SENTENCING SEX OFFENDERS

A MODEL CURRICULUM FOR JUDGES

JUDICIAL EDUCATOR AND FACULTY HANDBOOK
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-- Daphne A. Burns, Program Attorney
# Table of Contents

I. Curriculum Overview ................................................................................................................. 1  
   A. Components of the Curriculum ......................................................................................... 1  
   B. Evaluating the Curriculum .............................................................................................. 1  

II. Suggestions for the Judicial Educator and Faculty ................................................................. 2  

III. Presenting the Curriculum ...................................................................................................... 3  
   A. Three-Hour Course Presentation ...................................................................................... 3  
   B. Six-Hour Course Presentation .......................................................................................... 4  
   C. Eight-Hour Course Presentation ...................................................................................... 4  

IV. Faculty Selection and Judicial Education Tools ....................................................................... 5  
   A. Faculty Selection .............................................................................................................. 5  
   B. Notes for Faculty ............................................................................................................. 5  
   C. Modification of Curriculum ............................................................................................. 6  
   D. Helpful Hints ................................................................................................................... 6  
   E. Adult Learning Activities ................................................................................................. 6  

IV. Modules .................................................................................................................................... 8  
   A. Module One: Understanding Sex Offenders and Sexual Victimization ......................... 9  
   B. Module Two: Assessment of Sex Offenders ..................................................................... 32  
   C. Module Three: Treatment and Supervision of Sex Offenders ......................................... 63  
   D. Module Four: Case Studies: .............................................................................................. 89  
   E. Module Five: Sentencing Decision and Its Implications, Including Conditions to Impose ........................................................................................................................................ 173  
   F. Module Six: Evidence-Based Sentencing ........................................................................ 217  
   G. Module Seven: Sex Offender Registration and Notification Act ..................................... 239
SENTENCING SEX OFFENDERS: A MODEL CURRICULUM FOR JUDGES

I. CURRICULUM OVERVIEW

This course will assist trial judges in developing sentencing practices for some of the most challenging criminal defendants: convicted sex offenders. The curriculum was designed to serve as an introduction to six facets of sentencing and managing sex offenders: the contemporary research and literature on sex offenders and sexual victimization; tools used to assess sex offenders, and the areas of uncertainty; types of treatment and other interventions used to reduce the risk of offenders; sentencing decision and its implications, including conditions to impose; evidence-based sentencing research; and the Sex Offender Registration and Notification Act.

A. COMPONENTS OF THE CURRICULUM

The curriculum consists of the following seven modules:

Module One: Understanding Sex Offenders and Sexual Victimization;
Module Two: Assessment of Sex Offenders;
Module Three: Treatment and Supervision of Sex Offenders;
Module Four: Case Studies
Module Five: Sentencing Decision and Its Implications, Including Conditions to Impose;
Module Six: Evidence-Based Sentencing; and
Module Seven: Sex Offender Registration and Notification Act.

To present these seven modules, the CD contains these components:

- PowerPoint® presentations for Modules One, Two, Three, Five, Six, and Seven with substantive faculty notes;
- Case Studies, with a synopsis for each case, in Adobe®; and
- Resource Center with articles, additional resources, and references for the presenter and participants.

B. EVALUATING THE CURRICULUM

In the Resource Center on the CD, you will find three documents that will assist in evaluating the curriculum: (1) a document entitled, "Levels of Evaluation – An Introduction to Evaluations," which outlines the evaluation process; (2) a Level One evaluation; and (3) a post-course quiz. The National Judicial College asks that those who use this curriculum utilize the evaluation and post-course quiz; compile the results; and forward them to the following e-mail address:
address: info@judges.org. Alternatively, we ask that you simply forward the raw evaluations and quiz answers, and NJC will compile them. NJC will use these data to modify later versions of the curriculum.

II. SUGGESTIONS FOR THE JUDICIAL EDUCATOR AND FACULTY

The curriculum was designed to be presented in three-to-eight hours, depending upon the needs and time available for presenting the course. Below are brief descriptions of each module, together with the approximate time for delivering the module, to assist you in planning your course. (Lengthier descriptions, together with learning objectives, precede the modules, which are set forth below beginning on page 12.) In the “Presenting the Curriculum” section, below, are recommendations for presenting three-hour, six-hour, and eight-hour courses.

MODULE ONE: UNDERSTANDING SEX OFFENDERS AND SEXUAL VICTIMIZATION

The first module briefly summarizes the contemporary research and literature on sex offenders and sexual victimization.

Approximate time: 55-75 minutes, depending upon length of discussions

MODULE TWO: ASSESSMENT OF SEX OFFENDERS

The assessment module provides information on assessments commonly used to estimate risk posed by sex offenders, along with some of the areas of uncertainly in the assessments, and expected qualifications of those who conduct the assessments.

Approximate time: 55-80 minutes, depending upon length of discussions

MODULE THREE: TREATMENT AND SUPERVISION OF SEX OFFENDERS

This module describes sex offender-specific treatment, its goals, strengths and weaknesses. With one of the goals of treatment being to reduce the offenders’ risk of re-offending, the information in this module will assist judges in making informed decisions that complement this goal.

Approximate time: 45-65 minutes, depending upon length of discussions

MODULE FOUR: CASE STUDIES

Module Four consists of five case studies derived from actual cases. The cases were chosen based on the varying crimes, offenders, and victims they present. The case studies are an integral part of the curriculum and should be used for any length course, as discussed more fully under “Modules” section, beginning at page 9, below.

Approximate time: 15-20 minutes of small group discussion per case
MODULE FIVE: SENTENCING DECISION AND ITS IMPLICATIONS, INCLUDING CONDITIONS TO IMPOSE

There are two versions of Module Five: Module Five-S – a shorter version, for use in conjunction with Module Two; and Module Five-L – a longer version, for use at a course or presentation without Module Two. Module Five-L contains assessment slides; Module Five-S does not. Both versions of the module provide information on sentencing factors judges may consider in sex offender cases; the role of the victim at trial and sentencing; appropriate conditions of probation; and other issues relative to sentencing.

Approximate time:

Module Five-S: 55-80 minutes, depending upon length of discussions
Module Five-L: 70-100 minutes, depending upon length of discussions

MODULE SIX: EVIDENCE-BASED SENTENCING

This module provides an overview of evidence-based practice research and demonstrates the relevance of this body of work to the management of adult sex offenders.

Approximate time: 50-90 minutes, depending upon length of discussions

MODULE SEVEN: SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Module Seven was prepared by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) of the U.S. Department of Justice. It describes the responsibilities of the SMART Office and summarizes the Sex Offender Registration and Notification Act (SORNA).

Approximate time: 15 minutes

III. PRESENTING THE CURRICULUM

A. THREE-HOUR COURSE PRESENTATION

For a three-hour curriculum, we recommend the following (approximately 115-180 minutes,* depending upon length of discussions):

Module Five-L: Sentencing Decision and Its Implications, Including Conditions to Impose, through Slide 45 (approximately 70-100 minutes);

Module Four: Case Studies: Select two case studies for small groups to discuss (approximately 30-40 minutes total); and
Module Five-L: (Continued) – depending upon which two Case Studies are chosen (an additional approximately 10-15 minutes):

- John A. Doe – Slides 48-54; and/or
- John B. Doe – Slides 55-61; and/or
- John C. Doe – Slides 62-69; and/or
- Jane A. Doe – Slides 71-80; and/or

*Note: Although this curriculum can be completed in approximately two hours, we recommend allowing for additional time for discussion of these subjects in this particularly challenging area of sentencing.

B. **SIX-HOUR COURSE PRESENTATION**

For a six-hour curriculum, we recommend the following (approximately 255-355 minutes,* depending upon length of discussions):

- **Module One:** Understanding Sex Offenders and Sexual Victimization (approximately 55-75 minutes);
- **Module Two:** Assessment of Sex Offenders (approximately 55-80 minutes);
- **Module Three:** Treatment of Sex Offenders (approximately 45-65 minutes);
- **Module Four:** Case Studies: Select two case studies for small groups to discuss (approximately 30-40 minutes total):
  - John A. Doe – Slides 48-54; and/or
  - John B. Doe – Slides 55-61; and/or
  - John C. Doe – Slides 62-69; and/or
  - Jane A. Doe – Slides 71-80; and/or
  - Jane B. Doe – Slides 81-88; and

- **Module Five-S:** Sentencing Decision and Its Implications, Including Conditions to Impose (approximately 55-75 minutes, plus an additional 10-15 minutes for case studies discussion (based on two case studies)).

*Note: Although this curriculum can be completed in approximately four-and-a-half hours, we recommend allowing for the additional time for discussion of these subjects in this particularly challenging area of sentencing.

C. **EIGHT-HOUR COURSE PRESENTATION**

For an eight-hour curriculum, we recommend the following (approximately 320-465* minutes, depending upon length of discussions):
Module One: Understanding Sex Offenders and Sexual Victimization (approximately 55-75 minutes);

Module Two: Assessment of Sex Offenders (approximately 55-80 minutes);

Module Three: Treatment of Sex Offenders (approximately 45-65 minutes);

Module Four: Case Studies: Select three case studies for small groups to discuss (approximately 45-60 minutes total):

- John A. Doe – Slides 48-54; and/or
- John B. Doe – Slides 55-61; and/or
- John C. Doe – Slides 62-69; and/or
- Jane A. Doe – Slides 71-80; and/or
- Jane B. Doe – Slides 81-88; and

Module Five-S: Sentencing Decision and Its Implications, Including Conditions to Impose, through Slide 45 (approximately 55-75 minutes, plus an additional 10-15 minutes for case studies discussion (based on two case studies));

Module Six: Evidence-Based Sentencing (approximately 50-88 minutes) or, alternatively, a session on applicable state law. If you choose to present a session on applicable state law, we recommend you schedule that module before Modules Four and Five.

*Note: Although this curriculum can be completed in approximately five-and-a-half hours, we recommend allowing for the additional time for discussion of these subjects in this particularly challenging area of sentencing.

IV. FACULTY SELECTION AND JUDICIAL EDUCATION TOOLS

A. FACULTY SELECTION

The curriculum was designed to be presented by a judicial officer who is paired with someone with a doctoral degree in psychology or medical degree in psychiatry to present the clinical modules (Modules One through Three). We encourage you to select presenters with a strong working knowledge of the topics so they can add commentary and draw on their experience in the presentations. The presenters should review this faculty manual, PowerPoint® presentations, case studies, quiz, and other documents included with this model curriculum including those contained in the Resource Center on the CD.

B. NOTES FOR FACULTY

After the overview of each module, below, there is a reproduction of the PowerPoint® slides and the notes contained therein, to assist the faculty member with teaching. The majority of PowerPoint® presentations contain notes for the presenter within the slides. The
notes were developed to assist the presenter with his or her presentation and not necessarily as part of the course materials for the participants.

C. MODIFICATION OF THE CURRICULUM

This curriculum was developed as an introduction to the subject matter. The presenter may modify the presentation and exercises to meet the needs of the audience, styles of the presenters, and amount of time allotted for the sessions.

D. HELPFUL HINTS

Please note that the PowerPoint® presentations were developed with the Microsoft® Office XP version of PowerPoint®, but they may be used and modified with any version of Microsoft® PowerPoint®.

We recommend printing the PowerPoint® presentations as a handout for the participants.

Equipment needed for presentation of the curriculum: LCD projector; computer with any version of Microsoft® PowerPoint® software; and display screen.

E. ADULT LEARNING ACTIVITIES

This judicial educator and faculty guide, and the PowerPoint® presentations, contain recommended adult learning activities for each module and for particular slides within the modules. Using the case studies throughout the curriculum presents an ongoing, and important, activity. The activities that follow are recommended as additional exercises for use with the curriculum:

ACTIVITY FOR SMALL GROUPS

• Give all instructions before splitting them into groups.
• Develop explicit instructions concerning what you want them to do.
• Provide a handout with written as well as oral instructions for the activity.
• Ask each group to select a reporter (if necessary – for reporting back to the larger class) and a recorder (if necessary – for producing a written product to be reported back to the larger class).
• Set a time limit. You can be flexible but give them some idea of how long you anticipate the activity to take.
• Before ending the group work, give the participants a one-minute time warning telling them to wrap things up.
• If there is a report-back, be clear in your instructions about what you expect the reporters to report.

BRAINSTORMING

• Provide a clear statement about what you want the participants to brainstorm.
• Have a title prepared on your easel pad with a summary of the statement.
• Write each response as it is provided.
• Seek clarification on each provided point or ask the participant, “May I write x” to
  simplify the entry or otherwise frame it so it fits the objective.
• Don’t critique or allow others to critique.
• Consider asking a participant or fellow instructor to capture the responses
  (ensure they have good handwriting and can spell).
• Provide closure for the brainstorming exercise. State why you solicited ideas and
  how they fit into the larger educational session.

ROLE PLAYS

• Provide a cast of role players.
• Provide a script or have students improvise dialogue (the latter is preferred).
• Ensure that the role play is relatively brief (3 to 5 minutes at most).
• Base the role play on a factual scenario that is realistic.
• Consider providing differing information to the various role players to more
  realistically represent the fact that different persons would have access to
  different information.
• Provide sufficient time to adequately debrief the role play.

DISCUSSIONS

• Plan key questions in advance.
• Consider beginning with simple questions and progressing to the more complex
  questions.
• Identify what the likely answers will be to your questions.
• Be prepared with follow-up comments or to emphasize the salient issues.
V. MODULES

A. MODULE ONE: UNDERSTANDING SEX OFFENDERS AND SEXUAL VICTIMIZATION

DESCRIPTION OF THE MODULE

The first module briefly summarizes the contemporary research and literature on sex offenders and sexual victimization. While the information provided may confirm what the audience members already know about these offenders and victimization, it may also challenge some of their perceptions and beliefs; it also identifies areas of controversy.

Approximate time: 55-75 minutes, depending upon length of discussions

LEARNING OBJECTIVES

At the conclusion of this module, participants will be able to:

- Name the most common victim-offender relationships and locations for crimes;
- Discuss the issues surrounding sexual victimization;
- Describe ways in which sex offenders differ from one another;
- Understand implications of diversity on sentencing; and
- Describe some of the current uncertainties about sex offense and recidivism data.

ACTIVITIES & EXERCISES

- Introductory Quiz
- Large Group Discussions

HANDOUTS

- Introductory Quiz

The presenter should distribute the one-page quiz about sex offenders, sexual victimization, and management of these cases (for use with the presentation of Modules One through Three) before beginning the presentation. Participants should be instructed to complete the quiz on their own. The presenter can indicate that the items on the quiz will be discussed throughout these three modules, and there will be a “check in” about the correct answers at the end of the event so that participants can evaluate their level of knowledge, and gauge if – and how – it changed throughout the day.
Lecture (less than 1 minute):
This first module briefly summarizes the research and literature on sex offenders and sexual victimization. While the information provided may confirm what the audience already knows about these offenders and victimization, it may also challenge some of their perceptions and beliefs and identify areas of controversy. At the end of this module, there will be a brief discussion on the implications of the information provided on sentencing practices in sex offense cases.

Lecture and Large Group Discussion (1 minute):
Review the learning objectives for this session with the participants. (“At the conclusion of this module, the participants will be able to . . .”)

Quiz (2-3 minutes):
The presenter should distribute the one-page quiz about sex offenders, sexual victimization, and the management of these cases. Participants should be instructed to complete the quiz on their own. The presenter can indicate that the items on the quiz will be discussed throughout the modules, and that there will be a “check in” about the correct answers at the end of the event so that participants can evaluate their level of knowledge, and gauge if – and how – it changed throughout the day.

This slide contains an overview of how, and in what order, the materials in this module will be presented.
Factors that Pose Difficulties in Sex Offender Cases

- Disproportionate media attention
- Negative public sentiment
- Widespread myths, conflicting information
- Proliferation of sex offender-specific laws
- Imperfect science

Lecture (1 minute):
Because of the nature of sex crimes and the significant impact that can result from sexual victimization, few criminal justice populations create as much public concern as sex offenders. The extensive media coverage of these crimes may influence the public’s and criminal justice system actors’ perceptions and beliefs about these cases, and can contribute to fears among community members about their safety and the potential for sexual victimization. The media’s interest in these cases may also reinforce myths and misinformation about the individuals who commit sex crimes and the people who are most likely to be targeted. A number of these myths will be covered during this module. This and other modules will also address areas of controversy within the research community.

Misunderstandings about sex offenders – particularly in the absence of information about the sex offender management strategies that are currently in place in a jurisdiction – can increase community members’ understandable concerns, and lead to demands for additional efforts by the criminal justice system to protect them and their communities.

Lawmakers at the federal, state, and local levels have responded by proposing and enacting sex offender-specific legislation at an unprecedented level over the past few years. A number of these laws, including those that require mandatory minimum sentences for certain sex offenses and registration and community notification, limit judicial discretion in these cases and impact sentencing.
Research on Judges’ Difficulties in Sex Offender Cases

What Difficulties Have You Faced?

Large Group Activity (3-4 minutes):
The presenter should query the audience about issues they have experienced that make judicial decision-making in these cases challenging, and capture the reflections of those present in writing on a dry erase board. This exercise will provide the presenter with important information about the perspectives, questions, and needs of those in the room, and may help him/her to determine what topics in this curriculum need more or less attention during the session. In addition, as the event progresses, the presenter can refer back to the list when the issues that are mentioned during this brainstorming session are addressed, thereby making it clear to the audience that one of the purposes of the event is to meet their needs for information about these cases. For example, one or more judges might express concern about the quality of specialized assessment information that they receive prior to sentencing in these cases. This issue is covered in the modules that follow on assessment and evidence-based sentencing. When these topics surface in subsequent modules, the presenter can refer back to the list generated during this discussion and connect these stated “concerns” to the topics being discussed.
Lecture (1-2 minutes):
The judges in the survey were asked to compare their experiences presiding over sex offense cases with their experiences with other kinds of criminal cases, from a number of different perspectives. More than 60 percent, almost two thirds, of the judges indicated that they find sex offense cases to be more or much more difficult than other kinds of criminal cases, from a legal or technical perspective.

From a public scrutiny or public pressure perspective, most of the judges, almost 90 percent, indicated that they find sex offense cases to be more or much more difficult than other kinds of criminal cases. Given the high level of concern on the part of the public about these cases, this finding is understandable.

From a personal or emotional perspective, it is interesting that a great majority of judges also found sex offense cases to be more or much more difficult than other types of criminal cases.

This kind of personal or emotional response is quite common among representatives from all of the agencies and disciplines that share responsibility for sex offender management. Those who investigate these crimes, victim advocates who are involved in these cases, probation and parole officers, treatment providers, and others also report that these cases are particularly difficult to manage, from a personal or emotional perspective. Like judges, these system actors find it to be quite challenging to be exposed to the details of sexual victimization on a regular basis.

(Bumby & Maddox, 1999)
**Lecture (1-2 minutes):**

In response to a question on a survey about factors which make decision-making in sex offense cases difficult, a number of judges mentioned the familial or other pre-existing relationship between the offender and victim as a factor, and a reluctance or refusal on the part of victims in some instances to testify in these cases. Other judges cited evidentiary issues, such as ambiguity in evidence and a frequent lack of corroborating evidence as conditions that make presiding over these cases particularly difficult.

(Bumby & Maddox, 1999).
Specific Decision-Making Difficulties Reported by Judges (cont.)

- Defendant’s injection of reasonable doubt into circumstances of the crime
- Interpretation and application of (and limited confidence in) assessments
- Limited information about “what works” (Bumby & Maddox, 1999)

Lecture (1 minute):
Additional difficulties reported by judges included the ease with which defendants can inject reasonable doubt into the circumstances of these crimes, questions about accurately interpreting the results of specialized assessments and about the quality of these assessments, and a lack of information about what works in these cases (Bumby & Maddox, 1999).

Recognizing that judges need practical, up-to-date, and user-friendly information about assessment and management strategies that are effective with this offender population, the modules in this curriculum will include guidance about what judges should look for in specialized sex offender assessments, how to interpret their results and utilize them to inform sentencing decisions, and what kinds of treatment and supervision strategies are promising – and can reduce the likelihood that these offenders will recidivate. In addition, the curriculum has been designed to address and allay some of the other common concerns and questions that judges have about these cases.

Incidence and Prevalence Trends

- Childhood Sexual Abuse
  - 1 in 4 girls
  - 1 in 6 boys

- Rape
  - 1 in 6 women
  - 1 in 33 men

(See, e.g., Finkelhor, 1994; Finkelhor et al., 2005; Tjaden & Thoennes, 2006)

Lecture (less than 1 minute):
Sexual abuse is widespread in this country. According to nationally representative victimization surveys, approximately one in every four girls and one in every six boys in this country report experiencing sexual abuse during childhood (see, e.g., Finkelhor, 1994; Finkelhor et al., 2005). And one in every six women and one in every 33 men report being the victims of rape (see, e.g., Tjaden & Thoennes, 2006).
**Slide 13**

Does This Prevalence Data Compare to Your Experience?

*Group Discussion (2-3 minutes):* (Query the participants as to how the prevalence data compares with their experience.) Some people find the prevalence data to be higher than they expect. Others, including judges who have heard many potential jurors describe histories of victimization, believe the actual figures to be higher.

**Slide 14**

What are the Challenges in Jury Selection and Management?

*Large Group Discussion (2-3 minutes):* Some judges have experience in selecting juries for sex offender cases where personal/familial victimization has been an issue. Some judges de-brief juries after sexual assault cases.

**Slide 15**

Victim-Offender Relationship  
Locations Where Victimization Occurs  
Reporting Rates  
Short- and Long-Term Impact  

**DYNAMICS OF SEXUAL VICTIMIZATION**

**Slide 16**

Myth or Fact?  
Those who commit sex crimes are usually known to their victims.

*Lecture (less than 1 minute):* The contemporary literature not only provides information about the incidence and prevalence of sexual victimization, it also includes data on the dynamics associated with it, including the kinds of relationships that exist between victims and offenders, the locations where victimization occurs, reporting rates, and the impact on victims – both in the short- and long-term.

*Large Group Discussion (1 minute):* Throughout this module, a number of items on the quiz that participants completed at the beginning of the session will be covered in PowerPoint slides in the form of myths and facts. The statement on this slide is a fact. The presenter should ask the audience members if the statement reflects a myth or a fact, do some brief processing of responses, and emphasize that the statement is a fact. The information in the slide that follows supports the conclusion that the statement is a fact.
Lecture (1 minute):
This is a summary of what is known about the kinds of relationships between victims and offenders in sexual victimization cases involving children and adolescents. In cases where the victim is 0 to 5 years of age, almost 60 percent of offenders are family members, more than 40 percent of offenders are acquaintances, and less than 5 percent of offenders are strangers (Snyder & Sickmund, 2006). The overall trend remains the same as the age of the victim increases, with the great majority of offenders being either family members or acquaintances of victims. This research contradicts the common misperception that many offenders are strangers to the child or adolescent victims. Clearly, this is not the case. The vast majority of child and adolescent victims are known to those who assault them.

Lecture (1 minute):
Not surprisingly, victims and offenders typically know one another in cases of adult rape as well. When rape victims are women, offenders are known to them in more than 80 percent of cases. When rape victims are men, offenders are known to them in almost 80 percent of cases (Tjaden & Thoennes, 2006).

Because of the disproportionate amount of publicity that sex crimes involving stranger attacks receive, this information about victim-offender relationships may be surprising to some. While it is important to be concerned about stranger attacks, the reality that most sex crimes occur in the context of familiar relationships should not be overlooked.

Large Group Discussion (1 minute):
The statement on this slide is a myth.

(The presenter should ask the audience members if the statement reflects a myth or a fact, do some brief processing of responses, and emphasize that the statement is a myth. The information in the slide that follows supports the conclusion that the statement is a myth.)
Most Common Locations Where Sexual Assaults Occur

- **Adult victims**
  - Victim's home (39%)
  - Home of friend, other relative (24%)
- **Child and adolescent victims**
  - Home (81%)
  - School (8%)

(Rennison, 2001; Snyder, 2000; Snyder & Sickmund, 2006)

Lecture (less than 1 minute):
Given that most victims are known to offenders, it is not surprising that sexual assaults usually occur at or close to the homes of victims (Rennison, 2001; Snyder, 2000; Snyder & Sickmund, 2006). Family members and acquaintances who perpetrate these crimes often have easy access to the homes of their victims.

More than 80 percent of sex crimes against children and adolescents occur in their homes (Snyder & Sickmund, 2006), the place where they are supposed to be the safest.

Large Group Discussion (1 minute):
The statement on this slide is a myth.

(The presenter should ask the audience members if the statement reflects a myth or a fact, do some brief processing of responses, and emphasize that the statement is a myth.)

The information in the slide that follows supports the conclusion that the statement is a myth.
Lecture (less than 1 minute):
Reporting rates for rape and sexual assault are lower than for other kinds of crimes against persons, such as robbery and aggravated assault (Rand, 2008). Other research indicates that the reporting rates are far lower – 16% for forcible rape, and as low as 10% for drug-facilitated/incapacitated rape (Kilpatrick, et al., 2007).

Large Group Discussion (2-3 minutes):
(The presenter should ask the judges who are present why reporting rates are lower for rape and sexual assault.) Possible responses that can be processed with the participants include:

- The extremely private and personal nature of sexual victimization;
- Anxiety on the part of victims about their identity being made public;
- Fears that they will not be believed;
- Self-doubt and self-blame;
- Fear of reprisal;
- Emotional ties to, financial dependence on, and/or concerns about the prosecution of the perpetrator; and
- Fears about being blamed for the crime.

Lecture (1 minute):
Whether or not they choose to disclose that they were abused sexually, it is important to understand that victims experience a wide variety of responses to these kinds of crimes. Different victims respond in different ways. Some examples of the potential short- and long-term impacts that sex crimes may have on victims include (see, e.g., Tjaden & Thoennes, 2006):

- Fear and anxiety;
- Depression, as well as thoughts about suicide and, in some cases, suicide attempts;
- Self-esteem and self-image difficulties;
- Relationship problems;
- Alcohol and drug abuse;
- Engagement in delinquent behavior; and
- Post-traumatic stress disorder
PTSD is an anxiety disorder that can develop after exposure to a traumatic event, such as a sexual assault. Those with PTSD may experience flashbacks and nightmares; they may avoid places, people, or other things that remind them of the traumatic event; and they may feel numb, or they may be hyper-vigilant, as if always on the lookout for danger. PTSD is also associated with many of the specific impacts that are listed above.
Lecture (1 minute):
Traditionally, the criminal justice system’s responses to sex crimes have been primarily offender-focused, with emphasis placed on the successful investigation, prosecution, sentencing, and management of these offenders. Explicit consideration of – and responsiveness to – the needs and interests of victims throughout the criminal justice process can avoid inadvertently re-traumatizing the victims. In response to this need, jurisdictions have created policies and practices that are sensitive to the needs of the victim, such as protocols for interviewing victims; protocols for medical examinations; and interviewing centers, including specific centers devoted to interviewing children and other victims of sexual assaults.

As criminal justice system actors have worked to become more sensitive to these issues, many have sought the valuable perspectives and insights of representatives from victim advocacy and victim service organizations. These advocates and organizations assist in the creation of policies, and the implementation of practices, across the system that are intended to minimize the impact of sexual victimization.
Roles for Judges

- Be knowledgeable about rape shield laws
- Know legal status of privileged communications that occur in the context of victims' counseling sessions
- Allow support persons for victims during court proceedings
- Model appropriate, victim-sensitive conduct
- Inquire of impact of plea agreement on victims

Lecture (less than 1 minute):
With respect to the impact of plea-bargaining, judges can scrutinize charge bargaining in these cases, and work to ensure that pleas that are accepted are sensitive to the needs of victims. Many cases involving sex offenses do not proceed to trial; rather, they are commonly resolved through plea negotiations.

Large Group Discussion (1-2 minutes):
Discuss the following topics:
- When is it appropriate to allow for victims’ rights advocates in court proceedings?
- How does the court ensure appropriate victim-sensitive conduct by counsel?

Roles for Judges (cont.)

- Hold pre-trial conferences, motions, or evidentiary hearings in a manner that does not intimidate victims
- Be sensitive to the timing of trials
- Allow flexibility in court scheduling to accommodate the needs of victims
- Minimize court appearances for victims
- Ensure compliance with victims’ rights legislation

Large Group Discussion (1 minute):
(The presenter should ask the judges who are present about what percentage of sex offense cases, in their experiences, get resolved through plea negotiations, as opposed to going to trial.)

Judges can play a key role in addressing victim’s rights while remaining impartial. For instance, how does the victim enter the courthouse; the courtroom – is there a waiting room available? Are the hearings and trial scheduled at the time of day to avoid crowds?
Lecture (2-5 minutes):
Certain aspects of plea concessions, Alford or nolo contendere/no-contest pleas must be taken into account in sex offense cases because of potential unintended consequences (see, e.g., Holmgren, 1999). To illustrate, some plea agreements may eliminate the sex offense component of the case (e.g., reducing a charge from forcible rape to aggravated assault), which can inadvertently imply to the victim that the offense was less harmful or serious. And when cases involve multiple victims, agreeing to drop some of the charges to a more limited number of them – in exchange for a guilty plea – can have the same effect. In addition, eliminating the sex offense nature of the crime through plea negotiations can limit the applicability of common, specialized sex offender management strategies, such as offense-specific treatment and supervision, and sex offender registration and community notification laws. Thus, to the extent possible, plea negotiations should ensure that the sexually-abusive aspects of these crimes remain visible.

In jurisdictions where vertical prosecution exists, a single prosecutor follows each sex offense case from the point of charging through disposition. Vertical prosecution reduces the number of individuals to whom the victim must provide statements; maintains consistency and continuity of case processing; promotes prosecutor familiarity with the victim and the facts of each case; ensures the preservation of critical information that can be lost when cases are transferred; and establishes victim trust and rapport (APRI, 2003; Beichner & Spohn, 2005).

Victim advocates are available in most jurisdictions to provide education, support, and assistance to victims and their families. The presenter should consider including the names of victim advocacy centers in your jurisdiction and victims’ rights laws. For an example of victims’ rights laws, see the Justice For All Act (H.R. 5107, Public Law 108-405), including the Crime Victims’ Rights Act, 18 U.S.C. § 3771.
What Percentage of All Arrests Are for Sex Offenses?

A. Less than 1%
B. 1 to 10%
C. Greater than 10%

**Lecture (less than 1 minute):**
Less than 1 percent of arrests nationally are for sex offenses (FBI, 2005). When compared to other kinds of offenses, sex crimes seem to receive a disproportionally large amount of attention – from the public, from legislators and policymakers, and from criminal justice system actors – relative to their proportion of crime overall.

**Lecture (less than 1 minute):**
In some ways, the data used in research and reports may represent the tip of an iceberg and the conclusions should be considered with that in mind.

**Lecture (1 minute):**
This slide introduces some of the areas of uncertainty and controversy in sex offender assessment and treatment data. As an earlier slide mentioned, the majority of offenses are not reported. As noted on the slide, the figure is somewhere between 58% to 84% that are not. Therefore, the data on the number of arrests must take this into consideration. Similarly, the data on charges and convictions is “muddy.” The iceberg represents how we have some information on offending that is accessible and an unknown amount of information that is not accessible.

**Lecture (less than 1 minute):**
Of those arrested for sex crimes, about 95 percent are males and 5 percent are females (FBI, 2005).

Additionally, for years, juveniles who committed sex offenses were largely overlooked in the scientific community, in society in general, and in the justice system. This was, in part, a reflection of the belief that deviant or problematic sexual behavior was a phase out of which these youth would eventually grow (see, e.g., Bumby & Talbot, 2007). This has changed significantly in recent years and sex offenses that are perpetrated by juveniles now receive a great deal of attention. Nationally, they make up about 15 to 20 percent of arrests for sex offenses (FBI, 2005).
Myth or Fact?

Individuals can be identified as sex offenders based on a specific set of profile characteristics.

Large Group Discussion (1 minute):
The statement on this slide is a myth.

(As a transition to talking specifically about sex offenders, the presenter should ask the audience members if the statement reflects a myth or a fact, do some brief processing of responses, and emphasize that the statement is a myth, using the lecture content and large group discussion below.)

One fairly common false assumption about sex offenders is that they are all the same – and, unfortunately, the criminal justice system sometimes responds in ways that would suggest that these offenders are a homogeneous population.

Large Group Discussion (1-2 minutes):
(Before showing the next slide, the presenter should ask the participants to reflect on their experiences presiding over sex offense cases, and identify some ways in which sex offenders differ from one another. After the audience members’ responses have been discussed, the presenter can go through the variations listed on the three slides that follow, while reiterating and emphasizing the diversity of sex offenders, and the absence of a set of characteristics which reflects a “profile” of or a “typical” sex offender.)

Lecture (less than 1 minute):
Demographically, sex offenders differ from one another in a wide variety of ways. There are both older and younger sex offenders, they can be male or female, and they are diverse both culturally and racially. In addition, their socioeconomic status varies, and some have high paying jobs while others are unemployed and have experienced employment problems throughout their lives. Some have been married or have otherwise experienced relatively stable relationships for years; others are single and have never been married.
Variations in Offending Behaviors
• Known age of onset
• Known targets (victims)
• Known motivations
• Deviant arousal, interests (paraphilia)
• Known patterns of behavior
• Known frequency, duration/course
• History of detection

Lecture (1 minute):
There are also significant variations in the offending behaviors of this population, including the known age when these individuals begin committing these crimes, the characteristics of their victims, their motivations, and the presence or absence of deviant arousal and interests. The word “known” is used to emphasize the gap between what we know about an offender and areas of uncertainty. Some sex offenders appear to have well-established patterns of being particularly interested in or “turned on” sexually by inappropriate contacts, and some do not. Being primarily attracted to or focused on young children is one key example, such as those offenders who are diagnosed with pedophilia. Because the presence of such arousal and interests is significantly correlated with recidivism among adult sex offenders (Hanson & Morton-Bourgon, 2005), it is a particularly important consideration in the management process.

Sex offending behaviors also vary by known type and pattern, and by frequency and duration or course. Some sex offenders perpetrate these crimes only a few times; others may engage in chronic abuse patterns. Some individuals are detected quickly for committing sex crimes and, unfortunately, others offend for long periods of time without being detected.
Additional Variations Among Sex Offenders

- Recidivism risk
- Intervention needs
- Amenability to treatment
- Response to criminal justice sanctions

Lecture (1-2 minutes):
Other ways in which sex offenders differ from one another – and that are important considerations in the context of judicial decision-making – include:

- Their recidivism risk: The risk that sex offenders pose to the community varies. Some sex offenders are highly likely to recidivate, while others are less so. Offender risk level is a key consideration for judges at the point of sentencing. This will be a topic of discussion in the next module on assessment.

- Their intervention needs: The intervention needs of these offenders also differ. Some sex offenders need intensive offense-specific treatment while others may require less intensive interventions. Many sex offenders also have other treatment needs, such as substance abuse, difficulties managing anger, and marital problems. The importance and controversies of treatment in sex offense cases – and what is known about its impact on recidivism – will be highlighted in the treatment and supervision modules.

- Their appearances in court: These defendants generally present themselves well, and are compliant, in court. These characteristics should not be construed as indicators with respect to other conduct by these offenders.

- Their amenability to treatment: There are sex offenders who appear to derive significant benefits from treatment. Others are highly resistant to treatment and do not successfully complete it.

- Their responses to criminal justice sanctions: Some sex offenders are model inmates and comply with the expectations associated with probation and parole. Others, unfortunately, engage in prison misconduct and/or violate the terms and conditions of community supervision.
**Slide 37**

**Myth or Fact?**

As a group, sex offenders have a very high known recidivism rate.

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**Slide 38**

**What Does Sex Offender Recidivism Mean and How Is It Measured?**

- Conviction of new sex offense
- Conviction of a new violent offense
- Conviction on any new offense
- Violation/revocation of probation/parole
- Arrest
- New criminal charge
- Complaint
- Self-disclosed event

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**Large Group Discussion (1 minute):**

The statement on this slide is a myth.

As a transition to a brief discussion about sex offender recidivism, the presenter should ask the audience members if the statement reflects a myth or a fact, do some brief processing of responses, and advise that the statement is a myth. The word “known” is emphasized because of the uncertainties in this area. Studies show that somewhere between 58% and 86% of sex crimes are unreported (Rand, 2008; Kilpatrick, et al., 2007).

**Lecture (2 minute):**

One of the major areas of uncertainty in the field results from variable definitions of recidivism. This slide offers some of the ways researchers define recidivism. Since this is the primary outcome for treatment studies, the uncertainty in how we define recidivism adds uncertainty to the findings of research studies.

Once again, an iceberg reminds us that there is information we do not have access to regarding sex offender behaviors.

Most research uses conviction of new sex offense as the measure of recidivism. As we saw with the report data, some offending will not be detected due to non-reporting, plea agreements, non-convictions etc. It is useful to consider the limitations of the how we measure recidivism when interpreting treatment studies.
Lecture (1-2 minutes):
Research indicates that known recidivism rates of sex offenders are lower than some criminal justice system actors and members of the general public believe. Using a statistical technique called meta-analysis (the study of studies), researchers examine the outcomes of multiple studies to derive recidivism rates (and other risk-related factors) for sex offenders. These meta-analyses indicate that sex offenders have:

- Relatively low known sexual recidivism rates as a group;
- Higher rates of known non-sexual recidivism; and
- Lower known recidivism rates than other felony offenders.

In reviewing the contemporary recidivism data, it is important to note that these rates are presumed to be underestimates of the actual reoffending rates because of under-reporting (58-86%, as discussed earlier), as well as under-detection of these crimes. While recidivism data for other crimes against persons – such as robbery and aggravated assault that were highlighted on a previous slide – are also subject to under-reporting, recidivism rates for non-sex crimes are fairly consistent across studies. In other words, there is more uncertainty as to the known recidivism rate for sex offenders as a group.

Note: In case audience members request additional information about meta-analyses, the following is a definition from Webster’s Online Dictionary: A meta-analysis is a statistical procedure to combine a number of existing studies. Through such a procedure, effects which are hard or impossible to discern in the original studies because of a too small sample size can be made visible, as the meta-analysis is – in the ideal case – equivalent to a single study with the combined size of all original studies.
Lecture (1 minute):

As briefly discussed a few minutes ago, the risk that sex offenders pose to the community varies. These variations in risk are influenced by a number of issues — called risk factors — that will be discussed in the modules on assessment and evidence-based sentencing. Briefly, one example of a risk factor is prior sex offense history. Research indicates that sexual re-offending rates are higher for sex offenders with a previous conviction for a sex crime than for those with no previous conviction (Harris & Hanson, 2004).

There are several ways of interpreting this data:

- Difference in risk to re-offend;
- Difference in ability to avoid detection; or
- Difference in ability to avoid conviction for sex offense.
Lecture (1 minute):
Because the individuals who commit sex offenses are a very heterogeneous population, “one size fits all” or “standardized” disposition or sentencing approaches are ineffective – and do not promote public safety. Some sex offenders require very intensive and restrictive responses, such as incarceration, while others may be more effectively managed in the community with less intensive interventions. When judges capitalize on their existing discretion and make individually tailored sentencing and disposition decisions based on risk and needs, successful outcomes are more likely to be achieved, and community safety can be enhanced.

Judges need information about which offenders are more likely to be reconvicted and about interventions and management strategies that may reduce risk and promote community safety. The modules on assessment, evidence-based sentencing, and treatment and supervision will summarize this literature and controversies, and explore implications for judicial decision-making.

Note: The presenter can refer participants to the resource documents on sex offenders and sexual victimization that are included in the curriculum materials. Developed by the Center for Sex Offender Management, they are entitled, Fact Sheet: What You Need to Know About Sex Offenders and The Comprehensive Approach to Sex Offender Management.
Summary
• The incidence of sex crimes is widespread and sex crimes have a significant impact on victims.
• Sex offenders usually know their victims and perpetrate sex crimes in familiar places.
• Judges need to understand victim issues and related justice system practices.

Lecture (less than 1 minute):
To summarize what has been covered during this module, the incidence of sex crimes is widespread. In addition, in the vast majority of cases, sex offenders and their victims are known to one another, and sex crimes usually occur at or near the home of the victim. Examples of victim sensitivity include ensuring compliance with victims’ rights legislation, allowing flexibility in court scheduling to accommodate the needs of victims, allowing support persons to be present for victims during court proceedings, and working to ensure that pleas that are accepted are sensitive to the needs of victims.

