

Amy Phenix • Dennis Doren • Leslie Helmus • R. Karl Hanson • David Thornton

# Coding Rules for Static-2002



Public Safety    Sécurité publique  
Canada            Canada

Canada 

© Her Majesty the Queen in Right of Canada, 2008

Cat. No.: PS4-78/2009E-PDF

ISBN: 978-1-100-13871-8

## **Coding Rules for Static-2002**

**Amy Phenix, Dennis Doren, Leslie Helmus,  
R. Karl Hanson, & David Thornton**

Send questions or scoring queries to

R. Karl Hanson, Ph.D.  
Corrections Research  
Public Safety Canada  
340 Laurier Ave., West  
Ottawa, Ontario, Canada K1A 0P8

613-991-2840

[karl.hanson@ps-sp.gc.ca](mailto:karl.hanson@ps-sp.gc.ca)



## Table of Contents

Coding Rules for Static-2002 .....	1
Target population .....	1
For Users Familiar with Static-99 .....	2
Information Required to Score Static-2002 .....	4
Polygraph Information .....	6
Missing Information .....	7
Standards of Proof and Coding the Static-2002 .....	7
Scoring the Items .....	9
CATEGORY I: AGE .....	11
<b>1. Age at Release</b> .....	<b>11</b>
CATEGORY II: PERSISTENCE OF SEXUAL OFFENDING .....	13
<b>2. Prior Sentencing Occasions for Sexual Offences</b> .....	<b>15</b>
Definition: Sentencing Occasion .....	15
Determining Whether Something is a Sentencing Occasion .....	17
Definition: Index Sexual Offence .....	18
Special Coding Issues .....	18
Violation of Probation and Parole .....	19
Category “A” and Category “B” Offences .....	21
Definition: “Truly Imminent” .....	23
Index Cluster .....	24
When Conviction Date is Different from Sentencing Date .....	25
Separating Index Clusters and Prior Offences .....	26
Pseudo-recidivism .....	28
Post-Index Offences .....	29
Additional Coding Issues .....	29
Adjudication Withheld .....	29
Appeal .....	30
Child Protection Services .....	30
Clergy .....	30
Conditional Discharges .....	30
Consent Decree .....	30
Court Supervision .....	31
Diversionary Adjudication .....	31
Extension of Sentence by a Parole Board (or similar) .....	31
Failure to Appear .....	31
Failure to Register as a Sexual Offender .....	32
Juvenile Extension of Detention .....	32
Juvenile Offences .....	32
Mentally Disordered and Developmentally Delayed Offenders .....	32
Military .....	33

Not Criminally Responsible due to Mental Disorder.....	33
Not Guilty.....	33
Noxious Substance.....	33
Official Cautions – United Kingdom.....	33
Pardons.....	34
Peace Bonds, Judicial Restraint Orders, and “810” Orders.....	34
“PINS” Petition (Person in need of supervision).....	34
Prison Misconducts.....	34
Probation before Judgement.....	34
Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences.....	34
Sanctions by Professional Organizations.....	35
Similar Fact Crimes.....	35
Stayed Charges/Sentences.....	36
Suspended Sentences.....	36
Unfit to Stand Trial.....	36
<b>3. Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence.....</b>	<b>37</b>
Missing Information.....	38
Self-Report Information for this Item.....	38
<b>4. Rate of Sexual Offending.....</b>	<b>39</b>
CATEGORY III: DEVIANT SEXUAL INTERESTS (Score 0 – 3 Points).....	41
<b>5. Any Sentencing Occasion for Non-contact Sex Offence.....</b>	<b>43</b>
Attempted Contact Offences.....	45
Internet Crimes.....	45
Pimping and Prostitution Related Offences.....	45
Plea Bargains.....	45
<b>Special Coding Issues for the Victim Items (ITEMS 6 – 9).....</b>	<b>47</b>
“Accidental Victims”.....	47
Child Pornography.....	48
Conviction, but no Victim.....	49
Credible Information.....	49
Dismissed Charges, Acquitted, or Found Not Guilty.....	50
Exposing.....	50
Internet Victims and Intention.....	51
Juvenile Offences.....	51
Missing Information.....	51
Polygraph Information.....	51
Prowl by Night - Voyeurism.....	52
Sexual Offences against Animals.....	52
Sex with Dead Bodies.....	52
Stayed Charges.....	52
Victims Not at Home.....	52
<b>6. Any Male Victim.....</b>	<b>55</b>
<b>7. Young, Unrelated Victims.....</b>	<b>57</b>

CATEGORY IV: RELATIONSHIP TO VICTIMS (Score 0 – 2 points).....	59
<b>8. Any Unrelated Victim</b> .....	<b>61</b>
People who are Seen as Related for the Purposes of Scoring Static-2002	61
Becoming “Unrelated” .....	63
<b>9. Any Stranger Victim</b> .....	<b>65</b>
The Reverse Case .....	66
Internet, E-mail, and Telephone.....	66
Becoming a “Stranger” Again.....	67
 CATEGORY V: GENERAL CRIMINALITY (Score 0 – 6 Points) .....	 69
<b>10. Any Prior Involvement with the Criminal Justice System</b> .....	<b>71</b>
Special Coding Issues.....	71
Child Protection Services.....	71
Dismissals.....	72
Failure to Appear .....	72
Graduated Penalty Offences.....	72
Index Clusters and Pseudo-Recidivism .....	72
Juvenile Offences .....	73
Missing Information.....	73
Not Criminally Responsible due to Mental Disorder.....	73
Not Guilty .....	73
Peace Bonds, Judicial Restraint Orders, and “810” Orders .....	73
Post-Index Offences .....	74
Unfit to Stand Trial .....	74
<b>11. Prior Sentencing Occasions for Anything</b> .....	<b>75</b>
Definition: Sentencing Occasion .....	75
Determining Whether Something is a Sentencing Occasion .....	77
Violations of Probation and Parole.....	78
Separating Index Clusters and Prior Offences.....	79
Special Coding Issues.....	81
Adjudication Withheld .....	81
Appeal .....	81
Conditional Discharges.....	81
Consent Decree.....	81
Court Supervision .....	81
Diversionary Adjudication .....	81
Extension of Sentence by a Parole Board (or similar) .....	81
Failure to Appear .....	82
Failure to Register as a Sexual Offender .....	82
Graduated Penalty Offences.....	82
Juvenile Extension of Detention.....	82
Juvenile Offences .....	83
Mentally Disordered and Developmentally Delayed Offenders.....	83
Military .....	83
Not Criminally Responsible due to Mental Disorder.....	84
Not Guilty .....	84

Official Cautions – United Kingdom .....	84
Pardons .....	84
Post-Index Offences .....	84
Peace Bonds, Judicial Restraint Orders, and “810” Orders .....	84
Probation before Judgement.....	84
Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences .....	85
Stayed Charges/Sentences .....	85
Suspended Sentences.....	85
Unfit To Stand Trial.....	85
<b>12. Any Community Supervision Violation .....</b>	<b>87</b>
<b>13. Years Free Prior to Index Sex Offence .....</b>	<b>89</b>
<b>14. Any Prior Non-sexual Violence Sentencing Occasion .....</b>	<b>93</b>
Separating Index Clusters and Prior Offences.....	94
Non-sexual Violence Offences.....	94
Special Coding Issues.....	95
Convictions Coded Only as Sentencing Occasions for Sexual Offences.....	95
Homicide – With a Sexual Component .....	96
Military .....	96
Resisting Arrest .....	96
Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences .....	96
Weapons Offences .....	97
References .....	98
Appendix I.....	101
Static-2002 Coding Form .....	101
Appendix II.....	103
Frequencies and Percentile Ranks.....	103
Appendix III.....	105
Recidivism Rate Table (Generated from Logistic Regression) .....	105
Appendix IV .....	107
Relative Risk Table .....	107
Appendix V .....	109
Standard Paragraph for Reporting Static-2002 in Applied Evaluations .....	109
Appendix VI .....	113
Standard Paragraph for Reporting Static-2002 in Applied Evaluations: Examples .....	113



## **Acknowledgements**

We would like to thank Lana Hollady for formatting, and all the clinicians and researchers whose persistent queries helped resolve scoring questions not addressed in previous versions of this manual.



## **Coding Rules for Static-2002**

Static-2002 is an actuarial risk tool for evaluating the risk of sexual and violent recidivism among adult male sexual offenders (Hanson & Thornton, 2003). Like Static-99, Static-2002 can be used by a wide range of evaluators (e.g., psychologists, probation officers, psychiatrists, therapists) using commonly available criminal history information. Static-2002 predicts sexual, violent, and any recidivism as well as other actuarial risk tools commonly used with sexual offenders (Hanson & Morton-Bourgon, 2009) and slightly better than Static-99 (Hanson, Helmus, & Thornton, in press; Helmus, 2007).

One desirable feature of Static-2002 is that it is intended to assess some theoretically meaningful characteristics presumed to be the cause of recidivism risk (persistence of sexual offending, deviant sexual interests, general criminality).

The current document describes the scoring rules for Static-2002. These rules were created from the rules used in the development and validation studies; in addition, consensus opinion was used to elaborate the rules to cases and legal jurisdictions different from those previously encountered.

The extent to which readers of this document will be able to appropriately use Static-2002 is unknown, and would likely vary based on prior training in risk assessment and specific competence in the use of actuarial risk tools. The chance of appropriate use should increase given formal training as well as ongoing procedures to limit rater drift (e.g., peer review, case meetings).

### **Target population**

Static-2002 is designed to be used with certain sexual offenders:

- (a) Males who have been convicted of a sexual offence (or received an equivalent sanction that qualifies as a sentencing occasion in Item 2 of Static-2002, pages 15-17).
- (b) Males who committed their most recent sexual offence after their 18<sup>th</sup> birthday.
- (c) With caution, males who committed their most recent sexual offence between their 17<sup>th</sup> and 18<sup>th</sup> birthday, provided that their release date is when they are at least 18. The release date is either the date of release from a closed custody sentence (in Canada, closed custody is analogous to prison) or the date of sentence for a community sentence or open custody sentence (in Canada, open custody is analogous to a halfway house).
- (d) The cautionary note for (c) does not change even if the juvenile offender was “waived into adult court,” a procedure allowed in some jurisdictions on

- some occasions. That legal procedure does not alter the applicability of Static-2002.
- (e) Static-2002 is not recommended for use with sexual offenders who committed all of their sexual offences under the age of 17 no matter how old the offenders are at the time of assessment.
  - (f) It is also not intended for offenders who have been free from violent offences in the community for a period of greater than 8 years since release from their latest sexual offence. This is calculated using street time. (E.g., if it has been 9 years since the offender's release from his last sexual offence, but he has spent 2 years in prison for a non-violent offence, Static-2002 can still be used. If he has been incarcerated for a few short periods for non-violent offences but cumulatively spent 8 years or more in the community, then Static-2002 is not appropriate for use).
  - (g) Static-2002 is not recommended for use with individuals whose only sexual "crime" involves consenting sexual activity with a similar age peer (e.g., Statutory Rape [a U.S. charge]) where the ages of the perpetrator and the victim are close and the sexual activity was consensual (see page 49 for specific rules to make this determination).
  - (h) Static-2002 is not recommended for offenders whose only sexual offences are Category "B" offences (e.g., possession of child pornography, prostitution offences). See pages 21-23 for further explanation.
  - (i) Static-2002 has been validated with developmentally delayed offenders and is appropriate for use with these populations. In data from the Dynamic Supervision Project (Hanson, Harris, Scott, & Helmus, 2007), Static-2002 significantly predicted sexual, violent, and any recidivism for developmentally delayed offenders, with ROCs of .78, .81, and .71, respectively.
  - (j) Static-2002 has been validated with offenders with severe mental health issues and is appropriate for use with these populations. In data from the Dynamic Supervision Project (Hanson et al., 2007), Static-2002 significantly predicted sexual, violent, and any recidivism for offenders with severe mental health issues, with ROCs of .74, .77, and .75, respectively.
  - (k) Static-2002 has been validated with Canadian Aboriginal offenders and is appropriate for use with this population. In data from the Dynamic Supervision Project (Hanson et al., 2007), Static-2002 significantly predicted sexual, violent, and any recidivism for Aboriginal offenders, with ROCs of .66, .65, and .69, respectively. Static-2002 has not been validated with other non-Caucasian ethnic groups. Given that race has not been found to be a significant predictor of sexual offence recidivism, there is no reason to believe Static-2002 is culturally specific.

### **For Users Familiar with Static-99**

Although Static-2002 follows in the tradition of Static-99, it should be considered a separate instrument. Future research will determine whether the two

instruments provide sufficient incremental information to justify scoring both, or whether one of the instruments can “replace” the other.

There are a number of differences in the items from Static-99 and Static-2002:

- (a) Static-2002 has 14 items while Static-99 has only 10 items. Of the 14 items on Static-2002, some are the same as in Static-99 (either with the same or modified coding rules) and some are new items.
- (b) The item “Young” on Static-2002 has four age categories rather than two (as was the case in Static-99), reflecting sequentially reduced risk for older offenders.
- (c) “Prior Sex Offences” was measured by counting arrests and convictions on Static-99, and for Static-2002 sexual offences are measured by the number of sentencing occasions to provide for consistency with other items measuring criminal offences.
- (d) To constitute the index sex offence on Static-2002, the person must have been convicted (or its equivalent) of a charged offence. On Static-99, the index sex offence could be a charge or certain rule violations without a formal conviction.
- (e) In Static-99, “Prior Sentencing Dates” was measured using two categories, whereas in Static-2002 there are three categories to capture general criminal history with greater sensitivity.
- (f) “Prior Non-Sexual Violence” was modified. That item is now called “Any Prior Non-Sexual Violence Sentencing Occasions.”
- (g) On Static-99 some non-sexual violence offences that occurred at the same time as a sex offence (i.e., kidnap, forcible confinement, assault) were scored as both a sex offence and non-sexual violence. On Static-2002, if these non-sexual violence offences occurred at the same time as a sexual offence they are coded only as a sexual sentencing occasion.
- (h) Additionally, in Static-99 a non-sexual violence conviction could count as both a prior sex offence and non-sexual violence conviction if the name implied non-sexual violence but the behaviour was sexually motivated. In Static-2002 a non-sexual violence sentencing occasion can only count as non-sexual violence or a sexual offence, but not both.
- (i) The Static-99 item regarding intimate relationships (never lived with a lover for two years) was removed from Static-2002 because it was often difficult to score and hard to validate in adversarial contexts. Offenders sometimes provided unreliable self-reports regarding this item and the information was not always contained in institutional records.
- (j) Additionally, the Static-99 item for non-sexual violence conviction during the index offence was also deleted because it was a source of counter-intuitive scoring. In rare cases with Static-99 it was possible for an offender to be scored, commit a new sexual offence and receive a lower score when scored again. This could occur, for example, if the initial coding included a point for index non-sexual violence, but his new index offence did not include a point for non-sexual violence. As well, index non-

sexual violence did not add incremental information once prior non-sexual violence was considered.

- (k) New items in Static-2002 not included in Static-99 are “Any Juvenile Arrest for Sexual Offence,” “Rate of Sexual Offending,” “Young, Unrelated Victims,” “Any Community Supervision Violation,” and “Years Free Prior to Index.”
- (l) Adjudications measured in the Static-99 broadly included rules violations, charges, convictions, and sentencing dates. In Static-2002, the criteria for prior sexual offences is narrower. Rule violations (institutional rules violations, probation, parole, and conditional release violations) are only counted on “Sentencing Occasions for Sexual Offences” under restricted conditions. Charges continue to be coded in the Static-2002 items “Any Juvenile Arrest for a Sexual Offence” and “Any Prior Involvement with the Criminal Justice System.” However, for the sake of simplicity and consistency in the operational definitions of the items, “Prior Sexual Offences” on the Static-99 is now “Prior Sentencing Occasions for Sexual Offences.”

To better understand what is being measured, Static-2002 items are grouped into five domains: Age, Persistence of Sex Offending, Deviant Sexual Interests, Relationship to Victims, and General Criminality. For example, the new items “Any Juvenile Arrest for Sexual Offence” and “Rate of Sexual Offending” are grouped under “Persistence of Sexual Offending”; “Young, Unrelated Victims” is grouped under “Deviant Sexual Interests”; and “Any Community Supervision Violation” and “Years Free Prior to Index” are grouped under “General Criminality.”

Scoring rules that have not changed from Static-99 to Static-2002 include:

- (a) In keeping with Static-99’s “Prior Sex Offences” and “Prior Sentencing Dates,” the index sex offence is not counted in the Static-2002 items “Prior Sentencing Occasions for Sexual Offences” or “Prior Sentencing Occasions for Anything.”
- (b) The concepts of pseudo recidivism and index cluster continue to apply in Static-2002 to items “Prior Sentencing Occasions for Sexual Offences” and “Prior Sentencing Occasions for Anything.”
- (c) Scoring of the victim items (male, unrelated, and stranger) are the same on Static-99 and Static-2002.

### **Information Required to Score Static-2002**

Three basic types of information are required to score Static-2002: demographic information, the offender’s official criminal record, and victim information.

## Demographic Information

For the first item, "Age at Release," the offender's date of birth is required in order to determine the offender's age at release or at time of exposure to risk in the community.

## Official Criminal Record

In order to score Static-2002, the evaluator must have access to an official criminal record as recorded by police or other law enforcement agency, court, or correctional officials. This official criminal record is used to score nine items on Static-2002 including: "Prior Sentencing Occasions for Sexual Offences," "Any Juvenile Arrest for a Sexual Offence," "Rate of Sexual Offending," "Any Sentencing Occasions for Non-Contact Sex Offences," "Any Prior Involvement with the Criminal Justice System," "Prior Sentencing Occasions for Anything," "Any Community Supervision Violation," "Years Free Prior to Index," and "Any Prior Non-Sexual Violent Sentencing Occasions."

Self-report is not acceptable to score these nine items except in rare circumstances, such as cases involving immigrants, refugees from third world countries, etc. In cases such as these, self-report of crimes may be used if it is reasonable to assume that no records exist or that existing records are truly irretrievable. In addition, the evaluator must find the self-reported information credible. For example, reports increase in credibility when it is consistent with his current sexual misbehaviour.

Although self-report (and any additional credible information) cannot be used to *substitute* official criminal records, it can be used to *supplement* official records. Specifically, official records are required to establish the existence of prior charges and sentencing occasions, but any credible information can be used to determine the nature of the offences (e.g., sexual motivation). For example, if the offender has a prior conviction for Trespassing at Night and the police report does not include any additional details, but the offender confesses that he was engaging in voyeurism, this self-report information can be used to classify the incident as a sexual offence. The exception to this is that self-report information derived initially from a polygraph is not counted, even if the offender repeats that information later during treatment (see page 6 for further explanation).

In some cases, evaluators may have official criminal records but they are incomplete and therefore not sufficient to establish a sentencing occasion. This may occur if the record displays a charge for an offence but is missing information on the outcome of the charge (i.e., conviction/acquittal/dismissal) or if the record indicates that there are youth convictions but does not specify what the convictions are for. In other circumstances, events which may constitute a sentencing occasion (e.g., for priests, military, etc.) may not necessarily appear on the criminal record. In these situations, credible self-report or additional

information can be used to count these as sentencing occasions, provided that the self-report information is sufficient to determine that the events in question meet the definition of a sentencing occasion based on Clear and Convincing Evidence (see page 7-8 for further explanation of Clear and Convincing Evidence). Static-2002 should not be scored, however, in the absence of an official criminal record.

### Victim Information

The Static-2002 contains four items requiring information on the victims: "Any Male Victim," "Young, Unrelated Victims," "Any Unrelated Victim," and "Any Stranger Victim." For each of the offender's sexual offences the evaluator must know the pre-offence degree of relationship between the victim and the offender. To score these items evaluators may use any credible information at their disposal (including self-report) except the polygraph interview or the polygraph examination.

### **Polygraph Information**

Information derived solely from polygraph interviews or examinations (for example, information on victims or offence motivation) is not used to score Static-2002 unless it can be corroborated by outside sources or the offender provides sufficient information to support a new criminal investigation. This includes all disclosures made in preparation for a specific polygraph exam. For example, if the offender completes a sexual history questionnaire that he knows he will be specifically polygraphed about, or if he is being interrogated under an explicit threat of being polygraphed, this information would be excluded. Note that this applies to specific information and an impending polygraph examination. Information from disclosures made in a treatment group would not be excluded, even where there may be a polygraph on something at some later point in time.

Information from polygraph interviews is excluded even if the offender talks generally about the same "polygraph-based" information during later conversations such as during treatment groups. For instance, if a "male victim" is discovered solely during a polygraph interview, and there is no independent source of that information to be found, then this potential "male victim" does not count on Static-2002.

The reason that polygraph information is excluded is that such information was not used in the development and validation of Static-2002. Polygraph assisted disclosures typically provide greater diversity of victim types than gleaned from other sources; consequently, routinely including information from polygraph would inflate the scores compared to the procedures used to score Static-2002 in the development and validation samples.



## **Missing Information**

It is possible to have some missing information for some items and still be able to score the instrument. These items are summarized below.

Item 3: "Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence"

Some criminal history information may not include juvenile convictions. If this information is unavailable, score the offender a "0" on this item.

Victim Items: Items 6-9 ("Any Male Victim"; "Young, Unrelated Victims"; "Any Unrelated Victim"; "Any Stranger Victim")

The evaluator needs to know the pertinent victim characteristics (gender, relationship to offender, and approximate age) for at least one victim to score these items. If there are additional victims but their characteristics are unknown, the evaluator should always make a note of this missing information when reporting the total score. The evaluator should consider what the score would be with the most probable characteristics of the other victims. In most cases, it is plausible to assume that the characteristics of the other victims are consistent with known victims. In some situations, however, alternate characteristics are plausible. For example, if the known victim is related (e.g., the offender's daughter) and the offender has a previous sexual offence from when he had no children or stepchildren, the victim from this prior offence was probably unrelated. If the probable characteristics of the other victims would result in a different total score, the evaluator should report the total score both ways (with the missing information, as well as with the plausible characteristics of other victims).

Item 10: "Any Prior Involvement with the Criminal Justice System"

Some criminal history information may only record convictions (not arrests or charges). If information on arrests and charges is not available, this item can be scored on the basis of convictions only.

