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This technical assistance activity was funded by the Community Corrections Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person who provided the on site technical assistance did so through a cooperative agreement, at the request of the Nevada Board of Parole Commissioners, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Ms. Mary Perrien PhD. The contents do not necessarily reflect the official views or policies of the National Institute of Corrections.

RISK ASSESSMENT FOR SEX OFFENDERS

PAROLING FROM NEVADA CORRECTIONS

By

M. Perrien, Ph.D.
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HISTORY OF PROJECT

This project was the result of a technical assistance grant (TAG) provided to the Nevada Board of Parole Commissioners (Parole Board) by the National Institute of Corrections (NIC). The Parole Board, as explained by Board Chair, Ms. Connie Bisbee, had areas of interdependence with other agencies in some of the Board's required duties. Specifically, the Parole Board relied on the sex offender Psychological Review Panel (Review Panel) for risk assessment classifications of sex offenders pending parole review. The Parole Board has also been tasked with providing a representative member on the appeal board for sex offenders who are dissatisfied with their tier level as part of the classification process completed by the Nevada Department of Public Safety (DPS) in compliance with the Adam Walsh Act. The Parole Board is committed to the utilization of "evidence-based practices" as defined in the voluminous research on topic and was concerned that the risk assessment process related to these two areas may not meet best practice guidelines. The TAG was awarded to provide for a review of Nevada's practices in these areas and provide recommendations if indicated. Ms. Robbye Braxton-Mintz, Correctional Program Specialist, U.S. Department of Justice, National Institute of Corrections, contacted this author to solicit my assistance in fulfilling these terms.

The risk assessments completed for the Parole Board are done by mental health staff within the prisons. These are then submitted to the Review Panel with other relevant data (e.g., institutional adjustment). The Review Panel then determines the inmate's risk level and forwards this information to the Parole Board. The Review Panel is operated and supervised by the Department of Correction (DOC). The Department of Public Safety maintains control and supervision of the review and classification process of registered sex offenders for community notification purposes. However, if the DPS wishes to modify its risk assessment methodology, the agency is required to solicit input from the DOC Director and the Director of Mental Health Developmental Services and allow them 30 days to respond before proceeding.

The Nevada Parole Board Chair, Ms. Connie Bisbee, was the primary contact for implementation of the technical assistance grant. To restate: there were two elements to the project: 1) to review the current risk assessment tools used and process conducted by the Department of Correction and relied upon by the Parole Board in the risk-based decision-making process regarding parole release; and 2) to review the current risk assessment tool and process used by the Department of Public Safety to assign a sex offender to a tier level for community notification purposes.

This project required a review of existing Nevada statutes and administrative regulations as applied to sexual offender registration and notification, incarceration and parole; Sex Offender Psychological Review Panel; recordkeeping; and professional licensure and performance of duties. Materials and information regarding current practices in the assessment and classification of risk for sex offenders within the DOC and by the DPS were reviewed. Existing treatment and/or programming for sexual offenders was only very briefly reviewed. The current risk

assessment processes were analyzed for compliance with current research in best practices; the psychometric properties of the assessment instruments used were also evaluated and analyzed. The resources available to the DOC, Parole Board and the DPS were reviewed in the context of existing practices and alternative processes to enhance the validity of the risk assessment process.

A site visit was planned to allow for a greater understanding of the processes and practices involved in each of the areas of focus for this TAG. During this site visit, the sex offender psychological review panel was observed during one day, a sample of parole hearings of sex offenders were observed, and staff from each area (e.g., psychological review panel, parole board, sex offender registry and notification) were interviewed (see Appendix A). Additional materials related to the processes were gathered during the site visit and reviewed. A review of the practices of other states was also conducted to compare with the practices in Nevada.

