

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3053

1 (2) "child kidnapping" means

2 (A) a crime under AS 11.41.100(a)(3), or a similar law of
3 another jurisdiction, in which the person committed or attempted to commit
4 kidnapping;

5 (B) a crime under AS 11.41.110(a)(3), or a similar law of
6 another jurisdiction, in which the person committed or attempted to commit
7 kidnapping if the victim was under 18 years of age at the time of the offense;
8 or

9 (C) a crime, or an attempt, solicitation, or conspiracy to commit
10 a crime, under AS 11.41.300, or a similar law of another jurisdiction or a
11 similar provision under a former law of this state, if the victim was under
12 18 years of age at the time of the offense;

13 * Sec. 10. AS 33.16.150(a) is amended to read:

14 (a) As a condition of parole, a prisoner released on special medical,
15 discretionary, or mandatory parole

16 (1) shall obey all state, federal, or local laws or ordinances, and any
17 court orders applicable to the parolee;

18 (2) shall make diligent efforts to maintain steady employment or meet
19 family obligations;

20 (3) shall, if involved in education, counseling, training, or treatment,
21 continue in the program unless granted permission from the parole officer assigned to
22 the parolee to discontinue the program;

23 (4) shall report

24 (A) upon release to the parole officer assigned to the parolee;

25 (B) at other times, and in the manner, prescribed by the board
26 or the parole officer assigned to the parolee;

27 (5) shall reside at a stated place and not change that residence without
28 notifying, and receiving permission from, the parole officer assigned to the parolee;

29 (6) shall remain within stated geographic limits unless written
30 permission to depart from the stated limits is granted the parolee;

31 (7) may not use, possess, handle, purchase, give, distribute, or

1 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
 2 drug for which a prescription is required under state or federal law without a
 3 prescription from a licensed medical professional to the parolee;

4 (8) may not possess or control a firearm; in this paragraph, "firearm"
 5 has the meaning given in AS 11.81.900;

6 (9) may not enter into an agreement or other arrangement with a law
 7 enforcement agency or officer that will place the parolee in the position of violating a
 8 law or parole condition without the prior approval of the board;

9 (10) may not contact or correspond with anyone confined in a
 10 correctional facility of any type serving any term of imprisonment or a felon without
 11 the permission of the parole officer assigned to a parolee;

12 (11) shall agree to waive extradition from any state or territory of the
 13 United States and to not contest efforts to return the parolee to the state;

14 (12) shall provide a blood sample, an oral sample, or both, when
 15 requested by a health care professional acting on behalf of the state to provide the
 16 sample or samples, or an oral sample when requested by a juvenile or adult
 17 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
 18 released after a conviction of an offense requiring the state to collect the sample or
 19 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

20 (13) from a conviction for a sex offense shall submit to regular
 21 periodic polygraph examinations; in this paragraph, "sex offense" has the
 22 meaning given in AS 12.63.100.

23 * Sec. 11. AS 47.17.068 is amended to read:

24 Sec. 47.17.068. **Penalty for failure to report.** A person who fails to comply
 25 with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have
 26 known that the circumstances gave rise to the need for a report, is guilty of a class A
 27 [CLASS B] misdemeanor.

28 * Sec. 12. AS 11.41.438(a)(2) and 11.41.438(a)(3) are repealed.

29 * Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 DIRECTION TO DEPARTMENT OF PUBLIC SAFETY CONCERNING

1 CENTRAL REGISTRY OF SEX OFFENDERS AND CHILD KIDNAPPERS. The
2 Department of Public Safety shall provide on the Internet website that the department
3 maintains for the central registry of sex offenders and child kidnappers information as to how
4 members of the public using the website may access or compile the information relating to
5 sex offenders or child kidnappers for a particular geographic area on a map. The information
6 may direct members to mapping programs available on the Internet and to Internet websites
7 where information contained in the registry has already been converted to a map or
8 geographic format.

9 * Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICABILITY. Sections 1, 2, 4 - 7, 11, and 12 of this Act apply to offenses
12 committed on or after the effective date of this section. References to prior offenses or
13 convictions in secs. 4 and 6 of this Act include offenses committed before, on, or after the
14 effective date of this section. Sections 3 and 10 of this Act apply to persons on probation or
15 parole for offenses committed before, on, or after the effective date of this Act.

16 * Sec. 15. Sections 3 and 10 of this Act take effect July 1, 2007.

17 * Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect immediately under
18 AS 01.10.070(c).

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Adopted 2/9/06

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS1307P
Luckhaupt
2/2/06

CS FOR SENATE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS BUNDE, Guess, Dyson, Elton, Kookesh, Green, Olson, Hoffman

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to sex offenders and child kidnappers; relating to reporting of sex
2 offenders and child kidnappers; relating to periodic polygraph examinations for sex
3 offenders released on probation or parole; relating to sexual abuse of a minor; relating
4 to the definitions of 'aggravated sex offense' and 'child kidnapping'; relating to penalties
5 for failure to report child abuse or neglect; relating to sentencing for sex offenders and
6 habitual criminals; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 11.41.436(a) is amended to read:

9 (a) An offender commits the crime of sexual abuse of a minor in the second
10 degree if,

11 (1) being 16 years of age or older, the offender engages in sexual
12 penetration with a person who is 13, 14, or 15 years of age and at least three years
13 younger than the offender, or aids, induces, causes, or encourages a person who is 13,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2) - (6); [OR]

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim;

(6) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim; or

(7) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

* Sec. 2. AS 11.56 is amended by adding a new section to read:

Sec. 11.56.767. Failure to report sex offender or child kidnapper. (a) A person commits the crime of failure to report a sex offender or child kidnapper if the person

(1) recklessly disregards the fact that a sex offender or child kidnapper has not complied with the requirements of AS 11.56.840; and

1 (2) knowingly fails to report the location of that sex offender or child
2 kidnapper to the Department of Public Safety.

3 (b) In a prosecution under (a) of this section, it is a defense that the defendant
4 was a licensed attorney and there existed, at the time of the offense, a bona fide
5 attorney-client relationship between the attorney and the sex offender or child
6 kidnapper.

7 (c) Failure to report a sex offender or child kidnapper is a class A
8 misdemeanor.

9 * Sec. 3. AS 12.55.100 is amended by adding a new subsection to read:

10 (e) While on probation and as a condition of probation for a sex offense, the
11 defendant shall be required to submit to regular periodic polygraph examinations. In
12 this subsection, "sex offense" has the meaning given in AS 12.63.100.

13 * Sec. 4. AS 12.55.125(i) is amended to read:

14 (i) A defendant convicted of

15 (1) sexual assault in the first degree or sexual abuse of a minor in the
16 first degree may be sentenced to a definite term of imprisonment of not more than 99
17 years and shall be sentenced to a definite term within the following presumptive
18 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

19 (A) if the offense is a first felony conviction, AND does not
20 involve circumstances described in (B) of this paragraph, and the victim was

21 (i) less than 13 years of age, 25 to 30 years;

22 (ii) 13 years of age or older, 20 to 30 [EIGHT TO 12]

23 years;

24 (B) if the offense is a first felony conviction and the defendant
25 possessed a firearm, used a dangerous instrument, or caused serious physical
26 injury during the commission of the offense, 25 to 35 [12 TO 16] years;

27 (C) if the offense is a second felony conviction and does not
28 involve circumstances described in (D) of this paragraph, 30 to 40 [15 TO 20]
29 years;

30 (D) if the offense is a second felony conviction and the
31 defendant has a prior conviction for a sexual felony, 35 to 45 [20 TO 30]

1 years;

2 (E) if the offense is a third felony conviction and the defendant
3 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
4 to 60 [25 TO 35] years;

5 (F) if the offense is a third felony conviction, the defendant is
6 not subject to sentencing under (I) of this section, and the defendant has two
7 prior convictions for sexual felonies, 99 [30 TO 40] years;

8 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
9 first degree or sexual abuse of a minor in the first degree may be sentenced to a
10 definite term of imprisonment of not more than 99 [30] years and shall be sentenced to
11 a definite term within the following presumptive ranges, subject to adjustment as
12 provided in AS 12.55.155 - 12.55.175:

13 (A) if the offense is a first felony conviction, [AND] does not
14 involve circumstances described in (B) of this paragraph, and the victim was

15 (i) under 13 years of age, 20 to 25 years;

16 (ii) 13 years of age or older, 15 to 25 [FIVE TO
17 EIGHT] years;

18 (B) if the offense is a first felony conviction, and the defendant
19 possessed a firearm, used a dangerous instrument, or caused serious physical
20 injury during the commission of the offense, 25 to 35 [10 TO 14] years;

21 (C) if the offense is a second felony conviction and does not
22 involve circumstances described in (D) of this paragraph, 25 to 35 [12 TO 16]
23 years;

24 (D) if the offense is a second felony conviction and the
25 defendant has a prior conviction for a sexual felony, 30 to 40 [15 TO 20]
26 years;

27 (E) if the offense is a third felony conviction, does not involve
28 circumstances described in (F) of this paragraph, and the defendant is not
29 subject to sentencing under (I) of this section, 35 to 50 [15 TO 25] years;

30 (F) if the offense is a third felony conviction, the defendant is
31 not subject to sentencing under (I) of this section, and the defendant has two

1 prior convictions for sexual felonies, 99 [20 TO 30] years;

2 (3) sexual assault in the second degree, sexual abuse of a minor in the
3 second degree, unlawful exploitation of a minor, or distribution of child pornography
4 may be sentenced to a definite term of imprisonment of not more than 99 [20] years
5 and shall be sentenced to a definite term within the following presumptive ranges,
6 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

7 (A) if the offense is a first felony conviction, five to 15 [TWO
8 TO FOUR] years;

9 (B) if the offense is a second felony conviction and does not
10 involve circumstances described in (C) of this paragraph, 10 to 25 [FIVE TO
11 EIGHT] years;

12 (C) if the offense is a second felony conviction and the
13 defendant has a prior conviction for a sexual felony, 15 to 30 [10 TO 14]
14 years;

15 (D) if the offense is a third felony conviction and does not
16 involve circumstances described in (E) of this paragraph, 20 to 35 [10 TO 14]
17 years;

18 (E) if the offense is a third felony conviction and the defendant
19 has two prior convictions for sexual felonies, 99 [15 TO 20] years;

20 (4) sexual assault in the third degree, incest, indecent exposure in the
21 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
22 commit sexual assault in the second degree, sexual abuse of a minor in the second
23 degree, unlawful exploitation of a minor, or distribution of child pornography, may be
24 sentenced to a definite term of imprisonment of not more than 99 [10] years and shall
25 be sentenced to a definite term within the following presumptive ranges, subject to
26 adjustment as provided in AS 12.55.155 - 12.55.175:

27 (A) if the offense is a first felony conviction, three to 12 [ONE
28 TO TWO] years;

29 (B) if the offense is a second felony conviction and does not
30 involve circumstances described in (C) of this paragraph, eight to 15 [TWO
31 TO FIVE] years;

1 (C) if the offense is a second felony conviction and the
2 defendant has a prior conviction for a sexual felony, 12 to 20 [THREE TO
3 SIX] years;

4 (D) if the offense is a third felony conviction and does not
5 involve circumstances described in (E) of this paragraph, 15 to 25 [THREE TO
6 SIX] years;

7 (E) if the offense is a third felony conviction and the defendant
8 has two prior convictions for sexual felonies, 99 [SIX TO 10] years.

9 * Sec. 5. AS 12.55.125(j) is amended to read:

10 (j) A defendant sentenced to a (1) mandatory term of imprisonment of 99
11 years under (a) of this section may apply once for a modification or reduction of
12 sentence under the Alaska Rules of Criminal Procedure after serving one-half of the
13 mandatory term without consideration of good time earned under AS 33.20.010, or (2)
14 definite term of imprisonment under (l) of this section may apply once for a
15 modification or reduction of sentence under the Alaska Rules of Criminal Procedure
16 after serving [THE GREATER OF (A)] one-half of the definite term [OR (B) 30
17 YEARS]. A defendant may not file and a court may not entertain more than one
18 motion for modification or reduction of a sentence subject to this subsection,
19 regardless of whether or not the court granted or denied a previous motion.

20 * Sec. 6. AS 12.55.125(l) is amended to read:

21 (l) Notwithstanding any other provision of law, a defendant convicted of an
22 unclassified or class A felony offense, and not subject to a mandatory 99-year
23 sentence under (a) of this section, shall be sentenced to a definite term of
24 imprisonment of [AT LEAST 40 YEARS BUT NOT MORE THAN] 99 years when
25 the defendant has been previously convicted of two or more most serious felonies
26 [AND THE PROSECUTING ATTORNEY HAS FILED A NOTICE OF INTENT TO
27 SEEK A DEFINITE SENTENCE UNDER THIS SUBSECTION AT THE TIME
28 THE DEFENDANT WAS ARRAIGNED IN SUPERIOR COURT]. If a defendant is
29 sentenced to a definite term under this subsection,

30 (1) imprisonment for the prescribed definite term may not be
31 suspended under AS 12.55.080;

1 (2) imposition of sentence may not be suspended under AS 12.55.085;

2 (3) imprisonment for the prescribed definite term may not be reduced,

3 except as provided in (j) of this section.

4 * Sec. 7. AS 12.55.125 is amended by adding a new subsection to read:

5 (o) In addition to the sentence imposed under (i) of this section on a defendant
6 convicted of a sexual offense, the court shall impose a period of probation of (1) 15
7 years if the defendant was convicted of an unclassified felony, (2) 10 years if the
8 defendant was convicted of a class A or class B felony, or (3) five years if the
9 defendant was convicted of a class C felony. The period of probation is in addition to
10 any sentence received under (i) of this section and may not be suspended or reduced.
11 Upon a defendant's release from confinement in a correctional facility, the defendant
12 is subject to this probation requirement and shall submit and comply with the terms
13 and requirements of the probation.

14 * Sec. 8. AS 12.63.100(1) is amended to read:

15 (1) "aggravated sex offense" means

16 (A) a crime under AS 11.41.100(a)(3), or a similar law of
17 another jurisdiction, in which the person committed or attempted to commit a
18 sexual offense, or a similar offense under the laws of the other jurisdiction; in
19 this subparagraph, "sexual offense" has the meaning given in
20 AS 11.41.100(a)(3);

21 (B) a crime under AS 11.41.110(a)(3), or a similar law of
22 another jurisdiction, in which the person committed or attempted to commit
23 one of the following crimes, or a similar law of another jurisdiction:

24 (i) sexual assault in the first degree;

25 (ii) sexual assault in the second degree;

26 (iii) sexual abuse of a minor in the first degree; or

27 (iv) sexual abuse of a minor in the second degree; or

28 (C) a crime, or an attempt, solicitation, or conspiracy to commit
29 a crime, under AS 11.41.410, 11.41.434, or a similar law of another
30 jurisdiction or a similar provision under a former law of this state.

31 * Sec. 9. AS 12.63.100(2) is amended to read:

1 (2) "child kidnapping" means

2 (A) a crime under AS 11.41.100(a)(3), or a similar law of
3 another jurisdiction, in which the person committed or attempted to commit
4 kidnapping;

5 (B) a crime under AS 11.41.110(a)(3), or a similar law of
6 another jurisdiction, in which the person committed or attempted to commit
7 kidnapping if the victim was under 18 years of age at the time of the offense;
8 or

9 (C) a crime, or an attempt, solicitation, or conspiracy to commit
10 a crime, under AS 11.41.300, or a similar law of another jurisdiction or a
11 similar provision under a former law of this state, if the victim was under
12 18 years of age at the time of the offense;

13 * Sec. 10. AS 33.16.150(a) is amended to read:

14 (a) As a condition of parole, a prisoner released on special medical,
15 discretionary, or mandatory parole

16 (1) shall obey all state, federal, or local laws or ordinances, and any
17 court orders applicable to the parolee;

18 (2) shall make diligent efforts to maintain steady employment or meet
19 family obligations;

20 (3) shall, if involved in education, counseling, training, or treatment,
21 continue in the program unless granted permission from the parole officer assigned to
22 the parolee to discontinue the program;

23 (4) shall report

24 (A) upon release to the parole officer assigned to the parolee;

25 (B) at other times, and in the manner, prescribed by the board
26 or the parole officer assigned to the parolee;

27 (5) shall reside at a stated place and not change that residence without
28 notifying, and receiving permission from, the parole officer assigned to the parolee;

29 (6) shall remain within stated geographic limits unless written
30 permission to depart from the stated limits is granted the parolee;

31 (7) may not use, possess, handle, purchase, give, distribute, or

1 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
 2 drug for which a prescription is required under state or federal law without a
 3 prescription from a licensed medical professional to the parolee;

4 (8) may not possess or control a firearm; in this paragraph, "firearm"
 5 has the meaning given in AS 11.81.900;

6 (9) may not enter into an agreement or other arrangement with a law
 7 enforcement agency or officer that will place the parolee in the position of violating a
 8 law or parole condition without the prior approval of the board;

9 (10) may not contact or correspond with anyone confined in a
 10 correctional facility of any type serving any term of imprisonment or a felon without
 11 the permission of the parole officer assigned to a parolee;

12 (11) shall agree to waive extradition from any state or territory of the
 13 United States and to not contest efforts to return the parolee to the state;

14 (12) shall provide a blood sample, an oral sample, or both, when
 15 requested by a health care professional acting on behalf of the state to provide the
 16 sample or samples, or an oral sample when requested by a juvenile or adult
 17 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
 18 released after a conviction of an offense requiring the state to collect the sample or
 19 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

20 (13) from a conviction for a sex offense shall submit to regular
 21 periodic polygraph examinations; in this paragraph, "sex offense" has the
 22 meaning given in AS 12.63.100.