## **Standards of Proof and Coding the Static-2002**

"Standard of proof" is a legal concept that basically means "how sure are you" about something. Although the use of the terms in this manual will not always match that used by courts and related tribunals or administrative bodies, this terminology is nonetheless useful in establishing some general coding principles. Legal systems vary, but most Western jurisdictions have the following three standards of proof:

- Beyond a Reasonable Doubt. This is the highest standard. It requires near certainty and is the standard necessary for criminal convictions and other high-stakes decisions.

- Balance of Probabilities (a.k.a., Preponderance of Evidence). This is the lowest standard. It is common in civil cases and basically means “more likely than not,” or at least 51% certainty.
- Clear and Convincing Evidence (a.k.a., Clear and Convincing Proof). This less-common and infrequently used standard has a higher threshold than Balance of Probabilities, but it is not quite as stringent as Beyond a Reasonable Doubt.

There are two general types of decisions involved in scoring Static-2002. The first involves whether something counts as a sentencing occasion (Items 2, [4], 5, 11, and 14). Generally, a sentencing occasion requires a criminal conviction or its equivalent (which is subject to the Beyond a Reasonable Doubt standard). Some “findings of guilt” occur outside the criminal justice system (e.g., priests, military) and special rules apply (see pages 29-36); minimally, the Clear and Convincing Evidence standard should be met. Decisions based on a Balance of Probabilities are generally insufficient to be counted as a sentencing occasion.

Aside from the issue of whether something “counts” as a sentencing occasion, all other coding decisions are subject to the Balance of Probabilities standard (e.g., Is this victim a stranger? Was this offence sexually motivated? Would this behavior be subject to criminal sanction if the offender was not already on parole/probation?).

## **Scoring the Items**



**CATEGORY I: AGE (Score 0 – 3 points)****1. Age at Release**

**The Basic Principle:** The rates of almost all crimes decrease as people age (Hirschi & Gottfredson, 1983; Sampson & Laub, 2003). Sexual offending does not appear to be an exception. Most studies have found that older sexual offenders are lower risk to reoffend than younger sexual offenders (Barbaree & Blanchard, 2008; Hanson, 2002, 2006). The effects of age, however, are not found in every sample (Thornton & Knight, 2007), particularly when other factors are taken into consideration (Doren, in press).

**Information Required to Score This Item:** To complete this item the evaluator should confirm the offender's birth date from official records if possible or have other knowledge of the offender's age through collateral report or offender self-report.

**The Basic Rule:** Score 0 to 3 points depending on the age of the offender, referencing the table below.

AGE	SCORE
18 to 24.9	3
25 to 34.9	2
35 to 49.9	1
50 or older	0

The age thresholds for this item were determined by finding where differences in age-related recidivism rates appeared both perceptible and stable. The corresponding scores were determined by ensuring that the total weight of the item was in keeping with the relative contribution of age compared to the other scale items in predicting sexual recidivism.

Under certain conditions, such as anticipated release from custody, the evaluator may be interested in an estimate of the offender's risk at some specific time in the future. Static-2002 may be scored months before the offender's release to the community and the offender may advance an age scoring category by the time he is released. For assessing risk in the future consider what his age will be on the date of release. In this case, you calculate risk based upon age at exposure to risk.

Sometimes the offender's release date may be uncertain. For example, he may be eligible for parole but does not qualify for release due to an inadequate release plan. In these cases it may be appropriate to use some form of conditional wording indicating how his risk assessment would change with a delayed release date.



**CATEGORY II: PERSISTENCE OF SEXUAL OFFENDING (Score 0 – 3 points)**

**The Basic Principle:** This category and the other items that relate to criminal history and the measurement of persistence of criminal activity are based on a firm foundation in the behavioural literature. As long ago as 1911 Thorndyke stated that the “the best predictor of future behaviour is past behaviour.” Research has yet to establish whether the propensity to commit sexual crimes is best considered a distinct construct or the emergent property of other factors. Nevertheless, the link between prior sexual crime and sexual recidivism is beyond dispute (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004).

This category includes three items:

- Prior Sentencing Occasions for Sexual Offences (Score 0 – 3 points).
- Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence (Score 0 - 1 point).
- Rate of Sexual Offending (Score 0 - 1 point).

To calculate the total score for the “Persistence of Sexual Offending” subscale, score all three individual items to get the raw score for each item. Sum the raw scores for the three items. The summed raw scores are recoded according to the table below to obtain the subscale score for the category “Persistence of Sexual Offending”:

<b>RAW SCORE</b>	<b>SUBSCALE SCORE</b>
0	0
1	1
2, 3	2
4, 5	3

See example on next page.

Category 2: Persistence of Sexual Offending

Example of coding “Persistence of Sexual Offending”:

<b>PERSISTENCE OF SEXUAL OFFENDING</b>		
<b>2. Prior Sentencing Occasions for Sexual Offences:</b> No prior sentencing dates for sexual offences = 0 1 = 1 2, 3 = 2 4 or more = 3	<b>2</b>	
<b>3. Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence:</b> No arrest for a sexual offence prior to age 18 = 0 Arrest prior to age 18 and conviction after age 18 = 1	<b>1</b>	
<b>4. Rate of Sexual Offending:</b> Less than one sentencing occasion every 15 years = 0 One or more sentencing occasions every 15 years = 1	<b>0</b>	
Persistence Raw Score (subtotal of Sexual Offending) 0 = 0 1 = 1 2, 3 = 2 4, 5 = 3	<b>3</b>	
Persistence of Sexual Offending SUBSCORE		<b>2</b>

In this example, summing the raw scores adds up to 3 points. The summed raw score of 3 is recoded to obtain a subscore of 2 for the category of “Persistence of Sexual Offending.”



**2. Prior Sentencing Occasions for Sexual Offences**

**Background:** Sentencing occasions were selected as the measure of prior sexual offences because it was consistently recorded on the criminal history records and predicted sexual recidivism as well or better than the other indicators considered (e.g., arrests, total number of convictions).

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police or other law enforcement agency, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** To be a prior sentencing occasion for a sexual offence the offender must attend court, admit to the offence or be found guilty, and receive some form of sanction. The index sexual offence is excluded in this item. Count the number of distinct occasions on which the offender was sentenced for a sexual offence prior to the index sex offence. If the offender has no prior sentencing occasions for sexual offences, score a "0." If the offender’s criminal record indicates one prior sentencing occasion for a sexual offence, the item score is "1." If the offender’s criminal record indicates 2 or 3 prior sentencing occasions for a sexual offence, the item score is "2." If the offender’s criminal history indicates 4 or more prior sentencing occasions for a sexual offence, the offender receives a score of "3." This is reflected in the table below:

<b>Prior Sentencing Occasions for Sexual Offences</b>	<b>Item Score</b>
0	0
1	1
2, 3	2
4 or more	3

**Definition: Sentencing Occasion**

A sentencing occasion is when the offender attends court, admits to the offence or is found guilty, and receives some form of sanction (fine, prison, conditional sentence). A determination of disposition by a court following a finding of not criminally responsible due to mental disorder (or its equivalent) also counts for a sentencing occasion if that disposition involves either institutional and/or mandated community sanction/care. Offenders may be convicted of more than one offence at the same sentencing occasion. Count both adult and juvenile sentencing occasions.

If a person commits a criminal offence as a juvenile or as an adult and receives a diversionary adjudication (i.e., an alternative sanction), this counts as a sentencing occasion for a sexual offence. Examples include what has been

termed restorative justice, reparations, family group conferencing, community sentencing circles (see page 31). In England, an official caution counts as a sentencing occasion.

Offenders may go to court and receive more than one sentence for a single crime spree. In this case, all convictions related to the same crime spree count as one sentencing occasion. For two sentencing occasions to be considered distinct, the offender must have committed a crime and been sanctioned for it prior to committing the second crime (and being sanctioned for it). When the offender is convicted for a crime that was committed prior to his previous conviction, the new conviction is considered pseudo-recidivism and is not counted separately. (For further information on index clusters and pseudo-recidivism, see pages 24-29.)

It is not uncommon for offenders to be convicted on one date and be sentenced at a later date. In this case, the earliest date of conviction for the offences in the sentencing date cluster (index or prior) counts as the date of the sentencing occasion. In such cases, crimes committed between the conviction date and the sentencing date may count as a separate sentencing occasion in Static-2002 scoring (see pages 25-26).

Arrests, charges, and bail violations do not count. Consider an offender who is arrested for an offence, then released on bail and reoffends. He is subsequently convicted of the two offences on a single sentencing date. In this case, count only one sentencing occasion.

Do not count institutional rule violations that do not result in convictions. Convictions for sexual offences that are subsequently overturned on appeal or result in acquittal do not count as the index sex offence or as prior sentencing occasions. Simple questioning by police not leading to a conviction is insufficient to be a sentencing occasion for a sexual offence. The number of charges/convictions does not matter, only the number of sentencing occasions.

Sanctions for a sentencing occasion may include the following:

- Alternative resolution agreements
- Community Supervision
- Conditional or Absolute Discharges
- Fines
- Imprisonment

**Count** as prior sentencing occasions for sexual offences:

- Juvenile offences count (if you know about them; see subsection "Official Criminal Record," page 5)
- Where applicable, "Probation before judgement" counts as a sentencing occasion
- Where applicable, "Consent Decree" counts as a sentencing occasion
- Suspended sentences count as a sentencing occasion

**Do not count** as prior sentencing occasions for sexual offences:

- Institutional disciplinary actions/reports
- Acquittals or convictions overturned on appeal
- Being “detected” by the Children’s Aid society or other Child Protection services
- Stayed offences in which there is no finding or admission of guilt and no associated sanction (formal or informal)

### **Determining Whether Something is a Sentencing Occasion**

A sentencing occasion requires a) a court or administrative tribunal using due process, resulting in b) an admission or finding of guilt and c) a sanction. This threshold is fairly high; arrests and charges (without convictions) do not count. The finding of guilt should be Beyond a Reasonable Doubt. It is possible to use a lesser criterion of Clear and Convincing Evidence for sanctions administered outside of the criminal justice system (e.g., Canon law for priests, military court marshal, civil commitment procedures for the mentally ill). Institutional rule violations (e.g., prison misconducts), however, are insufficient to meet the standard of Clear and Convincing Evidence. Many of these special circumstances are addressed in subsections under the rules for coding relevant items.

Most sentencing occasions are easy to identify (there is a conviction for a criminal offence, accompanied by a sanction). Sometimes an evaluator must make a decision about a situation that does not clearly fall under one of the rules outlined in the manual. In these circumstances, it is helpful to refer to the essential features of sentencing occasions articulated above.

Within the criminal justice system, a finding of guilt has a relatively clear meaning (something equivalent to a conviction) and a specific due process associated with that finding, such that our confidence in that finding is high. Establishing the equivalent of a finding of guilt outside typical criminal courts requires a consideration of the standard of proof and the due process involved in that finding (keeping in mind that there will be variability in the terminology used by many decision-making bodies). Beyond a Reasonable Doubt is a high standard of proof (see page 7-8 for explanations of the various standards of proof) and findings of guilt using this standard would generally count, but this standard is rarely used outside criminal trials. However, to count something as a sentencing occasion, you would want to see a finding of guilt based on a standard that is higher than a Balance of Probabilities. As such, decisions based on a standard equivalent to or higher than Clear and Convincing Evidence could be considered sentencing occasions. It is also helpful to consider the due process involved in the finding of guilt. In criminal cases, accused parties have due process rights, including the right to hear the evidence against them and to have their side heard. Generally, to count something as a sentencing occasion, you would want

to see those basic elements of due process present in some form (exact rules may vary).

**Definition: Index Sexual Offence**

Generally, the index sex offence is the most recent sex offence that results in a sentencing occasion. Sometimes the index sex offence includes multiple counts, multiple victims, and numerous crimes perpetrated at different times because of the timing of when the offender was detected and apprehended. Some offenders are apprehended after a spree of offending. If this results in a single sentencing occasion (regardless of the number of convictions), all convictions are considered part of the index sex offence.

The following rules apply when there are significant events between the dates of the charge, conviction, and sentence:

- (a) If charged, but then charges are dropped, this does not count as a sentencing occasion.
- (b) If charged, then put on bail conditions while awaiting further court action, then eventually convicted, the conviction date counts as a sentencing occasion.
- (c) If charged, and there is a formal process that replaces further court action with alternative measures, the formal process date counts as a sentencing occasion (under the concept of an alternative sanction).
- (d) If convicted but not (yet) sentenced, with or without conditions attached, the conviction date counts as a sentencing occasion.
- (e) If convicted but sentenced at a later date, the date of conviction counts as the sentencing date.

Specific examples to help identify and distinguish between an index and a prior sexual sentencing occasion are included on pages 24-29.

**Special Coding Issues**

The following definitions will provide clarity in scoring “Prior Sentencing Occasions for Sexual Offences.” For the purposes of Static-2002 assessment, a sexual offence is an officially recorded illegal sexual behaviour or criminal behaviour with sexual intent.

An offence need not be called “sexual” in its legal title or definition to be considered a sexual offence. Sentencing occasions that are explicitly for sexual assaults or for the sexual abuse of children are counted as sexual offences on Static-2002, regardless of the offender’s motive. Offences that directly involve illegal sexual behaviour are counted as sex offences even when the legal process has led to a non-sexual charge or conviction. An example of this would be where an offender is charged with or pleads guilty to a Break and Enter when

he was entering a residence to steal women's underwear to use for fetishistic purposes.

In addition, offences that involve non-sexual behaviour are counted as sexual offences if they had a sexual motive. For example, consider the case of a man who strangles a woman to death as part of a sexual act but is only charged with manslaughter. In this case the manslaughter charge would still be considered a sexual offence. Similarly, if a man strangles a woman to gain sexual compliance and is only charged with assault, this assault charge would still be considered a sexual offence. Additional examples include convictions for murder where there was a sexual component to the crime, such as a rape preceding killing, kidnapping where the kidnapping took place but the planned sexual assault was interrupted before it could occur, and assaults "pled down" from sexual assaults. In Static-99 these offences that involved sexual behaviour would also be coded as non-sexual violence. In Static-2002 they are only coded as a sexual offence.

In some cases, individuals have been convicted after someone was injured or killed during consensual sex involving bondage or asphyxiation. The conviction may be for assault, manslaughter, murder, or negligence offences. These types of cases are considered sexual offences.

Physical assaults, threats, and stalking motivated by sexual jealousy do not count as sexual offences when scoring the Static-2002.

**Rule:** If an offence is counted as a sexual offence it cannot be counted as "Prior Non-Sexual Violence Sentencing Occasions."

### **Violation of Probation and Parole**

A violation of conditional release may or may not count as a sentencing occasion in Static-2002. To be considered a sentencing occasion, at least one aspect of the offending behaviour must be an offence that would normally result in arrest and conviction had the offender not already been under sanction (this will be discussed further below). As well, there are additional criteria for probation and parole violations.

A violation of a probation order counts if there is a court hearing, finding of guilt, and a new sanction. The name of the charge can be "Violation of Probation" as long as the evaluator is reasonably certain at least one aspect of the underlying behaviour was a crime, not just a technical violation.

A parole violation counts as a sentencing occasion when a paroling authority functioning as a quasi-judicial body determines that:

a) the offender has committed a criminal offence that would normally result in arrest and conviction, and

## Category 2: Persistence of Sexual Offending

b) the offender is required to remain in custody after the determination of guilt (not just time served; time served refers to time spent detained in custody prior to sentencing).

Simply having parole revoked without a finding of guilt for new offending does not count as a sentencing occasion.

In the absence of information on the nature of any conditional release violation, the following rules apply:

(a) If the sanction for the violation involved custodial time being ADDED to the offender's pre-existing sentence, the behaviour will be presumed to have been serious enough to count as an offence (and therefore a sentencing occasion).

(b) If the offender was returned to custody to serve all or part of the time remaining on the pre-existing sentence but nothing more, then presume it was solely a technical violation.

(c) If the offender was on probation and the sanction for the violation involved any time in custody (either time served or a custodial sentence; time served refers to time spent detained in custody prior to sentencing), the behaviour will be presumed to be serious enough to count as an offence (and sentencing occasion). Otherwise, assume it was solely a technical violation.

Convictions for parole or probation violations can only count as a sexual sentencing occasion if the underlying behaviour is a sexual offence that would normally result in arrest and conviction had the offender not already been under sanction. Sentencing for "technical" violations do not count as new sentencing occasions for a sexual offence. For example, if an offender had a condition prohibiting being in the presence of children, a breach (violation) of this condition would not be counted as a new sentencing occasion.

There are rare circumstances when behaviour resulting in a purely "technical" breach can be considered a sentencing occasion if the behaviour was clearly an attempted sexual offence. This can occur in either of two circumstances: (a) in some jurisdictions the person may be charged with a new sexual offence, but after his conditional release is revoked (breached) and he is sent back to prison with a substantial remaining sentence, the charges are dismissed by the prosecutor who decides there is little more to be gained by pursuing the new conviction; or (b) very restricted, uncontroversial cases where it is clear that an offence would have occurred had it not been for the intervention of a third party or for the resistance of the victim. For example, the offender is caught luring a child using the same modus operandi of his previous offences, or the offender is caught alone with a child and has a rape kit in his possession (see definition of "Truly Imminent" on page 23 for further examples). Note that merely being in the presence of children without supervision could not be considered a sexual offence because it is not certain that an offence would have occurred had there not been some form of intervention. A real case in the Static-2002 research samples involved an offender who was convicted for a technical violation for bringing a mattress into a ladies' washroom. Here, the intent was clearly to rape

a woman, but he was interrupted by security officials. Once again, note that the threshold to consider a breach as a sexual sentencing occasion is extremely high and the sexual offence must be imminent. Being in the presence of children, failing to register, and the like are not considered sexual sentencing occasions (although failing to register as a sex offender can count as a non-sexual sentencing occasion; see page 82).

### Category “A” and Category “B” Offences

For the purposes of Static-2002, sexual crimes are divided into two categories. Category “A” involves most criminal sentencing occasions that we generally consider “sexual offences” and that involve an identifiable child or non-consenting adult victim. This category includes contact offences, exhibitionism, voyeurism, sex with animals and dead bodies.

Category “B” offences are typically identified by two main criteria: a) sexual behaviour that is illegal but the parties are consenting or no specific victim is involved, and b) indecency without a sexual motive. Category “B” offences include consenting sex in public places, possession of pornography, and all prostitution, pimping and related offences with the exception of paying for the sexual services of an individual incapable of providing consent (under age, mentally incompetent). Behaviours such as urinating in public or public nudity associated with mental impairment are also considered Category “B” offences.

**Rule:** If the offender has any Category “A” offences on their record - all category “B” offences should be counted as sex offences for the purpose of scoring "Prior Sentencing Occasions for Sexual Offences" or identifying the index sex offence. Category “B” offences do not count for the purpose of scoring victim type items (with the exception of victims from non-disclosure of HIV status). Static-2002 should not be used with offenders who have only Category “B” offences.

Offence names and legalities differ from jurisdiction to jurisdiction and a given sexual behaviour may be associated with a different charge in a different jurisdiction. The following is a list of offences that would typically be considered sexual. Other offence names may qualify when they denote sexual intent or sexual misbehaviour.

#### Category “A” Offences

- Aggravated sexual assault
- Attempted sexual offences (attempted rape, attempted sexual assault)
- Compelling the commission of any sexual offences (bestiality, incest, or sexual assault) regardless of whether it is compelled in person or via the internet
- Contributing to the delinquency of a minor (where the offence had a sexual element)
- Distributing obscene materials to minors (no economic motive)

## Category 2: Persistence of Sexual Offending

- Exhibitionism
- Illicit sexual use of the internet
- Incest
- Indecent exposure
- Internet luring
- Invitation to sexual touching
- Juvenile sex tourism (travelling to another country in order to engage in sexual behaviour with juveniles that is illegal in the country of origin)
- Lewd or lascivious acts with a child under 14
- Manufacturing/Creating child pornography where an identifiable child victim was used in the process (The offender had to be present or participate in the creation of the child pornography with a human child present. "Present" can include via the internet, such as in cases where the offender is watching sexual abuse occurring live on the internet.)
- Molest children
- Obscene telephone calls
- Oral copulation
- Penetration with a foreign object
- Rape (includes in concert. Rape in concert is rape with one or more co-offenders. The co-offender can actually perpetrate a sexual crime or be involved to hold the victim down.)
- Sexual assault
- Sexual assault causing bodily harm
- Sexual battery
- Sexual homicide
- Sexual offences against animals (Bestiality)
- Sexual offences involving dead bodies (offering an indignity to a dead body)
- Sodomy (includes in concert and with a person under 14 years of age)
- Unlawful sexual intercourse with a minor
- Voyeuristic activity (trespass by night)

### Category "B" Offences

- Consenting sex with other adults in public places
- Crimes relating to child pornography (possession, selling, transporting, creating where only pre-existing images are used by digital creation)
- Indecent behaviour without a sexual motive (e.g., urinating in public)
- Not informing a sexual partner of HIV positive status
- Offering prostitution services
- Pimping/pandering
- Seeking/hiring prostitutes
- Profiting from child prostitution
- Coercing others into sex trade (economic motive)
- Solicitation of a prostitute



## Category 2: Persistence of Sexual Offending

- Bigamy
- Selling sexually explicit materials to minors (economic motive)

In regard to the Category “A” offence of exhibitionism - this would not be a sexual offence if the crime description indicated the offence was actually for an indecent act such as urinating in an alley while intoxicated.

Certain sexual behaviours may be illegal in some jurisdictions and legal in others (e.g., prostitution). Count only those sexual misbehaviours that are illegal in the jurisdiction in which the risk assessment takes place and in the jurisdiction where the acts took place.

In regard to the Category “B” offence of not informing a sexual partner of HIV positive status, in some jurisdictions this offence is prosecuted as Aggravated Sexual Assault or as another charge that is typically considered a Category “A” sexual offence. Regardless of the name of the offence, the behaviour of not disclosing HIV positive status to an otherwise consenting partner is a Category “B” offence.

Prostitution and pimping offences are considered Category “B” offences, with the exception of paying for the sexual service of a minor, which is a Category “A” offence. In contrast, profiting from the child prostitution is a Category “B” offence.

### Exclusions

The following offences would not normally be considered sexual offences:

- Annoying children
- Consensual sexual activity in prison (except if sufficiently indiscreet to meet criteria for gross indecency)
- Failure to register as a sex offender
- Being in the presence of children, loitering at schools
- Possession of children’s clothing, pictures, toys
- Stalking (unless sexual offence appears imminent - see definition of “Truly Imminent” below)
- Reports to child protection services (without charges)

### **Definition: “Truly Imminent”**

For an offence to be truly imminent, it should be established beyond a reasonable doubt that a sex offence would have occurred as part of the same behavioural sequence (minutes to hours) but for detection and intervention from others. Examples of this nature would include an individual with a history of child molesting being discovered alone with a child and about to engage in a “naked wrestling game.” Another example would be an individual with a long history of abducting teenage girls for sexual assault being apprehended while attempting to lure teenage girls into his car. A sex offender being in the presence of children,

even against his conditions of community release, is not considered “truly imminent” as the offender may choose not to molest for an indefinite period of time.