BACKGROUND

The Nevada Board of Parole Commissioners has demonstrated a clear commitment to using evidence-based practices in fulfillment of their duties. The Parole Board has a difficult job to do; they are asked to reinforce positive change in offenders while trying to maintain community safety. While seemingly simple in the abstract, this is a very gritty and burdensome task in actual practice. The difficulty of the task is only compounded when the offenders at issue are sex offenders. This population tends to face an almost universal negative response by others within our society. Most people would tell you that they prefer that sex offenders be locked up forever, "just throw away the key." But that is simply not practical and the Parole Board must deal with the practical issues every day.

Research has clearly demonstrated that unstructured clinical judgments of risk are little better than chance (Andrews, Bonta, & Wormith, 2006; Grove, Zald, Lebow, Snitz & Nelson, 2000; Hanson & Morton-Bourgon, 2009). Rather than the spend the money on a mental health practitioner, if Nevada wanted to use that method of assessing risk, the system could save a lot of money by simply providing each Parole Board Commissioner with a quarter, having them flip their coins and go with two out of three. Luckily for all of us, actuarial risk assessment tools exist that greatly improve the accuracy of risk assessment over clinical judgment, but before we discuss those tools, let's define clinical judgment and actuarial risk assessment.

Clinical judgment is based on an individual's understanding of the behavior to be predicted. Clinical judgment is totally subjective, idiosyncratic and may not be based on empirical data; it may change from case to case, despite the fact that the offenders' relevant risk factors are the same (e.g., Harris & Hanson, 2010). Everyone is vulnerable to bias, even trained mental health professionals. No one can remain current on all relevant research and accurately determine how to properly weight new information against old information. As a result, mental health professionals each develop their own framework or understanding of risk and what contributes to risk. This understanding may or may not be based on valid information. In contrast, actuarial risk assessment is entirely based on data. Explicit procedures and rules are developed for grouping individuals based on research. This provides statistical frequencies linking the group to an outcome. This minimizes the opportunity for bias and increases accuracy. These clear rules also

increase inter-rater reliability, the likelihood that two different people will reach the same conclusion.

An example of these two different schools of thought follows. A young man has just received his driver's license and needs to purchase insurance. He goes down to the insurance office and sits with an agent to obtain a quote. The first agent, using "clinical judgment" looks the young man over and calculates a rate. The agent bases the rate on the fact that the young man has long hair, paints his finger nails black, wears a concert t-shirt, and looks, in the agent's mind, like someone who would be distracted when driving and drive fast. The agent takes the base rate and increases it by $250 for what he perceives to be the increased risk that this young man presents. This same young man goes to another agent for a second quote. This second agent uses an actuarial table to calculate the insurance premium. That actuarial table cares nothing about the young man's clothing or hair or appearance in any way. Instead, the young man's age, gender and school grades are used to calculate his risk. He is charged $50 more than the base rate because the actuarial table determines that while his gender and age increase his risk; his good grades actually lower his risk relative to his peers. The second agent is more likely to be accurate because his rate was calculated based on a table built by many years of data documenting who was most likely to get into an accident. The data showed that appearance was less important than gender, age and certain behaviors.

Despite all of their advantages, there are some limitations with actuarial risk assessment tools. Actuarial tools are based on data derived from *groups* of people. Their *accuracy* is developed from data on groups of people. Consequently, the accuracy for one single offender may differ; there will be times when someone in the low risk group reoffends and when those in the high risk group do not reoffend. When using a psychometrically sound actuarial risk tool, the occurrence of those events will be rare. Many actuarial risk tools rely heavily on static (unchanging) factors (e.g., RRASOR, STATIC-99). The result is that changeable (dynamic) risk factors associated with recidivism are not taken into consideration. The consequence is that if you rely only on those tools, you will not be able to assess changes in risk over time. This will be particularly relevant in situations when dynamic risk factors cannot be properly assessed, such as when classifying for tier levels in the sex offender registry and notification process.