23 * Sec. 11. AS 47.17.068 is amended to read:

24 **Sec. 47.17.068. Penalty for failure to report.** A person who fails to comply
 25 with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have
 26 known that the circumstances gave rise to the need for a report, is guilty of a class A
 27 [CLASS B] misdemeanor.

28 * Sec. 12. AS 11.41.438(a)(2) and 11.41.438(a)(3) are repealed.

29 * Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 DIRECTION TO DEPARTMENT OF PUBLIC SAFETY CONCERNING

1 CENTRAL REGISTRY OF SEX OFFENDERS AND CHILD KIDNAPPERS. The
2 Department of Public Safety shall provide on the Internet website that the department
3 maintains for the central registry of sex offenders and child kidnappers information as to how
4 members of the public using the website may access or compile the information relating to
5 sex offenders or child kidnappers for a particular geographic area on a map. The information
6 may direct members to mapping programs available on the Internet and to Internet websites
7 where information contained in the registry has already been converted to a map or
8 geographic format.

9 * Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICABILITY. Sections 1, 2, 4 - 7, 11, and 12 of this Act apply to offenses
12 committed on or after the effective date of this section. References to prior offenses or
13 convictions in secs. 4 and 6 of this Act include offenses committed before, on, or after the
14 effective date of this section. Sections 3 and 10 of this Act apply to persons on probation or
15 parole for offenses committed before, on, or after the effective date of this Act.

16 * Sec. 15. Sections 3 and 10 of this Act take effect July 1, 2007.

17 * Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect immediately under
18 AS 01.10.070(c).

ADOPTED 2/2/06

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS1307X
Lu' hupt
2/1/06

CS FOR SENATE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS BUNDE, Guess, Dyson, Elton, Kekesh, Green, Olson, Hoffman

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to sex offenders and child kidnappers; relating to reporting of sex
2 offenders and child kidnappers; relating to periodic polygraph examinations for sex
3 offenders released on probation or parole; relating to sexual abuse of a minor; relating
4 to penalties for failure to report child abuse or neglect; relating to sentencing for sex
5 offenders and habitual criminals; and providing for an effective date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 * Section 1. AS 11.41.436(a) is amended to read:

8 (a) An offender commits the crime of sexual abuse of a minor in the second
9 degree if,

10 (1) being 16 years of age or older, the offender engages in sexual
11 penetration with a person who is 13, 14, or 15 years of age and at least three years
12 younger than the offender, or aids, induces, causes, or encourages a person who is 13,
13 14, or 15 years of age and at least three years younger than the offender to engage in

sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2) - (6); [OR]

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim;

(6) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim: or

(7) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

* Sec. 2. AS 11.56 is amended by adding a new section to read:

Sec. 11.56.767. Failure to report sex offender or child kidnapper. (a) A person commits the crime of failure to report a sex offender or child kidnapper if the person

(1) recklessly disregards the fact that a sex offender or child kidnapper has not complied with the requirements of AS 11.56.840; and

(2) knowingly fails to report the location of that sex offender or child

1 kidnapper to the Department of Public Safety.

2 (b) Failure to report a sex offender or child kidnapper is a class A
3 misdemeanor.

4 * Sec. 3. AS 12.55.100 is amended by adding a new subsection to read:

5 (e) While on probation and as a condition of probation for a sex offense, the
6 defendant shall be required to submit to regular periodic polygraph examinations. In
7 this subsection, "sex offense" has the meaning given in AS 12.63.100.

8 * Sec. 4. AS 12.55.125(i) is amended to read:

9 (i) A defendant convicted of

10 (1) sexual assault in the first degree or sexual abuse of a minor in the
11 first degree may be sentenced to a definite term of imprisonment of not more than 99
12 years and shall be sentenced to a definite term within the following presumptive
13 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, ~~[AND]~~ does not
15 involve circumstances described in (B) of this paragraph, and the victim was

16 (i) less than 13 years of age, 25 to 30 years;

17 (ii) 13 years of age or older, 20 to 30 [EIGHT TO 12]

18 years;

19 (B) if the offense is a first felony conviction and the defendant
20 possessed a firearm, used a dangerous instrument, or caused serious physical
21 injury during the commission of the offense, 25 to 35 [12 TO 16] years;

22 (C) if the offense is a second felony conviction and does not
23 involve circumstances described in (D) of this paragraph, 30 to 40 [15 TO 20]
24 years;

25 (D) if the offense is a second felony conviction and the
26 defendant has a prior conviction for a sexual felony, 35 to 45 [20 TO 30]
27 years;

28 (E) if the offense is a third felony conviction and the defendant
29 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
30 to 60 [25 TO 35] years;

31 (F) if the offense is a third felony conviction, the defendant is

1 not subject to sentencing under (I) of this section, and the defendant has two
2 prior convictions for sexual felonies, 99 [30 TO 40] years;

3 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
4 first degree or sexual abuse of a minor in the first degree may be sentenced to a
5 definite term of imprisonment of not more than 99 [30] years and shall be sentenced to
6 a definite term within the following presumptive ranges, subject to adjustment as
7 provided in AS 12.55.155 - 12.55.175:

8 (A) if the offense is a first felony conviction, [AND] does not
9 involve circumstances described in (B) of this paragraph, and the victim was

10 (i) under 13 years of age, 20 to 25 years;

11 (ii) 13 years of age or older, 15 to 25 [FIVE TO
12 EIGHT] years;

13 (B) if the offense is a first felony conviction, and the defendant
14 possessed a firearm, used a dangerous instrument, or caused serious physical
15 injury during the commission of the offense, 25 to 35 [10 TO 14] years;

16 (C) if the offense is a second felony conviction and does not
17 involve circumstances described in (D) of this paragraph, 25 to 35 [12 TO 16]
18 years;

19 (D) if the offense is a second felony conviction and the
20 defendant has a prior conviction for a sexual felony, 30 to 40 [15 TO 20]
21 years;

22 (E) if the offense is a third felony conviction, does not involve
23 circumstances described in (F) of this paragraph, and the defendant is not
24 subject to sentencing under (I) of this section, 35 to 50 [15 TO 25] years;

25 (F) if the offense is a third felony conviction, the defendant is
26 not subject to sentencing under (I) of this section, and the defendant has two
27 prior convictions for sexual felonies, 99 [20 TO 30] years;

28 (3) sexual assault in the second degree, sexual abuse of a minor in the
29 second degree, unlawful exploitation of a minor, or distribution of child pornography
30 may be sentenced to a definite term of imprisonment of not more than 99 [20] years
31 and shall be sentenced to a definite term within the following presumptive ranges,

1 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

2 (A) if the offense is a first felony conviction, five to 15 [TWO
3 TO FOUR] years;

4 (B) if the offense is a second felony conviction and does not
5 involve circumstances described in (C) of this paragraph, 10 to 25 [FIVE TO
6 EIGHT] years;

7 (C) if the offense is a second felony conviction and the
8 defendant has a prior conviction for a sexual felony, 15 to 30 [10 TO 14]
9 years;

10 (D) if the offense is a third felony conviction and does not
11 involve circumstances described in (E) of this paragraph, 20 to 35 [10 TO 14]
12 years;

13 (E) if the offense is a third felony conviction and the defendant
14 has two prior convictions for sexual felonies, 99 [15 TO 20] years;

15 (4) sexual assault in the third degree, incest, indecent exposure in the
16 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
17 commit sexual assault in the second degree, sexual abuse of a minor in the second
18 degree, unlawful exploitation of a minor, or distribution of child pornography, may be
19 sentenced to a definite term of imprisonment of not more than 99 [10] years and shall
20 be sentenced to a definite term within the following presumptive ranges, subject to
21 adjustment as provided in AS 12.55.155 - 12.55.175:

22 (A) if the offense is a first felony conviction, three to 12 [ONE
23 TO TWO] years;

24 (B) if the offense is a second felony conviction and does not
25 involve circumstances described in (C) of this paragraph, eight to 15 [TWO
26 TO FIVE] years;

27 (C) if the offense is a second felony conviction and the
28 defendant has a prior conviction for a sexual felony, 12 to 20 [THREE TO
29 SIX] years;

30 (D) if the offense is a third felony conviction and does not
31 involve circumstances described in (E) of this paragraph, 15 to 25 [THREE TO

1 SIX] years;

2 (E) if the offense is a third felony conviction and the defendant
3 has two prior convictions for sexual felonies, 99 [SIX TO 10] years.

4 * Sec. 5. AS 12.55.125(j) is amended to read:

5 (j) A defendant sentenced to a (1) mandatory term of imprisonment of 99
6 years under (a) of this section may apply once for a modification or reduction of
7 sentence under the Alaska Rules of Criminal Procedure after serving one-half of the
8 mandatory term without consideration of good time earned under AS 33.20.010, or (2)
9 definite term of imprisonment under (l) of this section may apply once for a
10 modification or reduction of sentence under the Alaska Rules of Criminal Procedure
11 after serving [THE GREATER OF (A)] one-half of the definite term [OR (B) 30
12 YEARS]. A defendant may not file and a court may not entertain more than one
13 motion for modification or reduction of a sentence subject to this subsection,
14 regardless of whether or not the court granted or denied a previous motion.

15 * Sec. 6. AS 12.55.125(l) is amended to read:

16 (l) Notwithstanding any other provision of law, a defendant convicted of an
17 unclassified or class A felony offense, and not subject to a mandatory 99-year
18 sentence under (a) of this section, shall be sentenced to a definite term of
19 imprisonment of [AT LEAST 40 YEARS BUT NOT MORE THAN] 99 years when
20 the defendant has been previously convicted of two or more most serious felonies
21 [AND THE PROSECUTING ATTORNEY HAS FILED A NOTICE OF INTENT TO
22 SEEK A DEFINITE SENTENCE UNDER THIS SUBSECTION AT THE TIME
23 THE DEFENDANT WAS ARRAIGNED IN SUPERIOR COURT]. If a defendant is
24 sentenced to a definite term under this subsection,

25 (1) imprisonment for the prescribed definite term may not be
26 suspended under AS 12.55.080;

27 (2) imposition of sentence may not be suspended under AS 12.55.085;

28 (3) imprisonment for the prescribed definite term may not be reduced,
29 except as provided in (i) of this section.

30 * Sec. 7. AS 12.55.125 is amended by adding a new subsection to read:

31 (o) In addition to the sentence imposed under (l) of this section on a defendant

1 convicted of a sexual offense, the court shall impose a period of probation of (1) 15
2 years if the defendant was convicted of an unclassified felony, (2) 10 years if the
3 defendant was convicted of a class A or class B felony, or (3) five years if the
4 defendant was convicted of a class C felony. The period of probation is in addition to
5 any sentence received under (i) of this section and may not be suspended or reduced.
6 Upon a defendant's release from confinement in a correctional facility, the defendant
7 is subject to this probation requirement and shall submit and comply with the terms
8 and requirements of the probation.

9 * Sec. 8. AS 33.16.150(a) is amended to read:

10 (a) As a condition of parole, a prisoner released on special medical,
11 discretionary, or mandatory parole

12 (1) shall obey all state, federal, or local laws or ordinances, and any
13 court orders applicable to the parolee;

14 (2) shall make diligent efforts to maintain steady employment or meet
15 family obligations;

16 (3) shall, if involved in education, counseling, training, or treatment,
17 continue in the program unless granted permission from the parole officer assigned to
18 the parolee to discontinue the program;

19 (4) shall report

20 (A) upon release to the parole officer assigned to the parolee;

21 (B) at other times, and in the manner, prescribed by the board
22 or the parole officer assigned to the parolee;

23 (5) shall reside at a stated place and not change that residence without
24 notifying, and receiving permission from, the parole officer assigned to the parolee;

25 (6) shall remain within stated geographic limits unless written
26 permission to depart from the stated limits is granted the parolee;

27 (7) may not use, possess, handle, purchase, give, distribute, or
28 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
29 drug for which a prescription is required under state or federal law without a
30 prescription from a licensed medical professional to the parolee;

31 (8) may not possess or control a firearm; in this paragraph, "firearm"

1 has the meaning given in AS 11.81.900;

2 (9) may not enter into an agreement or other arrangement with a law
3 enforcement agency or officer that will place the parolee in the position of violating a
4 law or parole condition without the prior approval of the board;

5 (10) may not contact or correspond with anyone confined in a
6 correctional facility of any type serving any term of imprisonment or a felon without
7 the permission of the parole officer assigned to a parolee;

8 (11) shall agree to waive extradition from any state or territory of the
9 United States and to not contest efforts to return the parolee to the state;

10 (12) shall provide a blood sample, an oral sample, or both, when
11 requested by a health care professional acting on behalf of the state to provide the
12 sample or samples, or an oral sample when requested by a juvenile or adult
13 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
14 released after a conviction of an offense requiring the state to collect the sample or
15 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

16 (13) from a conviction for a sex offense shall submit to regular
17 periodic polygraph examinations; in this paragraph, "sex offense" has the
18 meaning given in AS 12.63.100.

19 * Sec. 9. AS 47.17.068 is amended to read:

20 **Sec. 47.17.068. Penalty for failure to report.** A person who fails to comply
21 with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have
22 known that the circumstances gave rise to the need for a report, is guilty of a class A
23 [CLASS B] misdemeanor.

24 * Sec. 10. AS 11.41.438(a)(2) and 11.41.438(a)(3) are repealed.

25 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **DIRECTION TO DEPARTMENT OF PUBLIC SAFETY CONCERNING**
28 **CENTRAL REGISTRY OF SEX OFFENDERS AND CHILD KIDNAPPERS.** The
29 Department of Public Safety shall provide on the Internet website that the department
30 maintains for the central registry of sex offenders and child kidnappers information as to how
31 members of the public using the website may access or compile the information relating to

1 sex offenders or child kidnappers for a particular geographic area on a map. The information
2 may direct members to mapping programs available on the Internet and to Internet websites
3 where information contained in the registry has already been converted to a map or
4 geographic format.

5 * Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. Sections 1, 2, 4 - 7, 9, and 10 of this Act apply to offenses
8 committed on or after the effective date of this section. References to prior offenses or
9 convictions in secs. 4 and 6 of this Act include offenses committed before, on, or after the
10 effective date of this section.

11 * Sec. 13. Sections 3 and 8 of this Act take effect July 1, 2007.

12 * Sec. 14. Except as provided in sec. 13 of this Act, this Act takes effect immediately under
13 AS 01.10.070(c).



Alaska State Legislature
Senator Con Bunde
Senate District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee

Sponsor Statement for SB 218

"An Act relating to periodic polygraph examinations for sex offenders released on probation or parole and to sentencing for sex offenders and habitual criminals."

Senate Bill 218 increases sentencing times for the most egregious Unclassified and Class A sexual felonies to a minimum sentence of 25 years. It also restructures and increases the sentencing for Class B and Class C sexual offences. SB 218 requires periodic polygraph testing for sex offenders on probation and implements needed changes in sex offender registering and reporting. This bill is necessary not only to ensure Alaska is part of the national effort to curb sexual abuse and violence against children, but also to combat our ever-increasing sexual assault rates in this state.

According to the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR), *Alaska has the highest per capita rate of reported rapes* ("rapes" in this case refer to child sexual abuse as well as adult assaults). We have held that title for 20 out of the last 27 years (UCR). Alaska's per capita rape rate is nearly 71% greater than that of the next highest state.

To date, we have 4300 registered sex offenders in our Alaskan communities. However, sexual abuse reporting rates are low (16% of victims report the assault, *Kilpatrick Rape in America Report*, 1992) and arrest rates are also low (27% of reported sex crimes result in an arrest, Snyder, 2000). Thus, the number of sex offenders in Alaska is most likely significantly higher than 4300 individuals.