### **Index Cluster**

An offender may commit a number of sexual offences in different jurisdictions, over a protracted period, or in a spree of offending prior to being arrested and sanctioned. Even though the offender may have a number of sentencing dates in different jurisdictions, the subsequent sentencing dates would constitute an “index cluster.” These “spree” offences would group together – the early ones and the last; they all become the “index cluster” with none considered as “prior” to another. This is because the offender has not been “caught” and sanctioned for the earlier offences and then “chosen” to reoffend in spite of the sanction. Furthermore, historical offences that are detected after the offender is convicted of a more recent sexual offence would be considered part of the index sex offence (pseudo-recidivism) and become part of the index cluster.

**Rule:** For two offences to be considered separate sentencing occasions, the second offence must have been committed after the offender was detected and sanctioned for the previous offence.

For example, consider an offender who is arrested for an offence, then released on bail and reoffends. He is subsequently convicted of the two offences on a single sentencing occasion. This does not qualify as two sentencing occasions. Instead, both offences would be part of an index cluster.

An index cluster can occur in the following three ways:

The first occurs when an offender commits multiple offences and these offences are then subsequently dealt with as a group by the police and the courts. An example of this occurs when an offender goes on a crime “spree” – the offender repeatedly offends over time, but is not detected or caught. Eventually, after two or more crimes, the offender is detected, charged, and goes to a single court with multiple charges, where he has not been independently sanctioned between the multiple offences.

The second occurs when an index sex offence has been identified for an offender and subsequently the criminal justice system becomes aware of sex offences that occurred earlier in time than the identified index sex offence but the offender is first charged and/or convicted for these “older” offences after the conviction for the identified index sex offence. These previous offences come forward and become part of the most recent “index cluster.” This is also known as “pseudo-recidivism.” It is important to remember that these historical convictions or sentencing dates do not count as “priors” because the offending behaviour was not sanctioned before the offender committed the index offence.

## Category 2: Persistence of Sexual Offending

The issue is that the offender has not been previously sanctioned for his behaviour and then made the choice to reoffend.

The third situation arises when an offender is charged with several offences that come to trial within a short period of time (a month or so). When the criminal record is reviewed it appears that a cluster of charges were laid at the end of an investigation and that the court could not attend to all of these charges in one sitting day. Also, the offences may have been a spree of offending in different jurisdictions, requiring multiple trials. When the evaluator sees groups of charges where it appears that a lot of offending has finally “caught up” with an offender – this can be considered a “cluster.” If these sentencing dates happen to be the last sentencing dates they become an index cluster. The evaluator would not count the last court day as the “index sex offence” and the earlier ones as “priors”.

Examples for explanation: An offender commits a rape, is apprehended, charged, convicted, and placed on probation. Very shortly after his release, he commits another rape, is apprehended, convicted, and sanctioned. Because the offender was apprehended and sanctioned for a new sex offence this does not qualify as a crime “spree” or “cluster” – these convictions would be considered separate sentencing occasions. The second conviction would become the index sex offence and the first conviction would become a prior sexual sentencing occasion.

However, if an offender commits a rape in January, another in March, another in May, and another in July and is finally caught, convicted, and sentenced for all four in August, this constitutes a crime “spree” because he was not sanctioned between these crimes. As such, this spree of sexual offences, were they the most recent sexual offences on the offender’s record, would be considered an “index cluster” and all four rape offences would count as the “index sex offence,” not just the last one. This is true even if the offender was ultimately convicted and sentenced in different jurisdictions and on different dates for these different offences. If these four offences (and their corresponding sanctions) occurred prior to the index sex offence, they would count as a sentencing occasion cluster (and therefore one prior sentencing occasion).

### **When Conviction Date is Different from Sentencing Date**

It is not uncommon for offenders to be convicted on one date and be sentenced at a later date. In this case, the earliest date of conviction for the offences in the sentencing date cluster (index or prior) counts as the date of the sentencing occasion. In such cases, crimes committed between the conviction date and the sentencing date may count as a separate sentencing occasion in Static-2002 scoring.

Consider the following example:

Mr. Jones commits sexual offence A, gets charged and convicted. While awaiting sentence on offence A, he commits sexual offence B, and gets charged for it. He then gets sentenced for offence A. Later, he gets convicted and sentenced for sexual offence B.

In this example, sexual offence A would count as a prior sexual offence because the date of conviction would be the date of the first sentencing occasion, not the date of the eventual sentence. (The point being that the offender reoffended after receiving clear legal notice that he faced punishment for the previous offence.) The date of conviction for sexual offence B would be the index offence.

### **Separating Index Clusters and Prior Offences**

There are cases where it can be difficult to distinguish index clusters from prior offences, particularly when sexual offending occurs over a period of several years. Keep in mind the general rule that to be a prior sexual sentencing occasion, the offence and the first qualifying sanction must have occurred before at least one of the index sexual offences. Some examples are provided below.

#### **Example No. 1**

Joe Smith sexually offends against his daughter between 2000 and 2005 and is sentenced in 2006. He commits a sexual assault against another victim in 2001 and is sentenced in 2001. He commits a non-sexual assault in 2004 and is sentenced in 2004.

Both the 2001 and 2004 circumstances count as prior sentencing occasions (although only the 2001 sentencing occasion would be for prior sexual offending) because some of the index sexual offence behaviour was committed after he was sanctioned for the previous offences. The offender chose to keep offending after being sanctioned in 2001, and again in 2004.

#### **Example No. 2**

John Johnson sexually offends against his daughter between 2000 and 2004 and is sentenced in 2006. He commits a sexual assault against another victim in 2001 and is sentenced in 2001. He commits a non-sexual assault in 2005 and is sentenced in 2005.

The 2001 sentencing occasion is a prior sexual offence because he continued the index sexual behaviour after being sanctioned for the 2001 offence. The non-sexual assault becomes part of an index cluster because even though he was sanctioned for the assault before being sanctioned for the index sexual offence, the assault occurred after the index sexual offence was committed. So the

## Category 2: Persistence of Sexual Offending

offender did not choose to commit the index sexual offence after being sanctioned for the non-sexual assault.

### Example No. 3

Richard Jones sexually offends between 1976 and 1979. He commits a sexual offence in 1988 and is sentenced in 1989. He commits a sexual offence in 2002. Due to publicity for this offence, his victims from the 1970s come forward and he is convicted and sentenced for the 2002 offence as well as the historical offences from the 1970s.

In this example, the offences from the 1970s are part of the index cluster. The sexual offence in 1988 is a prior. Even though it occurred after the historical offences, it still occurred and was sanctioned before the 2002 sexual offence that formed part of the index cluster.

### Example No. 4

James Smith sexually offends between 1976 and 1979. He commits a sexual offence in 1992 and is sentenced in 1995. In 2002 he is convicted for the offences in the 1970s.

Even though the two sentencing dates are almost a decade apart, they are considered an index cluster because the offences for which the offender was sentenced in 2002 were not committed after the offender was sanctioned in 1995.

### Example No. 5

Peter Davidson is charged with incest (offence A) and the charges are stayed pending attendance in community treatment. Halfway through treatment, he commits a new sexual offence (offence B). He is subsequently convicted for the original offence (offence A) and sentenced. The second offence (offence B) does not result in any separate charge or conviction but is implicitly used as a reason for sentencing for offence A (inability to conform to the demands of community treatment).

In this example, the date of the original stayed charge (for offence A) counts as a sentence date under the alternative sanction rule. The subsequent reinstatement of normal criminal justice processes (conviction and sanction) does not count separately as a new sentencing occasion for offenders who were originally given alternative sanctions. The effect of the reinstatement of conviction and sentence is not to move the index date, but potentially to result in one extra point for "Any Community Supervision Violation." Note that this example has two court dates for offence A: the date of alternative sanction and the ultimate date of conviction and sentence (due to non-compliance with alternative sanction). The combination of

the alternative measure and the same-crime sentencing is to be considered pseudo-recidivism, representing only one sentencing occasion in total. In other words, once a sentencing date is determined through an alternative sanction, further court action stemming solely from that same charge cannot count as a distinct sentencing event. Likewise, the date of a sentencing occasion for a crime does not change based on court procedures solely related to that same criminal act and no new sexual offence.

Consider the same example, but this time Peter was also charged and convicted for the second sexual offence (B). In such a case, the date of sentencing for the second sexual crime becomes the new index date. Offence A then counts as a prior sexual offence for all scoring purposes. This is true even if the date of sentencing for offence A was the same date he was sentenced for offence B, because the original (i.e., the first) date that he was given the alternative sanction for offence A would still be counted as the relevant date for that sentencing occasion.

### **Pseudo-recidivism**

Pseudo-recidivism occurs when offenders who have been or are currently involved in the criminal justice process are charged and convicted for old offences for which they have never before been convicted. This occurs most commonly with sexual offenders when public notoriety or media publicity surrounding their trial or release leads other victims of past offences to come forward and lay new charges. Because the offenders have not been charged and sanctioned for these misbehaviours previously, they have not experienced a legal sanction and then chosen to re-offend.

Example: Mr. Jones was convicted in 1998 of three sexual assaults of children. These sexual assaults took place in the 1970's. As a result of the publicity surrounding Mr. Jones's possible release in 2002, two more victims, now adults, come forward which results in new charges in 2002. These offences also took place in the 1970's but these victims did not come forward until 2002. Because Mr. Jones had never been sanctioned for these offences they were not on his record when he was convicted in 1998. Historical charges of this nature represent pseudo-recidivism and are not counted as "priors."

Another example: Mr. Johnson was convicted in 2000 for a sexual assault that was committed in 1998. He serves a prison sentence and is released into the community. In 2002, he is convicted of sexual assault for offences he committed in the 1980s and is sentenced to another term of imprisonment. This sentencing occasion cannot be considered as a new index sex offence because the offences occurred prior to the offences resulting in his 2000 conviction. The sentencing occasion cannot be counted as a prior sexual sentencing occasion because he was not sanctioned for those offences prior to committing the offences resulting

in the 2000 conviction. In this case, the 2002 conviction is “pseudo-recidivism” and both sentencing occasions would be considered part of an index cluster.

The basic concept is that the offender has to be sanctioned for previous sexual offences and then “choose” to ignore that sanction and reoffend anyway. If he chooses to sexually reoffend after a sanction, then he creates a new sex offence and this offence is considered part of the criminal record, usually a new index sex offence. If historical offences come to light for which the offender has never been sanctioned while the offender is in the system for another sexual offence, these offences join the more typically identified index sex offence to form an “index cluster.”

### **Post-Index Offences**

Offences that occur after the index sex offence do not count for Static-2002 purposes. Of course, post-index sexual offence sentencing occasions create a new index offence. On the other hand, post-index charges for sexual offending and charges and convictions for general or violent criminal behaviour should be considered “external” risk factors and would be included separately in any report about the offender’s behaviour.

Example: Post-Index Sexual Charge: Consider a case where an offender was convicted of rape in 2000. He is charged with rape and false imprisonment in 2004 but the charges are dismissed. In this case the index sex offence is the conviction/sentencing date in 2000 and the dismissed charges in 2004 must be considered separately as a risk factor outside the context of the Static-2002 assessment.

Example: Post-Index Violent Offence: Consider a case where an offender in prison on a sexual offence commits and is convicted of a serious violent offence. This violent offence would not be scored on either Item 11, “Prior Sentencing Occasion for Anything” or Item 14, “Any Prior Non-Sexual Violence Sentencing Occasions” but would be considered separately, as a risk factor outside the context of the Static-2002 assessment.

### **Additional Coding Issues**

#### **Adjudication Withheld**

In some jurisdictions it is possible to have a disposition of “Adjudication Withheld,” in which case the offender receives a probation-like period of supervision. This is counted as a sentencing occasion because a sentence (a consequence representing a loss of freedom and/or some other cost) was given.

## **Appeal**

Convictions overturned on appeal do not count as a sentencing occasion for a sexual offence.

## **Child Protection Services**

Being “detected” by the Children’s Aid Society or other child protection services does not count as a sentencing occasion for a sexual offence, even if the child protection service applies a sanction (e.g., the children are taken away from the offender, or the offender is asked to leave the home).

## **Clergy**

For members of religious groups (clergy), some movement within their own organization can count as a sentencing occasion for a sexual offence. The offender has to receive some form of official sanction in order for it to count as a sentencing occasion for a sexual offence. An example of this would be the “de-frocking” of a priest or minister or being publicly denounced. Another example would be where an offender is transferred within the organization and the receiving institution knows they are receiving a sex offender and considers it part of their mandate to help him with his problem or provide treatment for the individual. This would function as equivalent to being sent to a correctional institution and would count as a sentencing occasion for a sexual offence.

For clergy, being transferred to a new parish with no formal sanction does not count as a sentencing occasion for a sexual offence.

For information on other professions that involve a position of authority, see page 35.

## **Conditional Discharges**

Where an offender has been charged with a sexual offence and receives a conditional discharge, for the purposes of Static-2002 a conditional discharge counts as a sentencing occasion for a sexual offence. (A “conditional discharge” can occur in Canada when a person is found guilty of an offence but is given conditions for release into the community that, if followed, result in the conviction being removed from their record.)

## **Consent Decree**

Consent Decree counts as a sentencing occasion for a sexual offence.



### **Court Supervision**

In some states it is possible to receive a sentence of court supervision, where the court provides some degree of minimal supervision for a period (one year). This is similar to probation and counts as a sentencing occasion for a sexual offence.

### **Diversionsary Adjudication**

If a person commits a criminal offence as a juvenile or as an adult and receives a diversionsary adjudication, this counts as a sentencing occasion for a sexual offence. Examples include what has been termed restorative justice, reparations, family group conferencing, and community sentencing circles.

It is not uncommon for an alternative sanction to be determined and for formal criminal justice processing to be deferred to a later date. For example, an offender may be required to attend treatment, and, if successful, would expect to receive a lenient sentence at a later date (or the charges would be dropped). In such cases, the date of the imposition of the alternative measure counts as the date of the sentencing occasion (not the date of a subsequent formal conviction and/or sentencing).

### **Extension of Sentence by a Parole Board (or similar)**

If an offender is assigned extra time added to his sentence by a parole board for a sexual offence this counts as an additional sentencing occasion for a sex offence if the new time extended the total sentence.

This would not count as a sentencing occasion for a sex offence if the additional time was to be served concurrently or if it only changed the parole eligibility date. This situation is presently not possible in Canada. The only exception to this rule is for "Lifers," Dangerous Offenders, and others with indeterminate sentences. For offenders with indeterminate sentences, if their parole is revoked and they are returned to prison for a sex offence, this counts as a sentencing occasion. The rationale for this difference is that in general, the standard of proof necessary to return an offender to prison without adding additional time to their sentence is insufficient to meet the standards that typically define a sentencing occasion (e.g., a conviction). However, for offenders with an indeterminate sentence, even when there is enough evidence to obtain a conviction, it is rare to charge the offender with the new offence.

### **Failure to Appear**

If an offender fails to appear for sentencing for a sex offence, this is not counted as a sentencing occasion. Only the final sentencing (or the date of conviction) for

the charge for which the offender missed his court date is counted as a sentencing occasion.

### **Failure to Register as a Sexual Offender**

Failure to register as a sexual offender is not counted as a sentencing occasion for a sexual offence, but can count as a non-sexual sentencing occasion (see page 82).

### **Juvenile Extension of Detention**

In some states it is possible for a juvenile to be sentenced to a detention/treatment facility for a sexual offence. At the end of that term of incarceration it is possible to extend the period of detention. Even though a judge and a prosecutor are present at the proceedings, because there has been no new crime or charges/convictions, the extension of the original order is not considered a sentencing occasion for a sexual offence.

### **Juvenile Offences**

Both adult and juvenile sentencing occasions for a sexual offence count in this item.

In some jurisdictions, it is possible for juvenile offenders to get convicted of a sexual offence whereas in other jurisdictions the juvenile has a “petition sustained,” is “adjudicated delinquent,” or other phrase essentially of the same meaning. For the purposes of scoring Static-2002, these are equivalent to an adult conviction because there are generally liberty-restricting consequences. Any jurisdictional dispositions meaning a juvenile is convicted would count as a sentencing occasion for a sexual offence.

There have been cases where a juvenile has been removed from his home by judicial action under a “Person In Need of Supervision” (PINS) petition due to sexual aggression. This counts as a sentencing occasion for a sexual offence.

In contrast, placement as a juvenile in a state sanctioned “home” for sexual crimes does not count as a sentencing occasion, nor would moves from one facility to a more secure facility. Such actions, however, can count as charges (see next item regarding prior juvenile arrest for a sexual offence).

### **Mentally Disordered and Developmentally Delayed Offenders**

Some offenders suffer from sufficient mental impairment (major mental illness, developmental delays) that criminal justice intervention is unlikely. Informal hearings and sanctions, such as placement in treatment facilities and residential moves as a result of their illegal sexual behaviour, do not count as a sentencing

occasion for a sexual offence. Such actions, however, can count as arrests on the items "Prior Juvenile Arrest for a Sexual Offence" and "Any Prior Involvement in the Criminal Justice System."

### **Military**

If an offender is given a sanction (military brig, lowered rank, or similar) for a sexual offence this counts as a sentencing occasion for a sexual offence. If an "undesirable discharge" is given to a member of the military as the direct result of sexual criminal behaviour (something that would have attracted a criminal charge were the offender not in the military), this counts as a sentencing occasion for a sexual offence. However, if the member left the military when he normally would have and the "undesirable discharge" is equivalent to a bad job reference then the sexual criminal behaviour would not count as a sentencing occasion for a sexual offence. For members of the military, being transferred to a new post or retraining as a result of sexual misbehaviour does not count as a sentencing occasion for a sexual offence. Pure military offences (conduct unbecoming, insubordination, not following a lawful order, dereliction of duty, etc.) do not count when scoring Static-2002.

### **Not Criminally Responsible due to Mental Disorder**

Being found "not criminally responsible due to mental disorder" (or its equivalent) is counted as a sentencing occasion if the court-determined disposition from the finding involved institutional and/or mandated community sanction/care.

### **Not Guilty**

Being found "not guilty" is not counted as a sentencing occasion for a sexual offence.

### **Noxious Substance**

The conviction for giving a noxious substance (or its equivalent, drugs, alcohol, or other stupefiant) can count as a sentencing occasion for a sexual offence if the substance was given with the intention of making it easier to commit a sexual offence. If there was evidence that the substance was given to the victim just prior to a sexual assault, this would count as a sexual offence. If there was no evidence about what went on, or the temporal sequence of events, the "giving of noxious substance" sentencing occasion would not count as a sexual offence.

### **Official Cautions – United Kingdom**

In the United Kingdom, an official caution for a sex offence should be treated as equivalent to a sentencing occasion for a sex offence.

## **Pardons**

Offences for which an offender later receives a pardon would count as sentencing occasions (note that convictions overturned on appeal or stayed due to new evidence that the offender may not be guilty do not count as sentencing occasions).

## **Peace Bonds, Judicial Restraint Orders, and “810” Orders**

In some instances a Peace Bond/Judicial Restraint Order/810 Orders are placed on an offender when sexual charges are dropped or dismissed or when an offender leaves jail or prison. An order of this nature, primarily preventative, **is not counted** as a sentencing occasion for a sexual offence for the purposes of scoring Static-2002. There are some occasions when these orders are used reactively as a sanction for criminal behaviour (e.g., after a domestic violence incident, the offender enters a peace bond in exchange for dropping the charges). Even when used as a sanction, these orders are not considered sentencing occasions because there has to be a conviction or determination of guilt preceding the sanction, which is not the case with these orders.

## **“PINS” Petition (Person in need of supervision)**

There have been cases where a juvenile has been removed from his home by judicial action under a “PINS” petition due to sexual aggression. This counts as a sentencing occasion for a sexual offence.

## **Prison Misconducts**

An adult prison misconduct report for sexual misbehaviour does not count as a sentencing occasion for a sexual offence. A juvenile prison misconduct report with determination of “guilty” for a sexual misbehaviour coupled with an institutional consequence is not counted as a sentencing occasion for a sexual offence, but is counted as “charge” (see next item regarding prior juvenile arrests for sexual offences).

## **Probation before Judgement**

Probation before judgement counts as a sentencing occasion for a sexual offence.

## **Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences**

If a “lifer,” Dangerous Offender, or other offender with an already imposed indeterminate sentence is simply revoked (returned to prison from conditional

release in the community without trial) for criminal sexual behaviour that is of sufficient gravity that a person not already involved with the criminal justice system would most likely be convicted of a criminal offence, this revocation of conditional release counts as a sentencing occasion for a sexual offence. Note: the evaluator should be confident that were this offender not already under sanction that a criminal charge would have been laid by police and that a conviction would have been highly likely.

### **Sanctions by Professional Organizations**

For members of professional organizations that involve a position of trust (e.g., teachers, doctors, clergy), some movement within their own organization can count as a sentencing occasion for a sexual offence. The offender has to receive some form of official sanction in order for it to count as a sentencing occasion for a sexual offence. An example of this would be revoking a doctor's licence to practice or being publicly denounced. Another example would be where an offender is transferred within the organization and the receiving institution knows they are receiving a sex offender and considers it part of their mandate to help him with his problem or provide treatment for the individual. This would function as equivalent to being sent to a correctional institution and would count as a sentencing occasion for a sexual offence.

For clergy, being transferred to a new parish or school with no formal sanction or being sent to graduate school for re-training does not count as a sentencing occasion for a sexual offence.

For further information on clergy, see page 30.

### **Similar Fact Crimes**

Sometimes a sex offence may not have been completed but based on his pattern of offending in the past it can be counted as a sentencing occasion for a sex offence. Take an offender who assaults three different women on three different occasions. On the first two occasions he grabs the woman as she is walking past a wooded area, drags her into the bushes and rapes her. For this he is convicted twice of sexual assault (rape). In the third case he grabs the woman, starts to drag her into the bushes but she is so resistant that he beats her severely and leaves her. In this case he is convicted of aggravated assault. For the conviction to be counted as a sentencing occasion for a sexual offence, it must have a sexual motivation. In a case like this it is reasonable to assume that the aggravated assault had a sexual motivation because it resembles the other sexual offences so closely. In the absence of any other indication to the contrary this aggravated assault would count as a sentencing occasion for a sexual offence. **Note:** If considered a sexual offence, the aggravated assault could not be counted as a conviction for "Non-sexual Violence" in Static-2002.

