is whether the offender has received treatment focusing on sexual offending against children. Yet, the impact of specialist treatment programmes for sexual offenders with child victims on offenders' reoffending remains uncertain. Some research, including longitudinal studies, has concluded that treatment programmes for sexual offenders with child victims had no significant effect on reoffending rates (Marques, Wiederanders, Day, Nelson, & van Ommeren, 2005; Rice, Harris, & Quinsey, 1993); while other studies have reported that specialist focused treatment has been shown to reduce predicted future sexual reoffending of programme participants (Looman, Abracen, & Nichloaichuk, 2000; Marshall & Serran, 2000; Rice & Harris, 2003).

Two dedicated treatment units for sexual offenders with child victims operate within New Zealand prisons; Te Piriti at Auckland Prison and Kia Marama at Rolleston Prison. The treatment programmes are designed for male offenders who have one or more convictions for sexual offending against a victim under the age of 16-years. A review of the Kia Marama specialist treatment programme for sexual offenders with child victims was undertaken by Bakker, Hudson, Wales and Riley (1999). The authors found that the sexual recidivism rate of programme graduates was half that of a comparable control of sexual offenders with child victims who had never attended a specialist treatment programme (ten percent vs. 21 percent). The Te Piriti specialist treatment programme for sexual offenders with child victims adopts a bi-cultural approach and has been shown to have a significant

effect in reducing sexual reoffending for all participants regardless of their reported ethnicity (Nathan, Wilson and Hillman, 2002). In their evaluation of the programme, Nathan et. al., (2002) reported graduates had a 5.5 percent sexual recidivism rate, compared to 21 percent for a control group.

Hanson and Bussiere (1998), in their meta-analysis of sexual offending found that successful completion of treatment was linked to lower recidivism. A study of drop out rates at an adolescent residential sexual offender treatment programme showed that drop outs were more likely to reoffend both violently and sexually (Edwards et al., 2005). Research on reoffending by adult sexual offenders with child victims in specialist treatment has yielded similar results, with offenders who do not complete the programmes reoffending over a shorter time-span and with more serious offences (Stadtland, et al., 2005). The results of recent treatment outcome studies suggest that offenders who drop out of treatment reoffend, both in terms of general recidivism and sexual recidivism, at a faster rate upon release from prison compared to those who completed specialist treatment programmes (Langton, Barbaree, Harkins & Peacock, 2006).

The current study is an exploration of reoffending over a thirty-three month period by a high risk sample of sexual offenders against children. The study was undertaken to identify commonalities, and differences, that may be used to further refine risk judgements made about sexual offenders with child victims. Three groups of sexual offenders with child victims were included. The first sample consisted of all offenders released into the community with active Extended Supervision Orders, the second sample consisted of all offenders where an Extended Supervision Order was considered, but a decision was made not to proceed because the offender's risk was not considered high enough, and the third sample was a cohort of sexual offenders with child victims released into the community prior to the passing of the Parole (Extended Supervision) Amendment Act 2004. Rates and types of reoffending were compared, and variables that distinguish those who reoffend from those who did not were examined.

## Method

### Participants

All samples consisted of male offenders. The three samples of offenders were as follows.

**Extended Supervision Order (ESO) offenders** This sample of offenders were those on whom an Extended Supervision Order had been imposed from July 2004 (when the legislation was passed) to 31 October 2006 and who had been released from prison. The study

followed these offenders from release until 31 December 2006, for a maximum follow up time of thirty-three months at large in the community under extended supervision. Nationally (as at 31 October 2006), there were 99 offenders on whom an Extended Supervision Order had been imposed by the Court. Ten cases were excluded from final statistical analyses due to offenders having an Order imposed prior to release from prison and incomplete data being available. This left 89 offenders available for analysis.

