

IS PRISON SEXUAL OFFENDING INDICATIVE OF COMMUNITY RISK?

Peggy Heil

Colorado Department of Corrections

Linda Harrison and Kim English

Colorado Division of Criminal Justice

Sean Ahlmeyer

Colorado Department of Corrections

April 2009

The final, definitive version of this paper has been published in *Criminal Justice and Behavior*, Vol. 36/Issue 9, September 2009 by SAGE Publications, Inc, All rights reserved. ©

<http://cjb.sagepub.com/content/36/9/892.abstract>

ABSTRACT

This study examines whether prison sexual offending behaviors are predictive of violence upon release. Recidivism rates for four groups of male sex offenders were compared: (1) offenders convicted of community sex crimes; (2) community sex offenders who were convicted under non-sex crime charges; (3) offenders known only to commit sexually abusive misconduct in prison and, (4) offenders with both community and prison sex offenses. The findings reveal that prison sex offenders are significantly more likely to be arrested for violent offenses upon release. They pose a similar risk to convicted sex offenders on arrests for sexual offenses; however, the average time to arrest was much shorter for prison sex offenders. Using non-traditional data sources (e.g., Accurint, the Colorado and National Sex Offender Registries) considerably increased the known recidivism rate. Implications for prevention and treatment are discussed.

Keywords: Prison rape, sex offender recidivism, institutional sex offenses, institutional sex offenders, in-prison sex offenders, prison misconduct

INTRODUCTION

Interest in the subject of prison sexual offending has piqued since Congress unanimously passed the Prison Rape Elimination Act in October 2003. While there are many studies that focus on sexual offenses in prison (Gaes & Goldberg, 2004), most focus on inmate sexual assault and exclude certain offenses such as indecent exposure and voyeurism. Although these non-contact sexual offenses constitute crimes in the community, they are frequently managed as inmate misconduct in prison or ignored altogether.

Often sexual offenses are dismissed by prison administrators as behaviors that are unique to the prison environment or a result of deprivation and not indicative of risk in the community. Even when the incident is formally charged, perpetrators typically receive only short institutional sanctions since local prosecutors often do not prioritize crimes committed by individuals who are already incarcerated (Mariner, 2001). Consequently, many of these crimes are not prosecuted and most perpetrators do not serve longer sentences as a result of their prison sexual offending behavior. Additionally, these offenders are seldom prioritized for treatment (Lins, 2006), particularly in instances of hands-off sexual offenses (e.g., indecent exposure, public masturbation and sexual harassment). As a result, little is known about the implications for public safety following the release of offenders engaged in sexual offending in prison.

There are several reasons to suspect that these offenders might pose a risk to public safety upon release, even those with hands-off sex offenses. Heterogeneity, or the propensity to diversify in sexual offending patterns, has been well documented in convicted sexual offenders (Abel & Osborn, 1992; Ahlmeyer, Heil, McKee, & English, 2000; English, Jones, Pasini-Hill, Patrick, & Cooley-Towell, 2000; Freeman-Longo & Blanchard, 1998; Heil, Ahlmeyer, & Simons, 2003; O'Connell, 1998). In a community sample of individuals who committed hands-off sex offenses, Abel and Osborn (1992) found 64% had also engaged in hands-on sexual offenses such as rape, child molestation or frottage. Hanson and Morton-Bourgon's (2004) meta-analysis on risk factors found both history of rule violation and noncontact sex crime index offense to be significantly related to sexual recidivism in studies of convicted sex offenders. These findings suggest that even those with hands-off sex offenses in prison might pose a higher risk of sexual offending once released to less structured community environments.

In addition to sexual reoffense, these offenders may present a risk of violent reoffense. Hanson and Morton-Bourgon (2004) found indicators of antisocial orientation, including history of violent crime, general self-regulation problems, and the PCL-R psychopathy measure, are predictive of violent non-sexual reoffense in convicted sexual offenders. Lattimore, Visher, and Linster (1995) found the best predictor of overall violent offending is a history of previous aggression and violence. Since prison sexual offenses typically involve aggression and self-regulation problems, it is also possible that these types of behaviors will be predictive of violent crime upon release. Further, Quinsey, Harris, Rice, and Cormier (1998) determined that many

sexual offenders' recidivating offenses that were charged as non-sexual violent crimes actually contained a sexual component or motivation.

The question remains whether prison sexual offenses, including hands-off crimes, are predictive of hands-off or hands-on sexual offending or violent offending in the community. The extent to which incarcerates who perpetrate sex offenses in prison pose a risk to the community upon release is unknown. Many factors add to the complexity of studying the issue, such as victim trauma, hesitancy on the part of victims to report such crimes, and insensitive measures of recidivism. Measures of recidivism are generally limited to official record sources, which under-represent the true rate of recidivism.

The present study examines how prison sexual offenders compare to other sex offenders in rearrest rates following release from prison. To study this issue, post release recidivism rates for four groups of sex offenders are compared: (1) offenders who were convicted of sex crimes committed in the free community; (2) offenders who were convicted of non-sex crimes in the community which involved case file documentation of sexual offending behaviors (i.e., the factual basis of the crime(s) identified a sexual assault but they were convicted of a different crime); (3) offenders who were known only to commit sexually abusive misconduct during their incarceration and, (4) offenders with both community sex offenses and sexually abusive misconduct in prison.

METHOD

Participants

The sample consisted of 3,169 adult male offenders with an identified history of sexual violence that completed a state prison sentence in Colorado between April 1, 1993 and July 30, 2002. The incarceration period under examination was identified as the offender's first discharge during this time frame.

The sample excludes individuals who left prison on a detainer or were deported, those who left the state on which no further information could be found, and those on which no follow up information could be located.¹ Additionally, special populations such as juveniles sentenced as adults, profoundly developmentally disabled individuals who required special services and housing, and chronically mentally ill offenders requiring institutional placements were excluded from the analysis.

The average length of incarceration was 4.3 years, ranging from less than one month to 25 years. The majority were discharged from prison (69.5%; n=2202), with only 30.5% (n=967) discharging their sentence while on parole. The average age at discharge was 37, ranging from 19 to 85. Time at risk for recidivism in the community ranged from 4 months to 9.4 years.

Criminal history information is collected and recorded in the Colorado Department of Corrections Information System (DCIS) as inmates are processed at the Reception and Diagnostic Center upon prison intake. Each inmate's documented criminal history and prior

institutional behavior is reviewed, and sexual violence classifications are determined. Classification into any of the following categories resulted in inclusion in this study.