While there is no record of any sex offender treatment or therapy having significant effects on recidivism rates (SOTEP Report, 1995), there are steps we can take in this state to reduce sexual abuse and assault. Longer sentences work. By ensuring that the most dangerous offenders are kept away from our children, sexual assault numbers will eventually go down. Regular polygraph testing for all sexual offenders has also been proven to have an effect on sexual behavior. Supervision of sex offenders with polygraph tests led to a 69% compliance with probation requirements, while supervision without polygraph tests led to a 26% compliance rate (Abrams and Ogard, 1986). Requiring a probation period as part of a sentence, along with mandating regular polygraph tests will make our State safer.

This legislation is imperative to changing our position as the number one state in the nation for sexual assault and sexual abuse and providing a safer place for our residents. I urge your support.

| | First Felony | First Felony (special crimes) | Second Felony | Sex Felony with a prior sex felony | Third+ Felony | Sex Felony with two prior sex felonies | Max |
|---|---|---|-------------------------------|---------------------------------------|-------------------------------|---|-------------------|
| Unclassified Sex Offense | (8 to 12) v< 13: 25 to 30 v>13: 20 to 30 | weapon or serious injury (12 to 6) 25 to 30 | (15 to 20) 30 to 40 | (20 to 30) 35 to 45 | (5 to 35) 40 to 60 | (30 to 40) 99 | 99 |
| A Felony Sex Offense | (5 to 8) v<13: 20 to 25 v>13: 15 to 25 | weapon or serious injury (10 to 14) 25 to 35 | (12 to 16) 25 to 35 | (15 to 20) 30 to 40 | (15 to 25) 35 to 50 | (20 to 30) 99 | (30) 99 |
| B Felony Sex Offense | (2 to 4) 10 to 15 | n/a | (5 to 8) 10 to 25 | (10 to 14) 15 to 30 | (10 to 14) 20 to 35 | (15 to 20) 99 | (20) 99 |
| C Felony Sex Offense | (1 to 2) 3 to 12 | n/a | (2 to 5) 8 to 15 | (3 to 6) 12 to 20 | (3 to 6) 15 to 25 | (6 to 10) 99 | (10) 99 |
| Numbers in parentheses are the current presumptive ranges and maximums Numbers in bold show the new presumptive ranges and new maximums | | | | | | | |

Definitions

Sexual contact means knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast. Sexual contact does not include the following: 1) acts that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; 2) acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated; or 3) acts that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services. (AS 11.81.900 (58))

Sexual penetration means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body. Each party to any of the acts described in this subparagraph is considered to be engaged in sexual penetration. Sexual penetration does not include the following: 1) acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical health of the person being treated; or 2) acts that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services. (AS 11.81.900 (59))

Position of authority means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor. (AS 11.41.470)

Sexual act means sexual penetration or sexual contact. (AS 11.41.470)

Mentally incapable means suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person. (AS 11.41.470)

Incapacitated means temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act. (AS 11.41.470)

Sec. 11.41.434. Sexual abuse of a minor in the first degree.

(a) An offender commits the crime of sexual abuse of a minor in the first degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or

(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.436. Sexual abuse of a minor in the second degree.

(a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455

(a)(2) - (6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is a class B felony.

Sec. 11.41.438. Sexual abuse of a minor in the third degree.

(a) An offender commits the crime of sexual abuse of a minor in the third degree if

(1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim; or

(3) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

(b) Sexual abuse of a minor in the third degree is a class C felony.

Sec. 11.41.440. Sexual abuse of a minor in the fourth degree.

(a) An offender commits the crime of sexual abuse of a minor in the fourth degree if

(1) being under 16 years of age, the offender engages in sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

Sec. 11.41.410. Sexual assault in the first degree.

(a) An offender commits the crime of sexual assault in the first degree if

(1) the offender engages in sexual penetration with another person without consent of that person;

(2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

(3) the offender engages in sexual penetration with another person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state; or

(4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.420. Sexual assault in the second degree.

(a) An offender commits the crime of sexual assault in the second degree if

(1) the offender engages in sexual contact with another person without consent of that person;

(2) the offender engages in sexual contact with a person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state;

(3) the offender engages in sexual penetration with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed; or

(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the second degree is a class B felony.

Sec. 11.41.425. Sexual assault in the third degree.

(a) An offender commits the crime of sexual assault in the third degree if the offender

(1) engages in sexual contact with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed;

(2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the third degree is a class C felony.

Sec. 11.41.427. Sexual assault in the fourth degree.

(a) An offender commits the crime of sexual assault in the fourth degree if

(1) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the fourth degree is a class A misdemeanor.

Sec. 11.41.430. Sexual assault in the third degree [Repealed, Sec. 10 ch 78 SLA 1983. For current law, see AS 11.41.420 (a)(2)].

Repealed or Renumbered

Sec. 11.41.432. Defenses.

(a) It is a defense to a crime charged under AS 11.41.410 (a)(3), 11.41.420(a)(2), 11.41.420(a)(3), or 11.41.425 that the offender is

(1) mentally incapable; or

(2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

(b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

Forcible Rapes in Western States, 2003

| State | Population | Forcible Rapes | Rapes per 100,000 Inhabitants |
|-------------------|------------|----------------|-------------------------------|
| Alaska | 648,818 | 600 | 92.5 |
| New Mexico | 1,874,614 | 937 | 50.0 |
| Washington | 6,131,445 | 2,864 | 46.7 |
| Colorado | 4,550,688 | 1,893 | 41.6 |
| Nevada | 2,241,154 | 874 | 39.0 |
| Utah | 2,351,467 | 892 | 37.9 |
| Idaho | 1,366,332 | 508 | 37.2 |
| Oregon | 3,559,596 | 1,216 | 34.2 |
| Arizona | 5,580,811 | 1,856 | 33.3 |
| Hawaii | 1,257,608 | 367 | 29.2 |
| California | 35,484,453 | 9,994 | 28.2 |
| Montana | 917,621 | 246 | 26.8 |

Source: Federal Bureau of Investigation, *Uniform Crime Report*, Table 5: "Crime in the United States, by State, 2003;" available online at www.fbi.gov/ucr/03cius.htm.



Forcible Rapes  Increased 21.7%

**Reported rapes in Alaska
increased 21.7% from 2000 to
2003**

Although greatly underreported, there were 521 reported forcible rapes and 54 reported attempted rapes in 2003.

There are approximately 4300 registered sex offenders in Alaska communities.

Only 16% of victims
in the
Rape in America
study reported
the rape.

Kilpatrick, et al., 1992. Medical University of South Carolina.
N=4008 *Rape in America: A Report to the Nation.*

Arrest Rates are Low

27% of reported
sex crimes resulted
in an arrest

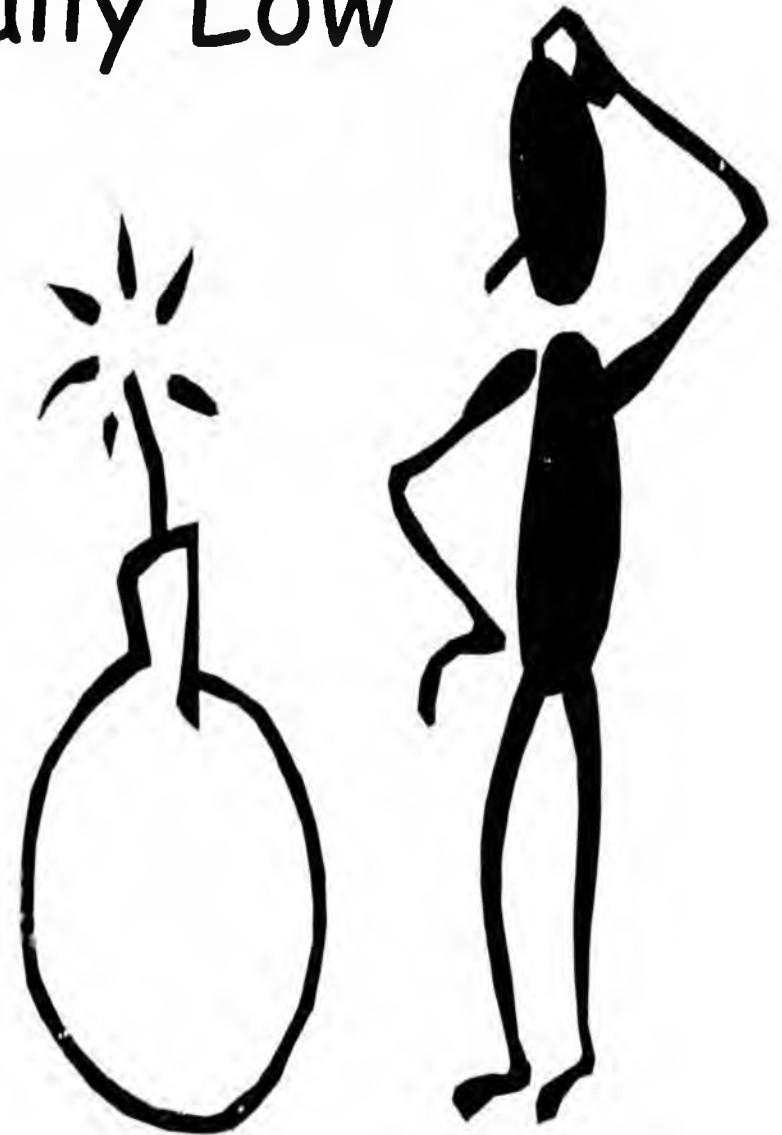


NIBRS 1991-1996, Snyder, 2000

In Colorado, between 1994-98, 54%-70% of those charged with a felony sex crime were convicted of a sex crime.

Sex Offender Recidivism Rates: Artificially Low

- Incest: 4-10%
- Rapists: 7-35%
- Child Molesters with female victims: 10-29%
- Child Molesters with male victims: 13-40%
- Exhibitionists: 41-71%



Crossover Admissions Pre & Post Polygraph N = 223

(Heil, Ahlmeyer, Simon, 2003)

| Type of Crossover | Official records | Admissions after Treatment and polygraph testing |
|---|------------------|--|
| Both Adult & Child Victims | 7.2% | 70.0% |
| Both Male & Female Victims | 8.5% | 35.9% |
| Victims from 2 or more Relationship types | 16.6% | 79.8% |

Secrets Revealed

Polygraph Research at the Colorado DOC Comparing Court Information v. Polygraph

| | <u># of victims</u> | <u># of offenses</u> |
|---------------------------|---------------------|----------------------|
| Information at Sentencing | 2 (1) | 7 (1) |
| Sex History | 83 (21) | 394 (50) |
| 1 st Polygraph | 165 (24) | 511 (95) |
| 2 nd Polygraph | 184 (26) | 528 (95) |

Alhmeyer et al., 2000, studied 35 sex offenders in treatment and polygraph testing at the CO Dept. of Corrections.
Average admissions (median) of contact & noncontact offenses

Polygraph Research at the Colorado DOC

Comparing Court Information v. Polygraph

Admissions of Hands-on Crossover Offending

223 Sex Offenders Participating in SOTMP TC at the Colorado Department of Corrections

| <u>Type of Crossover</u> | <u>Court</u> | <u>Polygraph</u> |
|--------------------------|--------------|------------------|
| Adult & Child Victims | 7% | 70% |
| Male & Female Victims | 9% | 36% |
| Multiple Relationships | 20% | 86% |

Polygraph as a Deterrent



Abrams and Ogard, 1986

Studied the deterrent effect of polygraph on offenders on probation:

- Supervision with polygraph - 69% successful compliance with probation
- Supervision without polygraph - 26% successful compliance with probation

180 convicted sex offenders on probation and parole in TX, WI, OR

Current Conviction Crime: Incest

n=80

Ever assaulted...



| | |
|----------------------------------|-----|
| Assaulted strangers | 35% |
| Assaulted from position of trust | 57% |
| Assaulted adult victims | 36% |

Average Age of Onset

| <u>Study</u> | <u>Type of Offender</u> | <u>Age of Onset</u> |
|------------------------|--------------------------------------|---------------------|
| Freeman-Longo(1985) | Rapist | 18 |
| | Child Molester | 15 |
| Elliot (1984) | Juvenile Rapists | 16 peak |
| Emerick & Dutton(1993) | Juvenile Child Molesters | 13 median |
| Ahlmeyer et al.(2000) | Inmates | 12 |
| English et al.(2001) | Supervised on Parole or Probation | 12 |

Average Lag Time in Detection

| <u>Study</u> | <u>Type of Offender</u> | <u># of Years</u> |
|-----------------------|--------------------------------|-------------------|
| Freeman-Longo (1985) | Rapist | 6 |
| | Child Molester | 13 |
| Elliot (1986)* | Paraphiliacs | 10 |
| Ahlmeyer et al.(2000) | Rapists and Child Molesters | 16 |

Effects of a Relapse Prevention Program on Sexual Recidivism: Final Results From California's Sex Offender Treatment and Evaluation Project (SOTEP)

Janice K. Marques,¹ Mark Wiederanders,^{1,3} David M. Day,¹
Craig Nelson,² and Alice van Ommeren¹

Final results from a longitudinal investigation of the effectiveness of cognitive-behavioral treatment with sexual offenders are presented. The study was a randomized clinical trial that compared the reoffense rates of offenders treated in an inpatient relapse prevention (RP) program with the rates of offenders in two (untreated) prison control groups. No significant differences were found among the three groups in their rates of sexual or violent reoffending over an 8-year follow-up period. This null result was found for both rapists and child molesters, and was confirmed in analyses using time to reoffense as the outcome and those controlling for static risk differences across the groups. Closer examination of the RP group's performance revealed that individuals who met the program's treatment goals had lower reoffense rates than those who did not. Although our results do not generally support the efficacy of the RP model, they do suggest a number of ways in which this kind of treatment program can be improved. This study also emphasizes the importance of including appropriate control groups in treatment outcome research. Additional controlled investigations are needed to address the many questions that remain about when and how treatment works for sexual offenders.

KEY WORDS: randomized clinical trial; sexual offender treatment; relapse prevention; treatment outcome; recidivism.

¹California Department of Mental Health, Sacramento, California.

²Atascadero State Hospital, Atascadero, California.

³To whom correspondence should be addressed at California Department of Mental Health, 1600 Ninth Street, Sacramento, California 95814; e-mail: mwiedera@dinhq.state.ca.us.

Fifteen years ago, Furby, Weinrott, and Blackshaw (1989) conducted a thorough review of existing studies of sexual offender treatment, and concluded that, "There is as yet no evidence that clinical treatment reduces rates of sex offenses in general and no appropriate data for assessing whether it may be differentially effective for different types of offenders" (p. 27). They also called upon researchers and funding agencies to devote the time and resources necessary to conduct methodologically sound investigations of sexual offender recidivism and efforts to reduce it through treatment.

Since that time, dozens of outcome studies have been completed, many of which have found significant reductions in recidivism among treated groups (e.g., Borduin, Schaeffer, & Heilblum, 2000; Huot, 2002; Looman, Abracen, & Nicholaichuk, 2000; McGrath, Cumming, Livingston, & Hoke, 2003; Nicholaichuk, Gordon, Gu, & Wong, 2000; Zgoba, Sager, & Witt, 2003). As a result, recent reviews and meta-analyses have come to more optimistic conclusions about treatment effects (e.g., Craig, Browne, & Stringer, 2003; Gallagher, Wilson, Hirschfield, Coggeshall, & MacKenzie, 1999; Grossman, Martis, & Fichtner, 1999), and there appears to be a growing consensus that current treatment approaches can indeed lower an offender's risk of sexual reoffense. Perhaps the strongest evidence of this comes from the recent collaborative outcome data project conducted by Hanson et al. (2002). Although few of the studies in this meta-analysis used true randomized designs, data were included from a wide range of treatment programs and a total of over 9,000 sexual offenders. Overall, the sexual reoffense rate was lower for the treated offenders (12.3%) than for those in the comparison groups (16.8%). More importantly, studies of contemporary treatment approaches (cognitive behavioral or systemic) reported a reduction in sexual recidivism from 17.4 to 9.9%.

Despite this developing sense of optimism about sexual offender treatment, not everyone in the field is convinced. For example, Rice and Harris (2003) reviewed the studies in the Hanson et al. (2002) meta-analysis and indicated that most had designs that were too weak to support conclusions about treatment effects. Others (Berliner, 2002; Prentky, 2003) have emphasized that important questions remain about the size, significance and stability of treatment effects over time, and about whether current research results can be generalized to the highest risk offenders. Even those reporting positive findings have pointed out significant gaps in our knowledge base and have called for vigorous research to improve our understanding of how and when sexual offender treatment works (Gallagher et al., 1999; Hanson et al., 2002).