Summary (cont.)
• Sex offenders are a diverse population:
  – Differ in numerous ways, including known recidivism risk; and
  – Different Diagnoses.
• As a group, sex offenders have relatively low rates of known recidivism.
• Recidivism is a challenge to define and measure; research is evolving.

Lecture (less than 1 minute):
Sex offenders are a very heterogeneous population and there is no “profile” of a typical sex offender. Some of the ways in which these offenders differ from one another include the risk they pose to the community, their treatment needs and their amenability to treatment, and their responses to criminal justice sanctions. The research also indicates that, as group, sex offenders have relatively low known rates of recidivism. Recidivism is a challenge to define consistently and to measure accurately.
B. MODULE TWO: ASSESSMENT OF SEX OFFENDERS

DESCRIPTION OF THE MODULE

Quality assessments can provide a sound rationale for judges’ day-to-day decisions and can increase their confidence in those decisions. The overarching goal of this session is to emphasize the value of these assessments, through the multiple learning objectives outlined on this slide.

Approximate time: 55-80 minutes, depending upon length of discussions

LEARNING OBJECTIVES

At the conclusion of this module, participants will be able to:

• Identify information and assessments that reliably estimate risk posed by sex offenders;
• Describe some of the areas of uncertainty in risk assessment of sex offenders; and
• Describe expected qualifications of professionals who conduct specialized, sex offender-specific assessments.

ACTIVITIES & EXERCISES

• Small Group Activity
• Large Group Discussion
• Summary Exercise
Assessment of Sex Offenders

Large Group Discussion (1-2 minutes):
Before reviewing the learning objectives for this session, the presenter should inquire about assessment-related issues that participants would like to address during this component of the curriculum.

Learning Objectives
• Identify information and assessments that reliably estimate risk posed by sex offenders;
• Describe some of the areas of uncertainty in risk assessment of sex offenders; and
• Describe expected qualifications of professionals who conduct specialized, sex offender-specific assessments.

Lecture and Large Group Discussion (1 minute):
Review the learning objectives for this session with the participants.

(“At the conclusion of this module, the participants will be able to . . .”).

Lecture (1 minute):
This slide contains an overview of how, and in what order, the materials in this module will be presented.

Overview
Types of Assessments That Can Inform Decision-Making
Static and Dynamic Risk Factors
Commonly Accepted Sex Offender-Specific Risk Assessment Tools
What to Expect in Assessments and From the Professionals Completing Them
Common Questions Courts Face in Cases Involving Sex Crimes

- Is this defendant truly a “sex offender”?
- What type of sentence is warranted?
- How can justice and public safety concerns be reconciled in this case?
- Will this individual re-offend?

Lecture (1 minute):
The questions on this slide are often raised by judges and other stakeholders during the court process with cases involving sex crimes. At times, because of the heightened vigilance, pressures, and impact associated with sex crimes, some system actors desire or expect that specialized assessments or evaluations can provide answers to these questions. Assessments are not designed to answer these questions.

The first question can only be answered by the trier(s)-of-fact by examining the evidence in the case, within the context of state statutes or criminal codes. It is not appropriate for assessors or evaluators to offer opinions to the court about whether a given individual is – or is not – a sex offender.

The answer to the second question depends upon established statutes, which may include minimum mandatory sentences, a range of sentence lengths, and/or the potential for departures or discretion in determining the length of the sentence.

The third question is considered within the context of the state’s emphases on retribution, deterrence, incapacitation, and/or rehabilitation.

The fourth question cannot be answered definitively by any professional, including a specialized evaluator. There is no assessment or set of assessments that can provide absolutes about re-offending. Sound assessments can identify fairly reliably which sex offenders are at a higher or lower risk to re-offend than others, but cannot determine if or when an individual will commit a new sex offense or other crime. In other words, these tools can help judges and others with placing sex offenders into relative categories of risk (e.g., low, moderate, high).
Questions Addressed through Post-Conviction Assessments

- What level of relative risk does this individual pose?
- What factors indicate that this person is a greater (or lesser) risk to recidivate?
- Which strategies may be effective for this individual?
- Is this person likely to be amenable to strategies the court may utilize to positively affect risk reduction/management?

Lecture (1-2 minutes):
In contrast to the questions on the previous slide, answers to the questions listed here generally can be inferred on a case-by-case basis through specialized assessments.

Perhaps one of the most common questions that sentencing judges have is the extent to which a given sex offender poses a risk to the community. Because the research shows that many sex offenders are more likely to recidivate with non-sex crimes, it is important for judges to understand the offender's risk to recidivate not only in terms of new sex crimes, but also with respect to other violent or non-sex crimes – and the risk factors that affect the offender’s risk to re-offend.

When research-supported risk assessments are used, assessors can identify fairly reliable estimates of the relative level of risk to re-offend.

To make informed sentencing decisions, judges also need to know what types of strategies are needed for risk reduction or risk management in any given case, and whether the offender is amenable to these strategies or has a history of failing to respond to such strategies in the past. Comprehensive evaluations that meet high quality standards can provide judges with information about those needs.

Ultimately, understanding sex offenders' level of risk and specific intervention needs can assist judges with considering whether potential alternatives to incarceration would be appropriate.

Judges should remember that, for these purposes, assessments are most appropriately conducted and most beneficial post-conviction as they are designed primarily to offer information and recommendations that are relevant for sentencing and other disposition decisions.
TYPES OF ASSESSMENTS THAT CAN INFORM DECISION-MAKING
Lecture (1 minute):

The primary types of assessments that can benefit judges as they explore sentencing decisions are risk assessments, pre-sentence investigations, and psychosexual evaluations. The information from these assessments is also vital for informing decisions for other professionals involved in sex offender management efforts after sentencing, such as treatment providers, probation and parole officers, case managers and other practitioners in the prisons, and paroling or releasing authorities.

Note: In some states or jurisdictions, one or more of these assessments may be mandated or routinely ordered for all cases involving sex crimes. The presenter should be familiar with any such policy requirements for the state/jurisdiction in which the curriculum is being delivered. In addition, it may be helpful for the presenter to highlight such policies and practices from other states.

Large Group Discussion (5 minutes):

The presenter can engage the judicial participants in a brief dialogue about the use of these assessments in their courts, using the following questions as a guide:

- To what extent are these types of assessments available to you at the time of sentencing in sex offense cases?
- To what extent do these assessments provide helpful information with respect to your considerations for sentencing in sex offense cases? What specific information is most beneficial to you?
- What, if any, assessment data would assist you with decision-making in sex offense cases but is currently not included in the assessments you receive?
Lecture (1-2 minutes):
Assessments are a valuable resource for assisting judges and other stakeholders in their decision-making. The value depends on several factors.

First, the objectives must be clear, such as whether the information is designed to provide an estimate of a sex offender’s recidivism risk, specific risk factors, intervention needs, and/or level of functioning for the purposes of sentencing, case management, treatment planning, or community supervision. The assessment objectives should not include determining whether a person is or is not guilty of the offense for which s/he is charged or determining whether or not the person will or will not recidivate.

Second, the timing is important. For the courts, assessments are best ordered and conducted prior to sentencing, following the adjudication finding. Conducting assessments prior to adjudication likely results in limited information, as the defendant may be less likely to discuss openly the kinds of information necessary to identify risk and intervention needs (e.g., deviant sexual fantasies, previously undetected sexual behavior problems) – either on advice of counsel or because of his or her own concerns about self-incrimination.

Third, assessments are only as good as the approach that is used to conduct these assessments, namely the most appropriate, reliable, and valid types of instruments. Similarly, the expertise and skills of the evaluator are vital.

Finally, information-sharing is important. The more information that is available for professionals, the better. And when assessment data such as recidivism risk and intervention needs is shared across disciplines, all decisions are better informed.
Sources of Information for Assessments

- Offender interviews
- Collateral interviews
- Official records
- General psychological measures
- Sex offender-specific measures
- Empirically supported risk assessment tools

**Lecture (1-2 minutes):**
Assessments are most reliable and valid when multiple sources of information are used. Collecting information from sex offenders themselves is important, but self-report alone is not sufficient. Depending upon the purpose of the assessment, interviews with others involved in the offender’s life can provide valuable information.

Reviewing various official records is essential, as they provide formal documentation of numerous variables. Such records include, but are not limited to, police reports, rap sheets, victim statements, arrest records and other criminal history documents, and prior treatment records.

Also beneficial for planning is the use or review of psychological testing, which provides information about intellectual and cognitive functioning, aptitude, personality, and overall mental health.

Tools and instruments designed to assess sexual arousal, interests, attitudes, behaviors, and functioning are key sources of assessment data. These may include physiological tools such as the penile plethysmograph [pluh-thiz-muh-graf] (which measures physical arousal to various stimuli, both appropriate and deviant) or objective viewing time measures (which measure sexual interests). Research on data from polygraph interviews will follow.

These psychological and sex offender-specific measures provide important data about specific issues that need to be addressed in supervision or treatment strategies, including factors such as learning style, motivation, denial, or level of functioning – when working with the offender. Finally, research-supported risk assessment tools offer an objective and fairly reliable means of estimating the relative level of risk to re-offend with sexual and/or non-sexual crimes.
Slide 10

Identifying Higher vs. Lower Risk Offenders

- Professional judgment
- Research-supported risk assessment tools
  - General offenders
  - Sex offenders

Lecture (1-2 minutes):
As noted previously, one of the most common questions that sentencing judges have is “How likely is this individual to commit another sex crime?” Understanding a person’s risk to re-offend is obviously important not only for judges, but also for others who play a role in managing sex offenders.

For many years, it was common for evaluators to estimate risk by using their professional judgment, such as their clinical experience in the field and their independent assumptions and beliefs about what makes a person more apt to re-offend. Using this approach, two different evaluators assessing the same offender could conceivably reach different conclusions about that offender, because their decisions are subjective. In other words, the issues that one evaluator thinks are important risk factors may be different from – or carry more weight than – the factors considered to be important by the other evaluator. Some of those factors may in fact be related to recidivism risk, whereas others may not be related to risk.

The more contemporary practice is to use structured risk assessment tools. These tools are based on years of research and are comprised of the factors known to be linked to recidivism. Using these measures (often referred to as actuarials) provides a much more structured, objective, and consistent way of placing offenders into categories of risk, such as low, moderate, or high risk.

Many research-supported tools exist for assessing risk among “general” offender populations, and there are also a number of similar tools to assess risk with sex offenders specifically. These sex offender-specific measures were developed because of the recognition (and supporting research) that sex offenders have some unique risk factors that relate to their likelihood of re-offending, and those factors were not captured in the tools for “general” offenders.
Predictive Accuracy of Risk Assessment Strategies with Sex Offenders

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<thead>
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<th></th>
<th>Professional Judgment</th>
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<tr>
<td>Less Accuracy</td>
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(Andrews & Bonta, 2007; Grove et al., 2000; Hanson & Morton-Bourgon, 2007)

**Lecture (1-2 minutes):**

Actuarial risk assessment tools are the culmination of many years of research exploring the specific combinations of risk factors that can lead to the best estimates of risk to re-offend. Because these measures are grounded in research, and because the scoring methods are designed to provide structure, consistency, and objectivity for the process, actuarial risk assessments tend to be more accurate than professionals’ subjective impressions about offenders’ risk. This is the case for actuarial risk assessment tools for “general” offenders as well as measures designed for sex offenders specifically (Andrews & Bonta, 2007; Grove et al., 2000; Hanson & Morton-Bourgon, 2007).

Risk assessment is not a perfect science, however. Even when using research-supported tools, it is not possible to identify with 100 percent accuracy whether a specific offender will – or will not – re-offend. But these tools are fairly reliable for differentiating higher from lower risk sex offenders, and they offer a better alternative than instinct or intuition alone.

Therefore, when judges consider an evaluator’s findings regarding a sex offender’s level of risk to re-offend, it is important for them to be aware of the risk assessment method used to make this determination.
Two Categories of Risk Factors
- Static: generally unchangeable
- Dynamic: variable over time

Lecture (1-2 minutes):
Researchers in the field of corrections, including sex offender management, have found that there are two categories of risk factors that affect an individual's recidivism risk: static and dynamic variables (Andrews & Bonta, 2007; Hanson & Morton-Bourgon, 2005, 2007). For the most part, static variables tend not to change over time, whereas dynamic factors can fluctuate. Specific examples of these static and dynamic risk factors for sex offenders will be discussed in the slides that follow.

Risk assessments based on static risk factors are helpful in providing estimates of risk over the long-term (e.g., 5, 10, 15 years), and are often used to inform decisions at key points in the system, such as sentencing, parole, or sex offender registration and community notification.

Assessments that explore dynamic risk factors provide helpful information about shorter term risk, which can rapidly fluctuate because of changes that arise in an offender’s individual internal or external circumstances or actions (e.g., access to victims, substance abuse), or that change more slowly over time through the course of intervention (e.g., developing healthy relationships). Therefore, initial and ongoing assessments of dynamic risk factors are useful for guiding ongoing offender management efforts such as community supervision and treatment.

Large Group Discussion (2-3 minutes):
The presenter should take this opportunity to allow participants to brainstorm a list of risk factors that they believe are linked to recidivism among sex offenders, and record the responses on a dry erase board. These responses can then be compared and contrasted with the variables identified through the research on sex offenders, as well as those factors commonly believed to be associated with recidivism but not supported by the current research.
Examples of Static Risk Factors for Sex Offenders

- Prior sex offenses
- Prior non-sex offenses
- Unrelated victims
- Stranger victims
- Young male victims
- Deviant sexual arousal, interests, preferences

Lecture (1-2 minutes):
For sex offenders, several unique static risk factors have been identified in the research (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005, 2007). For example:

- Persons with a prior record of sex offenses are more likely to re-offend than those with no prior history.
- Sex offenders with prior convictions in general, not just sex crimes, tend to have a higher potential to recidivate.
- Recidivism risk is greater for sex offenders who commit sex crimes against non-family members, victims who are not known to them, or victims that are young males (e.g., male children or adolescents).
- When an offender is assessed as having recurring interests, arousal, or preferences that involve sexual deviance (e.g., sexual interest or urges about children, interest or arousal to the use of non-consenting force or violence), recidivism risk is increased.
Lecture (2-3 minutes):
Researchers have identified several dynamic risk factors associated with recidivism among sex offenders. Some of these risk factors are unique to sex offenders, whereas others are linked to recidivism for sex offenders and non-sex offenders alike (Andrews & Bonta, 2007; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005, 2007).

- Sex offenders are at increased risk when they engage in excessive or compulsive sexual behaviors or otherwise fail to manage their sexual urges (e.g., accessing sexually explicit materials, using prostitutes, frequenting sexually-oriented adult establishments).
- Risk to re-offend is greater when sex offenders take steps to increase their access to victims or potential victims, such as seeking opportunities to have contact with children or other vulnerable individuals.
- Having difficulties with establishing or maintaining intimate relationships, and/or having conflicts in intimate relationships, is linked to increased recidivism among sex offenders.
- Sex offenders who have attitudes and values that support or condone crime pose a greater risk for recidivism.
- Hostility and pervasive anger also contribute to recidivism among sex offenders.
- When sex offenders fail to comply with supervision or treatment expectations, their risk to re-offend is greater than for those who adhere to such expectations.
- Recidivism risk increases for sex offenders who show problems maintaining a stable, pro-social lifestyle (e.g., abusing alcohol or drugs, behaving impulsively, having unstable employment or housing).
Lecture (1 minute):
Assessing sex offenders' risk for recidivism requires consideration of both static and dynamic factors, although static factors tend to be more reliable. Taking into account both types of risk factors on a case-by-case basis may result in a more comprehensive, thorough, and accurate estimate of a given sex offender's overall level of risk. This allows for more informed decision-making at the point of sentencing, and ensures that other professionals are well informed and better able to make individualized and effective case management decisions after sentencing.
Lecture (2-3 minutes):

Some variables that are presumed to increase sex offenders’ recidivism risk are not actually demonstrated by research to be significantly correlated with recidivism (Hanson & Morton-Bourgon, 2005).

Maltreatment – whether physical, sexual, or emotional – is known to increase the potential that individuals in the general population may experience difficulties both in the short- and long-term (e.g., depression, anxiety, relationship problems, substance abuse). But in terms of recidivism, convicted sex offenders subjected to maltreatment during childhood are not significantly more likely to recidivate than those without those adverse developmental experiences. In other words, while maltreatment may increase the potential for adjustment difficulties, it does not cause people to engage in sexually abusive behavior, nor is it linked to greater recidivism potential among known sex offenders.

General mental health concerns, such as depression or anxiety, are not correlated with recidivism among sex offenders, either. They are important to address during the course of treatment, as typically relate to overall stability and adjustment but, in and of themselves, they do not predict recidivism.

Research does not indicate that factors such as denial, remorse, or victim empathy are directly linked to re-offending. Denial does pose a challenge to treatment providers, supervision officers, and others involved in sex offender management as it can prevent offenders from fully engaging in treatment efforts.

The fact that these variables are not linked to re-offending among sex offenders does not mean that they are irrelevant or unimportant, however. Judges oftentimes need to take factors such as denial and remorse into account when considering sentencing decisions, as they may relate to other goals of sentencing.
Small Group Activity (10-15 minutes):
Invite participants to pair with a partner. Using the case studies that they received, each pair should identify the research-supported risk factors present in those cases. Then have the pairs compare and contrast, in the larger group, the risk factors they identified.

Examples of the key risk factors that should be discussed by participants include the relationship between the offenders and the victims (e.g., unrelated victims in the cases of John A. Doe and John C. Doe), the presence of deviant sexual interests (e.g., suggested for John A. Doe and John B. Doe), prior criminal history (e.g., most notably with John C. Doe), lifestyle instability and substance abuse (for John C. Doe), and intimacy deficits (John C. Doe). Some participants may raise questions about the extent to which the offenders in these cases accepted responsibility for their behaviors and/or demonstrated remorse or empathy for the victims (particularly for John B. Doe). Should this occur, participants should be reminded that those specific factors are not directly linked to recidivism. Such issues may be of interest to judges when considering cases, but the research does not indicate that these factors increase risk for re-offending.

The presenter should remind participants that the purpose of this exercise is not to attempt to assign risk levels to these offenders; rather, it is designed to promote awareness and recognition of specific risk factors that are – and are not – associated with recidivism risk among sex offenders.

Finally, the presenter should conclude the group activity by emphasizing that risk assessment is most accurate when practitioners use research-supported tools designed specifically for sex offenders, as these tools provide a structured, consistent, and more objective way of identifying relevant risk factors.
Large Group Discussion (1-2 minutes):
Invite participants to suggest whether the factors listed would be considered static or dynamic risk factors (or neither):

- Previous conviction for sex offense: static risk factor
- Desert Storm veteran: neither/not applicable;
- Methamphetamine user: dynamic risk factor (unstable lifestyle);
- Incest-only offense: protective (“no unrelated victims”). Offending with a family member only predicts less re-offending than with a non-family member, acquaintance, or stranger. It is a static factor in that the incest offense will never go away but the term static isn't quite accurate since a person could go on to offend against non-family members and then score on assessments as higher risk;
- Clinically depressed offender: neither/not applicable; and
- Victim-needs therapy for PTSD: neither/not applicable.
Based on the risk factors linked to recidivism among sex offenders, researchers have developed several sex offender-specific risk assessment tools. The tools listed on this slide are examples of the most commonly used risk assessment instruments in the field. (The presenter should be aware of any risk assessment tools used or under consideration by stakeholders in the jurisdiction in which the curriculum is being provided.)

Some of these risk assessment tools focus primarily on static variables, others are used to assess dynamic variables, and some include both static and dynamic risk factors.

- **The Minnesota Sex Offender Screening Tool-Revised ("MnSOST-R")** (Epperson et al., 1998) was designed to assess risk with incarcerated sex offenders. Both static and dynamic risk factors are included in this instrument.

- **The Rapid Risk Assessment of Sexual Offense Recidivism ("RRASOR")** (Hanson, 1997) is one of the first research-supported sex offender-specific instruments. The four items on the RRASOR static risk assessment are:
  - The number of prior sex offenses (charges, convictions);
  - The offender’s current age (whether he is young);
  - The gender of the offender’s victims (whether there were any male victims); and
  - The offender’s familial relationship, if any, to the victim (whether there were any unrelated victims).

  The RRASOR assessment yields a score ranging from 0 to 5. The corresponding recidivism rates, over a 10-year window of opportunity, range from 6.5 to 73.1%.

- **The Sex Offender Risk Appraisal Guide ("SORAG")** (Quinsey et al., 1998) also takes into account both static and dynamic risk factors.
Lecture (1-2 minutes):

- The STABLE- and ACUTE-2007 (Hanson et al., 2007) were developed primarily for supervision officers to assess dynamic risk factors with sex offenders.
- The STATIC-99 and STATIC-2002 (Hanson & Thornton, 1999, 2003). The STATIC-99 is the most widely used risk assessment instrument for sex offenders. The STATIC-2002 is a modified/revised version of this tool. Both tools are comprised of static risk factors.
- The Vermont Assessment of Sex Offender Risk (“VASOR”) (McGrath & Hoke, 2001) includes both static and dynamic items.

Generally speaking, when assessments or evaluations include one or more of these tools, judges can have a greater degree of confidence in the findings. This is, of course, contingent upon the assessor’s training and expertise using these tools. Sometimes, evaluators may use tools that are not research-supported, or that are not designed specifically to provide information about sex offenders’ risk, to base their decisions about risk. Or they may use the “right” tools, but not use them correctly (e.g., incorrectly stating definitely that the tool indicates that a given sex offender will or will not re-offend). One of the goals of this curriculum is to help judges become informed consumers about these kinds of assessments, so that they do not automatically assume that what the evaluator says is always correct.
**Sample Assessment: Static-99**

1. Age (25 is cut-off)
2. Relationship > 2 years
3. Non-sexual violence with index event
4. Any prior non-sexual violence
5. Prior sex offense convictions (1, 2-3, 4+)
6. Prior sentencing dates
7. Non-contact convictions
8.-10. Unrelated, stranger, or male victims

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**Lecture (1 minute):**

One tool, the Static-99, is brief enough to allow a demonstration. The items scored in a Static-99 assessment are listed on this slide; interpretation of the scores is on the next slide. The manual for using the Static-99 is available online as a PDF file at [http://www.static99.org/](http://www.static99.org/).

The assessment is only valid for adult men.

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**Sexual Reconviction by Static-99 Score (%): Group Estimates**

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**Lecture (1 minute):**

Here is how the Static-99 helps us estimate an individual’s recidivism risk. An offender’s score places him in a group of adult men with the same score. In that group, historically, a certain percentage of individuals have re-offended.

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**Lecture (1-2 minutes):**

As an example, Stan is a 22-year-old man with no stable relationships; no sexual violence with the subject offense; no prior non-sexual violence; less than four prior sentencing dates; no prior sex convictions; two non-sexual assault convictions; and a known, but unrelated, male victim.

His Static-99 score would be 5, and his relative risk of reconviction for a sex offense in the next five years is around 32-34% for men in that group.

There are no scientifically validated methods to determine if this man will be among the 34% who are reconvicted or the 66% who are not. The authors of the Static-99 classify offenders as low, med-low, med-high, and high risk according to scores.

**Note:** This tool, or any other assessment tool, requires specialized training.
**Additional Tools**

- Polygraph
- Viewing Time Measures (e.g., Abel Assessment for Sexual Interest (AASI-2))
- Plethysmography

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**Lecture (1 minute):**

Some assessments use physiologic measures of interest or arousal. Polygraphs may elicit information the offender did not disclose previously and allow for more valid risk assessment. Published research in the next three slides gives an example of the variability in offender self report in different situations. Polygraph data is useful in community treatment and monitoring.

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**Lecture (1 minute):**

Polygraphs are widely used in assessment because they often increase the amount and validity of information disclosed by sex offenders. For example, in April 2009, Great Britain started requiring polygraphs for all sex offenders in the Midlands area who are supervised in the community. The requirement began after eight out of ten sex offenders in a pilot program admitted that prior to a polygraph they had mislead their probation officers.

Polygraph reports have utility after conviction. They can help assessment by providing a more complete database about the number and types of sex offenses; they can be used to monitor behavior for treatment (by helping patients identify behaviors that might lead to re-offending) and for supervision in the community.

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**Lecture (1 minute):**

A research group out of Colorado Springs studied reports of offense histories in two groups of male sex offenders by comparing the pre-sentence investigations with later polygraph reports.

The subjects who were incarcerated had dramatic increases in the number of admitted victims.

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<table>
<thead>
<tr>
<th>Pre-Sentence Report</th>
<th>2 victims/5 offenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual History Disclosure Form</td>
<td>8 victims/20 offenses</td>
</tr>
<tr>
<td>First Polygraph</td>
<td>10 victims/22 offenses</td>
</tr>
<tr>
<td>Second Polygraph</td>
<td>11 victims/23 offenses</td>
</tr>
</tbody>
</table>

Similarly, the reported age of the first offense dropped from 28 to 12 from PSIs to polygraphs.

(Almeyda et al., 2000)
The same research group compared reports from criminal histories and self reports with polygraphs as to the types of victims. The polygraph reports revealed a greater degree of “crossover” between types of victims. Crossover was noted to increase in polygraph reports with regard to gender (male and female victims), relationship (relatives and non-relatives), and age (adult and child victims).

Another physiologic assessment tool is plethysmography [pleth-iz-mog-ruh-fee]. This tool measures physical arousal to sexual stimuli (sounds and images) by measuring penile erection with a strain gauge.

Sexual arousal in response to sexual stimuli involving deviance (child, force, etc.) does NOT mean the person is an offender. Most people do not admit to this type of arousal because it is usually not socially desirable.

Some treatment programs measure the offender’s ability to manage the arousal response following treatment. If this is true, then deviant arousal will be a dynamic factor rather than a static one. The inability to manage the arousal response may be a risk factor for recidivism. The goal of intervention is to assist offenders with learning how to MANAGE their arousal, not necessarily simply suppress it. This tool is used to provide an objective measure of deviant (and non-deviant arousal) and to gauge treatment progress (e.g., the extent to which an offender’s arousal has changed or is effectively managed by the offender).
Abel Assessment for Sexual Interest™

- Assesses sexual interests via relative time spent viewing different visual stimuli
- Some research: can discriminate between offenders and non-offenders
- Undermined by websites that disclose the basis of the test

**Lecture (1 minute):**
Abel assessments (AASI 1 and 2) are used to measure a person’s sexual interest and assess sexual behavior problems. The assessment measures the amount of time a person spends looking at a slide and later asks the person to rate a response to the slide. The viewing time procedures are designed to provide an objective measure of sexual interests by assessing the relative amount of time an individual spends viewing non-sexual images of persons of different ages and both genders.

The Abel screen has been undermined by websites that describe how it works. If a person knows the underlying rationale for the test, it may be easy to create invalid test results.
Lecture (1-2 minutes):
Because research shows that sex offenders are more likely to recidivate with non-sexual crimes than with new sex crimes, assessing their risk for other violent or non-sexual recidivism is important. The tools listed on this slide provide fairly reliable estimates of risk for “general” offender populations and can also be used to assess non-sexual or violent recidivism with sex offenders. As is true with assessing risk for sexual recidivism, sometimes, practitioners may try to create a tool based on their own ideas about what should be included in such a tool, or they may use a tool that someone else has created that has not been sufficiently researched to determine its reliability and validity. Judges should, therefore, view risk assessment findings with caution in those instances.

Keep in mind that when practitioners use risk assessment tools designed solely to estimate risk of non-sexual recidivism, those measures will provide only a partial understanding of sex offenders’ level of risk. Supplementing these tools with research supported sex offender-specific tools results in a more comprehensive and reliable estimate of risk.

Judges and others are better equipped to make informed decisions in sex offense cases when both sexual and non-sexual risk is assessed.
Lecture (1-2 minutes):
In addition to risk assessments, pre-sentence investigations are a key source of assessment information to assist judges with sentencing decisions in sex offense cases. The items listed on this slide and the next summarize the various elements that should be included in comprehensive pre-sentence investigations involving sex offenders (Cumming & McGrath, 2005).

Because some of the risk factors for sex offenders are unique to that general population, the value of pre-sentence investigations with sex offenders can be enhanced by the use of sex offender-specific risk assessment tool(s) and findings from psychosexual evaluations. The scope of the pre-sentence investigation requires the use of multiple data sources (e.g., interviews with offenders and collaterals, police reports, victim statements, other record reviews, risk assessments, psychosexual evaluations). This highlights the importance of specialized training for the practitioners who conduct these investigations, as well as the need for collaboration and information-sharing in order to gather and use this information effectively.

In some jurisdictions, pre-sentence investigations are mandated or ordered for all cases involving sex crimes to ensure that judges and other stakeholders have access to the most comprehensive and specialized information about each sex offender to guide sentencing and post-sentencing case management decisions.
Commonalities Between General Psychological and Sex Offender-Specific Evaluations

- Intellectual, cognitive functioning
- Personality, psychopathology, diagnosis
- Interpersonal, social history
- Developmental, family history
- Risk of harm to self, others

Lecture (1-2 minutes):
The remaining type of assessment covered in this session is the psychosexual evaluation. Briefly, a psychosexual examination is a multi-hour assessment of an offender’s personal and sexual history; risk factors for offending; and arousal patterns as determined by clinical interview and standardized measures. (See Slide 38 for a more thorough description.) Like pre-sentence investigations, well-conducted psychosexual evaluations can be extremely valuable for promoting informed decisions for judges and other stakeholders.

Large Group Discussion (1-2 minutes)
Ask participants to list ways in which psychosexual evaluations are similar to and different from general psychological evaluations. The presenter should then explain that psychosexual evaluations and more general psychological evaluations conducted for the courts share a number of common elements, as outlined in this slide.

Note: The purpose of this slide is to prevent participants from inferring that psychosexual and psychological evaluations are mutually exclusive from one another and assuming that psychosexual evaluations must be ordered in addition to general psychological evaluations. Such a practice can result in unnecessary duplication of efforts and depletion of resources. At the same time, the presenter should ensure that psychosexual and general psychological evaluations are not viewed as interchangeable. Rather, the common elements highlight an important – but incomplete – foundation for sex offender-specific evaluations. The additional information to be included in a psychosexual evaluation is discussed in the slide that follows.
WHAT TO EXPECT IN ASSESSMENTS
AND FROM THE PROFESSIONALS
CONDUCTING THEM
Lecture (1-2 minutes):
The elements listed on this slide demonstrate the expanded scope of psychosexual evaluations, beyond what is included in more general psychological evaluations. This information should be gathered using multiple methods, including clinical interviews, record reviews, and the use of specialized assessment measures and techniques.

Evaluators should explore the individual’s sexual development, including early sexual experiences, age appropriate and consenting sexual behaviors, sexual functioning (and/or sexual dysfunction), and any problematic or sexually abusive patterns.

Sexual interests, arousal, and preferences must be explored. This includes the extent to which the individual has interests in and arousal to age-appropriate sexual partners and behaviors, as well as fantasies, urges, and interests that are unhealthy or otherwise inappropriate or deviant (e.g., sexual attraction to children, arousal to violent or forcible sexual behavior involving non-consenting partners).

Finally, to be thorough, psychosexual evaluations must include risk assessment findings, taking into account both sexual and non-sexual recidivism risk.

Note: The presenter should draw participants’ attention to the pitfalls that could be associated with evaluators’ attempts to explore this type of information prior to conviction (i.e., the defendant may not disclose incriminating information about the current charge or charges, or other undetected or unreported problem behaviors with the same or other victims that could then be subject to additional charges and prosecution), and emphasize that the purpose of psychosexual evaluations is to identify recidivism risk and intervention needs (i.e., to assist with sentencing and post-disposition decisions).
**Lecture (1-2 minutes):**

Formats of psychosexual evaluations vary from jurisdiction to jurisdiction and from evaluator to evaluator. However, this slide outlines the primary sections and content that judges should reasonably expect from a comprehensive psychosexual evaluation.
Lecture (2-3 minutes):
A clinician must have appropriate education and training to conduct a psychological evaluation (e.g., a licensed psychologist with training in using and applying assessments). Conducting psychosexual evaluations requires advanced education, training, and experience.

This list provides an overview of criteria that are commonly used to consider the level of expertise and qualifications of sex offender-specific evaluators (ATSA, 2005).

- A graduate clinical degree (e.g., generally in clinical psychology);
- Training and experience in forensic clinical practice (e.g., the specialized application of psychology in the legal and criminal justice context, including forensic assessments);
- Further specialization and supervised experience in the assessment and treatment of sex offenders;
- A current license to practice in a relevant field (e.g., psychology), including adherence to applicable professional standards and codes of ethics. These may include, but are not limited to, the Practice Standards and Guidelines for the Evaluation, Treatment, and Management of Adult Male Sexual Abusers (ATSA, 2005) and the Specialty Guidelines for Forensic Psychology (Committee on Ethical Guidelines for Forensic Psychologists, 1991);
- Professional affiliations related to practice in forensic practice and sex offender management (e.g., American Academy of Forensic Psychology, American Psychology-Law Society of the American Psychological Association, Association for the Treatment of Sexual Abusers); and
- Evidence of ongoing professional development and continuing education in the relevant profession, and specific
to sex offender management.

**Note:** Some states (e.g., Colorado, Illinois, New Mexico) have adopted formal standards, guidelines, and certification processes to promote consistency, quality/integrity, and reliability among individuals who conduct these evaluations. The presenter should be familiar with any such standards or guidelines for evaluators in the state/jurisdiction in which the curriculum is being presented.

**Summary Exercise (2-4 minutes):** Before displaying the summary slide, ask the participants to write down a list of the key points they learned from this session (1-2 minutes). Ask them to share their list with a colleague (1-2 minutes).

**Lecture (1-2 minutes):**
The presenter concludes this module by summarizing the key points regarding the value of assessments to guide decision-making.

**Note:** The presenter can refer participants to the resource document related to sex offender assessment included in the Resource Center on the CD. Developed by the Center for Sex Offender Management, it is entitled, *The Importance of Assessment in Sex Offender Management: An Overview of Key Principles and Practices.*
C. MODULE THREE: TREATMENT AND SUPERVISION OF SEX OFFENDERS

DESCRIPTION OF THE MODULE

Treatment for sex offenders is designed to accomplish two primary goals. The first is to reduce sex offenders’ risk for reoffending, by helping sex offenders identify risk factors that are linked to their offending behaviors and develop healthy skills for counteracting these risk factors. Treatment is also designed to assist sex offenders with leading successful, stable, productive, and fulfilling lives, which translates into fewer victims and greater community safety.

When judges understand the types of treatment and other interventions that are most likely to lead to attaining these goals, they are better positioned to ensure that sentencing decisions support or complement those strategies.

Approximate time: 45-65 minutes, depending upon length of discussions

LEARNING OBJECTIVES

At the conclusion of this module, participants will be able to:

- Discuss the current controversies that lead to differing opinions regarding treatment of sex offenders;
- Name the commonly used model of treatment for adult sex offenders;
- Identify three targets of treatment designed to reduce recidivism among sex offenders;
- Name three areas in which “specialization” applies to supervising sex offenders; and
- List three examples of specialized supervision conditions that may be relevant for sex offenders.

ACTIVITIES & EXERCISES

- Small/Large Group Activity: Brainstorming
- Large Group Discussion
- Large Group Discussion: Quiz Answers
Lecture and Large Group Discussion (1 minute):
Review the learning objectives for this session with the participants. ("At the conclusion of this module, the participants will be able to . . .").

Large Group Discussion (1-2 minutes):
After discussing the learning objectives, inquire about any additional questions the participants may have regarding treatment and supervision for sex offenders and record these on a dry erase board. Check off each of the items as it is addressed throughout the session. Prior to providing the summary of the module at the end of this session, ensure that each of these items has been addressed.

This slide contains an overview of how, and in what order, the materials in this module will be presented.
Two Overarching Goals of Sex Offender Treatment

• Prevent further harm, victimization
• Promote offender stability, success

Lecture (1 minute):
Treatment for sex offenders is designed to accomplish two primary goals. The first is to reduce sex offenders’ risk for reoffending by helping them identify risk factors that are linked to their offending behaviors and develop healthy skills for counteracting these risk factors. Second, treatment is also designed to assist sex offenders with leading successful, stable, productive, and fulfilling lives, which translates into fewer victims and greater community safety.

When judges understand the types of treatment and other interventions that are most likely to lead to attaining these goals, they are better positioned to ensure that sentencing decisions support or complement those strategies.

Comparison of Sex Offender Treatment with Other “Behavioral Health” Treatments

Small/Large Group Activity (10 minutes):
Ask participants to pair with a colleague and brainstorm a list of the ways in which they believe treatment for sex offenders is similar to and different from other types of mental/behavioral health treatment. Encourage each pair to share an item from their list with the large group, until all ideas generated from each pair have been shared.
Lecture (1 minute):
In contrast to many other types of treatment, whereby clients often seek assistance voluntarily, sex offender treatment tends to be mandated by the courts or other authorities. Clients in sex offender treatment are initially much more likely to be “involuntary.”

The information that is discussed between treatment providers and clients is privileged or confidential in most settings, with few exceptions (e.g., imminent threat of self-harm or harm to others, mandated reporting of child abuse). With sex offender treatment, however, clients are often expected to sign waivers of confidentiality or be informed of confidentiality limits that allow critical information to be shared with others involved in the justice system (e.g., supervision officers, the courts). Collaborative relationships between treatment providers and supervision officers – including information-sharing – ensure that key players have access to accurate and current information about the sex offender, particularly with respect to any factors that increase risk to reoffend.

Regardless of the type of treatment or the type of client, building rapport and maintaining a therapeutic climate is essential. Clients will not be willing to be candid, open, or engaged in the change process in the absence of such an environment.

Along a similar vein, clients are more likely to be invested and motivated in treatment when they feel ownership over the treatment goals that are being set. In more traditional forms of treatment, clients enter treatment with very specific ideas about what they want to accomplish, and they work with the provider to refine those goals. Although some goals of sex offender treatment may be pre-determined (e.g., identify risk factors, develop healthy coping skills), the provider should still work closely with the offender to identify personal goals for treatment.
Lecture (1 minute):
Across all treatment settings, the specific interventions that will be used (and adjustments to those interventions) should be guided by assessments. This prevents treatment from becoming “one size fits all.”

Sex offender treatment, like many other correctional programs, is typically delivered in a group setting. This differs from what commonly occurs in the general mental health or behavioral health arena, in which treatment often takes place in one-on-one sessions.

With other types of treatment, the implications and scope of impact of unsuccessful treatment tends to be fairly narrow, most notably affecting an individual client’s level of satisfaction or happiness. However, when sex offenders are not successful in treatment, the implications can be far reaching and may involve additional victims and public safety overall. Sex offender treatment providers often feel this weight. This is another important distinction between sex offender-specific treatment and other mental/behavioral health treatment.

<table>
<thead>
<tr>
<th>Sex Offender-Specific Treatment</th>
<th>Other Mental or Behavioral Health Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment-driven interventions</td>
<td>Assessment-driven interventions</td>
</tr>
<tr>
<td>Group therapy modality most common</td>
<td>Individual therapy sessions most common</td>
</tr>
<tr>
<td>Success or “failure” impacts public safety</td>
<td>Success or failure primarily impacts the client</td>
</tr>
</tbody>
</table>
Psychoanalysis is based on the premise that individuals repress painful, traumatic, or otherwise negative experiences during childhood, and that these unresolved issues lead to problems in functioning later in life. A key goal is to bring these issues into conscious awareness so that the individual is able to recognize and work toward resolving them.

Insight-oriented therapy is primarily used for highly motivated clients who are interested in working closely with a therapist to self-explore. It often involves examining unresolved issues and experiences with family, friends, and partners; identifying how past patterns influence how one currently feels about himself or herself and others; and working toward improving one’s self image and building more meaningful relationships.

Research shows that some approaches do not seem to work with sex offenders and others seem to work (Aos et al., 2006; Losel & Schmucker, 2005; Hanson et al., in press). Insight-oriented therapy, psychoanalysis, and non-specific “talk therapies” do not appear to reduce risk among sex offenders.
Behavioral techniques are based on the belief that behaviors are learned and can be unlearned through conditioning. Interventions are designed to shape, modify, or eliminate specific behaviors by pairing negative consequences with the identified problem behaviors, and increasing positive behaviors by pairing rewards and reinforcers with the desired behaviors. With sex offenders specifically, behavioral approaches have been used in an attempt to change deviant interests and arousal. Some research suggests that behavioral techniques alone can be effective for some sex offenders by modifying deviant arousal, but the effects may be short-lived. This is in part because these approaches tend only to address a single factor (e.g., deviant arousal), which is but one of multiple factors that relate to offending and reoffending.