- *Convicted Sexual Offender* - Individuals with past or current felony sexual offense convictions.
- *Factual Basis Sexual Offender* - Individuals whose history indicates sexual assaults or deviance for which they may not have been convicted. These cases often involve plea bargains where the factual basis of the crime involved a sex offense.
- *Prison Sexual Offender* - Individuals who have committed sexually abusive misconduct during their incarceration. For purposes of this analysis, the prison sexual offenders were further broken out into two groups.
 - *Prison Only* – Prison sexual offenders who had no known history of sexual offending in the community prior to incarceration.
 - *Prison Plus Community* – Prison sexual offenders who also had a known sex offending history—either by factual basis or conviction—in the community prior to incarceration.

To determine the behavior that generated specific offenders’ in-prison sexual violence designation, Colorado Department of Corrections case files were reviewed. The types of behaviors identified are categorized in Table 1 along with the percentage that received formal Code of Penal Discipline (COPD) sanctions from the Colorado Department of Corrections, the percentage that received formal disciplinary actions and sanctions from other correctional institutions, the percentage that only had documentation in written informational or confidential reports, and the percentage that was unknown.

Table 1: *Most Serious Sexual Behavior in Prison*

<i>Most Serious Behavior</i>	<i>Total offenders</i>	<i>COPD convictions^a</i>	<i>Other documentation</i>	<i>Convictions in other correctional institutions</i>
Rape	9.6% (13)	8.9% (12)		0.7% (1)
Sexual abuse	33.3% (45)	25.9% (35)	3.7% (5)	3.7% (5)
Complicity or attempt to commit rape	2.2% (3)		1.5% (2)	0.7% (1)
Sexual misconduct ^b	34.1% (46)	22.2% (30)	9.6% (13)	2.2% (3)
Sexual harassment ^c	8.9% (12)	3.7% (5)	5.2% (7)	
Unknown	11.9% (16)		11.9% (16)	
Total	100.0% (135)	60.7% (82)	31.9% (43)	7.4% (10)

Note: Numbers of offenders are given in parentheses.

^a Offenders may have received other COPD convictions for sexually abusive misconduct that are not reflected in this table. Similar to the community, the sexually abusive behaviors of prisoners may be filed as nonsexual COPD charges such as disobeying a direct order, assault, or verbal abuse.

^b Includes indecent exposure, public masturbation, voyeurism, bestiality

^c Includes unwanted sexual letters, obscene phone calls, stalking, soliciting

Many offenders had multiple sexually abusive behaviors recorded in their department files. For purposes of Table 1, only the most serious behavior is reported. Additionally, only the single most credible source of documentation is recorded in the table. The reason for assignment as a prison sexual offender was unknown for 11.9% of cases. Due to the age of many of the files, some had been destroyed, were incomplete or could not be located. Of those that did have the reasons for this assignment documented, reasons cited included indecent exposure, sexual harassment, sexual abuse, or a prior disciplinary conviction in a jail, a community corrections facility or an out of state prison, typically for sexual assault.

Data

Inmate data were extracted from the Colorado Department of Corrections information management system. These data included sexual violence classification, admission and discharge dates, and status changes such as parole or sentence discharge. Arrest information was obtained from the Colorado Bureau of Investigation, and new district court case filings were obtained from the Colorado Judicial Department. New incarcerations were identified from the original prison data extract.

An important component of this study involved identifying offenders that left the state after release from prison because state criminal justice records (not regional or national) were used to identify recidivism. Offenders who were not actually residing in Colorado, and therefore not at risk for reoffense in Colorado, were removed from subsequent analysis.

Offender location and death information was obtained from Accurint, a commercial data vendor that provides tracking data on individuals.² Additional location data were obtained from the Colorado Sex Offender Registry, the National Sex Offender Registry, the National Criminal Information Center (NCIC),³ and the Colorado Department of Corrections information system (DCIS). Records were identified by matching on state identification number, social security number, FBI number, name, date of birth or any combination thereof.

Of the 3,169 cases, 298 cases were excluded from the one year analysis because they had been at risk for less than one year (see Table 2). Of the remaining 2,871, another 37 died and 636 were located out of state within the one year. In the case of the five-year analysis, 1714 had inadequate time at risk and consequently were excluded from the five year analysis. Of the remaining 1455, 17 died and 314 were located in another state within the five years.

The application of survival analysis allowed the inclusion of the cases that were excluded from the one-year and five-year analyses since dates of death were known for all of the offenders who had died, and time spans of Colorado residency were known for those who had moved out of state. In addition, those excluded from the one year and five year analyses due to inadequate time at risk were included in this analysis.

Multiple recidivism measures were utilized. Technical parole violations were not included as a recidivism measure since the study was trying to determine if prison sex offending indicated a community offending risk. New arrests were limited to Colorado and included misdemeanor and felony charges but excluded minor traffic violations. New filings were limited

to felony filings in a Colorado district court. New incarcerations were limited to the Colorado Department of Corrections. Arrests and filings were separated into the following categories:

Sexual – any sexual offense, including rape, child sexual assault, and indecent exposure.

Violent – murder, kidnapping, robbery, aggravated assault, threats, vehicular assault and burglary involving an assault or deadly weapon.

Other – fraud, DUI, trespassing, and similar offenses.

Any – an arrest or filing in any of the above three categories (sexual, violent, or other).

Table 2: *Sample Attrition*

<i>Type of sexual offender (N)</i>	<i>Inadequate time at risk</i>	<i>Recidivism event^a</i>	<i>Out of state</i>	<i>Died</i>	<i>Residency verified</i>
<i>One year sample attrition</i>					
Prison Only (99)	7.1% (7)	44.4% (44)	13.1% (13)	3.0% (3)	32.3% (32)
Prison Plus Community (36)	2.8% (1)	41.7% (15)	8.3% (3)	0.0% (0)	47.2% (17)
Factual Basis (1,024)	7.2% (74)	35.9% (368)	17.0% (174)	0.7% (7)	39.2% (401)
Convicted (2,010)	10.7% (216)	19.9% (400)	22.2% (446)	1.3% (27)	45.8% (921)
Total (3,169)	9.4% (298)	26.1% (827)	20.1% (636)	1.2% (37)	43.3% (1,371)
<i>Five year sample attrition</i>					
Prison Only (99)	40.4% (40)	47.5% (47)	8.1% (8)	1.0% (1)	3.0% (3)
Prison Plus Community (36)	38.9% (14)	52.8% (19)	5.6% (2)	0.0% (0)	2.8% (1)
Factual Basis (1,024)	50.9% (521)	36.0% (369)	8.0% (82)	0.2% (2)	4.9% (50)
Convicted (2,010)	56.7% (1,139)	23.4% (471)	11.0% (222)	0.7% (14)	8.2% (164)
Total (3,169)	54.1% (1,714)	28.6% (906)	9.9% (314)	0.5% (17)	6.9% (218)

Note: Numbers of offenders are given in parentheses.

