

**STATE OF MAINE  
121st LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the**

**COMMISSION TO IMPROVE COMMUNITY SAFETY  
AND SEX OFFENDER ACCOUNTABILITY**

**January 2004**

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## **EXECUTIVE SUMMARY**

The Commission to Improve Community Safety and Sex Offender Accountability was created pursuant to Resolve 2003, chapter 75 during the First Regular Session of the 121st Legislature. The commission was established to provide a legislative forum to review criminal sentencing laws for sex crimes and to review sex offender registration and notification laws and policies. The purpose of this commission's review was to take a thoughtful and comprehensive look at Maine's sex offender laws and to identify areas in which immediate legislative and policy change is necessary to increase community safety.

The commission consisted of 17 members who met 5 times. In completing its work, the commission heard presentations from several experts and held a public hearing at which the commission received testimony from victims and their parents, sex offenders and their families, legislators, community leaders and other concerned citizens.

In its focus to ensure public safety, the Commission to Improve Community Safety and Sex Offender Accountability determined that at this time it is appropriate to recommend amendments to both the sentencing provisions in the Maine Criminal Code and to the Sex Offender Registration and Notification Act (SORNA) of 1999. The commission presents to the Second Regular Session of the 121st Legislature the following specific recommendations broken down into these subject areas: "prevention," "sentencing," "transition and treatment," "probation and supervision," "registration" and "notification."

### **PREVENTION**

- Direct the Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the Department of Public Safety, in cooperation with the Child Abuse Action Network, to:
  - a. Identify the subpopulation of potential offenders or young persons at risk for offending because they have been sexually or physically abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;
  - b. Identify the types of prevention and treatment currently known to work with these young persons;
  - c. Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and
  - d. Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety issues.
- Encourage the Legislature to support further funding and allocation of resources for prevention education.

## SENTENCING

- Carefully review any proposed changes to the laws regarding sentencing or good time practices as they relate to sex offenders, giving community safety the utmost consideration.
  
- Increase the classification of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the commission recommends providing courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing by one class the following crimes:
  - a. Unlawful sexual contact: 17-A MRSA, §255-A, sub-§1, ¶E (Class C crime) and ¶F (Class B crime);
  - b. Visual sexual aggression against a child: 17-A MRSA, §256 (Class D crime);
  - c. Sexual misconduct with a child under 14 years of age: 17-A MRSA, §258 (Class D crime);
  - d. Solicitation of child by computer to commit a prohibited act: 17-A MRSA, §259 (Class D crime);
  - e. Violation of privacy: 17-A MRSA, §511, sub-§1, ¶D (Class D crime);
  - f. Sexual exploitation of minors: 17 MRSA, §2922, sub-§1, ¶¶A and B (Class B crimes);
  - g. Dissemination of sexually explicit materials: 17 MRSA, §2923 (Class B or C crime); and
  - h. Possession of sexually explicit materials: 17 MRSA, §2924 (Class C or D crime).

Gross sexual assault (17-A MRSA, section 253, sub-1, ¶B) and sexual exploitation of minors (17 MRSA, section 2922, subsection 1, paragraph A-1 and paragraph C) are Class A crimes, carrying a maximum penalty of up to 40 years. Sentences in excess of 20 years, and up to the statutory maximum of 40 years, currently require the sentencing court to identify and elaborate upon certain sentencing criteria that are not present in every case. The commission recommends that where the victim is under 12 years of age, the court shall by statutory definition, have the option to impose a sentence in excess of 20 years.

- Increase the period of probation for persons convicted of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the commission recommends providing courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing periods of

probation for persons convicted under 17-A MRSA, Chapter 11 (Sexual Assaults) or 17 MRSA, Chapter 93-B (Sexual Exploitation of Minors) as follows:

- a. For a person convicted of a Class A crime, a period of probation not to exceed 18 years;
  - b. For a person convicted of a Class B crime, a period of probation not to exceed 12 years; or
  - c. For a person convicted of a Class C crime, a period of probation not to exceed 6 years.
- Rename “dangerous sexual offender”<sup>1</sup> as “repeat sexual assault offender.”
  - Allow the court to have the option to impose a sentence of imprisonment in excess of 20 years, based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B or Class C crime of unlawful sexual contact.
  - Allow the court to have the option to impose a sentence of probation of up to 18 years based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B or Class C crime of unlawful sexual contact.

#### **TRANSITION AND TREATMENT**

- Allocate resources to provide forensic and presentence evaluations for all sex offenders.
- Provide treatment for sex offenders while they are incarcerated and provide pre-release counseling before they return to the community.
- Create a network of providers, aided by State training and resources, to ensure a collaborative, consistent and up-to-date treatment effort.

#### **PROBATION AND SUPERVISION**

- Increase the number of Sex Offender Specialists in the Department of Corrections and make the reallocation of probation services for sex offenders the first priority in offender supervision.
- Encourage continued communication and collaboration among probation officers, sex offender treatment providers and law enforcement officers.

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<sup>1</sup> 17-A MRSA §1252, sub-§4-B.

## REGISTRATION

- Rename the current SORNA of 1999 registration categories “sexually violent predators” and “sex offenders” to “lifetime registrants” and “10-year registrants.”
- Move Class D and Class E offenses that currently require lifetime registration as “sexually violent predators” under the SORNA of 1999 to the list of offenses requiring 10-year registration for “sex offenders.”
- Request that the Criminal Law Advisory Commission<sup>2</sup> (CLAC):
  - a. Review the Sex Offender Registration and Notification Act of 1999 to identify all crimes of gross sexual assault and unlawful sexual contact that currently do not require any registration;
  - b. Assess whether the current Maine crimes listed as sex offenses and sexually violent offenses are appropriate under the Federal Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as amended; and
  - c. Report its findings and any proposed changes to the Joint Standing Committee on Criminal Justice and Public Safety by March 1, 2004.
- Make technical drafting changes to the Sex Offender Registration and Notification Act (SORNA) of 1999, including:
  - a. Adding to the list of registerable offenses the former crime of rape,<sup>3</sup> restoring the former crimes of unlawful sexual contact<sup>4</sup> and solicitation of child by computer to commit a prohibited act<sup>5</sup> and moving from the definition of “sex offense” to “sexually violent offense” the crimes of unlawful sexual contact that involve penetration;<sup>6</sup>
  - b. Making registration requirements consistent by removing from the crime of “kidnapping” the defense that the actor is a parent, which is consistent with the crime of criminal restraint for purposes of sex offender registration; and
  - c. Defining the terms “another state,” “registrant,” “jurisdiction,” and “tribe” to be more consistent with federal law.

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<sup>2</sup> See Title 17-A MRSA, chapter 55.

<sup>3</sup> 17-A MRSA §252.

<sup>4</sup> 17-A MRSA §255.

<sup>5</sup> 17-A MRSA §259.

<sup>6</sup> See 17-A MRSA §255, sub-§3.

- Authorize Maine to suspend the requirement that a sex offender or sexually violent predator register during any period in which the registrant leaves the State, establishes a domicile in another state and remains physically absent from the State.
- Increase from \$25 to \$30 the sex offender and sexually violent predator fee for initial registration and annual renewal registration.
- Refer back to the Joint Standing Committee on Criminal Justice and Public Safety the issue regarding the 10-day time requirement in which a sex offender must verify registration information or a change in registration information with the State Bureau of Identification as described in LD 617, An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register.

#### **NOTIFICATION**

- Request the Maine Chiefs of Police Association, in cooperation with Sexual Assault Response Teams (SARTs) and sexual assault crisis centers, to draft a model public notification policy that will be added to the list of mandatory law enforcement policies for which agencies must report their implementation and training to the Board of Trustees of the Maine Criminal Justice Academy.
- Strongly encourage local law enforcement agencies that maintain public web sites to provide a link to the state Sex Offender Registry<sup>7</sup> and strongly discourage those same law enforcement agencies from providing public access to individual agencies' own sex offender registries.

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<sup>7</sup> <http://www4.informe.org/sor/>

## I. INTRODUCTION

### A. STUDY CREATION AND CHARGE

The Commission to Improve Community Safety and Sex Offender Accountability was created pursuant to Resolve 2003, chapter 75 during the First Regular Session of the 121st Legislature. The commission's charge was to invite the participation of experts and interested parties, gather information and request necessary data from public and private entities to examine and recommend any changes to current laws governing the sentencing, registration, release and placement of sex offenders. As its title implies, the commission's overarching mission was to increase community safety. Specifically, the Legislature directed the commission to accomplish the following:

- Define and establish minimum standards and guidelines concerning notification to the public about sex offenders;
- Examine matters concerning the management of sex offenders, including the risk assessment that is currently used to assess sex offenders upon release, the necessity of prerelease discharge plans and the benefits of treatment while in corrections facilities; and
- Examine issues regarding registration, including the current time period allowed sex offenders before they must register with local law enforcement agencies.

The commission consisted of 17 members that included three legislators and representatives from the Department of Corrections, the Department of Public Safety's State Bureau of Identification, the Office of the Attorney General, a statewide coalition advocating for victims of sexual assault, an organization that provides direct support services to victims of sexual assault, the Maine Civil Liberties Union, the Maine Chiefs of Police Association, the Maine Sheriffs' Association, the Maine Association of Criminal Defense Lawyers, the Maine Prosecutors Association, the Maine Council of Churches, victims of sexual assault, psychologists or psychiatrists who treat sex offenders and persons who provide direct services to sex offenders. The Chief Justice of the Supreme Judicial Court also designated a Justice of the Superior Court to serve on the commission as a member.

### B. PROCESS

**1. Meetings and presentations.** The Commission to Improve Community Safety and Sex Offender Accountability met five times. In completing its work, the Commission heard presentations from the following experts.

- **Dr. Sue Righthand**, a psychologist and national expert on issues involving sex offenders and their treatment, provided the commission with an overview about how to define different types of sexual abuse, who offends, how offenders are classified or typed, factors that contribute to sexual offending and recidivism, risk



assessment tools and treatment modalities. (See Appendix D for Dr. Righthand's complete presentation.)

- **Dr. Joseph Fitzpatrick**, who served on the commission and is a psychologist and Director of Behavioral Health Services at the Department of Corrections, explained his department's progress in providing treatment to incarcerated sex offenders.
  - **Michael Ranhoff**, a licensed polygraph examiner, and **Sgt. Douglas Parlin**, the Polygraph Examiner Supervisor of the Maine State Police, explained how polygraph examinations are used in the treatment of sex offenders.
  - **Nancy Dentico** and **Bud Hall**, probation officers who are Sex Offender Specialists, and **Dan Ouellette**, a Regional Correctional Administrator for the Department of Corrections, gave an overview of their roles supervising sex offenders.
  - **Lt. Jackie Theriault** of the Maine State Police, who served on the commission and works for the State Bureau of Identification (SBI), summarized the history of the Sex Offender Registry, explained the impact of legislative changes on the registry and provided an update on the status of Internet access to sex offender information.<sup>1</sup>
  - **Lt. Col. Jeff Harmon** of the State Police gave a demonstration of the on-line Sex Offender Registry.
  - **Representative Sean Faircloth**, who served as co-chair of the commission, spoke to the commission about a conference he attended: the University of Wisconsin's 19th Annual Midwest Conference on Child Sexual Abuse, which is the oldest conference of its kind in the country.
  - **Dr. Anne LeBlanc**, the Director of the State Forensic Service, provided the commission with written testimony about her agency's post-conviction evaluation process for sex offenders.
- 2. Public hearing.** In addition to presentations from these experts, the commission held one public hearing at which many people spoke, including victims and their parents, sex offenders and their families, legislators and the Mayor and City Manager of Augusta. (See Appendix E for a summary of comments from the presentations and public hearing.)

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<sup>1</sup> At the time of Lt. Theriault's presentation, the SBI was working to complete Internet access to the Sex Offender Registry. The registry is now available on-line at <http://www4.informe.org/sor/>

## **II. BACKGROUND AND HISTORY**

Over the last 10 years, Maine has created and amended a number of laws regarding sex offender registration and notification and criminal sentencing for sex offenses. These changes have been made in response to requirements imposed on the states by the federal government and in response to the public's desire for stronger sentences for sex offenders and more information about sex offenders residing in the community. A history of the legislative changes follows.

### **A. SEX OFFENDER REGISTRATION AND NOTIFICATION**

The legislative purpose of Maine's sex offender registration and notification laws is to protect the public from potentially dangerous sex offenders by enhancing access to information concerning sex offenders. In an effort to provide better access and more detailed information, these laws have evolved over time.

#### **1. Sex Offender Registration Act of 1992 (SORA)<sup>2</sup>**

Maine's first law regarding the registration of sex offenders was the Sex Offender Registration Act (SORA) of 1992. The SORA applied to sex offenders sentenced on or after June 30, 1992 and before September 1, 1996. For purposes of the act, only persons convicted of gross sexual assault<sup>3</sup> against victims less than 16 years of age at the time of the crime had to register as "sex offenders." A sex offender had to register that offender's address with the Department of Public Safety, State Bureau of Identification (SBI) for 15 years. A sex offender who failed to register or update registration information committed a Class E crime.

#### **2. Sex Offender Registration and Notification Act (SORNA of 1996)<sup>4</sup>**

The SORNA of 1996 changed the SORA of 1992 by slightly expanding the definition of "sex offender," by increasing the penalty for registration violations and by adding a notification component that provides law enforcement and the public greater access to information about sex offenders. The SORNA of 1996 applied to sex offenders sentenced on or after September 1, 1996 and before September 18, 1999.

For purposes of this act, "sex offender" was defined as an individual convicted of gross sexual assault against a victim less than 16 years of age at the time of the crime or an individual found not criminally responsible for committing gross sexual assault by reason of mental disease or defect, if the victim was less than 16 years of age at the time of the crime. As in the SORA of 1992, the SORNA of 1996 required a sex offender to register that offender's address with the SBI for 15 years after the offender's release. A sex offender who failed to register or update registration information committed a Class D crime, except that an offender who committed a registration violation when the offender had 2 or more prior convictions for registration violations committed a Class C crime.

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<sup>2</sup> See 34-A MRSA, Chapter 11, which was repealed by Public Law 2001, c.439.

<sup>3</sup> See 17-A MRSA §253.

<sup>4</sup> See 34-A MRSA, Chapter 13, which was repealed by Public Law 2001, c.439.

The biggest change made by the SORNA of 1996 was the addition of the element of notification, which gave law enforcement new responsibilities. When a sex offender was conditionally released or discharged, the Department of Corrections was required to notify the SBI of the address where the sex offender would reside, the address where the sex offender would work, the geographic area to which the sex offender's release was limited and the status of the sex offender when released as determined by a risk assessment instrument used by the Department of Corrections.<sup>5</sup> Upon receiving this information, the SBI forwarded the information to all law enforcement agencies having jurisdiction in those areas where the sex offender worked or resided. The Department of Corrections and law enforcement agencies that received registration information then notified members of the public who they determined appropriate to ensure public safety.

### **3. Sex Offender Registration and Notification Act of 1999 (SORNA of 1999)<sup>6</sup>**

The SORNA of 1999 greatly expanded the definition of "sex offender" and created the new category "sexually violent predator." The SORNA of 1999 also required the State to provide registration information to the Federal Bureau of Investigation to be used in a national database. The adoption of this act put Maine in compliance with the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act,<sup>7</sup> which ensured that Maine would not receive a reduction in its federal Byrne Formula Grant funding.

Maine's SORNA of 1999 applies to all persons who commit sex offenses and sexually violent offenses.<sup>8</sup> Under the SORNA of 1999, a sex offender is required to register that offender's address with the SBI for 10 years after release. A sexually violent predator must

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<sup>5</sup> The risk assessment instrument is a tool used by the Department of Corrections to determine the appropriate level of supervision necessary once the sex offender is released from incarceration.

<sup>6</sup> See 34-A MRSA, Chapter 15.

<sup>7</sup> See 42 U.S.C. §14071.

<sup>8</sup> Pursuant to 34-A MRSA §11203, sub-§6, "sex offense" includes:

A. A violation under Title 17, section 2922, 2923 or 2924;

B. A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; Title 17-A, section 255-A, subsection 1, paragraph A, B, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 301, unless the actor is a parent of the victim; Title 17-A, section 302; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

C. A violation of an offense in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A or B.

Pursuant to 34-A MRSA §11203, sub-§7, "sexually violent offense" includes:

A. A conviction for one of the offenses or for an attempt to commit one of the offenses under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; or Title 17-A, section 255-A, subsection 1, paragraph C, D, E, F, G, H, O or P; or

B. A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A.

register for the duration of the offender's life. If the sex offender or sexually violent predator moves out of the State or travels to another state to attend school or work for a period of time, the sex offender or sexually violent predator must register the new address with the SBI and must register with a designated law enforcement agency in the new state, if the state has a registration requirement. The SBI may charge an offender a \$25 annual registration fee.

The penalties for violating registration requirements under the SORNA of 1999 and the public notification process under the SORNA of 1999 are the same as that under the SORNA of 1996. In addition to entering registration information in its database, the SBI must forward the registration information to the Federal Bureau of Investigation to be entered in the national sex offender database from which law enforcement agencies from other states may access information. The SBI also must verify the domicile of a sex offender on each anniversary of the sex offender's initial registration date and must verify the domicile of a sexually violent predator every 90 days after that offender's initial registration date.

When adopted, the SORNA of 1999 applied only to persons sentenced on or after September 1, 1996 and before September 18, 1999. However, pursuant to Public Law 2001, chapter 439, the act repealed the two prior acts governing sex offender registration and notification that applied before 1999 and now applies retroactively to all sex offenders and sexually violent predators convicted on or after June 30, 1992.

In 2003 the Legislature amended the Sex Offender Registration and Notification Act of 1999 again. Public Law 2003, chapter 371 made a number of technical changes and made substantive changes that:

- a. Expanded the definition of "sex offense" to include two crimes regarding sexual exploitation of minors: dissemination of sexually explicit materials and possession of sexually explicit materials;<sup>9</sup>
- b. Clarified the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarified what access to that information the public and offenders have, including Internet access;
- c. Clarified that a sex offender or sexually violent predator shall notify the SBI in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile; and
- d. Added county jails and state mental health institutes to the list of entities required to provide notification to the SBI of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.

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<sup>9</sup> See 17 MRSA §2923 and §2924.

## **B. SENTENCING CHANGES AND RELATED ENHANCEMENTS TO THE MAINE CRIMINAL CODE**

### **1. Sentencing of “dangerous sexual offenders”<sup>10</sup>**

In addition to Maine’s sex offender registration and notification acts, the 119th Legislature enacted “An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators.”<sup>11</sup> That law made changes in sentencing sex offenders convicted of committing a second gross sexual assault that:

- a. Removed the current ceiling for terms of imprisonment. The law allows a court to impose a straight term of imprisonment for any term of years for the “dangerous sexual offender” or a person who commits a repeat gross sexual assault. (Existing law allows the court to set a definite period of imprisonment not to exceed 40 years);
- b. Removed the current probation period caps. The law allows a court to impose a period of probation for any term of years for the “dangerous sexual offender.” For other serious crimes, current law allows a court to place a person convicted of a Class A crime on probation for a period not to exceed 6 years;
- c. Created a new post-release mechanism called “supervised release.” The law allows a court to impose a term of supervised release of any term of years with a straight term of imprisonment for the “dangerous sexual offender;” and
- d. Allowed for a period of supervised release after imprisonment for a conviction of gross sexual assault. The law allows a court to impose a defined period of supervised release depending upon the class of crime of the gross sexual assault for which the offender was convicted. The period of supervised release may be up to 6 years for Class B and C gross sexual assaults and up to 10 years for Class A gross sexual assaults.

### **2. Additional changes to the Maine Criminal Code**

In addition to the changes implemented at the recommendation of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, the Legislature has criminalized other sexual misconduct and made it easier to prosecute certain offenses. Examples of some of these legislative changes include the following.

- a. Public Law 2003, chapter 138, which was LD 722, An Act to Protect Against Unlawful Sexual Touching, criminalized intentional sexual contact with a person who is either 14 or 15 years of age who is not the actor's spouse when the actor is at least 10 years older than the other person. This form of sexual abuse of a minor is a Class D crime. It is a defense to a prosecution for the new crime that the actor

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<sup>10</sup> See 17-A MRSA, Chapter 50 and 17-A MRSA §1252, sub-§4-B.

<sup>11</sup> Public Law 1999, chapter 788.

reasonably believed the other person to be at least 16 years of age. Public Law 2003, chapter 138 also created the new crime of unlawful sexual touching. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire. The crime of unlawful sexual touching was modeled after the current crime of unlawful sexual contact.

- b. Public Law 2001, chapter 412, which was LD 125, An Act to Specify That Possession of Sexually Explicit Materials by Way of the Internet Is Criminal, criminalized possession of sexually explicit materials that have come into a person's possession by way of the Internet and made all provisions regarding sexually explicit materials consistent by including computer data files in the types of materials regulated under the law. Public Law 1999, chapter 349, which was An Act to Make It a Crime to Solicit a Child by Means of a Computer to Commit a Prohibited Act, criminalized the use of a computer to knowingly solicit, entice, persuade or compel another person to meet with the actor for the purpose of engaging in a prohibited sexual act, sexual contact or sexual exploitation of that person.
- c. Public Law 1999, chapter 438, which was LD 2019, An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors, eliminated the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under 16 years of age at the time of the offense.

### **C. SEX OFFENDER SPECIALISTS**

In an effort to better supervise high-risk sex offenders, the Legislature authorized the Department of Corrections to accept federal money to employ 6 probation officers as "sex offender specialists." These officers have smaller caseloads than other probation officers, so that they can provide closer supervision and have greater contact with their probationers who are all high-risk sex offenders. Increased contacts for high-risk sex offenders include probation officers having more contacts with the offender, as well as communicating regularly with an offender's employer, family, neighbors and others in the community with whom the offender has regular contact.

## **III. FINDINGS AND RECOMMENDATIONS**

The Commission to Improve Community Safety and Sex Offender Accountability was established to provide a legislative forum to review criminal sentencing laws for sex crimes and to review sex offender registration and notification laws and policies. Each year the Legislature considers many bills proposing to amend the laws regarding sex offenders, and each year new issues arise that necessitate current laws to be further defined or expanded. The purpose of this commission's review was to take a thoughtful and comprehensive look at Maine's laws and to identify areas in which legislative and policy change is necessary. Concentrating its focus on

ensuring public safety, the commission determined that at this time it is appropriate to recommend amendments to both the sentencing provisions in the Maine Criminal Code and to the Sex Offender Registration and Notification Act of 1999 (SORNA). The commission's specific recommendations found below are broken down into the following subject areas: "prevention," "sentencing," "transition and treatment," "probation and supervision," "registration" and "notification."

#### **A. PREVENTION**

Many resources and much time have been focused on the laws and policies regarding sentencing practices for sex offenses and those governing implementation and application for sex offender registration and notification. Work in these areas needs to continue, but that effort must occur in conjunction with a proactive effort to create prevention strategies. The commission believes that the first step in prevention is identifying those persons who are at the highest risk for offending. Identifying this population and investing efforts in education and prevention practices for them will reduce the likelihood that these high-risk individuals may later commit sexual assaults themselves. Identifying this population and studying persons who have offended is challenging. Research of sex offenders varies in its results. This is true in part because sex offenses are underreported compared to many crimes and because studies regarding recidivism are many years long, which makes it difficult to track offenders and accurately record their social and criminal behavior over time.

Clearly, the great majority of survivors of sexual assault do not go on to offend. However, studies have found that children who are sexually or physically abused are at a higher risk for later becoming offenders themselves, and studies further indicate that this is especially true if the victims are boys.<sup>12</sup> The commission believes that prevention is a critically important part of the whole system and that not all resources should be directed at only reactive measures after offenses occur. Investing in prevention programs now and diverting those who are at a high risk for committing sexual assaults will improve public safety and save criminal justice resources. To accomplish this goal, the commission urges State agencies and other providers to ensure that whatever treatment and prevention programming is employed is research-based and proven effective before the State promotes, funds or implements the treatment.

Because of the evidence indicating that there is a greater likelihood of child victims later becoming offenders, the commission makes the following unanimous recommendations regarding prevention.<sup>13</sup>

#### **1. Direct the Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the**

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<sup>12</sup> A 1998 study of sex offenders by Becker and Murphy indicated that approximately 30 percent of adult sex offenders had histories of child sexual abuse and that those who abuse boys have even higher rates. This finding was further supported by the 2002 Child Molestation and Prevention Study by Abel and Harlow that indicated that 47 percent of child molesters were sexually abused themselves as children, and those who were abused as children started to offend at an earlier age and molested more children.

<sup>13</sup> Justice John Atwood, who represented the Judiciary on the commission, abstained from all votes on commission recommendations, which is a common practice of those members who serve on the bench.

**Department of Public Safety, in cooperation with the Child Abuse Action Network, to:**

- a. Identify the subpopulation of potential offenders or young persons at risk for offending because they have been sexually or physically abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;**
- b. Identify the types of prevention and treatment currently known to work with these young persons;**
- c. Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and**
- d. Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety issues.**

Because most of these young people will not have had contact with the criminal justice system, the commission believes that it is appropriate for the Department of Behavioral and Developmental Services, Bureau of Children's Services to take the lead on this effort. Working with this next generation of youth, especially boys and adolescent young men, is an important and missing step in promoting and providing prevention services.

To compliment this directive of identifying and working with high-risk youth who have not yet offended, the Department of Corrections is reviewing its sex offender treatment programming for juveniles committed to the department. The department is working to ensure that best practices and methods are being used effectively to prevent juveniles from reoffending when they return to the community. The commission supports this effort and encourages the department to complete its assessment as promptly as possible.

**2. Encourage the Legislature to support further funding and allocation of resources for prevention education.**

In addition to their work with and on behalf of sexual assault survivors, victim advocates play an important role as community educators. These advocates currently provide risk reduction and other prevention-related education programs to students in elementary school through college. The commission encourages further legislative support of funding and resources to ensure that research-based prevention programs continue to exist throughout the schools and communities of the State.

**B. SENTENCING**

Data demonstrates that sex crimes against children pose a unique threat to community safety. A study of child-focused sexual behavior, which involved gathering self-reported data on victimization rates from 561 offenders, resulted in reporting a total of 291,737 "paraphilic acts"



or perverse sexual behavior, committed against 195,407 victims under 18 years of age. Over 48,000 of those acts involved nonincestuous child molestation with a female victim (224 of the 561 offenders reported committing 5,197 acts against 4,435 female victims) and nonincestuous child molestation with a male victim (153 offenders reported committing 43,100 acts against 22,981 male victims).<sup>14</sup> According to this study, pedophiles, those adults who have a sole or primary fixated focus or interest in erotic and sexual activity with children, generally had significantly more victims and committed a greater number of paraphilic acts than rapists with adult victims. If the number of acts committed against children were cut in half, or even by three-quarters, the number of crimes committed by so few offenders would continue to be staggering.

Approximately 95-98% of sex offenders are male, and many have been sexually or physically abused or have significant mental health diagnoses. Male pedophiles may average as many as 150 victims each, therefore, it is critically important that policy makers consider how to help transition at-risk youth, especially males, to a healthy adulthood.<sup>15</sup>

The findings from the Abel et al. report support the conclusion that pedophiles pose a unique threat to community safety. Pedophiles have a higher recidivism rate than most other criminals, and pedophiles usually tend to have multiple victims. Child molestation by these fixated sexual offenders imposes great psychological pain to the individual child victims. While property crimes, for example, are serious, sex crimes committed against children may have ramifications that last decades for these victims.

With the exception of the crime of murder, sex offenses, especially those committed against children, are among the most heinous crimes committed. The tendency of pedophiles to commit crimes serially against multiple children and to commit multiple crimes is a major threat to community safety that exceeds the threat of offenses like property and drug crimes. The rate at which pedophiles continue to sexually assault children in a repeated fashion throughout the offenders' lives, even after completing terms of imprisonment, is greater than that of rapists whose victims are adults. For these reasons, penalties for these crimes warrant enhancement.