The ethnic composition of the ESO sample was 60 percent New Zealand European (54 offenders), 33 percent Maori (29 offenders) and seven percent Pacific Island Nations (6 offenders). The mean age of these offenders at the time the Order was imposed was 37.8-years, with the age range from 20-years to 65-years. The median follow-up time for this sample was thirteen months. The mean total number of convictions imposed prior to the Extended Supervision Order relevant offence was 33, with the range of convictions for individual offenders from two to 108.

### No Extended Supervision Order (No-ESO) offenders

This sample consisted of sexual offenders with child victims who were considered for an Extended Supervision Order, but were concluded to present a level of risk too low for such an order based on available assessment information. A total of 54 offenders were included in this sample. Fifty-three percent of this sample were New Zealand European (28 offenders), 31 percent Maori (17 offenders), 15 percent Pacific Island Nations (8 offenders) and one percent identified as Other. The mean age of this sample of offenders at the time of release from prison was 37-years, with a range from 18-years to 70-years. The median follow-up time for this sample was eighteen months. The mean number of convictions prior to release in this sample was 24.7, with a range from one to 79 convictions.

### 1992-1993 released offenders control sample

A Control sample of offenders released from prison in 1992-1993, after serving a sentence for sexual offending against a child was included. The general eligibility criterion for consideration for an Extended Supervision Order is an ASRS score in the risk category of medium-high or high. File information for offenders released in 1992-1993 were accessed and those with an ASRS score of medium-high or above were selected as the Control sample. The release years of 1992-1993 were chosen because information on the ASRS score and demographic data for these offenders were accessible through the Department of Corrections computerised files.

A total of 56 offenders were released from prison in 1992-1993 with an index sexual offence against a child

victim and an ASRS score in the medium-high to high range. After removing offenders for whom complete data were not accessible, 34 offenders were available for analysis. Seventy-nine percent of this sample were New Zealand European (27 offenders) and 21 percent Maori (seven offenders). No offenders identified as Pacific Island Nations. The mean age of offenders at time of release from prison in 1992-1993 was 41.1-years, with the age range from 21-years to 60-years. The mean number of total convictions imposed prior to release in this sample was 24.5, with the range of convictions for individual offenders from four to 82.

### **Procedure**

For the purpose of this study recidivism or reoffending was considered to be any offence (sexual or non-sexual) recorded on an offender's Criminal and Traffic Conviction History, which is an official record of convictions used by the Police, Department for Courts and Department of Corrections. The recording of an offence on an offender's conviction history indicates they have been convicted of the named offence in Court. From this data the date of the offending was also obtained. This data was accessed for each offender, along with a record of attendance at one of the two specialist child sexual offending treatment programmes in New Zealand prisons (if attended) and whether or not the programme had been completed. In addition, ASRS scores and (where available) SONAR scores for each offender were gathered from the risk assessment reports provided for each offender. Data was anonymous with numerical identification used for each offender during data collection and analysis.

Recidivism data was collected for each offender in the three samples. For those offenders who reoffended, the type of offence was examined and placed into one of eight offence categories specified for convictions by the Ministry of Justice (Lash, 2006). These categories are; violent offences (including sexual offences), other offences against persons, property offences, drug offences, offences against justice, offences against good order, traffic offences, and miscellaneous offences.

### **Data Analysis**

All reoffence convictions were statistically analysed for the Extended Supervision Order (ESO) sample and the Control sample. Within-group data for the group not given Extended Supervision (No-ESO group) were not conducted because only two members of this group reoffended. Data from these offenders was used in between-group comparisons of the ESO sample and the Control sample.

Chi-square analyses were performed on ASRS and reoffending data to investigate any significant

differences for reoffenders in each sample. Kaplan-Meier survival analyses were conducted to look at the survival time (time from release from prison to reoffending). Logistic regression was also performed to investigate any variables predictive of the categories of general and sexual recidivism. Attendance at specialist child sexual offending treatment programmes, completion of treatment programme, SONAR scores (where available) and ASRS score were used as predictor variables.

