

# SEX OFFENDER RISK AND RECIDIVISM IN FLORIDA

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# Sex Offender Risk and Recidivism in Florida

## EXECUTIVE SUMMARY

### SAMPLE

A sample of 500 convicted sexual offenders was randomly selected from the database of the Florida Department of Corrections. Specifically, the sample was drawn from a pool of adult (over age 18) convicted sex offenders who were released from a Florida prison in fiscal years 1999-2000 (n = 250) and 2004-2005 (n = 250). These cohorts (valid n = 499) allowed for five-year and ten-year follow-up periods for tracking recidivism.

### RESEARCH QUESTIONS & FINDINGS

#### 1. What are the 5-year and 10-year recidivism rates for sex offenders in Florida?

After five years, 5.2% of the sample had been re-arrested for a new sexual crime. After 10 years, 13.7% of the sample had been re-arrested for a new sexual crime.

#### 2. What is the breakdown of new offenses committed by released sex offenders in Florida?

The 499 offenders committed a total of 2,752 new offenses over the 10 year period, 32% of which were unspecified and were most likely technical probation violations. Of the known criminal offenses, 4.2% were new sex crimes, 18% were for failing to register as a sex offender, 10% were driving offenses, about 13% were non-victim property crimes, nearly 17% were drug or alcohol related, 26% were victimless, behavioral, non-property crimes, and about 12% were serious violent offenses.

#### 3. How are sex offender classification procedures used in Florida and how do these procedures compare in their respective abilities to assess risk and identify recidivists?

- 21% of the sample was classified as Predators, and 79% as Offenders.
- Using Adam Walsh Act (AWA) guidelines listed on the FDLE sex offender registry website, 51% were classified as AWA Tier 3 and 49% were AWA Tier 2.
- The mean (average) Static-99R score was 1.97, with a median (midpoint) score of 2 and a mode (most frequent) score of 3.

- The mean Static-99R score for Offenders was 1.95, and the mean Static-99R score for Predators was 2.06.
- The mean Static-99 score for AWA Tier 2 offenders was 2.2, and the mean Static-99 score for AWA Tier 3 offenders was 1.6.
- Five-year sexual recidivism rates for offenders and predators were 4.5% and 8.2% respectively. Ten-year sexual recidivism rates for offenders and predators were 11.9% and 22.7% respectively.
- Five-year recidivism rates for AWA Tier 2 and Tier 3 offenders were 6.5% and 4.1% respectively. Ten-year recidivism rates for AWA Tier 2 and Tier 3 offenders were 17.3% and 10.9% respectively.

## CONCLUSIONS AND IMPLICATIONS FOR POLICY

- There were no statistically significant differences between the recidivism rates of AWA Tier 2 and Tier 3 offenders. The recidivism rates were in the opposite direction from what might be expected, with Tier 2 offenders sexually recidivating at higher rates than Tier 3 offenders.
- AWA Tiers did a poor job of classifying offenders into relative and hierarchical risk categories.
- Offender/Predator status did a better job of classifying offenders into relative and hierarchical risk categories, with predators re-offending more frequently than offenders.
- Actuarial risk assessment (Static-99R) did a better job of discriminating between recidivists and non-recidivists, with sexual recidivists having slightly higher scores than non-recidivists.

## Sex Offender Risk and Recidivism in Florida

### BACKGROUND

Sexual violence is a serious social problem with far-reaching consequences for victims, their families, and society. In response to concerns about sex crimes, the U.S. Congress has enacted a series of laws designed to identify, track, monitor, and manage convicted sex offenders living in the community. In 1994 the *Jacob Wetterling Act* mandated that each state develop a registry of convicted sex offenders for law enforcement tracking and monitoring purposes. In 1996 the *Wetterling Act* was amended to allow for registry information to be disseminated to the public. This amendment is known as *Megan's Law* and sets guidelines for each state to implement community notification procedures. All 50 states are now required to post their registries online, making them easily available to the public. The *Adam Walsh Act* of 2006 standardized procedures across all US jurisdictions by creating federal mandates for the classification of sexual offenders and delineating corresponding registration, notification, and management requirements. Florida was the first state to pass legislation to become compliant with the Adam Walsh Act in 2007.

Registration and notification requirements are, according to the Florida Legislature, not intended to serve as criminal punishment. Rather, they were enacted by the legislature as public safety measures. As such, the specification of registration or community notification requirements and the subsequent allocation of resources for monitoring and supervising sex offenders in the community require critical choices based on an assessment of the offender's likelihood of recidivism. The serious implications for potential victims, offenders, and fiscal resources all demand the guidance of the most accurate evaluations available. Public safety decisions and funding allocations will be most effective when informed by the use of accurate decision making procedures.