There is limited data to support the conclusion that sex offender notification increases community safety. Contrastingly, there is a more effective direct approach: incarceration. By definition, offenders who are incarcerated cannot victimize children. Punishment aside, given the statistics about multiple crimes and multiple victims, removing pedophiles from society is a valid policy goal.

The above factors led the commission to make the following recommendations regarding sentencing.

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<sup>14</sup> Abel, G.G., Becker, J.V, Mittelman, M.S., Cunningham-Rathner, J., Rouleau, J.L., & Murphy, W.D., (1987) "Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs," *Journal of Interpersonal Violence* 2(1), 3-25, cited by Prentky, R., (1997) in the *National Institute of Justice Research Report: Child Molestation: Research Issues*.

<sup>15</sup> See Henkel-Johnson, J., "Child Molestation Studies Summary" (2002).

- 1. Carefully review any proposed changes to the laws regarding sentencing or good time practices as they relate to sex offenders, giving community safety the utmost consideration.**

The commission thoroughly reviewed the laws relating to the sentencing and registration of sex offenders and has spent many hours discussing and formulating recommendations that will increase community safety. Keeping public safety as the focus of each discussion, the commission carefully considered the experiences of those who testified or provided information to them, as well as the expertise of fellow members. Although representing many different interests, the members took the information and worked diligently to compromise and make recommendations that are meaningful and can be implemented. Because of this thoughtful and comprehensive process, the commission unanimously recommends that the Legislature also carefully review any proposed changes to the laws regarding sentencing or good time practices as they relate to sex offenders, giving community safety the utmost consideration in its deliberations.

- 2. Increase the classification of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the commission recommends providing courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing by one class the following crimes:<sup>16</sup>**
  - a. Unlawful sexual contact: 17-A MRSA, §255-A, sub-§1, ¶E (Class C crime) and ¶F (Class B crime);**
  - b. Visual sexual aggression against a child: 17-A MRSA, §256 (Class D crime);**
  - c. Sexual misconduct with a child under 14 years of age: 17-A MRSA, §258 (Class D crime);**
  - d. Solicitation of child by computer to commit a prohibited act: 17-A MRSA, §259 (Class D crime);**
  - e. Violation of privacy: 17-A MRSA, §511, sub-§1, ¶D (Class D crime);**
  - f. Sexual exploitation of minors: 17 MRSA, §2922, sub-§1, ¶¶A and B (Class B crimes);**
  - g. Dissemination of sexually explicit materials: 17 MRSA, §2923 (Class B or C crime); and**
  - h. Possession of sexually explicit materials: 17 MRSA, §2924 (Class C or D crime).**

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<sup>16</sup> The current class is shown in parentheses.

**Gross sexual assault (17-A MRSA, section 253, sub-1, ¶B) and sexual exploitation of minors (17 MRSA, section 2922, subsection 1, paragraph A-1 and paragraph C) are Class A crimes, carrying a maximum penalty of up to 40 years. Sentences in excess of 20 years, and up to the statutory maximum of 40 years, currently require the sentencing court to identify and elaborate upon certain sentencing criteria that are not present in every case. The commission recommends that where the victim is under 12 years of age, the court shall by statutory definition, have the option to impose a sentence in excess of 20 years.**

The commission recommendation regarding penalties for sex crimes with victims less than 12 years of age does not change the current legal age of consent for sexual activity, nor does it change the current penalty range available for sex offenders whose victims are minors 12 years of age or older.

Of the 16 voting members of the commission, one member opposed this increased classification recommendation applying to sex crimes committed against children less than 12 years of age. The 15 members voting in favor of the recommendation identified several policy reasons to support the change.

- First, America in recent years has become more sensitive to the sexual victimization of children. Yet, according to the National Conference of State Legislatures, Maine has the most lenient range of penalties available in New England for gross sexual assaults against children less than 12 years of age. While there are many factors in sentencing, this NCSL report indicates that Maine has one of the 8 weakest penalty ranges of all states for sex crimes committed against children. The commission concludes that Maine should better reflect modern and appropriate sentencing trends with regard to sex crimes against children. Even with the passage of this proposed classification increase, Maine would still have milder penalty ranges for sex crimes committed against children under 12 years of age than most other states.<sup>17</sup> (See Appendix F: NCSL Sexual Assault on Child Chart.)

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<sup>17</sup> According to a report of the National Conference of State Legislatures (October 2003). The same report indicates that:

1. Vermont and Massachusetts give the judge the option of imposing life in prison for sex acts with pre-pubescent children. New Hampshire and Connecticut impose a mandatory minimum of 10 years. Rhode Island imposes a mandatory minimum 20 years. For gross sexual assault with a child victim, Maine has no mandatory minimum and a 40-year maximum sentence. The maximum sentence of 40 years is rarely imposed;

2. Comparing all 50 states to Maine, at least 42 states impose stronger penalty ranges for sex acts against pre-pubescent children, either through a mandatory minimum sentence or a higher maximum sentence. Numerous states make life imprisonment or even the death penalty available for sex acts with child victims; and

3. Historically crimes against children and the sexual abuse of children were little discussed and often swept under the rug, even when credible evidence surfaced. Recent examples of this fact have gained significant mention in the New England media of late. While Maine registration laws may be overbroad, Maine's penalty ranges pertaining to the most dangerous offenders are outdated.

- Second, some of the most respected risk assessment tools specify that the commission of sex crimes against victims under 12 years of age is a key risk factor for increased recidivism. The Minnesota Sex Offender Screening Tool – Revised (mnSOST–R) uses victims under 12 years of age as a major increased recidivism risk factor in its scoring scheme. The Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR) rates sexual interest in victims less than 12 years of age as the highest sexual interest risk factor. The Screening Scale for Pedophilic Interest (SSPI) also uses victims under 12 years of age as an increased risk factor for pedophiles. (See Appendix G: “Survey of Convicted Sex Offenders in the State of Maine” (April 2003).) Researchers in the field who have created these assessment tools recognize that offending against young children is a serious indicator for future offending.
- Third, enhancing penalties for crimes committed against children who have not attained 12 years of age is consistent with federal law. The federal crime of aggravated sexual abuse prohibits engaging in sexual acts involving penetration with victims of any age through the use of force or threat of serious violence and also prohibits engaging in sexual acts involving penetration with victims who have not attained the age of 12 years.<sup>18</sup> Federal law also requires persons who are convicted of such an aggravated offense to register as sex offenders for life.<sup>19</sup>

The commission notes that by increasing by one the classification of the specific sex crimes committed against young children, the State achieves the valid goal of giving judges the option of increased incarceration for high-risk sex offenders while:

- Remaining faithful to the existing classification scheme in Maine’s Criminal Code;
- Avoiding mandatory minimum sentences that limit judicial discretion in individual cases where more lenient sentences may be warranted;
- Making explicitly clear to judges that the victimization of children less than 12 years of age warrants increased penalty ranges prompting courts to increase sentences where appropriate in accordance with the increased risk that this category of sex offenders poses to community safety; and
- Creating a criminal classification system that allows for the differentiation of a class of offenders that professionals identify as having a particular high risk of re-offending and allows for the collection of data previously unavailable. This facilitates tracking child sex offenders for future analysis and risk assessment, which in turn will ensure greater community safety.

For these reasons the majority of the commission finds that enhancing the penalty range by one class for sex crimes committed against victims less than 12 years of age is both a moderate and narrowly tailored change that will directly increase community safety.

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<sup>18</sup> See 18 U.S.C. §2241(b).

<sup>19</sup> 42 U.S.C. §14071.

- 3. Increase the period of probation for persons convicted of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the commission recommends providing courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing periods of probation for persons convicted under 17-A MRSA, Chapter 11 (Sexual Assaults) or 17 MRSA, Chapter 93-B (Sexual Exploitation of Minors) as follows:**
  - a. For a person convicted of a Class A crime, a period of probation not to exceed 18 years;**
  - b. For a person convicted of a Class B crime, a period of probation not to exceed 12 years; or**
  - c. For a person convicted of a Class C crime, a period of probation not to exceed 6 years.**

For many of the reasons mentioned in recommendation 2 above, the commission unanimously proposes increasing the periods of probation for persons who sexually assault children under 12 years of age. If offenders are not incarcerated, the next best way to manage their behavior is to closely supervise them in the community. Currently, a person convicted under 17-A MRSA, Chapter 11 of a Class A crime may receive up to 10 years of probation, and a person convicted of a Class B or C crime may receive up to 6 years of probation. If the State pleads and proves that at the time of the offense, the victim had not attained the age of 12, the court may exercise the option of increasing the duration of probation. Increasing the potential ranges of probation will allow probation officers to better monitor sex offenders who assault children.

**4. Rename “dangerous sexual offender” as “repeat sexual assault offender.”**

Consistent with amending the categories “sex offender” and “violent sexual predator” in the SORNA of 1999, commission members unanimously support amending the term “dangerous sexual offender”<sup>20</sup> to “repeat sexual assault offender” in Title 17-A. “Repeat sexual assault offender” is a more accurate description of the type of offender to which the statute refers.

**5. Allow the court to have the option to impose a sentence of imprisonment in excess of 20 years based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted of a Class B or Class C crime of unlawful sexual contact.**

Without imposing mandatory sentences, the commission unanimously recommends that courts be given the option to sentence offenders who have been convicted and sentenced for committing a Class B or Class C crime of unlawful sexual contact and then are convicted of committing a crime of gross sexual assault to the upper tier of the Class A sentencing range, or

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<sup>20</sup> 17-A MRSA §1252, sub-§4-B.

21 to 40 years of incarceration. Sentences in excess of 20 years, and up to the statutory maximum of 40 years, require the sentencing court to identify and elaborate upon certain sentencing criteria that are not present in every case. The commission recommends that where the defendant has a prior felony unlawful sexual contact conviction followed by a gross sexual assault, the court shall by statutory definition, have the option to impose a sentence in excess of 20 years, based upon the fact that the defendant has the prior conviction.

This proposed change recognizes the seriousness of this type of offender who commits repeated offenses and therefore poses a higher risk of danger to the public safety. This sentencing recommendation is also consistent with the current law that allows the courts to sentence a person who commits a new gross sexual assault after having been convicted previously and sentenced for another gross sexual assault to a period of incarceration of any term of years.

**6. Allow the court to have the option to impose a sentence of probation of up to 18 years based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B or Class C crime of unlawful sexual contact.**

Without imposing mandatory sentences, the commission unanimously recommends that courts be given the option to sentence offenders who have been convicted and sentenced for committing a Class B or Class C crime of unlawful sexual contact and then are convicted of committing a crime of gross sexual assault to an increased period of probation – up to 18 years. The commission recommends that where the defendant has a prior felony unlawful sexual contact conviction followed by a gross sexual assault, the court shall by statutory definition, have the option to impose a period of probation up to 18 years based upon the fact that the defendant has the prior felony conviction.

Consistent with the previous recommendation that allows the courts the option of increased sentences of imprisonment for certain repeat sex offenders, this proposed change further recognizes the danger to the community this category of offender poses. Once released from incarceration, an extended period of supervision will better ensure that these offenders do not recidivate.

**C. TRANSITION AND TREATMENT**

Another serious challenge the State is facing is finding available treatment and resources for incarcerated sex offenders and for transitioning sex offenders back into the community where they need housing, jobs, continued treatment and supervision. Dr. Sue Righthand, who addressed the commission at its first meeting, indicated that a comprehensive treatment plan is necessary for all offenders and works best when it is community-based. Dr. Righthand noted that the success of each offender's intervention plan depends first on a thorough evaluation of each offender. In evaluating offenders, specially trained practitioners must use actuarial and assessment tools and must acknowledge the individual factors in each offender's case. Following an evaluation, those offenders identified as high risk must then take part in a collaborative community based intervention program involving treatment providers and others with professional contact with the offenders in the community. These steps of evaluation and

collaboration must be linked to help increase the likelihood that the offender will follow a coordinated and comprehensive relapse prevention plan and not re-offend.

The commission finds that assigned Sex Offender Specialists within the Department of Corrections must direct the coordination of treatment and intervention efforts that occur in the community, and funds must be made available to compensate private providers for their collaborative planning efforts. Allocation of financial and human resources within the Department of Corrections must recognize and accommodate these needs.

The commission further finds that if the State Forensic Service of the Department of Behavioral and Developmental Services is to provide the above-mentioned evaluations of recently released sex offenders, then resources must be allocated to that end as well. Currently, most adjudicated sex offenders do not receive a professional forensic psychological evaluation. In 1998 the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, hereinafter referred to as the 1998 SVP Committee, chaired by Senator Robert Murray of Bangor and Representative Richard Thompson of Naples, recommended that such forensic evaluations occur.<sup>21</sup>

Providing treatment during an offender's incarceration continues to be a goal of the Legislature and the Department of Corrections. Recently, the Department of Corrections received federal money to provide treatment to incarcerated sex offenders over the next three years. A Request for Proposals (RFP) for a treatment provider was issued, and the department received only one response to the RFP. The department also received feedback that the demands of the department could not be met by the funds available. The department plans to modify its plan to provide the most comprehensive treatment services for incarcerated offenders with the funds that it has. Consideration also should be given to provide maintenance of efforts when the federal funds expire in three years.

Although it appears that the institutional program will soon be implemented at some level, currently there are no funds allocated to the process of transitioning offenders back into the community once they leave the institutions. If this gap in services is not addressed, the treatment provided during incarceration will serve little purpose. Each piece of the evaluation and treatment continuum is necessary to increase the likelihood of an accurate identification of an offender's risk, the needed treatment options for that offender and the necessary level of supervision for that offender. Only such a continuous regimen, which melds together all intervention efforts, will best ensure the safety of the community.

Many of the recommendations that the commission makes relating to transition and treatment are not new. The 1998 SVP Committee made many similar recommendations. Revisiting the issues of transition and treatment of sex offenders five years later, this commission finds that many of the same problems continue to exist, as well as new problems imposed by

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<sup>21</sup> The Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators was created by the 118th Legislature through Joint Order, House Paper, 1653. Public Law 1999, c. 788 was adopted pursuant to the study.

legal, community and political tensions. These problems will only continue to increase in severity if attention and resources are not directly allocated to them.

The commission recommends the following regarding transition and treatment of sex offenders.

**1. Allocate resources to provide forensic and presentence evaluations for all sex offenders.**

The commission makes this unanimous recommendation and emphasizes that it was made first by the 1998 SVP Committee.<sup>22</sup> This commission, like the joint select committee, believes that the judiciary and other participants in the criminal justice system must have adequate resources to appropriately and effectively evaluate all sex offenders. An evaluation is the first step in the process to ensure proper treatment and management of an offender, which will ultimately enhance public safety.

The 1998 SVP Committee also recommended that a separate line item be created in the Judicial Department's budget for sex offender evaluations and that adequate funding be provided for the performance of these evaluations, which were to be performed by the State Forensic Service.<sup>23</sup> Finally, that joint select committee recommended that all forensic evaluations be provided to the Department of Corrections.<sup>24</sup> This commission recommends that resources be allocated for the purpose of providing evaluations and sharing information among the State Forensic Service, the Judiciary and the Department of Corrections, as well as sharing information among these State agencies and treatment providers in the corrections' system and in the community. Those sharing information must recognize the confidentiality rights of the offender and the federal and state laws and regulations governing clinical practices. Collaboration, communication and funding need to coexist to accomplish this goal of completing initial and follow-up evaluations of offenders.

**2. Provide treatment for sex offenders while they are incarcerated and provide prerelease counseling before they return to the community.**

The commission unanimously supports the Department of Corrections' effort to provide a treatment program for incarcerated offenders and directs the department to implement the program as soon as possible. The 1998 SVP Committee also recommended that the Department of Corrections "accelerate the creation of sex offender treatment programs to provide various modes of behavior management for sex offenders in order to support the implementation of the committee's proposed legislative initiatives." That joint select committee further directed the Department of Corrections "in its planning to recognize that the characteristics of sex offenders vary, and therefore, numerous modes of treatment are necessary."<sup>25</sup> The provision of effective

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<sup>22</sup> See Final Report of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, October 15, 1998, p.13.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> See Final Report of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, October 15, 1998, p.13.



treatment is linked to the evaluation of each offender and the identification of that offender's needs. It is clear that in many cases the sex offender treatment process, including behavior management practices, must begin while the offender is incarcerated and not just when the offender walks out the door of a correctional institution, while recognizing that some offenders, especially those classified as the psychopathic and truly predatory repetitive sex offenders, will likely not experience a positive impact from any treatment.

The commission unanimously recommends that, in addition to early sex offender treatment during incarceration, offenders also need guidance and counseling regarding transition back into the community before they are released. To improve the chances of an offender's successful transition, corrections officials need to aid offenders in securing housing, employment and continued counseling and treatment in the community. Too often offenders are released from prison or county jail without a place to live, work or find required counseling. Although probation officers help offenders in this effort once they are released, continued treatment and successful supervision would be more likely if resources were allocated to the transition before it occurred. Community education efforts also need to occur to reduce some of the myth and needless fear associated with the placement of Maine's sex offenders, who with appropriate intervention and supervision are unlikely to reoffend.

Another issue that must be recognized is the reality that substance abuse often accompanies sexual abuse and is a powerful indicator for recidivism. Collaboration with substance abuse providers is indicated. Designated Sex Offender Specialists and community treatment providers must develop an appreciation of the role that alcohol and drug abuse play in the sexual abuse of children.

**3. Create a network of providers, aided by State training and resources, to ensure a collaborative, consistent and up-to-date treatment effort.**

The commission unanimously recommends that the State work with treatment providers to ensure that they are available to provide services across the State and that those services are all based on best practices supported by research. The commission recommends that the State reach out to community providers by providing training and resources to them and by encouraging providers to work together. The commission understands that the Department of Corrections has begun to identify acceptable standards for sex offender treatment, and it is the intent of the department to use community corrections resources to provide treatment standards and training to community treatment providers in the next year. This is an important step in the direction of the State supporting the community treatment effort. Holding community providers responsible for creating a network that provides certain services is unrealistic without supporting that effort with necessary resources. The State must step in to support providers with training and additional resources in order to accomplish the creation of a strong and reliable provider network.

In addition to the training aspect of a treatment network, the commission recommends that the State work with providers to create a peer review process. The commission does not believe that a new licensing structure is necessary to accomplish the goal of ensuring the provision of consistent and appropriate use of research-based treatment. Instead, the commission

recommends that, in conjunction with State training and support, treatment providers work together to explore the adoption of a peer review process, perhaps like the model utilized by the State Forensic Service. A collaborative provider network partnered with the State will ensure the continued identification and application of appropriate standards for sex offender treatment.

In addition to looking at Maine-based models like that of the State Forensic Service, the State may also look to other states such as Vermont for its work with community providers and the establishment of standards for sex offender treatment.

#### **D. PROBATION AND SUPERVISION**

Consistent and adequate probation and supervision of sex offenders plays an integral role in reducing recidivism and ensuring public safety. Currently, the Department of Corrections has several probation officers called “Sex Offender Specialists” who supervise high-risk offenders in the community. Each Sex Offender Specialist carries a caseload of approximately 40 probationers, which, in comparison to other probation officers, makes it possible for the officers to provide closer supervision and have more contacts with probationers and with probationers’ collateral contacts like employers, family and perhaps most importantly, treatment providers.

Unfortunately, not every sex offender who is sentenced to probation has a Sex Offender Specialist as a probation officer. Currently, Sex Offender Specialists handle only about half of the sex offender probation population. Adequate supervision of those offenders who are not part of the caseload of a Sex Offender Specialist is a major concern.

Considering these observations, the commission makes the following recommendations regarding probation and supervision.

##### **1. Increase the number of Sex Offender Specialists in the Department of Corrections and make the reallocation of probation services for sex offenders the first priority in offender supervision.**

The commission unanimously recommends that the State allocate its probation services first to those who most need supervision in the community. The sex offender probation population requires the closest supervision and the most contact standards of all probationers in order to ensure community safety; therefore, current probation resources must be applied to provide adequate supervision of all sex offenders who are probationers. This recommendation is consistent with that made by the 1998 SVP Committee. Specifically, that joint select committee recommended that adequate funding and personnel be provided to ensure the appropriate level of supervision for sex offenders on probation and supervised release. The effectiveness of that committee’s expansion of sentencing alternatives was dependent upon the adequate allocation of supervision resources.<sup>26</sup> This commission strongly encourages an immediate reallocation of human resources within the Department of Corrections as the most effective current option, given the lack of resources available.

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<sup>26</sup> See Final Report of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, October 15, 1998, p.13.

The commission further unanimously recommends that the State use Sex Offender Specialists to supervise all sex offenders identified through evaluation as high-risk. Sex Offender Specialists have brought uniformity to supervision and to counseling that did not previously exist, and probation officers who carry caseloads of up to 200 probationers cannot effectively supervise this high-risk population. For these reasons, the commission recommends that the State's first priority in allocating probation services be to sex offenders.

## **2. Encourage continued communication and collaboration among probation officers, sex offender treatment providers and law enforcement officers.**

The commission heard the same message from law enforcement officers, treatment providers and probation officers. That message was that each of these three groups plays a crucial role in developing and successfully implementing relapse prevention plans for sex offenders and for providing community safety and public education. Elements of this cooperative effort occur now, and the commission would like to encourage that this positive practice continue. Community education efforts also need to occur within selective leadership groups and the general population. The commission unanimously supports a continued collaborative effort that includes providers, law enforcement, probation personnel and victim advocates.

### **E. REGISTRATION**

The Sex Offender Registration and Notification Act of 1999 sets up state guidelines for those who must register with the Maine State Police, State Bureau of Identification (SBI) and for how long persons must register.<sup>27</sup> Currently, the act requires that within 10 days of an offender establishing a domicile in the State after that offender's release from jail or prison, or if no period of incarceration is to be served directly after sentencing, that offender must register with the SBI. The SBI's registry maintains at least the following personal information on each registrant: name, aliases, date of birth, sex, race, height, weight, eye color, mailing address, home address or expected domicile; place of employment, place of college or school being attended and the addresses of employment and school; an offense history; notation of any treatment received for a mental abnormality or personality disorder; a photograph and set of fingerprints; a description of the offense for which the offender was convicted, the date of the conviction and the sentence imposed; and any other information that the SBI determines important.<sup>28</sup>

Under Maine's current law, at the time of sentencing the court determines whether a person is a "sex offender,"<sup>29</sup> who must register for 10 years, or a "violent sexual predator,"<sup>30</sup> who must register for life. Federal guidelines<sup>31</sup> require a 10-year minimum registration period for certain sex offenders and lifetime registration for those who commit "aggravated offenses" or those who have prior convictions for offenses for which registration is required. "Aggravated offenses" refer to state offenses comparable to the federal crime of "aggravated sexual abuse,"

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<sup>27</sup> 34-A MRSA c. 15, subc. II.

<sup>28</sup> 34-A MRSA §11221.

<sup>29</sup> 34-A MRSA §11203, sub-§§5-6.

<sup>30</sup> 34-A MRSA §11203, sub-§§7-8.

<sup>31</sup> See Department of Justice Federal Register, Vol. 64 No.2, Tuesday, January 5, 1999.

defined in 18 United States Code §2241, which includes engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence or engaging in sexual acts involving penetration with victims under 12. Once a court determines that a person is required to register for 10 years or for life, that registration requirement cannot be terminated or amended, unless the underlying conviction is reversed, vacated or set aside or unless the registrant receives a pardon.

In discussing registration requirements, the commission focused on many issues, including whether Maine’s crimes were properly categorized as requiring 10-year registration or lifetime registration, whether the terms used in statute to classify offenders are accurate and useful, whether registration verification requirements could be amended to be less repetitive<sup>32</sup> and whether the registration process is efficient. The commission also discussed how to manage registrants who establish domiciles outside of Maine and whether local law enforcement agencies should receive additional funds for their registration work.

The commission makes the following recommendations regarding registration.

**1. Rename the current SORNA registration categories “sexually violent predators” and “sex offenders” to “lifetime registrants” and “10-year registrants.”**

The commission spent a great deal of time discussing who is required to register and what offenses mandate a lifetime registration requirement. The members unanimously agreed to rename the categories of registrants. The commission believes that it makes sense to remove labels that may be inaccurate, misleading, inflammatory and damaging. In making this recommendation, the commission concluded that there is no way to distinguish by the label alone a “sexually violent predator” who may be a violent psychopathic offender from an offender who committed a registerable offense but is not violent and does not pose a high risk of reoffending to the community. There are also offenders who come to Maine from other states and have to register for life in their previous state, but the crime for which they must register there does not have elements that would make it fall within our requirements for lifetime registration; therefore, out-of-state offenders may also be inaccurately and unfairly grouped with our “sexually violent predators.”

To address these concerns, the commission finds that providing public notice and preventing hysteria are both important. To accomplish this, for purposes of registration, the commission recommends using the terms “10-year registrants” for offenders required to register for 10 years and “lifetime registrants” for offenders required to register for life.

The commission recognizes that these categories may not necessarily provide sufficient information for purposes of notification. Therefore, additional information that better explains the level of risk an offender may pose to the community is appropriate in notification procedures. (See **F. NOTIFICATION** below.)

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<sup>32</sup> Pursuant to 34-A MRSA §11222, sub-§4, SBI must verify a sexually violent predator’s domicile every 90 days after that offender’s initial registration date. Sexually violent predators must register for life.

**2. Move Class D and Class E offenses that currently require lifetime registration as “sexually violent predators” under the SORNA of 1999 to the list of offenses requiring 10-year registration for “sex offenders.”**

The federal government does not give states a great deal of leeway in determining what offenses persons must register for and for how long they must register. The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act set minimum standards for state registration programs. The original requirements of the Act included: registering offenders for 10 years, taking registration information from offenders and educating offenders about when and how to register and update and verify registration information and releasing registration information as necessary for public safety. The Jacob Wetterling Act was amended by the Pam Lychner Sexual Offender Tracking and Identification Act of 1996, which expanded registration requirements by mandating serious offenders and recidivists to register for life. The Jacob Wetterling Act was again amended by the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act of 1998 (CJSA), which provided states with some flexibility and discretion concerning procedures to be used for registration verification. The CJSA also added requirements to register offenders in states where they work or attend school, in addition to registering their place of domicile.

Although the guidelines are quite clear regarding minimum requirements, the commission carefully reviewed the SORNA and Maine’s sex offenses and determined that a strict reading of the elements of some of Maine’s crimes compared to the federal guidelines indicated that there is room for some adjustment. Some of the offenses Maine currently lists under lifetime registration requirements do not require lifetime registration under the federal law. To address this issue, the commission unanimously recommends that all offenders who commit Class D or E sex offenses be required to register for only 10 years.

**3. Request that the Criminal Law Advisory Commission(CLAC):<sup>33</sup>**

- a. Review the Sex Offender Registration and Notification Act of 1999 to identify all crimes of gross sexual assault and unlawful sexual contact that currently do not require any registration;**
- b. Assess whether the current Maine crimes listed as sex offenses and sexually violent offenses are appropriate under the Federal Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as amended; and**
- c. Report its findings and any proposed changes to the Joint Standing Committee on Criminal Justice and Public Safety by March 1, 2004.**

The commission unanimously recommends that CLAC be asked to identify those crimes of gross sexual assault and unlawful sexual contact that are not registerable sex offenses under the SORNA of 1999, to review and assess the appropriateness of the current list of offenses that are registerable and to report to the Committee on Criminal Justice and Public Safety by March

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<sup>33</sup> See Title 17-A MRSA, chapter 55.