### **Results**

Time at large in the community for the Control sample was substantially longer (up to 160 months). To control for this, thereby allowing meaningful comparison, recidivism data was analysed for the 33-month period from the date of release of the first offender in the sample from the index sexual offence with a child victim. This recidivism data is presented in Table 1. Offenders in the No-ESO sample reoffended generally at a significantly lower rate than those in the ESO sample, 23.6 percent compared to 3.7 percent (Fisher's exact test,  $p < .001$ ). The majority of offences committed were in the 'Against justice' category. A conviction in this offence category means that an offender has breached the conditions of their supervision, failed to answer District or High Court bail, breached a protection order, or breached conditions of release from prison. Convictions in this category may be a direct result of being in the community under the conditions of an Extended Supervision Order, given that 'Against justice' offences specifically include Breach conditions of supervision. There was no significant difference in sexual recidivism rate, with the ESO sample showing a rate of 4.5 percent compared to the No-ESO sample sexual recidivism rate of 1.9 percent (Fisher exact test,  $p = .64$ ).

The results in Table 1 also show that the Control sample had significantly higher rates of sexual recidivism (Chi-square = 17.83,  $p < .001$ ), particularly against child victims. Two of the sexual offenders in the ESO sample had reoffended sexually against a child victim and two had reoffended sexually against an adult victim. The data for offenders from the ESO sample who reoffended sexually was looked at in more depth. These data are presented in Table 2. Several variables were investigated that the literature suggests are associated with reoffending sexually against child victims. The two offenders who sexually reoffended against child victims (<16-years) both had prior unrelated female victims. The most rapid reoffending was against child victims, with sexual reoffending by the two offenders with adult victims (>16-years)

Table 1. Recidivism data for all samples over 33-month follow-up period

	<u>Extended Supervision</u> (n = 89)	<u>Control</u> (n = 34)	<u>No Extended Supervision</u> (n = 54)
General recidivism	23.6 % (21)	38.2% (13)	3.7% (2)
Most offence type*	Against justice	Against justice	Against justice
Total Sexual recidivism	4.5% (4)	17.6% (6)	1.9% (1)
Sexual child victim	2.2% (2)	14.7% (5)	0%
Sexual adult victim	2.2% (2)	2.9% (1)	1.9% (1)
Days to first offence	1	3	528
Length of follow-up	33 months	33 months	33 months

\* Offence category as defined by Ministry of Justice (Lash, 2006).

The numbers noted in parentheses are the number of offenders, not number of convictions

occurring a substantially longer time after release from prison (46 days and 10 days compared with 604 and 731 days). The offender from the No-ESO sample who reoffended sexually was 27 years of age. He offended 568 days after release from prison against an adult victim. The offender had an ASRS score in the high risk category and had previous female and male child victims.

Table 2. Sexual recidivists from the Extended Supervision Order sample

	Offender 1	Offender 2	Offender 3	Offender 4
Age at reoffending	63 years	32 years	39 years	23 years
ASRS risk category	High	Medium-High	High	High
Days to sexual reoffence	46	10	604	731
Male victims	Yes	No	No	Yes
Female victims	Yes	Yes	Yes	Yes
Unrelated victims	Yes	Yes	Yes	Yes
Related victims	Yes	No	Yes	No
Reoffence victim	Child	Child	Adult	Adult

### Survival Analysis

Survival analysis allows for the comparison of recidivism rates while controlling for any differences in the time that offenders are at risk in the community. In this study survival analysis was used to compare the recidivism rates of offenders in different ASRS categories from the ESO sample. Kaplan-Meier Product-Limited survival analysis was used because this method allows for giving equal weighting to each offender regardless of the amount of time in the community. The cumulative survival function signifies the proportion of offenders who have not reoffended. Data was collected from the date each offender was released from prison until date of reoffending or the study cut-off date 31 December 2006 with a maximum at risk period of 33 months.