^a Includes an arrest for any misdemeanor or felony crime, a district court filing or a new incarceration.

Analysis

Recidivism was examined at one year and five years post-prison release. The recidivism time frame started at the point that the inmate was released from prison to the community, whether they paroled or were discharged without supervision. Recidivism rates were compared across the four sexual violence categories described above. Both the one year and five year recidivism rates were evaluated using Pearson’s chi-square statistic.

Time to failure was also compared across the four sexual violence categories using survival analysis. Due to the low number of recidivating offenders in the Prison Plus Community group, as well as the non-proportional distributions of the survival functions, the use of traditional survival analysis methods was precluded for comparison of the four offender groups. Therefore, comparisons were made using a Kruskal-Wallis nonparametric procedure. The minimum times to new events resulting from a sex crime, a violent crime and any crime were compared.

The survival distributions of the Prison Only and the Prison Plus Community groups revealed no significant difference. Therefore, these two groups were combined for the purpose of

the survival analysis only. This eliminated the sample size issue and enabled a comparison of the survival distributions of the three groups using the Kaplan-Meier method and the log-rank test of equality. All analyses were conducted using the Statistical Package for the Social Sciences (SPSS) release 11.0.1.

Results

One Year Outcomes

Table 3 displays one year recidivism outcomes for the population at risk for at least one year. Across nearly all the types of recidivism measures, both groups of Prison sex offenders were as likely as or more likely than the Convicted offenders to recidivate within one year of prison release. In fact, Prison Only sex offenders were more likely than any other group to be arrested for violent, other and any crime in the first year of release. The most frequent arrest type fell into the other arrest category.

As shown in Table 4, most (80.9%) of the new sex crime arrests were for hands-on assaults. However, the Prison Only sex offenders had the highest percentage of hands-off sex offenses. The Prison Plus Community and Convicted sex offender groups were much more likely to be arrested for serious, hands-on sex crimes.

Five Year Outcomes

At the time of analysis, only one-third of the sample had the requisite five years of time at risk (n=1124). Table 5 provides recidivism measures for this group at five years post-release. The Prison sex offenders were at least as likely, and very often more likely, as the other groups to register a recidivism event at five years. The groups with documented sex crimes in the community—Prison Plus Community and Convicted—were more likely to be arrested and have charges filed in court for a sex crime. Although the numbers for the Prison offenders are low and thus must be viewed with caution, this finding is consistent with the one year findings presented in Table 3. With the exception of sex crimes, the Convicted group had the lowest recidivism rate across all measures. The recidivism rate is hardly “low” for this group, however, as 70.9% registered another misdemeanor or felony arrest within five years of release, and one quarter (26.9%) returned to prison.

Prison Only offenders continued to have the highest violent crime arrest rate at 52.0%, followed by Factual Basis offenders at 46.1% and Prison Plus Community offenders at 31.8%. While Convicted offenders had the lowest violent crime arrest rate, a larger proportion was arrested for a violent crime (31.8%) than were arrested for a sexual crime (11.8%). Similarly, the other groups had higher rates of violent arrests than sexual arrests: Prison Only at 52.0% violent compared to 10.0% sexual; Prison Plus Community at 35.0% violent versus 20.0% sexual; and Factual Basis at 46.1% violent versus 8.8% sexual.

A large proportion of offenders were also arrested for non-sexual, non-violent misdemeanor and felony crimes, e.g., other arrests. At five years after release, the majority of offenders in each group had been arrested: Prison Plus Community at 90.0%, Prison Only at 86.0%, Factual Basis at 86.4% and Convicted at 70.9%.

Table 3: *One Year Recidivism Rates*

Type of sex offender (N)	Sexual arrest	Sexual felony filing	Violent arrest	Violent felony filing	Other arrest	Other felony filing	Any arrest	Any felony filing	Incarcerated for any crime
<i>Significance</i>			p<.001		p<.001	p<.001	p<.001	p<.001	p<.01
Prison Only (76)	3.9% (3)	0.0% (0)	26.3% (20)	3.9% (3)	48.7% (37)	18.4% (14)	52.6% (40)	19.7% (15)	9.2% (7)
Prison Plus Community (32)	9.4% (3)	3.1% (1)	6.3% (2)	0.0% (0)	40.6% (13)	12.5% (4)	43.8% (14)	12.5% (4)	12.5% (4)
Factual Basis (769)	2.9% (22)	0.8% (6)	18.2% (140)	4.9% (38)	41.9% (322)	11.7% (90)	45.3% (348)	13.1% (101)	5.9% (45)
Convicted (1,321)	3.0% (40)	2.3% (31)	9.5% (126)	3.0% (40)	22.9% (303)	4.8% (63)	26.9% (355)	7.5% (99)	3.3% (43)
Total (2,198)	3.1% (68)	1.7% (38)	13.1% (288)	3.7% (81)	30.7% (675)	7.8% (171)	34.4% (757)	10.0% (219)	7.1% (99)

Notes: Numbers of offenders are given in parentheses.

Recidivism categories are not mutually exclusive. Arrest data included both misdemeanor and felony crimes; filing and incarceration data included only felony crimes.

Table 4: *Type of Sexual Arrest One Year Post Release^a*

Type of sexual offender	Indecent exposure	Voyeurism	Incest with minor	Sexual assault	Sex offense (unspecified)
Prison Only (3)	66.7% (2)	0.0% (0)	0.0% (0)	33.3% (1)	0.0% (0)
Prison Plus Community (3)	0.0% (0)	0.0% (0)	0.0% (0)	100.0% (3)	0.0% (0)
Factual Basis (22)	36.4% (8)	0.0% (0)	0.0% (0)	63.6% (14)	0.0% (0)
Convicted (40)	5.0% (2)	0.0% (0)	2.5% (1)	90.0% (36)	2.5% (1)
Total (68)	17.6% (12)	0.0% (0)	1.5% (1)	79.4% (54)	1.5% (1)

Note: Numbers of offenders are given in parentheses.