1, 2004 whether it believes changes should be made to the registration statute. In addition to proposing to amend the SORNA of 1999 so that all registerable misdemeanor offenses have a 10-year registration requirement, the commission discussed other possible changes to the registration provisions. However, the commission believes that further review of the current law is necessary before additional changes are proposed, and the commission believes that CLAC is an appropriate body to review the law and provide further guidance to the Legislature.

**4. Make technical drafting changes to the Sex Offender Registration and Notification Act (SORNA) of 1999, including:**

- a. Adding to the list of registerable offenses the former crime of rape,<sup>34</sup> restoring the former crimes of unlawful sexual contact<sup>35</sup> and solicitation of child by computer to commit a prohibited act<sup>36</sup> and moving from the definition of “sex offense” to “sexually violent offense” the crimes of unlawful sexual contact that involve penetration;<sup>37</sup>**
- b. Making registration requirements consistent by removing from the crime of “kidnapping” the defense that the actor is a parent, which is consistent with the crime of criminal restraint for purposes of sex offender registration; and**
- c. Defining the terms “another state,” “registrant,” “jurisdiction” and “tribe” to be more consistent with federal law.**

The former crime of rape, 17-A MRSA §252, was repealed before the SORNA of 1999 was enacted, and rape should be added to the list of “sexually violent offenses.” Solicitation of child by computer to commit a prohibited act, 17-A MRSR §259, and unlawful sexual contact, 17-A MRSA §255, were inadvertently left out of the list of registerable offenses when other technical drafting changes were made pursuant to Public Law 2001, chapter 383. Federal law also requires that offenses involving penetration be registerable as lifetime offenses, making it appropriate to categorize those unlawful sexual contact offenses involving penetration as “sexually violent offenses.” Adding and restoring these crimes to the lists of registerable offenses is consistent with public policy, which supports the registration of these types of prohibited acts.

It is a defense to prosecution for kidnapping under 17-A MRSA §301 that the person restrained is the child of the actor. Currently, the registration requirements list the crime of kidnapping, unless the actor is a parent of the victim, as a registerable “sex offense.”<sup>38</sup> A parent cannot be convicted if the parent raises this defense, so the reference to the defense does not need to remain in the definition for sex offenses. The commission recommends that the defense be repealed, which would make kidnapping consistent with the crime of “criminal restraint” in the definition of “sex offense” in 34-A MRSA §11203, sub-§6.

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<sup>34</sup> 17-A MRSA §252.

<sup>35</sup> 17-A MRSA §255.

<sup>36</sup> 17-A MRSA §259.

<sup>37</sup> See 17-A MRSA §255, sub-§3.

<sup>38</sup> “Sex offense” is defined in 34-A MRSA §11203, sub-§6.

Finally, the commission recommends redefining the term “state,” “registrant,” “jurisdiction” and “tribe” for purposes of the SORNA of 1999 to clarify that the reference does not include jurisdictions outside this country, which is consistent with federal law.

The commission unanimously supports all proposed technical corrections.

**5. Authorize Maine to suspend the requirement that a sex offender or sexually violent predator register during any period in which the registrant leaves the State, establishes a domicile in another state and remains physically absent from the State.**

Currently the SORNA of 1999 does not specify that Maine’s responsibility for tracking registered sex offenders is tolled when a sex offender establishes a domicile in another state. The State is now attempting to track sex offenders as they move from state to state, but obtaining information from these other states is difficult, if not impossible at times. The State recognizes its responsibility to track all sex offenders domiciled, employed or attending school in Maine and its responsibility to provide required registration information to any receiving state in which the registered offender is establishing a new domicile. The commission agrees that continuing to track an offender once that offender is domiciled in another state is challenging, uses resources better used to track those within Maine and does not serve immediate public safety interests of the people of this State. Therefore, the commission unanimously recommends that once an offender is domiciled in another state, is not attending school or working here and remains physically absent from the State, Maine may suspend that registrant’s responsibility to register during that period. The duty to register would apply when that offender again returns to the state of Maine to reside, work or attend school.

**6. Increase from \$25 to \$30 the sex offender and sexually violent predator fee for initial registration and annual renewal registration.**

The SBI collects \$25 from all sex offenders at initial registration and on an annual basis thereafter.<sup>39</sup> Of the \$25 collected, \$5 is distributed to the law enforcement agency that conducts the fingerprinting and processing for the initial registration. The remaining \$20 is credited to the General Fund and the Highway Fund in an amount consistent with currently budgeted appropriations and allocations. In an effort to provide local law enforcement agencies with adequate compensation for their work, the majority of the commission recommends increasing the fee to \$30, so that the law enforcement agency that conducts the fingerprinting and processing for the initial registration receives \$10 of the fee. Two members of the commission oppose this recommendation.

**7. Refer back to the Joint Standing Committee on Criminal Justice and Public Safety the issue regarding the 10-day time requirement in which a sex offender must verify registration information or a change in registration information with the State Bureau of Identification as described in LD 617, An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register.**

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<sup>39</sup> 34-A MRSA §11226.

During the First Regular Session of the 121st Legislature, the Joint Standing Committee on Criminal Justice and Public Safety carried over LD 617, An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register. This bill proposed to reduce from 10 days to 48 hours the time within which a sex offender or sexually violent predator must register with the Department of Public Safety, State Bureau of Identification to comply with the Sex Offender Registration and Notification Act of 1999.

The commission discussed this bill and a proposed compromise that was discussed by the Department of Public Safety and advocates during legislative work sessions on the bill. The compromise proposal was to reduce from 10 days to 5 days (instead of 48 hours) the time to register or verify registration with the SBI. Although this proposal sounded reasonable to the commission, the commission unanimously believes that this issue would be more appropriately addressed by the legislative committee of jurisdiction.

#### **F. NOTIFICATION**

The Sex Offender Registration and Notification Act of 1999 sets up state guidelines for notification to law enforcement and the public regarding the release of sex offenders.<sup>40</sup> The current steps in the notification process direct the Department of Corrections, county jails and state mental health institutes to give the SBI notice of a sex offender's address of residence, work and school upon the offender's conditional release or discharge.<sup>41</sup> Upon receiving this information from the releasing correctional facility, the SBI shall then forward the information to all law enforcement agencies that have jurisdiction in those areas where the offender may reside, work or attend school.<sup>42</sup> Once a law enforcement agency receives this information, the agency shall then give notice to "members of the public the department determines appropriate to ensure public safety."<sup>43</sup> Although the notification directive to law enforcement is mandatory in nature, it leaves to the discretion of the agency to whom the information should actually be provided. The statute also is silent as to how the information should be distributed or shared.

Historically, the Legislature has recognized and supported the importance of public notification. At the same time, the Legislature has recognized that communities across the State are unique and specific notification guidelines may work well in one community but not in another, depending on the population and the geographic layout of the community. The Department of Corrections and the Attorney General have worked with law enforcement agencies to explain the notification law and general notification procedures. However, due to the lack of specificity in the statute, the commission finds that law enforcement agencies' approaches to notification are very inconsistent across the State. Some agencies may publicly post all offenders' pictures and knock on many doors, while other agencies may not provide any active notification in their communities. According to public testimony heard by the commission, some law enforcement officers do not know what information that they can share with the public. The commission supports giving law enforcement more guidance in regard to notification procedures. The commission also believes that all law enforcement officers need

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<sup>40</sup> 34-A MRSA c.15, subc.III.

<sup>41</sup> 34-A MRSA §11254.

<sup>42</sup> 34-A MRSA §11254.

<sup>43</sup> 34-A MRSA §11255.



proper training to ensure that they understand what information may be shared with the public and how it can be shared.

Finally, the commission finds that the State, including law enforcement officers, corrections personnel and advocates can work cooperatively to better educate the public about registration, notification and release of sex offenders back into the community.

Based on these discussions, the commission makes the following unanimous recommendations related to community notification and education.

- 1. Request the Maine Chiefs of Police Association, in cooperation with Sexual Assault Response Teams (SARTs) and sexual assault crisis centers, to draft a model public notification policy that will be added to the list of mandatory law enforcement policies for which agencies must report their implementation and training to the Board of Trustees of the Maine Criminal Justice Academy.**

Developing and implementing a model notification policy with minimum standards for all law enforcement agencies will ensure that all communities receive some level of notification and will clarify what information law enforcement officers can share with the public and what methods they can use to distribute the information. The commission wishes to address the huge inconsistencies in notification practices, but recognizes the differences in communities and their needs. For this reason, the commission unanimously recommends that Sexual Assault Response Teams (SARTS) and sexual assault crisis centers work with the Maine Chiefs of Police Association in the development of the policy, as well as the implementation and public education component later. A collaborative effort will ensure that the minimum policy addresses public safety needs. The commission further unanimously recommends that the new policy be added to the list of mandatory policies for which law enforcement agencies must annually report to the Board of Trustees of the Maine Criminal Justice Academy. This step will provide consistency in the timing of the implementation of the notification process across the State.

- 2. Strongly encourage local law enforcement agencies that maintain a public web site to provide a link to the state Sex Offender Registry<sup>44</sup> and strongly discourage those same law enforcement agencies from providing public access to individual agencies' own sex offender registries.**

On December 1, 2003 the public obtained Internet access to the Maine Sex Offender Registry Search. The Sex Offender Registry Web Site is maintained by the Maine State Police, State Bureau of Identification (SBI) and is intended to provide the public with information concerning the location of registered offenders currently within Maine. The information provided on this web site is intended for public safety and community awareness purposes only. Because the registration information is updated on a daily basis to reflect the most current information on file with the SBI, the registry is the most accurate record of those offenders who must register in this State.

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<sup>44</sup> <http://www4.informe.org/sor/>

Currently, a number of local law enforcement agencies maintain their own sex offender registries for internal use and for public access. The commission believes that since the Maine Sex Offender Registry Search is fully implemented and operational, public Internet access to other local registries may be confusing and may provide inaccurate information to the public. Since those local registries will not necessarily be updated daily with the most recent offender information maintained and entered by the SBI, public access to the information may pose a liability for the agencies. However, the commission also recognizes the importance of law enforcement agencies maintaining internal registries for purposes of their own local awareness in order to provide supervision of and notification regarding offenders in their communities. Therefore, the commission unanimously encourages law enforcement agencies and other governmental agencies that have web sites to provide a link to the Maine Sex Offender Registry Search and to use their own individual registries for internal agency use only.

**APPENDIX A**

**Authorizing Legislation  
Resolve 2003, c. 75**

**APPENDIX B**

**Membership list**

**Commission to Improve Community Safety and  
Sex Offender Accountability**

**APPENDIX C**

**Legislation Proposed by the Commission**

**APPENDIX D**

**Presentation by Dr. Sue Righthand**

**APPENDIX E**

**Summary of Comments from Presentations and Public Hearing**

**APPENDIX F**

**NCSL Sexual Assault on Child Chart**



**APPENDIX G**

**Survey of Convicted Sex Offenders in the State of Maine**

**APPENDIX A**

**Authorizing Legislation  
Resolve 2003, c. 75**

## CHAPTER 75

H.P. 292 - L.D. 372

### Resolve, to Improve Community Safety and Sex Offender Accountability

**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** completion of the study established in this resolve to review policies affecting sentencing, registration, release and placement of sex offenders is of vital interest to the citizens of this State and must be completed as soon as possible; and

**Whereas,** immediate passage of this resolve is necessary to provide for full consideration of these important issues, timely completion of the study and submission of recommendations for consideration by the Second Regular Session of the 121st Legislature; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Commission established. Resolved:** That the Commission to Improve Community Safety and Sex Offender Accountability, referred to in this resolve as "the commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of the following 18 members:

1. One member of the Senate, appointed by the President of the Senate;

2. Two members of the House of Representatives, appointed by the Speaker of the House;

3. One representative of the Department of Corrections, appointed by the Commissioner of Corrections;

4. One representative of the Department of Public Safety's Sex Offender Registry Office, appointed by the Commissioner of Public Safety;

5. One representative of the Office of the Attorney General, appointed by the Attorney General;

6. Five members appointed by the President of the Senate as follows:

A. One representative of a statewide coalition advocating for victims of sexual assault;

B. One representative of people who provide direct support services to victims of sexual assault;

C. One representative of people who provide direct services for sex offenders;

D. One representative of the Maine Civil Liberties Union; and

E. One representative of the Maine Chiefs of Police Association; and

7. Six members appointed by the Speaker of the House of Representatives as follows:

A. One representative of the Maine Association of Criminal Defense Lawyers;

B. One representative of the Maine Prosecutors Association;

C. One representative of victims of sexual assault;

D. One representative of psychologists or psychiatrists who treat sex offenders;

E. One representative of the Maine Council of Churches; and

F. One representative of the Maine Sheriffs' Association.

The Chief Justice of the Supreme Judicial Court is invited to designate a judge or a justice to serve on the commission as a member; and be it further

**Sec. 3. Appointments; chairs; meetings. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once the appointments have been completed. The Senate member is the Senate chair and the first-named House of Representatives member is the House chair. The chairs shall call and convene the first meeting of the commission no later than 15 days after appointments of all members. The commission may hold a total of 4 meetings, one of which may be a public hearing; and be it further

**Sec. 4. Duties. Resolved:** That the commission shall invite the participation of experts and interested parties, gather information and request necessary data from public and private entities to examine and recommend any changes to current laws governing the sentencing, registration, release and placement of sex offenders.

In conducting its study, the commission shall:

1. Define and establish minimum standards for notification and guidelines concerning notification of sex offenders to the public;

2. Examine matters concerning the management of offenders, including the risk assessment that is currently used to assess offenders upon release, the necessity of prerelease discharge plans and the benefits of treatment while in corrections facilities; and

3. Examine issues regarding registration, including the current time period allowed offenders before they must register with local law enforcement agencies.

The commission's study may include any other issues the commission determines appropriate; and be it further

**Sec. 5. Staff assistance. Resolved:** That upon approval of the Legislative Council, the Office of Policy and Legal Analysis

shall provide necessary staffing services to the commission; and  
be it further

**Sec. 6. Compensation. Resolved:** That the members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission. Other members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission; and be it further

**Sec. 7. Funding. Resolved:** That the commission may seek and accept outside funds to support the study. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, date the funds were received, from whom the funds were received and the purpose and any limitation on the use of the funds. The Executive Director of the Legislative Council administers any funds received; and be it further

**Sec. 8. Report. Resolved:** That the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 121st Legislature no later than December 3, 2003. If the commission requires an extension of time to complete its report, it may apply to the Legislative Council, which may grant the extension. Following review of the report, the Joint Standing Committee on Criminal Justice and Public Safety may report out a bill related to the study to the Second Regular Session of the 121st Legislature; and be it further

**Sec. 9. Budget. Resolved:** That the cochairs of the commission, with assistance from the commission's staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative council shall promptly provide the commission chairs and staff with a status report on the commission's budget, expenditures incurred and paid and available funds; and be it further

**Sec. 10. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**LEGISLATURE**

**Commission to Improve Community Safety  
and Sex Offender Accountability**

Initiative: Provides a base allocation to authorize expenditures from the anticipation of collecting outside funds.

<b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$500	\$0
Other Special Revenue Funds Total	<u>\$500</u>	\$0 <sup>-</sup>

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.



**APPENDIX B**

**Membership list**

**Commission to Improve Community Safety and  
Sex Offender Accountability**

**COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER  
ACCOUNTABILITY**

**Resolve 2003, Ch 75**

**As Of** Thursday, January 29, 2004

**Appointment(s) by the President**

Sen. Pamela Henderson Hatch  
23 French Street  
P.O. Box 345  
Skowhegan, ME 04976  
(207)-474-3435

**Chair**

Chief Butch Asselin  
Skowhegan Police Department  
90 Water Street  
Skowhegan, ME 04976

Representing the Maine Chiefs of Police Association

Elizabeth Ward Saxl  
ME Coalition Against Sexual Assault  
83 Western Avenue, Suite 2  
Augusta, ME 04330

Representing a Statewide Coalition Advocating for Victims of  
Sexual Assault

Donna Strickler  
Maine Coalition Against Sexual Assault  
3 Mulliken Court  
Augusta, ME 04330  
(207)-626-0034

Representing Providers of Support Services to Victims

Joan Sturmthal  
21 Second Street  
Hallowell, ME 04347

Representing the Maine Civil Liberties Union

**Appointment(s) by the Speaker**

Rep. Sean F. Faircloth  
P.O. Box 1574  
Bangor, ME 04402  
(207)-941-8339

**Chair**

House Member

Rep. Christian David Greeley  
P.O. Box 593  
Bangor, ME 04402

House Member

John Paul DeGrinney, Esq.  
1266 Congress Street  
Portland, ME 04101

Representing the Maine Association of Criminal Defense  
Lawyers

Sheriff Mark N. Dion  
Cumberland County Sheriff's Office  
36 County Way  
Portland, ME 04102-2755  
(207)-626-7695

Representing the Maine Sheriff's Association

Alan Kelley, Deputy D.A.  
Kennebec County Courthouse  
95 State Street  
Augusta, ME 04330

Representing the Maine Prosecutor's Association

Kay I. Landry, Executive Director  
Klinikos  
99 Western Ave., Suite #4  
Augusta, ME 04330

Representing the Maine Council of Churches

Ms. Jennifer E. Parsons  
743 Cundys Harbor Road  
Harpwell, ME 04079

Representing Victims

Dr. Brian Rines  
P.O. Box 69  
Gardiner, ME 04359

Representing Psychologists or Psychiatrists

**Attorney General**

Charles Leadbetter  
Assistant Attorney General  
6 State House Station  
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(207)-626-8511

Representing the Office of the Attorney General

**Chief Justice**

Justice John R. Atwood  
Kennebec County Court House  
95 State Street  
Augusta, ME 04330

Representing the Chief Justice, Supreme Judicial Court

**Commissioner, Department of Corrections**

Dr. Joseph Fitzpatrick, Clinical Director  
Department of Corrections  
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(207)-287-2711

Representing the Department of Corrections

**Commissioner, Department of Public Safety**

Lt. Jackie Theriault  
Department of Public Safety  
42 SHS, 36 Hospital Street  
Augusta, ME 04333  
(207)-624-7097

Representing the Department of Public Safety

Staff: Marion Hylan Barr, OPLA, 287-1670

**APPENDIX C**

**Legislation Proposed by the Commission**

**PROPOSED LEGISLATION**  
**COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY**

**TITLE: AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION TO IMPROVE  
COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY**

**PART A**

**Sec. A-1. 17 MRSA §2922, sub-§1** as amended by PL 2003, c. 452, Part I, §47 is amended to read:

**1. Offense.** A person is guilty of sexual exploitation of a minor if:

**A.** Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct; ~~or.~~ Violation of this paragraph is a Class B crime;

**A-1.** The person violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section;~~.~~ Violation of this paragraph is a Class A crime;

**A-2.** The person violates paragraph A, and the victim has not in fact attained the age of 12 years. Violation of this paragraph is a Class A crime;

**A-3.** The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions for violating this section, and the victim has not in fact attained the age of 12 years. Violation of this paragraph is a Class A crime;

**B.** Being a parent, legal guardian or other person having care or custody of another person, who is in fact a minor, that person knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed; ~~or.~~ Violation of this paragraph is a Class B crime;

**B-1.** The person violates paragraph B, and the victim has not in fact attained the age of 12 years. Violation of this paragraph is a Class A crime;

**C.** The person violates paragraph B and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class A crime; or

**C-1.** The person violates paragraph B and, at the time of the offense, the person has one or more prior convictions for violating this section, and the victim has not in fact attained the age of 12 years. Violation of this paragraph is a Class A crime.

**Sec. A-2. 17 MRSA §2922, sub-§2,** as amended by PL 2003, c. 452, Part I, §48 is repealed.

**PROPOSED LEGISLATION**  
**COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY**

**Sec. A-3. 17 MRSA §2922, sub-§3** is enacted to read:

**3. Mandatory minimum terms of imprisonment.** The following mandatory minimum terms of imprisonment apply to sexual exploitation of a minor.

**A.** A court shall impose upon a person convicted under subsection 1, paragraphs A-1 or C a sentencing alternative involving a term of imprisonment of at least 10 years.

**B.** A court shall impose upon a person convicted under subsection 1, paragraphs A or B a sentencing alternative involving a term of imprisonment of at least 5 years.

The court may not suspend a minimum term of imprisonment imposed under paragraph A or B unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if it is of the opinion that exceptional features of the case justify the imposition of another sentence. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**Sec. A-4. 17 MRSA §2923, sub-§1**, as amended by PL 2003, c. 452, Part I, §49 is amended to read:

**1. Offense.** A person is guilty of dissemination of sexually explicit material if:

**A.** The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct; or. Violation of this paragraph is a Class C crime;

**B.** The person violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class B crime;

**C.** The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any person who is less than 12 years of age, who the person knows or has reason to know is a person less than 12 years of age, engaging in sexually explicit conduct. Violation of this paragraph is a Class B crime; or

**D.** The person violates paragraph C and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class A crime.

**PROPOSED LEGISLATION**  
**COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY**

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**Sec. A-4. 17 MRSA §2923, sub-§3**, as amended by PL 2003, c. 452, Part I, §49 is repealed.

**Sec. A-5. 17 MRSA §2924, sub-§2-A**, as amended by PL 2003, c. 452, Part I, §52 is amended to read:

**2-A. Offense.** A person is guilty of possession of sexually explicit material if that person:

**A.** Intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

- (1) The other person has not in fact attained the age of 14 years; or
- (2) The person knows or has reason to know that the other person has not attained the age of 14 years; ~~or~~ .

Violation of this paragraph is a Class D crime;

**B.** Violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class C crime;

**C.** Intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

- (1) The other person has not in fact attained the age of 12 years; or
- (2) The person knows or has reason to know that the other person has not attained the age of 12 years.

Violation of this paragraph is a Class C crime; or

**D.** Violates paragraph C and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class B crime.

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**PROPOSED LEGISLATION**  
**COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY**

**Sec. A-6. 17 MRSA §2924, sub-§5**, as amended by PL 2003, c. 452, Part I, §53 is repealed.

**Sec. A-7. 17-A MRSA §253, sub-§1, ¶ C** is enacted to read:

C. The other person, not the actor's spouse, has not in fact attained the age of 12 years. Violation of this paragraph is a Class A crime.

**Sec. A-8. 17-A MRSA §255-A, sub-§1, ¶¶E-1 and F-1** is amended to read:

**1.** A person is guilty of unlawful sexual contact if the actor intentionally subjects another person to any sexual contact and:

E-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class B crime;

F-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class A crime;

**Sec. A-9. 17-A MRSA §256, 1** is amended to read:

**1.** A person is guilty of visual sexual aggression against a child if, for the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age. Violation of this subsection is a Class D crime.

**Sec. A-10. 17-A MRSA §256, 1-A** is enacted to read:

1-A. A person is guilty of visual sexual aggression against a child if, for the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this subsection is a Class C crime.

**Sec. A-11. 17-A MRSA §256, sub-§2** is repealed.

**Sec. A-12. 17-A MRSA 258, sub-§1** is amended to read:

**1.** A person is guilty of sexual misconduct with a child under 14 years of age if that person, having in fact attained 18 years of age knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained the age of 14 years, with



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the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class D crime.

**Sec. A-13. 17-A MRSA §258, sub-§1-A** is enacted to read:

**1-A.** A person is guilty of sexual misconduct with a child under 12 years of age if that person, having in fact attained 18 years of age knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained the age of 12 years, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class C crime.

**Sec. A-14. 17-A MRSA §258, sub-§3** is repealed.

**Sec. A-15. 17-A MRSA §259, sub-§1-A** is amended to read:

**1-A.** A person is guilty of soliciting a child by a computer to commit a prohibited act if:

**A.** The actor:

- (1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;
- (2) Is at least 16 years of age;
- (3) Knows or believes that the other person is less than 14 years of age; and
- (4) Is at least 3 years older than the expressed age of the other person; and

**B.** The actor has the intent to engage in any one of the following prohibited acts with the other person:

- (1) A sexual act as defined in section 251, subsection 1, paragraph C;
- (2) Sexual contact as defined in section 251, subsection 1, paragraph D; or
- (3) Sexual exploitation of a minor pursuant to Title 17, section 2922.

Violation of this subsection is a Class D crime.

**Sec. A-16. 17-A MRSA §259, sub-§1-B** is enacted to read:

**1-B.** A person is guilty of soliciting a child by a computer to commit a prohibited act if:

**A.** The actor:

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(1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;

(2) Is at least 16 years of age;

(3) Knows or believes that the other person is less than 12 years of age; and

(4) Is at least 3 years older than the expressed age of the other person; and

**B.** The actor has the intent to engage in any one of the following prohibited acts with the other person:

(1) A sexual act as defined in section 251, subsection 1, paragraph C;

(2) Sexual contact as defined in section 251, subsection 1, paragraph D; or

(3) Sexual exploitation of a minor pursuant to Title 17, section 2922.

Violation of this subsection is a Class C crime.

**Sec. A-17.** 17-A MRSA §259, sub-§3 is repealed.

**Sec. A-18.** 17-A MRSA §511, sub-§1 is amended to read:

**1.** A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, that person intentionally:

**A.** Commits a civil trespass on property with the intent to overhear or observe any person in a private place. Violation of this paragraph is a Class D crime;

**B.** Installs or uses in a private place without the consent of the person or persons entitled to privacy in that place, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place. Violation of this paragraph is a Class D crime;

**C.** Installs or uses outside a private place without the consent of the person or persons entitled to privacy therein, any device for hearing, recording, amplifying or broadcasting sounds originating in that place that would not ordinarily be audible or comprehensible outside that place; ~~or~~. Violation of this paragraph is a Class D crime.

**D.** Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion

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of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance. Violation of this paragraph is a Class D crime; or

E. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance and the person or persons entitled to privacy in that place are under 12 years of age. Violation of this paragraph is a Class C crime.

**Sec. A-19.** 17-A MRSA §511, sub-§3 is repealed.

**Sec. A-20.** 17-A MRSA §1152, sub-§2-C is amended to read:

**2-C.** ~~As part of a~~ At the time the court imposes a sentence, the court shall order every natural person who is a convicted sex offender of a sex offense or a sexually violent offense sexually violent predator, as defined under Title 34-A, section 11203 to satisfy all requirements set forth in the Sex Offender Registration and Notification Act of 1999.

**Sec. A-21.** 17-A MRSA §1202, sub-§ 1-A, ¶A is repealed and replaced with the following:

A. If the State pleads and proves that at the time of the crime the victim had not attained 12 years of age, the period of probation for a person convicted under chapter 11 or Title 17, chapter 93-B may not exceed:

- (1) 18 years for a Class A crime;
- (2) 12 years for a Class B crime; and
- (3) 6 years for a Class C crime;

**Sec. A-22.** 17-A MRSA §1202, sub-§1-A, ¶B is amended to read:

**B.** The period of probation for a person sentenced as a ~~dangerous~~ repeat sexual assault offender pursuant to under section 1252, subsection 4-B is any term of years; and

**Sec. A-23.** 17-A MRSA §1202, sub-§1-A, ¶C is enacted to read:

C. The period of probation for a person sentenced under section 1252, subsection 5-C may not exceed 18 years.

**Sec. A-24.** 17-A MRSA §1203, §1-A, ¶B is amended to read:

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**B.** The court may revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a ~~dangerous repeat~~ sexual assault offender, ~~pursuant to~~ under section 1252, subsection 4-B, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections.

**Sec. A-25. 17-A MRSA §1231, sub-§2, ¶A** is amended to read:

**A.** Any period of years for a person sentenced as a ~~dangerous repeat~~ sexual assault offender ~~pursuant to~~ under section 1252, subsection 4-B; and

**Sec. A-26. 17-A MRSA §1252, sub-§4-B** is amended to read:

**4-B.** If the State pleads and proves that the defendant is a ~~dangerous repeat~~ sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

**A.** As used in this section, "~~dangerous repeat~~ sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of the United States or any other state.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

**B.** "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in other jurisdictions is satisfied if the sentencing court at the time of sentence imposition makes such a finding.