Figure 1 shows the survival curve for the ESO sample for time to reoffending by ASRS category. The results show a significant difference between ASRS risk categories. The paths diverge almost immediately indicating that offenders in the high ASRS category reoffended at a faster rate upon release from prison. The inclusion criteria for recommendation for an Extended Supervision Order includes offenders in the medium-low ASRS category who are judged to have sufficiently high dynamic risk to qualify as an 'override' of the relatively lower static risk. These offenders are included in Figure1. This is a small group totalling three offenders, and the rate of reoffending

therefore looks more dramatic on the survival curve analysis. The rate of reoffending by this ‘override’ group suggests that the assessed risk of these offenders was comparable to others included in the ESO sample.

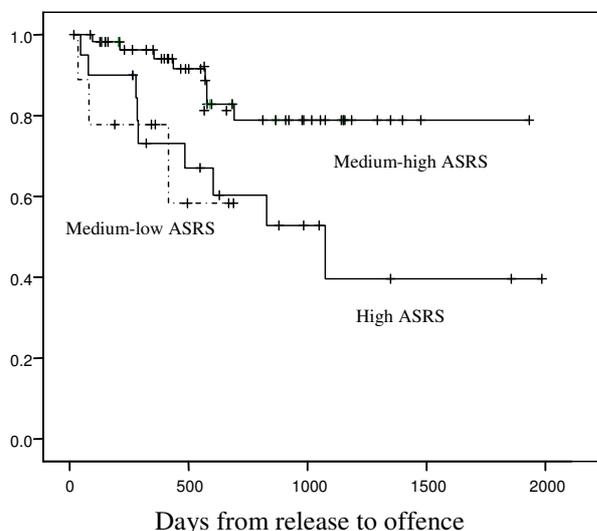


Figure 1: Survival curve for Extended Supervision Order sample

A log-rank test of equality was used to compare whether or not the survival curves for each group were proportional (i.e., the survival functions were approximately parallel). The Mantel-Cox Log Rank test for time to re-conviction was significant ( $\chi^2 [2] = 8.7, p < .05$ ), indicating that the survival curves were significantly different between the ASRS risk categories. This shows that those offenders in the high ASRS category were re-convicted at a higher frequency and took less time to reoffend than those in other risk categories. This result supports the findings that offenders in the ASRS high risk category were at a higher risk of reoffending upon release from prison.

### Logistical Regression Analysis

To determine the influence of independent predictor variables on recidivism the data was analysed using logistic regression. Regression analyses allowed an examination of the predictive validity of various independent variables and allowed for testing of different combinations of predictor variables. The logistic regression procedure is based on the dichotomous criterion event of reoffending. It was considered valid and efficient to use the ASRS risk category as a predictor variable as this data includes number of prior sexual convictions, number of prior sentencing dates, any convictions for non-contact sexual offences, index offence containing non-sexual

violence, prior non-sexual violence charges, and any male victims for each offender. Also included as predictor variables were attendance at one of the two specialist treatment programmes for sexual offenders with child victims and, if attended, programme completion. Forward stepwise logistic regression was used to determine the variables included in the predictive model. The results are presented in Table 3. These results show that ASRS risk category approached significance ( $Exp(B) = .40, p = .058$ ). Attendance at a specialist treatment programme for sexual offending against child victims was not significant ( $Exp(B) = 21.9, p = .09$ ). Completion of a specialist treatment programme approached significance ( $Exp(B) = 6.7, p = .055$ ).

Table 3. Summary of logistic regression analysis for prediction of supervision

	95% CI for exp b				
	Wald's	B(SE)	Lower	exp b	Upper
<u>Included</u>					
Constant		3.9		0.00	
ASRS risk category	3.59	0.48	0.16	0.40	1.03
Programme attendance	2.78	1.90	0.58	21.96	832.41
Programme completion	3.68	0.99	0.90	6.75	47.46

### Discussion

Extended Supervision Orders are used as a means to closely manage sexual offenders against children who have been judged to be at the highest risk of sexually reoffending against child victims. The results of the study showed that offenders subject to an Extended Supervision Order reoffended at a higher rate, both in terms of general recidivism and sexual recidivism, compared to those offenders who were considered for but not subjected to extended supervision. Only two offenders in the latter sample reoffended (one sexually), suggesting that the decision to base extended supervision eligibility on risk of reoffending was valid. In comparison to the two recidivists in this group, 21 offenders in the Extended Supervision Order group reoffended (four sexually).