This study compared the abilities of a variety of risk classification schemes used to assess risk for sex offense recidivism in Florida. The goal of the project was to provide empirical guidance for implementing sex offender registration and notification policies. This report describes findings in Florida as part of a multi-state study funded by the National Institute of Justice.

The principal aims of this study were three-fold: (1) to determine five-year and ten-year recidivism rates for sex offenders in Florida; (2) to examine the types of new offenses committed by Florida sex offenders; and (3) to compare the federally mandated Adam Walsh Act (AWA) classification tiers and Florida's Offender/Predator classification with actuarial risk assessment instruments in their respective abilities to identify high risk sex offenders and recidivists.

### METHODOLOGY

As part of the multi-state project, data were collected from New Jersey, Minnesota, Florida and South Carolina. Eligible subjects were convicted sex offenders released from prison into the community between January 1, 1990 and July 1, 2005. Sexual offenses were defined as any sex crime requiring registration.

Recidivism was defined as a subsequent arrest. Additionally, subjects must have been released after confinement to the community and not to a civil commitment program.

Data were collected using available law enforcement databases, supplemented by a review of prison and probation records. The study proceeded in two phases. Phase 1 included the coding of recidivism risk scores for the Static-99R using available archival records, as well as by extracting relevant demographic and criminal history data at time of release into the community for each offender. Each criminal contact was categorized by the most serious charge. Phase 2 included the coding of recidivism data for each offender. Variables collected and coded during Phase 2 included charge information.

In Florida, a sample of 500 convicted sexual offenders was randomly selected from the database of the Florida Department of Corrections. Specifically, the sample came from a pool of male adult (over age 18) convicted sex offenders who were released from a Florida prison in fiscal years 1999-2000 (n = 250) and 2004-2005 (n = 250). These two cohorts were chosen for two reasons: to allow for a 5-10 year follow-up period, and because data availability and accessibility improved in 2004. The final valid sample included 499 subjects.

The Florida Department of Law Enforcement (FDLE) provided data pertaining to sexual and nonsexual recidivism arrests and probation violations for each subject. The recidivism time frame ranged from the release date of the index offense to the date of data retrieval (11/15/2010). The recidivism data included identifiers or other information used to link a reported event to a particular individual. Recidivism data were for new crimes committed only in Florida and cannot account for new arrests in other jurisdictions. Recidivism data are based on documented arrests and therefore always underestimate true reoffending rates because not all new crimes are detected or reported to police.

Assignment of AWA Tiers is an inherently idiosyncratic process from one state to the next due to differences in each state's criminal code as well as the range of available data concerning factors such as victim age and the presence of aggravating circumstances. Additionally, the imprecision in some state criminal codes complicates the tier assignment, particularly where factors such as the victim age or the degree of force used could not be ascertained from the offense statute or other available information. To account for these challenges, tier assignments were made along a continuum of certainty, with "borderline" cases flagged as such. It should also be noted that although FL is currently AWA compliant, AWA tiers did not exist at the time of release of the cohorts. Therefore, AWA tiers were assigned for each offender based on the tier that would have been appropriate at the time of release, using two procedures:

Procedure 1: Interpretation of Federal Guidelines defined by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, Tracking (SMART Office)

(1) Detailed review of statutory codes in Florida; (2) Assignment of baseline tiers for each type of offense across three victim age groups – 12 and under, 13-17, and 18+; (3) Review of both instant offense and most serious offense fields, and assignment of initial tiers based on this information; (4) Review of supplemental fields in the dataset to identify other cases in which the offender has a history of two or more sexual offenses, history of victimizing children under 12, and/or history of use of force in commission of offenses and (5) As applicable, adjustment of initial tiers based on this review.

Procedure 2: Interpretation of State Guidelines defined by FDLE

(1) Look for most serious of all offenses, assign tier based on most serious conviction according to FDLE criteria for Tier 3:

- Section 787.01, where the victim is a minor and the offender is not the victim's parent or guardian
- Section 787.02, where the victim is a minor and the offender is not the victim's parent or guardian
- Section 794.011, excluding s. 794.011(10)
- Section 800.04(4)(b), where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion.
- Section 800.04(5)(b)
- Section 800.04(5)(c)1., where the court finds molestation involving unclothed genitals or genital area
- Section 800.04(5)(c)2., where the court finds molestation involving unclothed genitals or genital area
- Section 800.04(5)(d), where the court finds the use of force or coercion and unclothed genitals or genital area.
- Any attempt or conspiracy to commit such offense.
- A violation of a similar law in another jurisdiction.