Medical or pharmacological approaches with sex offenders include the use of hormonal agents to reduce testosterone (and thereby reduce, or even eliminate, sex drive). This is what some refer to as chemical castration. Some evidence supports the use of certain types of medications for reducing sexual drives and urges, but these medications are not appropriate for all sex offenders. Generally speaking, pharmacological approaches are not designed to be used in isolation; rather, when used, they are included as part of a broader treatment regimen that also addresses other risk factors and treatment needs for a given offender.

Cognitive-behavioral approaches are designed to assist individuals with identifying the relationship between thoughts feelings and behaviors, changing unhealthy or dysfunctional patterns of thinking, and developing and practicing skills to increase healthy functioning (e.g., problem-solving, social skills, anger management). The cognitive-behavioral approach has the most research support for reducing
recidivism among sex offenders. It is an evidence-based model that has been used effectively for multiple issues, including depression, anxiety, eating disorders, substance abuse, and problem attitudes and values of individuals in the criminal justice system (Landenberger & Lipsey, 2005).

**Lecture (1 minute):**
This session will address the strengths and weaknesses in the research on the efficacy of sex offender treatment.

What do we need to understand about treatment research to know if treatment works?

**Lecture (1 minute):**
This slide raises the broader question: How do we know any treatment works? We use science to test the risks and benefits. We need to use enough subjects to allow statistical analysis. Randomization and controls are important to interpreting results in studies to make sure that sampling bias is not the source of outcome differences.

After we have research study results, we can apply them. But the results are only valid within the doses and populations on whom the treatment was tested.
After research establishes that a treatment works, further studies will define the specifics – what is the dose and duration of the treatment? Who will respond to the treatment? For example, a medication for a viral infection may be effective only when dosed high enough and for a long enough period of time. Further, the medication may have been found to be safe and effective in treating viral infections in young adults but not in elderly people. A medication is “labeled” to inform prescribers of the established indications, or purposes, where it is effective.

Psychosocial treatments have the same considerations – treatment effects may depend on dose (number of sessions or length of sessions), duration (period of treatment), and specific populations (adults but not adolescents). When a medication is applied to a problem that is unlike the problems it has successfully treated in the past, this is “off-label” use. An example would be the use of an antiviral to treat another type of infection. When we do the same with psychosocial treatments, we lose the ability to predict treatment effects. We cannot assume that a treatment for men will work for adolescents, or that a treatment developed as an individual therapy can help in a group treatment setting. Each new application of the treatment needs to be validated with the new target problems and populations.
Lecture (1-2 minutes):
This slide spends a little more time on the issue of randomization. It can be used to illustrate an example of non-randomization and difficulties interpreting data.

Let’s say I wanted to test a new fertilizer for flowers. I decide to compare the effect on two groups of flowers that were in two different places. Because the flowers on the mountain were hard to get to, I used those as my control comparison and used the fertilizer on the plants in my yard. After 60 days, I compared the outcome – the number and size of blossoms on flowers in the two groups. The flowers in my yard were bigger and had more blooms.

Can I conclude that the fertilizer worked?

Why or why not?

This is an example of a quasi-experimental study. I had a control group, but the subjects – here individual flowers – were not randomly assigned to fertilizer or non-fertilizer. I used a convenience sample for the treatment. The difference in the outcome may have been the result of another difference between the groups. Maybe the flowers on the mountain were colder, or had more shade.

The results are suggestive or promising about the fertilizer, but I am not as confident about its effect as I could be if I had a random assignment, which is an experimental study.

Why all this talk about study design – this is the core of understanding the controversies about sex offender treatment studies.
Lecture (1 minute):
Within the cognitive-behavioral framework, sex offender treatment is most commonly delivered in a group setting (McGrath et al., 2003). Providers believe that group treatment is beneficial in that it provides opportunities for offenders to understand, challenge, and learn from one another and provides opportunities to practice interpersonal skills. It is also time and resource efficient. Most of the research on treatment has been based on programs using groups as a primary mode of treatment.

Individual, marital/couples, and family therapy are important to consider as well. Some types of issues may be better suited for more focused attention outside of the group setting. And some clients may have difficulty keeping pace with the group, and may need additional assistance. This is particularly true for sex offenders with learning disabilities, who have language barriers, or who have cognitive, developmental issues that may interfere with their ability to respond to treatment in the group setting.

For some sex offenders, pharmacological interventions can be useful as an adjunct to cognitive-behavioral treatment (e.g., for addressing depression or anxiety, for reducing ruminating thoughts, compulsions, sex drive).
Lecture (2-3 minutes):
The best studied and most promising approach to sex offender treatment is cognitive behavioral therapy, sometimes called CBT. This is a specific type of talk therapy that has been used for treatment of other disorders such as depression and anxiety. In the treatment of sex offenders, the focus of CBT is on the thoughts and feelings that precede sex offending.

Treatment with CBT can occur in individual sessions or in treatment groups in which all the participants are sex offenders. Therapists help offenders see that a sex offense did not "just happen" but resulted from a series of thoughts, feelings, or behaviors. For example, an offender may be able to identify a pattern of thinking behavior that precedes offending. Drinking alcohol and viewing pornography online, for example, may be behaviors that lead to sex offending. By learning to identify the antecedents, an individual may modify his behavior or catch high risk behavior before it progresses.

Less concrete but also important in CBT is looking at the thoughts and feelings that are part of an offender’s cycle. Some people may be more likely to offend when they are lonely or bored. Others may have cognitive distortions (faulty cognitions) about their offending that can be addressed in therapy. For example, an offender may rationalize offending by minimizing the negative impact it has on victims. In CBT, those types of permissive thoughts are challenged with feedback and data.

Some CBT programs include anger control and skills building, such as communication skills.
Lecture (1 minute):
Treatment and supervision are more effective in reducing recidivism and increasing successful outcomes for offenders when they focus on the risk factors directly linked to recidivism (Andrews & Bonta, 2007; Hanson & Morton-Bourgon, 2005). Treatment for sex offenders is generally geared toward assisting the clients with:

- Increasing healthy sexual interests and activity, and reducing or managing deviant sexual urges.
- Developing and maintaining healthy relationships, and learning how to effectively manage conflicts as they arise.
- Recognizing, understanding, and modifying unhealthy attitudes and beliefs.
- Practicing skills that can help mitigate and manage anger and hostility, such as stress management, problem-solving, and effective communication.
- Identifying motivators, skills, and resources that can promote stability in life (e.g., school, gainful employment, health and wellness, positive social supports).

Research has not yet confirmed efficacy of specific variables. Treatment tends to be broad because we don’t know which of the targets might be the “active ingredient.” Because resources are always limited, judges should know the evidence for interventions that come with a price tag.
Lecture (1-2 minutes):
Just as assessment information assists judges with making informed sentencing decisions with sex offenders on a case-by-case basis, assessments are essential for making individualized treatment decisions. Treatment delivered in a “one size fits all” manner is not likely to be effective.

As a reminder, correctional interventions are most effective when the intensity and dosage of treatment are matched to offenders’ level of risk and severity of needs, when treatment focuses primarily on risk factors (as outlined on the preceding slide), and when services are delivered in a manner that takes into account client variables such as gender, culture, level of functioning, and motivation to change (Andrews & Bonta, 2007). Thorough assessments assist treatment providers with identifying and then attending to these principles.

Finally, assessments should be used to gauge treatment progress objectively, consistently, and routinely. An example of a sex offender-specific tool used for this purpose is the Treatment Needs and Progress Scale (McGrath & Cumming, 2003). This instrument includes the common factors targeted in treatment – including those most closely linked to recidivism – with specific descriptors against which clients can be rated approximately every 6 months.

Lecture (1 minute):
Medication has been used in addition to psychological treatments. It is not a stand-alone treatment. Medications to lower testosterone have risks and there are some complications with physician management.
Lecture (1 minute):
Several medications have been studied and used for treating sex offenders. Medications are not used without a behavioral or cognitive behavioral treatment program. They are best used as adjuncts to non-medication treatments.

The most commonly studied medications are the anti-androgens. These are medications that manipulate hormone levels and decrease testosterone and sex drive. Provera and Lupron are the names of two common antiandrogens. Treatment with these medications can lead to serious physical side effects and therefore they need to be administered and monitored with care.

The group of antidepressants known as the SSRIs is also used with sex offenders. Some people experience a decrease in sex drive on these medications. In most people, this would be considered a problematic side effect. In sex offenders, this is a desired effect of the medication. Another reason they are sometimes used is to decrease obsessive and compulsive thinking. The SSRI impact on sex offending is less clear, probably because there is much more individual variation in the effect of these medications. Because of possible side effects, these medications also need to be carefully prescribed and monitored.

In high risk offenders, medication is more likely to be used. Some will be treated with combined antiandrogens and SSRIs.

For a recent review on this topic, see David R. Guay, Drug Treatment of Paraphilic and Nonparaphilic Sexual Disorders, 31(1) Clinical Therapy 1 (2009).
Lecture (1 minute):
Research on treatment effectiveness for sex offenders continues to expand and suggest some uncertainty as to its effectiveness – experts differ in their opinions as to the effectiveness of treatment on recidivism. One recent meta-analysis suggests that cognitive-behavioral treatment can reduce recidivism among sex offenders (Hanson, et al., in press.) However, that meta-analysis was composed of 23 studies – 14 of which were published; 18 of which were rated “weak”; and four of which were randomized.

The only published randomized study on sex offenders is one from the California Department of Corrections sex offender treatment program (Marques, et al.). That study found that the treatment group had a higher rate of recidivism compared with those randomized to control groups.

Bottom line: Professionals don’t agree. Although data from randomized controlled studies have not yet been able to prove a treatment effect, this does not mean treatment cannot work to decrease recidivism. The research is ongoing and there may be studies in the future using different populations of offenders or different types of treatment that can show a positive treatment effect.

Lecture (1 minute):
Specialized treatment is an important strategy for reducing sex offenders' recidivism risk. However, when judges sentence sex offenders to probation – or when sex offenders return to the community following a prison sentence – supervision is another key component to managing sex offenders effectively. These two components can complement one another to maximize public safety.
Lecture (1-2 minutes):
Without question, better results occur when providers are well-trained and well-supervised (Andrews & Bonta, 2007; Dowden & Andrews, 2004; Lowenkamp et al., 2006). In the module on assessment, several important characteristics were outlined pertaining to qualifications of sex offender-specific evaluators. The same types of characteristics apply for practitioners who provide sex offender-specific treatment (see ATSA, 2005). To review, view the faculty notes of Module 2, Slide 40 which provides a list of criteria that are commonly used to consider the level of expertise and qualifications of sex offender-specific evaluators (ATSA, 2005).

Note: Finally, the presenter should reiterate the value of collaboration and note that the willingness/ability of treatment providers to forge and maintain meaningful partnerships with other stakeholders involved in managing sex offenders (e.g., supervision officers) is an important indicator.
Lecture (1 minute):
Courts and partnering agencies throughout the country recognize the complexity of sex offender management and the unique challenges posed by this special offender population. As a result, specialized approaches to supervising sex offenders have become commonplace. Specialization has several dimensions with respect to supervising sex offenders: the training and deployment of officers, the conditions imposed by the courts or supervision agencies, and the technology that can be used to augment supervision practices.
Lecture (1-2 minutes):
Many courts and supervision agencies have worked to promote specialization of officers responsible for supervising sex offenders and, in some instances, have created specialized supervision units or dedicated positions to manage sex offender caseloads. Specialization can result in multiple benefits (Cumming & McGrath, 2005; CSOM, 2009a, 2009b; English et al., 1996).

Through ongoing training and consultation, specialized officers can enhance the internal expertise and capacity of the courts and supervision agencies. Their enhanced knowledge about sex offenders, the dynamics of these cases, the specific risk factors linked to recidivism, and the use of specialized risk assessment tools allows them to focus their supervision efforts in a manner that can maximize resources and increase effectiveness with this population. For example, being specially trained in sex offender-specific risk assessment tools allows them to make more informed decisions about the level of supervision that is most likely to be effective (i.e., higher levels of supervision for higher risk sex offenders), and the specific issues should be monitored routinely because they signal increased risk to reoffend.

When officers specialize in sex offender management and/or have caseloads that are primarily comprised of sex offenders, they tend to be more familiar with the resources in the community that can promote stability and success of sex offenders (e.g., sex offender-specific treatment, housing and employment). In addition, specialization promotes collaboration and information-sharing between supervision officers, treatment professionals, social services, and law enforcement officials who have important roles in the sex offender management process. A key tenet of specialized caseloads – which are ideally smaller than non-sex offender caseloads – is to allow dedicated time to communicate with partner agencies, use field contacts to make home visits and employment
visits, routinely assess and monitor dynamic risk factors, and to participate in case management team meetings to “staff” cases.
Large Group Discussion (2-3 minutes):
Engage participants in a brief dialogue regarding specialized conditions, using the following questions as a guide:
• What types of specialized conditions do you believe are most important for sex offenders under community supervision?
• To what extent are specialized conditions for sex offenders used in your jurisdiction?
• Who is responsible for imposing these conditions?

Lecture (1-2 minutes):
The primary purpose of imposing specialized supervision conditions is to provide clear structure and expectations to reduce and manage risk posed specifically by sex offenders. Specialized conditions typically address the following areas (see Cumming & McGrath, 2005):
• Treatment: Because of the role that sex offender-specific and other types of treatment play in reducing risk and promoting stability, it is common to impose special requirements for sex offenders to participate in and/or complete any recommended treatment.
• Victim Contact: “No contact” conditions are common in sex offense cases and may encompass not only prohibitions against physical or other in-person contacts, but also telephone and written communications. This type of condition is designed as an additional safeguard to prevent victims from being further traumatized in any manner by the offender, and to eliminate the offender’s access to the victim. For sex offenders who have sexually abused children, “no contact” prohibitions are oftentimes expanded to include no unsupervised contact with any minors. This can be challenging in some instances, particularly when the victim is a family member or when the offender has children of their own who were not the target of victimization.
Areas Addressed by Specialized Conditions (cont.)

- Employment, leisure activities
- Surveillance
- Monitoring

Lecture (1-2 minutes) (cont.):

- Employment, Leisure Activities: Restrictions on social, leisure, and employment activities are also common for sex offenders under community supervision. Such conditions are designed to minimize access to situations or locations that may heighten risk. For example, individuals who have abused children are typically prohibited from working in, volunteering in, or residing near locations where children may congregate. A similar off-limits activity may involve working or otherwise spending time in establishments in which alcohol is a primary source of revenue, such as bars or nightclubs.

- Surveillance and Monitoring: Special supervision conditions for sex offenders also tend to include surveillance and monitoring. For example, computers are often subject to random searches (e.g., to identify attempts to contact victims or other potential victims, access to web-sites that promote violence, child pornography). In addition, sex offenders may be required to participate in polygraph examinations to verify compliance with supervision and treatment expectations or to explore specific areas of concern. Recently, ongoing “real-time” monitoring through electronic monitoring or GPS has become more common as a means of tracking offenders’ whereabouts and to prevent them from entering zones deemed off limits because of the increased risk potential.

Whether imposed by a judge or a supervision officer, decisions about which specialized conditions should be imposed are perhaps best made on a case-by-case basis, based on a number of variables including – but not limited to – the offender’s assessed level of risk, identified risk factors, offense dynamics, and intervention needs.
Supervision – Query

- What types of specialized conditions do you believe are most important for sex offenders under community supervision?
- To what extent are specialized conditions for sex offenders used in your jurisdiction?
- Who is responsible for imposing these conditions?

Large Group discussion (3-4 minutes):
Query the group on the types of specialized conditions they believe are most important for sex offenders under community supervision; the extent to which specialized conditions for sex offenders are used in their jurisdictions; and who is responsible for imposing the conditions. Include a discussion of whether the defendant’s admission should be a prerequisite to treatment and supervision.

This is an important area that needs to be explored.

Lecture (1-2 minutes):
To be most effective, supervising sex offenders cannot solely involve surveillance and monitoring. Those are important functions, but officers also have an important role to play in ensuring that sex offenders receive appropriate services and supports that will help to reduce their risk of reoffending and increase their likelihood of stability and success. These officers must assess and understand the specific risk factors and other needs that should be addressed through programs and services, communicate with the offenders about those needs, and broker services accordingly. Officers can also influence change through their own interactions with offenders through modeling effective communication, assisting them with problem-solving, supporting their participation in sex offender treatment, and consistently reinforcing pro-social behaviors. In many ways, those roles and functions parallel those of social workers or case managers, and look less like “enforcement” officers.

Research shows that when supervision officers adopt a more balanced approach – one that includes a blend of surveillance, monitoring, enforcement, and social casework activities – outcomes are better (Aos et al., 2006).
Lecture (2-3 minutes):
Specialized technology, namely the polygraph and GPS, has become increasingly common for the community management of sex offenders.

As a review, for sex offender management, the subjects addressed in polygraph examinations are (a) sexual history – as a means of promoting disclosure about one’s past sexual experiences and offending behaviors, (b) maintenance/compliance – used to verify that sex offenders are complying with the terms, conditions, and expectations of treatment and supervision, and (c) identified issues – to explore a specific concern that has arisen during the course of supervision or treatment. Research indicates that sex offenders tend to disclose or report more information when the polygraph is used as part of a broader approach to sex offender management (Ahlmeyer et al., 2000). However, research does not indicate that the polygraph is a reliable indicator of risk or that it reduces recidivism or otherwise increases public safety. It is a tool that can be used to support or complement a more comprehensive approach to sex offender management. Within the context of sex offender management, the polygraph may be best considered as a tool to facilitate information-gathering – not as a “lie detector,” per se. In other words, its value is not whether deception is or is not indicated; rather, the value comes from the information that is disclosed in the structured interviews that immediately precede and follow the examination itself. For jurisdictions that use the polygraph, it is important that supervision officers, treatment providers, polygraphers, and others collaborate when making decisions about the nature and focus of the examinations, frequencies of the examinations, and the ways in which the information will be used to inform ongoing case management decisions.

Electronic monitoring or GPS is designed as a means of deterring sex offenders from entering high risk or prohibited situations and
tracking/monitoring offenders’ whereabouts. This technology can be used to verify that a given offender is (or has been) in the locations they are supposed to be, such as work or home, and that they are not (or have not been) in prohibited zones or locations. Electronic monitoring is costly and, thus far, has not been found to systematically reduce recidivism or otherwise increase public safety with either non-sex offenders or sex offenders. If used as a risk management tool, it is perhaps best considered with higher risk sex offenders – in keeping with the principles of effective correctional intervention. It should not, however, be used in isolation as the sole strategy for supervising sex offenders. Like the polygraph, it is one potential tool that can be used within a broader sex offender management approach. Location monitoring should be tightly linked since a long delay in the feedback to the officers can be very problematic in terms of liability.

Urine drug screens are important since drug and alcohol problems are an important criminogenic factor.

**Lecture (1 minute):**

As is discussed in Module Six, Evidence-Based Sentencing, effectively employing a balanced approach to supervision requires that officers take into account the core evidence-based principles found to reduce recidivism (Andrews & Bonta, 2007; Lowenkamp et al., 2006). This means that officers should use specialized assessment tools to identify higher from lower risk offenders, and provide a level and length of supervision that matches the assessed level of risk. Not all offenders should be supervised at the highest intensity or for the longest period of time.

It also means that offenders with higher risk and greater needs should be referred to programs and services more than low risk-low need offenders, and that the focus of supervision and programming efforts should be on factors that are directly linked to recidivism.
Summary and Implications

• Cognitive-behavioral sex offender treatment reduces recidivism in non-randomized studies.
• Supervising sex offenders involves specialization
• Balancing treatment and supervision may increase public safety
• Risk reduction and risk management can be targeted through sentencing orders

Large Group Discussion (3-4 minutes):
Ask participants to share with their colleagues some of their reactions to the material, using the following questions as a guide:

• What is the most surprising information you have heard so far?

• What information has been the most validating?

• How does this information comport with what is occurring in your jurisdiction?
D. **MODULE FOUR: CASE STUDIES**

**DESCRIPTION OF THE MODULE**

The case studies are an integral part of the curriculum. They consist of pre-sentence investigation reports and psychosexual exams for each offender. In developing your course, we highly recommend you designate a session for breakout groups. The break-out or discussion groups session can either be a separate session that precedes the presentation of Module Five, or a session that is integrated into the presentation.

Approximate time: 15-20 minutes of small group discussion per case

**LEARNING OBJECTIVES**

At the conclusion of this module, participants will be able to:

- Identify various sentencing factors a judge may consider; and
- Better determine appropriate sentences for offenders.
Introduction

This module contains case studies for five offenders: “John A. Doe,” “John B. Doe,” “John C. Doe,” “Jane A. Doe,” and “Jane B. Doe.” Each case study consists of a pre-sentence investigation report and a psychosexual exam. The case studies derive from actual cases. The pre-sentence investigation reports begin with a synopsis of the report; they conclude with victim statements where applicable. The psychosexual exams include a Static-99 assessment.

The cases were selected to give the participants a variety of offenders to consider for sentencing. Here is a brief description of the cases:

- John A. Doe is a 37-year-old male indicted on two counts of Importuning (Internet solicitation) and Attempted Unlawful Sexual Conduct with a Minor. He pled guilty as charged.
- John B. Doe is a 75-year-old male indicted on two counts each of Rape and Gross Sexual Imposition; the victims were his two granddaughters, ages four and eight when the crimes began. He pled guilty as charged.
- John C. Doe is a 19-year-old male indicted on one count each of Sexual Battery and Tampering with Evidence; the victim was a 16-year-old female acquaintance. He pled guilty as charged.
- Jane A. Doe is a 35-year-old female indicted on two counts of Unlawful Sexual Conduct with a Minor; the victim was a 15-year-old male acquaintance. She was found guilty by a jury of one count.
- Jane B. Doe is a 28-year-old female indicted on three counts of Unlawful Sexual Conduct with a Minor and one count of Obstructing Official Business; the victim was a 15-year-old female. She pled guilty to two counts of Unlawful Sexual Conduct with a Minor.

The case studies are an integral part of the curriculum – we recommend you utilize the case studies regardless of the length of your judicial education program. They give the judges an opportunity to work through how they would sentence convicted sex offenders in actual cases. You will likely find that judges emphasize varying factors. The discussion among the judges makes them aware of the different approaches and factors that may be considered in imposing a sentence, including the conditions they may impose.

To best utilize the case studies, we recommend the following:

1. Choose the number of case studies you will utilize. We recommend you utilize three case studies for an eight-hour curriculum, and one or two for a shorter curriculum.

2. Tailor the charges or facts to the law of your jurisdiction, if need be. The case studies are designed to be as “generic” as possible, but charges, levels of discretion, and other factors vary from jurisdiction to jurisdiction.

3. Once the participants are enrolled, create discussion groups of five to eight judges and reserve a separate space for each discussion group.
4. Ask one judge within each group to serve as a discussion group leader. Explain to him or her that his/her job is to facilitate a discussion of how the judges would sentence each convicted offender, and provide the judge with any training or information you may have to guide him or her in this role. We recommend materials created for this purpose by Gordon Zimmerman, Ph.D., Professor Emeritus, University of Nevada, Reno, Department of Speech Communication and Theatre; and Kelly Tait, M.A., Independent Learning Instructor, University of Nevada, Reno, Department of Speech Communication and Theatre. Forward the case studies to the discussion group leaders at this early stage so he/she will be familiar with them and have the necessary comfort level to lead a discussion.

5. Forward the case studies to the remaining participants approximately 10 days ahead of the course and request that they review them and be ready to discuss them.

6. Optimally, schedule 15-20 minutes per case study for the discussion groups. This enables the groups to consider all the facts and factors presented in each one.

7. Schedule this module before the “Sentencing and Its Implications, Including Conditions to Impose” module at your judicial education course. The sentencing module incorporates the case studies into the presentation (in addition to the discussion groups).

8. Include copies of the case studies in the materials you present at the judicial education course.

9. Advise the faculty for the course that the case studies are an integral part of the course and referenced throughout the modules; present the faculty with the Case Studies Synopsis, located in the Resource Center on the CD, in addition to the case studies.
JOHN A. DOE
JOHN A. DOE
CASE SYNOPSIS

Demographics

• 37-year-old male
• Currently married (nearly 10 years), 2 children
• Well-educated – obtained Master’s in Business Administration
• Stable employment – works in software development
• Stable home, stable finances

Current offense

• Indicted on two counts of Importuning (Internet solicitation) and Attempted Unlawful Sexual Conduct with a Minor
  o Believed the person was a 14-year-old minor female
  o Sexually explicit communications over two months’ time
  o Apprehended after driving to agreed-upon meeting place
  o Acknowledged having thoughts about having sexual contact, but claims to have changed mind
  o Currently in counseling
  o Pled guilty to two counts of Importuning
  o Statutory penalties
    • Importuning: 6-12 months of incarceration and/or up to $2500 fine

Additional background information

• Stable home during childhood
• No history of maltreatment
• No mental health, health, or substance abuse difficulties

Criminal history

• At age 17, fined for disorderly conduct
DETAILS OF INSTANT OFFENSE:

The following information comes from the prosecutor’s office and police department reports. Between the dates of October 17, 2009, and December 23, 2009, the defendant, John A. Doe, had ongoing conversations in an Internet chat room with a person whom he thought to be a 14-year-old girl. It was actually a detective from the police department. After the first few conversations between the defendant and the “14-year-old girl,” the conversations turned to sex, what kind of sexual experiences the girl had, and what kind she would like to have. Eventually, it was agreed that the two would meet on December 26, 2009, at an Arby’s Restaurant. When the defendant arrived at Arby’s at the prearranged time, he was arrested by police and charged with Importuning and Attempted Unlawful Conduct with a Minor. The defendant eventually pled guilty to two counts of Importuning – both felonies.

DEFENDANT’S VERSION:

The defendant gave the following written statement when interviewed by the probation department: “I was involved in a chat room on the Internet with two separate individual teenage girls at different times – sex talk in the nature of oral sex and then engaged in conversation to meet one to explore and have sexual relations. On December 26, I drove to the place proposed. While going there, I had second thoughts and never got out of the car or stopped until the police found me driving near the scene. I got scared and knew it was wrong. I admit that the thoughts and the actions were there, but I do not want that in my life. I am working with a counselor to understand it and prevent it. I am in a support group and will never do it again. I hurt my family and friends.”

PRIOR RECORD:

Juvenile:

The defendant has no known juvenile record.

Adult:

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-1-91</td>
<td>Disorderly Conduct-Fighting</td>
<td>12-10-01: Fined</td>
</tr>
<tr>
<td>3-12-1</td>
<td>Importunity (2 counts)</td>
<td>Instant Offense</td>
</tr>
</tbody>
</table>

MINOR TRAFFIC CONVICTIONS:

N/A

PENDING CHARGES:

The defendant has no known pending charges.
SUPERVISION ADJUSTMENT:

N/A

SECURITY THREAT GROUP PARTICIPATION:

The defendant is not a member of any known gang.

FAMILY HISTORY:

The defendant is the youngest of two children. The defendant indicated he grew up in the neighboring big city and moved to the southwestern part of the state to attend a university. He indicated that, with the exception of two years when he lived in Broward County, Florida, he has since lived in the southwestern part of the state.

Father: 66;
Mother: 64;
Sister: 38, is employed as a secretary.

MARITAL HISTORY:

The defendant married his wife on June 24, 2002. This marriage is still intact. The defendant has two children, ages four and six. The defendant indicated he and his wife have custody of these children.

The defendant currently resides in a one-family house which the defendant and his wife own. The defendant indicated he currently pays a mortgage of $1,139.00 a month for this residence. It has four bedrooms. The defendant indicates that he, his wife, and two children are the only people residing at that residence. The defendant indicated there are no weapons in the home.

EDUCATIONAL HISTORY:

The defendant graduated from high school in 1991. He received a business degree from the university in 1996 and returned for an MBA degree in 2005.

MILITARY HISTORY:

The defendant has no military history.

PHYSICAL AND MENTAL HEALTH:

The defendant is a 37-year-old male whose only physical complaint is allergies. The defendant indicated he currently is not taking any prescription medication, but in the summertime when his allergies return he will take medication for that problem. The defendant indicated he was in family counseling in 1996 and is currently in counseling with a therapist due to the instant offense. The defendant indicated he first began using alcohol at age 18 and he has never used any illicit drugs. The defendant indicated he drinks maybe once a month.
defendant stated he has never been in any program for substance abuse. The defendant indicated he was never abused in any manner as a child and has never attempted suicide.

EMPLOYMENT HISTORY:

December 2006 to present: The defendant is currently employed as a consultant; he earns $103,000.00 per year.

FINANCIAL CONDITION:

The defendant listed his assets as a house worth $265,000.00 in which he has $60,000.00 in equity. The defendant indicated he has $7,000.00 in a checking and savings account; $65,000.00 in stocks and bonds; one automobile worth $25,000.00 and a second automobile worth $10,000.00; and $12,000.00 in a 401(k) plan. The defendant lists his outstanding liabilities as $400.00 a month in car payments and car insurance; his house mortgage plus an equity line against the house in which he pays $1400.00 a month; $50.00 a month for utilities; and a credit card with a $1500.00 balance, on which he pays $50.00 a month.

VICTIM'S VERSION/RESTITUTION:

Due to the nature of this offense, there is no victim or restitution.
JOHN A. DOE

John A. Doe was referred for a psychosexual examination, after a verdict and adjudication of guilt, to assist the court in determining the defendant’s sexual predator status. He was indicted on charges of Attempted Unlawful Sexual Conduct with a Minor and two counts of Importuning. As the result of a plea bargain, Mr. Doe pled guilty to two counts of Importuning. Mr. Doe was informed of the purposes and non-confidential nature of the evaluation, and he agreed to participate in the evaluation. He was clinically interviewed at this examiner’s office March 10, 2010, for one hour.

Sources of collateral information included the following:

1. Court documents regarding this case, including Indictment, State’s Answer to Defendant’s Request for Discovery, Plea of Guilty, Jury Waiver, and Entry Ordering Forensic Evaluation;
2. Police department investigative reports regarding this case, including Voluntary Statement by the defendant and Transcript of online communications with “Mary” and “Jane”;
3. Results of Minnesota Multiphasic Personality Inventory–2 (MMPI-2); and
4. Results of the Static-99.

COLLATERAL INFORMATION

According to court documents, John A. Doe was indicted for offenses that allegedly took place from October 17 through December 26, 2009. Mr. Doe indicated he was communicating via Yahoo Instant Messenger with someone with the screen name “Mary” for a month or so. The transcript of his contact with her indicated he believed she was 14 years old. He eventually asked if she wanted to try “things of a sexual nature”; they “discussed the possibility of having sex”; and they arranged to meet. But, according to John Doe, “by the time I got to Arby’s, I had changed my mind,” and he intended to tell her that. He said he also remembered communicating with someone with the screen name “Jane,” but recalled nothing about their conversations. The transcript of his talks with Jane indicated he initiated talk with her about sexually explicit matters and discussions about meeting.

BACKGROUND INFORMATION

The following social history was provided by the defendant, except as indicated otherwise.

Family of Origin

John A. Doe was raised by both natural parents along with one older sister. His father is retired from a job as a controller of a chemical company. His mother was a special education teacher and is now retired. Mr. Doe stated that neither parent had a history of criminal charges...
or convictions, drug or alcohol abuse, psychiatric problems, or suicide attempts. He said that as a child, he was not mistreated, neglected, or abused. He said that as far as he knew, none of his biological family members was ever diagnosed with a mental illness. He lived with both natural parents until he was 18 years old, when he left for college.

Education

Mr. Doe stated that in elementary school he earned average and above average grades, and he reported no serious disciplinary problems. Mr. Doe graduated from high school in 1991. He attended a university from 1991 to 1995 and earned a B.B.A. He graduated from another university in 2004 with an M.B.A.

Jobs/Occupation

Mr. Doe’s first job, after completing his B.B.A., was doing collections work for four-and-a-half years. He then moved to another city and did software implementation. He was there more than three years then went to another software company for three years. He next worked for a database company doing database work for six months. He has been working for another software development company in software development up to the present time.

Criminal History

While Mr. Doe was in college, he was charged with Disorderly Conduct for wrestling with his roommate at 3:00 a.m. He was given a fine.

Substance Abuse

Mr. Doe said he had his first alcoholic drink when he was 19 years old. His heaviest drinking occurred when he was in college, at which time he drank approximately five beers a week. He never drank heavily and now has a drink approximately once a month. He reported no drug use.

Medical

Mr. Doe states he takes medication for asthma and allergies. He was hospitalized a year ago for treatment of a hernia which did not require surgery.

Mental Health/ Psychiatric

Mr. Doe reports he was never diagnosed as having a mental illness and was never psychiatrically hospitalized or treated for a mental illness. He states that he and his mother “used to feud” when he was 23 years old. He was living at home at the time, so they went to counseling with his mother’s best friend, who was the counselor. In January 2010, Mr. Doe began counseling with another counselor, but after the third session, his psychologist said he was not comfortable appearing in court, so Mr. Doe changed therapists. He is now seeing another therapist. He said he also goes for group peer counseling at a church. His wife has also been seeing a counselor since Mr. Doe’s arrest, and he has sometimes been involved in her counseling.
**Adult Environment and Relationships**

Mr. Doe was married in June 2002 and the couple has two children, ages five and three. He reported no history of serious financial problems (i.e., inability to provide for self or others, incurred debts, credit misuse). He participates in a men’s fellowship group at church.

**Sexual History**

Mr. Doe entered puberty around age 11. He said he started dating when he was in high school, at approximately 16 years old. His first sexual experience involving another person was around age 17. His first sexual intercourse was at age 20. He said he has had “maybe 12” sexual partners in his lifetime. He said his parents never hugged or kissed in front of the children. He said he was never forced to engage in sexual activity against his will, and he never forced anyone else to engage in sexual activity against their will.

For a three-year period prior to his arrest, he and his wife had sex approximately twice a month. He said they were both satisfied with that, although he added, “At times, I wasn’t, but I’m comfortable with it.” However, he later admitted, “I definitely wanted sex more often,” but his wife “has not desired it as much.” He said he was in Chicago throughout the week, and he was home on weekends. He did not masturbate until he was in 36 years old, and even then, he stated, “I only did it a couple of times.”

Mr. Doe explained that his wife had a tubal pregnancy that ended due to the need to surgically remove the fetus on August 21, 2009. He stated, “It affected me because we lost a baby after trying to have a third child for almost a year.” He said that although they rarely had sex, they tried to have sex every third day when his wife was fertile, so she would conceive. He stated, “I still feel we lost a child.” Further, he said his wife suffered complications from the surgery and has been medically disabled and required ongoing treatment as a result of her surgery. He said all of these issues were sources of stress for both of them and significantly interfered with their sexual relationship.

**ACCOUNT AND ATTITUDE TOWARD CURRENT OFFENSE(S)**

Mr. Doe stated that “Mary” and “Jane” were both in an adult chat room. He said their conversations “heated up” on December 26. They talked about going to a hotel. He stated, “Part of it was a blow job and not sex. I don’t get blow jobs. My wife doesn’t do that.” They agreed to meet. He drove from work to another city. He said he was going to cancel it because he was late for the meeting, and he knew there was no way he could meet with her and get home on time.

**PSYCHOLOGICAL TESTING RESULTS**

**Static-99**

The Static-99, developed by Karl Hanson and David Thorton (1999), is a brief actuarial instrument designed to estimate the probability of sexual and violent recidivism among adult males who have already been convicted of at least one sexual offense against a child or non-consenting adult. Its results generalize well to diverse populations, and research indicates it is highly reliable and has good predictive validity. In fact, recent research indicates that it has the highest validity of all sex offense risk assessment instruments. His score on this test fell within
the “low-to-medium” range as a prediction of his likelihood of committing another sexually oriented offense within the next 15 years. Although the likelihood of committing another sexually offense continues to rise beyond the 15-year limit, there is no test currently available to make reasonably accurate predictions beyond this limit.

**MMPI-2**

Mr. Doe was administered the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) as an objective personality assessment. His test results were invalid and suggested an attempt to appear more mentally healthy and stable than may actually be the case. However, nothing more can be interpreted due to his highly defensive approach to the test.

**MENTAL STATUS EXAMINATION**

**Appearance & Behavior**

Mr. Doe is a 32-year-old white male with short black hair and a shaved face. He stated that he is 5’10” tall and weighs 203 pounds. He was dressed in clean, casual clothes and wore eyeglasses. He followed instructions and responded to questions. His movements were not unusually slow or rapid, and he showed no signs of lethargy, excessive distractibility, uneasiness, or hyperactivity. He maintained adequate eye contact. He was calm and his behavior was not highly unusual or bizarre.

**Orientation and Memory**

Mr. Doe was aware of the time, place, and general circumstances for the present evaluation. His memory and concentration were not impaired.

**Speech and Verbal Ability**

Mr. Doe’s speech was clear, coherent, and spontaneous, and he was responsive to questions. He spoke in a normal tone of voice and at a normal pace. His vocabulary, sentence structure, grammar, and use of abstract verbal concepts were above average.

**Mood/ Affect (Observable Signs of Emotion)**

Mr. Doe showed no signs of acute anxiety, depression, fear, or other acute distress. He smiled appropriately but did not laugh or cry. Significant changes in sleep, appetite, energy, socialization, and interest in pleasurable activities are often signs of a mood disorder. He did not report significant changes in any of these areas of functioning. His mood was appropriate to the current circumstances and topics under discussion, and he did not meet the criteria for being diagnosed with a mood disorder.

**Perception (Hallucinations)**

Mr. Doe stated he never experienced hallucinations, and he did not respond to hallucinations during this evaluation (e.g., conversation, nods, unusual pauses in conversation, glances, etc.).
**Thought Content**

Mr. Doe reported no current thoughts, plan, or intent of suicide or thoughts of harming others. He revealed no delusional, irrational, or illogical thinking during this evaluation and reported no bizarre beliefs such as mind control or thought insertion.

**Thought Processes**

There were no signs of psychotic thought processes. His judgment, as shown by his personal history and responses to formal testing, was short-sighted. When asked what he would do if he were the first person in a movie theater to see signs of a fire, he replied, “Yell, ‘Fire!’ or go and get a fire extinguisher.”

**Personality Traits & Self-Description**

Mr. Doe described himself as follows: “I’m confident, pretty well focused, supportive, level-headed, probably compassionate at times, very loving.” He said he is not easily bored and does not do risky or dangerous things just for the excitement or thrill of it. He said he loves his wife and that his long-term goals are to support his family and travel.

**Mental Status Opinion**

Mr. Doe is not mentally retarded or mentally ill, and he has no known history of substance abuse. He does not meet the criteria for Antisocial Personality Disorder or any other personality disorder, and he is not psychopathic.

**DISCUSSION AND OPINION**

The purpose of the current evaluation is to assist the court in determining whether John A. Doe should be classified as a sexual predator. According to the law in this jurisdiction, “sexual predator” means a person who has been convicted of, or pleaded guilty to, committing a sexually oriented offense and is likely to engage in one or more sexually oriented offenses in the future.

**Legal Criteria**

Factors which should be considered in making this determination include the following:

(A) The offender’s age:

Mr. Doe is 32 years old. More youthful offenders tend to have a higher likelihood of recidivism. However, when older persons commit sexual offenses, their victims are usually children. His risk is slightly decreased by this factor.

(B) The offender’s prior criminal record regarding all offenses including, but not limited to, all sexual offenses:
A person’s criminal history, especially his history of prior sexually oriented offenses, is a very effective predictor of future offending. Mr. Doe had one conviction for Disorderly Conduct when he was in college. He has no other criminal history. His risk of recidivism is slightly increased by this factor.

(C) The age of the victim:

Mr. Doe believed the victim was 14 years old. Research indicates that, overall, persons who offend against adults are more likely to be convicted of future sex offenses than offenders who commit sex offenses against children, although that may be because offenses against children are less likely to be reported to police and/or successfully prosecuted.

(D) Whether the sexually oriented offense for which the sentence is to be imposed involved multiple victims:

Mr. Doe believed he was communicating with two 14-year-old girls. His risk of recidivism is slightly increased by the intensity of interest in the deviant sexual activity. This can be measured by the time devoted to this activity and the number of victims. His risk is slightly increased by this factor.

(E) Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting:

Mr. Doe did not use alcohol or drugs to impair the victims. However, research has determined no relationship between this factor and the increased risk of recidivism.

(F) If previously convicted or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed . . . and if the prior offense was a sex offense, whether the offender participated in available programs for sexual offenders:

Mr. Doe has no prior convictions for sexually oriented offenses, and he has never participated in sex offender treatment.