**Sec. A-27. 17-A MRSA §1252, sub-§§5-C and 5-D** are enacted to read:

**5-C.** In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class A crime of gross sexual assault who, at the time the crime was committed,

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had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, the court may impose a maximum period of incarceration in excess of 20 years based on the prior conviction.

**5-D.** In using a sentencing alternative involving a term of imprisonment for a person convicted under section 253, subsection 1, paragraph C or Title 17, section 2922, subsection 1, paragraphs A-2, A-3, B-1 or C-1, the court may impose a maximum period of incarceration in excess of 20 years based on the fact that the victim had not attained 12 years of age.

**PART B**

**Sec. B-1.** 34-A MRSA §11201 is amended to read:

**§11201. Short title**

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999." The purpose of this chapter is to protect the public from potentially dangerous ~~sex-offenders and sexually violent predators~~ registrants by enhancing access to information concerning ~~sex-offenders and sexually violent predators~~ registrants.

**Sec. B-2.** 34-A MRSA §11202 is repealed and replaced with the following:

**§11202. Application**

This chapter applies to a person defined as a 10-year registrant or lifetime registrant who has been sentenced on or after June 30, 1992.

**Sec. B-3.** 34-A MRSA §11203 is amended to read:

**1. Bureau.** "Bureau" means the State Bureau of Identification.

**1-A. Conditional release.** "Conditional release" means supervised release of a ~~sex-offender or a sexually violent predator~~ registrant from institutional confinement for placement on probation, parole, intensive supervision, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 50.

**1-B. Discharge.** "Discharge" means unconditional release and discharge of a ~~sex-offender or a sexually violent predator~~ registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

**2. Domicile.** "Domicile" means the place where a person lives, resides or dwells.

**3. FBI.** "FBI" means the Federal Bureau of Investigation.

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**4. Law enforcement agency having jurisdiction.** "Law enforcement agency having jurisdiction" means the chief of police in the municipality where a ~~sex-offender~~ registrant expects to be or is domiciled. If the municipality does not have a chief of police, "law enforcement agency having jurisdiction" means the sheriff of the county where the municipality is located. "Law enforcement agency having jurisdiction" also means the sheriff of the county in an unorganized territory.

**4-A. Risk assessment instrument.** "Risk assessment instrument" means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a ~~sex-offender or a sexually violent predator~~ registrant, living conditions and environment of a ~~sex-offender or a sexually violent predator~~ registrant and other factors predisposing a person to become a ~~sex-offender, repeat sex-offender or sexually violent~~ registrant, for the ongoing purpose of identifying risk factors used to provide notification of a ~~sex-offender's or a sexually violent predator's~~ registrant's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public.

**4-B. Sentence.** "Sentence," in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another jurisdiction, following a verdict of not criminally responsible by reason of mental disease or defect or similar verdict in another jurisdiction.

**5. Sex-offender 10-year registrant.** "~~Sex-offender~~" "10-year registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

**6. Sex offense.** "Sex offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

**A.** A violation under Title 17, section 2922, 2923 or 2924;

**B.** A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A section 255, subsection 1, paragraph A, B, D, E, F, I or J, if the crime was not elevated a class under Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 301, ~~unless the actor is a parent of the victim;~~ Title 17-A, section 302; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

**C.** A violation of an offense in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A or B.

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**7. Sexually violent offense.** "Sexually violent offense" means:

**A.** A conviction for one of the offenses or for an attempt to commit one of the offenses under former Title 17-A, section 252; Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former Title 17-A, section 255, subsection 1, paragraph C or H or paragraph A, B, D, E, F, G, I or J if the crime was elevated a class under Title 17-A, section 255, subsection 3; or Title 17-A, section 255-A, subsection 1, paragraph C, D, E, F, G, H, O or P; or

**B.** A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A.

**8. ~~Sexually violent predator~~ Lifetime registrant.** "~~Sexually violent predator~~" "Lifetime registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

**A.** Sexually violent offense;

**B.** Sex offense when the person has a prior conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense.

**9. Another state.** "Another state" means the 49 states other than Maine, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

**10. Jurisdiction.** "Jurisdiction" means the federal government, including the military; this State or another state or tribe.

**11. Registrant.** "Registrant" means a 10-year registrant or a lifetime registrant or, where appropriate, both a 10-year registrant and a lifetime registrant.

**12. Tribe.** "Tribe" means the Passamaquoddy tribe or the Penobscot Nation.

**Sec. B-4. 34-A MRSA §11221, sub-§§1, 2, 6, 9 and 10** are amended to read:

**1. Maintenance of registry.** The bureau shall establish and maintain a registry of persons required to register pursuant to this subchapter. The registry must include the following information on each registrant:

**A.** ~~The sex offender's or sexually violent predator's~~ registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address, home address or expected domicile;

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- B.** Place of employment and college or school being attended, if applicable, and the corresponding address and location;
- C.** Offense history;
- D.** Notation of any treatment received for a mental abnormality or personality disorder;
- E.** A photograph and set of fingerprints;
- F.** A description of the offense for which the ~~sex offender or sexually violent predator~~ registrant was convicted, the date of conviction and the sentence imposed; and
- G.** Any other information the bureau determines important.

**2. National or regional registry.** The bureau is authorized to make the registry available to and accept files from a national or regional registry of ~~sex offenders~~ registrants for the purpose of sharing information.

**6. Distribution of information to department and law enforcement agencies.** The bureau shall distribute information described in subsection 1 to the department and law enforcement agencies having jurisdiction over the address and location of the ~~sex offender's or sexually violent predator's~~ registrant's domicile, place of employment and college or school being attended.

**9. Public access to information.** The bureau shall provide information to the public as follows.

**A.** The bureau shall post on the Internet for public inspection the following information concerning a ~~sex offender or sexually violent predator~~ registrant:

- (1)** The ~~sex offender's or sexually violent predator's~~ registrant's name, date of birth and photograph;
- (2)** The ~~sex offender's or sexually violent predator's~~ registrant's city or town of domicile;
- (3)** The ~~sex offender's or sexually violent predator's~~ registrant's place of employment and college or school being attended, if applicable, and the corresponding address and location; and
- (4)** The statutory citation and name of the offense for which the ~~sex offender or sexually violent predator~~ registrant was convicted



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**B.** Upon receiving a written request that includes the name and date of birth of a ~~sex-offender or sexually violent predator~~ registrant, the bureau shall provide the following information concerning a ~~sex-offender or sexually violent predator~~ registrant to the requestor:

- (1) The ~~sex-offender's or sexually violent predator's~~ registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and home address or domicile;
- (2) The ~~sex-offender's or sexually violent predator's~~ registrant's place of employment and college or school being attended, if applicable, and the corresponding address and location;
- (3) A description of the offense for which the ~~sex-offender or sexually violent predator~~ registrant was convicted, the date of conviction and the sentence imposed; and
- (4) The ~~sex-offender's or sexually violent predator's~~ registrant's photograph.

**10. ~~Sex-offender or sexually violent predator~~ Registrant access to information.**

Pursuant to Title 16, section 620, the bureau shall provide all information described in subsection 1 to a ~~sex-offender or sexually violent predator~~ registrant who requests that person's own information.

**Sec. B-5. 34-A MRSA §11222** is amended to read:

**§11222. Duty of ~~sex-offender or sexually violent predator~~ registrant to register**

**1. Determination by court.** The court shall determine at the time of sentencing if a defendant is a ~~sex-offender~~ 10-year registrant or ~~sexually violent predator~~ lifetime registrant. A person who the court determines is a ~~sex-offender~~ 10-year registrant or ~~sexually violent predator~~ lifetime registrant shall register according to this subchapter.

**1-A. When duty to register must be exercised.** Following determination by the court under subsection 1, a ~~sex-offender or sexually violent predator~~ registrant shall register as follows.

**A.** If the ~~sex-offender or sexually violent predator~~ registrant is sentenced to a wholly suspended sentence with probation or to a punishment alternative not involving imprisonment, the duty to register is triggered at the time the person commences an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment is imposed, unless the court orders a stay of execution, in which event the duty is triggered by the termination of the stay.

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**B.** If the ~~sex offender or sexually violent predator~~ registrant is sentenced to a straight term of imprisonment or to a split sentence, the duty to register is triggered by discharge or conditional release.

**C.** If the ~~sex offender or sexually violent predator~~ registrant is committed under Title 15, section 103, the duty to register is triggered by discharge or conditional release under Title 15, section 104-A.

**2. Responsibility of ensuring initial registration.** The department, the county jail or the state mental health institute that has custody of a ~~sex offender or sexually violent predator~~ registrant required to register under this subchapter shall inform the ~~sex offender or sexually violent predator~~ registrant, prior to discharge or conditional release, of the duty to register. If a ~~sex offender or sexually violent predator~~ registrant does not serve a period of institutional confinement, the court shall inform the ~~sex offender or sexually violent predator~~ registrant at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

**A.** Inform the ~~sex offender or sexually violent predator~~ registrant of the duty to register and obtain the information required for the initial registration;

**B.** Inform the ~~sex offender or sexually violent predator~~ registrant that if the ~~sex offender or sexually violent predator~~ registrant changes domicile, place of employment or college or school being attended, the ~~sex offender or sexually violent predator~~ registrant shall give the new address to the bureau in writing within 10 days;

**C.** Inform the ~~sex offender or sexually violent predator~~ registrant that if that ~~sex offender or sexually violent predator~~ registrant changes domicile to another state, the ~~sex offender or sexually violent predator~~ registrant shall register the new address with the bureau and if the new state has a registration requirement, the ~~sex offender or sexually violent predator~~ registrant shall register with a designated law enforcement agency in the new state not later than 10 days after establishing domicile in the new state;

**D.** Inform the ~~sex offender or sexually violent predator~~ registrant that if that ~~sex offender or sexually violent predator~~ registrant has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that ~~sex offender or sexually violent predator~~ registrant enrolls in any type of school in another state on a part-time or full-time basis, the ~~sex offender or sexually violent predator~~ registrant shall give the bureau the registrant's place of employment or school to be attended in writing within 10 days after beginning work or attending school and if the other state has a registration requirement, shall register with the designated law enforcement agency in the other state;

**E.** Obtain fingerprints and a photograph of the ~~sex offender or sexually violent predator~~ registrant or the court may order the ~~sex offender or sexually violent predator~~ registrant to

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submit to the taking of fingerprints and a photograph at a specified law enforcement agency within 3 days if the fingerprints and photograph have not already been obtained in connection with the offense that necessitates registration; and

**F.** Enforce the requirement that the ~~sex offender or sexually violent predator~~ registrant read and sign a form provided by the bureau that states that the duty of the ~~sex offender or sexually violent predator~~ registrant to register under this section has been explained.

**2-A. Duty of ~~sex offender or sexually violent predator~~ registrant sentenced from June 30, 1992 to September 17, 1999 to register.** Notwithstanding subsection 1 and except as provided in subsection 2-B, a person coming within the definition of a 10-year registrant or a lifetime registrant, who has been sentenced on or after June 30, 1992 but before September 18, 1999 for a sex offense or a sexually violent offense shall register either as a ~~sex offender or sexually violent predator~~ 10-year registrant or a lifetime registrant, whichever is applicable, with the bureau by September 1, 2002 if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person shall register with the bureau within 10 days of notice.

**2-B. Duty to register for new crimes.** For a person otherwise subject to subsection 2-A who has been sentenced for a crime added by amendment made to the definition of sex offense or sexually violent offense since September 1, 2002, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, that person shall register as a 10-year registrant or a lifetime registrant, whichever is applicable, with the bureau by June 1, 2005, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person shall register with the bureau within 10 days of notice.

**3. Transfer of initial registration information to bureau and FBI.** The department, county jail, state mental health institute or court within 3 days of receipt of the information described in subsection 2 shall forward the information to the bureau. If the court orders the ~~sex offender or sexually violent predator~~ registrant to submit to the taking of fingerprints and a photograph at a specified law enforcement agency, the law enforcement agency shall submit the fingerprints and photograph to the bureau within 3 days. The bureau shall immediately enter the information into the registration system, notify the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant expects to be domiciled and transmit the information to the FBI for inclusion in the national FBI sex offender database.

**4. Verification.** During the period a ~~sex offender or sexually violent predator~~ registrant is required to register, the bureau shall verify a ~~sex offender's or sexually violent predator's~~ registrant's domicile. The bureau shall verify the domicile of a ~~sex offender~~ 10-year registrant on each anniversary of the ~~sex offender's~~ 10-year registrant's initial registration date and shall verify a ~~sexually violent predator's~~ lifetime registrant's domicile every 90 days after that ~~sexually violent predator's~~ lifetime registrant's initial registration date. Verification of the domicile of a ~~sex~~

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~~offender~~ 10-year registrant or ~~sexually violent predator~~ a lifetime registrant occurs as set out in this subsection.

- A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the ~~sex offender or sexually violent predator~~ registrant.
- B. The verification form must state that the ~~sex offender or sexually violent predator~~ registrant still resides at the address last reported to the bureau.
- C. The ~~sex offender or sexually violent predator~~ registrant shall take the completed verification form and a photograph to the law enforcement agency having jurisdiction within 10 days of receipt of the form.
- D. The law enforcement agency having jurisdiction shall verify the ~~sex offender's or sexually violent predator's~~ registrant's identity, have the ~~sex offender or sexually violent predator~~ registrant sign the verification form, take the ~~sex offender's or sexually violent predator's~~ registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau

**5. Change of domicile, place of employment or college or school being attended.** A ~~sex offender or sexually violent predator~~ registrant shall notify the bureau in writing of a change of domicile, place of employment or college or school being attended within 10 days after that change.

- A. If the ~~sex offender or sexually violent predator~~ registrant establishes a new domicile, place of employment or college or school being attended in the State, the bureau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant was formerly domiciled, employed or enrolled and the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant is currently domiciled, employed or enrolled.
- B. If the ~~sex offender or sexually violent predator~~ registrant establishes a domicile, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant was formerly domiciled, employed or enrolled and the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant is currently domiciled, employed or enrolled.

For purposes of registration requirements pursuant to this subchapter, convictions that result from or are connected with the same act or result from offenses committed at the same time are considered as one conviction.

**Sec. B-6. 34-A MRSA §11223 is amended to read:**

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**§11223. Duty of person establishing domicile to register**

A person required under another jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or, ~~who is convicted and sentenced of a sex offense or sexually violent offense that would require registration in this State~~ if not so required, who has been convicted and sentenced for an offense that includes the essential elements of a sex offense or sexually violent offense, shall register as a ~~sex offender 10-year registrant or sexually violent predator~~ lifetime registrant, whichever is applicable, within 10 days of establishing domicile in this State. The person shall contact the bureau, which shall provide the person with the registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

**Sec. B-7. 34-A MRSA §11224** is amended to read:

**§11224. Duty of person employed or attending college or school to register**

A person who is required under another jurisdiction to register pursuant to that jurisdiction's sex offender registration statute because the person is domiciled in another state or, ~~who is convicted and sentenced of a sex offense or sexually violent offense that would require registration in this State~~ if not so required, who has been convicted and sentenced for an offense that includes the essential elements of a sex offense or sexually violent offense, shall register as a ~~sex offender 10-year registrant or sexually violent predator~~ lifetime registrant, whichever is applicable, within 10 days of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or beginning college or school on a full-time or part-time basis in this State. The person shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

**Sec. B-8. 34-A MRSA §11225** is amended to read:

**§11225. Duration of registration**

**1. ~~Sex offender 10-year registrant.~~** A sex offender person coming within the definition of a 10-year registrant shall register for a period of 10 years from the initial date of registration pursuant to this chapter, except that a sex offender 10-year registrant required to register because the sex offender that registrant established a domicile in this State subsequent to being declared a

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sex offender required to register in another state or under another jurisdiction pursuant to another jurisdiction's sex offender registration statute for a period of years other than life shall register for a maximum of 10 years from the date when the sex offender that registrant was first required to register in the other state or under another jurisdiction. A sex offender person coming within the definition of a 10-year registrant who has been sentenced from June 30, 1992 to September 17, 1999 shall register for a period of 10 years, to be calculated as follows.

**A.** If the ~~sex offender~~ 10-year registrant was sentenced to a wholly suspended sentence with probation or to a punishment alternative not involving imprisonment, the 10-year period is treated as having begun at the time the person commenced an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment was imposed, unless the court ordered a stay of execution, in which event the 10-year period is treated as having begun at the termination of the stay.

**B.** If the ~~sex offender~~ 10-year registrant was sentenced to a straight term of imprisonment or to a split sentence, the 10-year period is treated as having begun at the time of discharge or conditional release.

**C.** If the ~~sex offender~~ 10-year registrant was committed under Title 15, section 103, the 10-year period is treated as having begun at the time of discharge or conditional release under Title 15, section 104-A.

**D.** If the ~~sex offender's~~ 10-year registrant's duty to register has not yet been triggered, the 10-year period will commence upon registration by the person in compliance with section 11222, subsection 1-A, paragraphs A, B or C.

**2. Sexually violent predator Lifetime registrant.** A sexually violent predator person coming within the definition of a lifetime registrant who has been sentenced on or after June 30, 1992 shall register for the duration of the sexually violent predator's that registrant's life. A person who has established a domicile in this State subsequent to being required to register pursuant to another jurisdiction's sex offender registration statute for a lifetime or who is a person coming within the definition of a lifetime registrant shall register for the duration of the registrant's life.

**2-A. Periods when domiciled outside Maine.** Notwithstanding subsections 1 and 2, the bureau may suspend the requirement that a 10-year registrant or lifetime registrant register during any period in which the registrant leaves the State, establishes a domicile in another state and remains physically absent from the State.

**3. Periods of incarceration or civil confinement.** Notwithstanding subsections 1 and 2, the bureau may suspend the requirement that a ~~sex offender or sexually violent predator~~ 10-year registrant or lifetime registrant register during periods of incarceration or civil confinement.

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**4. Relief from duty to register.** If the underlying conviction for a sex offense or sexually violent offense is reversed, vacated or set aside, or if the registrant is pardoned for the offense, registration or continued registration as a ~~sex offender or sexually violent predator~~ 10-year registrant or lifetime registrant is no longer required.

**Sec. B-9. 34-A MRSA §11226** is amended to read:

**§11226. Fee**

The bureau may charge a ~~\$25~~ 35 annual fee to persons required to register under this chapter. ~~Sex offenders or sexually violent predators~~ Registrants shall pay the fee at the time of initial registration and shall pay the fee on each anniversary of their initial registration.

The fee must be credited to the General Fund and the Highway Fund in an amount consistent with currently budgeted appropriations and allocations, except that the local law enforcement agency that takes and processes the offender's fingerprints and picture must receive \$10 of the total annual \$35 fee.

**Sec. B-10. 34-A MRSA §11227** as amended by PL 2003, c. 452, §S-1 is amended to read:

**1. Failure to register or update information.** A ~~sex offender or sexually violent predator~~ registrant who fails to register or update the information required under this chapter commits a Class D crime.

**2. Failure to register or update information; 2nd offense.** A ~~sex offender or sexually violent predator~~ registrant who has one prior conviction for failure to register or update the information required under this chapter commits a Class D crime.

**3. Failure to register or update information; 3rd or subsequent offense.** A ~~sex offender or sexually violent predator~~ registrant who fails to register or update the information required under this chapter when the ~~sex offender or sexually violent predator~~ 10-year registrant or lifetime registrant has 2 or more prior convictions in this State for violation of this chapter commits a Class C crime.

**4. Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**5. Prior conviction.** Title 17-A, section 9-A governs the use of prior conviction when determining a sentence.

**6. Affirmative defense.** It is an affirmative defense that the failure to register or update information resulted from just cause, except that ~~sex offenders or sexually violent predators~~

\_\_\_\_\_ 10-year  
registrant's or lifetime registrant's conditional release is limited, if any; and

**D.** The status of the ~~sex offender or sexually violent predator~~ registrant when released as determined by the risk assessment instrument, the ~~offender's or predator's~~ registrant's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the ~~offender or predator~~ registrant.

**2. Duties of the Department of Public Safety, State Bureau of Identification.** Upon receipt of the information concerning the conditional release or discharge of a ~~sex offender or sexually violent predator~~ registrant pursuant to subsection 1, the Department of Public Safety, State Bureau of Identification shall forward the information in subsection 1 to all law enforcement agencies that have jurisdiction in those areas where the ~~sex offender or sexually violent predator~~ registrant may reside, work or attend college or school.

**Sec. B-13. 34-A MRSA §11255** is amended to read:



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**§11255. Public notification**

**1. Department.** Upon the conditional release or discharge of a ~~sex offender or sexually violent predator~~ registrant from a state correctional institution, the department shall give notice of the information under section 11254, subsection 1 to members of the public the department determines appropriate to ensure public safety.

**2. Law enforcement agencies.** Upon receipt of the information concerning the conditional release or discharge of a ~~sex offender or sexually violent predator~~ registrant pursuant to section 11254, subsection 2, a law enforcement agency shall notify members of a municipality that the law enforcement agency determines appropriate to ensure public safety.

**Sec. B-14. 34-A MRSA §11256** is amended to read:

**§11256. Risk assessment assistance**

Upon request, the department shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of notification to the public of a ~~sex offender's or sexually violent predator's~~ registrant's conditional release or discharge.

**B-15. Retroactivity.** Part B of this Act applies retroactively to June 30, 1992.

**PART C**

**Sec. C-1. Research and report regarding potential offenders.** The Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the Department of Public Safety, in cooperation with the Child Abuse Action Network, shall:

- A.** Identify the subpopulation of potential offenders or young persons at risk for offending because they have been sexually abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;
- B.** Identify the types of prevention and treatment currently known to work with these young persons;
- C.** Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and
- D.** Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety issues no later than January 30, 2005.

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**Sec. C-2. Review and report of registerable sex offenses.** The Criminal Law Advisory Commission shall:

- A.** Review the Sex Offender Registration and Notification Act of 1999, as amended, to identify all crimes of gross sexual assault and unlawful sexual contact that currently do not require any registration;
- B.** Assess whether the current Maine crimes listed as sex offenses and sexually violent offenses are appropriate under the Federal Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as amended; and
- C.** Report its findings and any proposed changes to the Joint Standing Committee on Criminal Justice and Public Safety by March 1, 2004.

**SUMMARY**

This bill is the recommendation of the Commission to Improve Community Safety and Sex Offender Accountability, which was created pursuant to Resolve 2003, chapter 75. The commission was established to provide a legislative forum to review criminal sentencing laws for sex crimes and to review sex offender registration and notification laws and policies. The purpose of this commission's review was to take a thoughtful and comprehensive look at Maine's sex offender laws and to identify areas in which immediate legislative and policy change is necessary to increase community safety. The bill does the following.

1. It increase the classification of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the commission recommends providing courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing by one class the following crimes:

- a. Unlawful sexual contact: 17-A MRSA, §255-A, sub-§1, ¶E (Class C crime) and ¶F (Class B crime);
- b. Visual sexual aggression against a child: 17-A MRSA, §256 (Class D crime);
- c. Sexual misconduct with a child under 14 years of age: 17-A MRSA, §258 (Class D crime);
- d. Solicitation of child by computer to commit a prohibited act: 17-A MRSA, §259 (Class D crime);
- e. Violation of privacy: 17-A MRSA, §511, sub-§1, ¶D (Class D crime);
- f. Sexual exploitation of minors: 17 MRSA, §2922, sub-§1, ¶¶A and B (Class B crimes);

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g. Dissemination of sexually explicit materials: 17 MRSA, §2923 (Class B or C crime);  
and

h. Possession of sexually explicit materials: 17 MRSA, §2924 (Class C or D crime).

2. It allows courts to have the option to impose a sentence of imprisonment in excess of 20 years, based upon the fact that the victim is under 12 years of age, for the Class A crimes of crimes of gross sexual assault (17-A MRSA, section 253, sub-1, ¶B) and repeat sexual exploitation of minors (17 MRSA, section 2922, subsection 1, paragraph A-1 and paragraph C).

3. It increases the period of probation for persons convicted of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the bill provides courts, where victims are under 12 years of age, with an increased potential range of penalties by increasing periods of probation for persons convicted under 17-A MRSA, Chapter 11 (Sexual Assaults) or 17 MRSA, Chapter 93-B (Sexual Exploitation of Minors) as follows:

a. For a person convicted of a Class A crime, a period of probation not to exceed 18 years;

b. For a person convicted of a Class B crime, a period of probation not to exceed 12 years; or

c. For a person convicted of a Class C crime, a period of probation not to exceed 6 years.

4. It allows the court to have the option to impose a sentence of probation of up to 18 years based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B or Class C crime of unlawful sexual contact.

5. It renames “dangerous sexual offender” defined in 17-A MRSA, §1252, sub-§4-B, as “repeat sexual assault offender.”

6. It allows courts to have the option to impose a sentence of imprisonment in excess of 20 years, based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B or Class C crime of unlawful sexual contact.

7. It renames the current Sex Offender Registration and Notification Act (SORNA) of 1999 registration categories “sexually violent predators” and “sex offenders” to “lifetime -year registrants.”

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8. It moves Class D or Class E offenses that currently require lifetime registration as “sexually violent predators” under the SORNA of 1999 to 10-year registration for “sex offenders.”
9. It makes technical drafting changes to the SORNA of 1999, including:
  - a. Adding to the list of registerable offenses the former crime of rape, restoring the former crimes of unlawful sexual contact and solicitation of child by computer to commit a prohibited act and moving from the definition of “sex offense” to “sexually violent offense” the crimes of unlawful sexual contact that involve penetration;
  - b. Making registration requirements consistent by removing from the crime of “kidnapping” the defense that the actor is a parent, which is consistent with the crime of criminal restraint for purposes of sex offender registration; and
  - c. Defining the terms “another state,” “registrant,” “jurisdiction,” and “tribe” to be more consistent with federal law.
10. It authorizes Maine to suspend the requirement that a sex offender or sexually violent predator register during any period in which the registrant leaves the State, establishes a domicile in another state and remains physically absent from the State.
11. It increases from \$25 to \$30 the sex offender and sexually violent predator fee for initial registration and annual renewal registration.
12. It makes all changes to the Sex Offender Registration and Notification Act of 1999 retroactive to June 30, 1992.
13. It directs the Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the Department of Public Safety, in cooperation with the Child Abuse Action Network, to:
  - a. Identify the subpopulation of potential offenders or young persons at risk for offending because they have been sexually or physically abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;
  - b. Identify the types of prevention and treatment currently known to work with these young persons;
  - c. Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and
  - d. Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety issues.

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14. It directs the Criminal Law Advisory Commission to

- a. Review the Sex Offender Registration and Notification Act of 1999 to identify all crimes of gross sexual assault and unlawful sexual contact that currently do not require any registration;
- b. Assess whether the current Maine crimes listed as sex offenses and sexually violent offenses are appropriate under the Federal Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as amended; and
- c. Report its findings and any proposed changes to the Joint Standing Committee on Criminal Justice and Public Safety by March 1, 2004.

15. It refers back to the Joint Standing Committee on Criminal Justice and Public Safety the issue regarding the 10-day time requirement in which a sex offender must verify registration information or a change in registration information with the State Bureau of Identification as described in LD 617, An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register.