^aThe crimes presented here represent the most serious new sex crime charge for arrests occurring during the follow-up period

Table 5: Five Year Recidivism Rates

Type of sexual offender	Sexual arrest	Sexual felony filing	Violent arrest	Violent felony filing	Other arrest	Other felony filing	Any arrest	Any felony filing	Incarcerated for any crime
Significance		p<.05	p<.001		p<.001	p<.001	p<.001	p<.001	p<.001
Prison Only (50)	10.0% (5)	2.0% (1)	52.0% (26)	14.0% (7)	80.0% (40)	52.0% (26)	86.0% (43)	56.0% (28)	50.0% (25)
Prison Plus community (20)	20.0% (4)	15.0% (3)	35.0% (7)	20.0% (4)	90.0% (18)	50.0% (10)	90.0% (18)	50.0% (10)	60.0% (12)
Factual Basis (419)	8.8% (37)	4.3% (18)	46.1% (193)	18.9% (79)	83.3% (349)	37.2% (156)	86.4% (362)	42.0% (176)	34.1% (143)
Convicted (635)	11.8% (75)	8.3% (53)	31.8% (202)	13.5% (86)	66.3% (421)	23.6% (150)	70.9% (450)	32.9% (209)	26.9% (171)
Total (1,124)	10.8% (121)	6.7% (75)	38.1% (428)	15.7% (176)	73.7% (828)	30.4% (342)	77.7% (873)	37.6% (423)	31.2% (351)

Notes: Numbers of offenders are given in parentheses.

Recidivism categories are not mutually exclusive. Arrest data included both misdemeanor and felony crimes; filing and incarceration data included only felony crimes.

Table 6: Type of Sexual Arrest Five Years Post Release^a

Type of sex offender (N)	Indecent exposure	Incest with minor	Voyeurism	Sexual assault	Sex offense (unspecified)
Prison Only (5)	20.0% (1)	0.0% (0)	0.0% (0)	80.0% (4)	0.0% (0)
Prison Plus Community (4)	0.0% (0)	0.0% (0)	0.0% (0)	100.0% (4)	0.0% (0)
Factual Basis (37)	16.2% (6)	0.0% (0)	5.4% (2)	75.7% (28)	2.7% (1)
Convicted (75)	6.7% (5)	2.7% (2)	0.0% (0)	90.7% (68)	0.0% (0)
Total (121)	9.9% (12)	1.7% (2)	1.7% (2)	86.0% (104)	0.8% (1)

Note: Numbers of offenders are given in parentheses.

^aThe crimes presented here represent the most serious new sex crime charge for arrests occurring during the follow-up period

To determine if sex offenses in prison correlated with similar recidivism offenses in the community within five years, the offender's most serious sex offense arrest was analyzed by

sexual offender category. As shown in Table 6, most (89.3%) of the new sex crime arrests were for hands-on assaults.

The number of new sexual arrests the Prison Only group was too low to draw any definitive conclusions. However, as demonstrated in Tables 4 and 6, the percentage of hands-on crimes for the Prison Only group at five years reversed from one year post release: At one year out, 33.3% of their sexual arrests were for hands-on crimes and 66.7% for hands-off crimes. At five years, the proportion of hands-on crimes increased to 80.0%.

Time to New Arrest

In addition to recidivism rates, another measure of public safety risk is the time to reoffense, or in this case, the elapsed time between prison release and a recidivism event. Days between prison release and such an event for each sex offender group are presented in Table 7.

The Prison Only group had the shortest mean and median times to failure in the violent crime and any crime categories, followed by the Factual Basis group. However, the Prison Plus Community group had the shortest time in the sexual crime category, followed by the Prison Only group. The differences were statistically significant in the “any” crime category only.

The two groups of Prison sexual offenders were combined for the purpose of further analyzing survival time. The overall failure rates and the number of days that elapsed prior to termination from the study for 75% and 50% of the three groups are presented in Table 8 by recidivism crime type. Termination from the study can be due to either recidivism or other events such as death or incarceration. The days presented here represent the length of time that 75% and 50% of each group survived. The failure rates in Table 8 represent the proportions of each group and crime category combination that actually recidivated.

As stated in the methods section, the period of follow-up for these offenders ranges from four months to just over nine years. Since the sample included in this analysis is more comprehensive than those presented in Tables 3 and 5, and the follow-up period extends beyond five years for 45.9% of the sample, the failure rates presented in Table 8 exceed those presented in Tables 3 and 5. As shown, failure rates in the new sexual crime, new violent crime and any new crime are all substantially higher for the combined Prison offender groups than for the Factual Basis or Convicted offender groups.

Just over 40% of the Prison group had a new sexual crime over the duration of the study, compared to 24.8% and 16.7% of the Factual Basis and Convicted groups, respectively. Almost the same number (41.5%) of the Prison group had a new violent crime. Only 35.6% of the Factual Basis and 22.4% of the Convicted offenders failed on the violent crime recidivism measure. In the case of any new crime, a full 74.1% of the Prison group recidivated. As with the first two crime categories, fewer of the Factual Basis (62.8%) and the Convicted (43.1%) groups terminated with a new crime.

In addition to the failure rates discussed above, Table 8 gives the number of days that 75% and 50% of the study groups have remained in the study, and have yet to recidivate. More

than half of both the Convicted and Factual Basis sex offender groups survived for the entire duration of the observation period. It is possible that the time at risk was inadequate to reach the

Table 7: Mean and Median Days to New Event for Sexual Offenders (N=1,609)

Type of sexual offender (N)	New sexual crime (N=644)			New violent crime (N=872)			Any crime type ^a (N=1,609)		
	Mean	SD	Median	Mean	SD	Median	Mean	SD	Median
Prison Only (72)	811.9	600.6	625.0	625.5	602.8	386.0	389.2	377.0	276.0
Prison Plus Community (28)	798.6	746.1	581.0	890.6	573.3	722.0	444.3	415.6	349.5
Factual Basis (643)	883.3	678.8	665.5	709.8	674.1	465.0	402.7	435.0	245.0
Convicted (866)	909.6	670.7	748.0	713.8	633.5	535.0	491.6	457.1	363.5

^a p<.0001, Kruskal-Wallis procedure chi square=20.76, df=3.