All other sex offenders in Florida are considered to be Tier 2 offenders and register twice per year for 25 years unless they have been deemed a sexual predator, in which case they are considered to be Tier 3. In Florida, per Florida Statute 775.21, there are several criteria that must be met in order for an individual to be designated for registration as a sexual predator. These include a conviction for a qualifying and Capital, Life, or First degree felony sex offense committed on or after 10/1/1993; or a conviction for any felony violation or attempt thereof for a qualifying offense committed after 10/1/1993 in addition to a prior conviction for any felony violation or attempt thereof for a qualifying offense and a written court finding designating the individual a sexual predator. Additionally, as of July 1, 2004, regardless of whether an individual meets or does not meet the criteria listed above, anyone civilly committed under the Florida Jimmy Ryce Sexually Violent Predator Act must register as a sexual predator.

Actuarial risk assessment was conducted by completing a Static-99R risk assessment score for each sex offender where information was available for coding. The Static-99R is the most commonly tested and utilized sex offender risk assessment instrument in North America. It consists of 10 empirically derived items (see Appendix 1) and has a potential score range of -3 to 12. The instrument has demonstrated predictive validity and reliability in screening sex offenders into relative risk categories and, across samples, higher recidivism rates are consistently correlated with higher scores. Due to missing data (most often victim characteristics), the instrument was scored on 103 sex offenders in Florida.



## RESULTS

### Descriptive Statistics

Prior to presenting the results for each of the three project aims, descriptive statistics on the full sample are shown below in Table 1. The table below presents information on offender age at sentencing, race/ethnicity, incarceration terms, age of known victims, criminal history prior to index offense, and risk assessment scores.

**Table 1: Florida Statistics (N = 499)**

		Mean (average)	Median (midpoint)	Mode (most common)	Combined states in sample % or Mean
<b>Offender Age at release</b>		38	37	40	37
<b>Race-White</b>	62%				51%
<b>Race-Black</b>	35%				31%
<b>Latino</b>	8%				7%
<b>Number of years served in prison</b>		3.3			
<5 years	72%				
5-10 years	24%				
>10 years	4%				
<b>Victim age &lt;6 *</b>	14%				
<b>Victim age 7-12</b>	40%				
<b>Victim age 13-15</b>	40%				
<b>Victim age 16 or older</b>	16%				
<b>Any prior sex crime charges</b>	23%				
<b>Any prior non-sex convictions</b>	29%				
<b>Static-99R score**</b>		2	2	3	

\* Victim age percentages do not add up to 100% because some offenders have victims in more than one age category.

\*\* Static-99R Score Legend for Risk Category (see Appendix 1)

-3 through 1 = Low  
 2, 3 = Low-Moderate  
 4, 5 = Moderate-High  
 6 plus = High

## Recidivism Rates

In Florida, 37% of the sample had a new arrest for any new crime or technical probation violation after five years, and 60% had been arrested for any new crime or technical probation violation after 10 years. After five years, 5% of the sex offenders had been re-arrested for a new sex crime, and 13.7% had been re-arrested for a new sex crime after 10 years (see Table 2). As seen in Table 3, the Florida 5-year sexual recidivism rates were about the same as the combined average in three other states, and slightly above the average after 10 years.

**Table 2: Florida Recidivism Rates (N = 499)**

<b>5-yr any recidivism</b>	37 %
<b>10-yr any recidivism</b>	60 %
<b>5-yr sexual recidivism</b>	5 %
<b>10-yr sexual recidivism</b>	13.7 %
<b>Any technical violation</b>	37 %
<b>Failure to Register</b>	39 %