(G) Any mental illness or mental disability of the offender:

Mr. Doe is not mentally ill or disabled.

(H) The nature of the offender’s sexual conduct with the victim and whether it demonstrated a pattern of abuse:

There were two victims, which suggests strong interest in this activity. However, it is not clear whether the fact that there were two victims represents a pattern of abuse.
Whether the offender displayed cruelty or made one or more threats of cruelty:

Mr. Doe did not use force or weapons, excessive force, or cruelty in the commission of the offense.

Any additional behavioral characteristics that contribute to the offender’s conduct:

(See "Recidivism Prediction and Psychological Research," below.)

Recidivism Prediction and Psychological Research

The prediction of sex offense recidivism is a two-step process. First, the offender is classified according to the type of sex offense that was committed (e.g., the relationship with the victim, age, and sex of the victim). Based upon that classification, the “base rate,” or average recidivism rate, for recidivism in that offense category is estimated. Next, based upon his personal history and various psychological factors, the offender’s individual risk factors are used to determine whether the offender’s risk of reoffending is significantly different from that of the typical offender in his offense category.

Recidivism rates cited in research studies vary as the results of several factors, including the length of the follow-up period, the definition of a repeat offense (e.g., accusation, arrest, conviction), and whether the sex offenders were treated or untreated. Review of the research suggests that the most credible estimates of recidivism rates based upon official documents, concerning sex offenders whose victims are females who are not family members, range from 20% to 40%, with most estimates falling in the low 20%. The rate with teenage victims is slightly higher than with children.

However, because many sexually oriented offenses are not reported, especially those with child victims, the actual offense rate is estimated to be much higher than is reported by official sources. For example, U.S. Department of Justice research indicates that only one out of three sex offenses are reported to law enforcement authorities. Other victim surveys have revealed even greater unreliability in the official data. Therefore, the actual base rates for sex offense recidivism could be much higher than the data reported in court documents and other official records. Further, recent research has shown that with child victims, the rate of recidivism continues to increase for at least 25 to 30 years, and at 30 years, more than half the child molesters reoffended. However, the recidivism rates quoted above were based upon the preponderance of research rather than upon the one or two research projects that followed the child molesters for 25 years or more. Therefore, the estimates provided here are likely to underestimate the likelihood of recidivism among child molesters.

Individual risk factors of concern in this case include the following:

1. Any prior criminal conviction is associated with an increased risk of sex offense recidivism and is one of the best predictors of recidivism among this group of offenders. Mr. Doe had one Disorderly Conduct conviction when he was in college, which slightly increases his risk of recidivism.

2. Mr. Doe was communicating with individuals who presented themselves as two different teenage girls. The presence of multiple victims suggests increased interest in this activity, which slightly increases the defendant’s risk of recidivism.
Based upon the above individual risk factors, it is my opinion that Mr. Doe presents a low-to-medium risk of committing another sexually oriented offense. Mr. Doe represents a particular type of offender whose primary sexual interest is toward consensual adult sexual relationships. However, during a period of stress that is often due to work, finances, health, or marital dysfunction, they engage in sexually inappropriate acts with adolescents or children. This type of offender does not present as high a risk of recidivism as the offender whose primary sexual targets are children. This opinion is consistent with test results (Static-99), which categorize Mr. Doe as having a low-to-medium risk of recidivism within 15 years.

Amenability to Treatment

An offender’s amenability to treatment involves three components: (1) The offender admits to his offending behavior and accepts full responsibility for it; (2) the offender sees his offending behavior as a problem and wants to change it; and (3) the offender is willing to fully participate in a sex offender treatment program. Based upon these criteria, it is my opinion that Mr. Doe is amenable to treatment.

Research regarding the effectiveness of sex offender treatment is a highly controversial issue. Most research suggests there is little or no reduction in recidivism following sex offender treatment, although some treatment programs profess to have good results. It seems most likely that successful participation in a specialized sex offender treatment program may result in a slight reduction in an offender’s likelihood of committing future sex offenses only if the offender participates in an appropriate type of treatment program (including multiple treatment modalities such as individual, group, sex education, family treatment).

OPINION

Based upon this offender’s individual risk factors and his psychological testing results, it is my opinion that he presents a low-to-medium risk of recidivism. Although he is currently engaged in counseling, if Mr. Doe is referred for sex offender treatment, it is important that the treatment provider have specific expertise in this area.
JOHN B. DOE
CASE SYNOPSIS

Demographics
- 75-year-old male
- Currently married, nearly 50 years; 3 children
- Retired (long-term, stable employment in paper company)
- Stable residence, finances
- Health problems (triple bypass, high cholesterol, emphysema)

Current Offense
- Indicted on two counts each of Rape, Gross Sexual Imposition
  - Victims were two granddaughters, ages 4 and 8 when offending began
  - Occurred over a 2-year time period, multiple instances of having victims fondling and performing fellatio on him
  - Blames victims, indicates victims initiated and desired the contact
  - Denies harm to victims, no evidence of remorse
  - Pled guilty as charged
  - Statutory penalties:
    - Rape: 3-10 years/$20,000 fine
    - Gross Sexual Imposition: 1-5 years/$10,000 fine

Criminal History
- No prior record

Additional Background Information
- Stable home during childhood
- No history of maltreatment
- Quit school during 8th grade, later obtained GED
- Two years of military service, honorable discharge
- No mental health or substance abuse difficulties
DETAILS OF THE INSTANT OFFENSE:

According to the prosecutor’s office and the county sheriff’s department, the following details are known.

On December 30, 2009, the first victim stated to her mother that she had a secret with her step-grandfather and that she could not tell or her granddad would not be able to play with her anymore. She stated to her mother that her granddad makes her play with his thing that he goes to the bathroom with or he won’t play with her and will go upstairs. At that time, the first victim’s mother called the child abuse hotline to make a report. Further investigation revealed a second victim. Through interviews with both victims and the defendant, it was revealed that the defendant had the victims fondle his penis while at his residence and also had the victims put his penis in their mouths.

On January 20, 2010, the defendant spoke to detectives at the county sheriff’s office. At that time, he told the detectives that the victims are his granddaughters who would often come over to his house to visit. He stated that the granddaughters also spent the night every once in a while. He stated that they all played together. The defendant stated that the girls would play in the basement a lot. The defendant stated that they would trade hugs before playing. The defendant denied that he has ever asked the girls to masturbate him. The defendant admitted to having the granddaughters fondle his penis and perform fellatio on him. The defendant stated that he has no idea how many times this has happened. All the incidents have happened at the defendant’s residence. The defendant stated that the last time the granddaughters touched his penis was around Christmas in 2009. He stated that the children engaged in these acts in the presence of one another approximately four, five, or even six times.

The defendant stated that the last time he had the first victim touch his penis with her mouth was around Thanksgiving of 2009, and the last time he had the second victim touch his penis with her mouth was while in the swimming pool in his back yard during the summer months of 2008. The defendant stated that he had pulled his penis out of his swim shorts while the second victim was under water and when she came up he put his penis in her mouth. The defendant made statements during the interview to the detective that he would like to borrow his gun for a few minutes and “basically end this right now.”

CO-OFFENDER’S VERSION:

There is no co-offender in this case.

OFFENDER’S VERSION:

During an interview conducted on May 18, 2010, at the probation department, the defendant gave the officer the following statement:

The defendant states that he was at home with his granddaughter, the second victim. They were going swimming and went to change. He states that he went into his room and she went into hers. He states that she burst into his room when he was undressed and needed help with her bathing suit. The defendant states that this was two years ago. He states that this happened three times where he had the victim touch his penis. The defendant states that the first time it happened was the swimming incident when she burst into the room while he was undressing.
The defendant states that she thought it was funny that she caught him naked and she wanted to touch it. The defendant states that the second time she walked in on him she wanted to touch it. The defendant states that this also happened with the first victim. He states she put his penis in her mouth. The defendant states his granddaughters initiated the touching.

He states that the first victim told her mother she had a secret and her mother told her she was not allowed to have secrets, and the first victim told her mom what was going on. The defendant was not sure what the victim told her mother. The defendant states that the second victim is one son’s daughter and the first victim is another son’s stepdaughter. The defendant did admit to telling the victims one time that if they did not leave the treadmill alone, they would have to touch “it.” The defendant described “it” as being his penis. The defendant states the first victim kept on and wanted to touch it. He took it out of his pants for her to touch. She said she wanted to taste it and put it into her mouth. The defendant states that it was not in her mouth for very long at that time; and the second victim was in the room. The defendant states that the girls were separate on the other occasions.

It should be noted that when interviewed, the defendant was very reluctant to give information and would not be specific on details.

PRIOR RECORD:

**Juvenile:** There is no prior juvenile record.

**Adult:** According to inquiries sent to area courts, another county justice center, another county sheriff’s office, records of another state, another municipal court, police department, and NCIC, the following adult prior record is known:

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<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
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<tbody>
<tr>
<td></td>
<td>Ct. 1: Rape</td>
<td>Instant Offense</td>
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<td>Ct. 2: Gross Sexual Imposition</td>
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<td></td>
<td>Ct. 3: Rape</td>
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<tr>
<td></td>
<td>Ct. 4: Gross Sexual Imposition</td>
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**MINOR TRAFFIC CONVICTIONS (ADULT):**

None known.

**PENDING CHARGES (ADULT):**

None known.

**SUPERVISION ADJUSTMENT (ADULT):**

Does not apply.
SECURITY THREAT GROUP PARTICIPATION:

The defendant denies being the member of a gang.

FAMILY HISTORY:

The defendant was born on December 25, 1935. The defendant lists the following family members.

Father: deceased;
Mother: deceased;
Sister: age unknown;
Sister: age unknown;
Sister: age unknown;
Brother: deceased;
Sister: deceased; and
Sister: deceased.

The defendant states that his biological parents were married until their death. The defendant denies being abused as a child.

MARITAL HISTORY:

The defendant states that he married on August 16, 1965. The defendant states that this union remains intact today and produced three children.

A spousal history questionnaire returned by the defendant’s wife states, “John is quiet and would do anything to help his children. He is very family-oriented and a good provider. He has always been very good to me and our sons. He is very proud of his sons and their families.”

She further states, “We had a house fire about eight years ago and lost everything we had, and he has never been the same since.” She states that he was considered to be the perfect grandpa until this happened. She states that the kids will really miss their grandpa. She states that she was never aware of what was happening between him and his granddaughters and was as shocked as anyone. She states that she knows he needs help for this and hopes he gets help. “We have attended church for years and I know he has done a lot of praying and also recognizes the problem. This is really so out of character for him.”

RESIDENCE:

The defendant claims he currently resides in a three-bedroom house that he and his wife own. The defendant denies the existence of any weapons or animals in the home.

EDUCATIONAL HISTORY:

The defendant states that he completed the eighth grade and received a GED. Inquiries have not been returned from the Department of Education so this information has not been verified.
MILITARY HISTORY:

The defendant states he was enlisted in the Army from March 1957 until March 1959. The defendant states he was stationed at an Army Base, was ranked a Corporal, and was honorably discharged.

PHYSICAL AND MENTAL HEALTH:

The defendant is a 75-year-old male who claims to be in fair physical condition. The defendant states that he has had open heart surgery and three bypass surgeries. The defendant states that he is on Zocor for his heart. The defendant denies being examined by a mental health professional and denies having made any suicide attempts.

The defendant denies the use of drugs and alcohol and denies being treated for drug and alcohol abuse.

EMPLOYMENT HISTORY:

The defendant states that he is currently retired. Inquiries returned from his previous employer indicate that “John Doe was an employee from October 9, 1965, until he retired on February 1, 2000”. It states, “Mr. Doe was a machine tender on our paper machine at the time of his retirement.”

FINANCIAL CONDITION:

The defendant receives approximately $1600 a month in retirement pension; has a home valued at $309,000 and a 2004 Dodge Caravan as his assets. The defendant lists his monthly financial obligations as $300. The defendant denies ever filing for bankruptcy.

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VICTIM'S VERSION/RESTITUTION

According to the county prosecutor’s office, the victims in this case are Victim One, date of birth 07-23-98, and Victim Two (no date of birth listed). A victim impact statement was returned from the mother of Victim One. When asked about psychological injuries, she states this is still to be determined because Victim One is so young and does not understand what happened or why it was wrong. When she does understand, there could be a problem. She states Victim One went to one session of counseling but was worried and upset about having to testify. She states that counseling for problems related to the incident may be received later when she has an understanding of the incident. The victim’s mother states, “He should definitely never have any contact with Victim One or our family again. He should be incarcerated so that he is unable to hurt other children. He should be incarcerated for the remainder of his life – the same period of time his crimes will affect Victim One – the rest of her life. She states, “Victim One lived in terror of having to testify when he originally pled not guilty, and she was also worried that he will try to get back at her in some way for telling the secret. I hope he will be incarcerated so that we can continue to live our life without fear.” It would appear there is no restitution owed in this case.
A victim impact statement was returned from Mother Two, who is the mother of Victim Two. When asked about psychological injuries, she states, “It is hard to determine the psychological impact this has had or will have on her daughter.” She states that her daughter “feels a lot of guilt.” Victim Two has done well with counseling. She states that her daughter has missed going to her grandparent’s house and her routine has been disrupted. The family is trying to maintain a relationship with her grandmother. The family is “hurt and angry.” She states, “I do not believe he is a horrible person, but I do believe he has made some horrible decisions.”
PSYCHOSEXUAL EXAM

JOHN B. DOE

John B. Doe was referred for a psychosexual examination, after a verdict and adjudication of guilt, to assist the court in determining the defendant’s sexual predator status. As the result of a plea agreement, the State agreed to dismiss the life specification on the Rape charges, and Mr. Doe pleaded guilty and was adjudicated guilty to two counts of Rape, a first degree felony; and two counts of Gross Sexual Imposition, a third degree felony.

Mr. Doe was informed of the purposes and non-confidential nature of the evaluation and agreed to participate in the evaluation. He was clinically interviewed at this psychologist’s office on June 28, 2010, for one hour.

Sources of collateral information included the following:

2. County Sheriff’s Office investigative reports, including Summary of Defendant’s Oral Statement, Defendant’s Voluntary Statement, Witness Statement of Granddaughter A, State Uniform Incident Report;
3. Results of the Minnesota Multiphasic Personality Inventory – 2 (MMPI-2); and
4. Results of the Static-99.

COLLATERAL INFORMATION

Mr. Doe was charged with two counts of Rape and Gross Sexual Imposition against two of his granddaughters, Granddaughter A and Granddaughter B. The offense against Granddaughter A occurred from July 2007 through December 2009, when she was eight through 10 years old. The offenses against Granddaughter B occurred from July 2008 through December 2009, when she was four and five years old.

Mr. Doe admitted that Granddaughter A visited often at his home, and they frequently played games and traded hugs. He denied ever asking her to masturbate him, but later admitted he had Granddaughter A fondle his penis and perform fellatio on him. He said he had no idea how many times that happened, but he believed the last time was around Christmas 2009. He said they also engaged in these acts in the presence of each other many times. He also said that the last time he had Granddaughter A touch his penis with her mouth was while they were in the swimming pool at his home in the summer of 2008. He said he pulled his penis out of his pants while Granddaughter A was under the water, and as she came up, he put his penis in her mouth. He said several times during the interrogation that he wanted Det. Officer’s gun to “basically end this right now.”
According to Asst. Prosecuting Attorney John Smith, John Doe is Granddaughter A’s grandfather. Granddaughter A’s father was previously classified as a sexual predator and had an evaluation completed through Catholic Social Services in 2000 after he sexually fondled young girls. However, Granddaughter A’s father has never admitted to the offenses, and his family has always insisted he was not guilty.

BACKGROUND INFORMATION

The following social history was provided by the defendant, except as indicated otherwise.

Family of Origin

John B. Doe was raised in Kentucky by both biological parents along with seven sisters and one brother. Mr. Doe’s parents are deceased. His father was a mechanic, and his mother was a homemaker. Mr. Doe said neither parent had a history of criminal charges or convictions, drug or alcohol abuse, psychiatric problems, or suicide attempts. He said that as a child, he “had a happy home life” and was not mistreated, neglected, or abused. Mr. Doe said that as far as he knew, none of his biological family members were ever diagnosed with a mental illness. He lived with both natural parents until he was 20 years old, but he kept returning whenever he lost a job. He did not leave completely until he was 28 years old and got married.

Education

Mr. Doe completed the seventh grade and most of the eighth grade. He quit school after he had an accident and injured his eye. He said his optometrist warned him he would go blind if he did not quit school because of the eye strain. He earned a G.E.D. while he was in the Army.

Jobs/Occupation

Mr. Doe enlisted in the U.S. Army in March 1957 and was honorably discharged in 1959. His primary occupation was running a paper machine until he retired at the age of 65.

Criminal History

Mr. Doe reported no previous arrests as a juvenile or as an adult, except for minor traffic tickets.

Substance Abuse

Mr. Doe said he had his first alcoholic drink when he was 15, and has never had another alcoholic drink. He reported no history of drug use or abuse.

Medical

Mr. Doe reported he takes medication for cholesterol and uses an inhaler for emphysema.
Mental Health/Psychiatric

Mr. Doe reported he was never diagnosed as having a mental illness and was never psychiatrically hospitalized or treated for a mental illness.

Adult Environment and Relationships

Mr. Doe was married at the age of 28, and the couple is still married. He has three sons and four grandchildren, and one step-granddaughter. The victims, Granddaughter A and Granddaughter B, are now 10 and five years old. Mr. Doe said he had frequent contact with his grandchildren and was often their babysitter when the children’s parents needed help. He has continued to have contact with his grandchildren, but only when their parents can supervise the visits.

Sexual History

Mr. Doe started dating around age 14 or 15. His first sexual intercourse was as an adolescent, but he could not recall his age. He estimated he has had approximately six sexual partners in his lifetime, one of which was a one-night stand. He said he has never been unfaithful to his wife.

Approximately eight years ago, his house burned down and he lost everything. Through insurance, they bought another house. He said his wife told him that he “wasn’t himself anymore; that I started changing then.” He said that before the fire, “I seldom ever got mad. I just took my time and I was easygoing. Now, I don’t have the patience that I used to have” and he “gets angry really easily.” He added, “Different ways, I’m not as considerate as I used to be, she says.” He said he sometimes notices these changes, especially when he thinks about things that he lost which can never be replaced because they were family heirlooms from generations ago.

Mr. Doe said he has never engaged in voyeurism or exhibitionism and has never collected sexually oriented books, magazines, or video tapes. He reported no history of sexual problems or concerns that interfered with his life or relationships (i.e., premature ejaculation, impotence, fetishes). He said he was never forced to engage in sexual activity against his will, although he said that some neighborhood boys “attempted, but I didn’t let them do nothing.” He said he has never forced anyone else to engage in sexual activity against his or her will, including these offenses.

ACCOUNT OF CURRENT OFFENSE(S)

According to Mr. Doe, he has an above-ground swimming pool in his backyard, and Granddaughter A liked to swim with him. He said that, one day, she accidentally entered his room while he was changing into his bathing suit and she saw him naked. He energetically stated, “She thought that was the greatest thing to catch me like that!” He said her bathing suit was tangled and while he was trying to untangle it, she touched his penis without his encouragement or permission. He then covered himself with a towel. He said that nothing happened again for years after that. He said there was also a second “accident” while they were in the swimming pool. He stated, “I’m stupid for doing it and I’m greatly ashamed of it,” but Granddaughter A showed him that she could dive under water and touch his penis. However, he said it was all her idea and quite a surprise to him. He stated, “I think she
squeezed it with her fingers as she went by.” Inconsistent with his previous statements to police, he said that there were only these two accidental occurrences.

Regarding the younger granddaughter, Granddaughter B, he said when she was almost four years old they were in the basement of his home. She entered the bathroom while he was urinating, and she accidentally saw him naked. His account of this reported “accident” was presented with the same enthusiasm as with the other granddaughter. He stated, “She saw me then and she thought that was something great!” He said there was one other time, when they were in his basement, and she wanted to play on the treadmill. Granddaughter B and Granddaughter A wanted to play with it, but he would not allow them. However, he told Granddaughter B, “Before you can play with that, you have to touch me.” He said Granddaughter A did it, then quit, “but Granddaughter B wouldn’t quit. She said, ‘I wonder what it would taste like,’ and before I could possibly move, she had it in her mouth.” This was highly inconsistent with his previous statements. He said there were no other incidents with Granddaughter B. He was asked what effect his behavior had upon his granddaughters. He replied, “I don’t think it bothered either one of them. Couldn’t tell no difference in either one of them.”

Then Mr. Doe was asked to talk about his son’s sex offense conviction. He was informed that many acts of incest are trans-generational. After the father molests the children, the children then molest other children. He was asked if this was the case in his family. He replied, “I wish I knew what’s going on. I knew better than to do that, but Granddaughter B just kept on. I thought if I just let her look at it and play with it, we’d just go on and have a good time.” When asked if he believes his son may have sexually molested any other family members, he said that his son would never do that because he is “too crazy about his children.” Mr. Doe was reminded he had said he was also crazy about his grandchildren, yet he sexually molested them. He replied, “That was an accident.” Further, Mr. Doe blamed the girls and claimed they initiated all sexual contact with him. Additionally, he said his son was convicted of molesting his sister-in-law’s daughter, not his own children. Mr. Doe was asked how he feels about what he did to his granddaughters, and he replied, “I think it’s unfair. I don’t think they should take years out of my life.”

Mr. Doe was asked at the end of the evaluation if he had anything to add. He stated, “Just that I think that it’s unfair. If I’d of had complete control before Granddaughter B, she would have never done so. It would have never been permitted. The way it happened, it was just so fast. That child is so fast, I just didn’t have any control of it. As soon as I knew what was happening, I jumped back. Granddaughter B and I have been together since she was in diapers. I took her to soccer. This is the first time this happened to me.” However, it should be noted that this did not happen to him. It is something he chose to do repeatedly to his granddaughters. When asked if he understood what he did wrong, he replied, “Letting them touch me and letting Granddaughter B see what it tasted like – I had no control over that. It happened too quickly. Same with Granddaughter A. She just grabbed it by her fingers as she went by, a tenth of a second, but I’m gonna pay for it.”

**PSYCHOLOGICAL TESTING RESULTS**

**MMPI-2**

Mr. Doe was administered the Minnesota Multiphasic Personality Inventory – 2 (MMPI-2). His test results were considered valid. Individuals with similar test results have been described as anxious and depressed. When stress and anxiety become intolerable, they may
present as depressed, self-deprecating, and dependent. They worry and ruminate, often concerning feelings of guilt for wrongdoings. They tend to report significant changes in sleep, appetite, and energy. They experience poor concentration and lack of motivation and interest in activities that previously interested them.

**Static-99**

The Static-99, developed by Hanson & Thornton (1999), is a brief actuarial instrument that was designed to estimate the probability of sexual and violent recidivism among adult males who have already been convicted of at least one sexual offense against a child or non-consenting adult. Its results generalize well to diverse populations, and research indicates it is highly reliable and has good predictive validity. Mr. Doe’s score on this test falls in the low risk category.

**MENTAL STATUS EXAMINATION**

**Appearance**

Mr. Doe is a 75-year-old white male with graying hair, balding on top. He had a clean shave, was dressed in casual clothes, and wore eye glasses. He presented a somewhat fragile appearance, stating he weighed 154 pounds and had lost at least 10 pounds since February 2010.

**Behavior**

Mr. Doe followed instructions and responded to questions. His movements were not unusually slow or rapid, and he sowed no signs of lethargy, excessive distractibility, uneasiness, or hyperactivity. He maintained adequate eye contact. He appeared calm, and his behavior was not highly unusual or bizarre.

**Orientation and Memory**

Mr. Doe was aware of the time, place, and general circumstances for the present evaluation. His memory and concentration were not significantly impaired.

**Speech and Verbal Ability**

Mr. Doe’s speech was clear, coherent, and spontaneous, and he was responsive to questions. He spoke in a normal tone of voice and at a normal pace. His vocabulary, sentence structure, grammar, and use of abstract verbal concepts were within approximately average range.

**Mood/ Affect (Observable Signs of Emotion)**

Mr. Doe smiled appropriately and sometimes cried when he talked about his relationship with his grandchildren and about being unable to plant a large garden this year because he may be sentenced to a period of incarceration. He described his recent mood as “depressed. I’ve been feeling awful.”
Significant changes in sleep, appetite, energy, socialization, and interest in pleasurable activities are often signs of a mood disorder. Mr. Doe reported slightly decreased sleep, a significant loss of weight since his arrest, and decreased energy. However, he has been able to concentrate and rarely has crying spells. He spends his days working around the house and the yard, which suggests his energy is sufficient for those tasks. Although mildly depressed, his mood was appropriate to the current circumstances and to the topics under discussion, and he did not meet the criteria for being diagnosed with a mood disorder.

**Perception (Hallucinations)**

Mr. Doe stated he never experienced hallucinations, and he did not respond to hallucinations during this evaluation (e.g., conversation, nods, unusual pauses in conversation, glances, etc.).

**Thought Content**

Mr. Doe reported no current thoughts, plan, or intent of suicide or thoughts of harming others. He revealed no delusional, irrational, or illogical thinking during this evaluation and reported no bizarre beliefs such as mind control or thought insertion. He demonstrated no insight to his offending behavior or its adverse consequences on the victims, and he shows no signs of empathy or remorse for his offenses. Like most sex offenders, he denied and minimized the nature of his sexual offenses, despite all evidence to the contrary.

**Thought Processes**

There were no signs of psychotic thought processes. However, Mr. Doe demonstrated immature and self-centered judgment by engaging in ongoing sexual activities with two of his granddaughters, several times while both victims were present, and by providing inconsistent information to police and to this psychologist even after being told I had read the police reports.

**Personality Traits & Self-Description**

Mr. Doe described himself as follows: “Up until you get acquainted with me, you’d think I was stuck up. I was so shy . . . after you get acquainted with me, everybody says I’m a pretty good guy. Getting acquainted is the hardest thing to do.” He stated he loved his wife and that love means “being willing to do things for her, have real strong feelings for her.” When asked about his life goals, he replied, “Right now, Honey, my life is behind me. I was just trying to live, get by as well as I could, until the end. See that my boys all got started good and live all right.”

**DISCUSSION AND OPINION**

The purpose of the current evaluation is to assist the court in determining whether John B. Doe should be classified as a sexual predator. According to the law of this jurisdiction, “sexual predator” means a person who has been convicted of, or pleaded guilty to, committing a sexually oriented offense and is likely to engage in one or more sexually oriented offenses in the future.
Legal Criteria

Factors which were considered in making this determination include the following:

(A) The offender’s age:

Mr. Doe is 75 years old. More youthful offenders tend to have a higher likelihood of recidivism. His risk is slightly decreased by this factor.

(B) The offender’s prior criminal record regarding all offenses including, but not limited to, all sexual offenses:

A person’s criminal history, especially his history of prior sexually oriented offenses, is a very effective predictor of future offending. Mr. Doe has no prior criminal record. His risk of recidivism is not increased by this factor.

(C) The age of the victims:

The victims were between the ages of four and 10 during the period when the offenses occurred. Research indicates that, overall, persons who offend against adults are more likely to be convicted of future offenses than offenders who commit sexual offenses against children, although that may be because offenses against children are less likely to be reported to police and/or successfully prosecuted.

(D) Whether the sexually oriented offense for which the sentence is to be imposed involved multiple victims:

There were multiple victims. The number of victims and the chronicity of the offenses are signs of his intensity of interest in the deviant sexual activity, and his risk is increased by this factor.

(E) Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting:

Mr. Doe did not use alcohol or drugs to impair the victims. However, research has determined no relationship between this factor and the increased risk of recidivism.

(F) If previously convicted or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed . . . and if the prior offense was a sex offense, whether the offender participated in available programs for sexual offenders:

Mr. Doe has no prior convictions for sexually oriented offenses, and he has never participated in sex offender treatment. His risk is not increased by this factor.
Any mental illness or mental disability of the offender:

Mr. Doe is not mentally ill or disabled. His risk is not increased by this factor.

The nature of the offender’s sexual conduct with the victim and whether it demonstrated a pattern of abuse:

There is a pattern of abuse that has been occurring with two different victims over a lengthy period, between July 2007 and December 2009. His risk is increased by this factor.

Whether the offender displayed cruelty or made one or more threats of cruelty:

Mr. Doe did not use force or weapons, excessive force, or cruelty in the commission of the offense. His risk is not increased by this factor.

Any additional behavioral characteristics that contribute to the offender’s conduct:

There are no other risk factors in these offenses.

Mr. Doe’s risk factors listed above include having multiple victims over a lengthy period. This is a pattern that is reflected by the intensity, frequency, and chronicity of his deviant sexual behavior.

Recidivism Prediction and Psychological Research

The prediction of sex offense recidivism is a two-step process. First, the offender is classified according to the type of sex offense that was committed (e.g., relationship with the victim, age, and sex of the victim). Based upon that classification, the "base rate" or average recidivism rate for recidivism in that offense category is estimated. Next, based upon his personal history and various psychological factors, the offender’s individual risk factors are used to determine whether the offender’s risk of reoffending is significantly different from that of the typical offender in his offense category.

Recidivism rates cited in research studies vary as the results of several factors, including the length of follow-up period, the definition of a repeat offense (e.g., accusation, arrest, conviction), and whether the sex offenders were treated or untreated. Review of the research suggests that the most credible estimates of recidivism rates based upon official documents, concerning sex offenders whose victims are female family members (including grandparents who have close involvement with the children), range from 4% to 10%, with most estimates falling around 10%.

However, because many sexually oriented offenses are not reported, especially those with child victims, the actual offense rate is estimated to be much higher than is reported by official sources. For example, U.S. Department of Justice research indicates that only one out of three sex offenses are reported to law enforcement authorities. Other victim surveys have revealed even greater unreliability in the official data. Therefore, the actual base rates for sex offense recidivism could be much higher than the data reported in court documents and other official records. Further, recent research has shown that with child victims, the rate of
recidivism continues to increase for at least 25 to 30 years, and at 30 years more than half the child molesters committed another sexually oriented offense. However, the recidivism rates quoted above were based upon the preponderance of research rather than upon the one or two research projects that followed the child molesters for 25 years or more. Therefore, the estimates provided here are likely to underestimate the likelihood of recidivism among child molesters.

SUMMARY AND OPINION

Based upon the base rate for this type of offense, this offender’s individual risk factors, and his psychological testing results, it is my opinion that Mr. Doe presents a low-to-moderate risk of committing one or more sexually oriented offenses in the future. However, given his refusal to accept responsibility for his actions, it is my opinion that he should never be permitted to be around young children unless he is closely supervised by another adult who believes that he was guilty of these offenses, and that none of his actions in these offenses were accidental.
JOHN C. DOE
JOHN C. DOE  
CASE SYNOPSIS

Demographics

- 19-year-old male
- Single, no current relationship
- Resides with parents
- Was employed in construction; currently in jail
- No independent finances

Current Offense

- Indicted on one count each of Sexual Battery and Tampering with Evidence
  - 16-year-old female victim
  - Involved a co-defendant
  - Victim was intoxicated and passed out at party; cunnilingus and digitally penetrated victim, disposed of (burned) victim’s underwear afterward
  - Offender was using alcohol and marijuana at the time of the offense
  - Admits to behaviors; some evidence of remorse
  - Found guilty by jury as charged
  - Statutory penalty:
    - Sexual Battery: 1-5 years/$10,000 fine
    - Tampering with Evidence: 1-5 years/$10,000 fine

Criminal History (Juvenile Record)

- Petty theft
- Driving without a license
- Drug paraphernalia
- Violation of court order (failed drug test, refused to participate in drug treatment)
- Traffic violations

Additional Background Information

- Stable home during childhood
- No history of maltreatment
- Quit school during 11th grade, later obtained GED
- History of alcohol, marijuana use/abuse
- No mental health, health difficulties
DETAILS OF THE INSTANT OFFENSE:

According to the county prosecutor’s office and the county sheriff’s department, the following details are known about the instant offense:

On or about January 24, 2010, the victim in this case, date of birth May 27, 1994, was at a party and had been drinking. She laid down in a bedroom and both offenders, Offender One and Offender Two (co-offender) came into the room. The victim was found passed out with no clothing from waist down and blood in the vaginal area. She stated that she remembers hearing the suspects talk about performing oral sex on her. She also stated that she remembers them talking about vaginally penetrating her digitally. She was not sure if they used their penises or not. The victim stated that she never drank before and was a virgin. Witnesses overheard the suspects talking about having done some things to the victim since she was passed out.

As to Count 1: The offender, Offender One, engaged in digital penetration of the vagina and cunnilingus with the victim when the offender knew the victim was intoxicated.

As to Count 2: The offender, Offender One, burnt boxer shorts worn by the victim after he engaged in sexual conduct with her while she was intoxicated.

CO-OFFENDER’S VERSION:

The co-offender in this case is Offender Two. It should be noted that the co-offender is a juvenile and was convicted of Gross Sexual Imposition and Attempted Tampering with Evidence in Juvenile court. The co-offender made the following statement about the instant offense to the county sheriff’s office:

I had gotten to my house and there were more people than I wanted, a lot that I did not invite or know. I said to my friend, Andrea, that I was going to lay down in my dad’s bed. He had told Victim, from what I understand, because she came in and asked if she could lay in there with us. I told her she could if she wanted to, so she said she was going to. I was drinking and so was everyone else. At one point in the night, some people that I don’t know were smoking pot and Victim was too. She had gone skinny dipping with some other people. She and Offender One took a shower upstairs. While other people were in my dad’s room looking for towels, I came downstairs and mentioned that I was going to bed and Andrew was too, so Victim said she was going to lay down at that time as well, and we laid down and turned and snuggled. Andrew said he wasn’t tired yet so Offender One said that he was tired so he laid down. Victim and I had started kissing. As we were kissing, Offender One put his hands down under the covers and I guess started fingering her and I said, Victim, I am going to leave and she said, “No, [Offender Two], don't leave.” I asked if she wanted me to stay and she said, “Yes.” I then immediately asked her while we were kissing if she was having fun and she said, “Yes.” Offender One had gotten down under the covers and then I was uncomfortable and told Victim I was going to leave. She grabbed me and told me that she wanted me to stay and I asked her, “Are you having fun?” and she said, “Yes.”

I then went down and fingered and slightly licked her in that area for about two minutes, hardly even that long, and then I came up. Offender One walked out and me and Victim kissed for a second and I slightly fingered her for a second. I stopped and she somewhat cuddled with me and I dozed off for a moment, then Offender One came in and got on the bed and it kinda woke me up from my light sleep. Offender One started putting his hands under the cover and fondling her. I said to Offender One, “She is sleeping,” and then he said he was going to or wanted to, I can't recall having sex with her and I said, “No, Offender One, you
can’t do that, she is asleep,” so he took the same hand he was fondling her with and slightly shook her face to wake her up and I noticed there was some period blood that Offender One got on his hand that had wiped on her face when he touched it and I said that there was some blood on her face from his finger and there was a little bit on my left finger. I washed my hand, so did Offender One, then we walked out and told Robbie and Andrew that there was period blood and they walked back in the room with us. I washed it off her face and she woke up about two minutes later and was concerned that there was a little bit of blood on the sheets (one little spot) and I had talked to her and told her that it was okay and nothing happened that she didn't know about. I left the room and had Amanda go and talk to her for a short second. Amanda walked out with the sheet and the white spread that was under it and told me to wash them because there was some blood on them so I did. I then talked to Victim to try to make sure she was alright. I stated that nothing happened that she didn't want, and she said she knew that, and I said again that nothing else went on, and she said, “Okay,” and that we were still friends; she then left.

OFFENDER’S VERSION:

The offender gave the following written statement to the county sheriff’s office regarding the Instant Offense:

We were all over at my buddy’s house drinking, having a good time. Around 11:30 or so some more people arrived including Victim and her friends. We were all out on the back deck drinking. We all decided to get in the pool skinny dipping. We swam for a while then everybody got out. Victim decides to go get in the shower to wash the pool water off. I walk upstairs to see what’s going on because everybody was gathered around the bathroom door watching Victim shower. I looked in and she says, “Get in with me.” So I get in; we’re messing around; she’s touching me and I’m touching her. While we are in the shower she says, “I’ve heard about you and Andrew.” I said, “What did you hear?” She says, “That you’re hung – that’s why I wanted you to get in with me.” I’m still in my underwear and she’s just in her panties. We get out of the shower and start partying some more. After a while the party starts to die down. I see Andrew walk into the room first with Victim; after a while he comes out, so I walked in there to see what’s going on and when I walked in Victim tells me to “come lay down with her.” Offender Two (co-offender) was in there with her already. I lay down and Victim proceeds to start rubbing on me so I proceed to start fingering her and Offender Two was making out with her at the same time. Then I took off her boxers and started eating her out. About 15 minutes of this I get up and start to walk out. She grabs my arm and tells me to stay with her. About 10 minutes later I just get up and walk out. I started to drink some more.

Then I come to realize that Victim is in there crying. I go in there to talk to her and she screams at me and tells me to “get the fuck out.” Offender Two was in there talking to her. That’s the last time I talked to Victim.

The offender gave the following voluntary written statement to this officer regarding the pre-sentence investigation:

“I was at a party with a bunch of people and me and this girl were messing around all night. My buddy went into the room first and I started messing around with her, then I come in. We started messing around during some point she passed out that I wasn’t aware of. She woke up crying and flipped out.”

Tampering with Evidence: “She had some boxer shorts on; I took them off. After we were done I asked the owner of the shorts if he wanted them; he said, “No,” so I threw them in a fire pit.”
The offender states they were all at a party and they jumped into a pool. They were smoking marijuana and drinking alcohol and got into the shower and were naked. She then got out of the shower and went into a room and Offender Two (co-offender) went into the room with her. He walked in and Offender Two was having sexual activity and he states the victim was awake. He began kissing her and she was kissing him back. He fingered her and had oral sex. Offender One states he heard a knock on the door and left the room and people came into the room and the victim started screaming for him to get out. He reports a few days later a detective showed up at his house.

PRIOR RECORD:

Juvenile

According to the juvenile court, the offender has the following prior record as a juvenile:

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/15/08</td>
<td>Petty Theft</td>
<td>Drug Screen; Work Program</td>
</tr>
<tr>
<td>05/13/09</td>
<td>No Driver’s License</td>
<td>Probation; Court Costs; Drug Screen and Alcohol Evaluation</td>
</tr>
<tr>
<td>08/16/09</td>
<td>Drug Paraphernalia Violation of Valid Court Order</td>
<td>No action taken</td>
</tr>
</tbody>
</table>

MINOR TRAFFIC CONVICTIONS (JUVENILE):

The offender has been convicted of three offenses in Juvenile court: Speeding; Windshield Violation; and Expired Plates.

SUPERVISION ADJUSTMENT (JUVENILE):

The offender was placed on probation as a juvenile. This probation was violated for refusing to attend Drug and Alcohol Treatment. The offender tested positive for marijuana and cocaine. The offender turned 18 years old while on probation. He was then released and referred to Adult Intensive Outpatient Treatment. The offender again refused to go. It appears the offender disregarded probation as a juvenile.
According to records, the offender has the following criminal record:

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>07/24/10</td>
<td>Sexual Battery</td>
<td>Instant Offense</td>
</tr>
<tr>
<td></td>
<td>Tampering with Evidence</td>
<td></td>
</tr>
</tbody>
</table>

MINOR TRAFFIC CONVICTIONS (ADULT):

The offender has been convicted of minor traffic violations as an adult for the offense of Speeding and Traffic Control Lights.

PENDING CHARGES (ADULT):

The offender has no known pending charges.

SUPERVISION ADJUSTMENT (ADULT):

It appears this is the offender’s first felony conviction. It should be noted during the pre-sentence investigation questionnaire interview that the offender broke down and started crying. At that point the offender stated that he “cannot take this anymore” and walked back to his cell. At that time this officer notified the correction officer that was on duty and explained to him what the offender had said. It appears the offender is apologetic and he states, “I would like to have contact with the victim so I can truly express how sorry I am for what I have done to her.”

SECURITY THREAT GROUP PARTICIPATION:

The offender has no affiliation with a gang.

FAMILY HISTORY:

The offender was born on August 3, 1991; the union of his mother and father produced six children. Significant family members include:

- **Father**: 55, employed as a supervisor;
- **Mother**: 47, employed at the local steel company;
- **Sister**: 31, employed as a machine operator;
- **Sister**: 31, employed as a baby sitter;
- **Sister**: 29, employed as a registered nurse;
- **Sister**: 27, employed as a registered nurse; and
- **Sister**: 25, employed as a lab technician.