Table 8: Survival Days and Overall Failure Rates for Sexual Offenders (N=3,169)

Type of sex offender (N)	New sexual crime (N=644)			New violent crime (N=872)			Any crime type (N=1,609)		
	75% Survival (SE)	50% Survival (SE)	Total failure rate ^a	75% Survival (SE)	50% Survival (SE)	Total failure rate ^a	75% Survival (SE)	50% Survival (SE)	Total failure rate ^a
Prison (only and plus community) (100)	669 (142.7)	1596 (650.6)	40.7%	581 (98.4)	1733 (458.7)	41.5%	143 (24.0)	367 (41.47)	74.1%
Factual basis (643)	1378 (108)	n/a	24.8%	690 (63.2)	2329 (185)	35.6%	170 (9.7)	525 (35)	62.8%
Convicted (866)	1821 (115.4)	n/a	16.7%	1117 (80.8)	n/a	22.4%	375 (18.9)	1018 (53.7)	43.1%

^aThe total failure rate is the maximum rate of failure attained over course of study. These percentages refer to actual new arrests, filings or incarcerations, whereas the 75% and 50% survival columns refer to the proportion of the sample that remained arrest-free for the indicated time span.

50% failure or termination mark. Alternatively, it is possible that the threshold of failure was reached and fewer than 50% would have failed on these measures regardless of the span of time they were observed. However, half of the Prison offender group either failed or were terminated within 1,596 days, or 4.4 years. A quarter of the Prison group survived for only 1.8 years, while

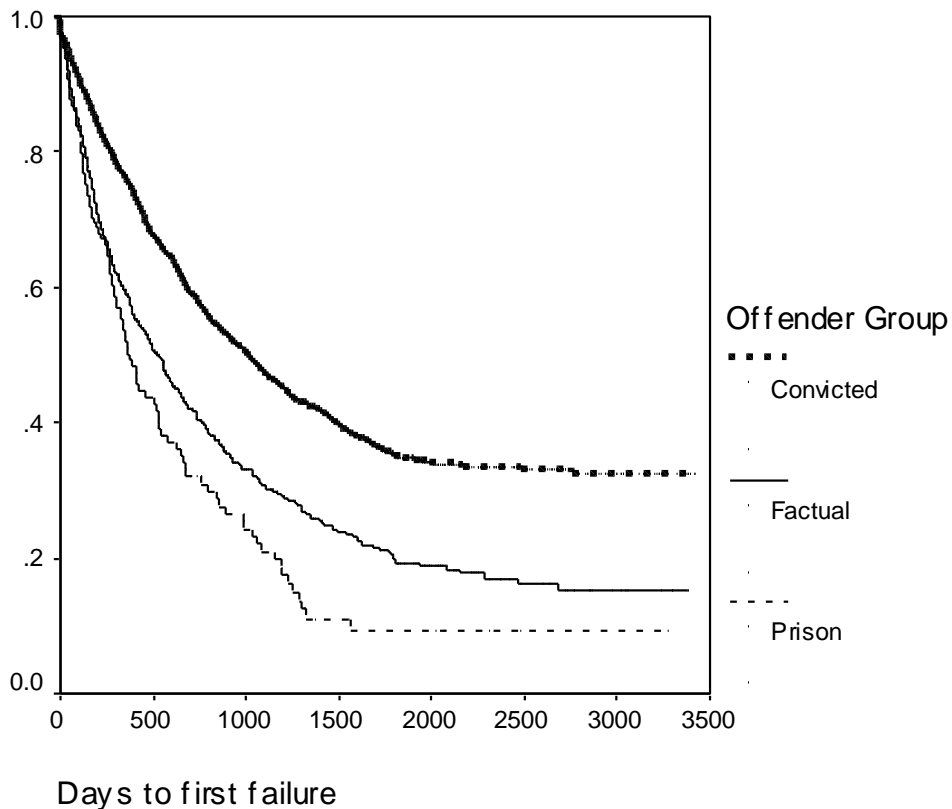
the same proportion of the Factual Basis and Convicted groups survived 3.8 and 5.0 years, respectively.

In the case of recidivism resulting from new violent crimes, half of the Prison group survived 4.7 years, while half of the Factual Basis group survived 6.4 years and more than half of the Convicted group survived for the duration of the study. One-quarter of both the Prison and Factual Basis groups had either a new violent crime or terminated in less than 2 years, while the same proportion of the Convicted offender group survived for over 3 years.

Looking at recidivism resulting from any crime, 75% of the Prison offenders remained in the study (survived) for 5 months and 50% for one year post-release. Seventy-five percent of the Factual Basis group survived for six months and 50% for 1.5 years. Convicted sex offenders survived much longer: 75% for just over a year and 50% for 2.8 years.

Cumulative survival rates from new sexual, violent and any crimes are displayed in figures 1, 2 and 3. As demonstrated, the Prison offenders fail at faster rates than the Convicted and Factual Basis offenders on all outcome measures. This discrepancy is most obvious when

Figure 1. *Recidivism resulting from any new crime (N=3,169)*



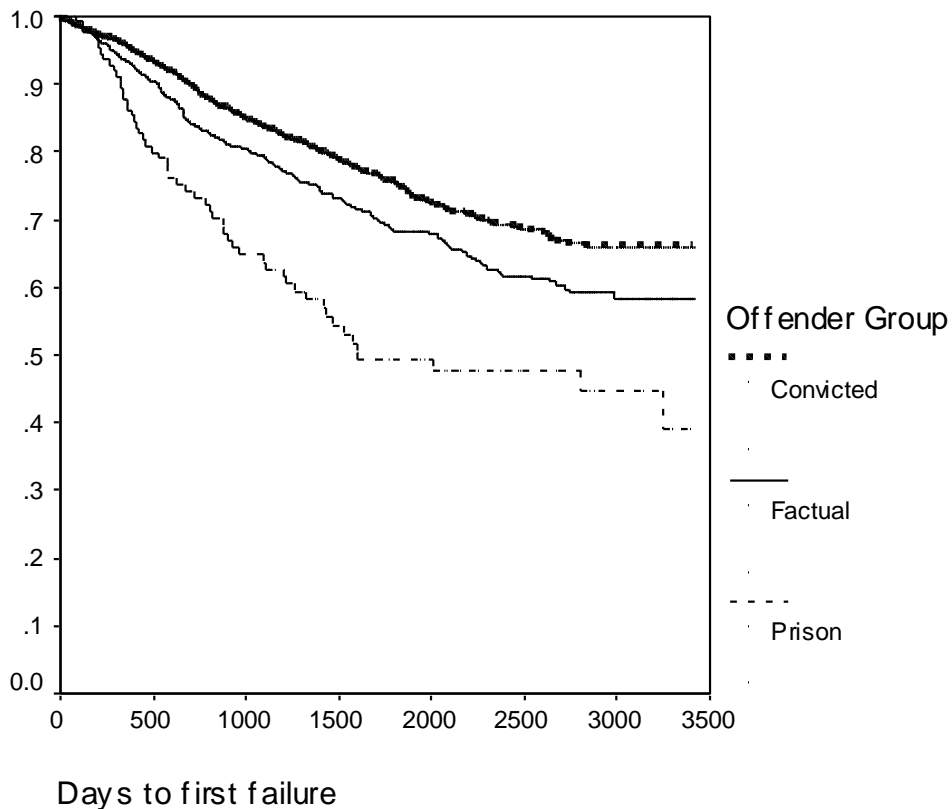
$p < .0001$, chi square=134.55, $df = 2$.