**Table3: FL Sexual Reoffending Rates Compared to Other States**

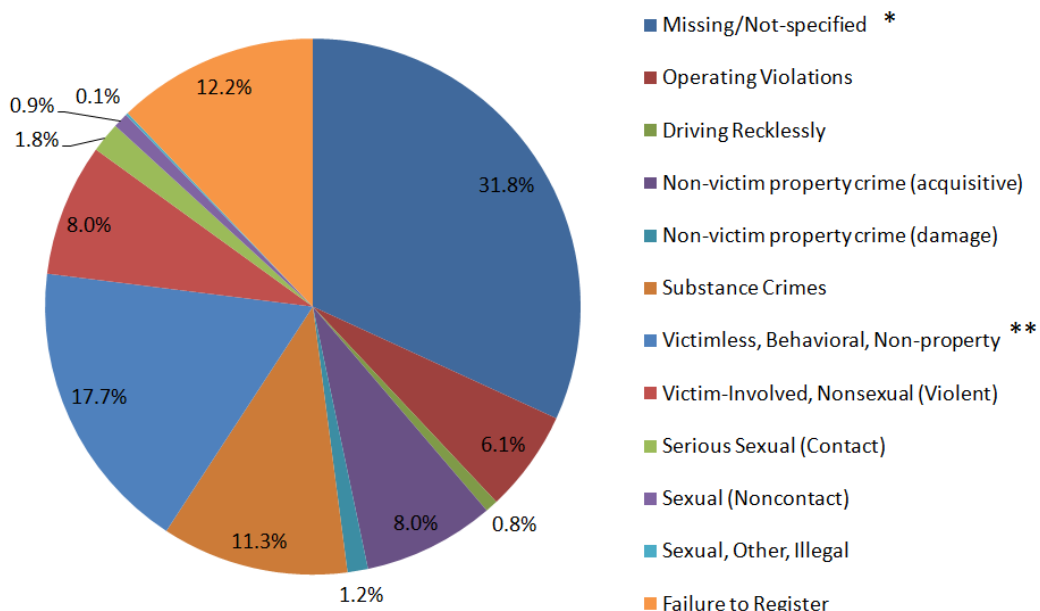
State	FL	MN	NJ	SC	Combined
<b>Five-Year Sexual Recidivism</b>	5.2% (25 of 477)	7.0% (35 of 498)	3.5% (10 of 288)	4.1% (20 of 488)	<b>5.1%</b> <b>(90 of 1751)</b>
<b>Ten-Year Sexual Recidivism</b>	13.7% (33 of 241)	12.9% (64 of 498)	8.3% (22 of 264)	7.0% (34 of 486)	<b>10.3%</b> <b>(153 of 1489)</b>

### Detailed Breakdown of New Crimes Committed

The 499 sex offenders were arrested a total of 2,752 times over the 10 year period, 32% of which were unspecified and were most likely technical probation violations (see Figure 1). Of the known criminal offenses (see Figure 2), 4.2% were new sex crimes, 18% were for failing to register as a sex offender, 10% were driving offenses, about 13% were non-victim property crimes, nearly 17% were drug or alcohol related, 26% were victimless, behavioral, non-property crimes, and about 12% were serious violent offenses.

**Figure 1: All recidivism arrests over the 10 year follow-up period.**

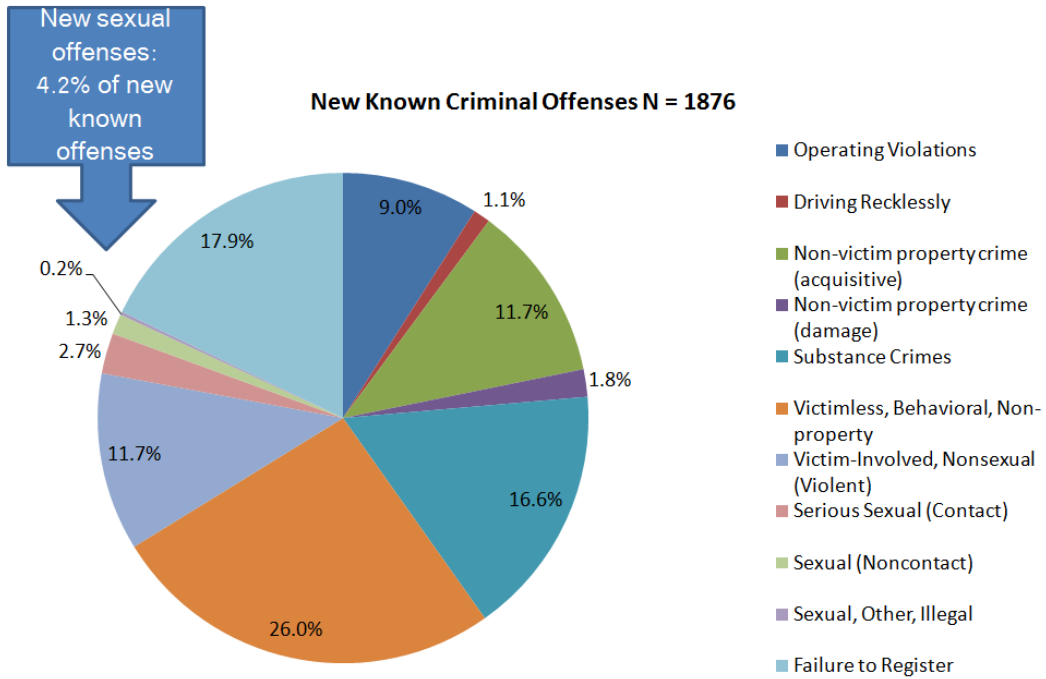
## All new arrests (n = 2752)