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**TITLE: AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION TO IMPROVE COMMUNITY SAFETY AND SEX OFFENDER ACCOUNTABILITY REGARDING PUBLIC NOTIFICATION BY LAW ENFORCEMENT**

**Sec. 1. 25 MRSA §2803-B, sub-§1, ¶H**, as amended by PL 2003, c. 370, §1, is further amended to read:

**H.** Criminal conduct engaged in by law enforcement officers;

**Sec. 2. 25 MRSA §2803-B, sub-§1, ¶I**, as enacted by PL 2003, c. 370, §2, is amended to read:

**I.** Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations; and

**Sec. 3. 25 MRSA §2803-B, sub-§1, ¶J** is enacted to read:

**J.** Public notification regarding persons in the community required to register under Title 34-A, chapter 15.

**Sec. 4. 25 MRSA §2803-B, sub-§§2 and 3**, as amended by PL 2003, c. 370, §3, are further amended to read:

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003 ~~and~~ policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004 and policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 must be established no later than January 1, 2005.

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003 ~~and~~ certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004 and certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2005. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and

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training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D must be made to the board no later than January 1, 2004 ~~and~~, certification for orientation and training with respect to policies regarding death investigations must be made to the board no later than January 1, 2005 and certification for orientation and training with respect to policies regarding public notification must be made to the board no later than January 1, 2006.

**Sec. 5. Model sex offender public notification policy for law enforcement.** The Board of Trustees of the Maine Criminal Justice Academy shall add to the list of mandatory law enforcement policies with respect to which agencies must report their implementation and training, pursuant to the Maine Revised Statutes, Title 25-A, section 2803-B, the model sex offender public notification policy drafted by the Maine Chiefs of Police Association in cooperation with sexual assault response teams and sexual assault crisis centers.

**SUMMARY**


This bill is the recommendation of the Commission to Improve Community Safety and Sex Offender Accountability, established pursuant to Resolve 2003, chapter 75.

This bill requires law enforcement agencies to adopt a written policy regarding public notification of persons in the community required to register under the Sex Offender Registration and Notification Act of 1999. This bill requires the Board of Trustees of the Maine Criminal Justice Academy to use the model policy developed by the Maine Chiefs of Police Association, in cooperation with sexual assault response teams and sexual assault crisis centers.

**APPENDIX D**

**Presentation by Dr. Sue Righthand**




 **PEOPLE WHO COMMIT SEX OFFENSES**

Sue Righthand, Ph.D.  
September, 2003

**WHAT IS SEXUAL ABUSE?**

Deriving one's sexual pleasure from someone else against the person's will or consent

- Physically
- Visually
- Verbally



(Adapted from Anichiarico, 2000)

**COERCION**

- Manipulations (e.g., enticements, bribes, grooming with love and attention)
- Threats of harm
- Force (e.g., physical restraints, alcohol or drugs)
- Violence (instrumental or expressive)

**SEXUAL CRIMES**

- Oral, genital, anal penetration
- Genital fondling
- Assaults involving breasts
- Voyeurism
- Exhibitionism
- Obscene telephone calls
- Child pornography

**ADULTS WHO SEXUALLY OFFEND**

- Predominately males
- May offend into late adulthood
- Most do not commit their offense impulsively
- Generally are known to their victim
- Most are without significant psychopathology

**THERE IS NO PROFILE**

## HETEROGENOUS: SIMILARITIES & DIFFERENCES

- Offending behaviors & motivations
- Offense histories (sexual & nonsexual)
- Child maltreatment histories
- Family factors
- Social relationships and skills
- Cognitive abilities
- Academic & vocational functioning
- Clinical symptoms and disorders
- Sexual knowledge, experiences, & arousal



## TYOLOGIES & CLASSIFICATIONS

- No empirically accepted profile/s or typologies
- Limited research, esp. with juveniles & women
- Knight & Prentky (e.g., 1990, 1994) developed a theoretically and empirically driven typologies of adult child molesters and rapists

## DISTIGUISHING CHARACTERISTICS

- Age of victim preference
- Social competence
- Amount/meaning of contact
- Level & meaning of force/violence
- Nonsexual criminal behavior
- Psychological characteristics (esp. psychopathy)
- Paraphilias

## PARAPHILIAS

- Recurrent, intense sexually arousing fantasies, sexual urges, or behaviors
  - Children or nonconsenting partners
  - Suffering or humiliation of oneself or partner
  - Nonhuman objects
- Over a period of at least 6 months
- Obligatory for erotic arousal or episodic

DSM-IV-TR (2000)

## PEDOPHILIA

DSM-IV-TR (2000)

- Activities: Fantasies; undressing & looking; gentle touching/fondling; fellatio; cunnilingus; or penetration (finger, object, or penis) involving a prepubescent child (generally age 13 or younger)
- Victim gender preference: Sometimes both:
  - Girls (usually prefer ages 8-10)
  - Boys (preference is slightly older)
- Types: Exclusive & Nonexclusive (children & adults)
- Onset: Most adolescence, some middle-aged
- Course: Disorder usually chronic, especially for those attracted to boys. Often fluctuates with psychosocial stress.

## NOT ALL SEX OFFENDERS HAVE SEXUAL DISORDERS

- Only 27% of a mixed sample of child molesters (1,113 intra & extra familial) evidenced sexual arousal to children through phallometric testing (Seto & Lalumiere, 2001)
- Approximately 1/3 (30-42%) of men with one or two child victims evidenced sexual arousal to children through phallometric testing. (Blanchard et al., 2001)
- Nearly 2/3 (61%) of men with three or more extrafamilial child victims evidenced sexual arousal to children (Blanchard et al., 2001)

## WHY SEXUALLY OFFEND?

- No clear answers or accepted theory
- Seemingly relevant factors vary with age, gender, and individual characteristics and circumstances
- Limited controlled studies provide some support for some factors, although particularly with adult offenders.
- Existing studies frequently have mixed results
- Multiple pathways

## POSSIBLE CONTRIBUTORS

- Attachment/intimacy deficits
- Social competence deficits
- Sexualized environments/culture
- Antisocial attitudes and beliefs
- Psychopathy
- Substance abuse
- Persistent, recurrent deviant sexual arousal

Ward, Marshall, & Hudson, 1996; Ford and Linney, 1995; Wiczkowski et al., 1994; Knight & Prentky, 1983; Hart & Hare, 1997; Firestone et al., 1999; Hanson & Sussiers, 1996; Knight & Sims-Knight, in press; Abel et al., 1998; O'Connell, 2000; Marshall et al., 1991.

## OTHER POTENTIALLY RELEVANT FACTORS

- **Loneliness:** Related to poor attachments & intimacy deficits
- **Self-esteem:** Although not directly linked with recidivism, may be indirectly related through difficulties in social relationships, sexual functioning, and other areas of social competence
- **Dysfunctional coping:** Related to increased deviant sexual fantasies and sexual offending
- **Hormonal and brain dysfunction:** Unclear

(Ward, Hudson, & Marshall, 1996; Fernandez, Anderson, & Marshall, 1999; Marshall, Anderson, & Champagne, 1998; Looman, 1999; Pilfers, Beal, Armstrong, & Petty, 1989; Quinsey & Lalumière, 1998)

## SEVERE & COMPLEX HISTORY OF SEXUAL ABUSE

- **Some support with juveniles**  
(e.g., Burton, 2000; Righthand, Knight, & Prentky, 2002)
- **Approximately 30% adult sex offenders had child sexual abuse histories; those who abuse boys have higher rates**  
(Becker & Murphy, 1998)

## Merrill, Thomsen, Gold, & Milner, 2001

- 3 samples of Navy recruits (N = 7,850); relation between a history of childhood physical or sexual abuse and pre-military rape of women
- 11.3%, 11.6%, & 9.9% of men in 3 samples reported pre-military rape
- CPA & CSA predicted rape in all 3 samples (independently and additively); men who experienced both (CSA & CPA) had the highest risk of rape

## SUBSTANCE ABUSE

- Stimulates Libido
- Disinhibits
- Impairs Judgment
- Impairs Cognitive Functioning
- Stimulates Aggressiveness
- May Produce Sexual Dysfunction
- Impairs Social and Marital Relationships

Adapted from Langevin & Lang by Gelfner (1998)

## ALCOHOL ABUSE

- Approximately 30% sexual assaults involve alcohol (Greenfeld, 1998)
- Alcohol use may increase the likelihood that someone already predisposed to commit a sexual assault will act upon those impulses.

Center for Sex Offense Management (2000)

## ADULT SEXUAL RECIDIVISM BASE RATES

Incest	4-10%*		8%***
Rapist	7-35%*	19%**	17%***
Child Molester Female victims	10-29%*	13%**	20%***
Child Molester Male victims	13-40%*		↓
Exhibitionists	41-71%*		

\* Marshall & Barbaree, 1990

\*\* Hanson & Bussière, 1998

\*\*\* Hanson, 2001



## REOFFENDING

- Overall relatively low rates of sexual reoffending
- Age differences (Hanson, 2001):
  - Rapists recidivism rates decline with age
  - Extrafamilial child molester rates persist until age 50
  - Incest offender rates appear relatively low across age groups, except for the 18-24 age group which reoffended at a much higher rate (note: small n)
- Victim gender differences (Quinsey, Rice, and Harris, 1995)
  - 18% with extrafamilial female victims recidivated
  - 35% with extrafamilial male victims recidivated
- Higher rates of nonsexual reoffending

## SOME DESIST

## FACTORS ASSOCIATED WITH REPEAT SEX OFFENDING

### SEXUAL FACTORS

- Sexual interest in children (PPG)
- Any deviant sexual preference
- Number of prior sexual offenses
- Any stranger victims
- Any extrafamilial victims
- Any boy victims
- Diverse sex offenses
- Early onset of sex offending

### CRIMINAL/ANTISOCIAL LIFESTYLE

- Antisocial personality disorder
- Prior nonsexual criminal offenses

### DEMOGRAPHIC

- Age (young)
- Single (never married)

### TREATMENT

- Treatment failure/drop-out

(Hanson & Bussière, 1998; n=23,393)

## INDIVIDUAL STUDIES OF REPEAT SEX OFFENDERS

- Prior sex offenses
- Deviant arousal
- Sexual preoccupation with children
- Multiple paraphilias
- Penetrating the victim
- Victim gender (unclear)
- Diverse ages/genders
- Verbal threats
- Stranger victim(s)
- Cognitive distortions
- Peer relationship problems
- Lower intelligence
- Social skills deficits
- Impulsivity
- Psychopathy

## STABLE-DYNAMIC FACTORS ASSOCIATED WITH RISK




- Attitudes supportive of sex offending
  - Less remorse/concern for their victims
  - More negative peer influences
  - Intimacy problems
  - Unemployment (especially for rapists)
  - Substance abuse
  - Problems with emotional/sexual self-regulation
  - Self-perception of "not a risk"
  - Problems with self-regulation in general
  - More chaotic, antisocial lifestyles
  - Lifestyles congruent with sexual deviance
- (Hanson & Harris, 2000)

## ACUTE DYNAMIC FACTORS

(Hanson & Harris, 2000)

- Increased substance use
- Emotional upset, especially anger
- 17/22 taking sex drive reduction medication recidivated (starting - 8/8, stopping - 4/5)
- Social isolation & interpersonal conflict
- Deterioration in appearance/grooming
- Not avoiding high risk situations
- Minimizing potential for relapse
- Not cooperating with community treatment or supervision

## METHODS OF ASSESSMENT

- Record Review 
- Structured Clinical Interview/Observations 
- Relevant Psychometric Assessment
  - Cognitive
  - Personality
  - Behavioral
  - Sex abuse specific
- Psychophysiological Assessment 
- Risk Assessment

## POLYGRAPH ASSESSMENTS

- **Psychophysiological assessment**
  - Pretreatment Assessment
  - Monitoring Treatment & Supervision Compliance
    - Risk assessment
    - Treatment planning
- **Concerns** (Cross & Saxe, 2001, National Research Council)
  - A lack of controlled studies of polygraphy with sex offenders
  - Serious questions about its validity
  - Accuracy rates are variable
  - Errors with deceptive people may contribute to new offenses
  - Errors with truthful individuals can devastate their lives
  - External vs. internal control



## PROBLEMS PREDICTING REOFFENSES

- Research on predicting violence
- Base rate problem
- Detection difficulties
- Evaluator "Thinking Errors"
- Political, social, and psychological pressures
- Inadequate procedures
- Inadequate predictors



## RISK ASSESSMENT

- **Clinical Judgment**
  - Unsystematic, experience based
  - Often only slightly better than chance
- **Actuarial Assessment**
  - Estimates risks based on known outcomes
  - Significant improvement in predictive accuracy
  - Most validated with adult incarcerated males
  - May exclude very relevant risk factors
  - Still in its infancy
- **Empirically-guided (Structured Clinical) Assessment**
  - Improved accuracy over clinical assessment
  - Includes factors empirically associated with risk
  - Allows for consideration of other relevant variables

## SEXUAL RECIDIVISM RISK ASSESSMENT INSTRUMENTS

### ADULTS

- STATIC 99\* (Hanson & Thornton, 2000)
- RRASOR\* (Hanson, 1997)
- SORAG\* (Quinsey, Harris, Rice, & Cormier, 2002)
- VASOR\* (McGrath & Hoke, 1994)
- MNSOST-R\* (Epperson, Kaul & Huot, 1995)
- SVR-20\*\* (Boer, Hart, Kropp, Webster, 1997)

### JUVENILES

- J-SOAP-II\*\* (Prentky & Righthand, 2003)
- ERASOR\*\* (Worling & Curwen, 2000)

\*Actualia based on incarcerated inmates  
 \*\*Empirically-derived

## NOTHING WORKS VS. WHAT WORKS

### Principles of Effective Treatment (Andrews, 1994)

- Assessment
  - Risk (static & dynamic factors)
  - Needs (dynamic risk factors)
  - Responsivity (style & mode matched to individual)
- Treatment
  - Relevant
  - Demonstrated effectiveness
  - Matched to individual needs & learning styles

## EFFECTIVE INTERVENTIONS


- Occur in the natural environment, whenever possible
- Based on behavioral strategies
- Multi-modal approaches
- The intensity of treatment is at least 100 hours direct service over a 3-4 months
- Treatment over a year may lead to diminishing returns
- Emphasize positive reinforcement for prosocial behavior
- Individualized as much as possible
- Targets behaviors and dynamic factors that are predictive of future criminal behavior
- Medium- to higher-risk offenders benefit most
- Treatment matches offender characteristics and learning styles
- Aftercare is provided on an as-needed basis

(Gendreau and Goggin, 1997, pp. 273-274)

## TREATMENT EFFECTIVENESS

- Individual studies encouraging
- Meta-analyses
  - 19% treatment completers v. 27% noncompleters; 8% difference (Hall, 1995)
  - 12% treatment completers v. 17% noncompleters; 5% difference (Hanson, et al., 2002)
- Fail to complete treatment has been associated with recidivism (Hanson & Bussiere, 1998)
- Cognitive behavioral and systemic treatments associated with reduce risk (Hall, 1995; Hanson, et al., 2002)

## OFFENSE CHAIN

Motivation	Internal Inhibitors	External Inhibitors	Offense
<ul style="list-style-type: none"> <li>• Personality Traits (Aggression, Psychopathy)</li> <li>• Moral Disengagement (Cognitive Restructuring, Dehumanization, Blame, Denial of Injury)</li> <li>• Emotional Instability (Mood Swings, Impulsivity)</li> <li>• Social Skills (Empathy, Problem Solving)</li> <li>• Victim Empathy</li> </ul>	<ul style="list-style-type: none"> <li>• Social/Emotional Competence</li> <li>• Stress Strategies</li> <li>• Prosocial Attitudes &amp; Values</li> <li>• Victim Empathy</li> </ul>	<ul style="list-style-type: none"> <li>• Social Support</li> <li>• Safety Team</li> <li>• Legal Sanctions</li> </ul>	

## TREATMENT MODALITIES

- Psycho-educational groups
- Group psychotherapy
- Individual therapy
- Marital/Family therapy
- Multisystemic interventions



## MANAGEMENT APPROACHES

- Traditional criminal justice system interventions
- Specialized sex offender supervision
- Sex offender registration
- Community notification
- Civil commitment; lifetime probation

## INDIVIDUAL VS. GROUP THERAPY

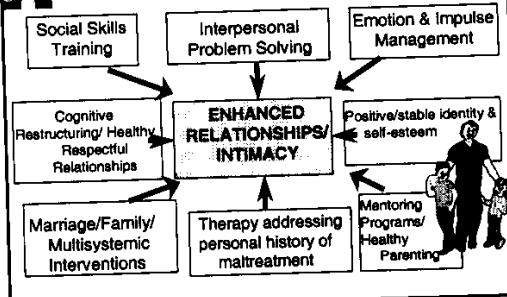


- No systematic study
- Peer support, confrontation, appropriate models
- Potentially cost-effective
- However, adolescents, especially young adolescents, very susceptible to negative peer influences
  - Must be careful to do no harm
  - Sexually explicit details of offenses and details of violent or nonviolent offending should be avoided in group settings.

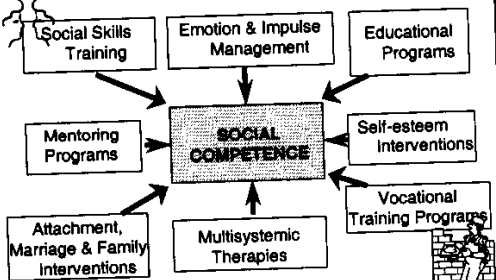
## TREATMENT APPROACHES

- History of confrontational and punitive approaches
- May involve shaming, replicate abusive environments, inhibit healthy sexuality, & promote an "offender" identity
- Such approaches have been associated with poorer treatment outcomes in general psychotherapy (Lieberman, Yalom, & Miles, 1973); the addiction field (e.g., Miller & Sovereign, 1989); and among sex offenders (Beech & Fordham, 1999)
- Increasingly, experts in the field of sex offense specific treatment are expressing concern that such approaches may do more harm than good (e.g., Marshall et al., 2001)
- Individuals deserve and require appropriate treatment interventions that positively engage individuals and model respectful, prosocial behaviors

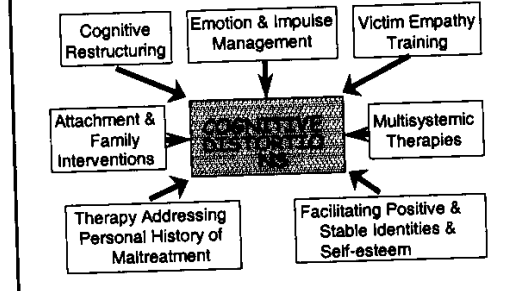
## TREATMENT APPROACHES

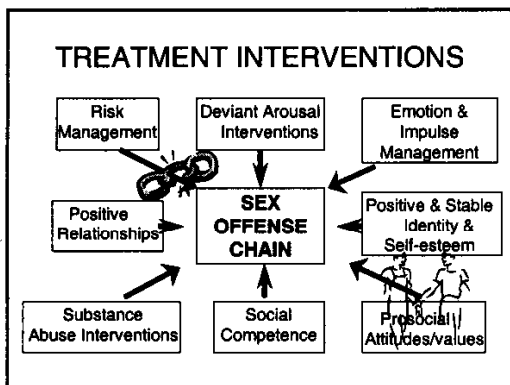
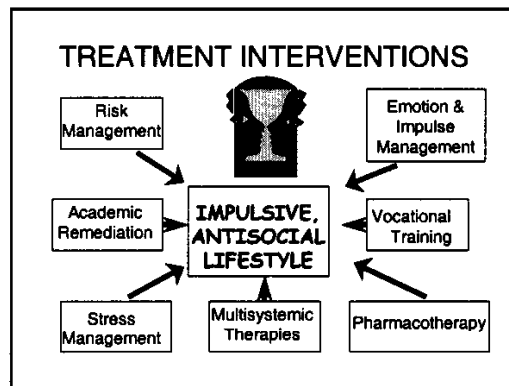
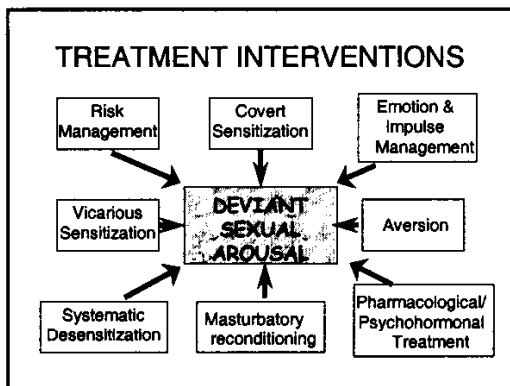
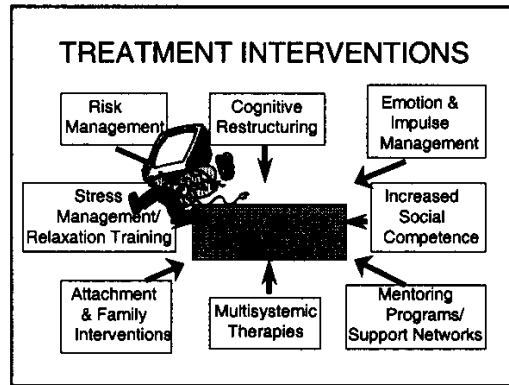
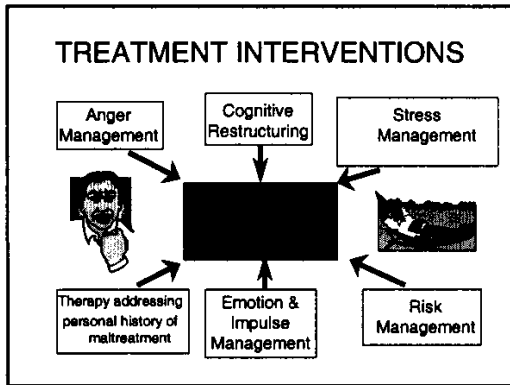


## TREATMENT INTERVENTIONS



## TREATMENT INTERVENTIONS





### THE GOOD NEWS

- Current interventions appear to make a difference
- Ongoing efforts to further enhance interventions
- Most states have experienced a significant declines in sexual abuse since 1994; up to 30% (Jones & Finkelhor, 2001)
- Prevention and early intervention is essential



## **APPENDIX E**

### **Summary of Comments from Presentations and Public Hearing**

## SUMMARY OF COMMENTS FROM PRESENTATIONS AND PUBLIC HEARING

### A. PRESENTATIONS

1. **Dr. Sue Righthand**, a psychologist and national expert regarding issues involving sex offenders and their treatment, provided the commission with an overview about how to define different types of sexual abuse, who offends, how offenders are classified or typed, factors that contribute to sexual offending and recidivism, risk assessment tools and treatment modalities. (See Appendix D for Dr. Righthand's complete presentation.)
2. **Dr. Joe Fitzpatrick**, who served on the commission and is a psychologist and Director of Behavioral Health Services at the Department of Corrections, outlined the department's current initiatives and challenges. Dr. Fitzpatrick explained that the department is working on its treatment program for its incarcerated population. However, the department initiative that is in place is not complete. The initiative does not include resources for housing and treatment as part of transitioning. Dr. Fitzpatrick stressed the importance of putting resources into transitioning; if these transition services are not in place, any treatment provided while the offender is incarcerated will make little difference in preventing relapse later.

The department continues to deal with the challenges of community notification and education but is hoping that its new protocol, "Community Notification of Sex Offenders Protocol for Town Meetings," which was drafted by the Commission on Domestic and Sexual Abuse, will provide a more proactive approach for transitioning offenders. In addition to the community notification and education piece, Dr. Fitzpatrick emphasized that there needs to be a network of community providers who are willing to provide services and who are willing to work collaboratively, using up-to-date treatment methods and best practices. When transitioning offenders, it is important to ensure that they obtain the services that they need. Offenders transitioning back into the community need counseling, housing, employment and a strong support network.

3. **Mike Ranhoff**, a licensed polygraph examiner and **Sgt. Doug Parlin**, the Polygraph Examiner Supervisor of the Maine State Police, spoke to the commission about the use of polygraphs for post-conviction sex offenders. Polygraph examinations of sex offenders are conducted through some therapists in Maine and are used to assist the offender and therapist in treatment. Polygraphs are not used to search out new charges to bring against the offender. There are 3 kinds of tests polygraph examiners use for sex offenders. They include the following:
  - Denial and other specific issue tests. These tests are used to verify the details of the offense for which the offender was convicted and are often administered when the offender denies the crime or the offender's version of the offense differs from the victim's version. Specific issue tests are also used to address concerns that may arise during probation (i.e., therapist suspects that offender may be violating condition of probation).

- Disclosure tests. These tests are used to verify the accuracy and completeness of the offender's history.
- Maintenance tests. These tests are used to determine whether a probationer is complying with the conditions of probation, is cooperating with treatment and is not reoffending.

The information collected from these tests is used to develop and modify treatment and supervision. Mr. Ranhoff noted that the tests do not stand alone; ideally, the use of polygraphs is part of a collaborative effort by the polygraph examiner, the therapist and the probation officer. Mr. Ranhoff indicated that he would like to see probation officers more involved; at the very least probation officers should receive reports of the examinations and be aware of what results are coming out of the testing. Mr. Ranhoff stated that Oregon has the best polygraph program for sex offenders. The court orders an examination immediately following the offender's release, and all programs are based on therapeutic purposes. Polygraphs are intended to support the therapists' work with the offenders and to protect the community.

The presentation generated discussion on a number of issues. Those mentioned by commission members included the following.

- The scientific community has reached no agreement about whether sex offenders should be subject to polygraph examinations.
- How do other states ensure that polygraphs are used for therapeutic reasons only and not for bringing new prosecutions?
- How do you create an incentive for offenders to be truthful, especially if the offender believes that the probation officer will learn everything from the polygraph?

As a follow-up to some of these issues, Mr. Ranhoff expressed that, even if a waiver exists, people do not always tell the entire truth. Testing helps find the truth and therefore helps in treatment. Mr. Ranhoff also stressed that if polygraph examinations are used, the Department of Corrections and the therapist need to agree upon what to do with the examination information once it is received.

4. **Nancy Dentico and Bud Hall**, probation officers who are Sex Offender Specialists and **Dan Ouellette**, a Regional Correctional Administrator for the Department of Corrections, spoke to the commission about their experience supervising sex offenders in the community. Sex Offender Specialists carry a caseload of approximately 40 probationers. (Originally, under the initial grant creating Sex Offender Specialists, these probation officers had a caseload of about 30.) Contact standards for high risk sex offenders include a minimum of 4 contacts per month – 2 of these must be in person (at the offender's home or the officer's office) and the other 2 may be at the offender's home or with a collateral contact (i.e., therapist). If an offender is identified as an extremely high risk, the officer may see that person 4-5 times per month in that person's home and may

carefully watch that person's conduct on a daily basis. The percentage of persons reoffending while supervised by a Sex Offender Specialist appears to be relatively low, as evidenced by Mr. Hall's previous caseload of 43 probationers of which only 5 had full revocations for new criminal conduct.

Although supervision by Sex Offender Specialists appears to help decrease the recidivism rate, these probation officers can handle only about one half of the sex offender probation population in the State. Adequate supervision of those who are not under the caseload of a Sex Offender Specialist is a concern. Sex Offender Specialists' caseloads are in large part determined by the level of risk of the offender, but assignment is also based on geography and resources. While supervision is a big issue, so is the availability of counseling services. The Sex Offender Specialists indicated that there have been improvements in statewide accessibility of quality therapy and that more therapists are using relapse prevention as an effective therapy technique.

Sex Offender Specialists talk to law enforcement officers regularly about sex offenders in the community. However, probation officers and law enforcement officers often feel constrained from speaking openly to the public about sex offenders. The Sex Offender Specialists explained that notifying a sex offender's neighbors is not going to protect the public from sex offenders; if an offender makes the choice to reoffend, that offender will.

These members of the Department of Corrections made several recommendations about areas that they believe need to be addressed to improve sex offender supervision.