It should be noted the offender reports a good upbringing and a strong family. The offender reports no forms of abuse.
MARITAL HISTORY:

The offender has never been married, is not currently in a relationship, and has never fathered any children.

RESIDENCE:

The offender is currently in the county jail. He reports his legal residence as the dwelling owned by his parents, which is described as a five-bedroom house. The offender has lived there for 19 years. Others in the dwelling are his mother and father. The offender reports there are no animals in the home and there is one 12-gauge shotgun and one flare gun in the home.

EDUCATIONAL HISTORY:

The offender attended high school and reports he completed the 11th grade. The offender reported he received his GED on March 1, 2010 at the high school. This officer received an educational inquiry returned from High School which reads as follows: The offender withdrew on January 17, 2009, and earned primarily low average grades. This officer verified the offender received his GED.

MILITARY HISTORY:

The offender denied ever serving in the armed forces.

PHYSICAL AND MENTAL HEALTH:

The offender rates his health as excellent. The offender is currently not under a doctor’s care and has never been seen by a mental health professional.

The offender began using alcohol and drugs at the age of 17. The offender has smoked marijuana on an occasional basis, last using February 2010. The offender reports he has never had treatment for drugs or alcohol. However, this is not accurate; see juvenile supervision adjustment.

This officer received a social history questionnaire from the offender’s mother and father that reads as follows:

The offender has had a normal mental development. The offender received his GED. The offender was in one fight at the age of 15 or 16 and that is the only time he has been violent toward another person. They described their relationship with the offender as very close. “We have a very close family; all the children are very protective of each other.” The mother and father state they would be willing to offer anything that he needs to get his life going again. “We have a job commitment from a potential employer.” The mother and father reported no family history of drugs or alcohol and describe the offender’s greatest struggle as “he doesn’t like having idle time; he needs to keep himself busy.” His mother and father state he is clear-thinking and a problem-solver when it comes to problems and crisis situations. Under additional remarks they write, “Offender is a very smart, sensitive kid who made a bad choice.”
EMPLOYMENT HISTORY:

02-10 to 04-10 Employed as a hod carrier laying bricks, earning $8.00 per hour. The reason he left this job was because he was put in jail for the instant offense.

FINANCIAL CONDITION:

The offender has no financial assets or financial obligations. The offender has never declared bankruptcy.

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VICTIM’S VERSION/RESTITUTION

The victim in this case has a date of birth of May 27, 1993. The victim gave the following written statement to the county sheriff’s office:

"Kristin, Ashley, and I got to Offender Two’s (co-offender) house at about 2:00 a.m. on Saturday, January 24, 2010. Everyone was drinking and I thought I would try it. So I started drinking. The first thing I drank was 99 Blackberries and then followed that with Bacardi O. Offender One was the one who gave me the Bacardi O. I drank a good amount of that. By that time I was slightly drunk. Offender Two gave me Smirnoff and a beer. That was the last thing I drank. Being drunk, I was acting goofy and I decided to jump in the pool. The pool smelled awful so I decided I was going to take a shower to try to get the smell off. While I was in the shower, Offender One came in the bathroom and got in the shower with me. I told him to get out, but he didn’t, so I told him not to touch me and he didn’t. After I got out of the shower I got dressed and went to the bedroom to go to sleep. Andrew made sure I was okay and let me in there to sleep. Once Andrew had left, Offender Two and Offender One came into the room and locked the door. I didn’t think about it. I thought Offender Two was just going to go to sleep too. Offender One got in the bed as well. I didn’t really worry about Offender One because I felt safe with Offender Two there. I thought he would protect me. I wasn’t completely conscious but I could hear everything. Offender One was telling Offender Two that he was going to do things to me but Offender Two didn’t say anything – he was talking to me. Offender Two kept asking me if I wanted him to leave, and I said, "No," because I didn’t want to be alone with Offender One. At this time Offender One started touching me down there. Offender Two just kept asking me over and over again if I wanted to leave. He was distracting me then I remember Offender One saying, "I’m gonna fuck her, I have a condom," and Offender Two said, "No," but Offender Two was doing stuff too. This the last thing I remember until I was awaken by Offender One and Offender Two laughing, and then Amanda walked in and kept asking them what they did. There was blood everywhere – all over me, all over the sheets. Amanda said, "We have to clean you up." She pulled or helped me up out of the bed. At that time I was crying because I didn’t know what happened to me. I got cleaned up and put my clothes on and went out to the car. Offender Two came out to my car as I was leaving and asked me if I was going to press charges and saying all this stuff to me. I blew him off and left."
JOHN C. DOE

John C. Doe was referred for a psychosexual examination, after a verdict and adjudication of guilt, to assist the court in determining the defendant’s sexual predator status. Mr. Doe was found guilty by a jury of Sexual Battery and Tampering with Evidence. Mr. Doe was informed of the purpose and non-confidential nature of the evaluation and agreed to participate in the evaluation. He was clinically interviewed at the county jail on November 19, 2010, for one hour.

Sources of collateral information included the following:

1. Court documents regarding this case;
2. Sheriff’s Office investigative reports;
3. State Hospital records regarding victim;
4. Transcript testimony of victim and detective;
5. Results of the Minnesota Multiphasic Personality Inventory – 2 (MMPI-2); and
6. Results of the Static-99.

BACKGROUND INFORMATION

The following social history was provided by the defendant, John C. Doe, except as indicated otherwise.

Family of Origin

John C. Doe was raised by both biological parents along with five older sisters. His mother works at a specialty business and his father is a supervisor at a paper mill. Neither parent had a history of drug or alcohol abuse, psychiatric problems, or suicide attempts. He said his father was convicted of Burglary at age 18, but neither parent has any other criminal record. As a child, Mr. Doe stated he was “treated good – spoiled actually,” and that he was not mistreated, neglected, or abused. None of his biological family members was ever diagnosed with a mental illness. He lived with both natural parents until he was 17 years old when he went to live with his grandmother for a month because he and his mother were not getting along. From there, he moved into his brother-in-law’s house for two months, then moved back into his parents’ home where he was living until the time of his incarceration.

Education

Mr. Doe completed the eleventh grade then quit school. He participated in football and baseball from the ninth through eleventh grade. He explained he always stayed up very late then could not wake up on time for school the next day, so he was frequently late for school and getting into trouble for it. Finally, he got tired of it and quit school. He earned a G.E.D. when he was 18 years old.
Jobs/Occupation

Mr. Doe stated he has always done construction work and was employed until the time of his trial. He has no record of military service and was never fired or asked to leave a job.

Criminal History

Mr. Doe stated he had no juvenile criminal record. His only previous adult record was three or four speeding tickets.

Substance Abuse

Mr. Doe stated he had his first alcoholic drink when he was 16 years old. His heaviest drinking began when he was 18 years old after he stopped attending school, at which time he drank a couple beers once or twice a week. That remained his pattern through the time of his incarceration. He also smoked marijuana two or three times a month.

Medical

Mr. Doe had surgery on his shoulder in July 2008 but reported no other serious illness or injuries. He reported no current medical problems and was not taking medication at the time of this evaluation.

Mental Health/Psychiatric

Mr. Doe stated he was never diagnosed as having a mental illness, and was never psychiatrically hospitalized or treated for a mental illness.

Adult Environment and Relationships

Mr. Doe was never married and never lived with a romantic/sexual partner. He had a 17-year-old girlfriend whom he dated for a year before his arrest. He has no children. He said the important people in his life now are his parents, sisters, and brother-in-law. He still has two friends but feels his other friends have abandoned him since his arrest. His friends are a 22-year-old neighbor and another friend since sixth grade. He believes they are both positive influences on him. He said he does not feel lonely, and it is easy for him to make friends.

Sexual History

Mr. Doe saw a sexually oriented magazine when he was eight or nine years old, when he and some friends took it from his father’s collection. He started dating when he was in the eighth grade. He entered puberty earlier than most of his friends and started masturbating around the same time. His first sexual intercourse was at age 16 or 17 with a girl the same age. He has had five sexual partners in his lifetime, of which two were one-night stands, but none were prostitutes, males, or more than four years younger than Mr. Doe.

Mr. Doe first viewed Internet pornography when he was 17 years old and usually finds his preferred websites by using search words such as “sex” and “blondes.” He has downloaded
Mr. Doe reported no history of sexual problems or concerns that have interfered with his life or relationships (i.e., premature ejaculation, impotence, fetishes). He said he was never forced to engage in sexual activity against his will and never forced anyone else to engage in sexual activity against his or her will or touched anyone who did not want to be touched. He does not believe that he has more sex than other men his age. He went to a strip bar once when he was 18. When asked about his reputation, he stated, “I’m shy when it comes to talking about it, but I’m not afraid to have sex. I like relationships but there’s an occasional one-night stand.”

ACCOUNT OF CURRENT OFFENSE

According to Mr. Doe, he was at a party at the home of a friend, Richard, along with 30 other people. The victim was flirting with him, as well as with three other males at the party. Throughout the night, Mr. Doe drank 10 beers and approximately a quarter of a bottle of liquor. He knew Victim was also intoxicated but he added, “So was everybody else.” Several people decided to jump into the pool and they were wearing nothing but their underwear. Afterward, they decided to change into dry clothes. Mr. Doe walked into a bedroom and saw his friend, Richard, there with the victim. He stated, “Richard was performing digital sex when I went in there and got on the bed. Then Richard was kissing her. I ate her out first. I start kissing and fingering her. Then I left. I came back in, and Richard is sitting on the bed talking to her like nothing ever happened.” Mr. Doe said he did not digitally penetrate her and did not have sexual intercourse with her. Then Mr. Doe left the bedroom and continued to party with his other friends and had one or two more beers. About an hour later, around 6:00 a.m., the victim left the party but Mr. Doe stayed there with his friend.

Regarding the charge of Tampering with Evidence, Mr. Doe said the victim was wearing a boy’s boxer shorts over her panties. He said, “I took them off of her and threw them on the floor. They belonged to someone else, so later I asked if he wanted them and he said, ‘No,’ so I threw it in a fire pit.”

Mr. Doe stated he knew the victim from school. They had a couple of classes together, and she sometimes talked to him, but he did not know her very well. However, based upon what he knew of her reputation, she was not the kind of person who would have wanted multiple partners to engage in sexual activity with her at the same time. He stated, “I feel bad, but I don’t see what I did wrong. I’m sure she’s upset about the whole situation, maybe I took advantage of her. I don’t know. I’m angry that I’m in here. I’m angry that she lied about numerous things when she was on the stand.”

According to police reports, Mr. Doe stated that while he was at the party, he “fingered” the victim and did “eat her out,” but he “never fucked her.” He said she was drunk and hitting on him all night. She invited him into the shower with her after they went skinny dipping in the pool. When asked if she wanted him to do what he did to her, he replied, “Probably not.” He said he burned the boxer shorts because everything was coming at him so fast with her crying and everything that he had just done.
PSYCHOLOGICAL TESTING RESULTS

MMPI-2

Mr. Doe was administered the Minnesota Multiphasic Personality Inventory – 2 (MMPI-2). His test results were considered valid and showed no signs of mental illness, emotional distress, or personality disorder. All test results were within normal limits.

MENTAL STATUS EXAMINATION

Appearance

Mr. Doe is a 19-year-old white male who looked older. He had brown hair with blond streaks and a mustache, sideburns, and a beard. He said he was 5'5” tall and weighed 160 pounds. He was in a jail uniform and his hygiene and grooming were adequate for the circumstances. He had a small scar at the corner of his left eye from an accident when he was eight years old, and small poison oak scars on his forearm.

Behavior

Mr. Doe followed instructions and responded to questions. His movements were not unusually slow or rapid, and he sowed no signs of lethargy, excessive distractibility, uneasiness, or hyperactivity. He maintained adequate eye contact. He appeared calm, and his behavior was not highly unusual or bizarre. He does not appear to have a history of impulsivity.

Orientation and Memory

Mr. Doe was aware of the time, place, and general circumstances for the present evaluation. His memory and concentration were good.

Speech and Verbal Ability

Mr. Doe’s speech was clear, coherent, and spontaneous, and he was responsive to questions. He spoke in a normal tone of voice and at a normal pace. His vocabulary, sentence structure, grammar, and use of abstract verbal concepts were within approximately low-to-average range.

Mood/Affect (Observable Signs of Emotion)

Mr. Doe showed no signs of acute anxiety, depression, fear, or other acute distress. He described his recent mood as, “Up and down. Some days it feels like I could stay here forever. It ain’t so bad. Other days, it’s just horrible. It ain’t bad right now.”

Significant changes in sleep, appetite, energy, socialization, and interest in pleasurable activities are often signs of a mood disorder. Since he has been incarcerated, Mr. Doe stated he has had poor sleep but no other significant changes in any of these areas of functioning. His mood was appropriate to the current circumstances and to the topics under discussion, and he did not meet the criteria for being diagnosed with a mood disorder.
Perception (Hallucinations)

Mr. Doe stated he had never experienced hallucinations, and he did not respond to hallucinations during this evaluation (e.g., conversation, nods, unusual pauses in conversation, glances, etc.).

Thought Content

Mr. Doe reported no current thoughts, plan, or intent of suicide or thoughts of harming others. He revealed no delusional, irrational, or illogical thinking during this evaluation and reported no bizarre beliefs such as mind control or thought insertion. He does not think people are out to harm him, and he does not believe life has treated him unfairly. When something goes wrong, he tends to dwell on it and worry a lot. At the end of the evaluation, he was asked if he had anything to add. He took his time to think about it, then said, “I don’t feel like I did anything wrong . . . and now I’m gonna face the consequences, and I’m sorry.”

Thought Processes

There were no signs of psychotic thought processes. Mr. Doe’s judgment, as shown by his personal history and responses to formal testing, was fair. When asked what he would do if he were the first person in a movie theater to see signs of a fire, he replied, “Probably call the cops.” When asked what he would do if he found a stamped, addressed, sealed envelope in the street, he replied, “Keep walking by.” He was asked why he would do that, and he replied, “The fact that I would have to walk all the way over there and get it, somebody might see me and say, ‘Hey, you’re messing with the mail.’”

Personality Traits & Self-Description

Mr. Doe described himself as follows: “I’m energetic. I’m patriotic. I’m easygoing. I’m laid-back. I like sports. I like this city . . . I’m funny. I’m easygoing. I’m not the kind that will fight all the time. It takes a lot to make me fight. Thickheaded.” When asked if he sees himself as generous, he laughed and said, “If I got a Mountain Dew, there ain’t nobody getting it, but if I got a box of chocolate, I spread the love out.” When asked to explain the description of himself as “patriotic,” he replied, “I love America, because we’re free. We get to do whatever we want, and we have religious freedom and freedom of speech.” However, Mr. Doe said he is not a religious person himself.

His longest relationship lasted a year with the woman he dated before his arrest for this offense. Despite his sexual behavior with the victim in this case, he said he was in love with his girlfriend. When asked to explain what he meant by “love,” he stated, “I don’t know. I’m always thinking about them. I want to be with them all the time. I’m a jealous type. When she talks to another guy, I get real upset. I want to know what she’s saying. Things like that.”

Mr. Doe was asked where he sees himself in the next five years. He replied, “Out of jail, working for my dad; my own apartment, my own car, having a girlfriend; being able to do what I want and not being in here having people tell me what I can and can’t do. I hate this place. I was walking toward my cell the other day and that guy said, ‘Tuck your shirt in, Sir.’ If I was on the outside, I would have [he held up the third finger of his right hand].” He said he will get there through “hard work and determination, no drugs; keep your nose clean and be
responsible with your money.” When asked if he had a savings account, he said he started an account just two months before he was incarcerated, and he had saved $300, but he depleted it by using that money for his jail commissary. He said his parents offered to pay that themselves, but they had already paid for his defense, and he did not want to put them out further.

MENTAL STATUS OPINION

It is my opinion that Mr. Doe is not mentally ill or mentally retarded. He does not meet the criteria for being diagnosed with Antisocial Personality Disorder or any other personality disorder, and he is not psychopathic. Although he admitted he drinks alcohol and smokes marijuana, he claimed minimal use of these substances, which is inconsistent with his description of his drinking at the party on the day of this offense. Therefore, it is my opinion that he may have a greater problem with alcohol abuse than he was willing to admit.

DISCUSSION AND OPINION

The purpose of the current evaluation is to assist the court in determining whether John C. Doe should be classified as a sexual predator. According to the law of this jurisdiction, a “sexual predator” means a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and is likely to engage in one or more sexually oriented offenses in the future.

LEGAL CRITERIA

Factors which should be considered in making this determination include the following:

(A) The offender’s age:

John C. Doe is 19 years old. More youthful offenders tend to have a higher likelihood of recidivism. His risk is increased by this factor.

(B) The offender’s prior criminal record regarding all offenses including, but not limited to, all sexual offenses:

A person’s criminal history, especially his history of prior sexually oriented offenses, is a very effective predictor of future offending. Mr. Doe has no prior criminal record.

(C) The age of the victims:

The victim was an adolescent. Those who offend against children are less likely to be convicted of another sex offense than those who offend against adults. However, that may be due to the difficulty prosecuting offenders of child victims, rather than the actual likelihood of them committing another sex offense. Those who offend against children are less likely to be reported to police and/or successfully prosecuted. His risk is slightly increased by this factor.
(D) Whether the sexually oriented offense for which the sentence is to be imposed involved multiple victims:

There was one victim in this case.

(E) Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting:

Although the victim was intoxicated, Mr. Doe did not use alcohol or drugs to impair her. Further, research has determined no relationship between this factor and increased risk of recidivism.

(F) If previously convicted or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed . . . and if the prior offense was a sex offense, whether the offender participated in available programs for sexual offenders:

Mr. Doe has no prior convictions for sexually oriented offenses, and he has never participated in sex offender treatment.

(G) Any mental illness or mental disability of the offender:

Mr. Doe is not mentally ill or disabled.

(H) The nature of the offender’s sexual conduct with the victim and whether it demonstrated a pattern of abuse:

There is no known pattern of abuse of the current victim or any pattern from one incident to another.

(I) Whether the offender displayed cruelty or made one or more threats of cruelty:

Mr. Doe did not use force or weapons, excessive force, or cruelty in the commission of the offense.

(J) Any additional behavioral characteristics that contribute to the offender’s conduct:

There are no other risk factors in these offenses.

**Actuarial Risk Assessment – Static-99**

The Static-99 is an instrument designed to assist in the prediction of sexual and violent recidivism for sex offenders. This risk assessment was developed by Hanson & Thorton (1999) based upon follow-up studies from a total sample size of 1,301 sex offenders. It is a brief actuarial instrument that was developed to estimate the probability of sexual and violent recidivism among adult males who have been charged or convicted of at least one sexual
offense against a child or non-consenting adult. The recidivism estimates provided by the Static-99 are group estimates based upon convictions for new sex offenses.

Mr. Doe’s risk factors on this test included having an unrelated victim, his age, and never having been married or lived with a woman. These risk factors resulted in a score of three on this instrument, out of a maximum total of 12 points. In research samples, 19% of convicted sex offenders with this score committed another sexually oriented offense within 15 years after their release back into the community, and 34% committed a violent offense within that same follow-up period.

However, no estimates are available beyond 15 years, and it is well-established that the rate of recidivism of child molesters continues to increase at least through 25 years. Based upon his Static-99 score, this places John C. Doe in the low-to-medium risk category relative to other adult male offenders.

**Clinical Risk Assessment**

The prediction of sex offense recidivism is a two-step process. First, the offender is classified according to the type of sex offense that was committed (e.g., the relationship with the victim, age, and sex of the victim). Based upon that classification, the “base rate,” or average recidivism rate, for recidivism in that offense category is estimated. Next, based upon his personal history and various psychological factors, the offender’s individual risk factors are used to determine whether the offender’s risk of recidivism is significantly different from that of the typical offender in his offense category.

Recidivism rates cited in research studies vary as the result of several factors, including the length of the follow-up period, the definition of a repeat offense (e.g., accusation, arrest, conviction), and whether the sex offenders were treated or untreated. Review of the research suggests that the most credible estimates of recidivism rates, based upon official documents concerning sex offenders whose victims are females who are not family members, range from 20% to 40%, with most estimates falling in the low 20%. Offenders who choose adolescent victims tend to have a slightly higher rate of recidivism.

Mr. Doe’s individual risk factors include his age and the age of the victim. It is my clinical opinion that John C. Doe has a low-to-moderate risk of committing another sexually oriented offense in the future.

**SUMMARY AND OPINION**

Based upon both the actuarial test results and the clinical risk assessment, it is my opinion that John C. Doe presents a low-to-medium risk of committing one or more sexually oriented offenses in the future.
JANE A. DOE
PRE-SENTENCE INVESTIGATION REPORT

JANE A. DOE
CASE SYNOPSIS

Demographics

- 35-year-old female
- In a relationship with a prison inmate who is expected to be released this year
- Resides with mother and stepfather
- Has a cosmetology license; worked as a bartender before her current incarceration
- No independent finances

Current Offense

- Indicted on two counts of Unlawful Sexual Conduct with a Minor; found guilty on one count
  - 15-year-old male victim
  - Shared a basement bedroom with victim in which she had her own bed, at victim’s mother’s house
  - Doe and victim had frequent sex/ongoing “relationship”
  - Doe and victim were using alcohol at the time of the offense
  - Admits to bad judgment and consuming too much alcohol
  - Statutory penalty:
    - 1-5 years; up to $10,000 fine

Criminal History

- Runaway (juvenile)
- Speeding (juvenile)
- Operating a Vehicle Intoxicated
- Aggravated Menacing
- Obstructing Official Business (two convictions)
- Domestic Violence
- Disorderly Conduct (three convictions)
- Violation of Temporary Protection Order
- Operating a Vehicle Under the Influence
- Possession of a Drug Abuse Instrument

Additional Background Information

- Unstable home during childhood
- Two alcoholic parents
- As a child, witnessed grandmother shoot dead her alcoholic and abusive grandfather
- Was sexually fondled by grandfather and cousins, and abused by uncle as child
- Quit high school during 12th grade; obtained GED
- History of alcohol, marijuana drug use/abuse
- History of psychiatric treatment
DETAILS OF THE INSTANT OFFENSE:

According to the records of the county prosecutor’s office, the following information is known concerning details of the Instant Offense:

Count One: On or about October 1, 2008, through February 12, 2009, the offender, Jane A. Doe, being 18 years of age or older, engaged in ongoing sexual conduct, to wit: vaginal intercourse and/or fellatio and/or digital penetration of the vagina with Victim when the offender knew the victim was 13 years of age or older, but less than 16 years of age.

According to the police department’s investigative supplemental report, completed on February 13, 2009, the following was reported by the officer: “I responded to a home for a sex offense. Upon my arrival I met with the victim, age 15, and his mother. Mother stated she had discovered a letter on Victim’s computer which he had written to Jane A. Doe, age 34. In the letter he makes reference to making love to Jane.”

“Jane is a family friend who they have known for years. Mother states Jane used to change Victim’s diapers. In approximately October or November of 2008, Jane moved in temporarily at the family’s residence. She shared a basement bedroom with Victim, in which she had her own bed. Jane and Victim allegedly began touching and kissing shortly after Jane moved in. This led to frequent sex which Victim stated was ‘more times than I can count.’”

CO-OFFENDER’S VERSION:

No co-offender was identified in the Instant Offense.

OFFENDER’S VERSION:

During the pre-sentence investigation interview conducted on May 15, 2010, at the county sheriff’s office, the offender gave the following verbal statement concerning details of the Instant Offense:

“I’ve known the family since high school. I was going through a bad breakup with my boyfriend at the time. Victim’s grandmother said I could stay with them. Victim’s aunt was my best friend in high school. Mother said I could stay in the basement with Victim. She knew her son had this crush on me. I was doing all the motherly duties. We were not sleeping in the same bed at first. We never went to bed together. We would fall asleep and I would wake up and he would be stroking my hair. I’m not going to say it wasn’t flattering. It made me feel like I was in high school again. He very much resembled my first boyfriend.

“It didn’t get creepy until after the sexual affair. The first time it occurred in his bed. It happened after I got off work. I had been drinking with some co-workers. I came home and Victim had been smoking pot with some friends. We started watching television. I just remember us talking. I don’t remember ever kissing him. I woke up and knew something had happened. I figured if we just never talked about it, it never happened. If he doesn’t bring it up, I don’t bring it up. I just started avoiding him and staying other places. I never told anybody. I stayed at someone else’s house for a couple of days. I never slept in the bed with him again. I stayed with his sister on February 12 to help her move. We went back to her apartment and started drinking. Victim was bartending for us. Sister had stolen $100 from my purse. I took Victim home to call police. He made me a drink and I laid down. I just remember waking up naked. I believe he put something in my drink. Later on I went to the police and filed rape charges.
“They’re hillbilly trailer trash. They are acting like they are such victims and it’s such a joke. If I ruined their son, why would Victim hang out with me after all of this happened. I liked feeling needed. I feel guilty of bad judgment and too much alcohol.”

The offender adamantly denied having an extended consensual sexual relationship with the victim.

PRIOR RECORD:

Juvenile

According to records of the juvenile court, no known juvenile criminal history was found.

However, according to the offender, she was convicted of Runaway at the age of 15 and sentenced to four days in the juvenile detention center after leaving home due to her mother’s and stepfather’s excessive alcohol consumption. The offender stated: “Both sides of my family drank a lot. Sometimes it was fun and sometimes it was hell. I started drinking at home at 15 because my parents were never home. It was just kids experimenting at that age. We would drink on weekends.”

MINOR TRAFFIC ADJUDICATIONS (JUVENILE):

The offender was convicted of speeding as a juvenile.

SUPERVISION ADJUSTMENT (JUVENILE):

It does not appear the offender was ever placed on probation as a juvenile.

Adult

According to records, the following adult criminal history is known:

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
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</thead>
<tbody>
<tr>
<td>10/24/92</td>
<td>Operating a Vehicle Intoxicated</td>
<td>1/4/93: Guilty</td>
</tr>
<tr>
<td>08/19/95</td>
<td>Aggravated Menacing</td>
<td>10/29/95: Confinement, suspended; Probation; Court Costs</td>
</tr>
<tr>
<td>01/02/99</td>
<td>Obstructing Official Business</td>
<td>02/08/99: 90 days, Jail, suspended; 1 year probation; Fine; Court Costs</td>
</tr>
<tr>
<td>01/01/02</td>
<td>Domestic Violence</td>
<td>02/08/02: 180 days Jail, suspended; 1 year Community Control; $100 Fine; Court Costs</td>
</tr>
<tr>
<td>Date</td>
<td>Charge(s)</td>
<td>Sentencing Details</td>
</tr>
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<tr>
<td>12/15/04</td>
<td>Disorderly Conduct</td>
<td>03/12/05: 30 days Jail, suspended; 20 years Probation; No Contact Order; $250 Fine; Court Costs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/25/10: Probation Violation; Fine; Court Costs</td>
</tr>
<tr>
<td>12/24/04</td>
<td></td>
<td>04/01/07: Probation Violation; Impose Balance; Terminate Probation</td>
</tr>
<tr>
<td>01/06/05</td>
<td>Negligent Assault</td>
<td>Dismissed</td>
</tr>
<tr>
<td></td>
<td>Violation of Temporary Protection Order</td>
<td>Unknown</td>
</tr>
<tr>
<td></td>
<td>Disorderly Conduct</td>
<td>05/13/05: 30 days Jail, suspended; 2 years Non-reporting Probation; Restitution; No Contact with Victim; $150 Fine; Court Costs</td>
</tr>
<tr>
<td></td>
<td>Assault</td>
<td>Dismissed</td>
</tr>
<tr>
<td>08/31/05</td>
<td>Criminal Damaging</td>
<td>03/03/06: Dismissed</td>
</tr>
<tr>
<td>08/31/06</td>
<td>Disorderly Conduct</td>
<td>10/02/06: 30 days Jail, suspended; 2 years Non-reporting Probation; $150 Fine; Court Costs</td>
</tr>
<tr>
<td>11/07/06</td>
<td>Felonious Assault</td>
<td>11/24/06: Dismissed</td>
</tr>
<tr>
<td>11/15/06</td>
<td>Obstructing Official Business</td>
<td>12/30/06: Confinement, suspended; Probation; Fine; Court Costs</td>
</tr>
<tr>
<td>01/28/08</td>
<td>Operating a Motor Vehicle Under the Influence (M1)</td>
<td>02/07/08: 2 years Probation; Residential Driver Intervention Program; 1 year Driver’s License Suspension; $300 Fine; Court Costs</td>
</tr>
<tr>
<td></td>
<td>Possession of a Drug Abuse Instrument (M2)</td>
<td>1 day Jail; 2 years Probation; Substance Abuse Treatment; 6 month Driver’s License Suspension; $150 Fine</td>
</tr>
</tbody>
</table>
Illegal Weapons Onto Grounds of Detention Facility

Details: The offender’s vehicle was stopped for going 80 mph in a 65 mph zone on an interstate highway. Upon making contact with the offender, officers noticed a strong odor of an alcoholic beverage on or about her person. The offender completed a breathalyzer which tested .127. The offender was placed under arrest. During a search of the offender, officers located a small piece of a ChoreBoy in her front right coat pocket. In addition, a search of the offender’s purse located a hypodermic needle. Once at the jail, the offender was searched and a metal pipe with a ChoreBoy and burned residue was found in the suspect’s vagina.

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<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
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<tbody>
<tr>
<td>06/19/08</td>
<td>Assault (2 counts)</td>
<td>04/24/09: Dismissed</td>
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</table>

Details: According to the offender, while she was a patient at the University Psychiatric Department, she became violent with the nurses, slipped out of restraints, and attacked two nurses.

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<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
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<tbody>
<tr>
<td>06/27/08</td>
<td>Unlawful Sexual Conduct with a Minor</td>
<td>Instant Offense</td>
</tr>
</tbody>
</table>

MINOR TRAFFIC CONVICTIONS (ADULT):

The offender has been convicted of one traffic offense as an adult.

PENDING CHARGES (ADULT):

According to records of the county sheriff’s office, the offender has an active misdemeanor warrant from the police department due to an Income Tax Violation, effective May 10, 2009.

SUPERVISION ADJUSTMENT (ADULT):

The offender has been placed on municipal reporting and non-reporting probation on several occasions for various offenses. The offender has violated her conditions of supervision on two occasions for positive urinalysis tests.

A phone conversation with a probation officer confirmed that the offender successfully completed all treatment programs as ordered by the court. She also reported the offender was very cooperative throughout her probation term and worked consistently throughout this time as well.

Please let the court note: The officer reported that the offender never tested positive on urinalysis tests while under her supervision, yet breathalyzers were not done. However, the offender admitted she continued to drink while under supervision, knowing that a breathalyzer was not going to be completed.
SECURITY THREAT GROUP PARTICIPATION:

The offender denies participating in gang-related activities.

FAMILY HISTORY:

The offender reported she was born on June 27, 1975. The offender was the only child produced from the union of her parents before it ended one year after her birth. The offender reported to have a “fair” childhood; however, she had no contact with her father because “he was not a real caring man.” The offender reported the relationship with her mother is strained and stated, “We cannot live together, but she is the first person I call.”

The offender reported she was “touched inappropriately” by her grandfather at a young age. She stated, “I don't think he knew it was me because he came home so drunk. He touched my vagina area.” She also stated she was sexually abused by her cousins as well. She reported “they would flip out their penis and would give me Kool-Aid if I kissed it.” The offender stated she reported this abuse, but no one believed her. She did obtain counseling for this abuse when she was a juvenile.

Significant family members include:

- Father: 54;
- Mother: 52;
- Grandmother: 68; and
- Friend: 30.

MARITAL HISTORY:

The offender reported she married her first husband on February 2, 2005. This marriage ended in divorce on May 10, 2009, without producing any children. The offender stated she consented to the marriage while intoxicated and to “piss my mom off.” Her ex-husband is currently incarcerated in the state correctional facility due to the offense of Operating a Motor Vehicle While Intoxicated.

The offender had a relationship with a second man; however, they never married. This relationship produced one child, Baby Jane. The offender made the following comments about Baby Jane's father: “He's like a father figure. I don't like him sexually.”

An inquiry received from the second man states: “Jane loves her daughter very much. She has been a good parent over the years and has never at any time mistreated her daughter. Jane supports her daughter in everything she does. I consider Jane to be a good, caring parent. In my opinion, Jane poses no threat to society. She knows she made a mistake and I believe she will never make that mistake again. I know she misses her daughter and, if given the chance, she can make amends and become a productive part of society again. If I can help Jane in anyway, I will.”

Records received from the county child enforcement agency indicate the offender is not court-ordered to pay child support.

The offender stated she is currently in a relationship with a third man, who is incarcerated in the state correctional institution due to charges of Tampering with Evidence, Possession of Drugs, and Failure to Comply.

An inquiry received from the third man states: “Jane has always been a very loving, warm-hearted, and caring partner. Jane has always been very supportive of me and her
daughter, Baby Jane. I feel lucky to have a person like Jane in my life and I know her daughter and anyone who is close to her shares these same feelings. It is my belief, and the opinion of anyone that knows Jane, that she is not capable of the crime that she has been charged with. I have and always will support Jane in anything she does. She has a lot of family and friends who love her and know she is a very caring, loving, and warm-hearted person. I do not believe that prison will be beneficial to her in this matter. It is my hope there is some other avenue in which Jane can gain something from this personally.”

RESIDENCE:

The offender lives in a dwelling described as a four-bedroom house owned by the offender’s mother and stepfather. Officer safety note: The offender reported there are weapons in the home due to her stepfather being a weapons collector. The offender denied the presence of any animals in the home.

A home contact was completed on May 17, 2009, confirming the offender is permitted to reside in the residence. This officer spoke with the offender’s parents and confirmed the home has four bedrooms (one bedroom is used as an office) and a basement. The office does have a computer with Internet access. The offender’s parents both work night shifts and sleep during the daytime hours. An observation of the kitchen found there was alcohol in the residence (beer in the refrigerator).

EDUCATIONAL HISTORY:

The offender reported she graduated from high school in 1991. Following high school, she attended cosmetology school and received a certificate in 1996. In 2003, the offender completed the broadcasting program and received a certificate.

This officer sent inquiries to the high school and the cosmetology school; however, as of the date of this dictation, these inquires have not been returned.

MILITARY HISTORY:

The offender denies serving in the armed forces.

PHYSICAL AND MENTAL HEALTH:

The offender rates her health as good. She indicates she suffers from mild dysplasia on her cervix. She also indicated that at her last health exam she was observed to potentially have cirrhosis or hepatitis; however, she never followed up with further testing. The offender denied consuming any medications.

The offender reported a history of suicide attempts as well. She indicated that at the age of 16, she attempted to commit suicide by overdosing while drinking. She also confirmed she has slit her wrists on several occasions. Most recently, in 2008, she reported that she cut her neck after a confrontation with a boyfriend.

When questioned concerning her alcohol and substance abuse history, the offender reported she first began abusing alcohol and drugs at the age of 15. She lists her drugs of choice as alcohol and cocaine. The offender indicated she consumes alcohol approximately three to four times weekly. She classified herself as a “functioning alcoholic.” The offender reported her cocaine abuse consists of “doing a line to bring me back up. I’ve passed many
field sobriety tests by doing a line. Alcohol was my gateway to cocaine. I would have alcohol (six beers or three Captain Morgan and Cokes) before doing cocaine.” The offender continued to report her suicide attempts are in correlation with her alcohol consumption. She stated, “I’ve never done anything wrong sober.”

The offender reported she self-admitted herself into an alcohol treatment program on two occasions, in 2002 and 2007. She also reported that she completed a mental health and recovery center program in 2004.

EMPLOYMENT HISTORY:

The offender is currently unemployed due to being incarcerated.

FINANCIAL CONDITION:

The offender lists her financial assets as $700 per week in employment income when employed. She lists her financial obligations as basic living expenses. The offender reported she declared bankruptcy in 2003 for approximately $20,000.

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VICTIM’S VERSION/RESTITUTION

According to a statement completed by the victim, on February 13, 2008: “The first time that Jane and I had sex was at my sister’s house. At first it was talking and then it started to get into rubbing and kissing. Then it led to sex. We were in my cousin’s bedroom and we started having sex. The next time was when she moved in and shared a room and a bed. She took her clothes off and I took mine off then we started having sex. She would be sleeping and she would wake up because I would kiss her on the forehead and neck, then it would get into kissing and having sex. We had sex a lot, but I thought that she had feeling and love the same way I did. But when she moved in like, I was saying, she would sleep in the same bed as me. Some nights she would come in drunk and start to kiss me and take off her clothes, so I did too. Some nights when she would come in drunk and I would start kissing her, but that’s what I thought she wanted. One night my buddy was staying the night and she come home with my sister, but my sister went to bed and passed out. Then Jane said to me, ‘Let’s do it,’” so we took off our clothes and had sex. Last night, my sister and I were sleeping and Jane came and woke us up. So we went to the bar and I had a few drinks on the side. Then when we left the bar, they took some beer and some Captain Morgan. My sister had nothing to do with it and neither did I. So we went back to a friend’s house with a few people that I don’t know. So everything was fine. Jane and I took off our clothes and got in the bathtub and took a bath. Then we had sex on the bathroom floor. So when we were done I went in the other room to make a bed for me and Jane. Then all of a sudden everybody was flipping out and screaming. So my sister left and Jane was locked out of the house. Then all of a sudden everybody was flipping out and screaming. So when we got to the front door, she started kicking the door, trying to get in. So I ran around and got in through the back door to let her in. So my dad comes to pick me up and take me home. So Jane was calling, saying she wants her stuff. So she went back to my sister’s ex-husband’s house. She called, I mean I called her, and she wanted me to come and see her, so I did. When I got there she made a few phone calls and wanted to go to bed. So when we got in bed, we took off our clothes and fell asleep naked.”
Jane A. Doe was referred for a psychosexual examination, after a verdict and adjudication of guilt, to assist the court in determining the defendant’s sexual predator status. She was indicted on two counts of Unlawful Sexual Conduct with a Minor, a third degree felony. She was adjudicated guilty by a jury of one count of Unlawful Sexual Conduct with a Minor, a fourth degree felony.

Jane Doe was informed of the purposes and non-confidential nature of the evaluation and agreed to participate in the evaluation. She was clinically interviewed at the county jail on June 8, 2010, for one-and-one-half hours.

Sources of collateral information included the following:

1. Court documents regarding this case, including Supplemental Discovery; Indictment; State’s Answer to Request for Discovery; Supplemental Discovery; Entry of Verdict; Entry Ordering Sexual Offender Assessment;
2. Police Department investigative reports, including Summary of Defendant’s Oral Statement; Incident Report, Investigative Supplement; Letter with heading “To Jane;” Witness Statement Form by Victim; Witness Statement Forms by Witnesses; Voluntary Statement; and Investigative Supplement;
3. Regional Crime Laboratory;
4. Criminal Identification and Investigation laboratory reports;
5. Criminal Identification and Investigation validated criminal history record;
6. Jane Doe’s Pre-Sentence Investigation Report, prepared by the County Adult Probation Department; and
7. Results of Minnesota Multiphasic Personality Inventory–2 (MMPI-2).

BACKGROUND INFORMATION

The following social history was provided by Jane Doe except as indicated otherwise.

Family of Origin

Jane A. Doe was raised by her biological mother who was married six times and moved frequently from town to town, and was sometimes dropped off at her grandmother’s house. Her mother was in and out of her life but not a stable presence. Jane lived briefly with her biological father when she was in the fourth grade, but he was not a regular part of her childhood, and she has not spoken to her father in two years even though he lives nearby. Jane said she recently learned that he may not even be her biological father.

When Jane was in the sixth grade, she watched her grandmother shoot her alcoholic, physically abusive grandfather to death. Her grandmother was psychiatically hospitalized for a short time, but she was not prosecuted. When Jane was in the eighth or ninth grade, she insisted upon living with her grandmother rather than being dragged to the next town with her
mother. Jane described her mother as an “alcoholic bartender who always got her way and was spoiled rotten. She always chose her husbands over me.”

Jane said that both parents had convictions for multiple DUIs and she believes her mother had a “nervous breakdown” and was psychiatrically hospitalized when Jane was a young child. Her maternal grandmother was also psychiatrically hospitalized, but Jane did not know the diagnoses.

Jane said that, as a child, she was not mistreated, neglected, or abused. She said she was spoiled by her grandparents. She stated, “Nobody was ever really around. I was a loner, so they bought me things in place of being there.” When she was a senior in high school, she moved out of her grandmother’s home and got her own apartment. She explained that she “didn’t get along with my family” because her uncle was an alcoholic who was physically and emotionally abusive toward her. She said she was also sexually fondled by her grandfather once when she was in the third grade. She said that when she told her grandmother about her grandfather’s behavior, everyone in the family made excuses for him because he was an alcoholic.