Yet these limitations are not enough to justify abandonment of an actuarial approach to risk assessment for sex offenders. Research has clearly established that actuarial risk assessment tools are far superior to clinical judgment (e.g., Hanson & Morton-Bourgon, 2009). The Static-99, Stable-2007, and Acute-2007 are frequently utilized and have substantially more research to support their use. They were developed to work together and have an empirically supported framework to utilize them together (e.g., Hanson, Harris, Scott, & Helmus, 2007). They are currently considered THE standard to which other instruments are compared and have been implemented together as a supervision tool in other states. For example, in Idaho the supervision matrix is directly linked to the scores on the Static-99, Stable-2007 and Acute-2007. Once each instrument is scored, the resulting risk level is directly related to the supervision level, providing

the probation/parole officer with an informed basis for supervision level as well as supervision targets or areas of need to focus on as well. By utilizing these tools, decisions based on these scores are less vulnerable to attack and confidence in the assessed risk level is enhanced. While it will not reach 100%, it is greatly enhanced.

To ensure that the actuarial risk assessment score is as reliable and valid as possible, training is a critical element. While scoring manuals initially seem quite straightforward and simplistic, it merely takes a few cases to demonstrate how difficult scoring can become. The validity of a risk assessment score is dependent in large part on the training that the assessor has had and ensuring that there are no deviations from the protocol (Anderson & Hanson, 2010). An understanding of the scoring rules and the commitment to adhere to them is equally important. Staff completing these assessments must ensure that their own personal biases are not impacting the scoring outcome. For example, some instruments score sexual deviancy. This is defined in the scoring rules. Some individuals consider homosexuality to be a sexual deviancy, but it not scored as such on that instrument. Yet during training, multiple trainees have argued that the item should be scored so that a homosexual man would receive an inappropriately inflated score simply because he was homosexual. It is absolutely imperative that staff completing the risk assessments be able to set any personal beliefs or prejudices aside and strictly adhere to the scoring rules.

Another very common error that occurs happens when an evaluator does not agree with the results. For whatever reason, the person completing the assessment thought that the offender should have been at a different risk level and "overrides" the result or makes a "clinical modification" if the evaluator is a mental health professional. Often, if it's a parole or probation officer, they will either try to score every item in the direction that they believe the offender's risk level is (i.e., high or low) or simply ignore the results. When mental health professionals engage in this behavior, it tends to be called "clinically modified risk assessment" or "clinically modified actuarial risk assessment." Make no mistake about what is happening here, though. As the results become modified and scores or classifications are changed, the outcome becomes increasingly unreliable and invalid. Very quickly, you are left with something that is worth no more than the toss of a quarter.

That is one of the concerns regarding the current risk assessment rating that is submitted to the Parole Board. It is even called a clinically adjusted actuarial risk assessment. Some of the mitigating and aggravating factors used to justify the modified risk level are things that are already considered in the risk assessment tool, meaning that they are being accounted for more than once and used to artificially inflate or reduce the score. These items are being more heavily weighted without any empirical basis for doing so. Other items have no empirical or research-supported basis for their use in modifying the actuarially-derived risk assessment score. Again, as the actuarially derived score and risk classification is modified by "clinical input," the

reliability and validity of that score and classification rapidly drops. The Parole Board is left with information that, under the best of circumstances, is no better than what one would come up with by chance.

In addition, the panel sometimes modifies their classification based on whether the inmate may remain in prison based on serving another sentence rather than his absolute risk level. This creates a situation that can be very confusing to the Commissioners and make it appear as though the inmate's risk level changes arbitrarily, the assessments have not been completed properly or they are invalid. When a risk assessment is requested, it should be completed in accordance with the rules of the tool and those scores should be provided with a classification provided based on those scores. If there is a belief that the inmate poses less risk because he will simply be paroled to a concurrent or consecutive sentence, then that should be noted, but the actual risk level should not be changed or modified because of it.