- Clarify contact conditions, especially when a minor is involved. The fact that an offender has a probation condition of no contact with minors but can live at home with his own children is a concern, at the very least, until the offender is in treatment.
- Set reasonable probation conditions and involve probation officers, as well as the court and prosecutors, in the decision making process for setting conditions. Some conditions that are automatic (i.e., "no alcohol") may not be necessary in a case where there is no indication that alcohol was involved. A model with conditions that are reasonable and realistic for a probationer to comply with will more likely ensure success and less chance of reoffending.
- Expand sex offender registration requirements to include crimes like sexual abuse of animals, misdemeanor sex offenses against adults and all types of invasion of privacy.
- Revisit current classifications for "sex offender" and "sexually violent predator" to determine whether lower risk crimes that currently require 90 day verification may be verified annually instead.
- Assess and classify offenders using a risk assessment tool and a team approach that includes the court, the prosecutor, the probation officer or another expert or board trained specifically to do assessments, instead of applying an arbitrary and inconsistent assignment system based only on statute.
- Provide consistent public notification based on public input.

- Reduce duplication of efforts in verification of registration by involving probation officers while a sex offender is under a probation officer's supervision.
- Expand community-policing efforts (i.e., Brunswick has a law enforcement bulletin that circulates up the coast and gives other law enforcement agencies notice of offenders who are in the community).
- Make sex offender treatment a cooperative effort by therapists, law enforcement and probation officers; all parties need to consider community safety, make a relapse prevention plan, provide social skill development and minimize each sex offender's denial.

**5. Lt. Jackie Theriault**, who served as a member of the commission and works in the State Bureau of Identification (SBI) gave the commission a summary of the history of the Sex Offender Registry, the impact of legislative changes on the registry and an update on the status of Internet access to sex offender information.<sup>1</sup> One of the biggest challenges for the SBI is identifying those who are required to register. The Sex Offender Registry and criminal history records system are not connected, and because the system is not automated, there is no way to identify every person who must register.

In early December there were 1902 registrants – 1312 active and 590 inactive. Seventy-five percent of registrants are registered as sexually violent predators, and approximately 200 are in violation of the registry. The SBI registers approximately 578 offenders annually, but some are converted from the old registry, and some are new people that now must register. Until the system is fully automated, there is no way to know to what extent the registry will grow.

- 6. Lt. Col. Jeff Harmon** of the State Police gave a demonstration of the on-line Sex Offender Registry.
- 7. Representative Sean Faircloth**, who served as co-chair of the commission, attended the University of Wisconsin's 19th Annual Midwest Conference on Child Sexual Abuse. States are looking at intensive treatment strategies for both offenders and victims. In addition to treatment practices, people are looking at state laws regarding child abuse. Representative Faircloth indicated that, in reviewing states' sentencing laws, the National Council of State Legislatures reported that Maine has the least restrictive penalties for persons who commit sex offenses against prepubescent children.
- 8. Dr. Anne LeBlanc**, the Director of the State Forensic Service, provided the commission with written testimony about her agency's post-conviction evaluation process for sex offenders.

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<sup>1</sup> At the time of Lt. Theriault's presentation, the SBI was working to complete Internet access to the Sex Offender Registry. The registry is now available on-line at <http://www4.informe.org/sor/index.html>.

## **B. PUBLIC HEARING**

In addition to presentations from these experts, the commission held one public hearing at which members heard from other members of the Legislature and many members of the public, including citizens and community leaders from the Augusta area. Persons who testified expressed concerns regarding whether sex offenders receive proper supervision, whether the public receives adequate notice of where sex offenders are residing when they return to the community and whether state agencies are communicating and coordinating their efforts in the treatment and supervision of all sex offenders.

Registrants and family members of registrants also testified and expressed concerns regarding how the statute broadly defines persons who commit very different crimes as either “sex offenders” or “sexually violent predators,” who must register for life; the constitutionality of registration requirements; and the challenges offenders and their families face in finding housing and employment and becoming part of their communities.

Specific recommendations that persons who testified asked the commission to consider included the following:

- Require lifetime probation for sex offenders;
- Impose residency restrictions or limitations on sex offenders, including prohibiting sex offenders from living within 1 mile of a school or daycare while on probation;
- Decrease the period of time in which a sex offender has to register or verify registration information with the SBI;
- Restrict the number of times a sex offender may move, so that the system is less likely to lose track of the offender;
- Refuse to allow sex offenders from other states to come to Maine to live;
- Require law enforcement to give details of sex offenses committed when providing notification and be more consistent in notification procedures;
- Require the Department of Corrections to provide pre-release counseling for sex offenders and better support in transitioning sex offenders from prison to the community;
- Prohibit plea agreements in certain sex offense cases;
- Increase the sentences for persons who are convicted of sexual assaults;
- Eliminate different labels for persons; call all who commit sex offenses “sex offenders,” notify the public of the crime committed and let people form their own opinions;

- Redefine who is high risk and who is low risk for purposes of registration and notification;
- Allow no “good time” for persons incarcerated for sex offenses; and
- Increase the crime classification and penalties for sex offenses.

**APPENDIX F**

**NCSL Sexual Assault on Child Chart**





NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*  
 7700 East First Place Denver, CO 80230  
 303/364-7700

**Sexual Assault on Child Chart**  
**October 2003**

State	Statute	Minimum age of victim	Punishment
Alabama	§ 13A-6-61: 1 <sup>st</sup> degree Rape	Victim under 12, perpetrator over 16	Class A felony Min: 10 Max: 99
Arizona	§13-1423. Violent sexual assault, which can include sexual molestation	Victim under 15	Natural Life sentence
Arkansas	§5-14-103. Rape	Victim under 14	Class Y felony Min: 10 Max: 40 or life
Colorado	§18-3-402. Sexual assault §18-3-405. Sexual assault on a child §18-3-412. Habitual sex offenders against children	Victim under 15  Use of certain forces  Habitual offender	Class 4 felony: 2-4 yrs  Class 3 felony: 4-8 yrs  3X sentence
Connecticut	§53a-70. Sexual Assault in 1 <sup>st</sup> degree	Penalty varies for victims under 16, 13 and 10 yrs.	Class A felony Min: 10 Max: 25 For a victim under 10, 10 years of sentence may not be suspended or reduced.
Delaware	§ 773. Rape in the first degree.	Victim under 12	Class A felony Min: 15 Max: Life
Florida	§794.011. Sexual battery	Victim under 12	Capital felony Death/Life as authorized by §921.141
Georgia	§16-6-1. Rape	Victim under 10	Punishable by Death, Life, Min: 10, Max: 20
Hawaii	§707-730. Sexual assault in the 1st degree.	Victim under 14	Class A felony
Idaho	§18-6101. Rape	Victim under 18	Min: 1 yr. Max: Life
Illinois	720 ILCS 5/11-6. Indecent solicitation of a	Victim under 17	Class 1 felony Min: 4

	child		Max: 15 Habitual criminal offenders may be sentenced to life
Indiana	§35-42-4-3. Child molesting	Victim under 14	Class A with aggravating factors Fixed term of 30 years, no less than 20, no more than 50 yrs.
Iowa	§709.3. Sexual abuse in the second degree.	Victim is under 12	Class B felony Max: 25
Kansas	§21-3502. Rape	Victim under 14	Level 1 person felony
Kentucky	§510.040. 1 <sup>st</sup> degree Rape	Victim under 12	Class A felony Min: 20 yrs. Max: 50 yrs.
Louisiana	§14.42. Aggravated rape	Victim under 12	Death or Life
Maine	Title 17-A §253 Gross sexual assault	Victim under 14	Class A crime Min: none Max: 40 yrs
Maryland	§3-303. Rape in the first degree.	Victim under 16	1 <sup>st</sup> degree felony Max: Life (no parole)
Massachusetts	Chapter 265 § 22A. Rape of child	Victim under 16	Min: any Max: Life
Michigan	§750.520b Criminal sexual conduct in the first degree	Victim under 13	Min: any Max: Life
Minnesota	§609.342 Criminal sexual conduct in the first degree	Victim under 13	Max: 30 yrs. Mandatory minimum of 12 years.
Mississippi	§97-3-95. Sexual Battery	Victim under 14	Min: any Max: 30 yrs.
Missouri	566.032. 1. Statutory Rape in 1 <sup>st</sup> degree	Victim under 12	Min: 10 yrs. Max: Life
Montana	§45-5-502. Sexual assault	Victim under 16	Min: 4 yrs Max: Life
Nebraska	28-319 Sexual assault; first degree	Victim under 16 Actor nineteen or Older	Min: 1 yr Max: 50 Second offense Min: 25 yrs.
Nevada	200.366 Sexual assault	Victim under 14	Min: 20 yrs. Max Life. If serious injury: Life without parole

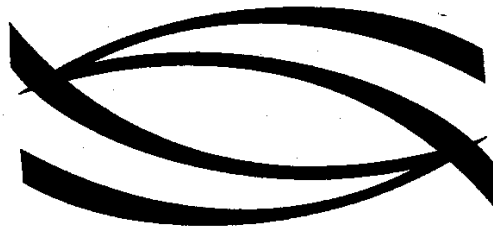
New Hampshire	632-A:3 Felonious Sexual Assault	Victim under 13	Min: 10 yrs. Max: 20 yrs. Double for 2nd offense.
New Jersey	2C:14-2 Sexual assault.	Victim under 13	Min: 20; Max: Life
New Mexico	30-9-11. Criminal sexual penetration.	Victim under 13	18 years
New York	. S 130.35 Rape in the first degree	Victim under 11 Or victim under 13 and actor is over 18	Max: 25 yrs.
North Dakota	12.1-20-03. Gross sexual imposition	Victim under 15	Max 10 yrs.
Ohio	§ 2907.05 Gross sexual imposition.	13	Min: 1 yrs. Max: 5 yrs. In addition, Ohio has a 97% mandatory service law, which creates a mandatory minimum for all crimes.
Oregon	163.411 Unlawful sexual penetration in the first degree	12	Determined by the courts.
Pennsylvania	§948.02 1 <sup>st</sup> Degree Sexual Assault of a Child.	Victim is child who has not attained 13 years.	Penalty is imprisonment for not more than 40 years.
Rhode Island	§ 11-37-8.1 1 <sup>st</sup> Degree Child Molestation Sexual Assault.	Victim is 14 years of age or under	Penalty is imprisonment for not less than 20 years and may be imprisoned for life.
South Carolina	§16-3-655 1 <sup>st</sup> Degree Criminal Sexual Conduct (sexual battery)	Victim is less than eleven years of age.	1 <sup>st</sup> degree felony punishable by imprisonment for not more than 30 years, at the discretion of court.
South Dakota	§22-22-1 1 <sup>st</sup> Degree Rape.	Victim is less than 10 years of age.	1 <sup>st</sup> degree felony punishable by 10 years for a first offense and 20 years for a subsequent offense.
Tennessee	§39-13-522 Rape of a Child	Victim is less than 13 years of age.	Rape of a child is a Class A felony punishable by not less than 15 nor more than 25 years.
Texas	22.021. Aggravated Sexual Assault	Victim is younger than 14 or 65 or older	Felony in the 1 <sup>st</sup> degree. Penalty is imprisonment for life or for any term of not more than 99 years or less than 5.

Utah	§76-5-402.1. Rape of a child.	Victim is a child who is under the age of 14.	Rape of a child is a 1 <sup>st</sup> degree felony punishable by imprisonment for no less than 6, 10, or 15 years and which may be for life. Imprisonment mandatory.
Vermont	§3242. Aggravated Sexual Assault	Victim is under the age of 10 and the actor is at least 18.	Penalty is maximum sentence of life imprisonment or fine of not more than \$50,000 or both.
Washington	§ 9A.44.073 Rape of Child in 1 <sup>st</sup> Degree	Victim is less than 12 and not married to the perpetrator and the perpetrator is at least twenty-four months older than the victim.	Rape of a child in the first degree is a class A felony punishable by 5 years or maximum of at least 20 years.
West Virginia	§61-8B-3. Sexual assault in the 1st degree.	Victim is 11 years old or less and the offender is 14 years old or more.	Sexual assault in the 1st degree is a felony punishable by imprisonment not less than 15 nor more than 35 years.
Wisconsin	§ 948.02 1 <sup>st</sup> Degree Sexual Assault of a Child	Victim has not attained the age of 13.	Class B felony punishable by imprisonment not to exceed 60 years.
Wyoming	§6-2-303. Sexual assault in the second degree.	Victim is less than 12 years of age and the actor is at least 4 years older than the victim.	Sexual assault in the 2 <sup>nd</sup> degree is a felony punishable by imprisonment for not more than 20 years.

**APPENDIX G**

**Survey of Convicted Sex Offenders in the State of Maine**

**Survey of Convicted Sex Offenders**  
**In the State of Maine**



**Research Department**  
**Justice Resource Institute**  
**Boston, MA**

**April, 2003**

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## **Survey of Convicted Sex Offenders In the State of Maine**

### **Project Assignment**

To provide the Maine Department of Corrections with a descriptive profile of the demographic, criminal and risk characteristics of men who have been convicted of sexual offenses. The purpose of this assignment was to assist the Department in the preparation of a solicitation for proposals to provide treatment services for this population.

### **Strategy for Data Collection**

Fifteen Maine-based coders were recruited: eight doctoral students in the Psychology Department at the University of Maine @ Orono, four professional research staff from the Muskie Institute at the University of Southern Maine, and four individuals recommended to us by Dr. Sue Righthand. The first site visit for training purposes was scheduled for Saturday January 25, 2003. Eight members of Justice Resource Institute's Research Department arrived at MCC on Friday and coded approximately 80 files. These initial codings were intended to familiarize us with the files and to anticipate coding problems prior to the training on Saturday. The coders arrived at MCC on Saturday and spent the day going over the dictionary and coding files that had already been coded the previous day by our staff.

Our initial review and coding of files on Friday, our experiences with coding problems that emerged on Saturday, and consultation with Dr. Fitzpatrick around variables that were considered important that we did not want to overlook, such as the Department's Institutional Classification Level, resulted in changes, modifications, and additions to our initial set of variables. A final set of twenty-four (24) variables were chosen that provide reasonable coverage of demographic and criminal history variables that were "treatment relevant," while at the same time providing economy of coding effort. The coding dictionary is included in the Appendix to the report.

In addition to the Department's Institutional Classification Level, we included three risk scales to provide further guidance with respect to the risk posed by these men. These scales were chosen, because they could be easily scored using the variables that had already been coded (i.e., the preceding 21 items), and at least one of the scales (RRASOR) is well-known in the literature as an actuarial risk assessment scale for sex offenders.



The Rapid Risk Assessment for Sexual Offender Recidivism (RRASOR) was developed by Dr. Karl Hanson and his colleagues (Hanson, 1997) and served as a basis for subsequent risk scale development by Hanson and his colleague Dr. David Thornton. The RRASOR is particularly sensitive to risk posed by child molesters. The Screening Scale for Pedophilic Interests (SSPI) was developed by Dr. Michael Seto and his colleagues (Seto and Lalumiere, 2001), and assesses risk posed by pedophiles. Finally, the Rapist Risk Assessment (RRA) is simply a combination of four items selected from the preceding items in the dictionary for this project that we felt might be more sensitive to risk posed by rapists.

A second follow-up visit for training and supervision was conducted on the weekend of February 8-9 at Maine State Prison and Bolduc Correctional Facility. Our research staff met the coders at MSP on Saturday morning and spent the day with them. Although our contract did not permit a formal examination of inter-reliability (i.e., double-coding a random selection of 25% of the cases), we did our best to insure a high degree of reliability. Our coders were dedicated and conscientious, and we are confident that they did a highly commendable job.

### Samples

#### Prison Sample [ N = 327 ]

Files were accessed from the following five prisons:

- Maine Correctional Center
- Maine State Prison
- Bolduc Correctional Facility
- Downeast Correctional Center
- Charleston Correctional Center

To the best of our knowledge, all sex offender files that were made available to us at those prisons were coded.

#### Probation Sample [ N = 339 ]

Files were accessed from the following seven probation offices in:

- Auburn (Lewiston)
- Augusta
- Bangor
- Biddeford
- Portland
- Thomaston
- Waterville

**Assessing the distribution of files made available for coding from the probation offices was more difficult than the task at the prisons. Some offenders were transferred to a different office, and others were returned to prison, requiring careful cross-checking to make sure that we weren't double-coding the same individual. Most of the coded files were from probation officers who were sex offender specialists. Thus, they may not have been representative of the population of sex offenders on probation. Our findings indicated, however, that the probation sample was highly comparable to the prison sample in almost all respects.**

### **Target Samples**

**Our target samples were 300 prisoners and 350 probationers, for a total sample of 650. This survey includes data on a combined sample of 666: 645 individually coded cases and 21 additional cases used for training.**

## Findings

### A. Demographic Characteristics of the Samples

#### Age at Incarceration

The age at time of incarceration for the governing sexual offense was coded for all individuals. For the prison sample, the average age at incarceration was 38 (SD = 12), with a range of 19 to 80. For the probation sample, the age at incarceration for their governing sexual offense was almost identical (37, SD = 12).

#### County of Residence

The samples were highly comparable with respect to county of residence, with most of the individuals coming from three counties: Androscoggin, Cumberland, Kennebec, followed by Penobscot and York. It should be noted that these numbers might be more meaningful if they were reported as proportions of the population (i.e., the number of men from each county relative to the population of that county). It should also be pointed out that it was often difficult to determine the county of residence at the time of the governing offense, resulting in a large number of cases coded as unclear.

#### Educational Status

We coded the highest grade level that the individual completed.

Slightly over half of the men (51.7% in the prison sample and 50.4% in the probation sample) completed high school or received a GED. An additional 8.6% of the prison sample and 13.6% of the probation completed post-high school education, with 4% and 3% respectively, being college educated. Most importantly, at the lower end of the spectrum, approximately 5% of both samples terminated their education at or before the 7<sup>th</sup> grade and roughly 1% had less than a 6<sup>th</sup> grade education. It should be noted, of course, that, for the most part, information about education comes from self-report and was not confirmed. Hence, reports of college education may not always be accurate.

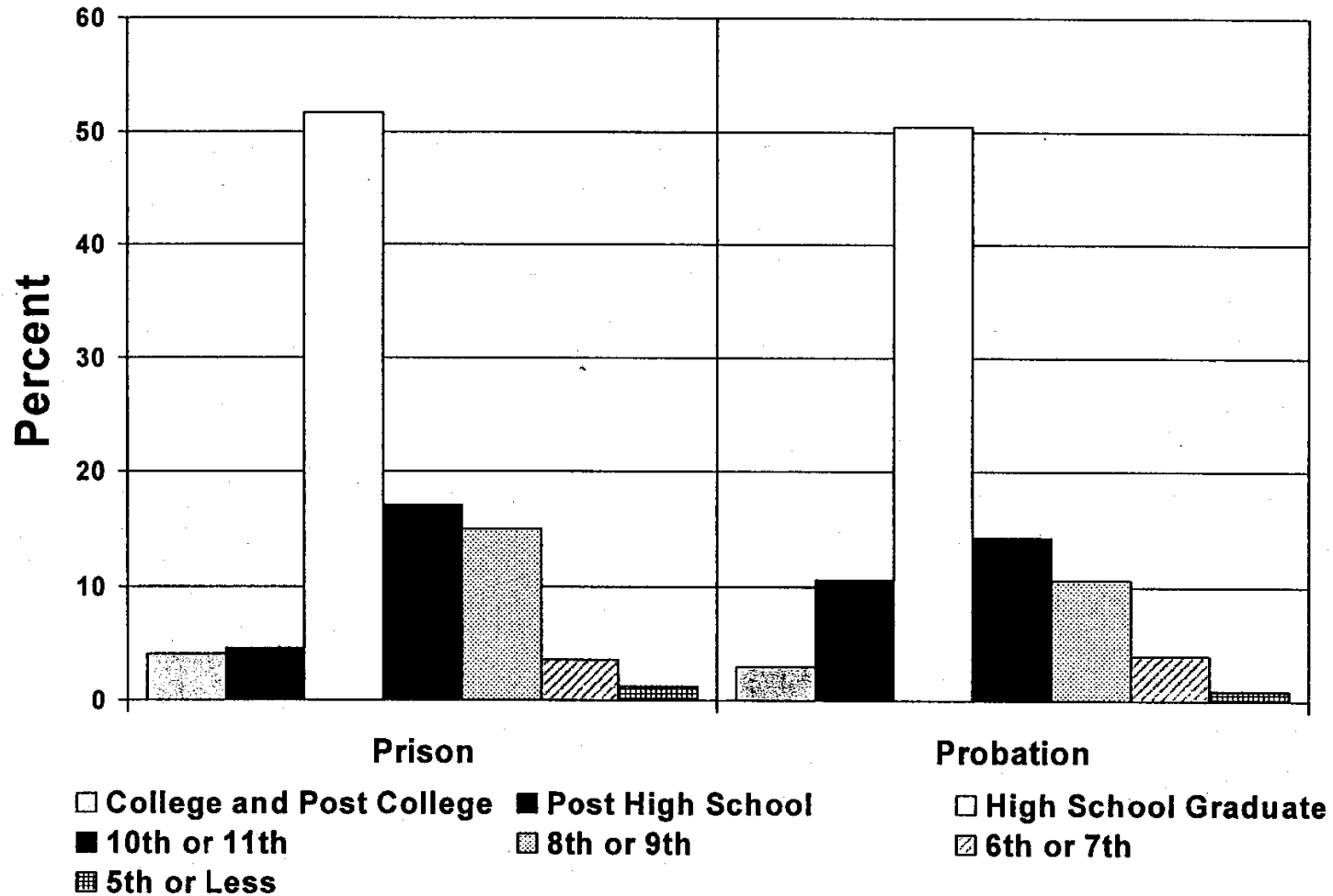
# County of Residence

(Frequency)

<i>County</i>	<i>Prison</i>	<i>Probation</i>
Out of State	2	2
Androscoggin	11	14
Aroostook	3	1
Cumberland	13	12
Franklin	2	0
Hancock	3	1
Kennebec	15	31
Knox	4	8
Lincoln	2	2
Oxford	1	2
Penobscot	12	7
Piscataquis	1	0
Sagadahoc	4	1
Somerset	4	6
Washington	3	1
Waldo	2	2
York	6	12

# Educational Status

(Last Completed Grade)



### Cognitive Functioning

Information obtained in the files did not permit a reliable determination of cognitive functioning (e.g., a reliable WAIS IQ). Thus, we coded this variable conservatively, based only on credible information in the file indicating that the individual had at one time been diagnosed with mental retardation or tested as having "borderline" average intelligence.

Slightly less than 10% of both samples fell into this category (9.8% [32] of the prison sample and 8.8% [30] of the probation sample).

If information existed that suggested possible cognitive deficits (e.g., as a youngster, he repeatedly failed grades or was held back) but there was no clear evidence of retardation, or there simply was no information at all that addressed the question of cognitive functioning, the case was coded as unclear. One hundred forty-two (142) cases were coded as unclear for this variable.

### Marital Status

Marital status was coded on a 5-point scale: 0 = single, never married; 1 = married; 2 = separated; 3 = divorced; 4 = widowed.

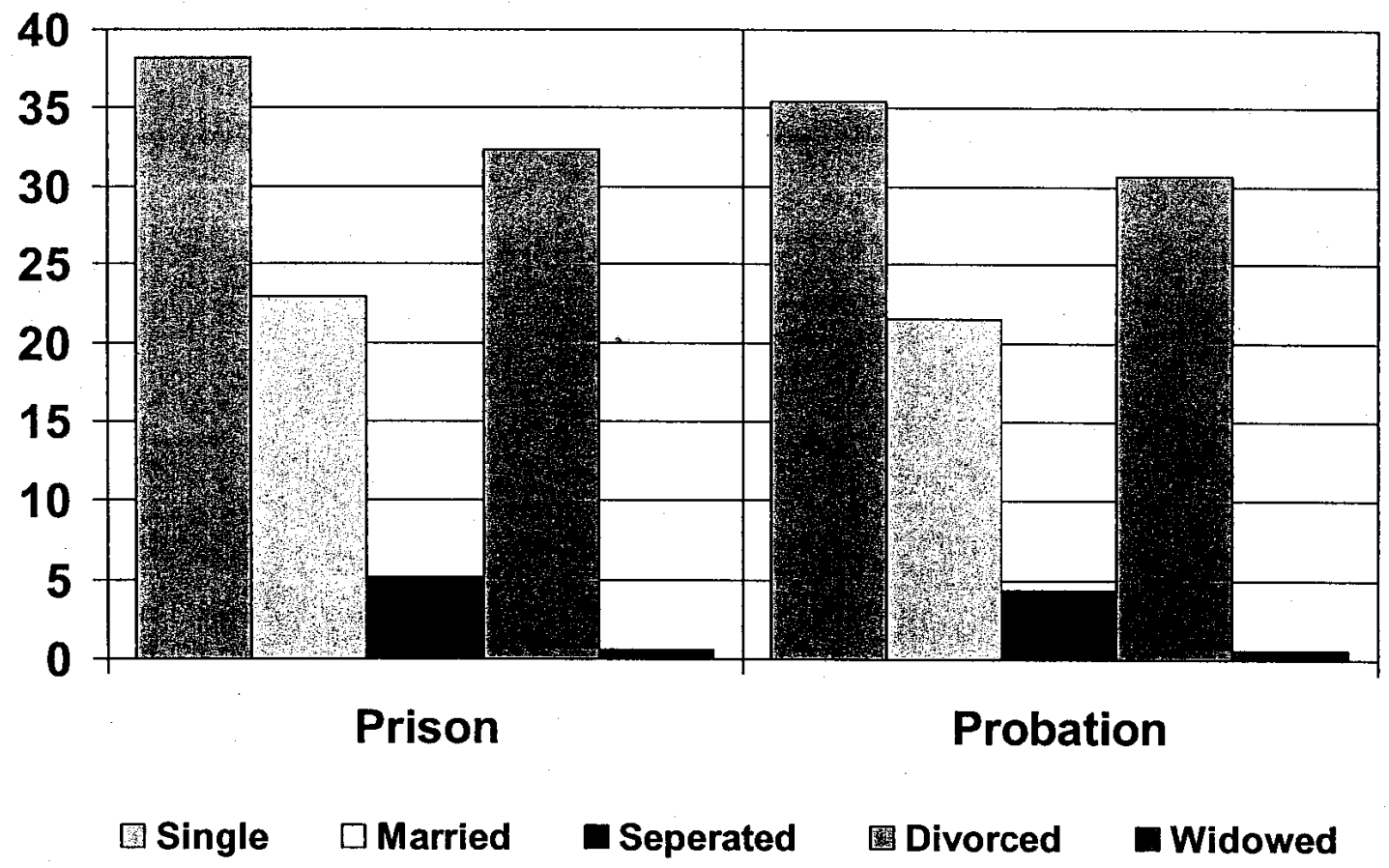
Somewhat over one-third of both samples were single (38.2% of the prison sample and 35.4% of the probation sample), with almost identical proportions of the two samples falling into the other four categories.

# Cognitive Functioning

(Percent Deficient)



# Marital Status





### **Major Mental Illness**

Similar to the problem with coding cognitive functioning, information obtained in the files often did not permit a reliable determination of a history of major mental illness (schizophrenia, bipolar [manic-depressive illness], or psychotic depression). We only coded this variable as present when there was clear evidence of such a history documented in the file.

In the prison sample, 41 (12.5%) were coded positively for mental illness, compared with 30 (8.8%) in the probation sample. Seventy-seven (77) cases were coded as unclear for this variable.