The study described here, California's Sex Offender Treatment and Evaluation Project (SOTEP), was a longitudinal investigation that was specifically designed to add to our developing knowledge base on treatment effectiveness. By rigorously testing the impact of a contemporary treatment approach on sexual offenders who volunteered for treatment, we hoped to provide at least some answers to the question, "What kinds of treatment work for what kinds of

offenders under what conditions?" This project represents the first true randomized trial of modern cognitive-behavioral approaches with incarcerated adult sexual offenders.

OVERVIEW OF SOTEP

In the early 1980s, the California State Legislature ended the state's Mentally Disordered Sex Offender commitment program and required that a new state hospital program be established for sexual offenders who volunteered for treatment during the last 2 years of their prison terms (California Laws, 1981). It was further mandated that this was to be a small (less than 50 beds) program that was "established according to a valid experimental design in order that the most effective, newest and promising methods of treatment of sex offenders may be rigorously tested." (California Laws, 1981, 1982). These requirements, along with the fact that there were over 16,000 sexual offenders in California prisons at the time, provided the conditions under which a random assignment study of treatment effectiveness could be conducted.

In 1984, the California Department of Mental Health's proposal for the innovative treatment program and its evaluation was accepted and subsequently funded by the Legislature. Important features of this new project included (a) an experimental design that included random assignment of volunteers to either treatment or no-treatment conditions; (b) an intensive, cognitive-behavioral inpatient treatment program designed specifically to prevent relapse among sexual offenders; (c) a 1-year aftercare program in the community; and (d) a program evaluation that measured both in-treatment changes and long-term outcomes, including a follow-up period in which recidivism rates for treated and untreated participants were tracked for at least 5 years. SOTEP's treatment program operated at Atascadero State Hospital from 1985-1995; data collection for the program evaluation began in 1985 and continued for 6 years after the treatment unit closed.

Although we have published findings from several earlier panels of outcome data (Marques, Day, Nelson, Miner, & West, 1991; Marques, Day, Nelson, & West, 1994; Marques, Nelson, West, & Day, 1994; Marques, 1999), these have been in the form of preliminary studies or progress reports. The analyses that we present here are based on the last panel of SOTEP outcome data (collected in 2001), and represent our final results.

METHOD

Design

The impact of SOTEP's treatment program was determined by comparing the postrelease activities of three matched groups of participants:

Relapse prevention (RP) group. Sexual offenders who volunteered to participate and were randomly assigned to treatment at Atascadero State Hospital.

Volunteer control (VC) group. Sexual offenders in prison who volunteered but were randomly selected for no treatment. This was the primary comparison group for the treatment outcome study.

Nonvolunteer control (NVC) group. Inmates who qualified for the project but chose not to participate. This was a secondary comparison group that allowed us to track sexual offenders who did not want treatment as well as those who did.

Procedure

Study participants were involved in four phases of the project:

Selection

Between 1985 and 1994, SOTEP staff regularly visited California prisons to identify and interview eligible inmates, and to collect background information from their records. In the interview, the study's methods were explained (including the randomized group assignments, the program's assessment and treatment methods, and the program evaluation data to be collected), a brief mental status exam was conducted, and consent forms were signed by inmates who agreed to participate. Then, pairs of those who volunteered were matched on the variables of age (over or under 40 years), criminal history (prior felony conviction or not), and type of offender (rapist, molester with male victim, molester with female victim, or molester with victims of both sexes). One member of each matched pair was then assigned at random to the RP group, and the other assigned to the VC group. Matched offenders for the NVC group were selected later, also at random, from the pool of inmates who did not volunteer for the study.

Treatment

During this phase, members of the treatment group participated in an intensive 2-year treatment program at Atascadero State Hospital, a licensed and JCAHO accredited secure forensic treatment facility in California's central coast region. Members of the two control groups remained in prison and did not receive any treatment services from project staff. It should also be noted that although California prisons employed clinicians and offered some counseling to inmates (such as anger management and substance abuse groups), there was no organized sexual offender treatment program in the state's Department of Corrections during the time that SOTEP's program operated (1985-1995). Shortly before their release from either hospital or prison, all study participants were scheduled for

an interview with SOTEP research staff, and were asked to complete several assessment measures.

Aftercare

Following their hospital stays, RP group members participated in the Sex Offender Aftercare Program (SOAP) for 1 year. These services, which were provided in the offender's community by contract clinicians who were trained in RP by SOTEP clinical staff, were a condition of the participants' parole. This meant that failure to attend SOAP could result in a parole revocation and return to prison. Members of the two control groups were also supervised by parole agents after their release from prison. With the exception of several small pilot programs during the 1990s, the Department of Corrections had no sexual offender treatment programs for inmates leaving prison during our study period. At the end of the aftercare phase, SOTEP research staff conducted interviews with all RP group members and with control group members who volunteered to be interviewed.

Follow-Up

This phase overlapped the aftercare phase, and continued until the end of June 2000, when all but a few study participants had been at risk for at least 5 years. During follow-up, SOTEP staff regularly reviewed a variety of official records on all participants and recorded new offense information. Because of the lag in the posting of reoffense data, it was necessary to continue data collection into 2001 to detect all of the reoffenses that had occurred during the follow-up period. In addition to official record information, we collected some follow-up information from interviews with participants during this period.

Participants

All of the sexual offenders in this study were men from institutions within the California Department of Corrections, where they were serving sentences for child molestation or rape. Inmates who had offended in concert (e.g., gang rape) or only against their biological children (incest) were excluded from eligibility. In addition, participation was limited to inmates who (a) were within 18–30 months of release, (b) were between the ages of 18 and 60 years, (c) had no more than two felony convictions prior to their instant offenses, (d) admitted committing a sexual offense, (e) did not have pending immigration holds or felony warrants, (f) had estimated IQs above 80, (g) spoke English, (h) did not have a psychotic or organic mental condition, (i) were not so medically debilitated as to require skilled nursing care, and (j) had not presented severe management problems in prison.

Over the course of the project, SOTEP collected information from the prison records of over 1,400 men who were eligible for the study. Nearly three quarters (72.4%) of the eligibles were serving terms for child molestation, and the remainder (27.6%) were convicted rapists. Approximately one third of the eligible inmates interviewed for the project volunteered to participate. Although the most common reasons inmates gave for volunteering were to understand themselves or get help for their problems, discomfort as sexual offenders in prison was also reported as a factor. Similarly, although many of the nonvolunteers indicated that they did not want treatment, others refused because they had good job assignments, were located near family, or did not want to become state hospital patients. Overall, volunteers did not differ from the nonvolunteers on demographic and criminal history factors, with the exception of offender type. Child molesters were more likely to volunteer than rapists, $\chi^2(1, N = 1407) = 10.67, p = .001$; among child molesters, those with male victims were more likely to volunteer than those with female victims or victims of both sexes, $\chi^2(2, N = 1018) = 6.98, p = .030$.

Our study sample consisted of 704 offenders: 259 assigned to the treatment (RP) condition, 225 assigned to the volunteer control (VC) condition, and 220 selected for the nonvolunteer control (NVC) condition. Differences in the *n*'s were due primarily to RP group attrition, which is addressed below. In terms of offender types, each of the three groups was approximately 50% molesters with female victims, 20% molesters with male victims, 8% molesters with female and male victims, and 22% rapists (with adult victims). Over a third (39.9%) of the sample had prior felony convictions, 22.4% had prior arrests for sexual crimes, and 18.4% had prior convictions for sexual crimes. The major racial/ethnic groups were White (70.2%), African American (15.2%), and Hispanic/Latino (12.6%). The RP group did not differ from the control groups except that (a) more (12.8%) of the RP group members had previously been committed for treatment as mentally disordered sex offenders (MDSOs) than had the control group members (6.4%), $\chi^2(1, N = 694) = 8.20, p = .004$; and (b) a larger proportion (66.3%) of the RP group members were unmarried than were control group members (58.7%), although this difference did not quite reach significance, $\chi^2(1, N = 680) = 3.81, p = .051$.

Attrition

A total of 259 individuals were randomly assigned to the treatment (RP) condition. Of these, 55 withdrew their consent after they learned of their selection but before they were transferred to Atascadero State Hospital. Of the 204 men admitted to the treatment program, 167 (82%) completed their sentences there and were discharged to our aftercare program. The remaining 37 (18%) did not complete the program; 27 of these voluntarily withdrew and 10 were returned to prison because they presented severe management problems in the hospital. The 37 dropouts consisted of 24 child molesters and 13 rapists. Fourteen of the

dropouts (10 child molesters and 4 rapists) left the program before completing 1 year of treatment (approximately half of the program); another 23 (14 child molesters and 9 rapists) left after completing over 1 year of treatment.

Comparisons between the 167 treatment completers and the 37 dropouts revealed that they did not differ significantly on our measures of static risk (described in the section on covariates below) or treatment need (described in the section on treatment subgroups below), or on demographic variables other than age. We did find that treatment dropouts were significantly younger than completers (34.1 years vs. 37.4 years), $t(202) = 2.25$, $p = .025$ (two-tailed). The dropout rate for rapists (27%) was higher than that for child molesters (15%), but this difference did not reach statistical significance, $\chi^2(1, N = 204) = 3.38$, $p = .065$. Within the dropout group, comparisons between those who left the program early (before a year) and those who left late (after a year) revealed no significant differences on static risk, level of treatment need, psychopathy, age, or any other demographic variables.

For our comparison groups, 225 of the volunteers were assigned to the VC group, and 220 were selected from the pool of nonvolunteers to be the NVC group. None of the control participants dropped out of the study.

As we have noted previously (Marques, Day, et al., 1994) we have been concerned about attrition in our treatment sample since the study began, and have attempted to minimize its impact on our design. First, we tried to limit the number of treatment dropouts by terminating participation only when an individual created severe management problems in the hospital (such as serious contraband violations, assaultive behavior, or interfering with the treatment of others).

Men who were not disruptive, even if their progress was not substantial, were retained in the RP group. We gave participants who asked to leave the program 24 hr in which to reconsider their decision and stay in treatment. We also decided early in the study to retain in the RP group those participants who left the program after receiving a substantial dose of treatment (1 year, about half of the program). Finally, 4 years into the study we changed our selection-phase procedure to minimize the design problems caused by participants dropping out of treatment before they arrived at the program. From that point on, control group members were not matched to RP group members until the treatment participant was actually transferred to the program.

Despite these attempts, we still had a number of RP group members who dropped out of the study before they received a substantial dose of our intervention. Our method for handling this problem is described in the Results section below.

Treatment Program

From the beginning (Marques, 1984), SOTEP was designed to provide a comprehensive cognitive-behavioral treatment program that was based on our

adaptation (Marques, 1982) of Marlatt's RP model (Marlatt, 1980; Marlatt & Gordon, 1985). The program embraced the basic theoretical concepts of RP, emphasized the long-term risk of reoffending, and explicitly targeted the problem of relapse. All of the program's components, which included a variety of cognitive, behavioral and skill-training elements, were organized around the RP framework. Both assessment and treatment procedures focused on the individual's specific risk factors for reoffense, from broad lifestyle factors and cognitive distortions to deviant sexual arousal patterns and deficits in coping skills. Overall, the program's goals were to have participants show (a) an increased sense of personal responsibility and decreased use of justifications for sexual deviance; (b) a decrease in deviant sexual interests; (c) an understanding of, and ability to apply, the basic concepts and techniques of RP; (d) an improved ability to identify high-risk situations, and (e) better skills in the areas of avoiding and coping with high-risk situations.

SOTEP's primary treatment structure was the core RP group, which met for three 90-min sessions each week throughout the program. This highly structured group was the setting in which each participant's cognitive-behavioral offense chain was constructed and was used to identify the risk factors and patterns that his RP program needed to address. Core group members worked on accepting responsibility for their offenses, modifying their cognitive distortions, examining how they set up their past crimes and learning what they had to do differently to avoid reoffense.

In addition to this intensive group work, RP group members participated in other components that addressed factors associated with sexual offending. The project's specialty groups were designed to provide the specific knowledge, attitudes and skills that the offender needed to identify and cope with potential high-risk situations. These included groups on sex education, human sexuality, relaxation training, stress and anger management, and social skill. All participants also completed a prerelease class designed to prepare them for "life on the streets" and were scheduled for weekly individual sessions with their assigned clinicians and nursing staff. Other program components were offered on a prescriptive basis. Participants with significant alcohol or drug abuse histories (about 69% of the treated group) were required to complete an RP-based substance abuse group. Individuals who showed patterns of deviant arousal in their phallometric assessments were offered behavioral treatment, usually olfactory aversion or orgasmic reconditioning. To maintain consistency and fidelity in the program, all treatment services (with the exception of individual sessions) were guided by manuals that specified the goals and treatment procedures for the group sessions, as well as the homework assignments to be completed by participants. All group sessions were videotaped; the tapes were randomly selected and reviewed in clinical supervision sessions, but program fidelity was not formally monitored in the program.

Measures

In-Treatment Measures

RP group members completed a variety of psychological tests and other instruments during their hospital stays, including pre-post tests in specialty groups and a battery of measures at intake and release from the program. Some of these were used primarily by clinicians for treatment planning, some were used to evaluate specific treatment components, and others were used to determine if RP group members were reaching the overall treatment goals described above (see Marques et al., 1991 for a complete description of the instruments used). For the outcome study presented here, only measures directly related to treatment needs and goals were considered. These included (a) one pretreatment self-report, SOTEP's motivational questionnaire; (b) two pre-post tests, phallometric assessment of deviant sexual interests and the Multiphasic Sex Inventory (MSI; Nichols & Molinder, 1984); and (c) two posttreatment measures, clinician ratings of how well the participant performed on two RP exercises. Although data from another pre-post measure, the Sex Offender Situational Competency Test (Miner, Day, & Nafpaktitis, 1989) were collected, they had not been coded and analyzed in time for inclusion here.

Outcome Measures

Study participants were followed in the community for a minimum of five and a maximum of 14 years. In each year of follow-up, we collected data from both the FBI and the California Department of Justice concerning criminal activity ("rap sheets") and from the state's Department of Corrections concerning parole violations and returns to prison. When there were indications that an offense had occurred, we attempted to obtain the actual arrest and investigation reports that described the crime. Staff then rated the offense descriptions along a number of dimensions, including certainty that the offense occurred, type of offense (sexual, other violent, or other), and various levels of offense severity. Interrater agreements from year to year were evaluated using randomly selected samples of cases with reoffense activity. The overall agreements for the ratings were acceptable (89% for offense type, 100% for certainty of offender guilt, and 84% for sexual offense severity).

Possible sexual offenses were categorized as "hands on" (e.g., child molestation, rape, attempted rape), "hands off" (e.g., possession of child pornography, propositioning a minor, indecent exposure) or "high-risk behavior" (e.g., being in the presence of minors or loitering, behaviors that we considered risky or possible offense precursors but that were not sexual offenses per se). In the analyses presented here, "sexual reoffenses" included both hands-on and hands-off behaviors.

but did not include the group of high-risk behaviors. In terms of offense certainty, we only included crimes that were rated as at least "possible." In some cases then, offenses were counted if there was evidence that the crime occurred, even if charges were dropped or the offender was returned to custody for violating his parole conditions.

RESULTS

Our final panel of SOTEP data was analyzed in several steps. First, we conducted a set of main effects analyses, comparing the reoffense rates of our treated participants with those of our two control groups. We started with broad analyses that included treatment dropouts as well as completers, and used both sexual recidivism and nonsexual violent recidivism as outcomes. Next, we narrowed our focus to the major outcome of interest, sexual reoffending, and looked more closely at our groups and outcomes to determine if there were some types of offenders that did better with treatment, and if there were differences in the severity of the offenses that were committed by treated and untreated offenders. We also determined if our experimental groups differed in terms of their reoffense risk, and conducted main effects analyses that took levels of risk into account by including a measure of static risk as a covariate. Finally, we examined effects that were unique to the treatment group. The focus here was on our in-treatment measures, specifically whether they predicted outcome and whether they could be combined to identify subgroups of offenders who were more likely to succeed after discharge.