### **Stayed Charges/Sentences**

Stayed charges/sentences take different forms in different jurisdictions. If there is a sanction associated with the stay of proceedings (e.g., stayed pending attendance in community treatment), stayed charges would count as a sentencing occasion, similar to other forms of alternative measures. They should not be considered sentencing occasions if there is no finding or admission of guilt, and no associated sanction (formal or informal).

### **Suspended Sentences**

In Canada, a suspended sentence for a sexual offence counts as a sentencing occasion for a sexual offence.

### **Unfit to Stand Trial**

Being found unfit to stand trial does not count as a sentencing occasion for a sexual offence, even if the offender is detained for treatment. A declaration of unfit to stand trial essentially halts criminal proceedings. If the offender subsequently receives a finding of guilt (e.g., a conviction or its equivalent), then the subsequent sanction would be counted.

### **3. Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence**

**Background:** In general, the earlier the onset of crime, the greater the probability of persistent criminal behaviour. The same is true for sexual offending (Hanson & Bussière, 1998). The criteria of “arrest” was used because juveniles are less likely than adults to be processed by the formal criminal justice system given that there are other methods of controlling problematic behaviour of youth.

**Information Required to Score this Item:** To score this item the evaluator should have access to an official criminal record as compiled by police or other law enforcement agency, court, or correctional authorities. Self-report of criminal convictions can be used in some circumstances as described below as well as in the subsection “Official Criminal Record” (page 5).

**The Basic Rule:** If the offender has an arrest for a sex offence prior to age 18 and a conviction for a different sex offence at age 18 or older, the offender receives a score of “1.” If the offender has never been arrested for a sexual offence prior to age 18, the score received is a “0” on this item.

This item is only scored for offenders who have a conviction for a sexual offence as an adult. It is not scored for juvenile offenders who are released after age 18 and have only a juvenile sex offence conviction but are now adults. In other words, if Static-2002 is used with an offender whose sole sexual offence record was as a juvenile, the score for this item would be “0” no matter how old the offender is when released. The adult sexual offence conviction must be for a different incident than that which led to the arrest as a juvenile.

The arrest for a sexual offence as a juvenile must occur prior to the age of 18. If the offender committed a sexual offence at age 17 and is arrested for these offences at age 22, then he would not get a point for a juvenile arrest. If he is arrested at age 17 but is not convicted until age 22, then he would get the point for a juvenile arrest. If a juvenile offender is adjudicated as an adult (e.g., is sentenced as an adult), the arrest is still counted if it occurred prior to the age of 18.

Arrest is a low threshold. Anything that satisfies the definition of a sentencing occasion (see item “Prior Sentencing Occasions for Sexual Offences”) will meet the criteria for this item (keeping in mind the rules regarding index clusters and pseudo-recidivism), although the reverse is not always true. Even so, an arrest is the minimum criteria. If the police question the offender but do not make an arrest, this would not count as prior arrest.

Instances in which juveniles (ages 12-15) are placed into residential care for sexual aggression would count as an arrest for a sexual offence. In jurisdictions where 16- and 17-year-old sexual offenders remain in the juvenile justice system

## Category 2: Persistence of Sexual Offending

and are not tried as adults but where it is possible to be sent to a “camp,” “home,” or “placement” as a result of sexual misbehaviour, this counts as an arrest for a sexual offence. For juveniles moved from a residential (locked or unlocked) or secure facility to a more secure facility as a result of sexual misbehaviour the move to a more secure facility counts as an arrest. Any juvenile “prison misconduct” for sexual misbehaviour is counted as an arrest. When a juvenile has been removed from his home by judicial action under a “Person in Need of Supervision” petition due to sexual aggression, this counts as an arrest (and as a sentencing occasion for a sexual offence – see previous item).

### **Missing Information**

Some criminal history information may not include juvenile convictions. If this information is unavailable, score the offender a “0” on this item.

### **Self-Report Information for this Item**

Juvenile sexual offences should be based on official criminal histories. If the official criminal history is unavailable then the information can be gleaned from collateral records in some instances. For example, the offender’s juvenile criminal history may be sealed or unavailable, but psychological evaluations completed when he was a juvenile describe the juvenile offence and list the charges. This would be sufficient information to code the arrest for a juvenile sexual offence.

It is possible to count self-reported juvenile sexual offence arrests under certain conditions. The reports have to have sufficient detail to be credible and potentially traceable (e.g., location, approximate date, and the specific charges laid). Detail is required because it would be easy for a juvenile to confuse being questioned for an offence and being arrested.



#### **4. Rate of Sexual Offending**

**Background:** This item is designed to capture the density of previous sexual offending. Research shows that offenders who commit sexual offences more often (approximately every 15 years is a useful break point) are at greater risk for recidivism (Hanson & Thornton, 2003).

**Information Required to Score this Item:** To score this item the evaluator must have access to the official criminal record as compiled by police or other law enforcement agency, court, or correctional authorities, and the age of the offender. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection "Official Criminal Record," page 5).

**The Basic Rule:** On average, if the offender has less than one sexual sentencing occasion every 15 years of their life, the offender receives a score of "0." If the offender has one or more sentencing occasion every 15 years, the offender receives a score of "1."

This is calculated by dividing the offender's age at release by the summed total of all sentencing occasions for sexual offences, including the index sex offence.

When identifying the number of separate sentencing occasions, remember the rules for pseudo-recidivism and sentencing occasion clusters (see pages 24-29).

The offender's age is always described by the whole number. In other words, an offender's age for this item can be 49 or 50 but cannot be 49.5. An offender two weeks away from their 50<sup>th</sup> birthday would still be considered 49 years old.

**Example:** If the offender is 29 years old and has one prior sexual offence sentencing occasion besides the index offence, his rate of sexual offending would be  $29/(1+1) = 14.5$ . This means that on average, the offender has a sexual sentencing occasion every 14.5 years. The offender would receive a score of "1" for "high rate" of sexual offending because the ratio is below 15.

If the offender was 55 years old and had two prior sexual offence sentencing occasions, his rate of sexual offending would be  $55/(2+1) = 18.33$ , meaning that on average the offender has a sexual sentencing occasion every 18 years. The offender would receive a score of "0" because the ratio is above 15.

Please note that when computing the score using the ratio described above, the index sex offence is included.

Rather than computing the ratio, evaluators can also use the following table:

Category 2: Persistence of Sexual Offending

Number Of Sentencing Occasions For Sexual Offences	Age at Release (Assessment Age)	Rate Score
Index only	Any	0
Index + 1	≤ 30	1
	31+	0
Index + 2	≤45	1
	46+	0
Index + 3	≤60	1
	61+	0

**CATEGORY III: DEVIANT SEXUAL INTERESTS (Score 0 – 3 Points)**

**The Basic Principle:** Deviant sexual interest is one of the main factors associated with the risk of sexual recidivism (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2005). The deviant sexual interests addressed by Static-2002 are illegal paraphilias, such as exhibitionism, voyeurism, and pedophilia. Although full assessment of deviant sexual interests is aided by self-report and specialized testing, valuable information about deviant sexual interests can be established based on offence history only (Freund & Watson, 1991; Seto & Lalumière, 2001). Most of the individuals who score high on this subscale would be expected to be identified as having deviant sexual interests through other assessment procedures.

This category contains three items:

- Any Sentencing Occasion for Non-contact Sexual Offence (Score 0-1 point).
- Any Male Victim (Score 0-1 point).
- Young, Unrelated Victims (Score 0-1 point).

The score of these three items are summed to make a total score for this category that ranges from 0 to 3.



### **5. Any Sentencing Occasion for Non-contact Sex Offence**

**Background:** This item was intended as a behavioural indicator of illegal paraphilic interests such as exhibitionism, voyeurism, and some forms of fetishism (e.g., stealing underwear). Offenders with illegal paraphilic interests are at increased risk for sexual recidivism (Hanson & Bussière, 1998). As well, convictions for non-contact sexual offences have been consistently related to increased recidivism risk (Hanson & Morton-Bourgon, 2004).

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police or other law enforcement agency, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** If the offender’s criminal record indicates a sentencing occasion that includes a conviction for a non-contact sexual offence, the offender is scored a “1” on this item. If the offender’s criminal record does not show a conviction for a non-contact sexual offence, the offender is scored a “0” on this item.

The general definition of a non-contact sexual offence is the following:  
Any illegal sexual act where the offender did not physically touch the victim, or any physical touching that occurred was incidental to the offending; **and** either  
(a) The victim is actively coerced into nothing beyond perceiving (i.e., seeing, listening to) sexually offensive materials (e.g., seeing the offender masturbate, listening to an obscene phone call, viewing pornographic email attachments)  
**or**  
(b) No attempt was made by the offender to make the victim aware of being victimized at the time. This latter category includes actions such as possession of child pornography and most voyeuristic behaviours including both live “peeping” and/or surreptitiously recording individuals in settings where privacy would normally be expected (e.g., audiotaping women urinating in public restrooms, hiding cameras in toilets).

By this rule, compelling the commission of a sexual offence counts as contact. Similarly, restraining and forcing a boyfriend to watch his girlfriend being sexually assaulted represents contact because the boyfriend is being physically restrained or positioned in some way. Sending the boyfriend a videotape of his girlfriend being sexually assaulted represents non-contact. Blackmailing a teenager to undress represents contact, whether or not the offender was present at the time, because the victim is coerced into participating in a sexual activity (not just perceiving it) and the offender deliberately made the victim aware of the victimization.

### Category 3: Deviant Sexual Interests

This category requires a sentencing occasion for a non-contact sexual offence such as:

- Exposure to others
- Possessing obscene material (child pornography)
- Obscene telephone calls
- Secretive peeping or watching others for sexual purposes
- Illicit sexual use of the Internet for unwanted sexual chat
- Sexual harassment (Unwanted sexual talk)
- Breaking into a house and stealing fetish items (women's or children's underwear)
- In certain jurisdictions "criminal trespass" or "trespass by night" may be used as a charge for voyeurism – these would also count

The offender must be convicted for a non-contact sexual offence. Institutional rules violations, charges, and arrests do not count, nor do self-reported offences. The index offence(s) may include a conviction for a non-contact sexual offence and this offence can count in this category.

The definition of "non-contact" is based on the behaviour. For example, an offender convicted of "trespassing" for peeping would get the point. When the offence details are unknown, it is possible to score this item based on the names of the offences (e.g., Exhibitionism). When the offence details are unknown and the offence name does not exclusively restrict its scope to non-contact sex offences, the offender would receive a score of 1 if the offence name is usually used for non-contact sexual offences (e.g., Gross Indecency was commonly used for exhibitionism in Ontario during the 1980s). In the case of "criminal trespass" or "trespass by night," the offence may be related to either voyeurism or break and enter. In these ambiguous circumstances, consider the nature of the case. For example, if the offender has numerous break and enter convictions (which were not sexually motivated) and denies a sexual motivation in the trespassing, you may choose not to count it. However, if the offender has a lengthy sexual offending record or has a history of or interest in voyeurism, the trespass can be presumed sexual.

If the offender is convicted in the same sentencing occasion of a contact sex offence such as lewd and lascivious behaviour with a child and a non-contact sex offence such as using an underage person for obscene matters then the item is scored 1 since the offender committed a non-contact offence. Another example may occur if, during an investigation of child molestation, police seize the offender's computer and find images of child pornography downloaded from the Internet. The offender is subsequently convicted of sexual interference (the Canadian term for a sexual offence involving a victim under 16 years old) and possession of child pornography. A non-contact sexual conviction would be coded here for the pornography.

### **Attempted Contact Offences**

Sexual offences in which the offender intended to make contact with the victim (but did not succeed) would be considered attempted contact offences and are coded as contact offences because of their intention (e.g., invitation to sexual touching, attempted rape, internet luring when no meeting occurred).

### **Internet Crimes**

None of the Static-2002 samples had enough internet-only offenders to provide for meaningful analysis. As a result, determining how to score internet crimes on the Static-2002 requires interpretation beyond the available data.

Internet crimes can be divided into two distinct groups because internet crimes seem to include elements of either contact or non-contact offences. For example, some offenders engage in sexual chat with minors on the internet without attempts to lure the minor into meeting them. We consider communicating with children over the internet for sexual purposes to be an inappropriate and socially harmful act in itself and, therefore, classify these acts with their historical precursors, such as indecent/obscene telephone calls, in the category of non-contact sexual offences.

Other internet offenders will engage in sexual chat with minor victims and attempt to meet them for the purpose of engaging in illegal sexual activities. If the offender suggests or attempts to meet the victim then we consider that internet offence to be more similar to contact offences like rape and child molestation. If the offender attempts to meet a (potential) victim then it should not be scored as a sentencing occasion for a non-contact sex offence.

Keeping in mind the general rules distinguishing contact and non-contact offences, viewing child pornography online is considered non-contact. However, paying to view a child being abused live or paying to have specific child pornography created counts as a contact offence even though the offender is not physically present when the child is abused.

### **Pimping and Prostitution Related Offences**

Pimping and other prostitution related offences (soliciting a prostitute, promoting prostitution, soliciting for the purposes of prostitution) do not count as non-contact sentencing occasions.

### **Plea Bargains**

Contact sexual behaviour that was pled down to a non-contact charge does not count as a non-contact sexual offence sentencing occasion. Situations such as

### Category 3: Deviant Sexual Interests

this may appear in the criminal record where charges for a contact offence are dropped and the non-contact charges appear simultaneously with a guilty plea. In this case the offence would not be a sentencing occasion for a non-contact sex offence.

If a "lifer," Dangerous Offender, or other offender with an already imposed indeterminate sentence is simply revoked (returned to prison from conditional release in the community without trial) for a non-contact sexual offence that is of sufficient gravity that a person not already involved with the criminal justice system would most likely be charged with a non-contact sexual offence, this revocation of conditional release would count as a sentencing occasion for a non-contact sexual offence. **Note:** the evaluator should be confident that were this offender not already under sanction that it is highly likely that a non-contact sexual offence charge would be laid by police and a conviction would be likely.



**Special Coding Issues for the Victim Items (ITEMS 6 – 9)**

The following four items concern victim characteristics: "Any Male Victim" (Item 6); "Young, Unrelated Victims" (Item 7); "Any Unrelated Victim" (Item 8); and "Any Stranger Victim" (Item 9). "Any Male Victim" and "Young, Unrelated Victims" are coded under the category "Deviant Sexual Interests" while "Any Unrelated Victim" and "Any Stranger Victim" are coded under the category "Relationship to Victims." For these four items the scoring is based on all available credible information, including self-report, (alleged) victim accounts, and collateral contacts.

The items concerning victim characteristics, however, only apply to sex offences in which the victims were children or non-consenting adults (Category "A" sex offences). For these four items, do not score victim information from non-sexual offences or from sex offences related to prostitution/pandering, possession of child pornography, and public sex with consenting adults (Category "B" sex offences). The only exception is that victims of not disclosing HIV-positive status (a category "B" offence) can also be counted. Do not score victim information on sexual offences against animals (bestiality and similar charges).

In addition to all of the more common sexual offences (sexual assault, rape, invitation to sexual touching, buggery) you also score victim information on the following charges:

- Illegal use of a minor in nudity-oriented material/performance
- Importuning (soliciting for immoral purposes)
- Indecent exposure (when a specific victim has been identified)
- Sexually harassing telephone calls
- Voyeurism (when a specific victim has been identified)

You do not score victim information on the following charges:

- Compelling acceptance of objectionable material
- Deception to obtain matter harmful to juveniles
- Disseminating/displaying matter harmful to juveniles
- Offences against animals
- Pandering obscenity
- Pandering obscenity involving a minor
- Pandering sexually-oriented material involving a minor
- Prostitution related offences

**"Accidental Victims"**

Occasionally there are "accidental victims" to a sexual offence. An example of this occurred when an offender was raping a woman in her living room. The noise awoke the victim's four-year-old son. The son wandered into the living

room and observed the rape in progress. The victim instructed her son to return to his bedroom and he complied at once. The perpetrator was subsequently charged and convicted of "lewd and lascivious act on a minor" in addition to the rape. In court the offender pleaded guilty to both charges. In this case, the four-year-old boy would not count as a victim as there was no intention to commit a sexual offence against him. He would not count in any of the four victim items, regardless of the conviction in court.

When the offender actively restrains another individual such that the individual is forced to witness a sexual crime, the individual is only counted in the victim items if there is evidence that forcing the individual to witness the sexual crime was sexually motivated. For example, an offender who forces a boyfriend to watch the sexual assault of his girlfriend due to expediency or macho dominance would not be counted as a victim of a sexual offence (see item "Any Male Victim" on page 55 for further clarification).

A common example of an accidental victim occurs when a person in the course of his/her daily life or profession happens across a sexual offence. Examples include police officers, park wardens, and janitors who observe a sexual offence in the course of their duties. If a male officer were to observe an exhibitionist exposing himself to a female, the offender would not be given the point for "Male Victim" as there was no intention to expose before the male officer. The evaluator would not give the offender a point for "Any Male Victim" unless the offender specifically chose a male towards whom to expose himself. In the same vein, a janitor who observes an offender masturbating while looking at a customer in a store would not be counted as a "Stranger Victim" or an "Unrelated Victim." In short there has to be some intention to offend against that person for that person to be a victim. Merely stumbling upon a crime scene does not make the observer a victim regardless of how repugnant the observer finds the behaviour.

### **Child Pornography**

Victims portrayed in child pornography are not scored as victims for the purposes of Static-2002. They do not count as Young & Unrelated, Stranger, or Male Victims. Only real, live, human victims count. If the offender is a child pornography maker and a real live child was used to create pornography by your offender or your offender was present when pornography was created with a real live child (either in person or via a webcam or similar technology), this child is a victim and should be scored as such on Static-2002 victim questions. Manipulating pre-existing images to make child pornography, either digitally or photographically is insufficient to score the victim items. Making child pornography with a real child victim counts as a "Category A" offence and, hence, with even a single conviction of this nature, Static-2002 is appropriate to use.

The evaluator may, of course, in another section of the report make reference to the apparent preferences demonstrated in the pornography belonging to the offender.

### **Conviction, but no Victim**

For the purposes of Static-2002, “consensual” sexual behaviour of individuals deemed capable of providing consent (e.g., adults, normal cognitive abilities) that is prohibited by statute does not create victims. This is the thinking behind Category “B” offences. Examples of this are prostitution offences and public toileting. (Please see “Category “A” and Category “B” offences” in Item 2, “Prior Sentencing Occasions for Sexual Offences” for a further discussion of this issue.) Under some circumstances it is possible that in spite of a conviction for a sexual offence the evaluator may conclude that there were no real victims. An example of this could be where a boy (age 16 years) is convicted of statutory rape of his 15-year-old boyfriend. (Assume age of consent in this jurisdiction to be 16 years of age). The younger boy tells the police that the sexual contact was consensual and the police report informs the evaluator that outraged parents were the complainants in the case. In a scenario like this, the younger boy would not be scored as a victim, the conviction notwithstanding.

The criteria for deciding there was no victim for scoring purposes underlying a conviction for a sexual offence are as follows:

- (a) The “alleged victim” states the sexual interaction was cooperative and has never claimed otherwise;
- (b) The offender had no pre-existing power relationship over the “alleged victim” (e.g., swim instructor, therapist); AND
- (c) If the “victim” was younger than the age of consent and of correspondingly approximately equal cognitive development to the offender, the offender was less than 3 years older than the person. If the “victim” was younger than the age of consent and the offender is obviously of lesser cognitive developmental capacity than the victim, the offender is less than 5 years older than the person.

### **Credible Information**

Credible sources of information include, but are not limited to, police reports, child welfare reports, victim impact statements or discussions with victims, collateral contacts, and offender self-report. If the information is credible (children’s protective association, victim impact statements, police reports) you should use this information to code the four victim questions, even if the offender has never been arrested or charged for those offences. An example of a collateral source that may be deemed not credible would include an ex-spouse with whom the offender is currently involved in heated divorce proceedings and whose motivation is clearly to disparage the offender.

If there is a source of relevant information for which the degree of credibility is not clear, the evaluator's report should generally include both a score with the contentious victim information included and a score without this victim information included, in this way showing how the information affects the risk assessment both ways.

### **Dismissed Charges, Acquitted, or Found Not Guilty**

The criteria for coding victim information is "all credible information." Coding victim information calls for the evaluator to determine the credibility of the documents or self-report regarding victims. If the evaluator finds that in weighing the evidence in both directions the weight is in favour of the alleged offence having occurred then the victim item should be coded "1." Of course, judgement is required to make this assessment. If the evaluator is uncertain about the veracity of the documents or self-report then it is appropriate to count the item both ways, showing how the information affects the risk assessment both ways.

In coding Static-2002 it may be necessary to review the cases in which the offender was acquitted or found not guilty and make an independent determination of whether there were actual victims. If, in the evaluator's opinion, after weighing the evidence in both directions, there was no sexual offence, the evaluator would not count the victim information.

This decision to score acquittals and verdicts of not guilty in this manner is buttressed by a research study in England that found that men acquitted of rape are more likely to be convicted of sexual offences in the follow-up period than men who had been found guilty (with equal times at risk; Soothill, Way, & Gibbens, 1980).

### **Exposing**

In cases of exposing, the four victim items may be scored if there was a targeted victim and the intended victim can be known with confidence by the evaluator. If the offender exhibits before a mixed group, males and females, do not score "Any Male Victim" unless there is reason to believe that the offender was exposing specifically to at least one of the males in the group. Assume only female victims unless you have evidence to suggest that the offender was targeting males.

Example: If a man exposed to a school bus of children he had never seen before (both genders), the evaluator would score this offender one risk point for "Any Unrelated Victim," one risk point for "Any Stranger Victim," but would not score a risk point for "Any Male Victim" unless there was evidence the offender was specifically targeting the boys on the bus.

In cases where there is no sexual context (i.e., the psychotic street person who takes a shower in the town fountain), there are no victims regardless of how offended the bystanders might be or how many people witnessed the event.

### **Internet Victims and Intention**

If an offender provides pornographic material over the internet, the intent of the communication is important. In reality a police officer may be on the other end of the net in a “sting” operation. If the offender thought he was providing pornography to a child, even though he sent it to a police officer, the victim information is counted as if a child received it. In addition, when offenders attempt to contact face-to-face a “boy” or “girl” they have contacted over the internet, the victim information counts as the intended victim, even if they only “met” a police officer.