The way that the Review Panel is currently utilized, it appears to be an intervening step between the assessment completion and providing the Parole Board with the results of the risk assessment. While the dedicated professionals on the Review Panel were clearly committed to their task and worked very hard, it seemed that they served an unnecessary extra step in the process. The Parole Board is simply requesting for a risk evaluation of the inmate. This does not require a mental health professional nor does it require a panel review. In fact, a case manager could complete the risk assessment when putting together the packet for the Commissioners prior to the parole hearing. The Review Panel becomes problematic when they adjust the actuarial risk assessment score without very good cause. If the panel was simply validating the results, that would be acceptable, though it would still be excessive in its current format. A quality management process such as that would be highly recommended, though only if structured differently to utilize resources more efficiently. There is no need to interview the inmate and each of these elements adds time to the process and takes people away from their regular duties. In this time of limited resources, one must critically evaluate the need for such a panel or at least the current process.

The DOC and Review Panel currently use the Static-99 and the Minnesota Sex Offender Screening Tool, Revised (MnSOST-R). The Static-99 is a well-researched tool with demonstrated empirical properties. However, the MnSOST-R has been more controversial with research finding mixed outcomes. Some research found it to have poor psychometric properties and to be a poor predictor of sexual recidivism (Barbaree, Seto, Langton, and Peacock, 2001) while a few others suggest that it may not be quite that bad. One thing that has been consistent in the research is that the MnSOST-R is more difficult to score, so the interrater reliability is low, creating a greater challenge. Additional actuarial risk assessment tools that can be used are also available. These measures yield similar predictive potency, and combining them does not appear to enhance prediction (Parent, Guay and Knight, 2012).

The DPS tier classification process for community notification of sex offenders presents its own unique challenges. Because the law was retroactive, the DPS is responsible for classifying all sex offenders, even those whose crimes occurred 20 years ago. When the offender is releasing from a prison or jail, it is obviously easier to access necessary information. However, when the offender is moving into the state, required records can be very difficult to access. These access issues are even greater for crimes that were committed decades before.

The current tool utilized by DPS is the State of Nevada Community Notification Risk Assessment and Rating Manual (SOAS). This tool was developed from the New Jersey Registrant Risk Assessment Scale, a **rationally** derived risk assessment tool. In other words, this tool was not developed as a direct result of empirical data, but as the result of individuals' interpretations of research and perceptions of important factors worth including in a tool. These two types of test construction (rational vs. empirical) are very different and empirically-developed tools are generally considered superior to rationally-developed tests. There is little psychometric data to support the use of the original tool or the modified version that Nevada uses (added approximately 7 items) currently. Some of the items have been shown to have little to no relationship to recidivism and should not be included.

The staff currently conducting the tier classifications and scoring are very informed and know their tool quite well. They have identified a short-coming in the tool that occurs when time has passed and the offender would like his level reconsidered. The current tool used by DPS is not sensitive to change over time. It has a tendency to overstate risk. Unfortunately, this is the case with most static actuarial risk assessment tools too. Because of the nature of the task for DPS, it would be very difficult to get information to complete a tool like the STABLE-2007 with dynamic factors that would be more sensitive to change.

Because of the limitations with the current instrument, DPS is encouraged to use a validated risk assessment tool with strong psychometric properties, such as the Static-99. The only item that may be difficult to score would be whether the offender ever lived with an intimate partner for two consecutive years. The item could be omitted or the information could be collected the way that it has been, via questionnaire. DPS could also use the Rapid Risk Assessment for Sex Offender Recidivism (RRASOR). This is a very brief tool, four items, with a score range of 0-5. The research regarding its effectiveness in predicting sexual re-offense is somewhat mixed. Some studies have found that it is very good at predicting sexual re-offense while others have found the opposite. Research has shown that using the Static-99 with the RRASOR adds incremental validity, or increases the accuracy of the prediction. However, DPS could also use the Static-99 by itself. It is a psychometrically sound assessment tool and is already used by the DOC. Whenever possible for agencies to use the same tools; this allows for increased training opportunities and is more cost effective.