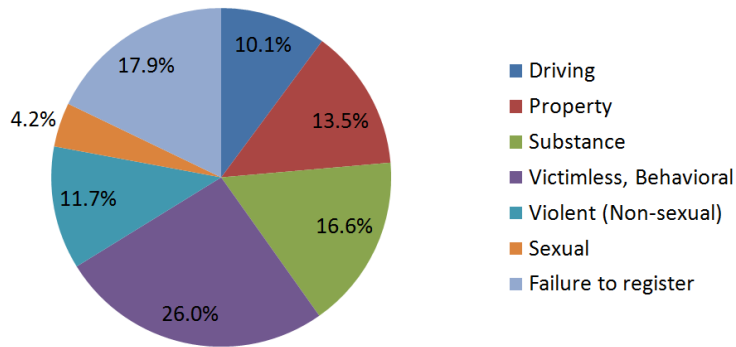
\* Probably probation violation (arrest, no new crime)

\*\* Trespassing, obstructing justice, vagrancy, illegal gun possession, etc

**Figure 2: New known criminal offenses over the 10 year follow-up period.**



**Offenses Known (Collapsed Categories)**



## Procedures Used in Florida to Classify Sex Offenders and Respective Abilities to Identify Recidivists

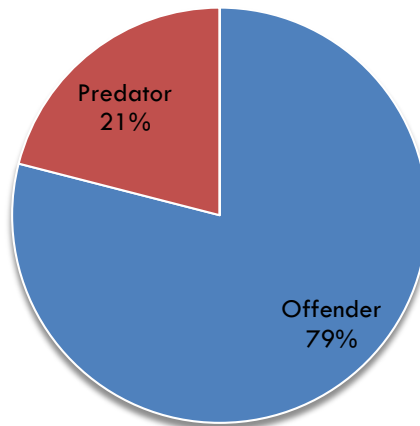
### Offenders and Predators

According to the FDLE, registered sex offenders are designated as predators if they have 1) A conviction for a qualifying and Capital, Life, or First degree felony sex offense committed on or after 10/1/1993; or 2) A conviction for any felony violation or attempt thereof for a qualifying offense committed after 10/1/1993 in addition to a prior conviction for any felony violation or attempt thereof for a qualifying offense; and 3) A written court finding designating the individual a sexual predator. Additionally, as of July 1, 2004, regardless of whether an individual meets or does not meet the criteria listed above, anyone civilly committed under the Florida Jimmy Ryce Sexually Violent Predator Act must register as a sexual predator.

In this sample, 21% were designated as predators and 79% as offenders.

In April 2011, the total population of Florida registered sex offenders (RSOs) contained 16% designated as predators and 84% as offenders (data provided by FDLE in April 2011, n = 55,847). The current sample appears therefore to be higher risk compared to the general RSO population, which is not surprising since the sample was generated from prisoners released from incarceration. Incarcerated offenders are presumed to have committed more serious offenses than those sentenced to community probation.

**Figure 3: Offenders and Predators**

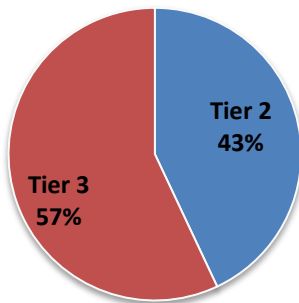


### Adam Walsh Act Tiers

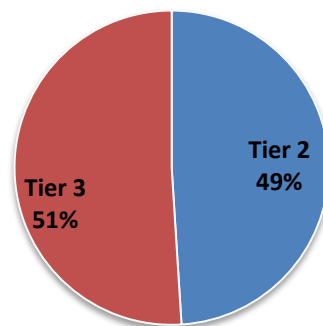
Using a classification procedure drawn strictly from the federal guidelines, the sample contained 57% Tier 3 sex offenders (highest risk) and 43% Tier 2 sex offenders. Using the state guidelines on the FDLE website categorizing offenders by Florida statute of conviction and then adding those labeled as predators, the sample contained 51% Tier 3 sex offenders (highest risk) and 49% Tier 2 sex offenders. In all subsequent analyses, FDLE Tier Guidelines were used in assigning offenders to Tier 2 or Tier 3.