Intention is important. In a case where a child was pretending to be an adult and an adult “shared” pornography with that person in the honest belief that the (legal) sharing was with another adult, there would not be a victim.

### **Juvenile Offences**

Victims of juvenile offences count for all four victim items.

### **Missing Information**

The evaluator needs to know the pertinent victim characteristics (gender, relationship to offender, and approximate age) for at least one victim to score these items. If there are additional victims but their characteristics are unknown, the evaluator should always make a note of this missing information when reporting the total score. The evaluator should consider what the score would be with the most probable characteristics of the other victims. In most cases, it is plausible to assume that the characteristics of the other victims are consistent with known victims. In some situations, however, alternate characteristics are plausible. For example, if the known victim is related (e.g., the offender’s daughter) and the offender has a previous sexual offence from when he had no children or stepchildren, the victim from this prior offence was probably unrelated. If the probable characteristics of the other victims would result in a different total score, the evaluator should report the total score both ways (with the missing information, as well as with the plausible characteristics of other victims).

### **Polygraph Information**

Information derived solely from polygraph interviews or examinations (for example, information on victims or offence motivation) is not used to score Static-2002 unless it can be corroborated by outside sources or the offender provides sufficient information to support a new criminal investigation. This includes all

disclosures made in preparation for a specific polygraph exam. For example, if the offender completes a sexual history questionnaire that he knows he will be specifically polygraphed about, or if he is being interrogated under an explicit threat of being polygraphed, this information would be excluded. Note that this applies to specific information and an impending polygraph examination. Information from disclosures made in a treatment group would not be excluded, even where there may be a polygraph on something at some later point in time.

Information from polygraph interviews is excluded even if the offender talks generally about the same “polygraph-based” information during later conversations such as during treatment groups. For instance, if a “male victim” is discovered solely during a polygraph interview, and there is no independent source of that information to be found, then this potential “male victim” does not count on Static-2002.

### **Prowl by Night - Voyeurism**

For these types of offences the evaluator should score specific identifiable victims. However, assume only female victims unless you have evidence to suggest that the offender was targeting males.

### **Sexual Offences against Animals**

While the sexual assault of animals counts as a sexual offence, animals do not count as victims. This category is restricted to human victims. It makes no difference whether the animal was a member of the family or whether it was a male animal or a stranger animal.

### **Sex with Dead Bodies**

If an offender has sexual contact with dead bodies these people do count as victims. The evaluator should score the four victim questions based upon the degree of pre-death relationship between the perpetrator and the victim.

### **Stayed Charges**

Victim information obtained from stayed charges should be counted.

### **Victims Not at Home**

If an offender breaks into houses (regardless of whether or not the victims are there to witness the offence) to commit a sexual offence, such as masturbating on or stealing their undergarments or does some other sexual offence – victims of this nature are considered victims for the purposes of Static-2002. Do not count all household occupants as victims. Include only individuals who appeared to be the offender’s target victims. Assume adult female stranger victims unless

### Category 3: Deviant Sexual Interests

there is evidence that the offender was targeting another victim group. Count the offender's intended victim as opposed to the actual victim. For example, if the offender masturbated with clothing that would presumably belong to an adult female (such as a thong) but in actual fact it belonged to an 11-year old child or a man, the victim would still be considered an adult female unless there was evidence indicating that the offender knew the item belonged to a male or a child.





## **6. Any Male Victim**

**Background:** Having male victims is correlated with measures of sexual deviance (Freund & Watson, 1991; Seto & Lalumière, 2001) and is empirically associated with increased risk of sexual recidivism (Hanson & Bussière, 1998).

**Information Required to Score this Item:** To score this item use all available credible information. “Credible Information” includes but is not limited to police reports, child welfare reports, victim impact statements or discussions with victims, collateral contacts, and offender self-report.

This item is scored based on all available credible information except that specifically derived from a polygraph interview. The offender need not have been criminally charged for victims to be counted for this item.

**The Basic Rule:** If the offender has any male victim of a sexual offence (child or non-consenting adult victim), score the offender a “1” on this item. If all of the offender’s victims of sexual offences are female, score the offender a “0” on this item.

Included in this category are all sexual offences involving a male victim. Possession of child pornography involving boys, however, does not count. Exposing to a mixed group of children (girls and boys) does not count unless there was clear evidence the offender was targeting at least one boy. Contacting a male victim over the internet does count.

If an offender sexually assaults a transvestite in the mistaken belief that the victim is a female (may be wearing female clothing), do not score the transvestite as a male victim. If it is essentially certain the offender knew he was assaulting a male before the assault, score a male victim.

In some cases a sexual offender may beat-up or contain (lock in a car trunk, tie to a chair, etc) another male in order to sexually assault the male’s date (wife, etc.). If the perpetrator simply assaults the male (non-sexual) in order to access the female you do not count him as a male victim on Static-2002. In order for the male to count as a victim of a sexual offence, there must be evidence that the assault/restraint of the male was sexually motivated. For example, if the perpetrator involves the male in the sexual offence by tying him up and making him watch a rape (forced witness), there would need to be additional signs of sexual motivation for the male victim to count, such as self-admitted fantasies, preparing for forced witnesses as part of offence planning, or statements made to the forced witness during the offence that suggested a sexual motivation in the presence of the male witness.



## **7. Young, Unrelated Victims**

**Background:** This item is a proxy for sexual interest in children, which is a well-established predictor of sexual recidivism (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004, 2005).

**Information Required to Score this Item:** To score this item use all available credible information. “Credible Information” includes but is not limited to police reports, child welfare reports, victim impact statements or discussions with victims, collateral contacts, and offender self-report.

This item is scored based on all available credible information except that specifically derived from a polygraph interview. The offender need not have been criminally charged for victims to be counted for this item.

**The Basic Rule:** To score “1,” the offender must have two or more victims (male and/or female) less than age 12, and one of them must be unrelated. If the offender does not have victims under the age of 12, or has only one victim under the age of 12, score a “0.” If the offender has two or more victims under the age of 12 but they are all related to the offender, score a “0.”

The age of a victim is determined by the initial age at which actual sexual offending began against that victim, with the threshold being the victim’s 12<sup>th</sup> birthday. Preliminary grooming (offender procedures to obtain access to the victim and/or to make the victim compliant with his eventual sexual offending) does not count in determining the victim’s age for this item. If a victim was younger than 12 when sexual offending began and the offending continued against the same victim across her/his 12<sup>th</sup> birthday, that victim counts for this item, even if all charged offending concerning this victim pertains to events after the victim’s 12<sup>th</sup> birthday.

For this item, victims of both juvenile and adult offences count. Count unrelated victims under the age of 12 even if the offender is young himself. For example, if a 13-year-old sexually assaulted an 11-year-old schoolmate, the 11-year-old victim would count. Do not count juvenile mutually cooperative sexual activity that came to the attention of authorities because it occurred under the age of consent (see page 49 for the criteria in making this determination). The offender need not be charged with an offence, but the behaviour must show non-consenting sexual behaviour or intent.

To make a determination as to whether the victim is unrelated see coding rules for the next item, “Any Unrelated Victim.”



**CATEGORY IV: RELATIONSHIP TO VICTIMS (Score 0 – 2 points)**

**The Basic Principle:** The items concerning relationship to victims were included purely on an empirical basis. We had initially hypothesized that these items were related to the size of the potential victim pool or “range of available victims,” but this hypothesis was not supported in the analyses used to develop Static-2002 (Hanson & Thornton, 2003). Consequently, further research is needed to clarify the reason for the association of these items with recidivism among sexual offenders.

This category contains two items:

- Any Unrelated Victim (Score 0-1 point).
- Any Stranger Victim (Score 0-1 point).

The score of these two items are summed to make a total score for this category that ranges from 0 to 2.



## **8. Any Unrelated Victim**

**Background:** Research indicates that offenders who offend only against family members reoffend at a lower rate compared to those who have victims outside of their immediate family (Hanson & Bussière, 1998; Harris & Hanson, 2004).

**Information Required to Score this Item:** To score this item use all available credible information. “Credible Information” includes but is not limited to police reports, child welfare reports, victim impact statements or discussions with victims, collateral contacts, and offender self-report.

This item is scored based on all available credible information except that specifically derived from a polygraph interview. The offender need not have been criminally charged for victims to be counted for this item.

**The Basic Rule:** If the offender has any victim of a sexual offence outside the offender’s immediate family, score the offender a “1” on this item. If the offender’s victims of sexual offences are all within the immediate family score the offender a “0” on this item.

In general, a related victim is one where the relationship is sufficiently close that marriage would normally be prohibited, such as parent, brother, sister, uncle, grandparent, stepbrother, and stepsister.

A potential difficulty in scoring this item is that the law concerning who can marry differs across jurisdictions and across time periods within jurisdictions. For example, prior to 1998, in Ontario, there were 17 relations a man could not marry, including such oddities as “nephew’s wife” and “wife’s grandmother.” In 1998 the Ontario law changed leaving only 5 categories of people that a man cannot marry: grandmother, mother, daughter, sister, and granddaughter (full, half, and adopted). Hence, if a man assaulted his niece in 1997 he would not have an unrelated victim but if he committed the same crime in 1998 he would technically be assaulting an unrelated victim. There is little reason to believe that this type of change in law would affect a man’s choice of victim and his resulting risk of re-offence. As a result the following rules have been adopted to avoid these jurisdictional issues.

### **People who are Seen as Related for the Purposes of Scoring Static-2002**

1. Legally married spouses
2. Any live-in lovers of over two (essentially consecutive) year’s duration (Girlfriends/Boyfriends become related once they have lived with the offender as a lover for two consecutive years prior to the beginning of the sexual offending, with “essentially consecutive” meaning there was no interruption in their daily living together for those two years beyond business trips and other work requirements; separate vacations and/or family trips; brief jail stays; brief

hospitalizations of any type; separations measured in days and weeks rather than months; mandated military service of any duration; voluntary community service of any duration involving work such as “The Peace Corps,” “Doctors Without Borders,” and helping victims of natural disasters such as a hurricane)

3. Anyone too closely related to marry (by jurisdiction of residence of the perpetrator)
4. The following relations whether or not marriage is permitted in the jurisdiction of residence of the perpetrator (these are listed below for female victims, though meant to imply all male counterparts as well, such as brother instead of sister, father instead of mother, etc.):
  - Aunt
  - Brother’s wife
  - Common-law wife/Ex common-law wife (lived together for 2 essentially consecutive years prior to the offending)
  - Daughter
  - Father’s wife/stepmother
  - First cousins
  - Granddaughter
  - Grandfather’s wife
  - Grandmother
  - Grandson’s wife
  - Mother
  - Niece
  - Sister
  - Son’s wife
  - Stepdaughter (Must have more than two years living together before abuse begins. Adult stepchildren are considered related if they lived at least two years in a child-parent relationship with the offender.)
  - Step-great granddaughter
  - Wife and ex-wife
  - Wife’s daughter/Stepdaughter
  - Wife’s granddaughter
  - Wife’s grandmother
  - Wife’s mother

Any of the listed relationships can be full, half, adopted, or common-law (at least two years living in these family relationships).

When considering whether step-relations are related or not for this item, consider the nature and the length of the pre-existing relationship between the offender and the victim before the offending started. Step-relationships lasting less than two years when the offending began are considered unrelated.

People who are seen as unrelated for the purposes of scoring Static-2002 (these



are listed below for female victims, though meant to imply all male counterparts as well, such as wife's uncle instead of wife's aunt, wife's brother instead of wife's sister, etc.):

- Any step-relations where the relationship lasted less than two essentially consecutive years
- Daughter of live-in girlfriend/boyfriend (less than two essentially consecutive years living together before abuse begins)
- Nephew's wife
- Second cousins
- First cousins once removed
- Wife's aunt
- Wife's sister
- Wife's cousin
- Wife's niece

Decisions about borderline cases (e.g., step-brother's wife who lives in another town) should be guided by a consideration of the psychological relationship existing prior to the sexual assault. If an offender has been living with the victim in a family/paternal/fraternal role for two essentially consecutive years prior to the onset of abuse, the victim and the offender would be considered related.

### **Becoming "Unrelated"**

If an offender was given up for adoption (removed, etc.) at birth (mother and child having no contact since birth or shortly after) offends against the mother (sister, brother etc.) and she was a complete stranger that the offender could not recognize (facial recognition) as family, these biological family members could count as "Unrelated Victims." This would only happen if the offender did not know the victim was a family member.



### **9. Any Stranger Victim**

**Background:** Research shows that having a stranger victim is related to increased risk of sexual recidivism (Hanson & Bussière, 1998, Table 1 – Item “Victim Stranger (versus acquaintance)”).

**Information Required to Score this Item:** To score this item use all available credible information. “Credible Information” includes but is not limited to police reports, child welfare reports, victim impact statements or discussions with victims, collateral contacts, and offender self-report.

This item is scored based on all available credible information except that specifically derived from a polygraph interview. The offender need not have been criminally charged for victims to be counted for this item.

**The Basic Rule:** If the offender has at least one victim of a sexual offence who was a stranger at the time of the offence, score the offender a “1” on this item. If the offender was known to all victims for at least 24 hours prior to their victimization, score the offender a “0” on this item. If the offender has a stranger victim then “Any Unrelated Victim” is always scored as well.

A victim is considered a stranger if either the victim did not know the offender at least 24 hours before the initial offence and/or the offender did not know the victim for at least 24 hours before the initial offence. Victims contacted over the internet are not normally considered strangers unless a meeting was planned for a time less than 24 hours after initial communication.

The criteria for being a stranger are very high. Even a slight degree of knowing is enough for a victim not to be a stranger. If the victim knows the offender at all for more than 24 hours, the victim is not a stranger. For example, if the victim was a convenience store clerk and recognized the perpetrator as someone who had been in on several occasions to buy cigarettes, the victim would no longer be a stranger victim. If a child victim can say she/he recognizes the offender from around the neighbourhood and the perpetrator has said “Hi” on occasion, the child is no longer a stranger victim. The evaluator must determine whether the victim “knew” the offender twenty-four hours (24 hours) before the assault took place.

The criteria for “know/knew” is quite low but does involve some level of interaction. They need not know each other’s names or addresses. However, simply knowing of someone but never having verbally interacted with them would not be enough for the victim to count as “known.” Similarly, an individual with whom the offender “danced with” at a night club (without speaking) would still be a stranger.

For “Stranger Victim,” the offender can either not know the victim or it can be the victim not knowing the offender. In the first case, where the offender does not know the victim (the most common case), the offender chooses someone who will likely not be able to identify the offender (or the offender just does not care) and offends against a stranger. However, there have been examples where the offender “should” have known the victim but just did not recognize the person. This occurred in one case where the perpetrator and the victim had gone to school together but the perpetrator did not recognize the victim as someone he knew. In cases like this, the victim would still be a stranger victim as the offender’s intention was to attack a stranger.

### **The Reverse Case**

In cases of “stalking” or stalking-like behaviours the offender may know a great deal about the victim and the victim’s habits. However, if the victim does not know the offender when the attack occurs, this still qualifies as a stranger victim.

The “24 hour” rule also works in reverse – there have been cases where a famous person assaulted a fan the first time they met. In this case, the victim (the fan) had “known of” the performer for years, and they may have even previously interacted in a semi-anonymous manner (e.g., autograph in a crowd). The relationship, however, is considered one of strangers because the performer (the perpetrator) has no memory of the fan and they had not been interacting for 24 hours prior to the offence.

### **Internet, E-mail, and Telephone**

Sometimes offenders attempt to access or lure victims over the internet. This is a special case and the threshold for being a stranger victim is still quite high. If the offender and the victim have communicated over the internet (e-mail, or telephone) for more than twenty-four hours (24 hours) before the initial face-to-face meeting, the victim (child or adult) is not a stranger victim. To be clear, this means that if an offender contacts, for the first time, a victim at 8:00 p.m. on a Wednesday night, their first face-to-face meeting must start before 8:00 p.m. on Thursday night. If this meeting starts before 8:00 p.m., and they remain in direct contact, the sexual assault might not start until midnight, but as long as the sexual assault is still within the first face-to-face meeting, this midnight sexual assault would still count as a stranger assault. If they chat back and forth for longer than 24 hours, the victim can no longer be considered a stranger victim for the purposes of scoring the Static-2002.

It is possible in certain jurisdictions to perpetrate a sexual offence over the internet, by telephone, or e-mail and never be in physical proximity to the victim. If the offender transmits sexually explicit/objectable materials over the internet within 24 hours of first contact, this can count as a stranger victim; once again the “24 hour rule” applies. However, if the perpetrator and the victim have been in

communication for more than 24 hours prior to the sending of the indecent material or the starting of indecent talk on the telephone then the victim can no longer be considered a stranger.

**Becoming a “Stranger” Again**

It is possible for someone who the offender had met briefly before to become a stranger again. The offender may have met a victim but then forgotten the victim completely (for example, over a period of years). If the offender believed he was assaulting a stranger, the victim can be counted as a stranger victim. This occurred when an offender returned after many years absence to his small hometown and assaulted a female he thought he did not know, not realizing that they had gone to the same school.



**CATEGORY V: GENERAL CRIMINALITY (Score 0 – 6 Points)**

**The Basic Principle:** General criminality is one of the two main factors that have been established as risk predictors for sexual recidivism (the other being sexual deviance – Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2005). Offenders vary on the density and variety of criminal behaviour, and those with an extensive criminal history are at increased risk for all forms of recidivism (sexual, violent, non-violent).

This category contains five items:

- Any Prior Involvement with the Criminal Justice System (Score 0-1 point).
- Prior Sentencing Occasions for Anything (Score 0-2 points).
- Any Community Supervision Violation (Score 0-1 point).
- Years Free Prior to Index Sex Offence (Score 0-1 point).
- Any Prior Non-Sexual Violence Sentencing Occasion (Score 0-1 point).

To calculate the total score for the “General Criminality” subscale, score all five individual items to get the raw score for each item. Sum the raw scores for the five items. The summed raw scores are recoded according to the table below to obtain the subscale score for the category “General Criminality”:

<b>RAW SCORE</b>	<b>SUBSCALE SCORE</b>
0	0
1, 2	1
3, 4	2
5, 6	3

See example on the next page.

Example of coding "General Criminality"

<p><b><u>GENERAL CRIMINALITY</u></b></p>		
<p><b>10. Any Prior Involvement with the Criminal Justice System</b>                      No = 0                      Yes = 1</p>	<b>1</b>	
<p><b>11. Prior Sentencing Occasions For Anything:</b>                      0-2 prior sentencing occasions for anything = 0                      3-13 prior sentencing occasions = 1                      14 or more prior sentencing occasions = 2</p>	<b>2</b>	
<p><b>12. Any Community Supervision Violation:</b>                      No = 0                      Yes = 1</p>	<b>1</b>	
<p><b>13. Years Free Prior to Index Sex Offence:</b></p> <ul style="list-style-type: none"> <li>• More than 36 months free prior to committing the sexual offence that resulted in the index conviction AND more than 48 months free prior to index conviction = 0</li> <li>• Less than 36 months free prior to committing the sexual offence that resulted in the index conviction OR less than 48 months free prior to conviction for index sex offence = 1</li> </ul>	<b>1</b>	
<p><b>14. Any Prior Non-sexual Violence Sentencing Occasion:</b>                      No = 0                      Yes = 1</p>	<b>0</b>	
<p>General Criminality raw score (subtotal General Criminality items)                      0 = 0                      1, 2 = 1                      3, 4 = 2                      5, 6 = 3</p>	<b>5</b>	
<b>General Criminality SUBSCORE</b>		<b>3</b>

In this example, summing the raw scores adds up to 5 points. The summed raw score of 5 is recoded to obtain a subscore of 3 for the category of "General Criminality."



## **10. Any Prior Involvement with the Criminal Justice System**

**Background:** This item marks the low end of criminal involvement – namely the distinction between no prior involvement and any prior involvement.

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** If the offender has had no prior involvement with the criminal justice system the score is “0.” If the offender has had any involvement with the criminal justice system the score for this item is “1.” Do not count the index offence.

Involvement with the criminal justice system is defined as an arrest, a charge, or a conviction. Note that this is a low threshold. Anything that satisfies the definition of a sentencing occasion in the other items (see items “Prior Sentencing Occasions for Sexual Offences” and “Prior Sentencing Occasions for Anything”) will meet the criteria for this item (keeping in mind the rules regarding index clusters and pseudo-recidivism). However, an arrest is the minimum criteria for prior involvement. If the police question the offender but do not make an arrest, this would not count as prior involvement with the law.

Do not count very minor offences for which it would be impossible to go to jail or to receive a community sentence (e.g., drinking under age, speeding). In Canada, all criminal code offences would be deemed serious enough to count; in contrast, most municipal by-laws would be of insufficient seriousness to count (e.g., parking, zoning infractions, keeping animals in the city). Graduated penalty offences (see section in “Special Coding Issues” below) are counted if it is at all possible to receive a custodial sentence, even if not on the first offence.

### **Special Coding Issues**

#### **Child Protection Services**

Being “detected” by the Children’s Aid Society or other child protection services does not count as involvement with the criminal justice system, even if the child protection service applies a sanction (e.g., the children are taken away from the offender, or the offender is asked to leave the home).

There is an exception to this general rule. In the case where a juvenile (age 12-15) is placed into residential care for sexual aggression this counts as prior involvement with the criminal justice system. In jurisdictions where 16- and 17-year-old sexual offenders remain in the juvenile justice system and are not tried

as adults but where it is possible to be sent to a “camp,” “home,” or “placement” as a result of sexual misbehaviour, this counts as prior involvement with the criminal justice system. For juveniles moved from a residential facility to a more secure facility as a result of sexual misbehaviour, the move to a more secure facility is counted as prior involvement with the criminal justice system.

### **Dismissals**

Being charged with an offence but subsequently having the charge dismissed counts as prior involvement in the criminal justice system.

### **Failure to Appear**

If an offender fails to appear for sentencing for their index sex offence, this is not counted as prior involvement with the law because it occurred after the commission of the index offence.

### **Graduated Penalty Offences**

In some jurisdictions, an offence committed once is not punishable by jail or a community sentence, but can only be punished by a fine. Further offending of the same type, however, can lead to a jail sentence. For example, a first offence of driving while intoxicated (or under the influence) may maximally lead to a fine, but subsequent adjudications of guilty for driving while intoxicated (or under the influence) can each result in a jail sentence. If a behaviour can eventually lead to jail and/or community supervision, it counts as prior involvement with the criminal justice system, even on the first offence.