RECOMMENDATIONS:

Inmates scheduled for parole:

1. Consider tool changes	1. Continue with the Static-99 but recommend eliminating MnSOST-R

	due to issues with scoring and predictive utility. Instead consider just using Static-99 or adding RRASOR, Static 2002, or if the inmate is in actual treatment facilitated by a mental health clinician, add the Stable 2007.
2. Consider using different staff to complete risk assessments, such as case managers or correctional counselors. These tools do not require mental health professionals complete them.	2. Mental health staff are a limited resource and are much more costly than other staff. They are not necessary for the completion of an actuarial risk assessment. It is recommended that existing staff who are already part of the parole planning/hearing process (i.e., case workers/correctional counselors) be trained to complete the risk assessment and do so when completing the packet for the Parole Commissioners.
3. Better define the role of the Psychological Review Panel or eliminate the panel.	3. The Review Panel currently engages in redundant work and modifies the risk assessment findings in a non-structured, non-empirical manner, reducing the accuracy of the risk assessment. Their task unnecessarily adds time to the parole process. If the state did not want to disband them, they could possibly become trainers for the "new" assessment tools or assist with the QM/QI process.
4. Identify "superuser."	4. It is recommended that at least two people in the Department be identified as "superusers." These people would be sent to enhanced training, preferably from the risk assessment tool developers, and would become expert on the assessment tools. They would then provide this training to everyone else in the Department. They could also coordinate the certification process (see below) and the QM/QI process.
5. Develop policy that addresses training, certification, and QM/QI.	5. Before any new procedures or process can be rolled out, policy must come first. Policy writing should commence immediately. The policy should address who conducts training, funding for training, frequency (annual) of training,

	new employee training; the certification process, what is done if someone cannot get certified; and the ongoing quality management/quality improvement processes.
6. Initial training and then annual retraining.	6. Training will be critical to the success of the project. Sufficient training will be vital. Because people tend to drift away from the mean over time, annual retraining will be very important as well.
7. Establish internal certification process.	7. An internal process that allows the superusers to evaluate the other staff who will be assessing the inmates will be very important. Frequently this is accomplished by providing employees with 3 separate cases and asking the employees to individually score those cases. If the employee scores within an acceptable range of error on all or 2 out of 3, then that employee can be "certified" and allowed to complete risk assessments on his/her own without supervisions.

If these recommendations are followed, it would be expected that Nevada would have a more efficient and valid risk assessment process for sex offenders pending parole. Parole Commissioners could have greater confidence in the data provided to them regarding an offender's risk level and could make better informed decisions. Offenders would have a better idea of where they stand and what they need to do while incarcerated to lower their risk. Another advantage to using these tools and processes would be the ability to defend decisions based on the outcome of the actuarial risk assessments.

While DOC also provides some treatment opportunities for a portion of those same inmates, it was not clear how inmates were assigned to treatment. Another advantage of classifying inmates based on risk is the ability to assign inmates to treatment programs based on risk level. Research has clearly shown that low risk and high risk sex offenders should not be treated together and do not require the same "dose" of treatment. According to DOC mental health management staff, there are four different treatment or programming opportunities. Inmates can participate in the Sexual Treatment for Offenders in Prison or S.T.O.P. program; ESP, a self-study program utilizing a relapse prevention workbook with supervision/feedback provided by a mental health clinician; a third option that is a sort of "self-help" group with an inmate facilitator and a fourth option, sexual compulsives anonymous, another self-help inmate-facilitated group. While this consultant was not asked to evaluate the sex offender treatment programs and did not review them in any way, the use of inmate facilitators is a practice that has generally been abandoned in corrections due to the many problems that result and the security and liability issues involved.

These issues tend to be multiplied in a sex offender population and the DOC would simply be cautioned to review this practice as it is definitely not supported by research on recidivism reduction for sex offenders and tends to create more problems than it may resolve.