In April 2011, the total population of Florida RSOs contained 39% designated as Tier 3 and 61% as Tier 2 (data provided by FDLE in April 2011, n = 55,847). Again, the study sample appears to be higher risk compared to the general RSO population, which is not surprising since the sample was generated from prison releases.

**Figure 4: AWA Tier Classification Procedure 1 (Federal guidelines per SMART office)**



**Figure 5: AWA Tier Classification Procedure 2 (State guidelines per FDLE website)**



### Static-99R Scores and Respective Recidivism Rates by Classification System

The mean (average) Static-99R score was 1.97, with a median (midpoint) score of 2 and a mode (most frequent) score of 3. Scores of 2 and 3 are defined by the instrument's developers as "low-moderate" risk levels.

The mean Static-99R score for Predators was 2.06, and the mean Static-99R score for Offenders was 1.95. This did not reflect a statistically significant difference between the groups. (See Figure 6)

The mean Static-99R score for AWA Tier 2 offenders was 2.2, and the mean Static-99R score for AWA Tier 3 offenders was 1.6. This did not reflect a statistically significant difference between the groups. (Figure 7)

Figure 6

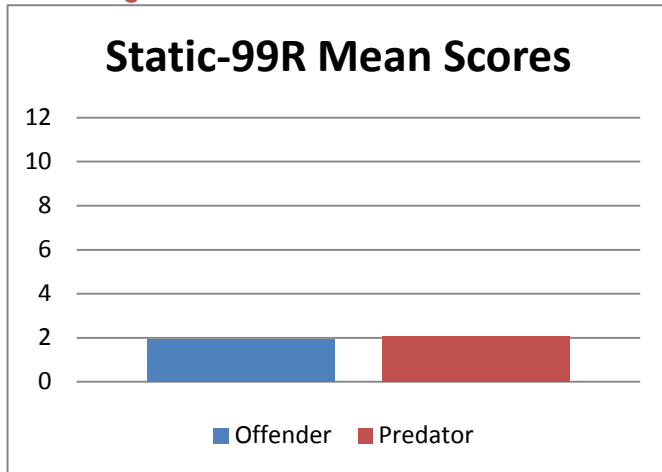
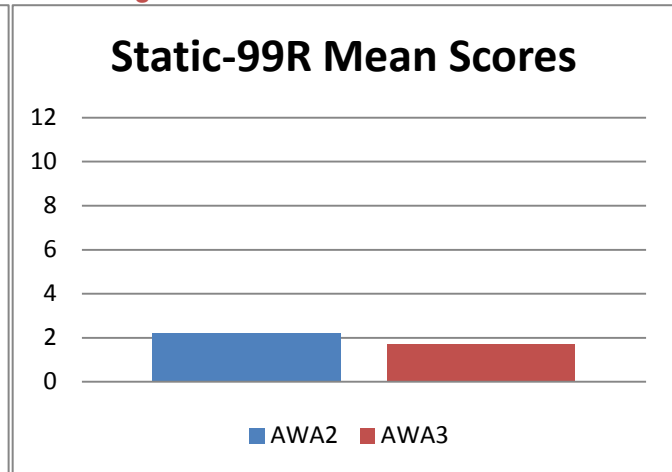