Main Effects Analysis

Table 1 presents the reoffense rates for all SOTEP study groups, with the group assigned to RP broken down into several subgroups: (a) those who withdrew before transfer to the treatment program, (b) those who left treatment before 1 year, and

Table 1. Sexual and Violent Reoffense Rates for All Study Groups

| Group | n | Years at risk | Sexual reoffense | Violent reoffense |
|-----------------------------------|-----|---------------|------------------|-------------------|
| | | M | % | % |
| Relapse prevention (all assigned) | 259 | 8.3 | 22.0 | 16.2 |
| Withdrew prior to treatment | 55 | 7.9 | 20.0 | 12.7 |
| Relapse prevention < 1 year | 14 | 8.4 | 35.7 | 28.6 |
| Relapse prevention > 1 year | 190 | 8.4 | 21.6 | 16.3 |
| Volunteer control | 225 | 8.4 | 20.0 | 11.6 |
| Nonvolunteer control | 220 | 8.3 | 19.1 | 15.0 |

Note. Relapse prevention group is broken down to show various subgroups that resulted from attrition.

(c) those who completed the program or left after a year or more of treatment. In addition to our primary outcome events (new sexual offenses), the table shows what percentage of the participants committed new crimes involving nonsexual violence. It should be noted that we avoided duplication in the table by using a hierarchical system for these data, that is, violent offenses were only counted if the individual did not have a new sexual offense.

The attrition in our RP group has complicated our analyses of treatment effects. For example, do we identify as our experimental group all participants randomly assigned to treatment or only those to whom treatment was delivered? Our solution to this problem was to collect recidivism data on all study participants, and then to test hypotheses in two ways, "treatment as assigned" and "treatment as delivered" (see Marques, Day, et al., 1994). In the first of these analyses, the randomization was preserved, and the RP group consisted of all individuals randomly selected for treatment, whether they entered the program or not. This was our broadly defined "intent to treat" sample. In the second analysis, only RP group members who actually participated in treatment were included, and the reoffense rates of those who received a substantial dose of treatment were compared with those who dropped out as well as those in the control groups. We expected that any conclusion regarding treatment effectiveness would be based on converging evidence from both of these tests.

Treatment as Assigned

This analysis compared the proportion of the RP intent to treat group who reoffended with the proportions who reoffended in the volunteer control (VC) and nonvolunteer control (NVC) groups. Because SOTEP participants had varying times at risk, recidivism incident data were analyzed using the LIFETEST survival rate analysis program (SAS Institute, 1999). In this procedure, time until recidivism, specifically the number of days between each participant's release from incarceration and the date of apprehension for a new offense, was the dependent variable rather than the simple presence or absence of reoffense. Although methods are sometimes used to adjust time-at-risk by subtracting temporary incarcerations for other offenses from total follow-up time, we essentially used calendar time until recidivism in our analyses. Specifically, each participant's reoffenses were tracked until (a) the end of our follow-up period (June 30, 2000), (b) the date of his death, or (c) the date he was incarcerated for a period of time that included the last date of follow-up.

Wilcoxon tests of the differences in the survival distributions across experimental groups failed to approach significance in the treatment as assigned analysis for both sexual reoffense, $\chi^2(2, N = 704) = 0.28, p = .870$, and nonsexual violent reoffense, $\chi^2(2, N = 704) = 0.66, p = .719$. For our primary outcome, sexual reoffense, the Kaplan-Meier display of the survival curves showed remarkably

Table II. Cumulative Failure Rates (Sexual Reoffense) Over 6 Time Gates

| Group | Rate at given time gate | | | | | |
|-----------------------------|-------------------------|--------|--------|--------|--------|---------|
| | 1 year | 2 year | 3 year | 4 year | 8 year | 12 year |
| Relapse prevention < 1 year | 21.4 | 28.6 | 28.6 | 28.6 | 28.6 | 35.7 |
| Relapse prevention > 1 year | 6.8 | 10.5 | 14.7 | 15.3 | 19.5 | 21.6 |
| Volunteer control | 6.2 | 10.7 | 13.3 | 16.0 | 19.1 | 20.0 |
| Nonvolunteer control | 5.5 | 11.4 | 13.2 | 15.9 | 18.2 | 19.1 |

Note. Relapse prevention includes all participants who were admitted to the treatment program.

similar patterns across all three groups, with reoffenses occurring steadily for the first 3 years after release, after which the rates of reoffense slowed, then almost leveled off at the 5-year point and beyond.

Treatment as Delivered

For this second comparison of the reoffense rates of our treated and untreated participants, we excluded the 55 men who dropped out before transfer to the hospital, and focused on the 204 in the RP group who had some treatment exposure. As Table I shows, these were further divided into two groups, those who left before 1 year and those who completed a year or more of the program. Wilcoxon tests of the differences in the survival distributions across experimental groups failed to reach significance in the treatment as delivered analysis for sexual reoffense, $\chi^2(3, N = 649) = 2.66, p = .448$. Kaplan-Meier survival curves appeared very similar across groups, except for the group of early treatment dropouts who demonstrated visually poorer survival times until sexual offending. As Table II demonstrates, early dropouts tended to reoffend in their first year after release. Because of the very small size of this group ($n = 14$), however, this difference was not statistically significant as was noted earlier.

When the outcome criterion was changed to nonsexual violent reoffense, the survival distributions of the groups were similar to those for the outcome of sexual reoffense. However, the pattern of early reoffense among the early dropouts was more pronounced, achieving statistical significance when time-until-violent offense was the criterion, $\chi^2(3, N = 649) = 8.76, p = .033$.

Treatment Interactions

Even without an overall treatment effect, it is possible that a subset of offenders did better with treatment than without. Our next set of analyses addressed this possibility, by examining the outcomes for offender subgroups. First, we calculated reoffense rates within the various types of offenders in our sample (molesters of females, molesters of males, molesters of males and females, and rapists), and

Table III. Sexual Reoffense Rates by Experimental Group for Various Offender Types

| Group | Child molesters | | | | |
|----------------------|-----------------|---------------|--------------|------------------------|--------------|
| | All molesters | Female victim | Male victim | Male and female victim | Rapists |
| | % (n) | % (n) | % (n) | % (n) | % (n) |
| Relapse prevention | 21.9 (32/146) | 17.8 (16/90) | 30.0 (12/40) | 25.0 (4/16) | 20.4 (9/44) |
| Volunteer control | 17.2 (30/174) | 14.2 (16/113) | 22.7 (10/44) | 23.5 (4/17) | 29.4 (15/51) |
| Nonvolunteer control | 20.6 (35/170) | 14.8 (16/108) | 37.2 (16/43) | 15.8 (3/19) | 14.0 (7/50) |

Note. Relapse prevention includes all participants who completed at least 1 year of treatment.

compared these rates across the RP, VC, and NVC groups (see Table III). None of the observed differences between the treated and untreated groups approached statistical significance in either simple tests of proportions or in comparisons across survival distributions. It should be noted that the early dropout group was omitted in this and subsequent tables and analyses because of its small size, $n = 14$.

Next, we examined our results to determine if there were other subject characteristics that interacted with treatment, such as demographic variables or criminal history. To test for interactions we ran a logistic regression analysis with sexual reoffender (yes/no) as the dependent variable. In each equation, experimental group, a subject characteristic, and the group-by-subject characteristic interaction term were tested for significance. The subject characteristics entered in these equations were offender type (molester/rapist), age (under 40/40 plus), racial identification (White/non-White), prior MDSO status (yes/no), prior sexual offense felonies (yes/no), intoxicated at time of the instant offense (yes/no), physically injured victim (yes/no), and victim was a stranger (yes/no).

The interaction term was statistically significant in only one of these calculations, namely, intoxicated at the time of the offense, $\chi^2(1, N = 390) = 5.23$, $p = .022$. RP participants who were intoxicated at the time of the instant offense had a lower rate of sexual reoffense than RP participants who were not intoxicated (12.1% vs. 28.6%), whereas VC participants showed the reverse pattern (22.4% reoffense if intoxicated and 18.8% if not intoxicated). This significance, however, was eliminated when we applied a Bonferroni correction for multiple comparisons. A second test for interactions using Cox regression with survival hazard rate as the dependent variable yielded the same result as the logistic regression.

Severity of Reoffense

Our offense severity-coding data were used to examine qualitative differences in the reoffenses that were committed by individuals in our study groups. For these comparisons, a severe sexual offense was defined as one involving (a) sexual

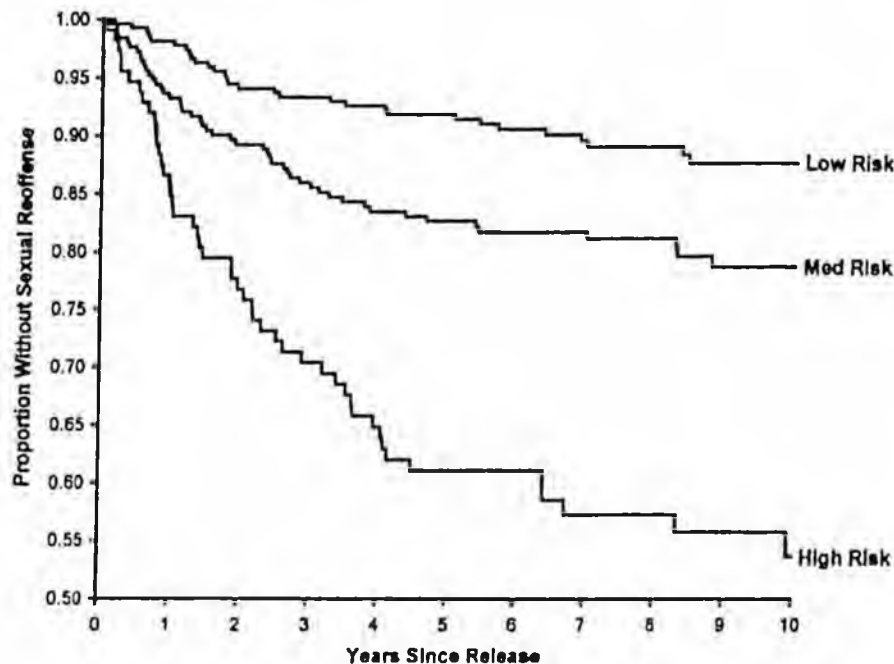


Fig. 1. Survival curves for three groups differing on static risk (Static-Lite) scores.

Even though our sample did not include some of the highest risk offenders (e.g., those with three or more prior felony convictions), Static-Lite proved to be an adequate measure of risk, showing moderate predictive accuracy for sexual recidivism (ROC area = .68). As Fig. 1 demonstrates, there were clear differences in the rates of survival for high, medium and low risk individuals in our sample, $\chi^2(2, N = 635) = 54.9, p < .0001$.

Despite random assignment, the mean risk score of the RP group ($M = 2.25$) was significantly higher than the mean scores of the VC group ($M = 1.88$) and the NVC group ($M = 1.88$), $F(2, 635) = 3.71, p = .025$. To determine if this difference resulted from a nonrandom source, particularly attrition, we compared the Static-Lite scores of the various subgroups of offenders who were originally assigned to RP. No differences were found among the risk scores of the 167 treatment completers ($M = 2.28$), the 23 late dropouts ($M = 2.09$), the 14 early dropouts ($M = 2.21$), and the 55 individuals assigned to treatment who never showed up ($M = 2.11$), $F(3, 257) = .19, p = .904$.

As Table IV shows, when the groups were stratified by risk level, the RP group tended to have somewhat lower reoffense rates than the primary comparison group, the VCs. RP participants also appeared to fare better than NVC participants, with the exception of the medium risk group. In Table V, the reoffense rates of the two comparison groups have been adjusted to reflect what they would be if those

Table IV. Sexual Reoffense Rates for Different Risk Groups

| Group | Risk group ^a | | |
|----------------------|-------------------------|--------------|--------------|
| | Low | Medium | High |
| | % (n) | % (n) | % (n) |
| Relapse prevention | 11.0 (8/73) | 21.6 (16/74) | 39.5 (17/43) |
| Volunteer control | 11.1 (11/99) | 21.9 (21/96) | 43.3 (13/30) |
| Nonvolunteer control | 12.1 (12/99) | 14.6 (12/82) | 46.2 (18/39) |

Note. Relapse prevention includes all participants who completed at least 1 year of treatment.

^aRisk groups were defined by scores on Static-Lite, an abbreviated version of the Static-99 (Hanson & Thornton, 2000). Low includes scores of 0-1, medium includes scores of 2-4, and high includes scores of 5 and above.

groups had the same higher risk scores that the RP group did. These adjustments were made by calculating the odds ratio associated with an increase by one point in Static-Lite score, then using observed Static-Lite group means to determine the amount of hypothetical recidivism-increase to add to the VC and NVC group means. When static risk was controlled for, the RP group appeared to have the lowest reoffense rate, but this difference did not approach significance either a simple test of proportions or in a Cox regression equation testing the survival hazard rate of the RP group versus that of the combined control groups.

Because the research literature and particularly meta-analyses of sexual offender treatment studies often describe findings in terms of effect size, an analysis was also conducted to derive effect size of the recidivism comparison between the two most conservatively defined and randomly assigned groups after controlling for risk. Specifically, survival times until recidivism of the 259 offenders originally assigned to treatment and the 225 VCs were entered into a Cox equation after first entering Static-Lite score. The odds ratio for Assigned RP versus VC was .965, between 95% confidence limits of .650 and 1.433. This again indicates (nonsignificantly) lower odds of reoffending among the RP group after controlling for risk.

Further inspection of Static-Lite scores showed that risk was unequally distributed across types of offenders when viewed by experimental group. To

Table V. Sexual Reoffense Rates Adjusted^a for Static-Lite Scores

| Group | n | Static-Lite M | Observed rate | Adjusted rate |
|----------------------|-----|---------------|---------------|---------------|
| Relapse prevention | 190 | 2.2 | 21.6 | 21.6 |
| Volunteer control | 225 | 1.88 | 20.0 | 23.8 |
| Nonvolunteer control | 220 | 1.88 | 19.1 | 23.0 |

Note. Relapse prevention includes all participants who completed at least 1 year of treatment.

^aFor Static-Lite differences using odds ratio to compute hypothetical increases (or decreases) in recidivism given static risk differences in groups.

Table VI. Adjusted^a Sexual Reoffense Rates for Various Offender Types

| Group | Child molesters | | | | Rapists (%) |
|----------------------|-------------------|-------------------|-----------------|----------------------------|-------------|
| | All Molesters (%) | Female victim (%) | Male victim (%) | Male and female victim (%) | |
| Relapse prevention | 21.9 | 17.8 | 30.0 | 25.0 | 20.4 |
| Volunteer control | 21.3 | 16.4 | 33.2 | 22.9 | 30.2 |
| Nonvolunteer control | 24.4 | 17.5 | 42.8 | 16.5 | 17.2 |

Note. Relapse prevention includes all participants who completed at least 1 year of treatment.

^aFor Static-Lite differences using odds ratio to compute hypothetical increases (or decreases) in recidivism given static risk differences in groups.

investigate the extent to which risk may have affected results within offender type, we calculated adjusted recidivism rates for each offender type and experimental group in the same way we made hypothetical adjustments for main effects, specifically by using odds ratios to compute expected group recidivism rates given observed Static-Lite scores. Results (Table VI) show that these adjustments changed the picture of relative recidivism rates within offender types when compared with the observed (unadjusted) recidivism rates that were presented in Table III. However, tests of the differences across experimental groups in (adjusted) proportions of reoffenders found none approaching statistical significance.

RP Group Analyses

We conducted several sets of analyses on our RP group only, to examine the relationship between treatment progress and reoffense. We first examined whether our in-treatment measures were useful in predicting outcomes (sexual reoffenses). Next, we determined whether offenders with higher initial needs in areas that our program was designed to address had better outcomes than those with lower needs. Finally, we analyzed the extent to which participants who met treatment goals had better outcomes than those who did not.

In-Treatment Measures

Our first set of analyses was conducted to update our preliminary work (Marques, Nelson, et al., 1994) on the relationships between treatment measures and recidivism. As in the earlier study, we focused on a small set of in-treatment measures that were related to the SOTEP goals of having participants show (a) increased personal responsibility and decreased use of justifications for sexual abuse, (b) decreased deviant sexual arousal, and (c) an understanding of and ability to apply the techniques of RP. The measures we used were from two tests administered pre- and posttreatment (the MSI and a phallometric assessment) and

from two posttreatment only tests (both of which were clinician ratings of RP skills).

Pre-post comparisons were made on two scales from the MSI (the Justifications scale and the Cognitive Distortions and Immaturity scale) and on three indicators of deviance from the phallometric assessment (arousal to stimuli depicting female children, male children, and rape). The mean scores on both MSI scales were significantly lower at discharge than at intake; for Justifications, $t(168) = 5.55$, $p < .0001$ (one-tailed), and for Cognitive Distortions and Immaturity, $t(168) = 4.78$, $p < .0001$ (one-tailed). Significant pre-post changes were also found on the mean phallometric responses to stimuli of female children, $t(170) = 9.31$, $p < .0001$ (one-tailed); male children, $t(170) = 6.76$, $p < .0001$ (one-tailed); and rape, $t(170) = 8.14$, $p < .0001$ (one-tailed). Bonferroni corrections for multiple tests were applied to these pre-post comparisons; all reported in this paragraph remained significant at $p < .001$.