Risk Assessment for Community Notification, Department of Public Safety:

1. Recommend that DPS suspend using the current tool. It is outdated and was not developed through psychometrically sound research.	1. Consider using the Static-99 or the RRASOR to complete the risk assessment and assign the tier level to the offender.
2. Revise existing "guidelines and procedures for community notification" to include training, QM/QI and certification or develop policy that addresses those areas.	2. As mentioned in recommendations above, well-written policy is very important for standardization of a process and for ensuring that all staff are aware and understand the process. The policy should include training, QM/QI and certification process.
3. Train staff.	3. Staff will require training in the new tool(s). Consider having a "superuser" as recommended for DOC. This person can conduct training and be available for case-by-case consultation as well. Strongly recommend certification process as described for DOC above. This provides a baseline level of competence in administering the tools and creates a more defensible process.
4. Static risk assessment tools are not sensitive to change and reduced risk over time. Recognize that cannot use tool to detect change, must determine how the process will compensate for that.	4. DPS may want to establish some cut-off points, such as 10 years without arrest for sexual offense or other related behaviors could be viewed as a factor for lowering the level of risk. Given that this is already noted as a time when an offender can request to have his tier level reviewed, this would seem to be a natural fit. However, in light of the fact that DPS will most likely be unable to access reliable information needed to score an instrument like the Stable 2007, there will not be an actuarial tool sensitive to change that can be used in this unique circumstance upon which to base decisions. State leaders must decide how they will recognize positive change, noting that if they do nothing, they may inadvertently reinforce negative behaviors

	and create a "nothing to lose," "it don't matter" attitude amongst offenders.
5. The current appeal process is difficult and ill-defined. Recommend that the appeal process undergo review and be better defined. For example, if the offender wants to appeal, then the risk assessment is completed again, perhaps by the "superuser." Or three evaluators could complete the same risk assessment and the Appeal Panel could review those risk assessments and determine which appear most accurate or what risk level occurs two out of the three times, then grant or deny the offender's appeal.	5. Currently the appeal process is a challenge because of a lack of explicit rules. The process needs to be made transparent and rules should be much more explicit so that inter-rater reliability is increased. The Appeal Panel will feel more comfortable about their role in the process as well as a result.

The DPS process appears to have worked well with other agencies and disciplines. They simply need to update their tool and revise their processes. Staff there recognize the limitations of the current process and constantly strive to improve their work product. They are dedicated professionals who are committed to producing quality work.

While there are a few changes that are necessary to ensure that accurate information is being shared, the changes that are recommended cost relatively little. The costs of training are offset somewhat by moving administration to case workers and freeing up mental health staff to complete other tasks. None of the changes recommended should be too disruptive or overwhelming. As more people learn how to use these tools, everyone benefits: the community, the Parole Board, the staff (both inside and outside), and the offender.

Thank you for this opportunity to work with you and your staff.

APPENDIX A

SITE VISIT ON NOVEMBER 27-28, 2012

INTERVIEWED/MET WITH:

1. Connie Bisbee, Parole Board Chair, Parole Board Commissioners offices;
2. Susan Jackson, Parole Commissioner, Parole Board Commissioners offices;
3. Tony Corda, Parole Commissioner, Parole Board Commissioners offices;
4. Adam Endel, Parole Commissioner, Parole Board Commissioners offices;
5. David Smith, Senior Hearing Examiner, Parole Board Commissioners offices;
6. Robert Schofield, Psy.D., Psychologist III, Department of Correction, Review Panel hearing;
7. Amy Patterson, Ph.D., licensed Psychologist I, designee of Administrator Division of Mental Health and; Developmental Services of the Department of Health and Human Services, Review Panel hearing;
8. Rebecca Loftis, Psy.D., Psychologist IV, licensed psychologist representative on Psychology Review Panel, Review Panel hearing;
9. Charlotte Hoerth, Department of Public Safety, seen at DPS headquarters;
10. Pat Saunders, Department of Public Safety, seen at DPS headquarters.

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