Note. New crime is defined as a criminal justice record resulting from a new arrest, district court filing or incarceration.

examining survival from any new crime (Figure 1), but is also evident when examining survival from a new sexual crime (Figure 2), and, while less apparent, a new violent crime (Figure3). The survival distributions of the three groups are significantly different on each of the failure measures ($P < .0001$).

While the Prison offenders fail more rapidly than the other groups, it is interesting that the Factual Basis offenders fail much more quickly than Convicted offenders in the cases of violent and any new crimes, and slightly more quickly in the case of new sexual crimes. It is also interesting to note that while the hazard for failing in the form of any new crime appears to level off approximately five years out (1825 days), this is not the case for sexual or violent recidivism. Rather, the risk of failure appears to remain consistent throughout the observation period.

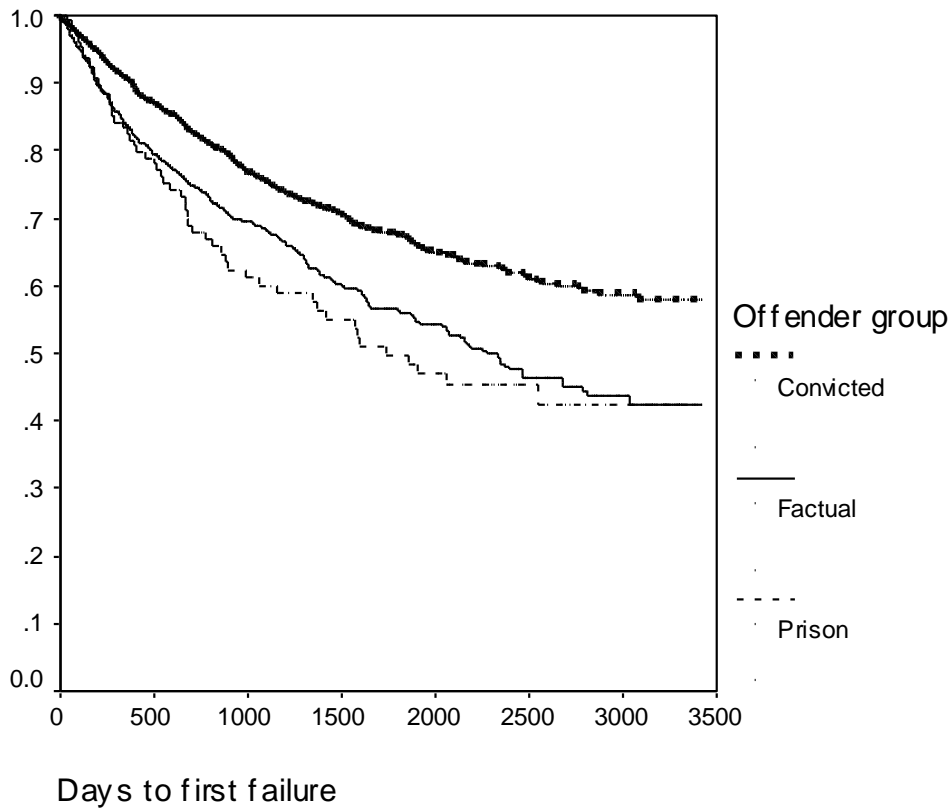
Figure 2. *Recidivism resulting from a new sexual crime (N=3169)*



$p < .0001$, chi square=39.04, df = 2.

Note. New sexual crime is defined as a criminal justice record resulting from a new arrest, district court filing or incarceration.

Figure 3. *Recidivism resulting from a new violent crime (N=3169)*



$p < .0001$, chi square=43.27, $df = 2$.

Note. New violent crime is defined as a criminal justice record resulting from a new arrest, district court filing or incarceration.

DISCUSSION

This study evaluated formerly incarcerated sex offenders' community risk by comparing the post release arrest, filing, and incarceration rates of Prison sex offenders with Convicted and Factual Basis offenders. Findings indicate that sexual offending behavior in prison is a significant risk indicator for new sexual, violent, and other arrests in the community. This suggests that prison sex offenses should be taken seriously, even in the case of relatively minor hands-off offenses as approximately half of the known prison sexually abusive misconduct involved hands-off offenses (indecent exposure, public masturbation, harassment, and stalking). These findings support institutional treatment to minimize prison sex offenders' risk upon release. Without treatment, offenders who continue to violate rules and expectations in prison can be expected to continue or escalate these behaviors when released to less structured community environments.

Prison administrators have frequently viewed prison sexual offenses as an artifact of the environment and not indicative of risk in the community. It is not uncommon in jails and prisons for sex offenses to be dismissed as annoyances, especially the hands-off crimes like exposure and voyeurism. Jail and prison officials frequently handle these offenses administratively as disciplinary infractions and do not seek prosecution of the crimes. In cases where criminal charges are pursued, prosecutors may view these crimes as internal prison matters and may be reluctant to devote limited resources to prosecute offenders who are already incarcerated, particularly in the case of hands-off crimes. This is unfortunate since a prior sexual offending history remains one of the strongest predictors of subsequent sex crime arrests and convictions (Hanson & Bussiere, 1998). However, these crimes rarely become part of the offender's official criminal record and remain invisible to future prosecutors of offenders' new violent and sexual crimes. As the findings presented here suggest, this information might support the prosecution of future criminal cases.