### **Index Clusters and Pseudo-Recidivism**

The rules regarding index clusters and pseudo-recidivism do not change but they may lead to different conclusions in this item because the threshold is an arrest as opposed to a sentencing occasion. For example, if an offender committed a theft, was arrested, and then committed the index sex offence while on bail and was later convicted for both offences on the same occasion, these offences would not count as two separate sentencing occasions (because the offender had not been sanctioned for the theft prior to committing the index offence) and would be considered an index cluster. In this item, the theft can count as a prior involvement in the criminal justice system because the offender was arrested for a previous offence before committing the index sex offence (which meets the threshold for this item but does not meet the threshold for a separate sentencing occasion).

### **Juvenile Offences**

Both adult and juvenile arrests and charges count for prior involvement with the criminal justice system.

Arrests count, but children must be at the age of criminal responsibility. For example, in a jurisdiction where the age of criminal responsibility is 12, if a 10-year old child is caught breaking into a residence and is apprehended by the police and taken to the police station, this would not count as prior involvement with the criminal justice system because it is not legally possible to charge the child with an offence.

### **Missing Information**

Some criminal history information may only record convictions (not arrests or charges). If information on arrests and charges is not available, this item can be scored on the basis of convictions only.

### **Not Criminally Responsible due to Mental Disorder**

Being charged with an offence and found “Not Criminally Responsible due to Mental Disorder” (or any equivalent, such as Not Guilty by Reason of Insanity or Guilty But Insane) counts as prior involvement in the criminal justice system.

### **Not Guilty**

Being charged with an offence and found “Not Guilty” counts as prior involvement in the criminal justice system (note that it does not count as a sentencing occasion).

### **Peace Bonds, Judicial Restraint Orders, and “810” Orders**

In some instances a Peace Bond/Judicial Restraint Order/810 Orders are placed on an offender when sexual charges are dropped or dismissed or when an offender leaves jail or prison. These orders are typically preventative in nature and are placed on offenders who have been previously involved in the criminal justice system. However, there are some occasions when these orders can be used reactively as a sanction for criminal behaviour (e.g., after a domestic violence incident, the offender enters a peace bond in exchange for dropping the charges). The use of these orders as a sanction for criminal behaviour counts as prior involvement in the criminal justice system (note that it does not count as a sentencing occasion).

### **Post-Index Offences**

Offences that occur after the index sex offence do not count for Static-2002 purposes. Post-index sexual offence sentencing occasions create a new index offence. Post-index charges for sexual offending and charges and convictions for general or violent criminal behaviour should be considered “external” risk factors and should be included separately in any report about the offender’s behaviour.

### **Unfit to Stand Trial**

Being found unfit to stand trial can count as prior involvement with the criminal justice system, as long as the charge that preceded this finding occurred prior to the index sex offence. (Note that being found unfit to stand trial does not count as a sentencing occasion.)

**11. Prior Sentencing Occasions for Anything**

**The Basic Principle:** Sentencing occasions were selected as the criteria for the number of prior offences because they were more consistently recorded than other potential indicators, such as the number of charges or convictions. The cut-points were determined empirically (Hanson & Thornton, 2003).

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** Count the number of distinct occasions on which the offender was sentenced for criminal offences prior to the index offence(s). The index sentencing occasion (which is the index sex offence) is not included when counting up the sentencing occasions. If the offender’s criminal record indicates zero to 2 prior sentencing occasions for anything, score a “0.” If the offender’s criminal record shows 3 to 13 prior sentencing occasions for anything, score a “1.” If the offender’s criminal record shows 14 or more prior sentencing occasions for anything, score a “2.” This is summarized below:

Prior Sentencing Occasions for Anything	Item Score
0-2	0
3-13	1
14 or more	2

Any prior sentencing occasion that was counted for the item “Prior Sentencing Occasions for Sexual Offences” or “Any Prior Non-sexual Violence Sentencing Occasion” should be counted in this item as a prior sentencing occasion for anything.

**Definition: Sentencing Occasion**

A sentencing occasion is when the offender attends court, admits to the offence or is found guilty, and receives some form of sanction (fine, prison, conditional sentence). A determination of disposition by a court following a finding of not criminally responsible due to mental disorder (or its equivalent) also counts for a sentencing occasion if that disposition involves either institutional and/or mandated community sanction/care. Offenders may be convicted of more than one offence at the same sentencing occasion. Count both adult and juvenile sentencing occasions.

If a person commits a criminal offence as a juvenile or as an adult and receives a diversionary adjudication (i.e., an alternative sanction), this counts as a

sentencing occasion. Examples include what has been termed restorative justice, reparations, family group conferencing, community sentencing circles (see page 31). In England, an official caution counts as a sentencing occasion.

Offenders may go to court and receive more than one sentence for a single crime spree. In this case, the convictions related to the same crime spree count as one sentencing occasion. For two sentencing occasions to be considered distinct, the offender must have committed a crime and been sanctioned for it prior to committing the second crime (and being sanctioned for it). When the offender is convicted for a crime that was committed prior to his previous conviction, the new conviction is considered pseudo-recidivism and is not counted separately.

It is not uncommon for offenders to be convicted on one date and be sentenced at a later date. In this case, the earliest date of conviction for the offences in the sentencing date cluster (index or prior) count as the date of the sentencing occasion. In such cases, crimes committed between the conviction date and the sentencing date may count as a separate sentencing occasion in Static-2002 scoring (see pages 25-26).

Arrests, charges, and bail violations do not count. Consider an offender who is arrested for an offence, then released on bail and reoffends. He is subsequently convicted of the two offences on a single sentencing date. In this case, count only one sentencing occasion.

Do not count institutional rule violations that do not result in convictions. Convictions that are subsequently overturned on appeal or result in acquittal do not count as the index sex offence or as prior sentencing occasions. Simple questioning by police not leading to a conviction is insufficient to be a sentencing occasion. The number of charges/convictions does not matter, only the number of sentencing occasions.

The offences must be of a minimum level of seriousness. The offences need not result in a serious sanction (the offender may have instead been fined), but the offence must be serious enough to have permitted a sentence of community supervision or custody/incarceration (as a juvenile or adult). Driving offences generally do not count, unless they are associated with serious penalties, such as driving while intoxicated or reckless driving causing death or injury. Do not count very minor offences for which it would be impossible to go to jail or to receive a community sentence (e.g., drinking under age, speeding). In Canada, all criminal code offences would be deemed serious enough to count; in contrast, most municipal by-laws would be of insufficient seriousness to count (e.g., parking, zoning infractions, keeping animals in the city). Graduated penalty offences (see section in "Special Coding Issues" below) are counted if it is at all possible to receive a custodial sentence, even if not on the first offence.

Sentences for historical offences received while the offender is incarcerated for a more recent offence (pseudo-recidivism), are not counted. For two offences to be considered separate offences, the second offence must have been committed after the offender was convicted for the first offence.

Offence convictions occurring after the index sex offence cannot be counted on this item. Criminal history accumulated after the index sex offence should be considered outside the actuarial instrument in the overall risk assessment.

Sanctions for a sentencing occasion may include the following:

- Alternative resolution agreements
- Community Supervision
- Conditional or Absolute Discharges
- Fines
- Imprisonment

**Count** as prior sentencing occasions:

- Juvenile offences count (if you know about them; see subsection “Official Criminal Record,” page 5)
- Where applicable, “Probation before judgement” counts as a sentencing occasion
- Where applicable, “Consent Decree” counts as a sentencing occasion
- Suspended sentences count as a sentencing occasion

**Do not count** as prior sentencing occasions:

- Institutional disciplinary actions/reports
- Acquittals or convictions overturned on appeal
- Being “detected” by the Children’s Aid society or other Child Protection services
- Stayed offences in which there is no finding or admission of guilt and no associated sanction (formal or informal)

### **Determining Whether Something is a Sentencing Occasion**

A sentencing occasion requires a) a court or administrative tribunal using due process, resulting in b) an admission or finding of guilt and c) a sanction. This threshold is fairly high; arrests and charges (without convictions) do not count. The finding of guilt should be Beyond a Reasonable Doubt. It is possible to use a lesser criteria of Clear and Convincing Evidence for sanctions administered outside of the criminal justice system (e.g., Canon law for priests, military court marshal, civil commitment procedures for the mentally ill). Institutional rule violations (e.g., prison misconducts), however, are insufficient to meet the standard of Clear and Convincing Evidence. Many of these special circumstances are addressed in subsections under the rules for coding relevant items.

Most sentencing occasions are easy to identify (there is a conviction for a criminal offence, accompanied by a sanction). Sometimes an evaluator must make a decision about a situation that does not clearly fall under one of the rules outlined in the manual. In these circumstances, it is helpful to refer to the essential features of sentencing occasions articulated above.

Within the criminal justice system, a finding of guilt has a relatively clear meaning (something equivalent to a conviction) and a specific due process associated with that finding, such that our confidence in that finding is high. Establishing the equivalent of a finding of guilt outside typical criminal courts requires a consideration of the standard of proof and the due process involved in that finding (keeping in mind that there will be variability in the terminology used by many decision-making bodies). Beyond a Reasonable Doubt is a high standard of proof (see page 7-8 for explanations of the various standards of proof) and findings of guilt using this standard would generally count, but this standard is rarely used outside criminal trials. However, to count something as a sentencing occasion, you would want to see a finding of guilt based on a standard that is higher than a Balance of Probabilities. As such, decisions based on a standard equivalent to or higher than Clear and Convincing Evidence could be considered sentencing occasions. It is also helpful to consider the due process involved in the finding of guilt. In criminal cases, accused parties have due process rights, including the right to hear the evidence against them and to have their side heard. Generally, to count something as a sentencing occasion, you would want to see those basic elements of due process present in some form (exact rules may vary).

### **Violations of Probation and Parole**

A violation of conditional release may or may not count as a sentencing occasion in Static-2002. The minimal characteristic to be considered a sentencing occasion is that at least one aspect of the offending behaviour must be an offence that would normally result in arrest and conviction had the offender not already been under sanction. As well, there are additional criteria for probation and parole violations.

A violation of probation order counts if there is a court hearing, finding of guilt and a new sanction. The name of the charge can be "Violation of probation" as long as the evaluator is reasonably certain at least one aspect of the underlying behaviour was a crime, not just a technical violation.

A parole violation counts as a sentencing occasion when a paroling authority functioning as a quasi-judicial body determines that:

a) the offender has committed a criminal offence that would normally result in arrest and conviction, and



b) the offender is required to remain in custody after the determination of guilt (not just time served; time served refers to time spent detained in custody prior to sentencing).

Simply having parole revoked without a finding of guilt for new offending does not count as a sentencing occasion.

In the absence of information on the nature of any conditional release violation, the following rules apply:

(a) If the sanction for the violation involved custodial time being ADDED to the offender's pre-existing sentence, the behaviour will be presumed to have been serious enough to count as an offence (and therefore a sentencing occasion).

(b) If the offender was returned to custody to serve all or part of the time remaining on the pre-existing sentence but nothing more, then presume it was solely a technical violation.

(c) If the offender was on probation and the sanction for the violation involved any time in custody (either time served or a custodial sentence; time served refers to time spent detained in custody prior to sentencing), the behaviour will be presumed to be serious enough to count as an offence (and sentencing occasion). Otherwise, assume it was solely a technical violation.

For example, if the offender was caught with illegal drugs and was convicted for a technical violation without being charged with possession of an illegal substance, this should be counted as a sentencing occasion because the behaviour could have resulted in a criminal conviction if the offender were not already under criminal justice sanction. In contrast, if an offender had a condition prohibiting drinking alcohol, a breach for this would not be counted as a new sentencing occasion.

Sex offender registration laws are separate from community supervision orders and therefore failing to register counts as a sentencing occasion (but not a sentencing occasion for a sexual offence) if a formal legal sanction is applied.

### **Separating Index Clusters and Prior Offences**

There are cases where it can be difficult to distinguish index clusters from prior offences, particularly when the index sexual offending occurs over a period of several years. Keep in mind the general rule that to be a prior sentencing occasion, the offence and the conviction must have occurred before at least one of the index sexual offences. Some examples are provided below. If necessary, review additional examples on pages 24-29, under the item "Prior Sentencing Occasions for Sexual Offences."

#### **Example No. 1**

Joe Smith sexually offends against his daughter between 2000 and 2005 and is sentenced in 2006 (the index sexual offence). He commits an assault in 2001

and is sentenced in 2001. He commits an assault in 2004 and is sentenced in 2004.

Both assaults count as prior sentencing occasions because some of the index sexual offence behaviour was committed in 2005, after he was sanctioned for the previous offences. The offender chose to keep offending with the index offence after being sanctioned in 2001, and again in 2004.

#### Example No. 2

John Johnson sexually offends against his daughter between 2000 and 2004 and is convicted and sentenced in 2006. He commits an assault in 2001 and is sentenced in 2001. He commits an assault in 2005 and is sentenced in 2005.

The 2001 sentencing occasion is a prior offence because he continued the index sexual behaviour after being sanctioned for the 2001 offence. The 2005 assault becomes part of an index cluster because even though he was sanctioned for the assault before being sanctioned for the index sexual offence, the assault occurred after the index sexual offence was committed. So the offender did not choose to commit the index sexual offence after being sanctioned for the assault.

#### Example No. 3

Richard Jones sexually offends between 1976 and 1979. He commits a theft in 1988 and is sentenced in 1989. He commits a sexual offence in 2002. Due to publicity for this offence, his victims from the 1970s come forward and he is convicted and sentenced for the 2002 offence as well as the historical offences from the 1970s.

In this example, the sex offences from the 1970s are part of the index cluster. The theft in 1988 is a prior. Even though the theft occurred after the historical offences, it still occurred and was sanctioned before the 2002 offences that formed part of the index cluster.

#### Example No. 4

James Smith sexually offends between 1976 and 1979. He commits a theft in 1992 and is sentenced in 1995. In 2002 he is convicted for the offences in the 1970s.

Even though the two sentencing dates are almost a decade apart, they are considered an index cluster because the offences for which the offender was sentenced in 2002 were not committed after the offender was sanctioned in 1995.

## **Special Coding Issues**

### **Adjudication Withheld**

In some jurisdictions it is possible to have a disposition of “Adjudication Withheld,” in which case the offender receives a probation-like period of supervision. This is counted as a sentencing occasion because a sentence (a consequence representing a loss of freedom and/or some other cost) was given.

### **Appeal**

Convictions overturned on appeal do not count as a sentencing occasion for a sexual offence.

### **Conditional Discharges**

Where an offender has been charged with an offence and receives a conditional discharge, for the purposes of Static-2002 a conditional discharge counts as a conviction and a sentencing occasion. (A “conditional discharge” can occur in Canada when a person is found guilty of an offence but is given conditions for release into the community that, if followed, result in the conviction being removed from their record.)

### **Consent Decree**

Consent Decree counts as a sentencing occasion.

### **Court Supervision**

In some states it is possible to receive a sentence of court supervision, where the court provides some degree of minimal supervision for a period (one year). This is similar to probation and counts as a sentencing occasion.

### **Diversionsary Adjudication**

If a person commits a criminal offence as a juvenile or as an adult and receives a diversionsary adjudication (restorative justice, reparations, family group conferencing, community sentencing circles), this counts as a sentencing occasion.

### **Extension of Sentence by a Parole Board (or similar)**

If a parole board assigns extra time to an offender’s sentence for a criminal offence this counts as an additional sentencing occasion if the new time extended the total sentence.

It does not count as a sentencing occasion if the additional time was designated to be served concurrently or if it only changed the parole eligibility date. This situation is presently not possible in Canada. The only exception to this rule is for “Lifers,” Dangerous Offenders, and others with indeterminate sentences. For offenders with indeterminate sentences, if their parole was revoked and they were returned to prison for a new offence, this counts as a sentencing occasion. The rationale for this difference is that in general, the standard of proof necessary to return an offender to prison without adding additional time to their sentence is insufficient to meet the standards that typically define a sentencing occasion (e.g., a conviction). However, for offenders with an indeterminate sentence, even when there is enough evidence to obtain a conviction, it is rare to charge the offender with the new offence.

### **Failure to Appear**

If an offender fails to appear for sentencing, this is not counted as a sentencing occasion. Only the final sentencing for the charge for which the offender missed the sentencing occasion is counted as a sentencing occasion.

### **Failure to Register as a Sexual Offender**

If an offender receives a formal legal sanction, having been convicted of failing to register as a sexual offender, this conviction counts as a sentencing occasion. It should be noted, however, that charges and convictions for failure to register as a sexual offender are not counted as sentencing occasions for sexual offences.

### **Graduated Penalty Offences**

In some jurisdictions, an offence committed once is not punishable by jail or a community sentence, but can only be punished by a fine. Further offending of the same type, however, can lead to a jail sentence. For example, a first offence of driving while intoxicated (or under the influence) may maximally lead to a fine, but subsequent adjudications of guilty for driving while intoxicated (or under the influence) can each result in a jail sentence. If a behaviour can eventually lead to jail and/or community supervision, it counts as prior involvement with the criminal justice system or a prior sentencing occasion, even on the first offence.

### **Juvenile Extension of Detention**

In some states it is possible for a juvenile to be sentenced to a Detention/Treatment facility. At the end of that term of incarceration it is possible to extend the period of detention. Even though a judge and a prosecutor are present at the proceedings, because there has been no new crime or charges/convictions, the extension of the original order is not considered a sentencing occasion.

### **Juvenile Offences**

Both adult and juvenile sentencing occasions count in this item. In some jurisdictions, it is possible for juvenile offenders to get convicted of an offence whereas in other jurisdictions the juvenile has a "petition sustained," is "adjudicated delinquent," or other phrase essentially of the same meaning. For the purposes of scoring Static-2002, these are equivalent to an adult conviction because there are generally liberty-restricting consequences. Any jurisdictional dispositions meaning a juvenile is convicted would count as a sentencing occasion.

There have been cases where a juvenile has been removed from his home by judicial action under a "Person In Need of Supervision" (PINS) petition due to offending behaviour. This counts as a sentencing occasion.

In contrast, placement as a juvenile in a state sanctioned "home" for committing offences does not count as a sentencing occasion, nor would moves from one facility to a more secure facility. Such actions, however, can count as charges for the items "Any Juvenile Arrest for a Sexual Offence" and "Any Prior Involvement in the Criminal Justice System."

### **Mentally Disordered and Developmentally Delayed Offenders**

Some offenders suffer from sufficient mental impairment (major mental illness, developmental delays) that criminal justice intervention is unlikely. Informal hearings and sanctions, such as placement in treatment facilities and residential moves as a result of their criminal behaviour, do not count as a sentencing occasion. Such actions, however, can count as arrests for the item "Any Prior Involvement in the Criminal Justice System."

### **Military**

If an "undesirable discharge" is given to a member of the military as the direct result of criminal behaviour (something that would have attracted a criminal charge were the offender not in the military), this would count as a sentencing occasion. However, if the member left the military when he normally would have and the "undesirable discharge" is equivalent to a bad job reference then the criminal behaviour does not count as a sentencing occasion.

If an offender is given a sanction (military brig or its equivalent) for a criminal offence rather than a purely military offence (e.g., failure of duty) this counts as a sentencing occasion. Pure military offences (insubordination, not following a lawful order, dereliction of duty, conduct unbecoming, etc.) do not count as sentencing occasions.

### **Not Criminally Responsible due to Mental Disorder**

Being found “not criminally responsible due to mental disorder” (or its equivalent) is counted as a sentencing occasion if the court-determined disposition from the finding involved institutional and/or mandated community sanction/care.

### **Not Guilty**

Being found “not guilty” is not counted as a sentencing occasion.

### **Official Cautions – United Kingdom**

In the United Kingdom, an official caution should be treated as equivalent to a sentencing occasion.

### **Pardons**

Offences for which an offender later receives a pardon would count as sentencing occasions (note that convictions overturned on appeal or stayed due to new evidence that the offender may not be guilty do not count as sentencing occasions).

### **Post-Index Offences**

Post-index offences are not counted as sentencing occasions.

### **Peace Bonds, Judicial Restraint Orders, and “810” Orders**

In some instances a Peace Bond/Judicial Restraint Order/810 Orders are placed on an offender when charges are dropped or dismissed or when an offender leaves jail or prison. An order of this nature, primarily preventative, **is not counted** as a sentencing occasion for the purposes of scoring Static-2002. There are some occasions when these orders are used reactively as a sanction for criminal behaviour (e.g., after a domestic violence incident, the offender enters a peace bond in exchange for dropping the charges). Even when used as a sanction, these orders are not considered sentencing occasions because there has to be a conviction or determination of guilt preceding the sanction, which is not the case with these orders. Note that a peace bond used reactively (i.e., in exchange for dropping the charges) does count for the item "Any Prior Involvement in the Criminal Justice System."

### **Probation before Judgement**

Probation before judgement counts as a sentencing occasion.

### **Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences**

If a “lifer,” Dangerous Offender, or other offender with an already imposed indeterminate sentence is simply revoked (returned to prison from conditional release in the community without trial) for criminal behaviour that is of sufficient gravity that a person not already involved with the criminal justice system would most likely be convicted of a criminal offence, this revocation of conditional release counts as a “Prior Sentencing Occasion.” **Note:** the evaluator should be confident that were this offender not already under sanction that a criminal charge would be laid by police and that a conviction would be highly likely. Revocations for violations of conditional release conditions, so called “technicals” (drinking violations, failure to report, being in the presence of minors), are insufficient to stand as a sentencing occasion.

### **Stayed Charges/Sentences**

Stayed charges/sentences take different forms in different jurisdictions. If there is a sanction associated with the stay of proceedings (e.g., stayed pending attendance in community treatment), stayed charges would count as a sentencing occasion, similar to other forms of alternative measures. They should not be considered sentencing occasions if there is no finding or admission of guilt, and no associated sanction (formal or informal).

### **Suspended Sentences**

A suspended sentence in Canada counts as a sentencing occasion.

### **Unfit To Stand Trial**

Being found unfit to stand trial does not count as a sentencing occasion, even if the offender is detained for treatment. A declaration of unfit to stand trial essentially halts criminal proceedings. If the offender subsequently receives a finding of guilt (e.g., a conviction or its equivalent), then the subsequent sanction would be counted.