The relationship between our in-treatment measures and reoffense was examined by comparing the in-treatment scores of participants who sexually reoffended with those of participants who did not sexually reoffend. On the pretreatment measures, the scores differed significantly on only one measure, arousal to male children, $t(189) = 2.61$, $p = .005$ (one-tailed), with reoffenders having the higher scores. On the posttreatment measures, reoffenders had higher scores on two phallometric measures, arousal to male children, $t(163) = 2.73$, $p = .004$ (one-tailed), and arousal to female children, $t(163) = 1.70$, $p = .046$ (one-tailed). Neither the MSI scales nor the clinician ratings of participants' RP skills (see next section for more on these ratings) differentiated between reoffenders and those who did not reoffend. Bonferroni corrections for multiple tests applied to the statistics in this paragraph had the effect of eliminating the significance of posttreatment arousal to female children as a predictor of sexual reoffense. Pre- and posttreatment measures of arousal to male children remained as significant predictors of reoffense at $p < .05$.

Treatment Subgroups

In our final set of analyses, we identified several clinically relevant subgroups and determined how they responded to treatment. The three groups we were particularly interested in were treated individuals who (a) had the treatment needs that our program addressed, (b) learned the RP skills taught in the program, or (c) reached the program's overall treatment goals.

For the first analysis, we used our pretreatment measures to create a simple additive scale of 8 items designed to measure the participant's level of need. It should be noted that this "Need It" scale was developed a priori on the basis of our program's treatment targets rather than a posteriori on the basis of findings. Points were given for one item from our motivational questionnaire (subject blames others

for offending); three phallometric scores (arousal greater than 20% to stimuli of boys, girls or rape), and four MSI scores (above our sample median on Justifications, Cognitive Distortions and Immaturity, Child Molest or Rape scales). When the Need It scores of sexual recidivists were compared with those of nonrecidivists, no significant difference was found, $t(188) = -.09$, $p = .466$ (one-tailed). We also defined a "Needed It" subgroup (those with scores above 4) and compared their sexual reoffense rates with those of participants with fewer treatment needs. These rates, 20.7 and 25.4% respectively, did not differ significantly.

For the second analysis we divided our treatment group on the basis of how well they learned the RP model. Near the end of their hospital stays, participants completed two written RP exercises, a Decision Matrix (DM) that examined the consequences of offending versus abstaining, and a Cognitive-Behavioral Chain (CBC) that described the series of steps leading to their offenses and how they could intervene. These products were rated by the participant's primary clinician on a 7-point scale with 7 representing *highest quality*. We then defined High DM and High CBC subgroups as including individuals who scored above the mean on each of these measures. Sexual reoffense rates were very similar for High DM (20.3%) and Low DM (22.2%) participants. Although High CBC participants reoffended at a somewhat lower rate (16.9%) than did the low scorers (22.4%), this difference also failed to approach significance.

We also investigated the possibility that relationships between DM and CBC scores and reoffense depended on a participant's level of risk. Inspection of the data suggested that at least among high risk offenders, High CBC scorers had a lower reoffense rate (17.6%) than did Low CBC scorers (58.3%). However, Cox regression equations investigating the effects of DM, CBC and risk level on survival hazard rate revealed no statistically significant effects due to DM score, CBC score, or their interactions with Static-Lite.

In the third analysis, we created a priori another simple additive scale, in this case a 9-point scale designed to identify participants who derived benefit from the program or basically "got" the treatment we provided. Items in this "Got It" scale were from posttreatment measures that were relevant to our treatment program goals. Points were given for three phallometric scores (arousal greater than 20% to stimuli of boys, girls or rape), four MSI scores (above our sample median on Justifications, Cognitive Distortions and Immaturity, Child Molest or Rape scales), and the two RP ratings (below the mean on our CBC and DM measures). In this scale, because points indicated deviance or a lack of RP skills, low scores indicated a better treatment response.

When the Got It scores of sexual recidivists were compared with those of nonrecidivists, no significant difference was found, $t(156) = -1.34$, $p = .092$ (one-tailed). However, when Got It scores were used to divide RP participants into "Got It" and "Did Not Get It" subgroups on the basis of a median split ($<.3 = \text{Got It}$), the difference in recidivism rates of the two groups (13.5 and 27.2%

Table VII. Sexual Reoffense Rates for RP Participants Differing on Static Risk and Treatment Progress

| | Static-Lite score | | | Overall rates % (n) |
|----------------------|-------------------|-----------------|---------------|------------------------|
| | Low % (n) | Medium % (n) | High % (n) | |
| Got It? ^a | | | | |
| No | 16.2 (6/37) | 21.0 (8/38) | 50.0 (14/28) | 27.2 (28/103) |
| Yes | 4.6 (1/22) | 25.0 (5/20) | 10.0 (1/10) | 13.5 (7/52) |

^a"Got It" scale included nine scores related to program goals, with scale scores above the sample mean indicating treatment progress.

respectively) approached significance, $\chi^2(1, N = 155) = 3.72, p = .054$. Further examination of this trend revealed that the relationship between our measure and sexual reoffense was not consistent across our three static risk groups. As Table VII shows, high-risk offenders who Got It reoffended at a significantly lower rate (10.0%) than did those who failed to reach treatment goals (50.0%), $\chi^2(1, N = 38) = 4.93, p = .026$ ($p = .028$, one-tailed, when Fisher's exact test was applied because of at least one cell having an expected count less than five). The differences in recidivism between those who Got It and those who did not failed to approach significance within the medium and low risk groups. However, in a Cox regression equation testing the effects of Got It and risk group on survival hazard rates Got It was a statistically significant predictor of time until reoffense, $\chi^2(1, N = 160) = 3.99, p = .046$, with the effect of risk level, $\chi^2(1, N = 160) = 7.26, p = .007$, also in the equation and thus "controlled."

Finally, examination of our Got It subgroup revealed that the predictive value of Got It was largely accounted for by the child molesters in our treated sample. Among rapists, the relationship between Got It and reoffense rates did not approach significance. Among molesters, however, those who Got It reoffended at a significantly lower rate (9.3%) than those who Did Not Get It (31.3%), $\chi^2(1, N = 126) = 7.57, p = .006$.

DISCUSSION

Unlike most outcome studies of "current" treatments (see Hanson et al., 2002), we did not find an overall treatment effect for our cognitive-behavioral treatment program. Sexual offenders who were randomly assigned to our hospital-based RP program did not reoffend at a lower rate than those who were randomly assigned to the in-prison control groups. This was the case for both rapists and child molesters, and for low-risk offenders as well as high-risk offenders. A number of comments on this outcome have already been offered, including the straightforward conclusion that SOTEP (along with other random assignment

studies) simply does not support the effectiveness of treatment for adult sexual offenders (Rice & Harris, 2003). In the context of growing optimism about the benefits of sexual offender treatment, this study's message is, "Not so fast, we are still far from understanding how and when treatment works."

Although we accept that this simple cautionary note may be SOTEP's "take home" message, we also believe that it is important to examine this study closely and explore possible explanations for its null results. We started this examination with a review of our study design. In the ideal test of treatment, the only difference between the treatment and control conditions is the intervention. In SOTEP, however, the experimental conditions differed in several ways other than the presence or absence of the RP program we were testing. Most importantly, the RP group lived in a hospital, whereas both control groups lived in prison. In the state hospital, offenders were surrounded by sexually deviant peers and therapeutic staff who expected them to openly discuss their crimes and deviant interests. In prison, control group participants most likely hid their backgrounds and were surrounded by people who were highly intolerant of sexual deviance. As a result of such differences in experimental conditions, SOTEP cannot be viewed as a "pure" test of treatment but rather as a more complex comparison of treatment in a state hospital setting versus confinement in a prison setting.

The randomized experiment is considered the gold standard in program evaluation, and is the design least likely to result in groups that differ in systematic ways. Randomization does not, however, guarantee equivalent groups. In our case, men assigned to the RP group tended to be higher risk than those assigned to the control conditions. It is possible, though unlikely, that random variation also resulted in an RP group that was less motivated or more sexually deviant in ways that our data were not sufficient to test.

Given that we were taking a new (in 1984) treatment model for addictive behaviors and applying it to a different group of clients, we decided to screen our study participants. For example, we did not accept individuals who categorically denied their offenses or had substantial criminal careers (three or more prior felony convictions). The criminal history screening no doubt eliminated some of the highest risk offenders from our study, resulting in a rather low base rate (20%) of sexual reoffending as well as a relatively small group of high-risk offenders for us to treat. It may be that our intervention was too intense for our group of mostly low to medium risk offenders. Some (e.g., Hanson, 2000; Nicholaichuk, 1996) have even suggested that intensive treatment may make low-risk offenders worse. It should be noted, however, that we also screened out the lowest risk group (those who molested only their biological children), and that we did not find that treatment made any subgroup of offenders more likely to reoffend.

One other aspect of our study design that may have affected the results is our management of attrition. To minimize this problem, we made an effort to keep RP participants in the program once they began treatment. We did not require

them to demonstrate motivation, fully engage in treatment, or show improvement to stay in the program. The only individuals who were terminated from treatment were those who presented severe management problems at the hospital. As a result, we had some participants who were quite comfortable just "programming," attending treatment activities but not really making the commitment to change that is important to the RP model (Marques, Nelson, Alarcon, & Day, 2000). SOTEP's minimal standard for treatment completion resulted in a low treatment dropout rate (18%) that is in sharp contrast with the rate in programs that set more rigorous performance standards, such as the 50% noncompletion rate reported by McGrath et al. (2003) in their RP program. It is possible that our results reflect in part our willingness to retain individuals with low motivation or performance.

The most obvious place to find explanations for our results is not in the study's design but in its treatment program. Twenty years ago the RP model was new and promising, and adapting it for use with sexual offenders trying to avoid relapse made a great deal of sense. Using RP as our framework, we designed a program that included the components found in programs at that time (e.g., sexual arousal modification, cognitive restructuring, social skills training, victim empathy, stress and anger management), and organized these around a core RP treatment group that focused on the individual's offense patterns, risk factors, and skills needed for avoiding relapse. We also included an aftercare component to help participants maintain treatment gains after discharge from the hospital.

Although this basic RP approach is still popular and considered "current" treatment in the field, in several ways our program did not reflect today's state of the art. First, because we only accepted individuals who admitted their offenses and volunteered for treatment, we did not emphasize the need to build and maintain motivation. As an RP program we were focused on the maintenance stage of behavior change, and our interventions were designed to provide skills participants could use to anticipate and avoid relapse. SOTEP did not have a treatment readiness phase or other components (such as motivational interviewing; Miller & Rollnick, 1991) designed to prepare individuals to change and to engage them in treatment. We also did not target the decrease in motivation that some treated offenders show after release to the community (Barrett, Wilson, & Long, 2003). We learned from interviews with reoffenders that a number of our treatment failures did not use the self-management skills they had acquired in the program, and some did not even accept the basic goals of self control and relapse avoidance (Marques et al., 2000). As Mann (2000) has pointed out, RP is unlikely to be successful with clients who do not accept its goals, model, and methods.

Our program included individual sessions and some prescriptive components (such as sexual arousal modification and substance abuse treatment), but most interventions were provided in groups by therapists using treatment manuals. Although manualized treatments enhance program integrity, they have the disadvantage of limiting the extent to which interventions are based on individual case formulations and treatment plans (Hollin, 2002). When asked about this, SOTEP

clinicians indicated that our highly structured approach did not allow them to do more intensive work with participants who needed it, such as those who were not committed to change or needed more sessions to practice coping skills (Marques et al., 2000).

Although we viewed each participant's RP program as "individualized" (on the basis of his offense chain and risk factors), core RP group sessions were essentially the same for all participants. Membership of the core groups was mixed, with most having molesters and rapists as well as individuals with different levels of risk, need and treatment involvement. It is possible that having some unmotivated and highly deviant members present may have negatively affected the engagement and expectations of other group members. Group diversity may also have limited the extent to which interventions were modified for different types of offenders. For example, we did not distinguish between "avoidance goal" molesters (who see molesting children as a problem behavior they want to stop) and "approach goal" molesters (who hold positive views regarding sex with children) (see Ward & Hudson, 1998, 2000), or adapt RP interventions to fit these different offense pathways (Bickley & Beech, 2003).

One important way that SOTEP differed from most current programs is that discharge was unrelated to treatment progress or perceived reoffense risk. We used in-treatment measures but these played no role in determining when a participant was released to the community. In fact our mandate (California Laws, 1982) required that the length of an offender's sentence was not to be affected by his participation in the program. On the positive side, this requirement helped us avoid the problem of individuals "faking good" to get released earlier. On the negative side, there was no pressure on participants to engage fully and actively pursue treatment goals. Although it is difficult to assess the importance of this factor, most current programs do provide clear external incentives for offenders to participate and advance in treatment (Seto, 2002).

Our aftercare component, SOAP, has been criticized for being too intensive (Marshall & Anderson, 2000), but in our view it was too circumscribed. For one year after their release, RP group members were under standard parole supervision by the Department of Corrections and were seen twice a week by a SOTEP-trained clinician in group or individual sessions. These treatment providers were encouraged to communicate with parole agents, but this was not required unless the participant failed to attend treatment sessions. SOAP did not include maintenance polygraph examinations, GPS or other surveillance techniques, medications for individuals experiencing deviant arousal, or social and supportive services. It provided some continuity of care, but clearly fell short of the interdisciplinary, individualized, case management model of aftercare that is now recommended (Prentky, 2003). Although it has not been rigorously tested, this "containment approach" (English, 1998) represents the current thinking in the field (Association for the Treatment of Sexual Abusers [ATSA], 2004; California Coalition on Sexual Offending, 2001; Center for Sex Offender Management, 2000; Colorado

Sex Offender Management Board, 1999). As we learned in interviews with our treatment failures, a number of RP participants were facing high-risk situations soon after entering the community (Marques et al., 2000). It is possible that added surveillance and teamwork could have prevented some of these early failures.

In addition to comparing our program to current best practices in sexual offender treatment, we have examined it from the broader perspective of offender rehabilitation, or the "what works" literature (Gendreau & Andrews, 1990; Lösel, 1995; McGuire, 2002). Andrews and Bonta (1998, 2003) have provided a clear framework for this examination. They have determined that effective programs meet three principles: (a) *risk* (they treat higher risk rather than lower risk cases), (b) *need* (they target dynamic risk factors), and (c) *responsivity* (they use powerful behavior change strategies). First, SOTEP did not focus on high-risk offenders. Second, our treatment targets included some (e.g., deviant sexual arousal and cognitive distortions) but not all of the established dynamic risk factors for sexual offending. Finally, the program was based on cognitive-behavioral interventions and thus adhered to the general responsivity principle. At best, then, SOTEP was consistent with two of the principles; a more stringent view would be that it met only the responsivity principle. According to Andrews and Bonta (2003), programs adhering to all three principles can expect a 26% reduction in recidivism; those following two principles an 18% reduction, and those adhering to one component only a 2% reduction. From this perspective our null result is not at all surprising. Although hindsight based on currently available concepts cannot improve SOTEP results, the risk-need-responsivity model provides a framework that can be used now to build more effective treatment programs for sexual offenders.

SOTEP's 1984 treatment model may have fallen short of today's state of the art in some areas, but in others it was quite up to date, for example, our measurement of treatment progress. We found some interesting and encouraging trends in the data from our in-treatment measures, most importantly that RP participants who "got" treatment (had good posttreatment scores on a simple additive scale) reoffended at lower rates than those who didn't. This difference was significant for child molesters (over three quarters of our sample) but not for rapists, a finding that may reflect our scale's emphasis on deviant sexual interests. It also suggests that a one-size-fits-all measure of treatment progress should not be used with diverse groups of offenders.

Our "Got It" scale was also a significant predictor of sexual reoffense for the high-risk offenders in our sample. Within that subgroup, individuals who didn't "get" the treatment had a much higher sexual reoffense rate (50%) than those who did (10%). Although this finding was based on a small ($n = 36$) subgroup of treated offenders, it is consistent with other recent studies in which assessments made during or after treatment have been found to increase the accuracy of reoffense predictions made by actuarial assessments alone (Beech, Fisher, & Thornton, 2003; Beech, Friendship, Erikson, & Hanson, 2002; Thornton, 2001). It is also similar

to the finding reported by Langton, Barbaree, Seto, Harkins, and Peacock (2002) that their high-risk (psychopathic) offenders with poor treatment behavior had the highest risk of recidivism. In a broader sense, our results are supportive of the field's current emphasis on the measurement of dynamic factors that predict reoffense (Hanson & Harris, 2000) or indicate treatment benefit (Mann & Thornton, 2000; Thornton, 2002).