Of the four in the Extended Supervision Order group who reoffended sexually, two were against child victims (<16-years) and two against adult victims (>16-years). For offenders with previous child sexual

offending convictions to reoffended sexually against adult victims is an unusual finding in the research literature on sexual offenders with child victims, but not unprecedented (Hanson & Morton-Bourgon, 2004). Contrary to the assumption that sexual offenders against children tend to specialize in this type of offending, several studies have found that sexual offenders with child victims tend not to specialise when reoffending compared to other types of offenders, such as violent offenders (e.g. Sample & Bray, 2006; Stadtland, et al., 2005; Parkinson et al., 2004). These studies have found that arrest for sexual offending against a child, in and of itself, is not predictive solely of further sexual offending with child victims. Many offenders continue to offend against property, public order and some sexually offend against adult victims (Miethe, Olson & Mitchell, 2006).

Perhaps the most relevant finding of the current study is the differences in rate and type of reoffending between those in the Extended Supervision sample and those in the Control sample. In the 33-month period under examination, the Control sample reoffended both generally and sexually at a higher rate than those on extended supervision. There was also a striking difference in the types of offences committed, with most of the Extended Supervision sample committing offences that reflect breaches of their supervision conditions, compared to less than 20 percent of the Control sample. This appears to be a result of the increased scrutiny that extended supervision places on offenders. In some cases, the breached conditions clearly represented behaviours that were considered precursors to the offender's pattern of previous sexual offences. There is no certainty that these offenders would have progressed to new sexual offences. However, the primary function of extended supervision is public protection. In these cases, it can be argued that this purpose was being served.

Analyses of reoffending using ASRS risk categories, attendance at specialist treatment programmes for sexual offenders with child victims, or completion of these programmes as predictor variables showed that ASRS risk category and completion of treatment approached, but failed to reach statistical significance. Lack of statistical significance is likely to be a function of the relatively small cell sizes, the limited follow-up period currently available, and the truncated distribution of scores with the consequent reduction in sample variance. In practical terms the offenders' ASRS risk category is considered a good prediction of risk of reoffending based on earlier findings with larger, more diverse samples and longer time at risk in the community. A substantial constraint in the current study is the limited follow-up time. Reoffence rates increase over time, as offenders have more opportunity to reoffend in the community. Further investigation of

the current sample over a longer follow-up period is planned, and should provide a more complete picture of the factors associated with sexual reoffending.

Attendance alone at a specialist treatment programme for sexual offenders with child victims did not have an effect on whether or not an offender was likely to reoffend. Completion of the programme approached significance, but this comparison was also hampered by the same limitations cited for ASRS risk scores. Larger samples and longer follow-up are required to more adequately address the issue of treatment effectiveness in reducing sexual recidivism as a function of a priori risk.

Prediction of risk is primarily concerned about the accuracy of a measure or method used by the clinician to place the offender in a category that defines the probability of reoffending. Taking a purely individualised or idiographic approach to risk estimation is poor practice. Clearly defining risk categories can guide an offender's management while incarcerated; such as placement in particular institutions, employment options and access to treatment programmes. Assessed level of risk can also inform decisions regarding release, including levels of supervision required. Only the highest risk offenders should be subjected to unusual limitations of their freedom, and public safety is best served by placing the highest risk offenders under the closest supervision. Risk assessments with sexual offenders should be both transparent in their reasoning and verifiable by peer-reviewed research. Structured clinical judgement, using a combination of properly validated actuarial measures and empirically grounded dynamic risk factors, currently presents the best available approach to assisting judicial decision-making with high risk offenders. The effectiveness of initiatives such as extended supervision for enhancing public safety will remain the focus of ongoing empirical investigation.

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