## **12. Any Community Supervision Violation**

**Background:** A history of failing to conform to the demands of community supervision is a well-established predictor of sexual, violent, and any recidivism (Hanson & Morton-Bourgon, 2004). Violation of conditional release is an item found on other risk scales commonly used with sexual offenders, such as the Sexual Offender Risk Appraisal Guide (SORAG; Quinsey, Rice, Harris, & Cormier, 2006), and the SVR-20 (Boer, Hart, Kropp, & Webster, 1997). As well, it is an item on Hare's (1991) Psychopathy Checklist - Revised.

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police or other law enforcement agency, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection "Official Criminal Record," page 5).

**The Basic Rule:** If the offender's criminal record indicates any violation of conditional release the offender is scored a "1" on this item. If the offender's criminal record indicates no violation of conditional release, the offender is scored a "0" on this item.

For scoring this item a violation of conditional release is defined as a violation or breach of any of the following:

- Violation of bail
- Supervised release violation
- Work release violation
- Violation of a restraining order
- Failure to comply with probation (formal or informal)
- Failure to comply with parole resulting in a parole revocation (with or without new charges)
- Failure to appear in court
- Disobeying a court order
- Statutory release revocation (with or without new charges)
- Failure to comply with recognizance or undertaking

A violation that is part of the index sentencing occasion can count. For example, if the offender is charged for the index offence, misses a court date, and is subsequently convicted on the same date for the index offence and the Fail to Appear, this can count. It is therefore possible for an offender to score a point on this item while also having no prior involvement with the criminal justice system (Item 10). This can occur if the offender has no prior sentencing occasions but the index sentencing occasion includes a conviction for failing to appear in court or for violating bail conditions. Do not count a violation from a sentencing occasion that is separate from and after the sentencing occasion for the index offence.

Offenders on community supervision sometimes violate conditions of release but are continued on parole and not returned to custody. For example an offender may test positive for the use of cocaine and the supervision agent only adds additional substance abuse treatment as a condition of release. Similarly, an offender may miss an appointment but call two days later and reschedule, and the supervising officer may decide not to report the breach. The standard of violation necessary to be coded for this item can be considered similar to a charge. If there is a violation hearing though the offender is not returned to custody, this situation counts as a violation of community supervision. If the supervising officer makes a note in a report that the offender did not satisfy all conditions (e.g., was late or missed an appointment), this is not counted as a violation unless the offender was charged with breaching, returned to custody, or there was some sort of hearing. There must be an official record of the violation (e.g., the offender self-reporting that he returned home late from curfew one night does not count).

If an offender fails to comply with probation and the offender's probation is violated or revoked this would be scored as "1". It is also scored as "1" if the offender is convicted for a new offence that was committed while on any of the community supervision orders listed above, even if the conviction does not include a community supervision violation. If the offender is charged for a new offence while on community supervision and there is no conviction for the offence, the evaluator must make a reasonable determination of whether the offence occurred (if so, the offender is scored for violating community supervision).

### **13. Years Free Prior to Index Sex Offence**

**Background:** This item was intended as a measure of criminal persistence. The cut-point for the conviction date was developed empirically. The cut-point for the date of the offence was extrapolated from knowledge of sexual offence cases processed in the Canadian criminal justice system.

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** If the offender has less than 36 months “free” (in the community) prior to committing the index sexual offence, **OR** less than 48 months free prior to the conviction date for the index sex offence, the offender receives a score of “1.” If the offender had more than 48 months free prior to index conviction **AND** more than 36 months free prior to committing the index sexual offence, the score received is “0.” This is summarized below.

#### SCORE of 0

More than 36 months free prior to committing the sexual offence that resulted in the index sex offence, **AND**  
More than 48 months free prior to index sex offence conviction

#### SCORE of 1

Less than 36 months free prior to committing the sexual offence that resulted in the index sex offence, **OR**  
Less than 48 months free prior to conviction date for index sex offence

The two dates necessary for scoring this item are:

1. The date the offender was released from some form of involvement with the criminal justice system prior to committing the index offence
2. Either the date the index sex offence occurred, or the date of conviction for the index sex offence. (Knowing both dates is preferable, but either one on its own is sufficient.)

For the index offence conviction, the earliest date of conviction for the offences in a sentencing occasion cluster counts as the date of the sentencing occasion. For offences subject to alternative measures, the date of the imposition of the alternative measure counts as the date of the sentencing occasion.

The 48 months until the conviction date for the sexual offence is based on “real” (i.e., calendar) time, not street time. Consider the following example: An offender commits the index sex offence 37 months after his release from a prior offence.

He is immediately arrested, denied bail, and held in remand custody until his conviction, which occurs 49 months after his release from the prior offence. In this case, the offender scores a zero on this item, because more than 36 months passed before the index was committed, and more than 48 months passed before he was convicted of the index. For the time until conviction, it does not matter that he was in remand custody for the index offence and that the 49 months was not all time spent on the street.

“Release” means from court, jail, prison, psychiatric hospital, or the like. “Release” does not include from any form of community supervision such as parole or probation. The offender is considered “free” (in the community) when placed on parole, probation, or other types of community supervision, or released without any conditions from any institution into the community. If the previous involvement was a conviction with a non-custodial sentence (e.g., probation), then the conviction date would count as the “release” and the beginning of the time free.

“Years free” is defined as the time spent living in the general community under any of the following circumstances:

- Without any mandated supervision of any kind
- Under parole conditions
- Under probation conditions
- Under supervised release
- Under conditional release
- Under GPS (Global Positioning System) monitoring
- While on bail
- While under court order to return to court on certain date (e.g., released under own recognizance)
- While living in a psychiatric facility or chemical dependency treatment facility on a voluntary basis (i.e., for treatment)

“Years free” is not counted for time under any of the following circumstances:

- Living in an institution but with work release (e.g., day time release to work)
- While on escape or elopement status no matter where the offender is living
- While living in a treatment facility on an involuntary basis (i.e., based on a court determination of relevant dangerousness and/or in lieu of further criminal proceedings and/or to obtain a postponement of legal proceedings concerning one or more criminal charges)
- While living in the community under severe restrictions such that the opportunities to offend would be similar to those in institutional settings (e.g., house arrest, some forms of community supervision)

Previous involvement with the law need not be a conviction. It can include arrests, charges, or a community supervision violation. Both adult and juvenile

offences count. For offenders with custodial sentences, use the most recent release date from jail, prison, a forensic hospital, secure group home, or other secure facility. For offenders with community supervision violations who are in custody, count the time between release from custody to the community and the index offence.

Note that “years free” is calculated from the previous involvement with the criminal justice system, as opposed to the previous sentencing occasion. For example, if an offender is arrested, then released on bail and then reoffends sexually (this would be the index sex offence), count the time between the date of release on bail and the index sex offence, even though they are not two separate sentencing occasions.

If information is missing on the exact date of release from custody, then the date of release is estimated based on the sentence length and the appropriate laws in the jurisdiction (e.g., in Canada, assume that the offender was released at 2/3 of their sentence, i.e., on the Statutory Release Date).

The concept of pseudo-recidivism applies to years free prior to the index offence. Pseudo-recidivism occurs when an offender currently involved in the criminal justice process is charged with old offences for which the offender had never before been charged. The offender has not experienced a legal consequence and then chosen to reoffend again. Therefore the offence is termed pseudo-recidivism. To count years free prior to the index offence the offender must commit the index offence after being released from a previous offence. **For** example, if the offender committed the index offence in the early 1980s and was convicted for the offence in 2007, but has convictions in 2005 and 2006 for other offences, he would not get a point for this item.

Some examples of calculating Years Free Prior to Index that involve pseudo-recidivism are discussed below

Example No. 1

<b>Criminal Record for Joe Smith</b>		
<b>Date</b>	<b>Charge</b>	<b>Disposition</b>
1998	Sexual Assault	Victim absconds and charges are dropped
2000	Theft	Sentenced to 1 year jail time and released
2003	Sexual Assault	Convicted of the 1998 sexual offence

If this offender had no criminal record prior to the date he committed the index sex offence, he would not get a point for Time Free because he did not sexually reoffend after being caught for a previous crime.

Example No. 2

<b>Criminal Record for Joe Smith</b>		
<b>Date</b>	<b>Charge</b>	<b>Disposition</b>
1996	Released from prison	
1997	Sexual Assault	
1998	Theft	Sentenced to 1 year jail and released
2003	Sexual Assault	Convicted of the 1997 sexual offence
<p>In this case, the offender would get a point for Time Free because the new sexual offence (the index sexual offence) was committed less than three years after being released from prison.</p>		

#### **14. Any Prior Non-sexual Violence Sentencing Occasion**

**Background:** A history of violence predicts sexual and violent recidivism (Hanson & Morton-Bourgon, 2004). In English data, convictions for prior non-sexual violence were specifically predictive of rape (forced sexual penetration) rather than all kinds of sexual offences (Thornton & Travers, 1991). In some English datasets this item has also been predictive of reconviction for any sex offence. Sub-analyses of additional data sets confirm the relation of prior non-sexual violence and sexual recidivism (Hanson & Thornton, 2003).

**Information Required to Score this Item:** To score this item you must have access to an official criminal record as compiled by police or any other law enforcement agency, court, or correctional authorities. Self-report of criminal convictions may not be used to score this item except in specific rare situations (see subsection “Official Criminal Record,” page 5).

**The Basic Rule:** If the offender’s criminal record shows a separate sentencing occasion for a non-sexual violent offence prior to the index sex offence, you score the offender a “1” on this item. If the offender’s criminal record does not show a separate sentencing occasion for a non-sexual violent offence prior to their index sex offence, you score the offender a “0” on this item.

This item refers to convictions for non-sexual violence (by name of charge and underlying behaviour) that are dealt with on a sentencing occasion that pre-dates the index sex offence sentencing occasion and is separate from any other sentencing occasion that included a sexual offence. A separate non-sexual violence sentencing occasion is required to score this item. These sentencing occasions can involve the same victim as the index sex offence or they can involve a different victim, but the offender must have a sentencing occasion for this non-sexual violence offence before the sentencing occasion for the index sex offence. All non-sexual violence sentencing occasions are included, providing they were dealt with on a sentencing occasion prior to the index sex offence and separate from any other sexual sentencing occasions.

Both juvenile sentencing occasions and adult sentencing occasions count in this section. In cases where a juvenile is not charged with a violent offence but is moved to a secure or more secure residential placement as the result of a non-sexually violent incident, this does not count as a sentencing occasion for non-sexual violence.

A determination of a disposition by a court following the finding of not guilty by reason of insanity counts for this item if the charged offence was non-sexual violence and if the disposition includes either institutional and/or mandated community supervision sanction/care.

**Rule:** In Static-2002 there are no situations where the same sentencing occasion can count as both a prior sexual sentencing occasion and a prior non-sexual violence sentencing occasion. If the sentencing occasion was for a violent offence by name such as “battery” or “assault” and the evaluator knows that there was a sexual component or intent to the offence, this sentencing occasion counts as sexually related and not as a non-sexual violence sentencing occasion. This can occur in cases where a sexual charge was pled down to a violent charge. Similarly, sometimes it is difficult to prove the sexual component of an offence (particularly for offenders who have assaulted prostitutes) and the offender may only be charged with a violent offence. Any time the evaluator concludes that the offence was sexually motivated, it is counted as a prior sexual offence and cannot be scored as a prior non-sexual violence sentencing occasion.

### **Separating Index Clusters and Prior Offences**

There are cases where it can be difficult to distinguish index clusters from prior offences, particularly when sexual offending occurs over a period of several years. Keep in mind the general rule that to be a prior sexual sentencing occasion, the offence and the conviction must have occurred before at least one of the index sexual offences. Some examples are provided on pages 24-29 and pages 79-80.

### **Non-sexual Violence Offences**

The following offences are considered non-sexual violence provided there is no underlying sexual motivation:

- Aggravated assault
- Arson
- Assault
- Assault causing bodily harm
- Assault peace/police officer
- Attempted abduction
- Attempted child stealing
- Attempted robbery
- Compelling the commission of an offence
- Criminal Harassment
- Cruelty to animals
- False imprisonment
- Felonious assault
- Forcible confinement
- Give noxious substance (alcohol, narcotics, or other stupeficient in order to impair a victim)
- Grand theft person (“Grand theft person” is a variation on robbery and may be counted as non-sexual violence)



- Juvenile non-sexual violence sentencing occasions count on this item
- Kidnapping
- Manslaughter
- Murder
- “PINS” Petition (Person in need of supervision). There have been cases where a juvenile has been removed from his home by judicial action under a “PINS” petition due to violent actions. This would count as a sentencing occasion for non-sexual violence.
- Robbery
- Threatening
- Using/pointing a weapon/firearm in the commission of an offence
- Violation of a domestic violence order (restraining order; a conviction for)
- Wounding

For this item, the final conviction must be for a violent offence (as opposed to behaviour that may have been motivated by violence). In cases where there is uncertainty, an offence is considered violent if the Criminal Code (or other relevant statute) definition of the offence includes a mandatory component involving some sort of force, touching, threats, and/or the behaviour directly leads to concern for one’s safety (except in the cases of dangerous driving or negligence).

**Excluded are:**

- Arrest/charges
- Convictions overturned on appeal or resulting in complete acquittal
- Non-sexual violence that occurs after the index sex offence
- Institutional rules violations
- Driving accidents or sentencing occasions for negligence causing death or injury.
- Offences that included elements of violent behaviour but did not result in a sentencing occasion for a violent offence by name.
- “Unfit to stand trial”

**Special Coding Issues**

**Convictions Coded Only as Sentencing Occasions for Sexual Offences**

- Sexual assault, sexual assault with a weapon, aggravated sexual assault, and sexual assault causing bodily harm are not coded separately as Non-sexual Violence – these convictions are simply coded as sexual sentencing occasions.
- Assault with intent to commit rape (U.S. Charge) – A conviction under this charge is scored only as a sexual sentencing occasion – Do not code as Non-sexual Violence.

- Convictions for sexual battery (U.S. Charge) – A conviction under this charge is scored only as a sexual sentencing occasion – Do not code as Non-sexual Violence.

In Static-2002, a sentencing occasion is either a Sexual Sentencing Occasion or a Non-sexual Violence Sentencing Occasion (not both). Alternately, a sentencing occasion could be neither sexual nor violent (e.g., theft). Any offence that indicates non-sexual violence by name but the behaviours or intent indicate a sexual offence should be coded as a “Prior Sentencing Occasion for a Sexual Offence” and not non-sexual violence.

### **Homicide – With a Sexual Component**

A sexual homicide offender who solely gets convicted of murder does not receive a risk point for “Non-Sexual Violence.” This murder only counts as a sexual sentencing occasion.

### **Military**

If an “undesirable discharge” is given to a member of the military as the direct result of a violent offence (i.e., striking an officer) this counts as a “Non-Sexual Violence” sentencing occasion and as an “Prior Sentencing Occasion for Anything.” However, if the member left the military when he normally would have and the “undesirable discharge” is equivalent to a bad job reference, this offence does not count as “Non-sexual Violence” or as a “Prior Sentencing Occasion for Anything.”

### **Resisting Arrest**

Resisting Arrest does not count as non-sexual violence. In Canadian and United States law this charge can apply to individuals who run from an officer or who hold onto a lamppost to delay arrest. If an offender fights back he will generally be charged with “assault to a peace/police officer” which counts as non-sexual violence. Alternately, “assault with intent to resist arrest” would also count as non-sexual violence.

### **Revocation of Conditional Release for “Lifers,” Dangerous Offenders, and Others with Indeterminate Sentences**

If a “lifer,” Dangerous Offender, or other offender with an already imposed indeterminate sentence has been revoked (returned to prison from conditional release in the community without trial) for a non-sexual violent offence that happened prior to the index sexual offence (or at least one of the offences within an index cluster) this revocation stands as a conviction for non-sexual violence if that non-sexually violent act were sufficient that it would generally attract a separate criminal conviction for a violent offence. **Note:** The evaluator should be

confident that were this offender not already under sanction that it is highly likely that a violent offence charge would be laid by police and a conviction would be highly likely.

### **Weapons Offences**

Weapons offences do not count unless the weapon was used in the commission of an offence. For example, an offender might be charged with an offence and then in a search of the offender's home the police discover a loaded firearm. As a result, the offender is convicted, in addition to the original offence, of unsafe weapons storage. This does not count as a sentencing occasion for non-sexual violence as the weapons were not used in the commission of an offence.

A sentencing occasion for Possession of a firearm or Possession of a firearm without a license generally does not count as a non-sexual violent offence. A conviction for Pointing a firearm generally does count as non-sexual violence as long as the weapon was used to threaten or gain victim compliance. Intent to harm or menace the victim with the weapon must be present in order to score a point on this item.

## References

- Barbaree, H. E., & Blanchard, R. (2008). Sexual deviance over the lifespan: Reductions in deviant sexual behaviour in the aging sex offender. In D. R. Laws & W. T. O'Donohue (Eds.), *Sexual deviance: Theory, assessment, and treatment*, 2<sup>nd</sup> ed. (pp. 37-60). New York: Guilford.
- Boer, D. P., Hart, S. D., Kropp, P. R., & Webster, C. D. (1997). *Manual for the Sexual Violence Risk – 20: Professional guidelines for assessing risk of sexual violence*. Vancouver, B.C.: The British Columbia Institute Against Family Violence.
- Doren, D. M. (in press). Determining the effect aging has on sexual recidivism risk. In A. Schlank (Ed.). *The sexual predator* (Vol. IV). Kingston, NJ: Civic Research Institute.
- Freund, K., & Watson, R. (1991). Assessment of the sensitivity and specificity of a phallometric test: An update of phallometric diagnosis of pedophilia. *Psychological Assessment*, 3, 254-260.
- Hanson, R. K. (2002). Recidivism and age: Follow-up data on 4,673 sexual offenders. *Journal of Interpersonal Violence*, 17, 1046-1062.
- Hanson, R. K. (2006). Does Static-99 predict recidivism among older sexual offenders? *Sexual Abuse: A Journal of Research and Treatment*, 18, 343-355.
- Hanson, R. K., & Bussière, 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., Harris, A. J. R., Scott, T.-L., & Helmus, L. (2007). [Recidivism data for Aboriginal and special needs offenders from *Assessing the risk of sexual offenders on community supervision: The Dynamic Supervision Project* (User Report No. 2007-05). Ottawa, ON: Public Safety Canada]. Unpublished raw data.
- Hanson, R. K., Helmus, L., & Thornton, D. (in press). Predicting recidivism among sexual offenders: A multi-site study of Static-2002. *Law and Human Behavior*.
- Hanson, R. K., Lloyd, C. D., Helmus, L., & Thornton, D. (2008). *Using multiple samples to estimate percentile ranks and relative risk ratios for actuarial risk tools: A Canadian example using Static-99 and Static-2002*. Unpublished manuscript.
- Hanson, R. K., & Morton-Bourgon, K. (2004). *Predictors of sexual recidivism: An updated meta-analysis* (User Report No. 2004-02). Ottawa, ON: Public Safety and Emergency Preparedness Canada.

- Hanson, R. K., & Morton-Bourgon, K. E. (2005). The characteristics of persistent sexual offenders: A meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology, 73*, 1154-1163.
- Hanson, R. K., & Morton-Bourgon, K. E. (2009). The accuracy of recidivism risk assessments for sexual offenders: A meta-analysis of 118 prediction studies. *Psychological Assessment, 21*, 1-21.
- Hanson, R. K., & Thornton, D. (2003). *Notes on the development of the Static-2002* (User Report No. 2003-01). Ottawa, ON: Solicitor General Canada.
- Hare, R. D. (1991). *The Hare Psychopathy Checklist – Revised*. Toronto: Multi-Health Systems.
- Harris, A. J. R., & Hanson, R. K. (2004). *Sex offender recidivism: A simple question* (User Report 2004-03). Ottawa, ON: Public Safety and Emergency Preparedness Canada.
- Helmus, L. M. D. (2007). *A multi-site comparison of the validity and utility of the Static-99 and Static-2002 for risk assessment with sexual offenders*. Unpublished B.A. thesis, Carleton University, Ottawa, Ontario, Canada.
- Hirschi, T., & Gottfredson, M. R. (1983). Age and the explanation of crime. *American Journal of Sociology, 89*, 552-584.
- Quinsey, V. L., Harris, G. T., Rice, M. E., & Cormier, C. A. (2006). *Violent offenders: Appraising and managing risk* (2<sup>nd</sup> Ed.). Washington, DC: American Psychological Association.
- Sampson, R. J., & Laub, J. H. (2003). Life-course desisters? Trajectories of crime among delinquent boys followed to age 70. *Criminology, 41*, 555-592.
- Seto, M. C., & Lalumière, M. L. (2001). A brief screening scale to identify pedophilic interests among child molesters. *Sexual Abuse: A Journal of Research and Treatment, 13*, 15-25.
- Soothill, K. L., Way, C., & Gibbens, T. C. N. (1980). Rape acquittals. *Modern Law Review, 43*, 159-172.
- Thorndike, E. L. (1911). *Animal intelligence*. New York: MacMillan.
- Thornton, D., & Knight, R. (2007, March). *Do sexual offenders age out of risk?* Presentation at the Academy of Criminal Justice Sciences Annual Meeting, Seattle, WA.
- Thornton, D. & Travers, R. (1991, October). A Longitudinal study of the criminal behaviour of convicted sexual offenders. *Proceedings of the Prison Psychologist's Conference in Scarborough* (pp. 13-22). London, UK: Her Majesty's Prison Service.