Jane was also fondled by her cousins until she was in the fourth grade. She said they would fondle her and ask her to kiss their penises in exchange for Kool-Aid packets. When she told adults in the family what was happening, they denied it – no one believed her.

**Education**

Jane Doe attended regular and college prep classes at her high school. She described herself as very athletic – said she was on the varsity track team for four years as well as on the volleyball and basketball teams. She said she broke her school district record for track when she was in the ninth grade. She was suspended in junior high school for lighting a fire cracker in a class, but she was not suspended or expelled from high school.

When Jane moved out of her grandmother’s house in her senior year, she moved to a different school district. When school officials discovered that, she was forced to attend a different school in her senior year. She attended one school in the city school district for a week then she quit school. She later earned her G.E.D.

**Jobs/Occupation**

Jane has no military service. She collected unemployment benefits after she was fired from her job “because of my attitude,” which she blamed on being seven months pregnant.

She has a cosmetology license and worked at a salon for seven years until her daughter started kindergarten. Then she got an internship at a television station and held that part-time job for two years. She quit that job because of the low pay and got a job as a bartender, which she did from 1999 through the time of her arrest for the current charges.

**Criminal History**

Jane reported having only two charges as a juvenile. She said her first arrest was at age 15 for Driving Without a License when she got caught driving her grandmother’s car. Her driver’s license was suspended until she was 17. At age 18 she ran away from home with an older boy and spent five days in the Juvenile Detention Center. She did not recall the name of her charge, but guessed it was for Unruly.

Jane said her first arrest as an adult was for DUI at age 19.
She said she was convicted of Disorderly Conduct and reported having two Probation violations resulting from that charge because she repeatedly failed her drug tests.

At age 23, Jane was fired from a Mexican restaurant for stealing money from a change jar. She was convicted of Theft, spent three days in jail, and was required to repay the money.

She said she also has two convictions for Disorderly Conduct but reported having no other convictions.

According to Bureau of Criminal Identification and Investigation reports, she has the following criminal record:

- Operating a Vehicle Intoxicated 1992
- Aggravating Menacing 1995
- Obstructing Official Business 1999
- Domestic Violence 2002
- Disorderly Conduct 2004
- Negligent Assault (dismissed) 2004
- Violation of Temporary Protection Order 2004
- Disorderly Conduct 2005
- Disorderly Conduct 2006
- Felonious Assault (dismissed) 2006
- Obstructing Official Business 2006
- Operating a Motor Vehicle Under the Influence 2008
- Possession of a Drug Abuse Instrument 2008
- Assault 2008
- Illegal Weapons Onto Grounds of Detention Facility (dismissed) 2008

When asked directly about each of these offenses that she did not mention, she said that the Obstructing Official Business charge was for hiding her boyfriend from police. She said that the Domestic Violence charge in 2002 was regarding a fight with her boyfriend, which resulted in both of them being charged with Domestic Violence.

Regarding the Negligent Assault charge, she said two women jumped her so she retaliated and broke one of the woman’s noses. She said she thought the charges were reduced to two Disorderly Conduct convictions.

She said that regarding the Temporary Protection Order violation, they were court-ordered to stay away from each other after they were both charged with Domestic Violence against each other. She failed to comply.

Regarding the Felonious Assault charge that was dismissed, she explained that her boyfriend broke into her house and she stabbed him. She said she spent 10 days in jail, but the charge was dropped. She said she also carried a crack pipe into the county jail, which resulted in the charge for Illegal Weapons Onto Grounds of Detention Facility.

**Substance Abuse**

Jane said she had her first alcoholic drink when she was 14 years old and started using cocaine when she was 20. She said she tried marijuana but did not like it and did not continue. She has used cocaine, “acid,” and Ecstasy, but does not like “downs,” including minor tranquilizers, narcotic medications, or barbiturates. She added, “I like being up.”

She said that over the past year, while she has been out of jail on bond, she has been drinking heavily every day. She said that her probation officer has been doing drug tests on her.
Jane has been drinking heavily, but has not been using drugs this past year. She added, "I'm just a straight drunk. I'm a bartender. I'm around it every day." She said she starts drinking as soon as she finishes her shift and goes to the bar on her days off to drink all day, "then I pass out and do it again." She said she drinks to make herself numb "because I wake up miserable every day. Life sucks." Then she laughed while simultaneously near tears. She said that the problems she has been trying to escape this past year have included "this charge, fighting with my ex about seeing my daughter, my family who I don't get along with, my boyfriend who is the love of my life who is in prison for Fleeing and Eluding." She voluntarily admitted herself twice to an alcohol treatment program.

**Medical**

While being treated in a psychiatric unit at the university medical center, Jane was told that she may have hepatitis and was told to get further testing, but she did not do it. She reported no other history of serious illness, surgeries, or injuries.

**Mental Health/Psychiatric**

According to Jane Doe, at age 15 or 16 she participated in family counseling for one session. Because the counselor seemed to be blaming her mother for the family’s problems, her mother refused to return.

Jane said she took a handful of pills in a suicide attempt and was treated at the emergency room of the city hospital. At the time, she was living with her grandmother, and her alcoholic uncle and his girlfriend were coming home drunk each night and tormenting and harassing her. She stated, “I had no parental supervision except those alcoholics.”

Jane said she has cut her wrists four or five different times, and has scars on both wrists. She stated, “I was always drunk. I’ve never done anything stupid to myself or got in trouble when I was completely sober.”

Over the years, Jane has seen many different physicians and has been prescribed many different anti-depressant medications. She also participated in counseling with a Ph.D. and an M.D. many years ago. She said her treatment providers have repeatedly told her that the anti-depressant medicine she took was not effective because she was simultaneously abusing alcohol and drugs and because she never took any medicine long enough to be effective.

**Adult Environment and Relationships**

Jane was married in 2005 when both she and her husband were drunk and high on crack cocaine while on a two-day binge. She said she got married “just to piss off my mother” and the man who married her “to piss off his girlfriend.” Her husband is serving a prison sentence in another county. He filed for dissolution from the prison, which became final around the time of Ms. Doe’s arrest for the current offense.

When asked if she had any other live-in relationships, she replied, "I've never been alone." She said she has lived with a boyfriend since she was 18 years old, adding, “I don't like being alone. I always lived with my boyfriends.” The longest any relationship has ever lasted was less than a year. She has one daughter who is 12 years old and lives with her father. Ms. Doe has maintained a good relationship with the child’s father and she sometimes stays there with them, although her relationship with the father is non-sexual.
Jane is currently involved with a man who is serving a prison sentence for Tampering with Evidence, Drug Possession, and Failure to Comply. He is expected to be released later this year.

**Sexual History**

Jane reported being sexually fondled by her grandfather and cousins when she was a child. She said she started menstruating when she was 17, and she had sexual intercourse for the first time when she was in her senior year of high school. She has had numerous sexual partners throughout her adult life.

**ACCOUNTS OF OFFENSE**

According to police reports, on February 13, 2009, Jane Doe said she was raped the night before by a 15-year-old boy. She said she worked at a restaurant until approximately 1:00 a.m., then went to a bar to visit a friend, Ellen, who was with her brother, Doug. Afterward, Jane, Ellen, and Doug visited the house of another friend, Melissa. Melissa’s 15-year-old brother, Victim, was there. Jane continued drinking. After going to the bathroom, Jane came out, and Ellen, Doug, and Melissa were gone along with $140 from her purse. Jane took Victim home and told his mother about the missing money. She also called the police about the missing money. Jane went back to her apartment, then Victim showed up at her apartment. He made her another drink then she told him that she had to lay down, which was around 5:00 a.m.

The next thing she remembered was being awakened by police officers with a gun to her head. She was naked and a female officer handed her clothes to put on. She said she did not know if Victim had done anything to her, but she felt like she had had sex. She said she did joke and flirt with Victim. She said she had known Victim since he was three years old. When told that she was a suspect in a crime, she asked if she were under arrest, then she said she did not have to file a report and that she was going to the hospital.

On March 1, 2009, Ms. Doe told police that she could not remember anything and that she was groggy when she spoke with the detective. She said she did not remember going to her bedroom to lay down, and she did not remember removing her clothes. She rambled about hugging and kissing Victim and possibly leading him on. She said she sat on his lap in the van because it had no seats, and she could tell he had a “hard on.” She said it was a big joke because Victim had made it known that he was in love with her and that Melissa had been joking about Ms. Doe taking his virginity. She said she wanted to drop the investigation, and she signed a form requesting that no further police action be taken.

According to Melissa, she found a letter on Victim’s computer. The letter was written by Victim to Ms. Doe, and it referred to Victim and Ms. Doe having sex. Melissa said that on February 13, 2009, she went to a bar with Jane, Doug, and Victim while Ellen was working there as a waitress. Melissa told Ms. Doe that she knew about the letter and about her relationship with Victim. Ms. Doe called Victim a “fucker retard” and said she thought he had deleted the letter. When they returned to the apartment, Ms. Doe ran a bubble bath, then she and Victim locked themselves in the bathroom. Melissa knocked on the door until they opened it. Ms. Doe was wearing only a towel and she said that she “sucked his dick.” She said that she had “messed around with Victim,” but they never had sex. They argued, and Ms. Doe broke a globe light, then started beating on things. Doug helped Melissa climb the fence behind the apartment because she was afraid that someone was going to call the police.
Another witness said he was at the apartment after the police left, and he overheard Ms. Doe talking on the phone and saying that if Victim filed a report, she would “cry rape.” According to Victim, he had sex numerous times with Jane Doe. The first time was at his mother’s house and, after she moved in, they shared a bed.

However, during the current evaluation, Jane Doe strongly insisted that there was not an ongoing romantic or sexual relationship with Victim. She said there was only one incident between them, and it happened when she was drunk. She stated, “I was drunk and I let some 15 year old have sex with me.” When asked about the letter he wrote to her about their affair, she argued that there was no evidence of an ongoing relationship, that police found “only one DNA stain,” and that “his family made up this long story because they’re all against me.” She showed no signs of remorse for her actions and blamed her intoxication and Victim for the offense. Her account during the current evaluation was inconsistent with her account that she provided for her PSI report.

PSYCHOLOGICAL TESTING RESULTS

Jane was administered the Minnesota Multiphasic Personality Inventory-2 (MMPI-2). Her test results were slightly exaggerated, which suggests a moderate attempt to appear more psychologically impaired than may actually be the case. While her test results are of questionable validity, they are not necessarily invalid. Individuals with similar profiles are seen as aggressive people who inspire anxiety and guilt in others. They are seen as hostile, aggressive, revengeful, and bitter, but they tend to deny anger or violence in the interview. They are demeaning and intimidating toward others, and they frequently have a history of rage and violence, especially toward family or lovers. The likelihood of acting out, along with reduced impulse control and behavioral agitation, is a significant possibility. They may have a history of repeated aggressive situations where others get hurt. They are suspicious and resentful and tend to brood about real or imagined wrongs. They typically have a history of disrupted interpersonal relationships which they have found quite dissatisfying, usually due to their misinterpretation. They frequently abuse alcohol and/or drugs – typically “everything” they can get. At the time of testing, these persons often express distress and anxiety, much of which is situational. When the situation improves, the distress is generally alleviated.

MENTAL STATUS EXAMINATION

Appearance

Jane A. Doe is a 35-year-old white woman. She reports to be 5’9” and weighs 155 pounds. She was dressed in a jail uniform, and her hygiene and grooming were adequate for the circumstances. She had scars on both arms, which she said were from cutting herself with razors and scissors.

Behavior

Jane followed instructions and responded to questions, and she was cooperative with the evaluation. Her movements were not unusually slow or rapid, and she showed no signs of lethargy or hyperactivity, and she was not easily distracted. She maintained adequate eye contact. She appeared calm and her behavior was not highly unusual or bizarre.
Orientation and Memory

Jane Doe was aware of the time, place, and general circumstances for the present evaluation. Her memory and concentration were not significantly impaired. However, she said that her thinking still feels “cloudy,” even though she has had no alcohol to drink for the past month of her incarceration.

Speech and Verbal Ability

Jane Doe read an Informed Participation Statement without error, and she showed adequate understanding of what she had read by rephrasing it in her own words and by answering questions about what she had read. Her speech was clear, coherent, and spontaneous, and she was responsive to questions. She spoke at a fast pace and her speech was slightly pressured. Her vocabulary, sentence structure, grammar, and the use of abstract verbal concepts were within approximately low-average to average range.

Mood/Affect (Observable Signs of Emotion)

Jane Doe showed no signs of acute anxiety, depression, fear, or other acute distress. She smiled appropriately but did not laugh or cry. Significant changes in sleep, appetite, energy, socialization, and interest in pleasurable activities are often signs of a mood disorder. She did not report significant changes in these areas of functioning. She reported a history of suicide attempts, self-mutilation gestures, and mild-to-moderate chronic depression throughout most of her life.

It should be noted that when a person uses drugs and alcohol almost every day of their lives, it is difficult to diagnose a mood disorder because these substances mimic the symptoms of a mood disorder. However, at the time of this evaluation, Jane had not been using drugs or alcohol for a month. Her mood during this evaluation was appropriate to the current circumstances and to the topics under discussion, and she did not display symptoms of a major mood disorder.

Perception (Hallucinations)

Jane Doe said she had never experienced hallucinations except when she was using illegal drugs. During this evaluation, she was not responding to hallucinations (e.g., conversation, nods, unusual pauses in conversation, glances, etc.).

Thought Content

Jane Doe reported a history of suicide gestures and self-mutilation but no current thoughts, plan, or intent of suicide. She reported no thoughts of harming others. She revealed no delusional, irrational, or illogical thinking during this evaluation, and she reported no bizarre beliefs such as mind control or thought insertion.
Thought Processes

There were no signs of psychotic thought processes. She has demonstrated a lifelong pattern of poor judgment (e.g., substance abuse, criminal offenses, probation violations, and continued use of alcohol while out on bond this past year).

Mental Status Opinion

It is my opinion that Jane Doe meets the criteria for chronic alcohol dependency and drug abuse (cocaine). She has a history of chronic mild depression that has been exacerbated by her drug and alcohol abuse and has resulted in multiple suicide gestures and self-mutilation, none of which occurred when she was sober. At the time of this evaluation, she did not meet the criteria for Major Depression or any other severe mood disorder.

However, she does meet the criteria for being diagnosed with personality disorders. She meets the criteria for Antisocial Personality Disorder as shown by her chronic failure to conform to social norms with respect to lawful behaviors; deceitfulness as indicated by lying or conning others for personal profit or pleasure (including sexual pleasure); irritability and aggressiveness as indicated by repeated physical fights or assaults; reckless disregard for safety of self or others; and lack of remorse as indicated by being indifferent to or rationalizing having hurt, mistreated, or stolen from another.

She also meets the criteria for Borderline Personality Disorder. Individuals with this disorder show a chronic and pervasive pattern of self-destructive behaviors; unstable and intense interpersonal relationships; recurrent suicidal or self-mutilation; and inappropriate anger toward others. They avoid being alone and they are particularly reactive to real or feared loss of an important relationship.

DISCUSSION AND OPINION

The purpose of the current evaluation is to assist the court in determining whether Jane A. Doe should be classified as a sexual predator. According to state law in this jurisdiction, a “sexual predator” means a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and is likely to engage in one or more sexually oriented offenses in the future.

Legal Criteria

Factors which should be considered in making this determination include the following:

(A) The offender’s age:

Jane Doe is 35 years old. More youthful offenders tend to have a higher likelihood of recidivism. Her risk may be slightly decreased by this factor.

(B) The offender’s prior criminal record regarding all offenses including, but not limited to, all sexual offenses:

A person’s criminal history, especially her history of prior sexually oriented offenses, is a very effective predictor of future offending. Jane Doe has an
extensive criminal record which significantly increases her likelihood of recidivism.

(C) The age of the victim:

The victim was an adolescent male. Those who offend against children are less likely to be convicted of another sex offense than those who offend against adults. However, that may be due to the difficulty prosecuting offenders of child victims, rather than the actual likelihood of them committing another sex offense. Offenders with adolescent victims have increased risk of recidivism over those who have child victims. Her risk is increased by this factor.

(D) Whether the sexually oriented offense for which sentence is to be imposed involved multiple victims:

There was one victim in this offense.

(E) Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting:

Research has determined no relationship between this factor and the increased risk of recidivism.

(F) If previously convicted or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed . . . and, if the prior offense was a sex offense, whether the offender participated in available programs for sexual offenders:

Jane Doe has no prior convictions for sexually oriented offenses, and she has never participated in sex offender treatment.

(G) Any mental illness or mental disability of the offender:

Jane Doe is not mentally ill or disabled. However, she does meet the criteria for Antisocial Personality Disorder, which is associated with significantly increased risk of recidivism.

(H) The nature of the offender’s sexual conduct with the victim and whether it demonstrated a pattern of abuse:

According to the victim, they were involved in an ongoing sexual relationship. If true, her risk is increased by this factor.

(I) Whether the offender displayed cruelty or made one or more threats of cruelty:

Jane Doe did not use force or weapons, excessive force, or cruelty in the commission of the offense.
Any additional behavioral characteristics that contribute to the offender’s conduct:

(1) Jane Doe has a history of probation violations, which is associated with increased of recidivism, and (2) Jane Doe has a history of alcohol abuse and dependency, which is associated with increased risk of recidivism.

**Actuarial Risk Assessment**

The actuarial risk assessment instruments that were developed to predict sex offense recidivism in male sex offenders have not yet been adequately researched with female sex offenders. Therefore, no actuarial tests were used to predict recidivism with this offender.

**Clinical Risk Assessment**

The prediction of sex offense recidivism is a two-step process. First, the offender is classified according to the type of sex offense that was committed (e.g., the relationship with the victim, age, and sex of the victim). Based upon that classification, the “base rate,” or average recidivism rate, for the recidivism in that offense category is estimated. Next, based upon her personal history and various psychological factors, the offender’s individual risk factors are used to determine whether the offender’s risk of recidivism is significantly different from that of the typical offender in her offense category.

Recidivism rates cited in research studies vary as the result of several factors, including the length of the follow-up period, the definition of a repeat offense (e.g., accusation, arrest, conviction), and whether the sex offenders were treated or untreated. Review of the research suggests that the most credible estimates of recidivism rates, based upon official documents concerning sex offenders whose victims are adolescents who are not family members, range from 20% to 40%, with most estimates falling in the low 20%. However, the risk is slightly higher with adolescent victims.

Jane Doe’s individual risk factors include her criminal history, the age of the victim, having a diagnosis of Antisocial Personality Disorder, having an ongoing relationship (if the victim’s account is considered accurate), having a history of probation violations, and a history of alcohol abuse and dependency. These risk factors indicate a moderate-to-high risk of committing another sexually oriented offense in the future.

**SUMMARY and OPINION**

Based upon her history, collateral sources of information, and psychological testing, it is my opinion that Jane Doe presents a moderate-to-high risk of committing one or more sexually oriented offenses in the future. Her risk might be slightly reduced if she were to complete an alcohol treatment program and abstain from alcohol and drugs.
JANE B. DOE
PRE-SENTENCE INVESTIGATION REPORT

JANE B. DOE
CASE SYNOPSIS

Demographics

- 28-year-old female
- Single, no current relationship
- Will reside with sisters after release
- Was self-employed with cleaning business; currently in jail
- No independent finances

Current Offense

- Indicted on three counts of Unlawful Sexual Conduct with a Minor and one count of Obstructing Official Business
  - 15-year-old female victim
  - Ongoing unlawful sexual conduct
  - Supplied victim with alcohol and/or pills
  - Admits to behaviors; is remorseful
  - Pled guilty to two counts of Unlawful Sexual Conduct with a Minor
  - Statutory penalties:
    - 1-5 years/$10,000 fine

Criminal History

- Runaway (juvenile)
- Assault

Additional Background Information

- Unstable home during childhood
- Stepfather and boyfriend molested Jane; boyfriend was convicted
- Lived in juvenile facility, group home, and foster homes
- Mother has history of bipolar disease; attempted suicide
- Quit school after 9th grade
- History of alcohol, marijuana use/abuse
- No mental health, health difficulties
DETAILS OF THE INSTANT OFFENSE:

According to the county prosecutor’s office and the police department, the following details are known:

Between the dates of July 2, 2009 and October 7, 2009, the victim, who was 15 years old, reported that on several occasions, sexual contact and conduct went on between her and Jane Doe. These acts took place in another city and in the Motel 8 in the neighboring town.

It is also reported that the defendant, Jane Doe, was in juvenile court on September 20, 2009, pled no contest to a charge of Contributing to the Unruliness of a Child, and was ordered not to have any contact with the victim. It should be noted that at the time of these incidents, the victim was a juvenile runaway.

CO-OFFENDER’S VERSION:

There is no co-offender in this case.

OFFENDER’S VERSION:

During an interview conducted on December 21, 2009, at the county jail, the defendant gave the officer the following statement:

Unlawful Sexual Conduct with a Minor: “The minor and I were going through hard times and became very close to one another because her grandmother was dying, and my husband was abusive and was dying, and I was being evicted from my home.”

Jane Doe further states that the victim lived next door to her. She states that she got to know Sally while she was having a hard time because her grandmother was dying of cancer. The defendant states her husband had Hepatitis C and cirrhosis of the liver and was also dying. She states they had this in common and became really close friends and one thing led to another. The defendant does admit to touching the victim’s breast and vagina and also kissing her. The defendant states that the victim is a lesbian and has had a relationship with a 17-year-old female in the past. That relationship broke up, at which time the victim left that residence and came to stay with the defendant. Jane Doe states her mother was in prison and her grandmother had custody and allowed her to stay with the victim. The defendant states she was separated from her husband and the actions were consensual. She states that she only touched the victim’s breasts and vagina. She further stated the more they kept hanging around each other, the more things happened. She states that it happened approximately six times. When asked what happened, Jane Doe stated that she kissed and touched the victim, and victim gave the defendant oral sex. She also stated that the victim was like the boy. She stated, “I never penetrated the victim.” The defendant states this was the first time that she has ever had sexual contact with a female only. When asked about the defendant’s sexuality, she stated that she always knew something was different, she did not know what, and she was not sure what kind of relationship she would pursue; however, she did state a preference for women. Jane Doe stated her main objective would be to try to get her kids back and that she’s not worried about her relationship anytime in the near future. She also stated she’s always had bad relationships with men. During the sex offender questions, the defendant stated that the victim lived next door to her and that she was her babysitter’s daughter’s girlfriend. She states that the victim was 15 years old at the time of the offense. When asked to describe the victim, she stated, “She acted older than she is; very nice, very concerned person; she worried about my children and I because my husband wasn’t a very nice person and he was dying.” She states
she did not plan the activity with the victim and that the victim seemed very happy during the affair. She denies restraining, threatening, or striking the victim. She states that this has never happened before. She also states, “I am not a bad person. I have three daughters. I have never planned anything like this. My three daughters mean the world to me. It would absolutely kill me if I couldn’t see or have any contact with them. I really don’t know what happened but I would never do it again. I just want to move past this and get on with mine and my daughters’ lives. I do apologize for everything that I have done. I never hurt anyone or made anyone do anything they didn’t want to. I’m really a good person. I just was caught up in the wrong thing at the wrong time.”

PRIOR RECORD:

Juvenile:

It should be noted that the defendant did list a juvenile record for Runaway in this and another state. However, inquiries from juvenile court do not list a juvenile record for the defendant.

Adult:

According to inquiries sent to area courts, sheriffs’ and police departments, and N.C.I.C., the following adult prior record is known:

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>07/29/09</td>
<td>Contributing to the Unruliness of a Child</td>
<td>10/24/09: 6 months, County Jail</td>
</tr>
</tbody>
</table>

Details: The defendant, Jane B. Doe, was harboring a minor child, Victim. Complainant believes Jane Doe is having sexual relations with the victim and also supplying her with alcohol and/or pills. It should be noted that on September 20, 2009, when the defendant pled no contest, the judge order the defendant to have absolutely no contact with the victim, date of birth November 1, 1993.

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<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/28/08</td>
<td>Assault</td>
<td>12/02/08: $250 Fine; $72 Court Costs; 180 days, Jail, suspend all but 30 days</td>
</tr>
<tr>
<td>09/07/09 to 10/07/09</td>
<td>Interference with Custody</td>
<td>10/24/08: 6 months, County Jail, to run consecutive to related case</td>
</tr>
</tbody>
</table>

Details: The defendant knew she was not to have any contact with the 15-year-old victim, as ordered by the judge; she also knew that the child did not have her mother’s permission for her
to keep the victim at her residence. The defendant kept the child in her custody for one month; the child was never returned to her parent’s custody.

<table>
<thead>
<tr>
<th>Date</th>
<th>Offense</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>07/20/09</td>
<td>Unlawful Sexual Conduct with a Minor</td>
<td>Instant Offense</td>
</tr>
<tr>
<td>10/07/09</td>
<td>Unlawful Sexual Conduct with a Minor</td>
<td></td>
</tr>
</tbody>
</table>

MINOR TRAFFIC CONVICTIONS (ADULT):

The defendant was charged with Speeding and was ordered to pay fines and court costs. She was also charged with Expired Plates and ordered to pay fines and court costs.

PENDING CHARGES (ADULT):

None known.

SUPERVISION ADJUSTMENT (ADULT):

It would not appear that the defendant has ever been placed on probation; supervision adjustment does not apply. However, the defendant is currently serving two six-month sentences ordered to run consecutive to each other.

SECURITY THREAT GROUP PARTICIPATION:

The defendant denies being a member of a gang; we have no evidence to suggest otherwise.

FAMILY HISTORY:

The defendant states that her biological parents were never married and she does not know her biological father. She states her mother had her at age 16 and she was raised by her mother and two stepfathers. She states she was abused by her second stepfather and she has little contact with her mother. She states her mother does not believe she was abused. She lists the following family members:

- Mother: 45, information unknown;
- Sister: 23, nurse;
- Sister: 17, a hostess; and
- Sister: 27, resides in neighboring city.

The defendant states that she was sexually abused by her second stepfather from eight years to 13 years old. She states that he was prosecuted and is serving a 10- to 50-year sentence. She states that she did receive counseling for this abuse. She states that her husband
was physically, psychologically, and verbally abusive and that she has never received counseling or treatment for that.

MARITAL HISTORY:

The defendant states that she was married. Three children were produced to this union before he died in October 2009. Those children are ages 9, 7, and 6. The defendant states that her ex-mother-in-law has temporary custody of those children. The defendant denies being in a relationship at the present time.

RESIDENCE:

The defendant is currently incarcerated in the county jail where she is serving a one-year sentence. She states that once she is released, she hopes to reside with her two sisters in a two-bedroom apartment which her sisters rent. The defendant states that she hopes to reside with her sisters until she gets a place of her own. She states she has no weapons in her possession or at her last known residence; however, she states she was living there with a friend and the house was foreclosed on. The defendant did state there was one Pit Bull at that residence.

EDUCATIONAL HISTORY:

The defendant states that she completed the 9th grade and has no G.E.D. Inquires have not been returned; this information has not been verified.

MILITARY HISTORY:

The defendant denies being in the U.S. Military.

PHYSICAL AND MENTAL HEALTH:

The defendant is a 28-year-old female who claims to be in good physical condition. She states that she has had three exploratory surgeries and her gall bladder and appendix removed. She denies being under the care of a physician and takes no medication at this time. She states that she was examined by a counselor in 1994 for sexual abuse. She also states that she was treated at a hospital in 1995 or 1993 due to problems with her mother. The defendant states that she has never had a mental health diagnosis. The defendant lists no suicide attempts.

Concerning her drug and alcohol abuse, the defendant states that she was 14 when she first began using alcohol and drugs. The defendant states that she smoked marijuana on a daily basis and last used five months ago. The defendant also states that she would use prescribed pain pills when needed; she last used five months ago. The defendant states that she was treated for drug and alcohol abuse at Horizons as a juvenile; this information has not been verified.
EMPLOYMENT HISTORY:

The defendant states that she was self-employed in 2009 doing cleaning work. This employment stopped when she became incarcerated.

She states that in 2008 she was employed at Wal-Mart; inquiries returned from Wal-Mart indicate the defendant was employed from November 2006 until February 2007; that she left due to career opportunities; and that she is eligible for re-hire.

The defendant states that in 2005 she worked as a maid, earning $7.50 an hour; this information has not been verified.

In 2004 and 2005, she states that she worked at a department store as a cleaner, earning $8 an hour; this information has not been verified.

FINANCIAL CONDITION:

The defendant states that when she was employed, she was earning $1,000 a month in income, and government assistance in the amount of $143 a month for Social Security for her husband. She states her children earn $143 each for her husband’s Social Security. This was listed as the defendant’s income. She lists no monthly financial obligations and denies ever filing for bankruptcy.

Victim’s Version/Restitution

According to the details of the Instant Offense, it does not appear that restitution is owed. However, information from the victim’s school counselor indicates that the victim stated she was having a sexual relationship with Jane Doe. She also told her school counselor that no one was going to keep her away from the defendant, Jane Doe.
JANE B. DOE

Jane B. Doe was referred for a psychosexual examination, after a verdict and adjudication of guilt, to assist the court in determining the defendant’s sexual predator status. She was indicted for Obstructing Official Business and three counts of Unlawful Sexual Conduct with a Minor. As the result of a plea agreement, Ms. Doe pled guilty and was adjudicated guilty of two counts of Unlawful Sexual Conduct with a Minor, a third degree felony.

Jane Doe was informed of the purposes and non-confidential nature of the evaluation and she agreed to participate in the evaluation. She was clinically interviewed at the county jail on January 6, 2010, for one-and-one-half hours.

Sources of collateral information included the following:

1. Court documents regarding this case, including Judgment Entry, Juvenile Court Indictment, State’s Answer to Request for Discovery, Plea of Guilty and Jury Waiver, Entry Ordering Sexual Offender Assessment;
2. Police department investigative reports, including Witness Statement of Victim, Arrest Report, Case Report; and
3. Results of Minnesota Multiphasic Personality Inventory–2 (MMPI-2).

BACKGROUND INFORMATION

The following social history was provided by Jane Doe except as indicated otherwise.

Family

Jane B. Doe was born and raised in this state by her mother and stepfather from infancy. Until she was eight years old, she believed her stepfather was her biological father. Then her parents divorced and her mother, who was in her late twenties, remarried an 18-year-old man, Johnnie, and they had a daughter. Jane continued to live with her mother until she was 12 years old. Soon after her mother married Johnnie, he began to sexually molest Jane. When Jane was 12 years old she was sent to a juvenile facility in another state where her mother was living at the time. After two months there, she was sent to a group home. During that period, her stepfather was arrested for 13 counts of sexual abuse of Jane and he remains in prison. Jane said her mother still wants him back and wants nothing to do with her own daughter, Jane.

After spending several months in the group home, Jane was returned to her mother’s home. Then she moved back to this state when her mother married her third husband and Jane was 15 years old. Jane kept running away from home because her mother blamed her for Johnnie’s conviction. As a result of so many runaways, Jane was in and out of the juvenile detention center several times.

From age 15, Jane was in and out of foster homes and detention because of the serious difficulties in her home. At age 15, Jane became pregnant from a man in his twenties but she miscarried. At age 17, Jane ran away again and never returned. She began living with Jim, a
man in his forties; she became pregnant and they were married when their daughter was a
year old. They were together for 10 years and married eight years.

Summarizing her childhood, Jane said her mother was “never a mother to me.” Her
mother was only 16 years old when Jane was born. Since Jane left home at 17, she has rarely
seen her mother. The last time was several months ago when her mother tried to kill herself for
the fourth time. Her mother has a history of Bipolar Disorder and has been treated for many
years. Jane stated, “Basically, I raised myself and had a hand in raising my sisters. I was
playing the mommy role at 14.” She said that she “always felt like I’m not worthy. It was a
terrible childhood.”

Education

Jane attended regular classes in most courses except math, for which she required
special classes. Her grades were “terrible,” and she repeated the first and third grade. She
completed the ninth grade. She was working on her G.E.D. in when her daughter became ill
and was hospitalized.

Jobs/ Occupation

From age 17, Jane earned a living by cleaning houses. When her daughter was in day
care she worked in the day care center for several months until her daughter got sick. When
she lost that job, she and her husband returned to live in this state. At that point, Jane was
pregnant with her second child. Since then she has cleaned a commercial office, worked for a
department store as a dock worker and cleaner, and as a stocker at a store. For the past two
years she has run her own cleaning business.

Criminal History

Jane was charged several times as a juvenile for Unruly and Runaway. However, she
had never been in trouble as an adult until this past year.

Jane was charged with Assault against a neighbor who was once Jane’s babysitter. Jane
said she fired her because she was not doing her job. Then the neighbor began harassing Jane.
Jane got into an argument with her, and she dragged the neighbor out of her house and
assaulted her, causing bruises on half her face and on her neck. Jane served 30 days in the
county jail. She also has convictions in juvenile court for Contributing to the Delinquency of a
Minor and for Interfering with Custody.

Substance Abuse

Jane said she had her first alcoholic drink when she was 12 or 13 years old. By age 15,
she was drinking “as much as I could consume” – all day and night, every day. She continued
to drink at that level for several months until she got a severe kidney infection. Then she
became “an occasional drinker” until her daughter was born and she quit for 10 years. She
started drinking again “because I couldn’t handle the stress. My husband was in and out of the
hospital dying. I was working and taking care of the family, not good enough. He physically,
mentally, and verbally abused me. I wasn’t a good mom. There’s more to life than working all
the time, but I had to work all the time to keep him in money because he spent it all.” From
that point on, she was drinking “enough to get a buzz” almost every day. On her birthday she “got really trashed.”

Jane started smoking marijuana when she was 13 years old, and she “got high every day” throughout her life until her daughter was born. Then she quit for 10 years and resumed occasional smoking along with the drinking.

**Medical**

Jane reported no current medical problems and she was not taking medication at the time of this evaluation. She said she has had no menstrual period since her incarceration, which has been more than three months ago, but she was tested and she is not pregnant. She previously had surgery for endometriosis, removal of her gall bladder, and an appendectomy.

**Mental Health/ Psychiatric**

Jane went through counseling after her stepfather went to prison for raping her over a period of several years. She has had no other mental health treatment and she was never diagnosed as having a mental illness, psychiatrically hospitalized, or treated for a mental illness.

**Adult Environment and Relationships**

Jane lived with Jim for 10 years. They were married for eight years and have three daughters who are age 10, eight, and six years old. Jim was diagnosed with Bipolar Disorder and alcohol dependency. He once physically assaulted Jane and spent six months in jail for Domestic Violence. Toward the end of the marriage, Jim refused to take his medication and the symptoms became much worse. During the last two years of their marriage, they argued most of the time and Jim would not stop drinking, even when he developed Hepatitis C, which was made worse by his drinking.

**Sexual History**

Jane said she has never really dated, although she has been “in and out of so-called relationships.” She was sexually assaulted by her stepfather for several years as a child. Her first voluntary sexual relationship was at age 12 with an 18-year-old male. She has had approximately 10 different sexual partners in her lifetime. All of her male sexual partners have been much older than her, and her husband was in his forties. She said she “tried” a relationship with one woman who was also older. By the time of the offense, she had not engaged in sexual conduct with her husband for six months because of his drinking and because his mental illness made him impotent, and because she “just didn’t want to be bothered with him. I made sure he passed out in the chair before I went to bed.”

**ACCOUNT OF OFFENSES**

Records indicate that the offenses occurred on July 20 through October 7, 2008. According to Victim, on September 7, 2008, she left her home and ran away and stayed with a friend of Jane’s for two weeks. After the police came there looking for her, Victim went to live with Jane. Jane’s three daughters were in one bedroom, and Victim and Jane slept in a bed in a
basement room. They touched each other and kissed each other at night, and on three occasions, Victim put her fingers inside Jane’s vagina and performed oral sex on her.

According to a neighbor who lived next door to the 15-year-old victim, Jane’s husband was dying of hepatitis and the victim was having problems breaking up with her girlfriend; her grandmother was dying; and her mother was in jail. When Victim’s grandmother went into the hospital, Victim went to stay with Jane and they became emotionally, then romantically, close. Jane touched Victim on the breasts and the outside of her vaginal area one time, and Victim touched Jane with her mouth and hands.

During this evaluation, Jane said that in July 2005 her husband was in and out of the hospital; he had left her and was staying with his mother when he was not in the hospital; Jane was being evicted from their house; her children had head lice; and she was having problems getting along with her neighbor and mother-in-law. During that period of turmoil in her life, Jane began to develop a closer relationship with Victim, who was a friend of the neighbor’s daughter and who sometimes worked in Jane’s business. Victim’s grandmother was in the hospital and they began to talk to each other about their problems and support each other.

Toward the end of July 2005, they had their first sexual encounter in Jane’s house. In September 2005, Jane was convicted of Contributing to the Delinquency of a Minor and Interfering in Custody in Juvenile court, and she was sentenced to six months in jail.

Jane said that they had a total of three sexual encounters. They touched and kissed each other. Victim put her fingers inside Jane’s vagina and performed oral sex on her. Jane said that she touched Victim’s breasts and vagina, but she never penetrated her. Jane stated, “I never made her do anything she didn’t want to do, and I’m never gonna do this again because I have three little kids that I love very much that need their mommy.”

PSYCHOLOGICAL TESTING RESULTS

Jane was administered the Minnesota Multiphasic Personality Inventory-2 (MMPI-2). Her test results were considered valid. Persons with similar test results are angry, sullen, argumentative, irritable, and suspicious. They are immature, narcissistic, and self-indulgent individuals who make excessive demands on others for attention and sympathy, while feeling resentful of demands made on them by others. They are suspicious of the motivations of others and tend to blame others for their problems and wrongdoing. They are often manipulative and rigidly argumentative. They are overly sensitive to criticism or implied slights and often jump to conclusions based on inadequate data. They are generally controlled but may exhibit episodic outbursts which surprise those around them. They deny serious psychological problems, rationalize, and blame others. They do not accept responsibility for their own behavior and have unrealistic and grandiose self-appraisals.

MENTAL STATUS EXAMINATION

Appearance

Jane B. Doe is a 28-year-old white woman with light brown hair that was pulled back into a ponytail. She was dressed in an orange jail uniform, and her hygiene and grooming were adequate for the circumstances. She said she was 5’6” tall and weighed 105 pounds when she was first incarcerated, but has gained 30 pounds since then.
**Behavior**

Jane followed instructions and responded to questions. Her movements were not unusually slow or rapid, and she showed no signs of lethargy, excessive distractibility, uneasiness, or hyperactivity. She maintained adequate eye contact. She appeared calm and her behavior was not highly unusual or bizarre. She said she is not impulsive and despite the impulsive nature of this offense, rarely makes major decisions without forethought.

**Orientation and Memory**

Jane was aware of the time, place, and general circumstances for the present evaluation. She has been more forgetful recently, which she believes may be the result of increased stress. During this evaluation her memory and concentration did not appear to be significantly impaired.

**Speech and Verbal Ability**

Jane read an Informed Participation Statement without error, and she showed adequate understanding of what she had read by rephrasing it in her own words and by answering questions about what she had read. Her speech was clear, coherent, and spontaneous, and she was responsive to questions. She spoke in a normal tone of voice and at a normal pace. Her vocabulary, sentence structure, grammar, and the use of abstract verbal concepts were within approximately average range.

**Mood/ Affect (Observable Signs of Emotion)**

Jane’s mood was serious and sad. She showed no signs of acute anxiety, depression, fear, or other acute distress, but she described her recent mood as sad and said she cries a lot. She said that it sometimes feels as though the stress will never end.

Significant changes in sleep, appetite, energy, socialization, and interest in pleasurable activities are often signs of a mood disorder. She reported a significant decrease in sleep and a significant increase in appetite and weight. She said her energy has been better than it was before her incarceration, but on days when she is very depressed, she has no energy. Her concentration seemed fine during the evaluation. She said she spends her time in jail by playing cards and talking to people.

Jane said she has been feeling depressed for the past three or four years, but she could not afford treatment and she had no medical insurance. For years she has been receiving only a few hours of sleep and she has felt fatigued with poor energy, but she managed to work full-time at her own business and take care of her three daughters. She said she was fine all day until her husband got home from the bar, which was usually by early evening. Then she would become sad and anxious and feel hopeless again.