Because "Got It" was composed of ad hoc measures and was not cross-validated, we do not recommend this home-grown measure for use elsewhere. We do, however, encourage others studying treatment outcomes to include relevant in-treatment measures in their designs. Standardized, empirically-validated measures of treatment progress are badly needed in this field to enhance our ability to understand the relationships between short-term and long-term treatment effects.

Although SOTEP was most concerned with measuring the effects of treatment, our strongest findings were in the area of static risk factors. Even our shortened version of Hanson and Thornton's Static-99 (2000) turned out to be a powerful predictor of sexual reoffense risk and an important covariate in our analyses. To avoid potentially misleading distortions in study results, we urge researchers who plan to assess the effects of treatment to control for prior risk by using an appropriate actuarial measure for both treatment and comparison groups.

The most important safeguard against misleading results, however, remains a randomized design. Some (e.g., Hanson, 1997b) have argued against investing heavily in longitudinal studies of small, innovative programs such as SOTEP, suggesting that it is probably more productive to conduct a range of less elaborate studies that can be combined to yield sound evidence regarding treatment effects. Although we have also encouraged real-world programs to collect outcome data and contribute to our developing knowledge base on treatment effectiveness (Marques, 1999), we do not agree that this is all that is required. Our results underscore the importance of including adequate comparison groups in treatment outcome studies. It may be difficult to obtain funding and to conduct randomized clinical trials but we strongly believe that more of these are needed to move this field forward.

If we were to design a new test of treatment now, we would do some things differently than we did 20 years ago. We would make sure that the program (a) had treatment intensity and content that were tailored to offenders' risk levels, treatment needs and responsivity factors; (b) regularly monitored progress toward treatment goals to make sure that participants were "getting" the treatment provided; and (c) had an aftercare component based on an individualized, interdisciplinary case management model, not just on therapy sessions. We would also make some changes in the study design, such as (a) including more high-risk offenders; (b) conducting pretreatment assessments on all participants; and (c) increasing the sample size to shorten the follow-up period needed. We would not, however, design a study with a less rigorous evaluation component than

SOTEP. Questions about whether and when sexual offenders can be treated are extremely important, not just to our field but to victims, policy makers and the public. The only way to provide answers with confidence is to build a knowledge base on thoughtful and well-controlled studies of treatment effectiveness.

ACKNOWLEDGMENTS

SOTEP was supported by the California Departments of Mental Health and Corrections, and by Grant R01 MH46391 from the National Institute of Mental Health. This ambitious project was truly a collaborative effort and we are indebted to many who contributed to it over the years, including our research personnel, the treatment teams at Atascadero State Hospital, our aftercare providers and the men who served as our treatment and control group participants. Guidance was provided along the way by many colleagues, including James Breiling, Del Elliott, Mark Lipsey, Alan Marlatt, Vernon Quinsey, and Mark Weinrott in the early years, and more recently by Karl Hanson and David Thornton. We also received helpful comments on a draft of this paper from Mark Chaffin, Robert Prentky, and Marnie Rice. The views expressed are those of the authors and do not necessarily reflect the positions of the California Department of Mental Health or Atascadero State Hospital.

REFERENCES

- Andrews, D. A., & Bonta, J. S. (1998). *The psychology of criminal conduct* (2nd ed.). Cincinnati, OH: Anderson.
- Andrews, D. A., & Bonta, J. S. (2003). *The psychology of criminal conduct* (3rd ed.). Cincinnati, OH: Anderson.
- Association for the Treatment of Sexual Abusers. (ATSA). (2004). *Practice guidelines for members of the Association for the Treatment of Sexual Abusers*. Beaverton, OR: Author.
- Barrett, M., Wilson, R. J., & Long, C. (2003). Measuring motivation to change in sexual offenders from institutional intake to community treatment. *Sexual Abuse: A Journal of Research and Treatment, 15*, 269-283.
- Beech, A., Fisher, D., & Thornton, D. (2003). Risk assessment of sex offenders. *Professional Psychology: Research and Practice, 34*, 339-352.
- Beech, A., Friendship, C., Erikson, M., & Hanson, R. K. (2002). The relationship between static and dynamic risk factors and reconviction in a sample of U. K. child abusers. *Sexual Abuse: A Journal of Research and Treatment, 14*, 155-167.
- Berliner, L. (2002). Commentary. *Sexual Abuse: A Journal of Research and Treatment, 14*, 195-197.
- Hickley, J. A., & Beech, A. R. (2003). Implications for treatment of sexual offenders of the Ward and Hudson model of relapse. *Sexual Abuse: A Journal of Research and Treatment, 15*, 121-143.
- Borduin, C. M., Schaeffer, C. M., & Heilblum, N. (2000, May). *Multi-systemic treatment of juvenile sexual offenders: A progress report*. Paper presented at the 6th International Conference on the Treatment of Sexual Offenders, Toronto, ON.
- California Coalition on Sexual Offending. (2001). *Effective management of sex offenders residing in open communities*. Retrieved on June 1, 2004 from <http://www.ccoso.org/papers/containment.html>.
- California Laws. (1981). Chapter 928, codified as California Penal Code, Sections 261.564 and 1365.

- California Laws. (1982). Chapters 1529 and 1549, amending California Penal Code, Sections 1364 and 1365.
- Center for Sex Offender Management. (2000). *The collaborative approach to sex offender management*. Retrieved on June 1, 2004 from <http://www.csom.org/pubs/collaboration.pdf>.
- Colorado Sex Offender Management Board. (1999). *Standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of adult sex offenders*. Denver: Colorado Department of Public Safety.
- Craig, L. A., Browne, K. D., & Stringer, I. (2003). Treatment and sexual offence recidivism. *Trauma, Violence, and Abuse, 4*, 70-89.
- English, K. (1998). The containment approach: An aggressive strategy for the community management of adult sex offenders. *Psychology, Public Policy and Law, 4*, 218-235.
- Furby, L., Weinrott, M. R., & Blackshaw, L. (1989). Sex offender recidivism: A review. *Psychological Bulletin, 105*, 3-30.
- Gallagher, C. A., Wilson, D. B., Hirschfield, P., Coggeshall, M. B., & MacKenzie, D. L. (1999). A quantitative review of the effects of sex offender treatment on sexual reoffending. *Corrections Management Quarterly, 3*, 19-29.
- Gendreau, P., & Andrews, D. A. (1990). Tertiary prevention: What the meta-analyses of the offender treatment literature tell us about "what works." *Canadian Journal of Criminology, 32*, 173-184.
- Grossman, L. S., Martis, B., & Fichtner, C. G. (1999). Are sex offenders treatable? A research overview. *Psychiatric Services, 50*, 349-361.
- Grubin, D. (1998). Sex offending against children: Understanding the risk. *Police Research Series Paper 99*. London: Home Office.
- Hanson, R. K. (1997a). *The development of a brief actuarial risk scale for sexual offense recidivism*. (User Report 97-04). Ottawa: Department of the Solicitor General of Canada. Retrieved on June 1, 2004 from <http://www.psepc-sppcc.gc.ca/publications/corrections/199704.e.pdf>.
- Hanson, R. K. (1997b). How to know what works with sexual offenders. *Sexual Abuse: A Journal of Research and Treatment, 9*, 129-145.
- Hanson, R. K. (2000). Treatment outcome and evaluation problems (and solutions). In D. R. Laws, S. M. Hudson, & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 485-499). Thousand Oaks, CA: Sage.
- Hanson, R. K., Gordon, A., Harris, A. J. R., Marques, J. S., Murphy, W., Quinsey, V. L., et al. (2002). First report of the Collaborative Outcome Data Project on the effectiveness of treatment for sex offenders. *Sexual Abuse: A Journal of Research and Treatment, 14*, 169-194.
- Hanson, R. K., & Harris, A. J. R. (2000). Where should we intervene? Dynamic predictors of sexual offense recidivism. *Criminal Justice and Behavior, 27*, 6-35.
- Hanson, R. K., & Thornton, D. (2000). Improving risk assessment for sexual offenders: A comparison of three actuarial scales. *Law and Human Behaviour, 24*, 119-136.
- Hollin, C. R. (2002). An overview of offender rehabilitation: Something old, something borrowed, something new. *Australian Psychologist, 37*, 159-164.
- Huot, S. (2002, October). *Recidivism, recidivism, recidivism! An update of several Minnesota recidivism studies*. Paper presented at the 21st annual meeting of the Association for the Treatment of Sexual Abusers, Montréal, QC.
- Langton, C. M., Barbaree, H. E., Seto, M. C., Harkins, L., & Peacock, E. (2002, October). *How should we interpret behavior in treatment?* Paper presented at the 21st annual meeting of the Association for the Treatment of Sexual Abusers, Montréal, QC.
- Looman, J., Abracen, J., & Nicholaichuk, T. P. (2000). Recidivism among treated sexual offenders and matched controls: Data from the Regional Treatment Centre (Ontario). *Journal of Interpersonal Violence, 15*, 279-290.
- Losel, F. (1995). The efficacy of correctional treatment: A review and synthesis of meta-evaluations. In J. McGuire (Ed.), *What works: Reducing re-offending: Guidelines from research and practice*. Chichester, UK: Wiley.
- Mann, R. E. (2000). Managing resistance and rebellion in relapse prevention intervention. In D. R. Laws, S. M. Hudson, & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 187-200). Thousand Oaks, CA: Sage.
- Mann, R. E., & Thornton, D. (2000). An evidence-based relapse prevention program. In D. R. Laws, S. M. Hudson, & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 341-350). Thousand Oaks, CA: Sage.

- Marlatt, G. A. (1980). *Relapse prevention: A self-control program for the treatment of addictive behaviors*. Unpublished manuscript, University of Washington, Department of Psychology, Seattle, WA.
- Marlatt, G. A., & Gordon, J. R. (Eds.). (1985). *Relapse prevention*. New York: Guilford.
- Marques, J. K. (1982, March). *Relapse prevention: A self-control model for the treatment of sex offenders*. Paper presented at the annual meeting of the Forensic Mental Health Association of California, Asilomar, CA.
- Marques, J. K. (1984). *An innovative treatment program for sex offenders: Report to the Legislature*. Sacramento: California Department of Mental Health.
- Marques, J. K. (1999). How to answer the question, "Does sex offender treatment work?" *Journal of Interpersonal Violence, 14*, 427-441.
- Marques, J. K., Day, D. M., Nelson, C., Miner, M. H., & West, M. A. (1991). *The Sex Offender Treatment and Evaluation Project: Fourth report to the Legislature in response to PC 1365*. Sacramento: California Department of Mental Health.
- Marques, J. K., Day, D. M., Nelson, C., & West, M. A. (1994). Effects of cognitive-behavioral treatment on sex offender recidivism: Preliminary results of a longitudinal study. *Criminal Justice and Behavior, 21*, 28-54.
- Marques, J. K., Nelson, C., Alarcon, J. M., & Day, D. M. (2000). Preventing relapse in sex offenders: What we learned from SOTEP's experimental program. In D. R. Laws, S. M. Hudson, & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 321-340). Thousand Oaks, CA: Sage.
- Marques, J. K., Nelson, C., West, M. A., & Day, D. M. (1994). The relationship between treatment goals and recidivism among child molesters. *Behaviour Research and Therapy, 32*, 577-588.
- Marshall, W. L., & Anderson, D. (2000). Do relapse prevention components enhance treatment effectiveness? In D. R. Laws, S. M. Hudson, & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 39-55). Thousand Oaks, CA: Sage.
- McGrath, R. J., Cumming, G. C., Livingston, J. A., & Hoke, S. E. (2003). Outcome of a treatment program for adult sex offenders: From prison to community. *Journal of Interpersonal Violence, 18*, 3-17.
- McGuire, J. (Ed.). (2002). *Offender rehabilitation and treatment: Effective practice and policies to reduce re-offending*. Chichester, UK: Wiley.
- Miller, W. R., & Rollnick, S. (Eds.). (1991). *Motivational interviewing: Preparing people to change addictive behavior*. New York: Guilford.
- Miner, M. H., Day, D. M., & Nafpaktitis, M. K. (1989). Assessment of coping skills: Development of a situational competency test. In D. R. Laws (Ed.), *Relapse prevention with sex offenders* (pp. 127-136). New York: Guilford.
- Nicholaichuk, T. (1996). Sex offender treatment priority: An illustration of the risk/need principle. *Forum on Corrections Research, 8*(2), 30-32.
- Nicholaichuk, T., Gordon, A., Gu, D., & Wong, S. (2000). Outcome of an institutional sexual offender treatment program: A comparison between treated and matched untreated offenders. *Sexual Abuse: A Journal of Research and Treatment, 12*, 139-153.
- Nichols, H. R., & Molinder, I. (1984). *The Multiphasic Sex Inventory: A test to assess psychosexual characteristics of the sexual offender*. Tacoma, WA: Nichols & Molinder.
- Prentky, R. A. (2003). A 15-year retrospective on sexual coercion: Advances and projections. In R. A. Prentky, E. S. Janus, & M. C. Seto (Eds.), *Sexually coercive behavior: Understanding and management* (pp. 13-32). New York: Annals of the New York Academy of Sciences.
- Rice, M. E., & Harris, G. T. (2003). The size and sign of treatment effects in sex offender therapy. In R. A. Prentky, E. S. Janus, & M. C. Seto (Eds.), *Sexually coercive behavior: Understanding and management* (pp. 428-440). New York: Annals of the New York Academy of Sciences.
- SAS Institute. (1999). *SAS user's guide, version 8*. Cary, NC: SAS Institute, Inc.
- Seto, M. C. (October, 2002). *Interpreting the treatment performance of sex offenders*. Paper presented at the 27th Annual Cropwood Round Table Conference, Cambridge, UK.
- Thornton, D. (2001). Civil commitment of dangerous, personality-disordered offenders—Developing a model. In A. Schank (Ed.), *The sexual predator: Legal issues, clinical issues, special populations* (pp. 61-612). Kingston, NJ: Civic Research Institute.
- Thornton, D. (2002). Constructing and testing a framework for dynamic risk assessment. *Sexual Abuse: A Journal of Research and Treatment, 14*, 139-154.

- Ward, T., & Hudson, S. M. (1998). A model of the relapse process in sexual offenders. *Journal of Interpersonal Violence, 13*, 700-725.
- Ward, T., & Hudson, S. M. (2000). Self-regulation model of relapse prevention. In D. R. Laws, S. M. Hudson & T. Ward (Eds.), *Remaking relapse prevention with sex offenders: A sourcebook* (pp. 39-55). Thousand Oaks, CA: Sage.
- Zgoba, K. M., Sager, W. R., & Witt, P. H. (2003). Evaluation of New Jersey's sex offender treatment program at the Adult Diagnostic and Treatment Center: Preliminary results. *Journal of Psychiatry and Law, 31*, 133-164.

21 January 2006

Mr. Robin W. Swartz
 P.O. Box 210094
 Auke Bay, Alaska 99821-0094
 (907) 523-8143

To the Honorable:

| | | |
|--------------------------------|---|----------|
| Frank Murkowski | R | Governor |
| Senator Kim Elton | D | Juneau |
| Representative Beth Kerttula | D | Juneau |
| Representative Bruce Weyhrauch | R | Juneau |

As the House and Senate debate the issue of Sexual Crimes against our children and punishment for the sex offenders, I would like you to consider the following for offenses against a child under the age of 13 for rape, sodomy, forced sexual acts, molestation and other like crimes.

For the first offense a mandatory sentence of incarceration should be set between an absolute minimum of 25 years to a maximum of 40 years.

In Alaska we had the case of a Wasilla man convicted on five counts of sexually abusing his girlfriend's daughter from the time the girl was 9 until she was 15. In cases that show a child was sexually abused repeatedly, or abused for years, or when multiple children were sexually abused by the same individual; a set of special penalties should be attached to the crime. Even if this is the first time the offender was caught, the repeat offenses are already committed. Second offense penalties should be mandatory with the sentence of 40 years at a minimum to life imposed. We also must assure that the first sex crime does not have to be in Alaska for the 40 year minimum to be imposed.

We have the highest rate of sexual crimes for the nation. We should all be ashamed. We also have a duty to fix this situation and show sexual offenders that they are not welcome in Alaska.

Another way to protect our children is to have a law against convicted sexual predators coming to Alaska without the approval of the state and or registering with the state before coming here. This should include tourists visiting Alaska as well.