**Appendix I  
Static-2002 Coding Form**

<b>STATIC-2002 CODING</b>		
<b>ITEMS</b>	<b>Raw Score</b>	<b>Subscore</b>
<u><b>AGE</b></u> <b>1. Age at Release</b> 50 or older = 0 35 to 49.9 = 1 25 to 34.9 = 2 18 to 24.9 = 3		
<u><b>PERSISTENCE OF SEXUAL OFFENDING</b></u> <b>2. Prior Sentencing Occasions for Sexual Offences:</b> No prior sentencing dates for sexual offences = 0 1 = 1 2, 3 = 2 4 or more = 3  <b>3. Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence:</b> No arrest for a sexual offence prior to age 18 = 0 Arrest prior to age 18 and conviction after age 18 = 1  <b>4. Rate of Sexual Offending:</b> Less than one sentencing occasion every 15 years = 0 One or more sentencing occasions every 15 years = 1		
Persistence Raw Score (subtotal of Sexual Offending) 0 = 0 1 = 1 2, 3 = 2 4, 5 = 3		
Persistence of Sexual Offending SUBSCORE		
<u><b>DEVIANT SEXUAL INTERESTS</b></u> <b>5. Any Sentencing Occasion For Non-contact Sex Offences:</b> No = 0 Yes = 1  <b>6. Any Male Victim:</b> No = 0 Yes = 1  <b>7. Young, Unrelated Victims:</b> Does <u>not</u> have two or more victims < 12, one of them unrelated = 0 Does have two or more victims < 12 years, one must be unrelated = 1		
Deviant Sexual Interest SUBSCORE		
<u><b>RELATIONSHIP TO VICTIMS</b></u> <b>8. Any Unrelated Victim:</b> No = 0 Yes = 1  <b>9. Any Stranger Victim:</b> No = 0 Yes = 1		
Relationship to Victims SUBSCORE		

<b>GENERAL CRIMINALITY</b>		
<b>10. Any Prior Involvement with the Criminal Justice System</b> No = 0 Yes = 1  <b>11. Prior Sentencing Occasions For Anything:</b> 0-2 prior sentencing occasions for anything = 0 3-13 prior sentencing occasions = 1 14 or more prior sentencing occasions = 2  <b>12. Any Community Supervision Violation:</b> No = 0 Yes = 1  <b>13. Years Free Prior to Index Sex Offence:</b> <ul style="list-style-type: none"> <li>• More than 36 months free prior to committing the sexual offence that resulted in the index conviction AND more than 48 months free prior to index conviction = 0</li> <li>• Less than 36 months free prior to committing the sexual offence that resulted in the index conviction OR less than 48 months free prior to conviction for index sex offence = 1</li> </ul> <b>14. Any Prior Non-sexual Violence Sentencing Occasion:</b> No = 0 Yes = 1		
General Criminality raw score (subtotal General Criminality items) 0 = 0 1, 2 = 1 3, 4 = 2 5, 6 = 3		
General Criminality SUBSCORE		
<b>TOTAL 0-14</b>		

**Translating Static-2002 scores into risk categories**

- 0-2 = low risk**
- 3-4 = low-moderate risk**
- 5-6 = moderate risk**
- 7-8 = moderate-high risk**
- 9+ = high risk**



## Appendix II

### Frequencies and Percentile Ranks

Frequency Distribution and Percentile Ranks on Static-2002 for the Canadian Non-Custodial, Provincial, and Federal Samples.

Static-2002 Score	Non-Custodial		Provincial		Federal	
	Frequency	Percentile	Frequency	Percentile	Frequency	Percentile
n	303		254		1,841	
0	17	5.6	9	3.5	62	3.4
1	39	18.5	22	12.2	125	10.2
2	54	36.3	32	24.8	189	20.4
3	57	55.1	40	40.6	247	33.8
4	56	73.6	43	57.5	261	48.0
5	36	85.5	47	76.0	290	63.8
6	19	91.7	29	87.4	258	77.8
7	13	96.0	9	90.9	173	87.2
8	10	99.3	7	93.7	128	94.1
9	1	99.7	10	97.6	57	97.2
10	1	100.0	6	100.0	34	99.1
11	-	-	-	-	14	99.8
12	-	-	-	-	3	100.0

In Canada, sentences of less than two years are served in provincial jails, while sentences of two or more years are served in federal prisons.

Source: Hanson et al. (2008)

For further information, contact Karl Hanson at [karl.hanson@ps.gc.ca](mailto:karl.hanson@ps.gc.ca)

Estimated Percentiles for Static-2002 Scores for Adjudicated Canadian Sexual Offenders.

Static-2002 Score	Cumulative % Starting with Lowest Score		Cumulative % Starting with Highest Score	
	Percentile	95% CI of Percentile	Percentile	95% CI of Percentile
0	0 – 4.6	0 – 6.1	95.4 – 100.0	93.9 – 100.0
1	4.6 – 15.2	3.0 – 17.9	84.8 – 95.4	82.1 – 97.0
2	15.2 – 30.2	12.6 – 33.6	69.8 – 84.8	66.4 – 87.4
3	30.2 – 47.3	26.8 – 50.9	52.7 – 69.8	49.1 – 73.2
4	47.3 – 64.7	43.6 – 68.1	35.3 – 52.7	31.9 – 56.4
5	64.7 – 79.5	61.2 – 82.3	20.5 – 35.3	17.7 – 38.8
6	79.5 – 88.5	76.7 – 90.7	11.5 – 20.5	9.3 – 23.3
7	88.5 – 93.1	86.4 – 94.8	6.9 – 11.5	5.2 – 13.6
8	93.1 – 94.1	91.5 – 95.2	5.9 – 6.9	4.8 – 8.5
9	94.1 – 98.6	93.0 – 99.4	1.4 – 5.9	0.6 – 7.0
10	98.6 – 99.90	97.9 – 99.95	0.1 – 1.4	0.05 – 2.1
11	99.90 – 99.98	99.85 – 100.0	0.02 – 0.1	0 – 0.15
12+	99.98 – 100.0	99.96 – 100.0	0 – 0.02	0 – 0.04

**Interpretation Example:**

For a score of 6: Compared to other adult male sexual offenders in Canada, Mr. \_\_\_\_'s score falls into the 79.5 to 88.5 percentile. Factoring in the 95% confidence interval, this range could be as wide as the 76.7 to 90.7 percentile. This percentile range means that 76.7 to 90.7% of sex offenders in Canada scored at or below Mr. \_\_\_\_\_'s score. Conversely, 9.3 to 23.3% of sex offenders in Canada scored higher.

Source: Hanson et al. (2008)

For further information, contact Karl Hanson at [karl.hanson@ps.gc.ca](mailto:karl.hanson@ps.gc.ca)

### Appendix III

**Recidivism Rate Table (Generated from Logistic Regression)\***

Static-2002 Score	5 Year Sexual Recidivism (%)		10 Year Sexual Recidivism (%)	
	Routine CSC Samples	Preselected High Risk Samples	Routine CSC Samples	Preselected High Risk Samples
0	1.3	6.7	1.3	11.3
1	1.8	8.2	1.8	13.3
2	2.4	9.9	2.6	15.6
3	3.3	12.0	3.6	18.2
4	4.6	14.4	5.1	21.2
5	6.2	17.3	7.1	24.5
6	8.4	20.5	9.7	28.1
7	11.3	24.2	13.3	32.1
8	15.0	28.4	17.9	36.3
9	19.7	32.9	23.6	40.8
10	25.4	37.8	30.5	45.4
11	32.1	43.0	38.4	50.1
12+	39.6	48.2	46.9	54.8
Total N**	734	960	342	661

Note: CSC = Correctional Service of Canada (CSC administers all sentences of two or more years)

\*For further information on the analyses used to generate these tables and the rationale for reporting risk as a range bounded by the CSC and preselected high risk sample types, see Hanson et al. (in press).

\*\*N is the total sample size used in the logistic regression analysis to generate predicted recidivism values. It is not the sample size with a particular Static-2002 score. This is because logistic regression uses information on the relationship between Static-2002 and recidivism in the complete dataset to generate predicted values.



## Appendix IV

### Relative Risk Table

Converting Static-2002 Scores to Relative Risk (Risk Ratios) compared to the "Typical" Sex Offender (Static-2002 score of 4)

---

Logistic Regression Estimates (10 year sexual recidivism)				
Score	Predicted Recidivism Rate	95% C. I.		Risk Ratios
0	5.5	3.7	8.0	.4
1	7.0	5.1	9.6	.5
2	8.9	6.8	11.6	.6
3	11.3	9.1	14.0	.8
<b>4</b>	<b>14.2</b>	<b>11.9</b>	<b>16.8</b>	<b>1.0</b>
5	17.7	15.4	20.3	1.2
6	21.8	19.4	24.5	1.5
7	26.6	23.7	29.7	1.9
8	32.0	28.3	36.0	2.2
9	38.0	33.0	43.1	2.7
10	44.3	38.0	50.8	3.1
11	50.8	43.1	58.5	3.6
12	57.3	48.3	65.8	4.0

---

Note: Although the relative risk rankings (risk ratios) are relatively constant, the predicted recidivism rates vary across jurisdictions, settings and samples. For more information on absolute recidivism rates, see Hanson, Helmus, and Thornton (in press).



## Appendix V

### Standard Paragraph for Reporting Static-2002 in Applied Evaluations

Static-2002 is an instrument designed to assist in the prediction of sexual and violent recidivism for sex offenders. Hanson and Thornton (2003) developed this risk assessment instrument based on follow-up studies from Canada, the United States, and the United Kingdom with a total sample size of 2,169 sexual offenders. Using eight replication samples from four countries (Canada, UK, US, Denmark;  $n = 3,034$ ), Static-2002 demonstrated moderate to large accuracy in the prediction of sexual, violent, and general recidivism (Hanson, Helmus, & Thornton, in press). Static-2002 consists of 14 items and produces estimates of relative risk based upon the number of risk factors present in any one individual. The risk factors included in the risk assessment instrument are grouped into five domains: age, persistence of sex offending, deviant sexual interests, relationship to victims, and general criminality.

Normative data for Static-2002 scores were based on a sample of Canadian sexual offenders ( $n = 2,398$ ) that was re-weighted according to type of sentence (federal prison, provincial prison, and non-custodial) to approximate the real distribution of Canadian sex offenders (Hanson, Lloyd, Helmus, & Thornton, 2008). The norms are presented as percentile ranges, reflecting the estimated percentage of offenders scoring at or below a specified score. In other words percentiles provide a relative ranking. Relative rankings are thought to be most useful in situations where the allocation of limited resources must be made, such as for treatment, community supervision, etc. Absolute degrees of recidivism risk cannot be directly inferred from these relative rankings. The appropriateness of applying the estimated Canadian distribution of Static-2002 scores to sexual offenders in other countries is not yet known.

On Static-2002, an offender can be placed in one of five risk categories based on their total score (ranging from 0-14): low (0 – 2), low-moderate (3, 4), moderate (5, 6), moderate-high (7, 8) and high (9+). Mr. X scored [number] on the Static-2002. This score places Mr. X in the XXXX risk category. Compared to other adult male sexual offenders in Canada, his score falls into the xxxxx to xxxxx percentile. Factoring in the 95% confidence interval, this range could be as wide as the aa-bb percentile. This percentile range means that cc-dd percent of sex offenders in Canada scored at or below Mr. X's score. Conversely, ee-ff of sex offenders in Canada scored higher.

The recidivism rate of offenders with the same score as Mr. X would be expected to be (one quarter/one third/half/two-thirds/four-fifths) of the (FOR SCORES LOWER THAN 4), the same as (FOR SCORES OF 4), X.X times higher than (FOR SCORES GREATER THAN 4) the recidivism rate of the typical sexual offender (defined as a median score of 4).

There have been several studies examining the sexual recidivism rates associated with Static-2002 scores. Hanson, Helmus, and Thornton (in press) summarized the results of 8 samples of sexual offenders ( $N = 3,034$ ) drawn from Canada, the United States, the United Kingdom, and Denmark. In these samples, recidivism was defined as charges in half of the samples and as convictions in the other half.<sup>1</sup>

---

<sup>1</sup> Convictions provide a conservative estimate of sexual offending as research has shown that most sexual crimes do not result in charges or convictions, and when protected from prosecution, sexual offenders report they have committed more sexual crimes than they have been caught for. Another important consideration is that risk for reoffence increases as the opportunity time to reoffend increases. Thus, although the new Static-2002 norms provide rates for a maximum of a 10-year period, cumulative risk continues to increase after 10 years.

These recent studies found that there is meaningful variation in the sexual recidivism rates based on factors not measured by Static-2002. Samples that were preselected to be high risk (3 samples) show the highest recidivism rates, and routine samples from the Correctional Service of Canada (CSC; 3 samples) show recidivism rates substantially lower than the original developmental samples. Consequently, in order to evaluate the recidivism risk of Mr. XXX, we need to consider the extent to which he resembles the typical member of the preselected high risk samples or the typical member of the CSC samples. The exact differences between the preselected high risk and CSC samples are not fully known; nevertheless, the following features are worth considering.

### **The CSC Samples**

The Correctional Service of Canada administers sentences of two years or more. The typical member of the CSC samples would have graduated from both specialized sexual offender treatment programs as well as programs addressing other criminogenic needs. During the 1990s, when the offenders in the CSC samples were incarcerated, CSC treatment programs were based on principles that are known to be effective in reducing criminal recidivism (Risk/Need/Responsivity; Andrews & Bonta, 2006). As well, the typical member of the CSC samples would have been supported through a gradual re-integration into the community by parole supervision and human service programming.

### **The Preselected High Risk Samples**

In contrast, most members of the preselected high risk samples included offenders who had been judged by a court or administrative tribunal to be of sufficiently high recidivism risk to warrant exceptional measures (e.g., preventive or indefinite detention, treatment orders, denial of statutory release). The factors considered in making these determinations are not fully known and would vary across samples; however, it would be expected that factors external to Static-2002 were considered (e.g., recent antisocial behaviour, self reported sexual deviancy, resistance to treatment, dynamic risk factors) along with factors already included in Static-2002 (e.g., number of prior sexual offence convictions).

The risk estimates for Static-2002 are determined by logistic regression. This is because logistic regression takes into account the recidivism rate associated with a single score in the context of the overall relationship between Static-2002 and recidivism. This reduces the impact of unreliable, random variations in the observed recidivism rates that are due to fewer subjects within a given subgroup.

The logistic regression estimates of sexual recidivism are “bounded” by the lower rates of recidivism found in the CSC samples and the higher rates found in the preselected high risk samples.

For sexual recidivism, the range of risk for a score of XXXX on Static-2002 is XXXX to XXXX in five years and XXXX to XXXX in ten years.

These recidivism rates, derived from the routine CSC and preselected high risk samples, are empirically based actuarial estimates. Given that the differences between samples are not fully known, evaluators need to use their professional judgement in order to make statements about where in this range the risk of a particular offender is situated.

This judgement should be based on a careful consideration of the features that Mr. XXXX shares with the routine CSC samples and the preselected high risk samples. Determining an offender's



risk within the empirically derived ranges is a separate task from the explicit and empirically derived actuarial estimates presented above.

#### References

Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct* (4<sup>th</sup> ed.). Cincinnati, OH: LexisNexis.

Hanson, R. K., Helmus, L., & Thornton, D. (in press). Predicting recidivism among sexual offenders: A multi-site study of Static-2002. *Law and Human Behavior*.

Hanson, R. K., Lloyd, C. D., Helmus, L., & Thornton, D. (2008). *Using multiple samples to estimate percentile ranks and relative risk ratios for actuarial risk tools: A Canadian example using Static-99 and Static-2002*. Unpublished manuscript.

Hanson, R. K., & Thornton, D. (2003). *Notes on the development of the Static-2002* (User Report No. 2003-01). Ottawa, ON: Solicitor General Canada.



## Appendix VI

### Standard Paragraph for Reporting Static-2002 in Applied Evaluations: Examples

To be read in conjunction with “Standard paragraph for reporting Static-2002 in applied evaluations”

**Note: This example is a shortened version of the full paragraph. Evaluators are encouraged to modify the standard paragraph according to their needs.**

Static-2002 is an instrument designed to assist in the prediction of sexual and violent recidivism for sex offenders. Hanson and Thornton (2003) developed this risk assessment instrument based on follow-up studies from Canada, the United States, and the United Kingdom with a total sample size of 2,169 sexual offenders. Using eight replication samples from four countries (Canada, UK, US, Denmark;  $n = 3,034$ ), Static-2002 demonstrated moderate to large accuracy in the prediction of sexual, violent, and general recidivism (Hanson, Helmus, & Thornton, in press). Static-2002 consists of 14 items and produces estimates of relative risk based upon the number of risk factors present in any one individual. The risk factors included in the risk assessment instrument are grouped into five domains: age, persistence of sex offending, deviant sexual interests, relationship to victims, and general criminality.

Normative data for Static-2002 scores were based on a sample of Canadian sexual offenders ( $n = 2,398$ ) that was re-weighted according to type of sentence (federal prison, provincial prison, and non-custodial) to approximate the real distribution of Canadian sex offenders (Hanson, Lloyd, Helmus, & Thornton, 2008). The norms are presented as percentile ranges, reflecting the estimated percentage of offenders scoring at or below a specified score. In other words percentiles provide a relative ranking. Relative rankings are thought to be most useful in situations where the allocation of limited resources must be made, such as for treatment, community supervision, etc. Absolute degrees of recidivism risk cannot be directly inferred from these relative rankings. The appropriateness of applying the estimated Canadian distribution of Static-2002 scores to sexual offenders in other countries is not yet known.

#### **EXAMPLE – Mr. Hanson with a score of 9**

**On Static-2002, an offender can be placed in one of five risk categories based on their total score (ranging from 0-14): low (0 – 2), low-moderate (3, 4), moderate (5, 6), moderate-high (7, 8) and high (9+). Mr. Hanson scored 9 on the Static-2002. This score places Mr. Hanson in the high risk category. Compared to other adult male sexual offenders in Canada, his score falls into the 94.1 to 98.6 percentile. Factoring in the 95% confidence interval, this range could be as wide as the 93.0 to 99.4 percentile. This percentile range means that 93.0 to 99.4 percent of sex offenders in Canada scored at or below Mr. Hanson’s score. Conversely, 0.6 to 7.0 percent of sex offenders in Canada scored higher.**

**The recidivism rate of sex offenders with the same score as Mr. Hanson would be expected to be 2.7 times higher than the recidivism rate of the typical sexual offender (defined as a median score of 4).**

#### **EXAMPLE – Mr. Thornton with a score of 0**

**On Static-2002, an offender can be placed in one of five risk categories based on their total score (ranging from 0-14): low (0 – 2), low-moderate (3, 4), moderate (5, 6), moderate-high (7, 8) and high (9+). Mr. Thornton scored 0 on the Static-2002. This score places Mr.**

**Thornton in the low risk category. Compared to other adult male sexual offenders in Canada, his score falls into the lowest percentile (zero). Factoring in the 95% confidence interval, this range could be as wide as the zero to 6.1 percentile. This percentile range means that zero to 6.1 percent of sex offenders in Canada scored at or below Mr. Thornton's score. Conversely, 93.9 to 100 percent of sex offenders in Canada scored higher.**

**The recidivism rate of sex offenders with the same score as Mr. Thornton would be expected to be two-fifths of the recidivism rate of the typical sexual offender (defined as a median score of 4).**

There have been several studies examining the sexual recidivism rates associated with Static-2002 scores. Hanson, Helmus, and Thornton (in press) summarized the results of 8 samples of sexual offenders ( $N = 3,034$ ) drawn from Canada, the United States, the United Kingdom, and Denmark. In these samples, recidivism was defined as charges in half of the samples and as convictions in the other half.<sup>1</sup>

These recent studies found that there is meaningful variation in the sexual recidivism rates based on factors not measured by Static-2002. Samples that were preselected to be high risk (3 samples) show the highest recidivism rates, and routine samples from the Correctional Service of Canada (CSC; 3 samples) show recidivism rates substantially lower than the original developmental samples. Consequently, in order to evaluate the recidivism risk of Mr. XXX, we need to consider the extent to which he resembles the typical member of the preselected high risk samples or the typical member of the CSC samples.

The logistic regression estimates of sexual recidivism are “bounded” by the lower rates of recidivism found in the CSC samples and the higher rates found in the preselected high risk samples.

**EXAMPLE – Mr. Hanson with a score of 9**

**For sexual recidivism, the range of risk for a score of 9 on Static-2002 is 19.7% to 32.9% in five years and 23.6% to 40.8% in ten years.**

**EXAMPLE – Mr. Thornton with a score of 0**

**For sexual recidivism the range of risk for a score of 9 on Static-2002 is 1.3% to 6.7% in five years and 1.3% to 11.3% in ten years.**

These recidivism rates, derived from the routine CSC and preselected high risk samples, are empirically based actuarial estimates. Given that the differences between samples are not fully known, evaluators need to use their professional judgement in order to make statements about where in this range the risk of a particular offender is situated.

This judgement should be based on a careful consideration of the features that Mr. XXXX shares with the routine CSC samples and the preselected high risk samples. Determining an offender's

---

<sup>1</sup> Convictions provide a conservative estimate of sexual offending as research has shown that most sexual crimes do not result in charges or convictions, and when protected from prosecution, sexual offenders report they have committed more sexual crimes than they have been caught for. Another important consideration is that risk for reoffence increases as the opportunity time to reoffend increases. Thus, although the new Static-2002 norms provide rates for a maximum of a 10-year period, cumulative risk continues to increase after 10 years.

risk within the empirically derived ranges is a separate task from the explicit and empirically derived actuarial estimates presented above.

#### **EXAMPLE – Mr. Hanson with a score of 9**

**Mr. Hanson has some features similar to the preselected high risk samples and some features similar to the routine CSC samples. Mr. Hanson has already been determined to meet the criteria for civil commitment, which means that at the time of the determination, if valid, he had more risk factors external to Static-2002 than the typical sexual offender. On the other hand, he has participated well in a range of programs that are consistent with contemporary standards (i.e., likely to be effective), and there is no evidence of recent antisocial behavior. Consequently, I believe that Mr. Hanson's recidivism risk at this time should be closer to the rates for the routine CSC samples than the preselected high risk samples.**

#### **EXAMPLE – Mr. Thornton with a score of 0**

**Mr. Thornton is currently serving a federal sentence in the Correctional Service of Canada. Consequently, I believe that Mr. Thornton's recidivism risk at this time should be closer to the rates for the routine CSC samples than the preselected high risk samples. However, should Mr. Thornton display sufficient negative behaviour in the institution (e.g., refusing or resisting treatment, antisocial or aggressive behaviour) or be deemed sufficiently high risk on other factors external to Static-2002 (e.g., dynamic risk factors) that a Detention Order is pursued, then his recidivism risk may be closer to the rates of the preselected high risk samples than the routine CSC samples.**

#### References

- Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct* (4<sup>th</sup> ed.). Cincinnati, OH: LexisNexis.
- Hanson, R. K., Helmus, L., & Thornton, D. (in press). Predicting recidivism among sexual offenders: A multi-site study of Static-2002. *Law and Human Behavior*.
- Hanson, R. K., Lloyd, C. D., Helmus, L., & Thornton, D. (2008). *Using multiple samples to estimate percentile ranks and relative risk ratios for actuarial risk tools: A Canadian example using Static-99 and Static-2002*. Unpublished manuscript.
- Hanson, R. K., & Thornton, D. (2003). *Notes on the development of the Static-2002* (User Report No. 2003-01). Ottawa, ON: Solicitor General Canada.