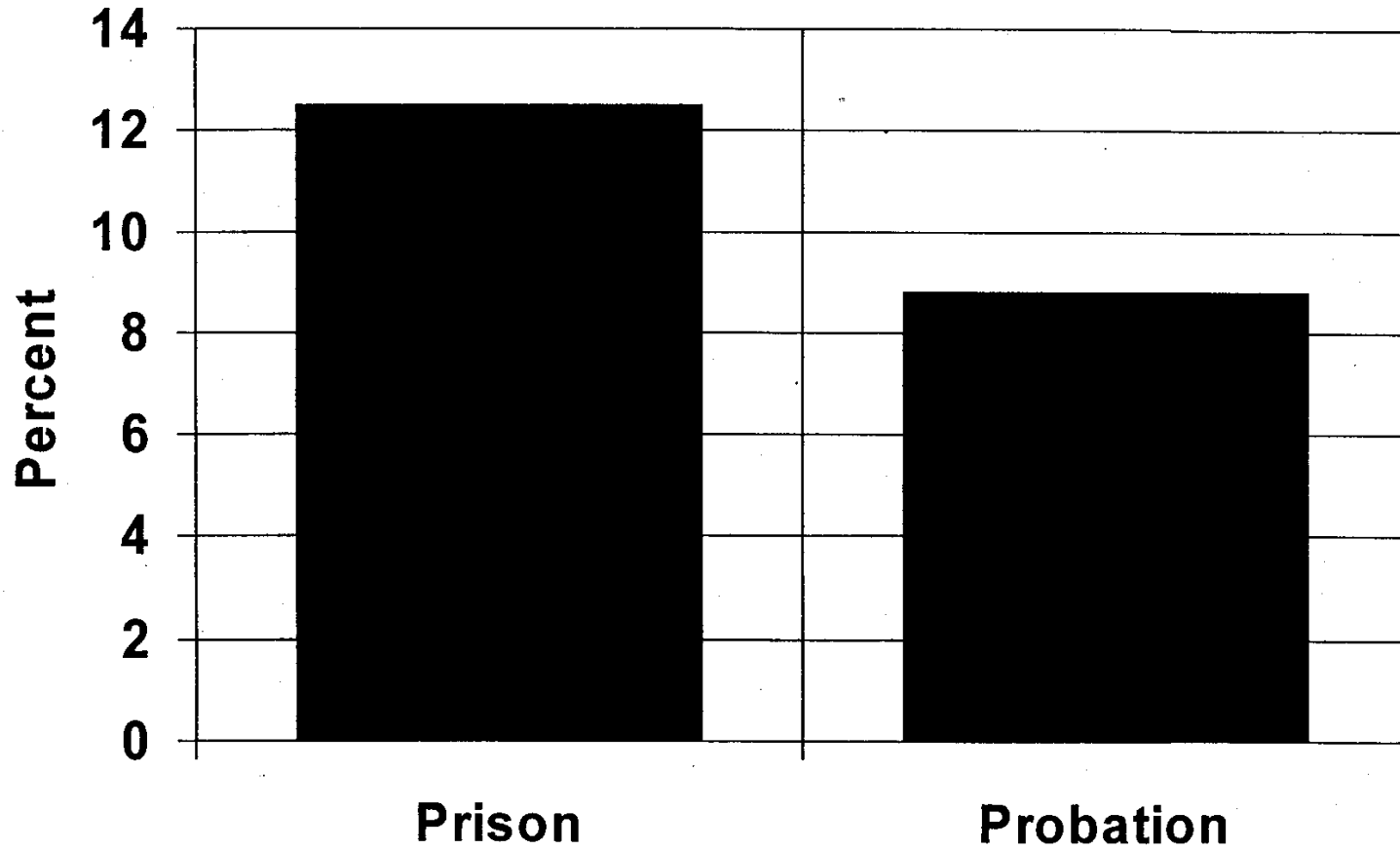
### **Alcohol and Drug Abuse History**

These two variables were coded as present only if there were clear statements referring to a substance use history that was "abusive."

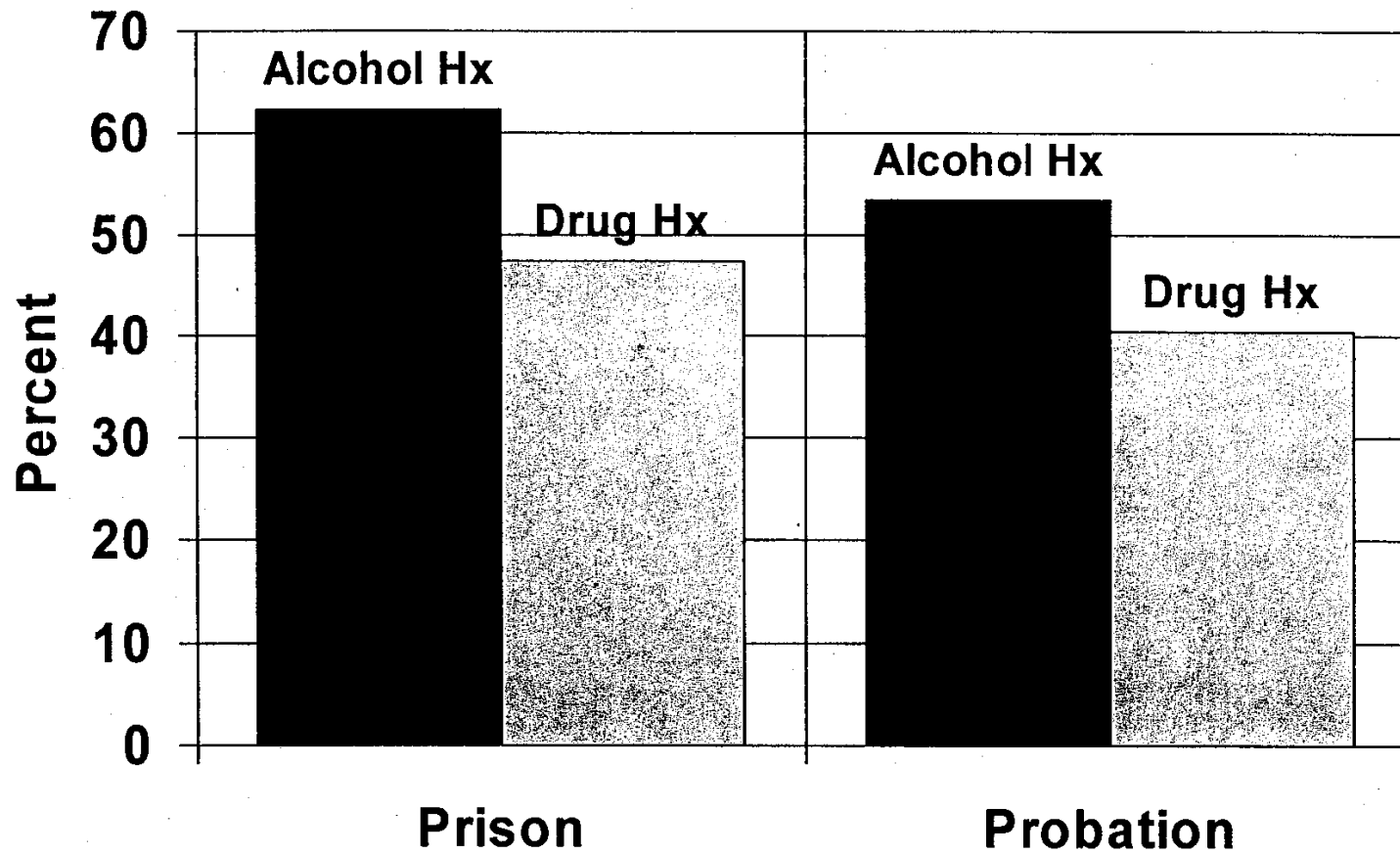
In the prison sample, 62.4% were coded for alcohol abuse [with 28 unclear] and 47.4% were coded for drug abuse [with 27 unclear]. In the probation sample, 53.4% were coded for alcohol abuse [with 17 unclear] and 40.4% were coded for drug abuse [with 14 unclear].

# Major Mental Illness

(Percent Present)



# Alcohol & Drug History



## **B. Criminal History**

### **Number of Months to Discharge from Prison**

For this variable, we recorded the amount of time in months before the individual is eligible to be discharged from prison.

In the prison sample, the average number of months to discharge is 57 (SD = 92), roughly 5 years. The range is 0 to 663 (roughly 50 years). The value of 0 was given when the time to discharge was two weeks or less.

In the probation sample, the average number of months to discharge is 39.6 (SD = 8.2). Similar to the prison sample, the range is 0 to 432 months, roughly 36 years.

### **Number of Sexual Offenses**

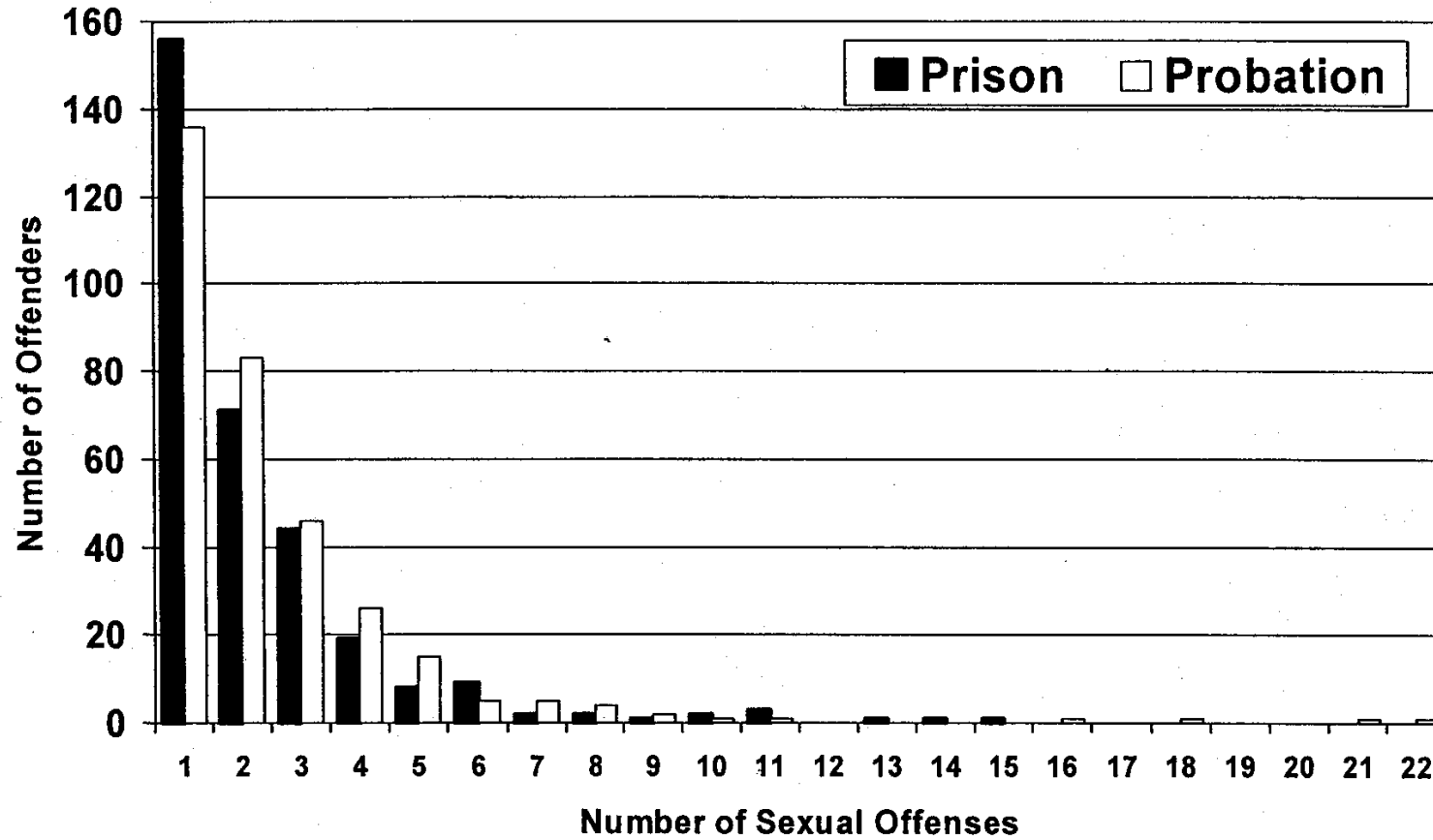
This variable reflects the total number of known sexual offenses, including the governing offense. Juvenile sexual offenses, if mentioned, were included.

In the prison sample, the average number of known sexual offenses was 2.30 [SD = 2.14], with a range of 1 to 15. Roughly half the sample (156, 48%) had no known prior sex offenses, while less than one-third of the sample (28.4%) had "3 or more" sex offenses (i.e., 2 or more priors).

In the probation sample, the average number of known sexual offenses was 2.50 [SD = 2.56], with a range of 1 to 22. In this sample, 136 (40%) had no known prior sex offenses, while one-third of the sample (32%) had "3 or more" sex offenses (i.e., 2 or more priors).

# Number of Sexual Offenses

(Frequency)



## Number of Sexual Offenses (frequency / %)

Number of Sex Offenses	Prison	Probation
1	156 (44%)	136 (40%)
2	71 (20%)	83 (24.5%)
3	44 (12.4%)	46 (13.6%)
4	19 (5.3%)	26 (7.7%)
5 - 6	17 (4.7%)	20 (6%)
7 - 8	4 (1.2%)	9 (2.7%)
9 - 10	3 (.09%)	3 (.09%)
11 - 15	6 (1.7%)	1 (.03%)
> 15 [Max: 22]		4 (1.2%)

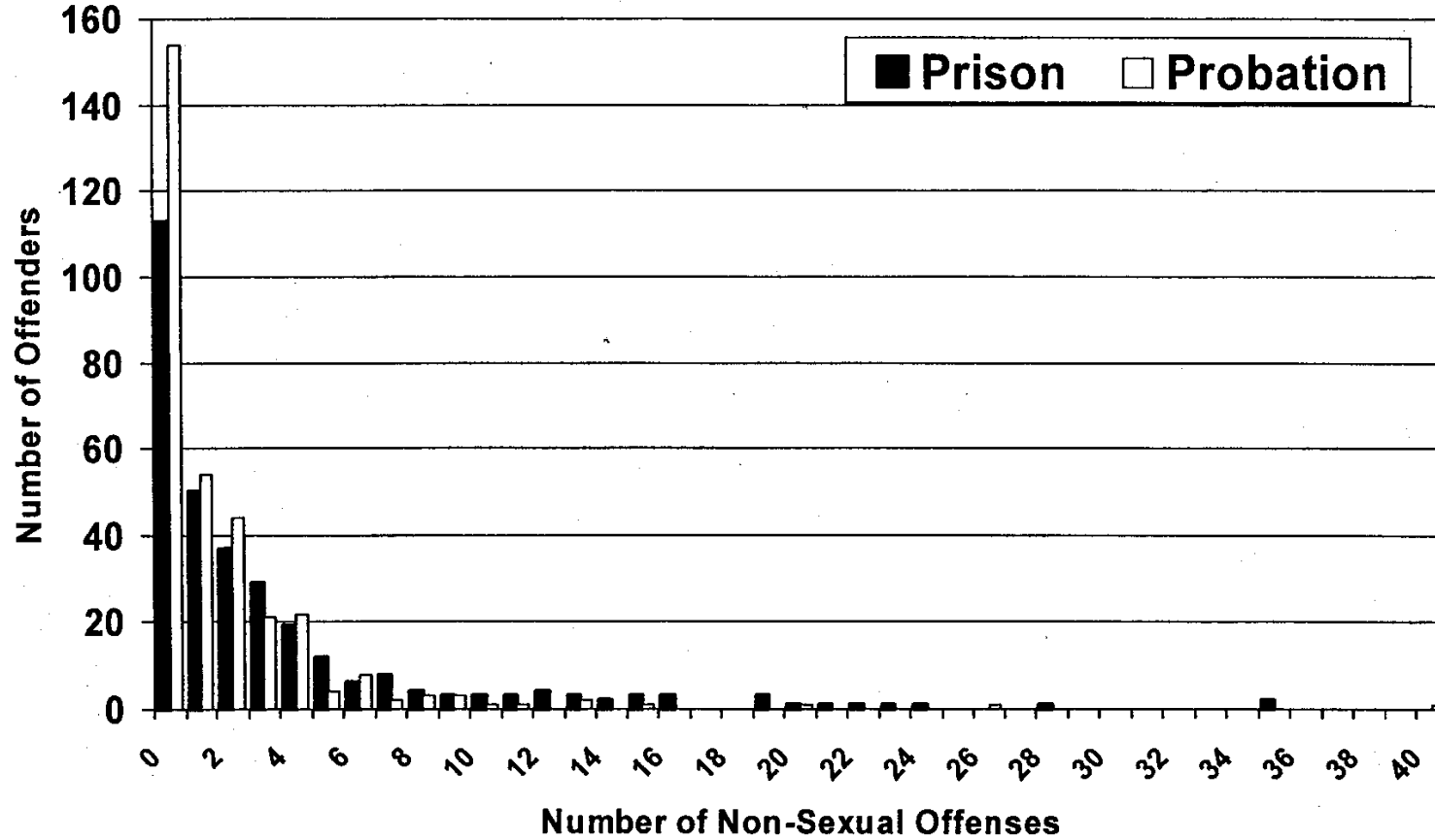
### **Number of Non-Sexual Offenses**

**This variable reflects the total number of identified non-sexual offenses, including juvenile offenses. The threshold criterion for inclusion was charge or arrest; conviction was not necessary.**

**In the prison sample, the average number of non-sexual offenses was 3.31 [SD = 5.41], with a range of 0 to 35. Roughly one-third of the sample (113, 32%) had no known non-sexual offenses, while slightly less than 10% (8.9%) had ten (10) or more non-sexual offenses. Notably, 18% of the sample had five (5) or more non-sexual offenses.**

**In the probation sample, the average number of non-sexual offenses was 1.77 [SD = 3.60], with a range of 0 to 40. In this sample, 154 (45%) had no known non-sexual offenses, while 8.4% had five (5) or more non-sexual offenses and 2.4% had ten (10) or more non-sexual offenses.**

# Number of Non-Sexual Offenses (Frequency)





**Number of Non-Sexual Offenses  
(frequency / %)**

<b>Number of Non-Sex Offenses</b>	<b>Prison</b>	<b>Probation</b>
<b>0</b>	<b>113 (35%)</b>	<b>154 (45%)</b>
<b>1</b>	<b>50 (15%)</b>	<b>54 (16%)</b>
<b>2</b>	<b>37 (11%)</b>	<b>44 (13%)</b>
<b>3</b>	<b>29 (9%)</b>	<b>21 (6.2%)</b>
<b>4</b>	<b>19 (6%)</b>	<b>22 (6.5%)</b>
<b>5</b>	<b>12 (4%)</b>	<b>4 (1.2%)</b>
<b>6 – 10</b>	<b>24 (7.2%)</b>	<b>17 (5.1%)</b>
<b>11 - 15</b>	<b>15 (4.5%)</b>	<b>4 (1.2%)</b>
<b>&gt; 15 [Max: 40]</b>	<b>14 (4.2%)</b>	<b>3 (1.0%)</b>

### Governing Offense

The governing offense, described in terms of the legal or statutory language, was coded according to 9 categories:

- 0 [unlawful sexual contact (misdemeanor)]
- 1 [unlawful sexual contact (felony)]
- 2 [sexual abuse of minors (misdemeanor)]
- 3 [sexual abuse of minors (felony)]
- 4 [sexual misconduct with a child under 14 (misdemeanor)]
- 5 [visual sexual aggression against child (misdemeanor)]
- 6 solicitation of child by computer (misdemeanor)]
- 7 solicitation of child by computer (felony)]
- 8 gross sexual assault (felony)]

In practice, other charge categories were often encountered employing language that no longer is used. When it was possible to determine the "analogous" charge using current categories, the charge was coded.

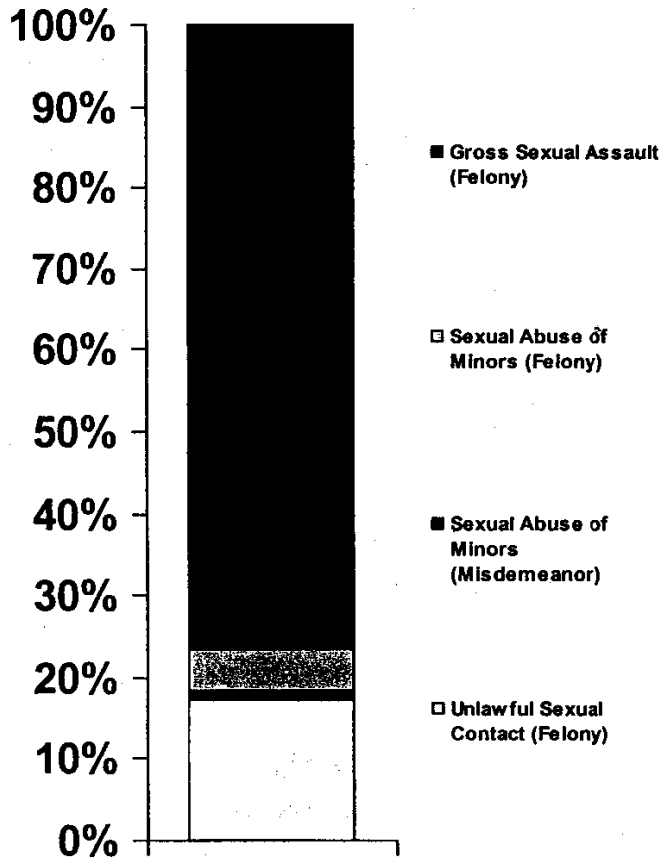
The governing offense for the prison sample was overwhelmingly "gross sexual assault" (246, 75.2%). Only one other category, "unlawful sexual contact (felony)," was notably represented (57, 17.4%). Those two categories accounted for 92.6% of the individuals in this sample.

Although the probation sample had somewhat more "diversity," the overall picture was the same. Over half of this sample (194, 57.2%) had a governing offense of "gross sexual assault," while another 24.8% (84) had a governing offense of "unlawful sexual contact (felony)," for a total of 82%.

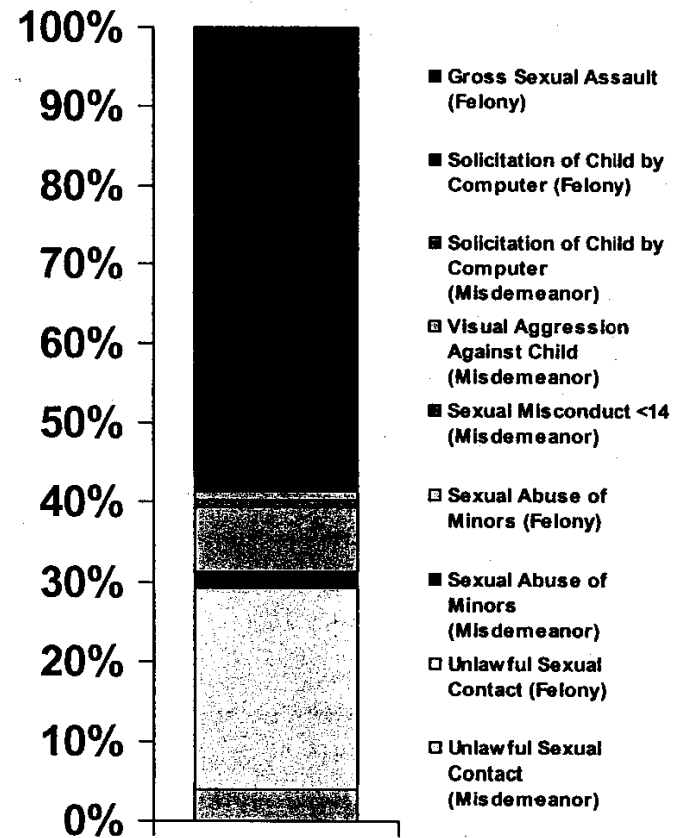
# Governing Offense

(Legal Designation)

## Prison



## Probation



# Governing Offense

(Legal Designation, Frequency)

<b>Offense</b>	<b>Prison</b>	<b>Probation</b>
<b>Unlawful Sexual Contact (m)</b>	<b>0</b>	<b>3.5</b>
<b>Unlawful Sexual Contact (f)</b>	<b>17.4</b>	<b>24.8</b>
<b>Sexual abuse of Minors (m)</b>	<b>0.6</b>	<b>1.5</b>
<b>Sexual abuse of Minors (f)</b>	<b>5.2</b>	<b>7.7</b>
<b>Sexual Misconduct with a Child under 14 (m)</b>	<b>0</b>	<b>0.6</b>
<b>Visual Sexual Aggression Against Child (m)</b>	<b>0</b>	<b>0.6</b>
<b>Solicitation of Child by Computer (m)</b>	<b>0</b>	<b>0</b>
<b>Solicitation of Child by Computer (f)</b>	<b>0</b>	<b>0.6</b>
<b>Gross Sexual Assault (f)</b>	<b>75.2</b>	<b>57.2</b>

### Acts in the Offense

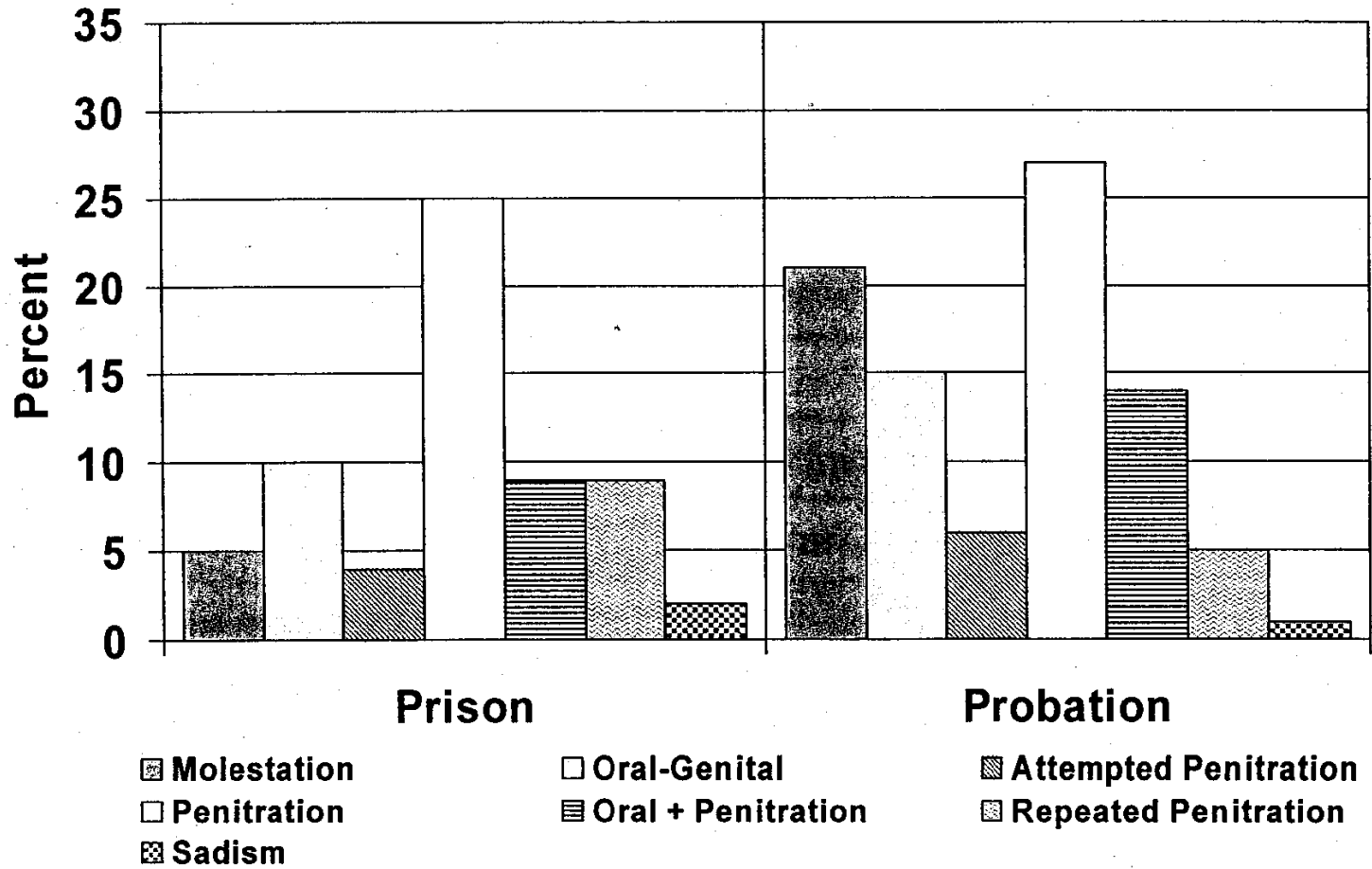
An attempt was made to code the "highest level" of sexual acts in the governing offense. Highest level referred to the most invasive acts and was one way of looking at severity. The following eight (8) categories were coded:

- 0 Molestation (no genital to genital contact; all sexual acts restricted to touching, caressing, fondling;
- 1 Oral-genital contact only
- 2 Attempted penetration (anal or vaginal);
- 3 Penetration (anal or vaginal);
- 4 Penetration and oral sex;
- 5 Repeated acts of penetration; protracted assault;
- 6 Sadism, including foreign object penetration

Although the largest coded category was "Penetration (anal or vagina)" (82, 25%), most of the other categories were represented. Sixty-two (62, 19%) cases were coded into the 4, 5, or 6 categories, while only 15 (4.6%) of the cases were coded into least invasive category (0). It should be noted, however, that a very large number of cases (120, 36.7%) could not be coded reliably and were rated as "unclear."