Figure 7



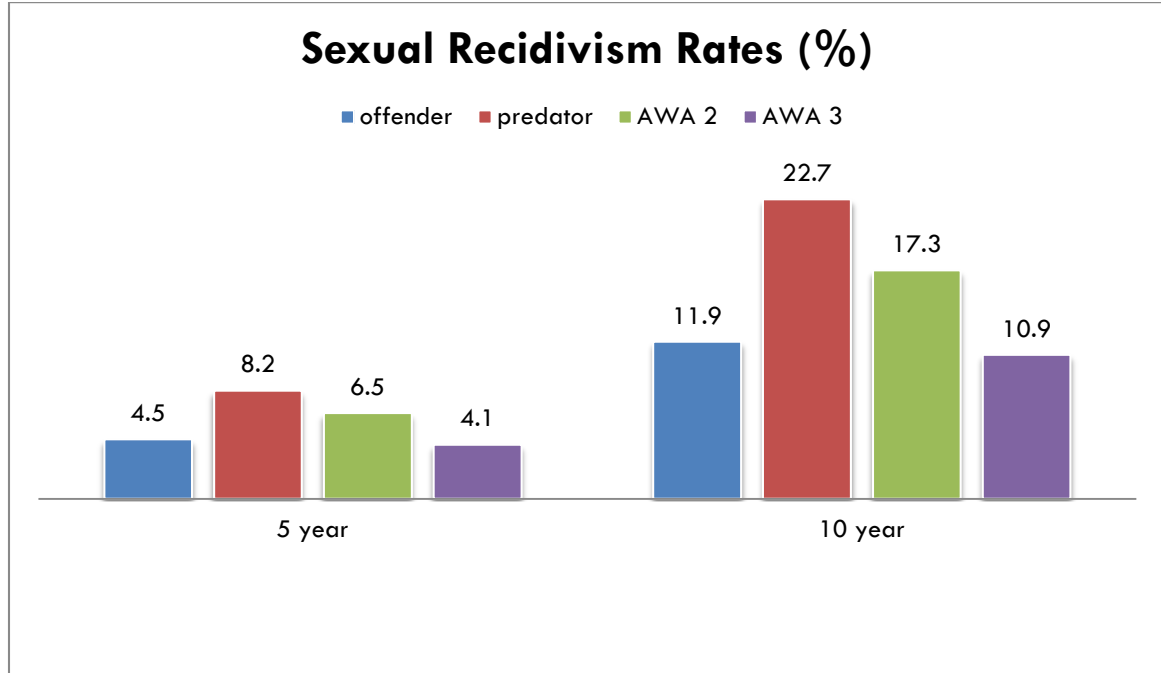
Five-year sexual recidivism rates for offenders and predators were 4.5% and 8.2% respectively. This did not reflect a statistically significant difference ( $\chi^2 = 2.139, p = .14$ ). Ten-year sexual recidivism rates for offenders and predators were 11.9% and 22.7% respectively, which did not quite reach statistical significance ( $\chi^2 = 3.549, p = .06$ ).

Five-year sexual recidivism rates for AWA Tier 2 and Tier 3 offenders were 6.5% and 4.1% respectively. This did not reflect a statistically significant difference ( $\chi^2 = 1.291, p = .26$ ). Ten-year sexual recidivism rates for AWA Tier 2 and Tier 3 offenders were 17.3% and 10.9% respectively. This did not reflect a statistically significant difference ( $\chi^2 = 2.056, p = .15$ ). Sexual recidivism rates for AWA tiers were in the opposite direction than expected, with Tier 2 offenders recidivating at higher rates than Tier 3 offenders.

Sexual recidivists who were re-arrested within 5 years had higher mean Static-99R scores (2.4) than non-recidivists (1.9), though the differences were not statistically significant ( $t = -.202, p = .84$ ). Sexual recidivists who were re-arrested within 10 years had higher mean Static-99R scores (2.5) than non-recidivists (1.7), though the differences were not statistically significant ( $t = -1.092, p = .28$ ).

Recidivists who were re-arrested within 5 years for a non-sexual crime had higher mean Static-99R scores (2.5) than non-recidivists (1.7), and the differences were statistically significant ( $t = -2.100, p = .04$ ). Recidivists who were re-arrested for a non-sexual crime within 10 years had higher mean Static-99R scores (2.3) than non-recidivists (1.6), though the differences were not statistically significant ( $t = -1.503, p = .14$ ).

Figure 8





## SUMMARY AND IMPLICATIONS FOR POLICY

The Adam Walsh Act seeks to improve community safety by standardizing procedures by which states classify sex offenders and subject them to registration and notification requirements. Presumably, efforts to classify sex offenders are expected to result in improved identification and better risk management of those who pose the greatest threat to public safety.

These findings suggest, however, that AWA tiers did a poor job of identifying high risk offenders and classifying offenders into relative and hierarchical risk categories, and thus may not meaningfully guide sex offender management practices. There were no statistically significant differences between groups when the recidivism rates of AWA Tier 2 and Tier 3 offenders were compared. The rates were in the opposite direction from what would be expected, with Tier 2 offenders sexually recidivating at higher rates than Tier 3 offenders.

Offender/Predator status did a better job of classifying offenders into relative and hierarchical risk categories, with predators recidivating more frequently than offenders. One possible explanation for this finding is that the predator designation used in Florida was reserved for relatively few sex offenders (21%). This more narrowly defined risk category appeared to more efficiently identify potential recidivists than its more broadly defined AWA3 counterpart.

Actuarial risk assessment (Static-99R) consistently discriminated between both sexual and nonsexual recidivists and non-recidivists in the expected direction. All recidivists had higher scores than non-recidivists, and the differences for nonsexual recidivists were statistically significant.

Without a meaningful categorization scheme that truly reflects a hierarchical portrayal of risk, tiers become less useful for the public and create an inefficient distribution of resources for sex offender management purposes. If public awareness is an objective of notification, then less precise and more inclusive categorical schemes may not be as helpful for the consumer of registry information who seeks to identify the most high-risk and dangerous individuals.