Penalties for being present in Alaska while a registered sex offender, or convicted and not registered, from anywhere in the world — without state knowledge and prior approval — should be a minimum of 2 to 5 years at hard labor and expulsion from the state. If the intent was to hide and repeat offend in Alaska — to include possession and trafficking in child pornography — then up to 10 years should be added to any conviction for a sexual offence with the minimum of 5 years imposed — 2 to 5 of those years at hard labor, then expulsion from Alaska. A seizure of all assets should be considered as well.

Those presently hiding in the State when this law is passed and haven't committed any other sex crime should have thirty days to register and face expulsion from Alaska, if wanted in another state or country. Those found after the thirty days may expect the whole of the law to be applied regardless of when they came to Alaska.

If a person is convicted of a first offense and sentenced as a first time offender, then later it is discovered that the individual was convicted of a prior sex crime, a 40 year minimum sentence is automatically imposed unless a prosecutor requests a new sentencing hearing to seek more than 40 years. An additional 5 to 10 year add on sentence — with 2 to five years at hard labor — for being a convicted sex offender hiding in Alaska, would also be imposed if the offender was not registered with the state.

I like the proposed polygraph test for released offenders and would suggest internet re-registration with the state once a month as well. I am not opposed to treatment for the offender and hope it helps, but the best answer is to stop the cycle of these sex crimes.

Often offenders were abused children. Many victims go on to a life of drug use and a life of misery. In the case of young girls, many end up prostituting on the streets and often it's to get money for a drug addiction. Young boys have also ended up in a life of prostitution as well. Instead of providing treatment and rehabilitation at state expense for these victims, I propose that all assets in the abusers name be seized to provide for the treatment of the victims. Discretion must be observed and care taken to ensure the seizure of assets does not put the innocent at risk. Then I feel the state should continue treatment after the seized assets are exhausted.

We have the largest state in the union and there are vast areas where someone could hide a child and their activities. Then they could commit their egregious behavior against our children in relative solitude. When I hear of a missing child in Alaska or even a runaway child, I shudder to think what could be happening in our state.

First and most important, the child victim must know that the person or persons who harmed them will never be able to harm them or any other child again during their childhood. Also we must allow a generation of children, from those born at the time of sentencing, to have a childhood free from those individuals. We owe them that.

We will not solve this problem in society. If however, we protect our children, we will start to see generations of children not having to fear shadows, and then I think we will produce a generation enlightened enough to solve this problem. We owe them that chance and until then we must aggressively protect them.

Robin W Swartz

Cc: Sen. Con Bunde, R-Anchorage
Sen. Gretchen Guess, D-Anchorage,
Rep. Mark Neuman, R-Big Lake
Bill O' Reilly Fox News

Constance Hartle

From: Vivian Geroux [stuckupnorth@gmail.com]
Sent: Saturday, January 21, 2006 5:23 PM
To: Sen. Con Bunde
Subject: concerning sex offenders

Dear Mr. Bunde,

I am writing out of extreme concern regarding so many sex offenders out in our neighborhoods. It is frightening to know that a person would commit such crimes--but more frightening to me is that once is not enough to keep them locked up and away from society. Most are let out again and become "repeat offenders" This is unacceptable. I will not pretend I know any laws in specific regarding sex offenders because I do not. I am shocked, however, to know the nature of these crimes against the innocent entail so little punishment. As a greatly concerned parent, a good citezen and a registered voter in your district, I am educating myself on this crucial issue and hope to make a difference by excersising my voting right. It is my hope and prayer that a man in your position would take this matter very serio^ly and do all that you can to put a stop to these horrific crimes against the innocent. Please do not delay--you have my support in backing stricter laws along with thousands of other people. I thank you for your service in our community and state and for taking the time to read this.

Sincerely, Vivian Geroux

THE PURPOSES AND RATIONALE UNDERLYING
THE INCREASE IN SENTENCING RANGES
FOR FELONY SEX CRIMES IN ALASKA

SENATE BILL 218

By: Senator Con Bunde and Senator Gretchen Guess

February 2006

The Purposes And Rationale Underlying
The Increase In Sentencing Ranges
For Felony Sex Crimes in Alaska
Senate Bill 219

Senate Bill 218 adopts longer sentences for, and closer supervision of, convicted sex offenders. This is appropriate in light of

(1) Statistical studies about sexual assault and abuse in America, and more specifically, in Alaska;

(2) The growing body of knowledge about the resistance of sex offenders to rehabilitative treatment;

(3) The purposes of criminal sentencing set out in AS 12.55.005 and *Chaney v. State*, 447 P.2d 441 (Alaska 1970);

(4) The principles of penal administration set out Article I, section 12 of the Alaska Constitution that gives precedence to protection of the public and community condemnation; and

(5) The rights of crime victims under Article I, section 24, of the Alaska Constitution.

Sexual assault and abuse in Alaska can be classified as an epidemic. Alaska has been ranked number one in the nation for 22 out of the last 29 years for sexual assault and abuse. Alaska has been number one in the nation for sexual assault since 1995. In addition, Alaska has never been ranked below number five in the nation for sexual assault since 1976, when data collection began. The State currently has approximately 2.5 times the national average for sexual assault (Uniform Crime Report, FBI). The median age of rape victims in Alaska is 13 years old. Today we have 4300 registered sex offenders in our Alaskan communities.

Even with startlingly high sex offense rates, sexual abuse and assault are still largely underreported (16% of victims report the assault, Kilpatrick Rape in America Report, 1992), arrest rates are also low (27% of reported sex crimes result in an arrest, Snyder, 2000), and hundreds more sex offenders are convicted each year in Alaska. Thus, the number of sex offenders in Alaska is significantly higher than 4300 individuals.

It seems obvious that current sentences for sex offenses are not sufficient in "detering . . . other members of society from future criminal conduct." AS 12.55.005(5). This principle of "general deterrence" has been recognized in Alaska law since the *Chaney* decision was issued 35 years ago.

Although it may be cynically argued that long sentences do nothing to deter sex offenders, that is not the case. Sex offenses are crimes of intent. Although sometimes fueled by alcohol, anger or abuse as a child, sex crimes are, first and foremost, intentional conduct. Offenders who have the most victims are the ones who often plan carefully, and are skilled manipulators. Sex offenders in prison are well-behaved, and on probation and parole they appear, on the surface, to be model ex-convicts. Offenders such as these who can modify their behavior, can be deterred by the threat of long sentences.

The treatments (cognitive-behavioral, psychotherapy and behavioral) provided to sex offenders both in other states and in Alaska have not proven to be effective (SOTEP Report, 1995). Offenders who served time for sexual assault were four times as likely as those convicted of other crimes to be re-arrested for a new sexual assault. The more prior arrests an offender has, the greater their likelihood for being re-arrested for another sex crime.

The sentence ranges in SB 218 start at increasingly higher levels when an offender has a prior record of both non-sex related felonies and sexual felonies. This takes into account the decreased potential for rehabilitation with each successive conviction. The "likelihood of rehabilitation" is a recognized consideration in sentencing. AS 12.55.005(2) and *Chaney*.

Perhaps most disturbing is that child molesters are even more likely than adult sex offenders to be re-arrested for a sex crime. Forty-three percent of sex offenders re-offend within three years (Langdon, Schmitt, and Durose "Recidivism of Sex Offenders Released from Prison in 1994", Bureau of Justice Statistics November 2003).

Currently, 78.5% of sex offenders have at least one prior arrest and they average 4.5 prior arrests (Langdon, *et al.*). In Alaska, the statistics are even more startling: of the 927 convicted sex offenders in custody on January 24, 2006, 93% have at least one prior arrest; the average number of arrests per sex offender is 11.75; and more than 41% have been arrested ten or more times (Alaska Department of Corrections, Research Section, 2006).

Sexual predators average 110 victims and 318 offenses before being caught. However, some predators have even more. Polygraphs are imperative in testing offenders and determining the number of victims; 80% of sex

offenders examined with polygraphs were found to be deceptive in their answers (Ahlmeyer, Heil, Mckee, and English "The Impact of Polygraph on Admissions of Crossover Offending Behavior in Adult Sexual Offenses", *Sexual Abuse: A Journal of Research and Treatment* 12(2): 123-138. 2000). Sex offenders reported 3.5 times the known number of victims and 4.5 times the known number of incidents when given a polygraph test. Offenders under polygraph examination also reported an earlier age when they began offending than was previously known (Wilcox and Sosnowski "Polygraph examination of British sexual offenders: A pilot study on sexual history disclosure testing", *Journal of Sexual Aggression*" 11(1). 3-25. 2005).

Thus, there is a "need to confine [such defendants] to prevent further harm to the public." AS 12.55.005(3). There is a need for longer sentences to deter the individual defendant. AS 12.55.005(5). The need for confinement to protect the public, and the concept of individual deterrence, have also been recognized aspects of criminal sentencing since *Chaney*.

Sex offenders go undetected for an average of 16 years (Ahlmeyer, *et al.*), which explains how they can have so many victims. It also suggests that offenders begin raping when they are relatively young, and indeed the average age of onset for offenders is between 12 and 16 years old (Ahlmeyer, *et al.*). Early detection and intervention in sex offenses committed by juveniles may be one fruitful way of addressing sex crimes generally, especially in the future. However, sex offenses committed by juveniles is a topic that is beyond the scope of Senate Bill 218, which deals with the immediate crisis facing Alaska.

Victims of sexual abuse and assault suffer from the effects of the crime for years. When sexually abused boys are not treated, it makes it more likely they will be involved in committing crimes, suicide, drug use and continued sexual abuse (Holmes, University of Pennsylvania School of Medicine). Young girls forced to have sex are three times more likely to develop psychiatric disorders, become sexually active earlier in life and abuse alcohol and drugs in adulthood (Kendler, M.D. Medical College of Virginia Commonwealth University, *Archives of General Psychiatry* 2000; 57:953-959).

Although judges must take into account "the circumstances of the offense and the extent to which the offense harmed the victim" on a case-by-case basis in determining the specific sentence within a statutory range, in setting

those ranges the legislature must take into account the harm to victims generally, and the extent which sex crimes endanger "the public safety or order." AS 12.55.005(4). Therefore sentences for sex offenses should be increased significantly.

The effect of sex offenses on the victim, and the victim's family, is enormous. But the effect on fabric of society is no less important to consider in setting sentence ranges. In many places in Alaska women are afraid to walk alone in their neighborhoods at night, or to let their children go to the park or the mall, because they fear that they, too, may become a victim. The financial costs to society are also significant. On average, 521 victims report sexual assault each year in Alaska. The National Institute of Justice estimates that the average cost of caring for each victim is \$86,500; thus Alaska is spending more than \$45 million on sexual assault victims.

"Restoration of the victim and the community" is another recognized sentencing factor. AS 12.55.005(7). If convicted sex offenders serve longer sentences, and potential sex offenders are deterred by the threat of those sentences, women and children may feel safer, and we have taken the first step toward community restoration. The community has good reason to be shocked at the sobering statistics relating to sex offenses in Alaska, and to be outraged at the intentional conduct underlying those offenses. The new sentence ranges imposed by Senate Bill 218 thus allows the community to express another sentencing factor: "community condemnation of the criminal act and reaffirmation of societal norms." AS 12.55.005(7).

The Alaska appellate courts have sometimes questioned whether decisions by the legislature in setting presumptive sentences were intended to achieve the results that they did. In the case of sentence ranges imposed by Senate Bill 218, the result of greatly increased sentences are, indeed, intended. Whether by increasing the lower or upper ends of the sentencing range, or by further limiting when sentences can be reduced for "good behavior" in prison, the effect of this bill is to increase the sentences for sex offenses, sometimes above what may be theoretically available for a person convicted of a crime in a higher crime classification or of a crime that may involve greater observable physical injury to the victim.

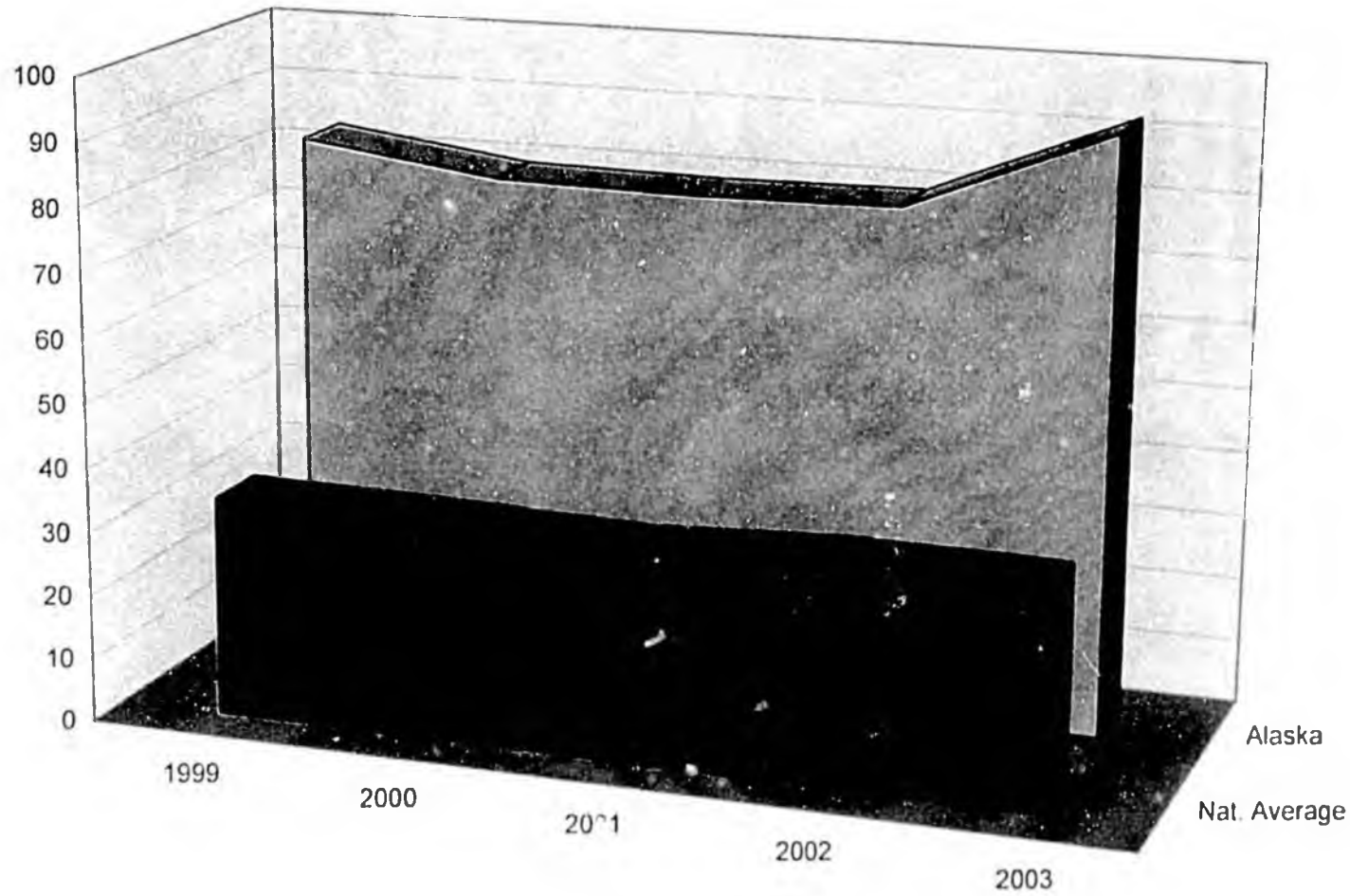
However, as discussed above, sexual crimes are often crimes of planning, intent and manipulation, and most sex offenders can control their behavior. In addition, sex offenses are almost always perpetrated on vulnerable

victims: primarily women and children, and often on intoxicated or unconscious women. If there is one type of crime that uniformly strikes fear into the hearts and minds of Alaskans, it is the fear that they, or a loved one, will be raped or sexually abused. No other crime—not murder or robbery or burglary—is so universally feared, and with justification. The victims and perpetrators of this Alaska epidemic span all social, cultural, religious and economic classes.

By application of existing statutory mitigating factors under AS 12.55.155, or by referral to the three-judge panel “safety net” under AS 12.55.175, the courts of Alaska will be able to avoid manifestly unjust sentences in appropriate cases. At the same time, the citizens of Alaska will benefit from the real and perceived increase in safety achieved by these increased sentences.

Senator Con Bunde
Senator Gretchen Guess

Forcible rapes per 100,000



■ Nat. Average
□ Alaska

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| ■ Nat. Average | 34.16538462 | 33.42692308 | 32.62115385 | 34.08846154 | 33.68846154 |
| □ Alaska | 83.5 | 79.3 | 78.9 | 79.4 | 92.5 |