Prison Only offenders had the lowest ratio of new felony sex crime filings to sex crime arrests of the four groups, while offenders with a past community sex offense record (the Convicted and Prison Plus Community groups) have the highest ratio of felony filings for sexual crimes compared to arrests. This finding may be related to documentation — or lack thereof — available to the prosecution at the time of case filing with the court. Prosecutors may have a greater willingness to pursue a new sex crime when an offender's *prior* sex crime is well documented. If this assumption is true, it reflects a pressing need to charge and prosecute institutional sex offenses.

This finding also suggests that researchers using only new court filings or convictions as a measure of recidivism might conclude that prison sex offenders are low risk to commit sex offenses in the community. Arrest data may be more indicative of the actual behaviors involved in the crime, while filing and conviction data are influenced by the strength of the evidence and plea agreements. In this respect, these measures may be less reflective of actual behavior.

Violent arrest rates were also an important focus of this study. These crimes have a significant impact on public safety and, in the case of sex offenders, may have a sexual component or motivation (Quinsey, Harris, Rice, & Cormier, 1998). Rates of violent recidivism were higher than sexual recidivism in all groups, but particularly for the Prison Only offender group. Since prison sex offenders have high rates of violent and other arrests, it is possible that they came to the attention of authorities for these crimes before the full extent of their sexual offense behaviors were reported. This may be amplified by the fact that violent crimes are reported more often than sexual crimes (Catalano, 2005).

All of the offender groups, including Convicted, had higher proportions of violent and other crimes than sexual crimes. This propensity for registering violent and other non-sexual arrests reflects a generalist criminal pattern for the majority of the sex offenders in this study. These findings are consistent with those of others (i.e., Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Smallbone & Wortley, 2004; Weinrott & Saylor, 1991) and imply that rehabilitation efforts should target criminal attitudes as well as sexual offending.

Another measure of community risk involves the span of time elapsing prior to a new criminal offense, or the length of time an offender remains crime-free in the community. Survival analysis revealed that both groups of Prison sex offenders recidivate in a shorter span of time across every crime category. This further supports the theory that offenders who act out in highly structured prison environments are prone to continue criminal behavior in less structured community environments.

An unexpected finding was the risk demonstrated by the Factual Basis offenders. The one year and five year recidivism rates were consistently above those of the Convicted sex offenders for violent and any crimes. In addition, they failed much more rapidly than the Convicted sex offenders. This finding may have implications regarding the need for enhanced surveillance of these offenders in the community.

It is also interesting to note that the risk of committing any crime stabilized after approximately five years, while the risk of committing new sexual or violent crimes remained consistent throughout the period of observation. This finding is similar to that of Quinsey, Rice, and Harris (1995) in their study of 178 sex offenders released from a maximum security psychiatric facility. Survival analysis revealed that rates of sexual and violent reoffense did not decelerate over time. Risk continued to be as high in the seventh year as it was in the first year. Longer term follow-up is required to determine whether risk of sexual and violent reoffending decline over longer periods of time, as this may have implications for supervision and containment policies. Although prison sex offenders are rarely prioritized for sex offender treatment, the study findings, especially the continued risk for sexual and violent offending, indicate a public safety need to provide treatment during incarceration and parole.

The current analysis highlights the myriad of measurement problems when examining recidivism in sex offender populations. A secondary finding of this study involved the influence of offender relocation on outcome findings. An important component of this study was identifying cases that left the state since *state* criminal justice records were used to determine recidivism. As demonstrated in Table 2, one-fifth (20.1%) of the cohort at risk for one year relocated to another state.⁴ When additional cases were eliminated due to death, overall recidivism increased by 11.5%. Studies that use within-state recidivism measures, including returns to the state prison system, may overestimate positive outcomes if offenders who are out-of-state or otherwise not at risk are not removed from the analysis. Alternatively, expanding access to criminal justice data sources across state lines will yield more accurate recidivism results.

This analysis found that Convicted offenders moved out of state more frequently than other sex offender groups. This difference is noteworthy since sex offender law enforcement registration requirements varied for the four groups. While some of the Prison Plus Community sex offenders were required to register with local law enforcement upon release from prison, all of those in the Convicted group were required to register, and none of those in the Factual Basis group were required to register. Members of the Prison Only group would only have been required to register in the rare event that they were prosecuted for and convicted of their prison

offenses. The extent to which registration requirements may have influenced out of state movement in the Convicted group is unknown but merits further research.

Finally, research is also needed to establish the effectiveness of various prevention and intervention programs to address sexual offenses in correctional facilities. This research should focus on the costs associated with prison sexual offenses compared to the costs of effective prevention and intervention programs. This research will help prison administrators and legislators make effective resource allocation decisions regarding prison sex offenses.

There are several limitations to this study. First, the sample includes only known sexual offenders and likely does not include all offenders who perpetrate such crimes in prison. Victim trauma hampers the reporting of these crimes, thereby diminishing our knowledge of initial and subsequent sexual offending. In addition, minimal data were available on offenders' criminal behavior in the community; only the actual charges for detected crimes were available for analysis. It was not possible to determine if any of the violent crime arrests involved a sexual component or motivation.

Second, this study only examined whether prison sex offenses indicated a risk for sex offending in the community. The study sample groups were not controlled for risk factors such as age, type of sex offense, marital status or psychopathy. It is likely that other factors in addition to the location of the sex offense, i.e., community versus prison, and the type of conviction, i.e., sexual versus non-sexual, influenced the recidivism rates.

Another limitation is the lack of data from other states. This study analyzed arrest, criminal court filing, conviction, and imprisonment data from Colorado only. Offenders who moved out-of-state or whose location was unknown were excluded from the analysis since access to equivalent recidivism measures in other states was not available. It is possible that these offenders had a different recidivism risk. Additionally, arrests of Colorado residents occurring out-of-state are not included. Therefore, it is expected that the direction of error in the recidivism rates reported in this study is on the conservative side.

Notwithstanding the study limitations, these findings have implications for day-to-day prison operations and management. It is clear that prison sexual offending is a strong indicator of risk, and ignoring these crimes compromises safety in the institution as well as in the community. Decisions regarding institutional sex offenses ultimately affect public safety, and therefore should be of interest and concern to the public. Besides compelling humanitarian reasons, there are many practical reasons to prevent institutional sex offenses, and prosecute when they do occur. As the results of this study indicate, ignoring prison offenses and failing to provide consequences and sex offense specific treatment when they do occur will only return dangerous offenders to the community more quickly.

Additionally, documenting the offending behavior will ensure parole boards have access to this critical risk information and can delay the offender's return to the community based on disciplinary sanctions or new criminal convictions. Depending on state laws, criminal prosecution may also afford an opportunity to add community sex offender registration

requirements that could assist law enforcement in monitoring the offender after discharge from prison.