It is my opinion that in the years before her current incarceration and during this evaluation, Jane was experiencing many symptoms of chronic depression, anxiety, and other emotional distress. She said she had no one to talk to, and had a “bad habit of keeping it in, until it exploded.”
Perception (Hallucinations)

Jane said she had never experienced hallucinations, and she did not respond to hallucinations during this evaluation (e.g., conversation, nods, unusual pauses in conversation, glances, etc.).

Thought Content

Jane reported no current thoughts, plan, or intent of suicide or thoughts of harming others. She revealed no delusional, irrational, or illogical thinking during this evaluation and reported no bizarre beliefs such as mind control or thought insertion.

Regarding her behavior during this offense, she stated, “I feel terrible... it was wrong. At 15, it’s a bad age. I should have known better. I sure wouldn’t want it to happen to my daughters.” When asked if she had anything to add, she stated, “I’d like you to tell the judge that I’m sorry and I’m not gonna do it again.” She said that she wants to move in with her sister “because that’s the only family I have.” As soon as she can get a place of her own, she wants to work toward getting her children back with her.

Thought Processes

There were no signs of psychotic thought processes. Her judgment, as shown by her personal history and responses to formal testing, was not impaired. When asked what she should do if she were the first person in a movie theater to see signs of a fire, she replied, “I’d run out of the building and call 911.”

Personality Traits & Self-Description

Jane described herself as follows: “I’m fairly intelligent. I’m a good mother. I’m a good person. If I see somebody that didn’t have nothing, I’d give them my last dime. I’d try to help anybody that I could. Basically, I’m not a bad person. I’m not a monster.” She said that love means “that I’d do anything that he asked me to do, anything.” Within five years she hopes to have “enough money that I can take care of my kids, get a nice house, have a pretty good income.”

Mental Status Opinion

It is my opinion that Jane is not mentally retarded or mentally ill. She does not meet the criteria for Antisocial Personality Disorder or any other personality disorder, and she is not psychopathic.

DISCUSSION AND OPINION

The purpose of the current evaluation is to assist the court in determining whether Jane B. Doe should be classified as a sexual predator. Under the law of this jurisdiction, a “sexual predator” means a person who has been convicted of, or pleaded guilty to, committing a sexually oriented offense and is likely to engage in one or more sexually oriented offenses in the future.
Legal Criteria

Factors which should be considered in making this determination include the following:

1. The offender’s age:

   Jane is 28 years old. More youthful offenders tend to have a higher likelihood of recidivism. Her risk is slightly increased by this factor.

2. The offender’s prior criminal record regarding all offenses including, but not limited to, all sexual offenses:

   A person’s criminal history, especially her history of prior sexually oriented offenses, is a very effective predictor of future offending. Jane has prior convictions including numerous juvenile offenses, and offenses as an adult that included Assault, Contributing to the Delinquency of a Minor, and Interfering with Custody. Her risk is increased by this factor.

3. The age of the victim:

   The victim was an adolescent. Those who offend against children are less likely to be convicted of another sex offense than those who offend against adults. However, that may be due to the difficulty prosecuting offenders of child victims, rather than the actual likelihood of them committing another sex offense. Those who offend against adolescent victims have a conviction rate between that of child and adult victims. Her risk is increased by this factor.

4. Whether the sexually oriented offense for which the sentence is to be imposed involved multiple victims:

   There was one victim in this offense.

5. Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting:

   Jane Doe did not use alcohol or drugs to impair the victim. However, research has determined no relationship between this factor and increased risk of recidivism.

6. If previously convicted or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed . . . and if the prior offense was a sex offense, whether the offender participated in available programs for sexual offenders:

   Jane Doe has no prior convictions for sexually oriented offenses, and she has never participated in sex offender treatment.
7. Any mental illness or mental disability of the offender:

Jane Doe is not mentally ill or disabled.

8. The nature of the offender’s sexual conduct with the victim and whether it demonstrated a pattern of abuse:

There is no known pattern of abuse of the current victim or any pattern from one incident to another.

9. Whether the offender displayed cruelty or made one or more threats of cruelty:

Jane Doe did not use force or weapons, excessive force, or cruelty in the commission of the offense.

10. Any additional behavioral characteristics that contribute to the offender’s conduct:

There are no other risk factors in this case.

**Actuarial Risk Assessment**

The actuarial risk assessment instruments that were developed to predict sex offense recidivism in male sex offenders have not yet been adequately researched with female sex offenders. Therefore, no actuarial tests were used to predict recidivism with this offender.

**Clinical Risk Assessment**

The prediction of sex offense recidivism is a two-step process. First, the offender is classified according to the type of sex offense that was committed (e.g., the relationship with the victim, age, and sex of the victim). Based upon that classification, the “base rate,” or average recidivism rate, for the recidivism in that offense category is estimated. Next, based upon her personal history and various psychological factors, the offender’s individual risk factors are used to determine whether the offender’s risk of recidivism is significantly different from that of the typical offender in her offense category.

Recidivism rates cited in research studies vary as the results of several factors, including the length of the follow-up period, the definition of a repeat offense (e.g., accusation, arrest, conviction), and whether the sex offenders were treated or untreated. Review of the research suggests that the most credible estimates of recidivism rates based upon official documents, concerning sex offenders whose victims are adolescents who are not family members, range from 20% to 40%, with most estimates falling in the low 20%. Jane Doe’s individual risk factors include her age; her criminal record; having a conviction for a prior nonsexual violent offense; and the age of the victim. It is my clinical opinion that she has a moderate risk of committing another sexually oriented offense in the future.
SUMMARY and OPINION

Based upon information provided by collateral sources of information, the clinical interview, and psychological testing, it is my opinion that Jane Doe presents a low-to-moderate risk of committing one or more sexually oriented offenses in the future.
E. Module Five: Sentencing Decision and Its Implications, Including Conditions to Impose

Description of the Module

This module addresses particular sentencing factors judges may consider in sex offender cases; content of Pre-Sentence Investigation Reports; commonly used risk assessment tools for sex offenders (in the longer version of Module Five); victims’ rights and how they may be addressed; and probation issues in sex offender cases. This module also contains seven to ten slides on each case study. The case study slides are at the last half of the module for ease in editing out case studies that may not be covered in the presentation (see “Presenting the Curriculum” and the description of Module Four for recommendations as to the number of case studies to cover for particular course lengths). Module Five should be presented regardless of the length of the course.

As set forth in “Suggestions for the Judicial Educator and Faculty” section, above, there are two versions of Module Five: Module Five-S – a shorter version, for use in conjunction with Module Two; and Module Five-L – a longer version, for use at a course or presentation without Module Two. Module Five-L contains assessment slides; Module Five-S does not. Both versions of the module provide information on sentencing factors judges may consider in sex offender cases; the role of the victim at trial and sentencing; appropriate conditions of probation; and other issues relative to sentencing. The longer version is set forth below.

For recommendations on which module to choose for your judicial education course, see “Presenting the Curriculum,” above.

Approximate time: 55-80 minutes (shortened version) or 70-100 minutes (longer version), depending upon length of discussions, plus approximately 5-8 minutes per case study discussion.

Learning Objectives

At the conclusion of this module, participants will be able to:

- Identify sentencing factors a judge may consider;
- Determine what information should be in pre-sentence report or investigation;
- Understand assessment tools;
- Examine role of victim at trial and sentencing;
- Determine appropriate conditions of probation;
- Identify unique issues relative to female sex offenders; and
- Analyze continuum of sanctions for probation violations.
ACTIVITIES & EXERCISES

- Large Group Discussion
- Large Group Discussion: Case Studies

HANDOUT

- Static-99 Coding Form

In the Resource Center is the Static-99 Coding Form. We recommend you hand this out to the participants as you discuss the Static-99 so they may follow along with the scoring on this assessment.
Sentencing Decision and Its Implications, Including Conditions to Impose

Learning Objectives
• Identify sentencing factors a judge may consider;
• Determine what information should be in a pre-sentence report or investigation;
• Interpret assessment tools;
• Examine the role of the victim at trial and at sentencing;
• Examine approaches to sentencing sex offenders;

Learning Objectives (cont.)
• Determine potential conditions of probation;
• Identify unique issues relative to female sex offenders; and
• Analyze continuum of sanctions for probation violations.

Sentencing Factors
Risk Assessment Tools
Victims’ Rights
Sentencing Factors
Probation
Case Studies

OVERVIEW

Lecture (1 minute):
Review the learning objectives for this session with the participants. ("At the conclusion of this module, the participants will be able to . . .").

Lecture (1 minute):
Review the learning objectives for this session with the participants.

Lecture (1-2 minutes):
This slide contains an overview of how, and in what order, the materials in this module will be presented.
SENTENCING FACTORS
Lecture (2-3 minutes): In sex crimes cases, there are a multitude of factors to consider – some of which are characteristic only of sex crimes cases. The judge’s level of discretion relative to all aspects of sentencing must be taken into account first.

Any sentencing question must begin with the law. Regardless of what a judge may want to do in a particular case, at times the legislature will mandate certain consequences. Unless those consequences are so Draconian that they translate into a “cruel or unusual” situation, the sentencing judge will be obliged to follow them. In California, for example, a single sexual penetration with a finger of a child under the age of 10 will result in a mandatory state prison sentence of 15 years to life and lifetime registration as a sex offender. A judge working in the area of sex crimes must be familiar with these kinds of rules, not only for the purpose of sentencing after a trial, but also to effectively negotiate a pre-trial resolution – the court must understand the limits of what can be done with certain charges.

Other aspects of the crime that may be characteristic only of sex crimes should also be considered at the outset, such as whether the crime involved extreme violence, weapons, or multiple victims. Not only will these factors effect sentencing choices in the abstract, but they may trigger certain mandatory sentencing schemes. In many, if not all, jurisdictions, the attitude of the victim is taken into consideration, as will be more fully discussed later.
Lecture (1-2 minutes):
Undoubtedly, the biggest single indicator of future risk of crime is the defendant's criminal history. Not only will the court want to consider this factor on an intuitive level but, as we will discuss, previous crimes are also a factor in certain formal risk assessments used for sex offenders.

Family and employment history and physical health are important factors to assist in understanding the defendant; however, these factors will likely be secondary to the nature of the crime, the defendant’s criminal history, and the defendant’s formal risk assessment. These factors may become very relevant, however, if the court is considering probation. The presence or absence of these factors may be a strong indicator of whether the defendant will be successful on probation, and the level of services he will require.

Lecture and Large Group Discussion (3-4 minutes):
As with family history, the defendant’s treatment history is often a secondary consideration in the sentencing. These factors become very important if the court is considering a grant of probation. Has the defendant been in treatment before? If so, what has worked, what has not? Is the defendant intellectually capable of completing a rigorous treatment program? Does the defendant have a dual diagnosis to be treated?
**Sentencing Factors (cont.)**

- Defendant’s Risk of Re-offending
  - Actuarial assessment
  - Static-99
  - RRASOR
  - Clinical
  - Psych/sexual evaluation
  - Motivation to change
  - Community support

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**Lecture (2-3 minutes):**

Psychological assessments have an important role in sentencing defendants. Unless state prison is mandated, courts frequently look to mental health professionals to determine the treatment needs of the defendant and whether the defendant is treatable at all. Responsible psychological evaluations of sex offenders do not rely on a single method of evaluation, but result from consideration of a number of methods of assessment.

Actuarial assessment: The most common are STATIC-99 and RRASOR. These assessments, discussed more fully later, review the history of the defendant in determining the defendant’s risk of reoffending. These assessments deal with “static,” unchanging factors such as prior convictions, the nature of prior victims, and whether prior victims were strangers.

Clinical factors: This is an assessment by a trained mental health professional to determine the defendant’s current mental status. The assessment also may include “dynamic” factors such as what treatment the defendant has undergone and how well he did in the program.

Psycho/sexual evaluation: This may involve the use of such techniques as the plethysmograph [pluh-thiz-muh-graf] or such other tools to determine how a defendant processes sexual images or thoughts.

Motivation to change and community support: Important secondary considerations assist in determining whether the defendant is suitable for probation and treatment.
Lecture and Large Group Discussion (3-4 minutes):
Notwithstanding all of the defendant's identified treatment needs, one of the most important considerations is whether the legal or penal system can realistically meet those needs. For example, a judge sentencing a sex offender to state prison must have a basic understanding of what treatment programs are available to prison inmates. Are there effective community-based programs that can meet the defendant’s needs? What is the cost of the programs? Who is to pay for the programs? Can the defendant be effectively supervised in these programs?
Lecture and Large Group Discussion (3-4 minutes):
The Pre-Sentence Investigation Report is the single most important document a court will have in deciding the appropriate sentence in a case. Ideally, the report will address all of the sentencing factors that have been discussed. What does the judge do if the report is lacking in any significant aspect?

Some information may come from private probation reports prepared by a person hired by the defendant. Depending on the background and completeness of the report, these documents can provide valuable insight into the defendant’s history, current mental state, treatment needs, and amenability to a grant of probation.
Lecture (2-3 minutes):
Based on the risk factors linked to recidivism among sex offenders, researchers have developed several sex offender-specific risk assessment tools. The tools listed on this slide are examples of the most commonly used risk assessment instruments in the field. (The presenter should be aware of any risk assessment tools used or under consideration by stakeholders in the jurisdiction in which the curriculum is being provided.)

Some of these risk assessment tools focus primarily on static variables, others are used to assess dynamic variables, and some include both static and dynamic risk factors.

Generally speaking, when assessments or evaluations include one or more of these tools, judges can have a greater degree of confidence in the findings. This is, of course, contingent upon the assessor’s training and expertise using these tools. Sometimes, evaluators may use tools that are not research-supported, or that are not designed specifically to provide information about sex offenders’ risk, to base their decisions about risk. Or they may use the “right” tools, but not use them correctly (e.g., incorrectly stating definitely that the tool indicates that a given sex offender will or will not reoffend). One of the goals of this curriculum is to help judges to become informed consumers about these kinds of assessments, so that they do not automatically assume that what the evaluator says is always correct.

A brief discussion of each assessment tool follows on the next few slides.
**Lecture (1 minute):**
The Minnesota Sex Offender Screening (MnSOST) and revised assessment (MnSOST-R) were designed in response to the State of Minnesota’s demands for a more formal and uniform process to identify violent sex offenders (Epperson et al. 2003:7). It is composed of 21 survey items that address sexual and non-sexual offense history, substance abuse history, and treatment compliance among extra-familial sex offenders.

**Lecture (1-2 minutes):**
The STABLE- and ACUTE-2007 (Hanson et al., 2007) were developed primarily for supervision officers to assess dynamic risk factors with sex offenders. They are generally used in conjunction with the Static-99 (which is discussed in this section).

The ACUTE-2007 measures factors that can change over an acute period of time (hours, days, weeks) that may indicate a likelihood for sexual re-offending. It consists of seven areas of acute risk: access to victims, emotional collapse, collapse of social supports, hostility, substance abuse, sexual preoccupations, and rejection of supervision.

STABLE-2007 measures factors that have the potential to change, but may endure, for months or years. The assessment consists of a guided interview process that covers six major areas of risk: intimacy deficits, significant social influences, general and sexual self-regulation, attitude supportive of sexual assault, and cooperation with supervision.
Sex Offender Risk Appraisal Guide (SORAG)

- Fourteen-item instrument
- Modification of the VRAG
- Used to assess the risk of violent and sexual recidivism of previously convicted sex offenders within a specific period of release

**Lecture (1 minute):**
The SORAG (Quinsey et al., 1998) is based on years of work by Quinsey and his colleagues studying the recidivism of more than 800 serious offenders in the Ontario correctional system. There is a dispute as to whether at least five of the SORAG items are empirically supported, including:

- History of alcohol problems;
- Marital status;
- History of nonviolent offenses;
- Meeting DSM-III criteria for Personality Disorder; and
- Meeting DSM-III criteria for schizophrenia (coded as reducing recidivism risk).

The SORAG also includes the Psychopathy Checklist-Revised (PCL-R) (Hare, 1991) scores in its overall assessment which requires specific training.
The Rapid Risk Assessment of Sexual Offense Recidivism ("RRASOR") (Hanson, 1997) is one of the first research-supported sex offender-specific instruments. It is a brief, four-item screening instrument used to assess risk of sexual offender recidivism among males who have been convicted of at least one sexual offense. It relies on information obtained from files and has been tested extensively on forensic populations.

The four items on the RRASOR static risk assessment are:

- Number of prior sex offenses (charges, convictions) (Thorndyke stated, in 1922, that “the best predictor of future behavior, is past behavior.” Research indicates that having prior sex offenses is a predictive factor for sexual recidivism.) Note: The prosecutor’s charging practices can greatly affect this score;
- Offender’s current age (whether he is young: 18-25);
- Gender of the offender’s victims (if there were any male victims, the risk is higher); and
- Offender’s familial relationship, if any, to the victim (if there were any unrelated victims, the risk is higher).

The RRASOR assessment yields a score ranging from 0 to 5. The corresponding recidivism rates, over a 10-year window of opportunity, range from 6.5 to 73.1%.
Lecture (1-2 minutes):
The Static-99 assessment was devised to assess the recidivism risk of male offenders age 18 and older. It is based on a review of the records of 31,000 adult males in England and Canada.

In addition to the four factors tested in RRASOR (number of prior sex offenses; offender’s age; whether any male victims; whether any unrelated victims), the Static-99 factors in six others (discussed on the following slides).

Static factors are gleaned from the defendant’s history and records; dynamic factors include such things as the offender’s current mental condition, access to victims, substance abuse, and participation in treatment.

The Static-99 is available online at www.static99.org; the website also contains additional information, including a manual and coding form. The test is free; however, training is needed to administer and interpret the test.

The Static-2002 will soon replace the Static-99.
Lecture (3-4 minutes) with Handout:
Static-99 Coding Form (included in Resource Center on CD). (The presenter should hand out the Static-99 Coding Form at this stage. It is helpful in following along with the discussion of the factors.)

In addition to the four factors previously discussed for the RRASOR, the Static-99 assesses these additional six factors (continued on next slide):

- **Ever Lived with an Intimate Partner**: Whether the offender has lived with an intimate partner for two or more years (the relative risk of reoffending is lower in men who have been able to form intimate partnerships);
- **Index Non-Sexual Violence**: A separate conviction for a non-sexual violent offense at the same time the offender was convicted of the index (instant) offense predicts seriousness of potential damage of a subsequent offense and is strong indicator of future overt violence;
- **Prior Non-Sexual Violence**: Prior convictions for non-sexual violence also predicts seriousness of potential damage of a subsequent offense and is strong indicator of future overt violence;
- **Prior Sentencing Dates**: the number of times the defendant was sentenced for any crimes (the risk is higher if the offender’s criminal record indicates four or more separate sentencing dates prior to the instant offense);
Lecture (2-3 minutes) (cont.):
5. **Non-Contact Sex Offenses**
   (exhibitionism, obscene phone calls, etc.): “Offenders with paraphilic interests are at increased risk for sexual recidivism. For example, most individuals have little interest in exposing their genitals to strangers or stealing underwear. Offenders who engage in these types of behaviours are more likely to have problems conforming their sexual behaviour to conventional standards than offenders who have no interest in paraphilic activities.” See Static Coding Rules, Revised – 2003 (English), p. 50 at www.static99.org/pdfdocs/static-99-coding-rules_e.pdf.

6. **Any Stranger Victims**: The basic principle is that research shows that having a stranger victim is related to sexual recidivism. A stranger is anyone not known to the defendant 24 hours prior to the crime.

Lecture (less than 1 minute):
It is important to understand that the results of the assessment do not say whether **this defendant** will reoffend. The results only indicate that persons with similar backgrounds tend to reoffend at the rate given in the assessment.
The Vermont Assessment of Sex Offender Risk (VASOR) is a risk assessment scale for adult male sex offenders age 18 and older. It was originally designed to assist probation and parole officers in assessing the likelihood of sexual recidivism for placement and supervision decisions.

The re-offense scale is designed to assess the likelihood of sexual recidivism; the violence scale is designed to assess the nature of an individual's violence history and offense severity. The interaction of these variables, re-offense risk and violence, are considered important factors for determining an individual's overall risk level (McGrath, 1995).

Because the VASOR does not provide a comprehensive survey of all factors relevant to sexual offending, it is recommended that it be used as a decision aid along with professional judgment and other appropriate tools. See also, Vermont Assessment of Sex Offender Risk Manual: Research Edition (2001).
Victims' Rights

• Most states have a “Victims' Rights” statute.
• Defining a “victim” may be problematic. (All victims are not created equal.)
• If the victim is a minor or is deceased, a member of a victim’s family or another person may exercise the rights of the victim.

Lecture and Large Group Discussion (3-4 minutes):
Historically, victims have taken a secondary role in the criminal justice process. While their testimony may have been necessary to secure a conviction, the traditional attitude has been that the “judge knows best” in fashioning the ultimate disposition – victims are obviously biased and should have little or no say in the outcome of a case. In the past decade, however, there has been a strong national movement asserting the right of the victim to participate in most, if not all, stages of criminal proceedings.

Depending on the law applicable in the particular jurisdiction, it is not always easy to determine the identity of the victim. Clearly the woman who has been raped is a victim. But what of her husband, her children, her parents, or even the community? Who has the right to speak at the sentencing hearing? Is every sentencing in a sex offense case capable of being turned into a “town hall meeting” with everyone having a right to give their say?

Victims' Rights (cont.)

• Many states permit the victim to be present during trial and sentencing even though she/he may be a witness against the defendant.

Lecture and Large Group Discussion (3-4 minutes):
What is the right of the victim to attend the trial? Can the victim be excluded prior to giving testimony? What authority is retained by the trial judge to secure the courtroom from inappropriate or dangerous behavior? Is the defense allowed to subpoena a member of the victim's family as a ploy to keep the family out of the courtroom during the trial? What are some of the alternatives available to the court to assure the right of the victim to participate in trial, yet assure the defendant a fair day in court?
Victims’ Rights (cont.)

• Typically, the victim has the right to prepare and submit a victim impact statement.
• Also, a victim has the right to make a statement prior to sentencing, and state laws often require that "the court shall consider" a victim’s statement.

Lecture and Large Group Discussion (3-4 minutes):
What is the appropriate means of giving a victim’s statement? Orally? In writing? Reading? Video? All of these? What can the victim talk about? Is there a statute governing the content? In California, for example, the victim can talk about the crime, its impact on the victim, what should happen to the defendant, and the need for restitution.

How much weight does a judge give a victim’s statement of views? Does it make the difference between whether the defendant is sentenced to state prison or a local jail? Does it affect the conditions of probation, if granted?
Lecture and Large Group Discussion (3-4 minutes):
Often the victim's impact statement is the first and only time that the victim will have the opportunity to tell the defendant how his actions impacted her or him. Should the sentencing hearing be a part of the victim's healing process? If it should, should the court allow the victim to directly address the defendant? What is the purpose of the statute allowing the comments to be made (e.g., is it to help guide the court in deciding the sentence, so should be addressed only to the court?) Do the security concerns change when the victim address the court as opposed to the defendant? Do the judge and the bailiff have a plan in place for handing statements by the victim? Is the bailiff going to be in a physical position to effectively intercede if the there is violence in the courtroom?

Does the law allow the victim to be questioned by the defendant? If the court has discretion, should questioning be allowed?

Nowhere is the right of the victim to participate more important than at the sentencing hearing. How a victim participates varies by jurisdiction. In some states, the victim gives an impact statement that is either a part of, or separate from, the Pre-Sentence Investigation Report. In some states, the victim gives an oral statement; or submits an impact statement that is supplemented by an oral statement, etc.

Does the defendant receive notice of the impact statement; if so, when?

Does the defendant or his family have a right to speak at sentencing? Must the defendant be under oath and subject to questioning by the prosecution?
Lecture (1 minute):
In this next segment, we will explore some of the more common conditions of probation imposed on sex offenders. Assume the court has already made the decision not to send the offender to prison and to offer treatment and monitoring.

In considering any of these conditions, the court must balance the need for community protection (particularly for the victim), the right of the defendant to receive fair and practical conditions of probation, and the ability of the local criminal justice system to provide the needed services and monitor compliance.

As any experienced trial judge will admit, there never is any guarantee that a defendant won’t reoffend; the court only can minimize the chances of reoffending through clear and firm guidelines for conduct and a rigorous system of monitoring compliance.

Lecture (1 minute):
The conditions of probation generally group into eight categories:

- Treatment;
- Contact with others;
- Supervision;
- Residence;
- Employment;
- Travel/activities;
- Access to sexual material; and
- Substance abuse.

We will examine each.
Lecture and Large Group Discussion (3-4 minutes):

Once the decision is made to keep a person local, the next major decision will be the designation of the most appropriate treatment program for the offender.

Must it be residential? There are very few inpatient qualified sex offender programs other than those offered by a commitment to a state hospital; an option that won’t be available to a typical probationer. If there is a private inpatient program available, it will be expensive. Does the defendant have the ability to pay for it? Are there adequate outpatient programs or therapists? Must the defendant complete individual counseling or group therapy, or both?

What is critical is the active monitoring by the court and/or the probation officer. What should be the interval for filing reports? Does the court get the reports directly or do they go through probation?

The court should obtain a full mental health release of information at the time of sentencing. It is critical that the court have full access to defendant’s progress in treatment. General releases of information likely won’t be sufficient, but must comply with HIPPA.

Defendant must be willing to comply with all psychological testing recommended by the treatment provider. This is important to assure that the prescribed program is adequate for defendant’s needs.
Contact with Others

- No contact with minor male/females
- No contact without direct supervision
- Stay away from places where children congregate
- No association with sex offenders

Lecture and Large Group Discussion (3-4 minutes):
Depending upon the stability of the defendant, the court will want to consider proper stay-away orders. Ordering the defendant to stay away from, and have no direct or indirect contact with, the victim is basic.

If the offense is against children, the court should consider no unsupervised contact with minor children — or the court can make the restriction sex-specific for the offender. The decision regarding supervision must be made with some care. If the victim is in the defendant’s family, who is to supervise? Do you trust the mother if the father was the offender? Do you trust the father’s mother or other relatives?

Depending on the way the sex crime is committed and the offender, it may be necessary to keep the defendant away from schools, parks, recreation facilities or any other places where children tend to congregate. If a stay-away is ordered, how is it to be monitored? Is the defendant going to be wearing a GPS (discussed later)?

Lecture and Large Group Discussion (1-2 minutes):
Consider a stay-away of certain distances, such as 100-yards, to prevent the “drive-by” type of harassment or contact. Again, is GPS available for monitoring?
Supervision

- Register as sex offender
- Carry registration certificate at all times/ present to law enforcement
- Search and seizure
- Polygraph examination

Lecture and Large Group Discussion
(3-4 minutes):
As mentioned several times, adequate supervision is the key to assuring defendant’s success on probation. However, research demonstrates that providing more supervision or service than is warranted can actually increase the likelihood these individuals will reoffend. Are the probation officers trained in dealing with sex offenders? Is there a specialized unit to manage these offenders?

Is the defendant required to register? Most, if not all, states require registration for any major sex crime. Does the court have a duty to advise the defendant at time of sentencing about the registration requirement? If no duty, should the court do it anyway?

Search and seizure conditions may be important if there are requirements to stay away from children. The condition will allow the probation officer to spot-check the defendant to be sure he is not alone with restricted persons.

An important tool in monitoring compliance is the polygraph. Frequently, state law restricts the ability of probation officers or treatment providers from telling the court the results of the examination. But experts generally agree that the polygraph is an effective means to check up on defendant’s activities, interests and associations. Even though the actual results of the polygraph may be inadmissible, the evidence that is discovered as a result of the exam is admissible.
Lecture (1-2 minutes):
One of the more controversial restrictions on sex offenders is where they may live. California, for example, adopted a sweeping restriction that prohibits all sex offenders from residing within 2,000 yards of any school, playground or place where children regularly congregate; the provision is being challenged in the courts. The issue is the extreme distance; in metropolitan areas, with many schools and parks, sex offenders are finding it nearly impossible to live in the city and still comply with the law. Lesser distances imposed by the courts in individual cases may be realistic and appropriate. However, studies conducted by the Minnesota Department of Corrections and Colorado Department of Public Safety have not shown any correlation between sex offender recidivism and living near schools or parks (Minnesota Department of Corrections, 2003; Colorado Department of Safety, 2004).

Advising others of an offender’s registration status may be important if the offender is likely to establish a new relationship where new victims may be found. Special protection may be required if the defendant intends to reside in a home that has new potential victims such as step-children.

Lecture (less than 1 minute):
Circumstances of employment must be monitored if there is potential victimization. The last thing anyone wants is for a pedophile to get a job with an elementary school where there is ready access to new victims.
Travel/Activities

- Not to enter, travel past, or loiter near adult bookstores, massage parlors, topless bars or sex shops
- Maintain detailed travel log
- Wear GPS system
- Probation officer approves all recreation and leisure activities
- Probation officer approves route of travel to work or treatment and means of travel

Lecture (1-2 minutes):
These conditions (and the additional one on the following slide), to a greater or lesser degree, all allow close monitoring by the probation officer. Where a GPS program is not available, there may be some protection gained by monitoring a log maintained by the defendant of his activities; such a log may allow the probation officer to find verification (or lack of verification) of defendant’s activities that might bring him in contact with potential victims.

GPS systems are the newest and most effective way of monitoring the whereabouts of sex offenders. Costs usually can be passed to the defendant. Any attempted removal of a GPS system would be clear violation of probation. Committing a crime while on GPS, depending on the circumstances, can be a very good indicator of defendant’s risk; such a violation may indicate the defendant is no long suitable for treatment in the community and must be sent to prison.

Access to Sexual Material

- No possession of children’s/women’s clothing (for male offenders)
- No possession of pornographic material, whether involving adults or minors
- No possession of computer/internet access
- No use of 800 or 900 numbers

Lecture and Large Group Discussion (2-3 minutes):
These conditions also relate to circumstances where the defendant may receive undesirable sexual stimulation.

Judges must often decide whether an internet or computer restriction is proper and effective when the defendant’s employment requires such activity. Should the court require the defendant to get other employment? Can effective exceptions be made to allow access only in the context of employment? Does it make a difference if the mechanism of the crime involved the use of some form of internet victimization?
Substance Abuse

- May not possess or consume alcohol; may not frequent places where alcohol is chief item of sale
- May not possess or use narcotics or controlled substances without medical prescription
- Drug and alcohol testing

Lecture (1 minute):
Defendants convicted of sex crimes frequently will claim that the criminal act resulted from the use of alcohol or controlled substances. Whether or not the statements are true, if the facts exist, restrictions should be imposed. The defendant should be left with no excuse for non-compliance.

Miscellaneous

- No possession of cameras or video equipment
- Non-confidential AIDS testing
- No possession of identity concealing items

Lecture (less than 1 minute):
Many states require defendants to submit to non-confidential AIDS testing in any crime where the exchange of bodily fluid is likely. Even if the law does not require it, the court certainly would have the jurisdiction to order it for the victim’s peace of mind.

Available Sanctions

- Treatment
- Victim Contact
- Driving and Travel
- Daily Living
- Social/Sexual Behavior
- Internet Restrictions
- Work Restrictions
- Alcohol and drugs
- Disclosure
- Polygraph, Plethysmograph, other tests
- Other Technology Restrictions

Large Group Discussion (2-3 minutes):
If a defendant violates a condition of probation, what are the available sanctions? Virtually all of the areas we have discussed open themselves to enhanced application. So if the defendant fails in treatment, different treatment can be ordered. If alcohol or drug conditions are violated, there is custody time or treatment.

If there is a violation, what should be the judge’s response? Is it proportional to the violation? Is it graduated with the number of past violations and sanctions? What is the level of risk to the public? Does the sanction facilitate treatment?
Limits

What can a judge do to limit the risk to the community when the judge places a sex offender on probation?

Large Group Discussion (2-3 minutes):
All of the above? Any other ideas? Again we must ask, can there ever be a guarantee of human behavior? At what point do we reach our limits and must turn to incapacitation to protect the public as long as possible?

Responses to Limit Risk

- Limiting access to victims
- Electronic monitoring or curfews
- No contact orders
- Restrictions on movement
- Increased monitoring, contact, treatment
- Pre-revocation contracts
- Admissions to violations

Lecture (1 minute):
These are all tools we have discussed, both in terms of the initial grant of probation and in responses to violations of probation.

Immediate Removal

Assuming you place a defendant on probation, what conditions of probation would you impose which would require his/her immediate removal?

Lecture and Large Group Discussion (1-2 minutes):
In other words, what are the “red flags” that would trigger a lengthy period of custody in jail, or a complete termination of probation and placement in state prison?

Situations Requiring Immediate Removal of Offender

- Possession of dangerous weapon
- Contact with children initiated by offender and not reported
- Substance abuse that is part of offense cycle
- Offender physically harms another person

Large Group Discussion (3-4 minutes):
Here are some of the big ones. Can you think of others?
Lecture (less than 1 minute):
Case studies provide an excellent means of applying what has been learned, and discussing issues in sentencing sex offenders. The case studies are derived from actual cases.

Note to Presenter:
The following five slides contain a synopsis of information from the Pre-Sentence Investigation Report and Psychosexual Exam, including the demographics, current offense information, criminal history, and additional background information for John A. Doe. These five slides do not contain speaker’s notes. Following these five synopsis slides is a sentencing slide (Slide 53) which contains speaker’s notes, including suggested issues and questions to raise, and the actual sentence imposed.

We recommend you discuss the synopsis slides along with any other details from the full reports that are particularly relevant in your jurisdiction.

The Pre-Sentence Investigation Report, including a synopsis, and the Psychosexual Exam are in Module Four and in hand-out form in the Resource Center on the CD. The Resource Center also contains a stand-alone synopsis of all the case studies.
Slide 48

John A. Doe
Demographics

• 37-year-old male.
• Currently married (nearly 10 years), 2 children.
• Well-educated, obtained Master’s in Business Administration.
• Stable employment – works in software development.
• Stable home, stable finances.

Slide 49

John A. Doe
Current Offense

• Indicted on two counts of Importuning (Internet solicitation) and Attempted Unlawful Sexual Conduct with a Minor.
  – Believed the person was a 14-year-old minor female.
  – Sexually explicit communications over two months’ time.
  – Apprehended after driving to agreed-upon meeting place.

Slide 50

John A. Doe
Current Offense (cont.)

– Acknowledged having thoughts about having sexual contact, but claims to have changed mind.
– Currently in counseling.
– Pled guilty to two counts of Importuning.
– Statutory penalties:
  • Importuning: 6-12 months of incarceration and/or up to $2500 fine.

Slide 51

John A. Doe
Additional Background Information

• Stable home during childhood.
• No history of maltreatment.
• No mental health, health, or substance abuse difficulties.
John A. Doe
Criminal History
At age 17, fined for disorderly conduct.

John A. Doe
Sentence
How would you sentence John A. Doe, and what conditions would you impose?

Large Group Discussion (5-8 minutes):
John A. Doe’s Static-99 score was within the “low-to-medium” range.

John A. Doe’s actual sentence was five years of community control (probation); one year of intensive supervision followed by 4 years of basic supervision; designation as a Tier I Offender; court costs and a $2,500 fine; 400 hours of community service; 90 days of house arrest; drug/alcohol monitoring; and sex offender treatment.

(Ask the participants whether they agree or disagree with the sentence and engage them in a discussion as to specific points of agreement/disagreement.)
Note to Presenter:
The following five slides contain a synopsis of information from the Pre-Sentence Investigation Report and Psychosexual Exam, including the demographics, current offense information, criminal history and additional background information for John B. Doe. These five slides do not contain speaker’s notes. Following these five synopsis slides is a sentencing slide (Slide 60) which contains speaker’s notes, including suggested issues and questions to raise, and the actual sentence imposed.

We recommend you discuss the synopsis slides along with any other details from the full reports that are particularly relevant in your jurisdiction.

The Pre-Sentence Investigation Report, including a synopsis, and the Psychosexual Exam are in Module Four and in hand-out form in the Resource Center on the CD. The Resource Center also contains a stand-alone synopsis of all the case studies.
Slide 57

John B. Doe
Current Offense (cont.)

– Denies harm to victims, no evidence of remorse.
– Pled guilty as charged.
– Statutory penalties:
  • Rape: 3-10 years/$20,000 fine.
  • Gross Sexual Imposition: 1-5 years/$10,000 fine.

Slide 58

John B. Doe
Criminal History

No prior record.

Slide 59

John B. Doe
Additional Background Information

• Stable home during childhood.
• No history of maltreatment.
• Quit school during 8th grade, later obtained GED.
• Two years of military service, honorable discharge.
• No mental health or substance abuse difficulties.
How would you sentence John B. Doe, and what conditions would you impose?

Large Group Discussion (5-8 minutes):
John B. Doe pled guilty as charged to all four counts. He is automatically a Tier III offender. His actual sentence was four concurrent five-year sentences in prison and five years of parole. As part of a pre-sentence investigation, the court ordered and received a Psychosexual Exam prepared by a clinical psychologist.

- Do you agree with the sentence?
- Most states require that the court “consider” victim impact statements in determining sentence. In a practical sense, what does this mean?
- What happens if the victim is a minor or deceased and more than one person wishes to speak for the victim?
- If the victim is a juvenile, does the juvenile victim still have a right to speak?
- Does or should a victim have a right to consent or participate in plea bargaining?
- If a victim makes an impact statement, is that statement subject to disclosure, or disclosure in camera, to the defendant and his attorney?
- Can the court limit what is included in a victim impact statement or what is said in open court?
- In John B. Doe’s case, you have multiple victims. The mother of the first victim wants the maximum sentence imposed; the mother of the second victim wants the defendant to be treated with compassion. What consideration do you give to the wishes of the parents of the young children and, if you give consideration to their wishes, how do you weigh seemingly opposite views?
Slide 61

John C. Doe

Note to Presenter:
The following six slides contain a synopsis of information from the Pre-Sentence Investigation Report and Psychosexual Exam, including the demographics, current offense information, criminal history, additional background information and trial details for John C. Doe. These six slides do not contain speaker's notes. Following these six synopsis slides is a sentencing slide (Slide 68) which contains speaker's notes, including suggested issues and questions to raise and the actual sentence imposed.

We recommend you discuss the synopsis slides along with any other details from the full reports that are particularly relevant in your jurisdiction.

The Pre-Sentence Investigation Report, including a synopsis, and the Psychosexual Exam are in Module Four and in hand-out form in the Resource Center on the CD. The Resource Center also contains a stand-alone synopsis of all the case studies.

Slide 62

John C. Doe
Demographics

• 19-year-old male.
• Single, no current relationship.
• Resides with parents.
• Was employed in construction; currently in jail.
• No independent finances.

Slide 63

John C. Doe
Current Offense

• Indicted on one count each of Sexual Battery and Tampering with Evidence.
  – 16-year-old female victim.
  – Involved a co-defendant.
  – Victim was intoxicated and passed out at party; defendant subjected victim to non-consensual oral copulation and digital penetration; disposed of (burned) victims' underwear afterward.
John C. Doe

Current Offense (cont.)

- Offender was using alcohol and marijuana at the time of the offense.
- Admits to behaviors, some evidence of remorse.
- Pled guilty as charged.
- Statutory penalty:
  - Sexual Battery: 1-5 years/$10,000 fine.
  - Tampering with Evidence: 1-5 years/$10,000 fine.

John C. Doe

Criminal History (Juvenile)

- Petty theft.
- Driving without a license.
- Drug paraphernalia.
- Violation of court order (failed drug test, refused to participate in drug treatment).
- Traffic violations.

John C. Doe

Additional Background Information

- Stable home during childhood.
- No history of maltreatment.
- Quit school during 11th grade, later obtained GED.
- History of alcohol, marijuana use/abuse.
- No mental health, health difficulties.

John C. Doe

Trial

- Case proceeds to jury trial.
- Defendant is found guilty as charged of both counts.
- Maximum sentence is eight years in prison.
John C. Doe
Sentence

How would you sentence John C. Doe, and what conditions would you impose?

Large Group Discussion (5-8 minutes):
Query the participants on the following issues and any others relevant to the discussion and your jurisdiction:

- John C. Doe was placed on probation as a juvenile. While on probation, he continually tested positive for drugs but refused treatment, saying he had no substance abuse issues. Assuming you place the defendant on probation, what conditions do you impose?
- Are there any conditions, if he is alleged to have violated, which would require his immediate arrest?
- What about the victim? She is a minor – do you let her speak for herself?
- Do you let her parents speak on her behalf?
- What if she asks that her parents not be permitted to speak on her behalf?
- As part of the pre-sentence investigation, a Static-99 was performed by a forensic psychologist. The forensic evaluation put John C. Doe in the low-to-moderate risk of re-offending. Based on the facts of the case, do you consider this to be a reliable assessment? Was the forensic evaluation helpful?