The vast majority of new arrests (84%) over the ten-year period were for non-sexual, non-violent crimes.

Supplemental analyses also indicated that increased age is protective of future reoffending, regardless of whether it is the age at which the offense occurred, age at sentencing, or age at release from incarceration. In general, risk for sexual and nonsexual re-offense diminishes with advancing age, suggesting that 25-year and lifetime registration durations as mandated by current policy may be unnecessary and inefficient. As the sex offender population ages, individuals pose less threat to public safety, and their lifetime presence on a registry may obscure the public's ability to distinguish those offenders who are more likely to reoffend.

### Limitations

This study is not without limitations. Missing data due to absent variables reduced the sample size of analyses using Static-99R. The data that appeared to be systematically missing were those pertaining to victim characteristics. It is not unusual in criminal justice research to find that corrections files are incomplete, and in particular, victim information and juvenile criminal history are commonly unavailable. Other challenges often encountered by researchers investigating criminal recidivism include the underreporting of offenses and the sometimes limited accuracy of criminal history data repositories. Because many sex crimes go unreported, rates of sexual recidivism among the sampled offenders underestimate actual rates of reoffending. The Bureau of Justice Statistics' National Crime Victimization Survey (NCVS) reported in 2010 that only half of all

sexual assaults against persons 12 or older were reported to law enforcement and many do not result in an arrest of the perpetrator. It should be noted, however, that under-reporting may be less of a problem when sex crimes are committed by individuals who have already been detected; in other words, sex offenses committed by registered sex offenders may be less likely to go unreported and when reported may be more likely to result in an arrest. Thus, recidivism rates as defined in this study are probably less likely to be affected by under-reporting than overall sex crime rates.

In addition, the authors acknowledge that data inaccuracies may exist within state criminal justice data repositories and that the quality of recidivism data may vary by case, depending on the release cohort and the follow-up period used in statistical analyses. Recidivism data were available only from Florida, and therefore do not capture any arrests that might have occurred out of state.

The researchers also recognize that the system for classifying offenders into AWA tiers might not precisely reflect the procedures outlined by the federal government or those utilized by FDLE. The researchers acknowledge the potential imperfections of their strategy, but are confident that the method approximates the state classification system in a reliable and valid fashion.

## CONCLUSIONS

In summary, the most salient policy considerations are twofold. First, if the purpose of a classification scheme is to identify higher risk offenders in order to guide public awareness and law enforcement monitoring, it is essential for that classification scheme to approximate relative risk in a meaningful fashion. Second, it follows that if the classification scheme is indeed a meaningful portrayal of relative risk, then resources for tracking and monitoring can be allocated concordantly. In other words, if the current AWA classification scheme does not appear to represent a systematic and hierarchical classification of relative risk categories, it follows, then, that resource distribution may not be optimally efficient both in terms of cost-effectiveness and targeted sex offender management practices. Actuarial risk assessment instruments are superior to AWA tiers in ranking the relative risk of individual sex offenders and should be considered for screening offenders into relevant risk categories.

## Appendix 1: Static-99R Risk Factors and Scoring

### Static-99R Coding Form

Question Number	Risk Factor	Codes		Score
1	Age at release	Aged 18 to 34.9		1
		Aged 35 to 39.9		0
		Aged 40 to 59.9		-1
		Aged 60 or older		-3
2	Ever Lived With	Ever lived with lover for at least two years?		
		Yes	No	0 1
3	Index non-sexual violence - Any Convictions	No		0
		Yes		1
4	Prior non-sexual violence - Any Convictions	No		0
		Yes		1
5	Prior Sex Offences	<u>Charges</u>	<u>Convictions</u>	
		0	0	0
		1,2	1	1
		3-5	2,3	2
		6+	4+	3
6	Prior sentencing dates (excluding index)	3 or less		0
		4 or more		1
7	Any convictions for non-contact sex offences	No		0
		Yes		1
8	Any Unrelated Victims	No		0
		Yes		1
9	Any Stranger Victims	No		0
		Yes		1
10	Any Male Victims	No		0
		Yes		1
<b>Total Score</b>		<b>Add up scores from individual risk factors</b>		

#### Translating Static-99R scores into risk categories

##### Score      Label for Risk Category

-3 through 1	=	Low
2, 3	=	Low-Moderate
4, 5	=	Moderate-High
6 plus	=	High

#### Source:

Helmus, L., Babchishin, K. M., Hanson, R. K., & Thornton, D. (2009). Static-99 Revised Age Weights.

<http://www.static99.org/pdfdocs/static-99randage20091005.pdf>