The difficulty in identifying sex offenses, let alone preventing them in prison may be overwhelming to some administrators. Although some solutions are more costly than others, most systems can develop a range of prevention and response efforts with staff training and reallocation of existing resources. The public safety risk posed by these offenders mandates the undertaking of such measures.

FOOTNOTES

¹ Of the original sample of 3,338, 169 cases were excluded from the survival analysis leaving a total sample size of 3,169. Those excluded include 52 cases found out of state with no information regarding dates, 28 who were deported, 52 who were released from prison on a detainer, and 37 on which no information could be found.

² Accurint® is a LexisNexis service which provides a widely accepted tool available to government and law enforcement entities. This service can be used to identify the whereabouts of individuals over time.

³ National arrest data are maintained by the FBI's National Crime Information Center (NCIC). Researchers used NCIC to look up individuals not found during other search efforts in order to verify their location only.

⁴ An additional 52 offenders who were found to have a criminal justice status in another state were excluded from the sample entirely. Because dates of criminal involvement were generally missing it was not possible to determine if what appeared to be a recidivating event occurred during the follow-up period.

REFERENCES

- Abel, G., & Osborn, C. (1992). The paraphilias: The extent and nature of sexually deviant and criminal behavior. *Psychiatric Clinics of North America*, *15*, 675-687.
- Ahlmeyer, S., Heil, P., McKee, B., & English, K. (2000). The impact of polygraphy on admissions of victims and offenses in adult sex offenders. *Sexual Abuse: A Journal of Research and Treatment*, *12*, 123-138
- Catalano, S. M. (2005). *Criminal Victimization, 2004*. (Publication No. NCJ-210674). Washington DC: U.S. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.
- English, K., Jones, L., Pasini-Hill, D., Patrick, D., and Cooley-Towell, S. (2000). *The Value of Polygraph Testing in Sex Offender Management: Research Report Submitted to the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice*. Denver, CO: Division of Criminal Justice, Colorado Department of Public Safety. Available at <http://dcj.state.co.us/ors/pdf/docs/revisedpolyrpt6.pdf>.
- Freeman-Longo, R., & Blanchard, G. (1998). *Sexual Abuse in America: Epidemic of the 21st Century*. Brandon, VT: Safer Society Press.
- Gaes, G.G. & Goldberg, A.L. (2004). *Prison Rape: A Critical Review of the Literature*. Washington DC: National Institute of Justice, U.S. Department of Justice.
- Hanson, R.K., & Bussiere, M.T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology*, *66*, 348-362.
- Hanson, R. K., & Morton-Bourgon, K. (2004). *Predictors of sexual recidivism: An updated meta-analysis*. (Research Report No. 2004-02). Ottawa, Canada: Solicitor General of Canada.
- Heil, P., Ahlmeyer, S., & Simons, D. (2003). Crossover sexual offenses. *Sexual Abuse: A Journal of Research and Treatment*, *15*, 221-236.
- Lattimore, P.K., Visher, C.A., & Linster, R.L. (1995). Predicting rearrest for violence among serious youthful offenders. *Journal of Research in Crime and Delinquency*, *32*, 54- 83.
- Lins, R. (2006, September). *Sex offender treatment programs in U.S. departments of corrections*. Poster session presented at the 25th Annual Research and Treatment Conference of the Association for the Treatment of Sexual Abusers, Chicago, IL
- Mariner, J. (2001). *No escape: Male rape in U.S. prisons*. New York: Human Rights Watch.
- O'Connell, M. A. (1998). Using polygraph testing to assess deviant sexual history of sex offenders. *Dissertation Abstracts International Section A: Humanities and Social Sciences*, *58*, 3023. (UMI No. 48106).
- The Prison Rape Elimination Act of 2003, 45 U.S.C §15601 (2003).
- Quinsey, V.L., Harris, G.T., Rice, M.E., & Cormier, C.A. (1998). *Violent Offenders: Appraising and Managing Risk*. Washington DC: American Psychological Association.
- Quinsey, V.L., Rice, M.E., & Harris, G.T. (1995). Actuarial prediction of sexual recidivism. *Journal of Interpersonal Violence*, *10*, 85-103.

- Smallbone, S.W., & Wortley, R.K. (2004). Onset, persistence, and versatility of offending among adult males convicted of sexual offenses against children. *Sexual Abuse: A Journal of Research and Treatment*, 16, 285-298.
- Weinrott, M.R., & Saylor, M. (1991). Self-report of crimes committed by sex offenders. *Journal of Interpersonal Violence*, 6, 286-300.

AUTHOR NOTE

We would like to thank Scott Hromas for reviewing this article and providing suggestions.

Peggy Heil is a licensed clinical social worker and has more than 20 years of experience developing and directing the Sex Offender Treatment and Monitoring Program at the Colorado Department of Corrections. She is a representative on the Colorado Sex Offender Management Board and has been an executive board member of the Association for the Treatment of Sexual Abusers and the Colorado Coalition Against Sexual Assault.

Linda Harrison has 20 years of research experience in the fields of substance abuse, delinquency, and criminal justice. In her current position as senior statistician at the Colorado Department of Public Safety Division of Criminal Justice, she oversees and participates in a variety of policy analysis and research projects.

Kim English is the director of research for the Colorado Department of Public Safety Division of Criminal Justice, where she manages a staff of professional researchers engaged in a variety of criminal and juvenile justice research and policy analysis activities. She recently coauthored chapters in *The Sexual Predator: Vol. III. Law and Public Policy* (edited by Schlank), *Sexually Coercive Behavior: Understanding and Management* (edited by Prentky, Janus, and Seto), and *Sexually Violent Offenders: Law and Policy in North America* (edited by Winick and Lafond).

Sean Ahlmeyer has been conducting research, performing psychological evaluations, and treating diverse populations of criminal offenders since 1997. He is currently employed as a psychologist with the California Department of Corrections and Rehabilitation.

Correspondence concerning this article should be addressed to Peggy Heil, Clinical Services, Colorado Department of Corrections, 2862 South Circle Drive, Colorado Springs, Colorado 80906-4195 or Linda Harrison, Office of Research and Statistics, Colorado Division of Criminal Justice, 700 Kipling, Suite 1000, Denver, Colorado 80215. They can be contacted via E-mail at: Peggy.Heil@doc.state.co.us or Linda.Harrison@cdps.state.co.us.