John C. Doe’s actual sentence was two concurrent four-year sentences to prison; five years of parole; and designation as a Tier III offender. Do you agree with the sentence?
Female Sex Offenders

- Less than 10% of reported sex offenses involve a female perpetrator.
- Only 1% of all arrests for forcible rape involve a female perpetrator.
- Females represent about 6% of all adult arrests for other sex offenses.

**Lecture (1-2 minutes):**

There is little research or literature available on the subject of treatment and sentencing of female sex offenders. There are no evidence-based guidelines or practices on the most effective way to sentence or treat female sex offenders.

There are no assessments that may be utilized to determine a female offender's risk for recidivism – risk assessment tools for adult males should not be used with female offenders. No specialized assessment tools for female sex offenders have been developed and validated. Women who commit sex offenses possess several risk factors that differ from male offenders.

What is known is that co-offending women are more likely than solo offenders to:

- have multiple young victims;
- victimize females;
- target family members; and
- have a history of non-sex crimes.
Note to Presenter:
The following eight slides contain a synopsis of information from the Pre-Sentence Investigation Report and Psychosexual Exam, including the demographics, current offense information, criminal history, additional background information and any trial details for Jane A. Doe. These eight slides do not contain speaker’s notes. Following these eight synopsis slides is a sentencing slide (Slide 79) which contains speaker’s notes, including suggested issues and questions to raise, and the actual sentence imposed.

We recommend you discuss the synopsis slides along with any other details from the full reports that are particularly relevant in your jurisdiction.

The Pre-Sentence Investigation Report, including a synopsis, and the Psychosexual Exam are in Module Four and in hand-out form in the Resource Center on the CD. The Resource Center also contains a stand-alone synopsis of all the case studies.

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**Slide 71**

Jane A. Doe

**Demographics**

- 35-year-old female.
- In a relationship with a prison inmate who is expected to be released this year.
- Resides with mother and step-father.
- Has cosmetology license; worked as bartender before current incarceration.
- No independent finances.

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**Slide 72**

Jane A. Doe

**Current Offense**

- Indicted on two counts of Unlawful Sexual Conduct with a Minor; found guilty on one count.
  - 15-year-old male victim.
  - Shared a basement bedroom with victim in which she had her own bed at victim’s mother’s house.
  - Doe and victim had frequent sex/ongoing "relationship".
Jane A. Doe
Current Offense (cont.)
- Doe and victim were using alcohol at time of offense.
- Admits to bad judgment and consuming too much alcohol.
- Statutory penalty:
  • 1-5 years; up to $10,000 fine.

Jane A. Doe
Criminal History
- Runaway (juvenile).
- Speeding (juvenile).
- Operating a Vehicle Intoxicated.
- Aggravated Menacing.
- Obstructing Official Business (two convictions).
- Domestic Violence.

Jane A. Doe
Criminal History (cont.)
- Disorderly Conduct (three convictions).
- Violation of Temporary Protection Order.
- Operating a Vehicle Under the Influence.
- Possession of a Drug Abuse Instrument.

Jane A. Doe
Additional Background Information
- Unstable home during childhood.
- Two alcoholic parents.
- As a child, witnessed grandmother shoot dead her alcoholic and abusive grandfather.
- Was sexually assaulted by grandfather and cousins, and abused by uncle as child.
Slide 77

Jane A. Doe
Additional Background Information

• Quit high school during 12th grade; obtained GED.
• History of alcohol, marijuana drug use/abuse.
• History of psychiatric treatment.

Slide 78

Jane A. Doe
Trial

• Refused to plead to a lesser charge; found guilty of Unlawful Sexual Conduct with a Minor.
• At trial, defendant claimed she was the actual victim of sexual assault by named victim.

Slide 79

Jane A. Doe
Sentence

How would you sentence Jane A. Doe, and what conditions would you impose?

Large Group Discussion (5-8 minutes):
Query the participants on the following issues and any others relevant to the discussion and your jurisdiction:

• What factors would you consider in sentencing this female offender?
• Is there anything you would want to know in the Presentence Investigation Report about her that differs from a male offender?
• Would a psychiatric evaluation (in addition to the forensic evaluation/report) be helpful?

Jane A. Doe’s actual sentence following the jury trial was two years of imprisonment; five years of parole; designation as a Tier III offender (sexual predator). Do you agree with the sentence?
Note to Presenter:
The following six slides contain a synopsis of information from the Pre-sentence Investigation Report and Psychosexual Exam, including the demographics, current offense information, criminal history and additional background information for Jane B. Doe. These six slides do not contain speaker’s notes. Following these six synopsis slides is a sentencing slide (Slide 87) which contains speaker’s notes, including suggested issues and questions to raise and the actual sentence imposed.

We recommend you discuss the synopsis slides along with any other details from the full reports that are particularly relevant in your jurisdiction.

The Pre-Sentence Investigation Report, including a synopsis, and the Psychosexual Exam are in Module Four and in hand-out form in the Resource Center on the CD. The Resource Center also contains a stand-alone synopsis of all the case studies.
### Slide 83

**Jane B. Doe**  
Current Offense (cont.)
- Pled guilty to two counts of Unlawful Sexual Conduct with a Minor.  
- Statutory penalties:  
  - 1-5 years/$10,000 fine.

### Slide 84

**Jane B. Doe**  
Criminal History
- Runaway (juvenile)  
- Assault

### Slide 85

**Jane B. Doe**  
Additional Background Information
- Unstable home during childhood.  
- Mother’s stepfather and boyfriend molested Jane; boyfriend was convicted.  
- Lived in juvenile facility, group home, and foster homes.  
- Mother has history of bipolar disease; attempted suicide.

### Slide 86

**Jane B. Doe**  
Additional Background Information (cont.)
- Quit school after 9th grade.  
- History of alcohol, marijuana use/abuse.  
- No mental health, health difficulties.
Jane B. Doe
Sentence
How would you sentence Jane B. Doe, and what conditions would you impose?

Large Group Discussion (5-8 minutes):
Query the participants on the following issues and any others relevant to the discussion and your jurisdiction:

- Defendant voluntarily pled guilty to two counts of Unlawful Sexual Conduct with a Minor. Defendant is automatically classified as a Tier II Offender. You place the defendant on probation for a period of 5 years and one of the conditions is that she have no contact with the minor victim.
- However, the 15-year-old victim doesn’t want the defendant punished. Since she is the victim, but is a minor, how do you handle that issue? Can the victim’s parents or guardian object to the victim making a statement?
- How would you handle a probation violation if the evidence is that the victim, who is now 18, and the defendant are engaged in consensual relationship? Would you feel differently if the defendant was a male and the victim were a female?
- Do you handle a sex offender’s probation violations different than a non sex offender? Would you handle a probation violation differently for a male and female?
F. MODULE SIX: EVIDENCE-BASED SENTENCING

DESCRIPTION OF THE MODULE

The material contained in this module – like the other modules in this curriculum – is designed to equip judges with the knowledge and tools necessary to reduce the recidivism risk of adult sex offenders. Before going further, it is important to emphasize the centrality of reduction of recidivism risk and acknowledge that there are many purposes of sentencing – risk reduction being only one of these. But for purposes of this module, specifically, and this curriculum, generally, we are not attempting to deal with these other important issues of punishment, deterrence, fairness, etc. Instead, our purpose here is to identify and understand what we know about how best to reduce risk among the sex offender population so that when risk reduction is a goal, one will know how best to achieve that goal.

Unlike other portions of this curriculum however, this module draws on a large body of research on the general offender population (not just on the sex offender population). This body of research is commonly referred to as the “evidence-based practice” literature.

Approximate time: 50-90 minutes, depending upon the length of discussions

LEARNING OBJECTIVES

At the conclusion of this module, participants will be able to:

• Describe the three principles of evidence-based practice and the key elements of evidence-based sentencing;
• Define the potential impact and benefit of these principles and supporting practices on risk reduction among the general offender and the sex offender population; and
• Apply these principles to the adult sex offender population.

ACTIVITIES & EXERCISES

• Large Group Discussion
• Large Group Activity
• Lecture With Group Response
• Small or Large Group Discussion
Slide 2

Learning Objectives

- Describe the three principles of evidence-based practice and the key elements of evidence-based sentencing;
- Define the potential impact and benefit of these principles and supporting practices on risk reduction among the general offender and the sex offender population; and
- Apply these principles to the adult sex offender population.

Lecture (1-2 minutes):

The material contained in this module – like the other modules in this curriculum – is designed to equip judges with the knowledge and tools necessary to reduce the recidivism risk of adult sex offenders. Before going further, it is important to emphasize that point and acknowledge that there are many purposes of sentencing – risk reduction being only one of these. But for purposes of this module, specifically, and this curriculum, generally, we are not attempting to deal with these other important issues of punishment, deterrence, fairness, etc. Instead, our purpose here is to identify and understand what we know about how best to reduce risk among the sex offender population so that when risk reduction is a goal, we know how best to achieve that goal.

Unlike other portions of this curriculum, however, this module draws on a large body of research on the general offender population (not just on the sex offender population). This body of research is commonly referred to as the “evidence-based practice” literature.

This portion of the curriculum will provide an overview of evidence-based practice research and demonstrate the relevance of this body of work to the management of adult sex offenders. Further, this module will introduce judicial participants to a growing practice in courts across the country referred to as “evidence-based sentencing,” and will identify steps judicial officials can take to implement evidence-based sentencing.
Concerns Among Felony Court Judges and State Chief Justices

- Concerns of felony court judges
  - High rates of recidivism among felony offenders
  - Ineffectiveness of traditional probation and other sanctions in reducing recidivism
  - Lack of effective community alternatives to incarceration

Lecture (1 minute):
A survey conducted by the National Center for State Courts in early 2006 identified the most significant concerns among state felony court judges as high rates of recidivism among felony offenders, the ineffectiveness of traditional probation and other sanctions in reducing recidivism and a lack of effective community alternatives to incarceration (Peters & Warren, 2006).

Concerns Among Felony Court Judges and State Chief Justices (cont.)

- State chief justices' top reform interests for the state court
  - Public safety through recidivism reduction efforts
    - Implementation of evidence-based practices and services
    - Use of empirically-based risk and needs assessment tools
  - Direct application to adult sex offenders

Lecture (1-2 minutes):
This same NCSC survey also identified the state chief justices' top reform interests for the state courts as enhancing public safety through recidivism reduction efforts. In particular, respondents indicated interest in the implementation of evidence-based practices and services and the use of empirically-based risk and needs assessment tools (Peters & Warren, 2006).

Large Group Discussion (4-6 minutes):
To what extent do these concerns resonate with you? To what extent have evidence-based practices generally, and the use of empirically-based risk and needs assessment tools specifically, been implemented in your jurisdiction? Who has taken the leadership role in bringing these practices to your state [e.g., Chief Justice, probation officials, legislative mandate, etc.]?
The Rationale for Applying Evidence-Based Practices to Offender Management and Sentencing

- Offenders, in general, are failing at alarming rates
- 67% rearrested within three years following release from prison
- 30% probationers are reconvicted of a new crime
- Research over the past two decades demonstrates that through the use of evidence-based practices, recidivism can be reduced by as much as 30% (Hughes & Wilson, 2003; Andrews & Bonta, 1997)

Lecture (1-2 minutes):
According to the U.S. Department of Justice, Bureau of Justice Statistics, 67 percent of individuals released from prison are rearrested within three years of discharge (Hughes & Wilson, 2003). An estimated 30 percent of probationers supervised in the community are reconvicted for a new crime (Hughes & Wilson, 2003). These recidivism rates have remained relatively stable for decades.

However, research over the past two decades demonstrates that a 30 percent reduction in recidivism is possible (see Andrews & Bonta, 1997) if current knowledge – commonly referred to as “evidence-based practices” – is applied with fidelity.

Slide 7

KEY TERMS AND PRINCIPLES IN EVIDENCE-BASED SENTENCING

Slide 8

Defining Key Terms
- Evidence-Based Knowledge
  - Conclusions drawn from studies that have been replicated numerous times with defined, measurable outcomes about the effectiveness of an intervention or process
  - Evidence-Based Practice
  - The application of empirical research to professional practice

Lecture (5-7 minutes):
Although these rates of failure are quite disappointing, a body of literature has emerged to demonstrate that significant improvement is possible. This body of literature is based upon meta-analyses, a research methodology that aggregates and synthesizes results from multiple studies.

Important meta-analyses regarding criminal offenders have been conducted over the past three decades. In earlier years these findings were referred to as “what works” in correctional practice; today, this same body of literature is referred to as “evidence-based practice.”

(Before going further, review the definitions on this slide with the participants.)
Defining Key Terms (cont.)

- Evidence-Based Principles
  - The three “principles” of evidence-based practice that have been derived from the research on risk reduction
- Evidence-Based Sentencing
  - The application of the principles of evidence-based practice to sentencing

Lecture (cont.) (1 minute):

Three “principles” have emerged from this research. We’ll be reviewing these shortly. These are commonly referred to as the “principles of evidence-based practice” or “evidence-based principles.”

Finally, we’ll be talking about the application of this knowledge and these principles to sentencing. For our purposes, then, we’re defining evidence-based sentencing as the application of the principles of evidence-based practice to sentencing.

Before we go further it’s important to note one other key point: While the body of research we’re describing in this module – “evidence-based practice” – is derived from studies of the general offender population, this body of knowledge also has direct application to the adult sex offender population for two reasons:

First, as has already been illustrated, although the recidivism rate among most adult sex offenders is low, those offenders who do re-offend generally do so through the commission of a non-sexual offense. Therefore, evidence-based practices can help us to understand how to reduce the rate of non-sexual re-offense among sex offenders.

Second, although the body of research upon which the evidence-based principles rests was initially developed with a general offender population, it has since been validated with sex offenders. Therefore, these principles hold true for sex offenders as well.

In summary, the body of literature referred to as evidence-based practices offers guidance in reducing recidivism among both general offenders and sex offenders.
The Three Key Principles of Evidence-Based Practice

The Risk Principle
WHO to target for intervention

The Needs Principle
WHAT to target for intervention

The Responsivity Principle
HOW to target for intervention

Lecture (2-3 minutes):
The three key principles of evidence-based practice are the “risk principle,” the “needs principle,” and the “responsivity principle.” (The slides that follow will cover each of these principles in greater depth.)

- The risk principle tells us who to target for intervention.
- The needs principle tells us what to target, with the individual offender, for intervention.
- The responsivity principle tells us how to target the intervention to maximize the interventions' potential.

Slide 11

The First Key Principle: Risk
- Aligning level of intervention with level of risk to produce reduced recidivism
- Empirically based, actuarial instruments assess the level of risk an individual offender is likely to pose
- More intensive services for higher risk and higher need offenders produce the most significant reductions in recidivism

Lecture (2-3 minutes):
Research demonstrates that aligning level of intervention with the level of risk produces the best outcomes (as defined by the highest rate of risk reduction).

Empirically based, actuarial instruments enable professionals to assess the level of risk an individual offender is likely to pose.

While these instruments cannot determine any one individual's risk level with absolute certainty, they can – like the actuarial tools used to determine whether a 17 year old boy's car insurance should be higher than a 40 year old woman's – identify the outcome of large groups of individuals with similar characteristics.

An important finding from empirical research is this: More intensive services for higher risk and higher need offenders produces the most significant reductions in recidivism.
The Risk Principle: Which is True?

A) Delivering moderate or high intensity interventions to offenders who are at low risk for recidivism can result in an increase in the likelihood to re-offend.

B) Delivering moderate or high intensity interventions to offenders who are at low risk for recidivism can result in a decrease in the likelihood to re-offend.

Large Group Activity (1 minute):
The answer to this question is “A,” true.

Lecture (1-2 minutes):
Research demonstrates that delivering intensive interventions to offenders who are assessed to be at low risk for recidivism is both impractical and ill-advised.

First, these individuals are at low risk to re-offend already; scarce resources will be under-utilized if applied to this population. More importantly, research demonstrates (Andrews & Bonta, 2007) that providing more supervision or service than is warranted can actually increase the likelihood these individuals will re-offend.

These research findings have several important implications for sentencing. They suggest, for example, that more intensive resources be reserved for higher risk offenders and, to the extent possible, less invasive or intensive interventions be employed with low risk offenders.

There is an offender population considered to be at “very high” risk (for example, offenders who are psychopathic or have other extreme conditions). To date, effective interventions that will reduce with consistency the risk to re-offend among this population have yet to be established. Throughout this module when we refer to “high risk,” we are not including this “very high” risk population.
The Second Key Principle: Needs
- Criminogenic needs (dynamic risk factors) = changeable conditions in an offender’s life that can lead to re-offense behavior
- Actuarial instruments have been developed to assess these "criminogenic needs"
- Targeting interventions to the unique criminogenic needs of an individual offender has significant risk reduction potential

Lecture (3-5 minutes):
You will recall that in the previous module we discussed “dynamic risk factors” – the conditions unique to sex offenders that increase the likelihood of sexual offense. A number of empirically-based actuarial instruments – like those that assess sex offender specific dynamic risk factors – have also been developed to assess criminogenic needs. Criminogenic needs are dynamic risk factors related to non-sexual re-offense. Some of the sex offender-specific dynamic risk factors are actually quite similar to criminogenic needs (such as pro-offending attitudes), as you will see in a moment.

Criminogenic needs are critically important because they (like sex offender-specific dynamic risk factors) are the changeable conditions in an offenders’ life that can lead to re-offense behavior. These changeable conditions are our targets for intervention (such as treatment and supervision).

Research shows when we effectively target conditions that are likely to lead to re-offense (dynamic risk factors), recidivism reduction is the result. Thus, these conditions are important in sentencing decisions.

There are also a host of non-criminogenic needs (self-esteem is a common one). When non-criminogenic needs are addressed in treatment (particularly in lieu of criminogenic needs), research demonstrates that rates of recidivism actually increase. This is obviously important to know – because we don’t want to contribute to increases in recidivism – and emphasizes the importance of focusing on the “right” issues when attempting to influence offender behavior.

As will be demonstrated shortly, targeting interventions to the unique criminogenic needs of an individual offender has significant positive impact on risk reduction. In other words, offenders’ level of risk to re-offend goes down when we focus on these research-based risk factors.
Criminogenic Need Areas: The "Big Four"

- Anti-social cognitions
- Anti-social companions
- Anti-social personality (temperament)
- Family and/or marital difficulties

**Lecture (1-2 minutes):**

There are eight primary criminogenic needs. The research on offender recidivism indicates that these conditions are the most significant contributors to re-offense.

Actuarial instruments not only identify which of the criminogenic needs are present for an individual offender, but also the degree to which they are each present (with scores ranging from 'very low' to 'very high').

Assessments often reveal that offenders have multiple criminogenic needs in the medium, high, or very high categories (often 3, 4 or even 8 criminogenic needs will be present to a significant degree). These high ranking risk factors become the targets of change.

Among those targets of change, priority is given to criminogenic needs that are present among the four listed on this slide (anti-social cognitions, anti-social companions, anti-social personality, family and/or marital difficulties). These are referred to as the "big four" because they have the highest risk reduction potential. As such, they are the primary targets for intervention when they are assessed to be present to a significant degree.
Criminogenic Need Areas: The “Lesser Four”

- Substance abuse concerns
- Lack of education
- Lack of employment
- Lack of pro-social leisure activities

Lecture (with Group Response) (1-2 minutes):
In addition to the “Big Four,” four additional primary criminogenic needs are noted on this slide. These are often referred to as the “Lesser Four.” It is not that these four needs are less important, but that the “Big Four” are the ones that create the greatest difficulty. Too often though, we tend to focus on the “Lesser Four” when working with offenders, perhaps because these are more straightforward and easier to address. But consider this: If an offender has an entrenched anti-social personality, associates with anti-social peers and lacks pro-social relationships, what is the most likely outcome if we were to place him on a job? Chances are he would get fired pretty quickly, right? This simplifies but illustrates the point that we need to address the major contributors to anti-social behavior first, so that our efforts to address the other risk factors are even possible.

Lecture (1-2 minutes):
This slide reflects the impact of targeting criminogenic needs (versus non-criminogenic needs) on recidivism rates. There are two significant points:

- The right-hand portion of the slide (scores 0 to -3, moving to the right) demonstrates recidivism outcomes when non-criminogenic needs are targeted. It reflects research findings that indicate that the higher the number of non-criminogenic needs targeted, the poorer the outcomes are.

- The left-hand portion of the slide (scores 0 to 6, moving to the left) demonstrates the opposite finding. Research reveals an increasingly positive impact (reduced recidivism) when greater numbers of criminogenic needs are targeted.

The salient point is this: The higher the number of criminogenic needs targeted, the higher the improvement rate (less recidivism) among offenders.
Sex Offender-Specific Dynamic Risk Factors

- Sexual preoccupations
- Access to victims
- Intimacy deficits, conflicts in relationships
- Pro-offending attitudes
- Hostility
- Non-compliance with supervision, treatment
- Lifestyle instability

Lecture (1-2 minutes):
Unlike general offenders, sex offenders also possess a *unique* set of risk factors. These risk factors are stable dynamic risk factors and acute dynamic risk factors.

You might notice that some of these sex offender-specific dynamic risk factors also appear on the list of criminogenic needs, such as antisocial peers.

For the purposes of this module of the curriculum, we will focus on stable dynamic risk factors. These are conditions that change slowly over time. Sex-offense specific treatment plans should specifically focus on each individual offender’s stable dynamic risk factors.

Some of the primary sex offender-specific, stable dynamic risk factors are noted on this slide.

The Third Key Principle:
Responsivity

- Treatment and supervision are most effective when tailored to responsivity factors
- Primary responsivity factors
  - Cognitive/intellectual functioning
  - Culture
  - Gender
  - Learning style
  - Level of motivation
  - Mental health condition

Lecture (1-2 minutes):
Research demonstrates that treatment and supervision have the greatest impact when they are tailored to the individual’s “responsivity” factors. The primary responsivity factors are noted on this slide.

Large Group Discussion (3-5 minutes):
A helpful way to assist participants in understanding responsivity factors is to provide a few examples. The presenters may ask participants: “How many of you would advise putting a low functioning sex offender in a treatment group with high functioning offenders? What might happen in this situation?” “How many of you think it would be therapeutically wise to place a female sex offender in a treatment group with male rapists?” The presenter could go on to explain that these are two examples of being “responsive” to individual offenders. Another is recognizing that individuals have diverse cultural backgrounds and therefore matching service providers on this basis can be helpful therapeutically. If time permits, the presenters could query participants for other examples.
Lecture (2-3 minutes):
Responsivity has three key elements (as depicted on this slide). Each is important to improved outcomes with offenders.

The first element is understanding each offender’s character traits ("responsivity factors") (level of motivation, functioning level, etc.).

The second is the traits of the individual working with the offender. Research tells us that the style of the professional and the match between offender and practitioner matters in terms of outcome.

A final responsivity concern is the match between program components and offenders. For example, it might not be advisable to place an offender who is low functioning in a program that relies heavily on scheduled written work, such as journaling.
Motivational Interviewing as a Key Behavioral Change Tool

- Motivational interviewing engages the offender in his/her plan for change
- Motivational interviewing is skill-based
  - The application of specific techniques is critical to its success

**Lecture and Large Group Activity (3-5 minutes):**
Motivational interviewing engages the offender in his/her plan for change. Just to simplify and illustrate what is meant by this, tell me this: Let’s say you go to the doctor and, after a blood pressure check and weigh-in, your doctor concludes you must lose 40 pounds, and immediately. What could the doctor do to make you more – and less – responsive to this advice? Chances are you would be more receptive to a doctor – and to losing weight – if the doctor would help you understand the facts (i.e., what the blood pressure results mean and what the data indicate about increased chances of heart attack at your age with an additional 40 pounds of weight on your body). Chances are you would also be more receptive to engaging in a weight loss plan if the doctor helps you determine for yourself that losing weight would be a good thing. What if the doctor ridiculed you, or handed you an exercise and diet regime and demanded that you follow it? Would you be more or less likely to be successful in a weight loss program in this case?

This begins to illustrate some of the keys to motivational interviewing. It is about helping offenders explore the conditions that are problematic, make their own value judgments about change (as opposed to imposing our value judgments on them), and most importantly, engaging them in the process of developing an action plan for change, as opposed to telling them our solution to their problem (much as the doctor might ask you what exercise you enjoy the most, or best fits with your lifestyle, as opposed to demanding that you begin jogging three miles a day).

A mistake that is commonly made is to assume that it is only the clinical professionals who need to possess skills in effective interaction and communication techniques such as motivational interviewing. In fact, it is appropriate for all professionals working with offenders to have and to use motivational interviewing skills and techniques.
Motivational Interviewing as a Key Behavioral Change Tool (cont.)

- All professionals should be skilled in motivational interviewing
  - Judges are increasingly using motivational interviewing

However, professionals must be trained in this technique, and these skills must be developed. Furthermore, in order for motivational interviewing to be successful, the techniques must be employed with integrity.

Judges are increasingly using motivational interviewing to encourage positive action, compliance, and behavior change (e.g., using motivational interviewing techniques on the bench when interacting with offenders, supporting the efforts of others – such as supervision officers – to receive training in and apply these techniques, etc.).

**Large Group Discussion (1-3 minutes):**
If time permits, the presenter might ask judicial training participants if any have been exposed to motivational interviewing techniques, and what their experiences with this communication skill has been.

**Lecture (less than 1 minute):**
We began this discussion by talking about responsivity factors. Level of motivation is one of the responsivity factors we need to take into account. Let’s see what the research tells us happens when we address the risk, need and responsivity factors we’ve just discussed, effectively.
Lecture (2-5 minutes):
Risk reduction is a key, although not the exclusive, consideration in judicial decision-making. Research clearly demonstrates that the appropriate application of each of these principles can positively impact recidivism.

A lack of adherence to all three principles has been demonstrated to have an inverse effect on recidivism. In other words, when these three principles are not taken into account, offenders recidivate at higher rates.

On the other hand, the application of all three principles – in sanctioning and in ongoing behavior management practices – has been demonstrated to reduce recidivism among adult criminal offenders by up to 30 percent (Andrews & Bonta, 1997).

*Meta-analysis of 230 studies
Lecture and Large Group Discussion (3-5 minutes): In addition to helping us to understand the *principles* that underlie risk reduction, the research also tells us about the specific *practices* we employ that are effective in reducing recidivism. These include the use of cognitive-behavioral interventions, the use of positive reinforcement and a balanced approach to supervision.

Cognitive-based interventions: Research demonstrates that treatment approaches that address offenders’ thinking patterns while at the same time focusing on practicing skills that support new behavior are the most effective.

The use of more positive reinforcement: Under what circumstances are you more likely to repeat a behavior? If your partner or spouse criticizes you every time you do something wrong, how do you respond? Oftentimes when we are criticized repeatedly, we just stop trying. We might think, “Why even bother?” On the other hand, what happens when you are frequently praised? I bet that most of us respond to praise in a similar way: it not only connects us to the person offering it, it also encourages us to repeat the behavior again. What the research tells us about this is that offenders need four positive reinforcements before a negative reinforcement will “take.” This is an interesting research finding, to be sure.

Balanced supervision approach: In a balanced approach to supervision, community supervision officers strive to establish rapport with clients and understand their criminogenic need areas as well as their assets. In this model of supervision, community supervision officers also work collaboratively with offenders to establish strategies for change; monitor and reward progress; and take corrective, problem-solving (rather than strictly punitive) action for failure or lack of progress.
Lecture (1-2 minutes):
Research tells us more than “what works” with offenders. As importantly, research demonstrates what does not work with offenders, when risk reduction is the goal. Again, we are emphasizing in this curriculum the research around risk reduction. By doing so, we do not intend to diminish the other purposes of sentencing and sanctioning such as deterrence and punishment. Some of the strategies that we are about to touch upon may well meet some of those other criminal justice purposes. But it is important to know which strategies impact risk reduction and not to be misled by believing that all strategies will result in risk reduction.

For example, research demonstrates that supervision models that emphasize monitoring and accountability, without strategies that address criminogenic needs, do not produce positive outcomes. Research also indicates that longer versus shorter – absent strategies that address criminogenic needs – does not reduce recidivism. And similarly, punishment-oriented sanctions that focus only on sanctioning and monitoring and do not address the changeable risk factors, discussed previously, do not produce better outcomes with offenders.

Research Findings Identifying Treatment and Supervision Strategies that Generally Don’t "Work" with Offenders

- Surveillance models of supervision
- Longer sentences over shorter sentences
- Punishment-oriented sanctions
Lecture (2-3 minutes):
Where once it was believed that sex offenders "specialized" in one type of and confined their offending to sex crimes, we now know that this is not the case. Sex offenders engage in all types of sexual deviance and in other forms of criminal behavior as well. For this reason, this body of evidence-based practice literature is particularly relevant to reducing the risk of general recidivism among the adult sex offender population.

It is also noteworthy that in recent years, the risk/needs/responsivity research was validated on a large data set containing only sex offenders (Hanson et al., in press). The findings proved to be equally valid.

Lecture (1-2 minutes):
This slide summarizes many of the preceding points: Risk reduction is best achieved when justice system professionals – whether sentencing, supervising, or treating the adult sex offender – apply both evidence-based practices and sex offender-specific strategies. Sex offender-specific strategies are discussed in Module Five.

Lecture (1 minute or less):
At the beginning of this module we defined "evidence-based sentencing." Let's revisit that for a moment.

Evidence-based sentencing is a relatively new term. It is the integration of the key principles of evidence-based practice (risk, need, responsivity) into judicial practice with judicial practice.

Note: The presenter may want to familiarize himself/herself with the model curriculum created by the National Center for State Courts, The National Judicial College, the Crime and Justice Institute with funding from the Pew Charitable Trusts, and the State Justice Institute. The curriculum is available at: http://www.ncsconline.org/csi/education.html.
Lecture (1 minute or less):

There are several important steps judges can take to support the integration of evidence-based practices with judicial practice. These include the following:

- **Regarding Tenets #1 and 2:** Judges should expect professionals to collect and provide information that is essential to understanding the level of risk (general and sex offender-specific) and the risk factors (both dynamic risk factors correlated with sexual reoffense and criminogenic needs/risk factors correlated to general recidivism) of each offender coming before the court.

  (Tenet 2 is on the following slide.)

Slide 31

Five Tenets of Evidence-Based Sentencing (cont.)

#2: On an individual case basis, obtain and apply comprehensive offender assessment data
- Level of risk to re-offend sexually
- Level of risk to re-offend non-sexually
- Sex offender-specific dynamic risk factors
- Criminogenic needs
Lecture (1-2 minutes):

- Regarding Tenet #3: When risk reduction is one of our goals in responding to sex offender cases, judges should ensure that their sentencing decisions – particularly those that relate to participation in treatment, or conditions of supervision – are rooted in the research on risk reduction. This will necessitate a familiarity with the research as we have discussed it here; a review of each sex offender’s sex offender-specific dynamic risk factors as well as his/her criminogenic needs; and “matching” risk factors to appropriate interventions. Judges are encouraged not to set conditions that are unwarranted and unnecessary, providing offenders and those tasked with managing them with the opportunity to instead concentrate their efforts on those activities that hold promise for reducing risk to re-offend.
Five Tenets of Evidence-Based Sentencing (cont.)

#4: Use motivational interviewing as a tool to encourage behavioral change among offenders.

#5: Encourage and support the use of evidence-based policies and practices by all justice practitioners and service providers.

• Regarding Tenet #4: Judges are encouraged to develop skills (if they have not already) in motivational interviewing. Experience demonstrates that motivational interviewing is an effective behavior management tool. Recent experience in courtrooms across the country suggests that judicial officials can offer powerful influence over offenders’ behavior when this technique is applied during sentencing.

Many judges will not see a value to motivational interviewing in their role; however, this is an area that needs to be explored. It can be employed when, for instance, a judge asks questions when accepting/taking a plea and, during sentencing, when advising a defendant of conditions being imposed. There is an opportunity to go beyond whether the defendant understands/waives his or her rights, etc. Through this method, the judge can set the stage for what later occurs in supervision/treatment – the judge can potentially affect the defendant’s participation.

• Regarding Tenet #5: Public safety is enhanced when justice system professionals employ policies and practices that have been demonstrated to reduce the risk of re-offense among both general offenders and sex offenders. Judges are powerful influences over policy and practice. Developing a thorough understanding of evidence-based practice, adopting evidence-based sentencing practices, and promoting both among professional colleagues within and outside of the judiciary is encouraged.

**Small or Large Group Discussion (5-10 minutes):**
Depending upon the composition of the audience, this discussion can be done in small groups or as one large group. (The presenter should ask participants
to review the list of 5 Tenets of Evidence-Based Sentencing and develop an action plan to improve judicial practice in one of these areas. The presenter should ask each group report back on one component of their action plan.)
G. MODULE SEVEN: Sex Offender Registration and Notification Act

DESCRIPTION OF THE MODULE

This module was prepared by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) of the U.S. Department of Justice. The SMART Office provides jurisdictions with guidance regarding implementation of the Adam Walsh Act and provides technical assistance to the states, territories, Indian tribes, local governments, and public and private organizations. SMART also tracks legislation and legal developments related to sex offenders; they administer grant programs related to the registration, notification, tracking, and monitoring of sex offenders. This module describes these responsibilities and summarizes the Sex Offender Registration and Notification Act (SORNA).

Approximate Time for Module: 15 minutes

LEARNING OBJECTIVES

At the conclusion of this module, participants will be able to:

- Describe basic requirements of SORNA;
- Identify timelines for implementation by states;
- Understand consequences for failure of states to implement;
- Understand responsibilities of SMART Office and assistance available to states; and
- Articulate pending cases interpreting SORNA.
Slide 1

**Sex Offender Registration and Notification Act (SORNA)**

SMART OFFICE
Office of Justice Programs
Department of Justice

Please see the Resource Center on the CD, for an outline (“Sex Offender Registration and Notification Act: An Outline of Key Components”) that accompanies this presentation.

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Slide 2

**Learning Objectives**

- Describe basic requirements of SORNA;
- Identify timelines for implementation by states;
- Understand consequences for failure of states to implement;
- Understand responsibilities of SMART Office and assistance available to states; and
- Articulate pending cases interpreting SORNA.

(Review the learning objectives for this session with the participants. (“At the conclusion of this module, the participants will be able to . . .”).)

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Slide 3

**The Adam Walsh Child Protection and Safety Act of 2006**

**Title I: Sex Offender Registration and Notification Act (SORNA)**

**Purpose**: To establish a comprehensive set of minimum standards for sex offender registration and notification and to facilitate information sharing between jurisdictions regarding sex offenders.

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Slide 4

**SORNA**

**New Requirements**

- Tribal Registration Jurisdictions
- Juvenile Registration
- Tiering/Offense-based
- Mandatory Penalty for Failure to Implement
- Additional Registration Requirements
- New Federal Criminal Offense for Failure to Register

Established the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART)
Slide 5

Significant Changes in SORNA

- Offender must register where
  - Originally convicted
  - Resides
  - Employed
  - Attends School

Slide 6

Three Tiers of Sex Offenders

- Tier I: Lowest Level. Catch-all covering all convictions for a "sex offense" not covered in Tiers II or III.
- Tier II: Mid-Level
- Tier III: Highest-Level

Slide 7

Duration of Requirement

§ 16915. Duration of registration requirement

(a) Full registration period...

Slide 8

Reduction in Registration Requirement

- For a Tier I sex offender with a clean record for 10 years
  - Reduction is from 15 years to 10 years
- For a Tier III juvenile adjudicated delinquent with a clean record for 25 years
  - Reduction is from life to 25 years
Slide 9

In-Person Verification

§ 16916. Periodic in-person verification

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than –

- (1) each year, if the offender is a Tier I sex offender;
- (2) every 6 months, if the offender is a Tier II sex offender; and
- (3) every 3 months, if the offender is a Tier III sex offender.

Slide 10

Required Information – to Collect

- Criminal History
- Date of Birth
- DNA Sample
- Driver’s License or Identification Card
- Employer Address
- Fingerprints
- Internet Identifiers
- Name
- Palm Prints
- Passenger and Immigration Documents
- Phone Numbers
- Photograph
- Physical Description
- Professional Licensing Information
- Resident Address
- School Address
- Social Security Number
- Temporary Lodging Information
- Test of Registration Offense
- Vehicle Information

Slide 11

Public Website Required Information

- Current Offense & Prior Sex Offenses
- Employer address
- Name
- Photograph
- Physical description
- Resident Address
- School address
- Vehicle(s) license plate number and description

Slide 12

Mandatory Exemptions from Public Website

- Victim’s identity
- SS# of offender
- Arrests that did not result in conviction
- Passport and immigration identifiers
- Internet identifiers (KIDS Act)
Slide 13

Immediate Transmission of Information

- When an offender
  - Registers
  - Updates their registration
  - Indicates an intention to relocate
- Jurisdictions must immediately notify any other registration jurisdiction where that offender
  - Is required to register
  - Will be required to register

Slide 14

Retroactivity – Regulation

- Attorney General regulation dated February 2007 (28 CFR Part 72) confirmed the retroactive applicability of the SORNA requirements to all sex offenders, regardless of when they were convicted.

Slide 15

Retroactivity – Guidelines

- The Guidelines clarified that a jurisdiction will conform with SORNA if it brings the following offenders into compliance:
  - Incarcerated or under supervision
  - Already registered or subject to pre-existing sex offender registration requirements
  - Hereafter reenter the jurisdiction’s justice system because of conviction for some other crime

Slide 16

Juveniles

- SORNA will require registration for juveniles at least 14 years old at the time of the offense who are adjudicated delinquent for committing (or attempting or conspiring to commit) offenses under laws that cover:
  - Engaging in a sexual act with another by force or the threat of serious violence (see 18 U.S.C. 2241(a)); or
  - Engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim
- “Sexual act” for this purpose should be understood to include any degree of genital or anal penetration, and any oral-genital or oral-anal contact.
Slide 17

SORNA/SMART Office Timeline

- SMART Office Opened: Dec. 2006
- Final Guidelines: June 2008
- First Implementation Deadline: July 2009
- AG issued one-year blanket extension: May 2009
- First two jurisdictions implement SORNA: Sept. 2009
- Ohio Confederated Tribes of the Umatilla Reservation
- Second Implementation Deadline: July 2010
- Final Implementation Deadline: July 2011

Slide 18

Consequences:
Failure to Implement

- 10% annual reduction in Byrne Justice Assistance Grant funds
- Only the 60% state level money will be reduced
- For tribes: If the AG determines that the tribe has not substantially implemented the requirements of SORNA and is not likely to become capable of doing so within a reasonable amount of time, function delegated to the state.

Slide 19

Assisting Jurisdictions with SORNA Implementation

- 253 Registration Jurisdictions
  - 50 states
  - 5 territories
  - District of Columbia
  - 197 tribes
- SMART Office is authorized to
  - administer standards set forth in SORNA
  - administer grant programs
  - provide technical assistance
  - perform other functions delegated by the Attorney General
The Campus Sex Crimes Prevention Act amended Wetterling and federal education laws in 2000 to ensure availability to campus communities of information concerning the presence of sex offenders.

PROTECT Act amendments in 2003 added child pornography production and distribution to the list of registration offenses and required community notification include maintenance of publicly accessible sex offender web sites in all jurisdictions.

Beyond these legislative reforms, in 2005 the Department of Justice established, through administrative action, a national sex offender website, known as NSOPR, whose purpose is to provide convenient public access to information in various state sex offender web sites through single-query searches.
Slide 23

Residency Restrictions & GPS
- SORNA does not address these
- Most studies do not advocate for residency restrictions
- GPS has various issues in implementation and efficacy

Slide 24

International Working Group
- Entering and leaving the U.S.
- State Department
- DHS
- Department of Defense
- USMS – Sex Offender Targeting Center

Slide 25

Two Tracks of Litigation
- 18 U.S.C. § 2250
- State litigation

Slide 26

18 USC § 2250
- Commerce Clause
- Ex Post Facto
- Due Process
- 10th Amendment
Slide 27

Juvenile Male

- U.S. v. Juvenile Male
  - 2009 U.S. LEXIS 20164 (9th Cir. 2009)
  - Federal Juvenile Delinquency Act
  - Tribal
  - Retroactive Application
  - Ex Post Facto violation

Slide 28

Carr v. U.S.

- 7th Circuit Case
- 18 USC § 2250
- Pending before the U.S. Supreme Court

Slide 29

State Litigation

- Nevada
  - Masto (pending before the Ninth Circuit)
- Alaska/Indiana>Maine
  - Ex Post Facto violations
- Ohio
  - Implementation litigation

Slide 30

Contact Us Any Time!

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