

3. In addition to publishing extensively on sexual offender risk assessment, I have published on evidence-based standards for accrediting treatment programs for offenders and served as a member of the National Offender Management Service (England & Wales) Correctional Services Accreditation Panel. Further, I have also published on matters concerning offense-related paraphilias, and relatedly, served as an advisor to the DSM-5 Paraphilias Sub-Workgroup of the American Psychiatric Association (2009-2013).

4. I have carried out research and development work leading to the production of instruments for assessing the risk of sexual and violent recidivism. These include the Risk Matrix 2000, an instrument for assessing the risk presented by sexual offenders that has been the standard instrument employed by prison, probation and police services in the United Kingdom for over a decade.

5. I am co-author, with Karl Hanson, of the Static-99, the Static-99R, the Static-2002 and the Static-2002R. All of the STATIC tools are actuarial risk tools designed to evaluate the likelihood of sexual recidivism among known adult male sexual offenders by assigning risk points based on the predictive significance of commonly available demographic and criminal history information. They are the most widely used sexual offender risk assessment tools in North America.

6. Like other instruments of this kind, the STATIC family of tools provides tables that associate recidivism rates with scores on the instrument. Users can sum risk points derived from individual items into an overall risk score on the instrument and then interpret it by looking up the recidivism rate found in large samples of sexual offenders for persons with that risk score.

7. Static-99R differs from the earlier versions of this instrument in that it takes much greater account of older age. This reflects the finding (Helmus et al., 2012) that the earlier version of this instrument over-estimated recidivism by a factor of two or three for men released aged 60 or older. Accordingly, the revised version subtracts risk-points in a way that leads to risk estimates that correspond to the lower sexual recidivism rates observed for men released at age 60 or older.

8. Tools of this type have been widely used by forensic evaluators and it is now not uncommon for evaluators to be presented with a case where someone with a history indicating sexual deviancy and antisocial traits is nevertheless assigned a relatively low risk estimate by these tools because of advanced age. This result often appears counter-intuitive.

9. Some of those released at age 60 or older were in their 50s when they committed their most recent sex offense and have aged into their 60s while in custody. Typically, such individuals do not show any obvious change in sexual deviancy or antisocial traits at the point they turn 60 so it is difficult to see why they should be regarded as presenting a lesser risk than they did when they were a few years younger. It is natural then to suppose that the risk estimates provided by Static-99R under-estimate the risk presented by such individuals.

10. Many of those released at age 60 or older were already this age when they committed their most recent sex offense. Since they should already have been benefiting from the effect of older age when they committed this offense it is easy to suppose that they must be an exception for whom this protective effect does not apply. Thus, for this group too, it is natural then to suppose that the risk estimates provided by Static-99R under-estimate the risk presented by such individuals.

11. The purpose of this affidavit is to make available for forensic evaluators the results of analyses that tested whether the Static-99R risk estimates do, in fact, underestimate sexual recidivism risk for these two groups. To do this I used the samples described in Hanson et al., (2016) which formed the basis of the statistical analysis that led to the most recent set of recidivism norms for Static-99R. These involve some 8,805 sexual offenders drawn from 21 Static-99R studies. For some of these cases there was information about individuals' age at the time of the index sex offense. This was operationalized as the age the index offense was committed if that was known or the age at which the individual was convicted for this offense. Cases aged 60+ at release with an age at index sex offense of either 50-59 or 60+ were extracted. For each of these cases their expected 5-years sexual recidivism rate was calculated based on their Static-99R score and the current recidivism norms. Note that where the individual was drawn from a High Risk / High Need sample those norms were used whereas Routine norms were used for the remainder. The overall expected 5-year sexual recidivism for each group was then calculated and compared to the observed 5-year sexual recidivism rate.

12. Cases aged 60+ at release with an age at index sex offense of 50-59 had an overall expected 5-year sexual recidivism rate of 3% while the observed 5-year sexual recidivism rate was 1%. These statistics are based on an N of 92 so the difference between observed and expected sexual recidivism rates is not statistically significant. The results indicate that the observed rate is close to the expected rate and that, if anything, the current Static-99R recidivism estimates may over-estimate recidivism risk for this group by a couple of percentage points.

13. Cases aged 60+ at release with an age at index sex offense of 60+ had an overall expected 5-year sexual recidivism rate of 3% while the observed 5-year sexual

recidivism rate was 4%. These statistics are based on an N of 235. Again, the difference between observed and expected sexual recidivism rates is not statistically significant. The results indicate that the observed rate is very close to the expected rate and that, if anything, the current Static-99R recidivism estimates may under-estimate recidivism risk for this group by one percentage point.

14. The above results relate to the full range of risk so it is natural to wonder what would be found if attention is directed to those with more indication of risk from the non-age items. Accordingly, a subset of cases from the above analysis was selected comprised of those with at least 3 risk points from the non-age items in Static-99R. For convenience, this is referred to here as having a bad criminal history.

15. Cases with a bad criminal history, aged 60+ at release with an age at index sex offense of 50-59, had an overall expected 5-year sexual recidivism rate of 6% while the observed 5-year sexual recidivism rate was 2%. These statistics are based on an N of 41 so the difference between observed and expected sexual recidivism rates is not statistically significant. The results indicate that the observed rate is close to the expected rate and that, if anything, the current Static-99R recidivism estimates may over-estimate recidivism risk for this group by a four percentage points.

15. Cases with a bad criminal history, aged 60+ at release with an age at index sex offense of 50-59, had an overall expected 5-year sexual recidivism rate of 7% while the observed 5-year sexual recidivism rate was 9%. These statistics are based on an N of 64 so the difference between observed and expected sexual recidivism rates is not statistically significant. The results indicate that the observed rate is close to the expected rate and that, if anything, the current Static-99R recidivism estimates may under-estimate recidivism risk for this group by a couple of percentage points.

16. In summary, although it is intuitively plausible to suppose that the Static-99R sexual recidivism estimates will materially underestimate risk for those released aged 60+, if their index sex offense was committed either when they were in their 50s or when aged 60+, the data contradict this view. Static-99R sexual recidivism estimates appear to be accurate within a few percentage points for both of these groups. Forensic evaluators should testify to the general accuracy of the Static-99R recidivism estimates for those released at age 60+. To suggest that these norms materially underestimate risk would be to mislead the court.

David Thornton

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STATE OF WISCONSIN,
COUNTY OF DANE
Subscribed and Sworn to this
7th day of NOVEMBER, 2017
Bradley S. Lamm
Notary Public
My Commission is on 09/16/2021