The probation sample was almost identical to the prison sample in that the largest coded category was "Penetration (anal or vagina)" (90, 26.5%), while 65 (19.2%) of the cases were coded into the 4, 5, or 6 categories). Unlike the prison sample, a larger proportion of the cases were coded as "Molestation" (71, 21%), and a much smaller proportion of the sample was excluded as "unclear" (28, 8.3%).

# Acts in Offense



### Degree of Violence

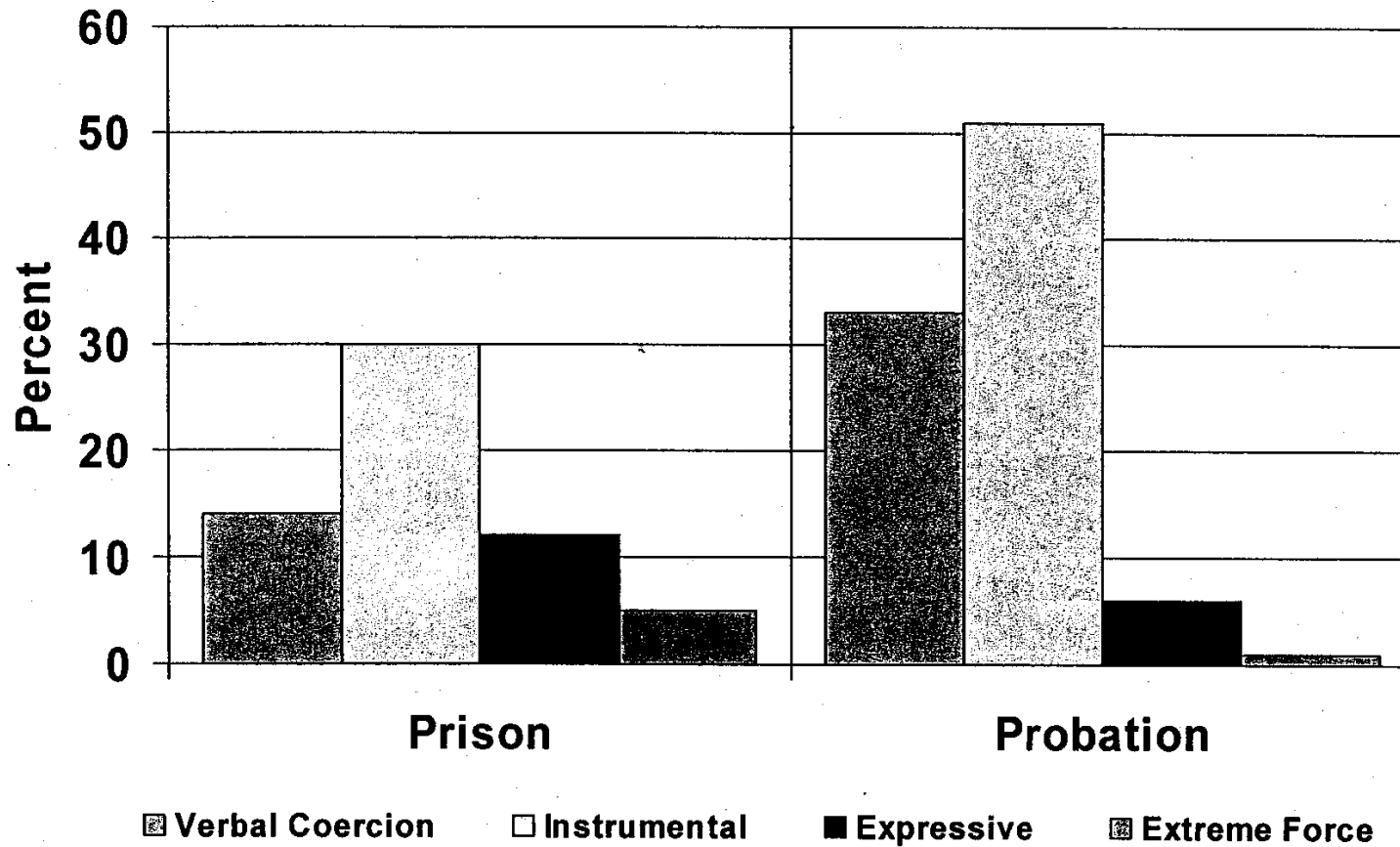
A second attempt to look at offense severity involved coding the highest level of documented aggression in any sexual offense committed by the individual. "Instrumental physical force" was coded in those instances in which there was no force or aggression that exceeded what was necessary to gain the compliance of the victim. "Expressive physical force" was coded in those instances in which the force or aggression clearly exceeded what was needed to gain the victim's compliance (e.g., slapping, kicking, punching). Extreme force was coded only in those instances where there was a high degree of violence (e.g., the victim was rendered unconscious, or the victim received severe physical injuries demanding medical attention). The following four categories were coded:

- 0 Only verbal coercion
- 1 Instrumental physical force
- 2 Expressive physical force
- 3 Extreme force

In the prison sample, one-third (98, 30%) of the cases were coded as "instrumental," while roughly equal numbers of cases were coded as "only verbal coercion" (44, 13.5%) and "expressive" (40, 12.25%). Seventeen cases (17, 5.2%) were coded as "extreme." Like the previous variable, Acts in the Offense, this variable was very difficult to code reliably from the file data and a very large number of cases had to be coded as "unclear" and dropped (157, 48%).

In the probation sample, one-third of the cases (112, 33%) were coded as "only verbal coercion" and one-half (173, 51%) of the cases were coded as "instrumental." Thus, 84% of the individuals on probation had governing offenses that were coded as reflecting no gratuitous or expressive aggression. Like the previous variable, Acts in the Offense, this variable was easier to code using the probation files and far fewer cases had to be dropped as unclear (29, 8.6%).

# Degree of Violence





### **Offender Classification**

This variable was designed to classify the offenders into one of five nominal groups: Rapists, Incest Offenders, Extrafamilial Child Molesters, Pedophiles, and Hebophiles.

These five categories were coded using the following guidelines:

- 0 Rapist (all victims must be age 18 or older); this was an exclusive category, i.e., cases deviating from the age cut-off were excluded;
- 1 Incest (exclusive, within family child molester, include step and foster children, cousins, nieces, and nephews; if there are incest plus non-incest victims, code for non-incest, e.g., 2 or 3); this was an exclusive category, i.e., cases deviating from the age cut-off were excluded;
- 2 Extrafamilial Child Molester (victims generally are unknown, generally single offense against same victim, non-sexual crimes are more common, assaults typically have a "phallic" focus and may include attempted or completed penetration);
- 3 Pedophile (victims generally known to offender; generally multiple offenses against the same victim; non-sexual crimes rare; assaults generally characterized by caressing, fondling, and frottage with no penetration);
- 4 Hebophile (all victims are between the ages of 13 and 17); this was an exclusive category, i.e., cases deviating from the age cut-off were excluded;

Using the above categories, the prison sample was classified in the following way:

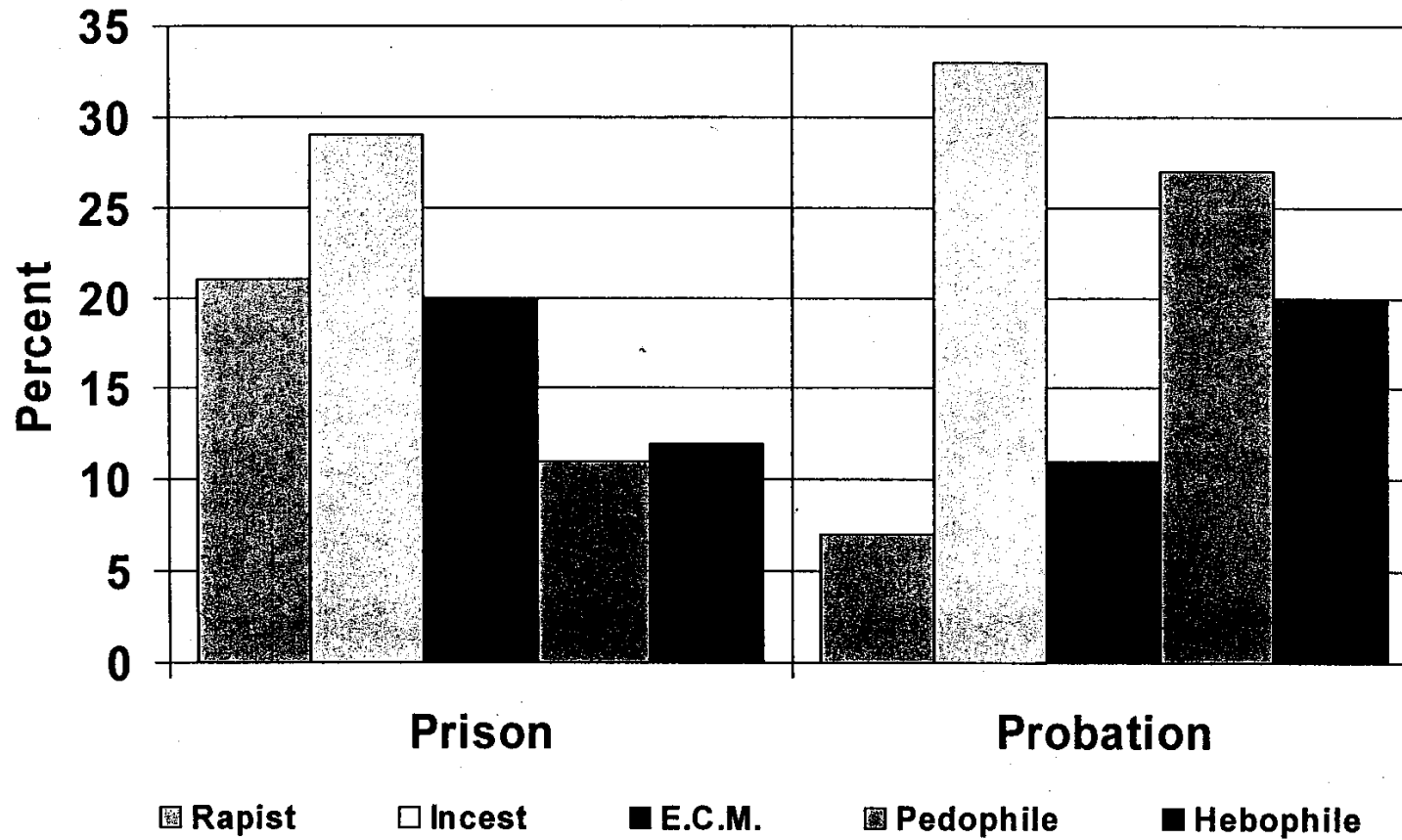
Incest Offenders:	(94, 28.7%)
Rapists:	(70, 21.4%)
Extrafamilial Child Molesters	(64, 19.6%)
Hebophiles:	(40, 12.2%)
Pedophiles:	(37, 11.3%)

By contrast, the probation sample appeared to have a different taxonomic make up:

Incest Offenders:	(111, 33%)
Pedophiles:	(92, 27%)
Hebophiles:	(66, 19.5%)
Extrafamilial Child Molesters	(36, 10.6%)
Rapists:	(23, 6.8%)

The largest constituent group in both samples is Incest (32% of the total sample). Whereas the Rapists are the second largest group in prison, they constitute a negligible group among those on probation. Overall, however, the Rapists still make up a relatively small proportion of the total sample (14.7%), less than the Hebophiles (16.7%), a group not traditionally separated out.

# Offender Classification



## **C. Victim Characteristics**

### **Victim Ages**

**Coders were instructed to pay close attention to the actual age of the victim at the time of the offense, not what may be implied by the charge or what the offender may have reported.**

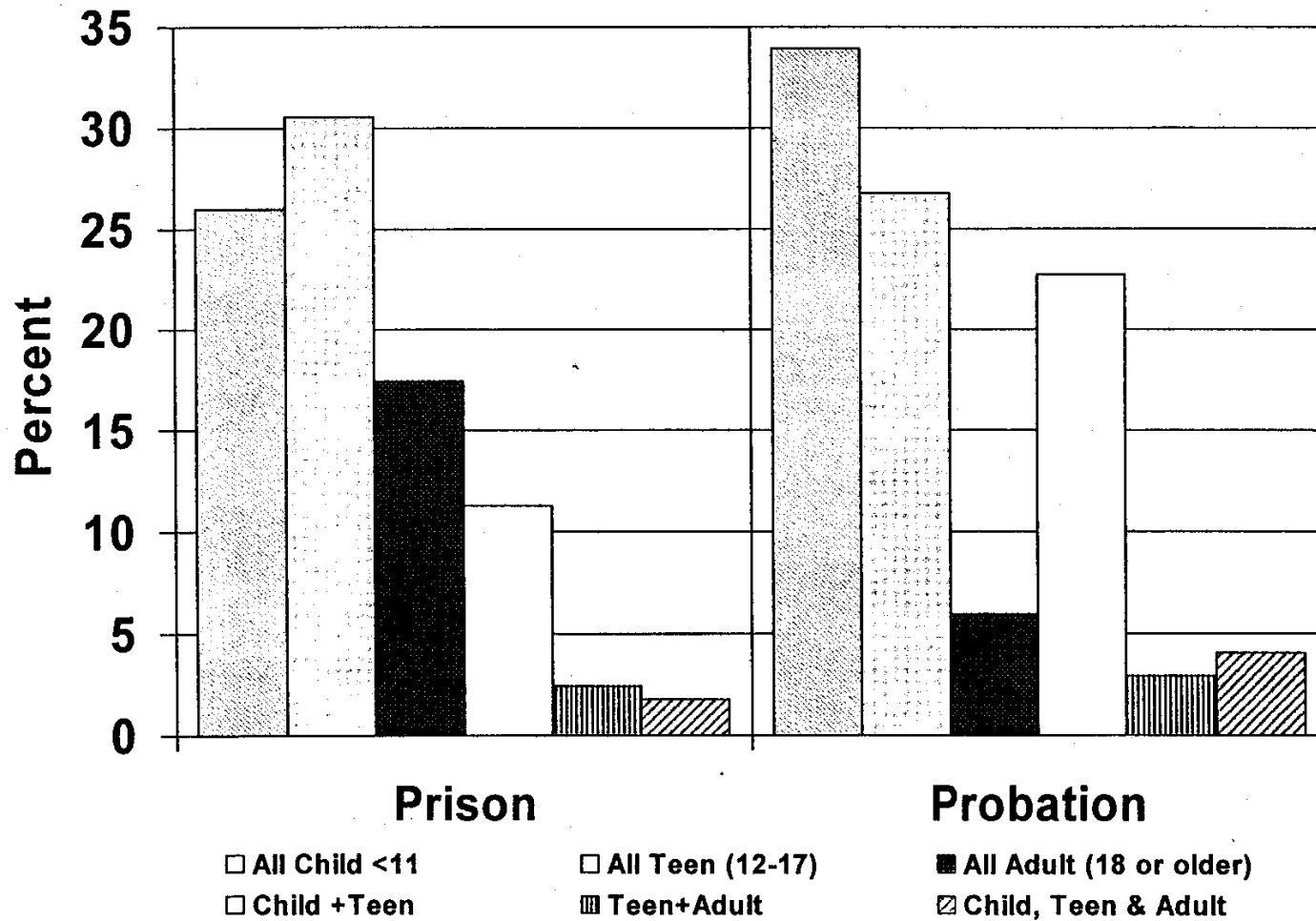
**The variable was coded as:**

- 0 All child victims (age 11 or younger);**
- 1 All teen victims (age 12 to 17);**
- 2 All adult victims (age 18 or older);**
- 3 Child victims + Teen victims**
- 4 Teen victims + Adult victims;**
- 5 Child, Teen, and Adult victims**

**In the prison sample, 24% of the offenders had all child victims (defined as age 11 or younger), and an additional 38.5% had all juvenile victims (age 12 to 17) or a combination of child and juvenile victims. Only 57 (16%) men had only adult victims (age 18 or older). A very small proportion of the sample had juvenile and adult victims (8, 2.2%) or victims spanning all three age groups (6, 1.7%).**

**The probation sample was characterized predominantly by men with child or teenage victims. One-third of the sample (115, 34%) had all child victims and an additional 168 (49.5%) had all juvenile victims or a combination of child and juvenile victims. These three groups comprised 83.5% of the probation sample. Only 20 (6%) men had only adult victims. A slightly larger proportion of this sample had juvenile and adult victims (10, 3%) or victims spanning all three age groups (14, 4%).**

# Victim Ages



### Victim Sex

The coding for Victim Sex took into consideration all known victims of sex offenses, not just the governing offense.

The variable was coded as:

- 0 Female victims only
- 1 Male victims only
- 2 Mixed (both female and male victims)

The prison sample was characterized predominantly by men with female victims (238, 67%). Only 44 men (12%) had male victims, and an even smaller number (28, 8%) had both male and female victims.

The probation sample was very similar to the prison, with fewer cases dropped as unclear. Almost three-quarters of the men in this sample (245, 72.3%) had female victims. Fifty-three men (15.6%) had male victims, and 36 (10.6%) men had both male and female victims.

### Victim Relationships

The Victim Relationships variable took into consideration all known victims of sexual offenses.

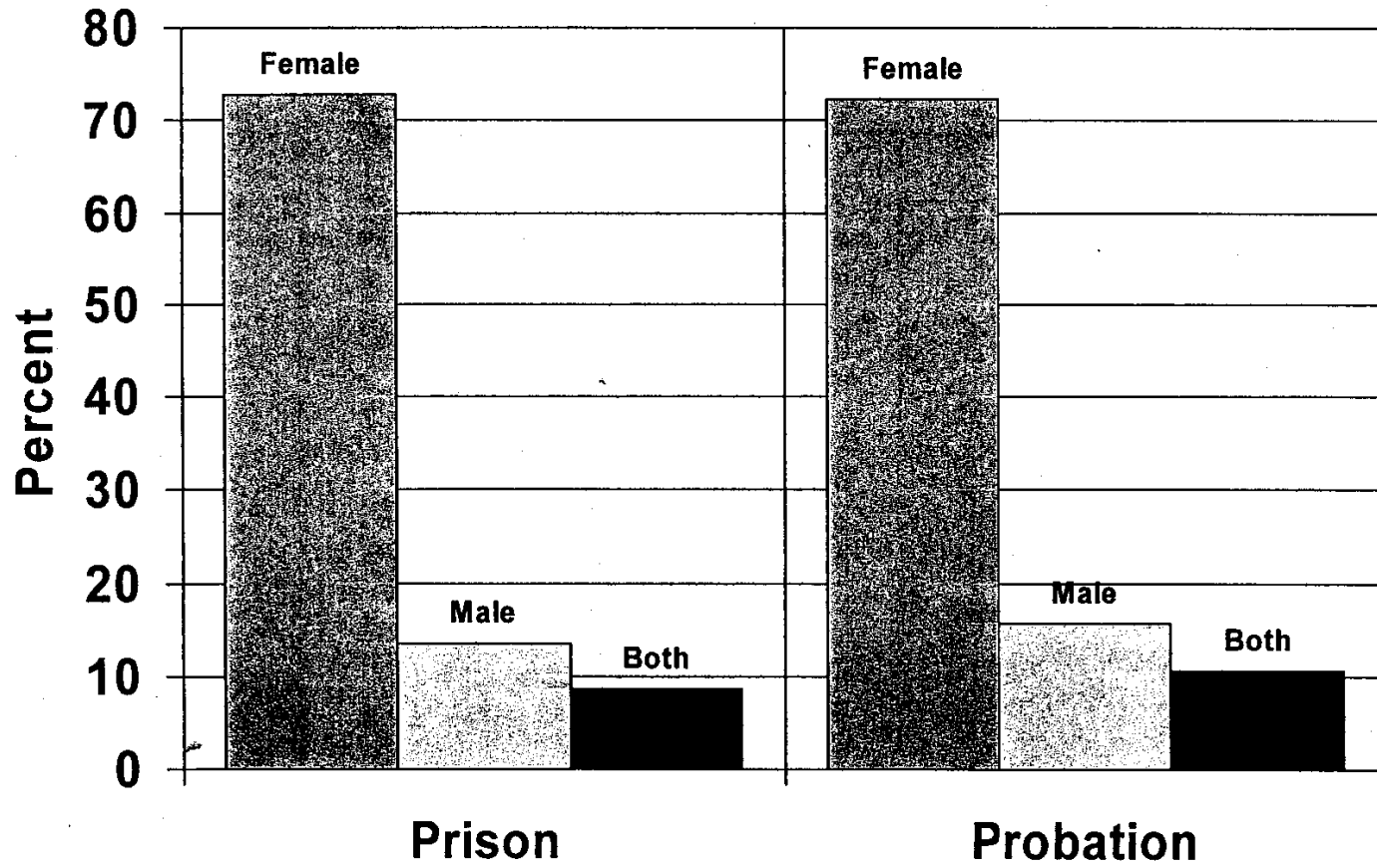
The variable was coded as follows:

- 0 All victims related to offender (not exclusively biological);
- 1 Some known victims ("acquaintance") but not related;
- 2 All victims unknown (strangers);
- 3 Cross-over (victims of multiple types of relationships)

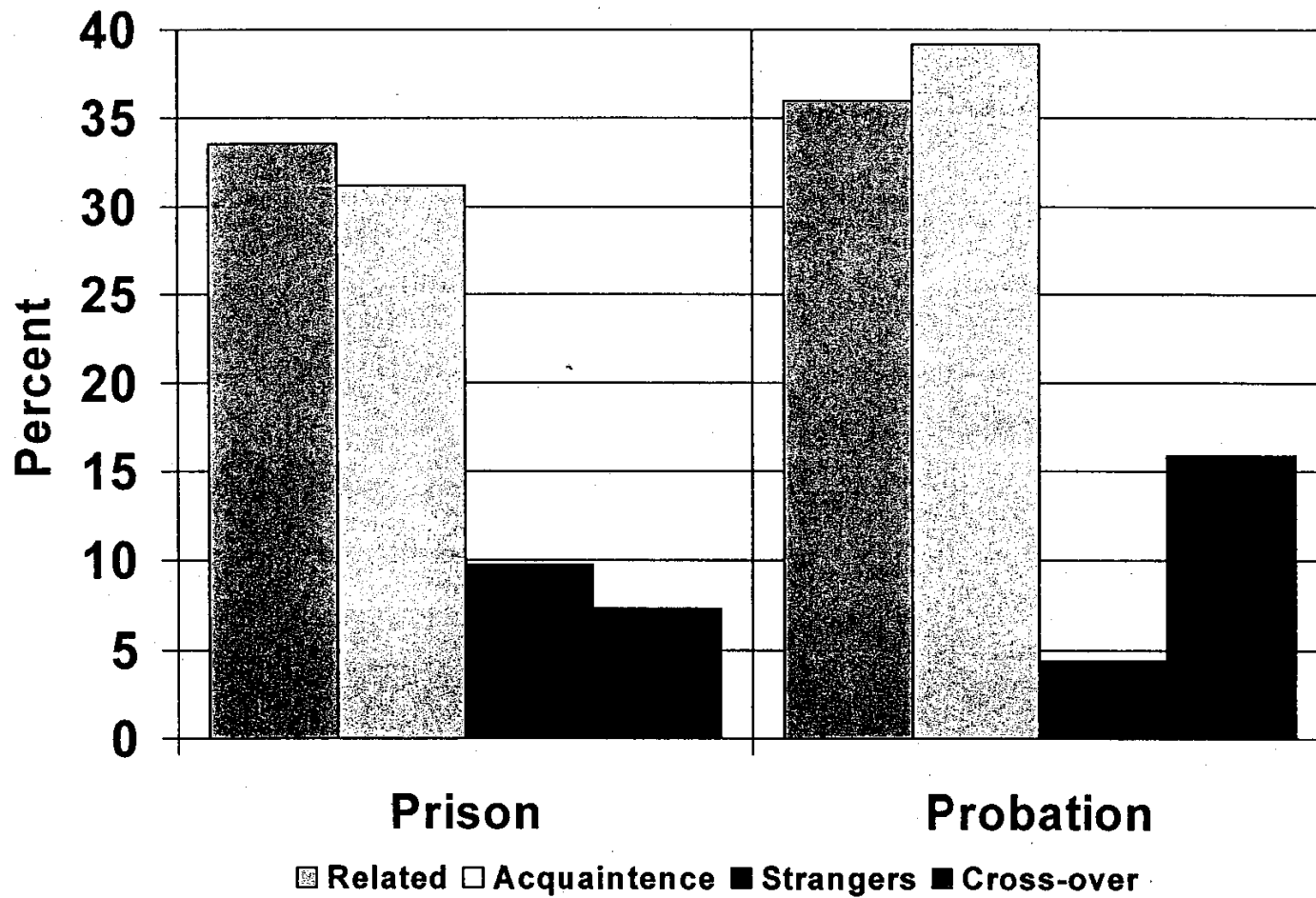
The prison sample was evenly divided between offenders with related (familial) victims (110, 34%) and offenders with acquaintance (unrelated but known) victims (102, 31%). The sample included relatively few men with stranger victims (32, 10%) or men with victims of multiple types of relationships (24, 7%). The prison sample included a moderately large number of cases that had to be coded as unclear (59, 18%).

The probation sample was, similarly, evenly divided between offenders with related (familial) victims (122, 36%) and offenders with acquaintance (unrelated but known) victims (133, 39%). The probation sample included very few men with stranger victims (15, 4.4%), but a larger number of men with victims of multiple types of relationships (54, 16%). The probation sample included fewer cases that had to be coded as unclear (14, 4%).

# Victim Sex



# Victim Relationship





## **D. Analysis of Risk Variables**

### **Institutional Classification Level**

**Institutional Classification Level (ICL) reflects the score from the Department's Initial and Reclassification Custody Rating Sheet. We found many prison files in which it was not possible to locate this rating sheet. In all instances in which we identified multiple rating sheets, we used the score on the sheet with the most recent date. For the prison sample, the average ICL score was 38 (SD = 10), with a range of 2 – 71. ICL scores from prison were not found in the probation files, and thus we do not have that information on the probation sample.**

### **RRASOR**

**The RRASOR is a brief screening device for assessing risk with sexual offenders. The distribution of scores, ranging from 0 to 6, for both the prison and probation samples were very similar to what has been reported in the literature using the RRASOR on samples of child molesters.**

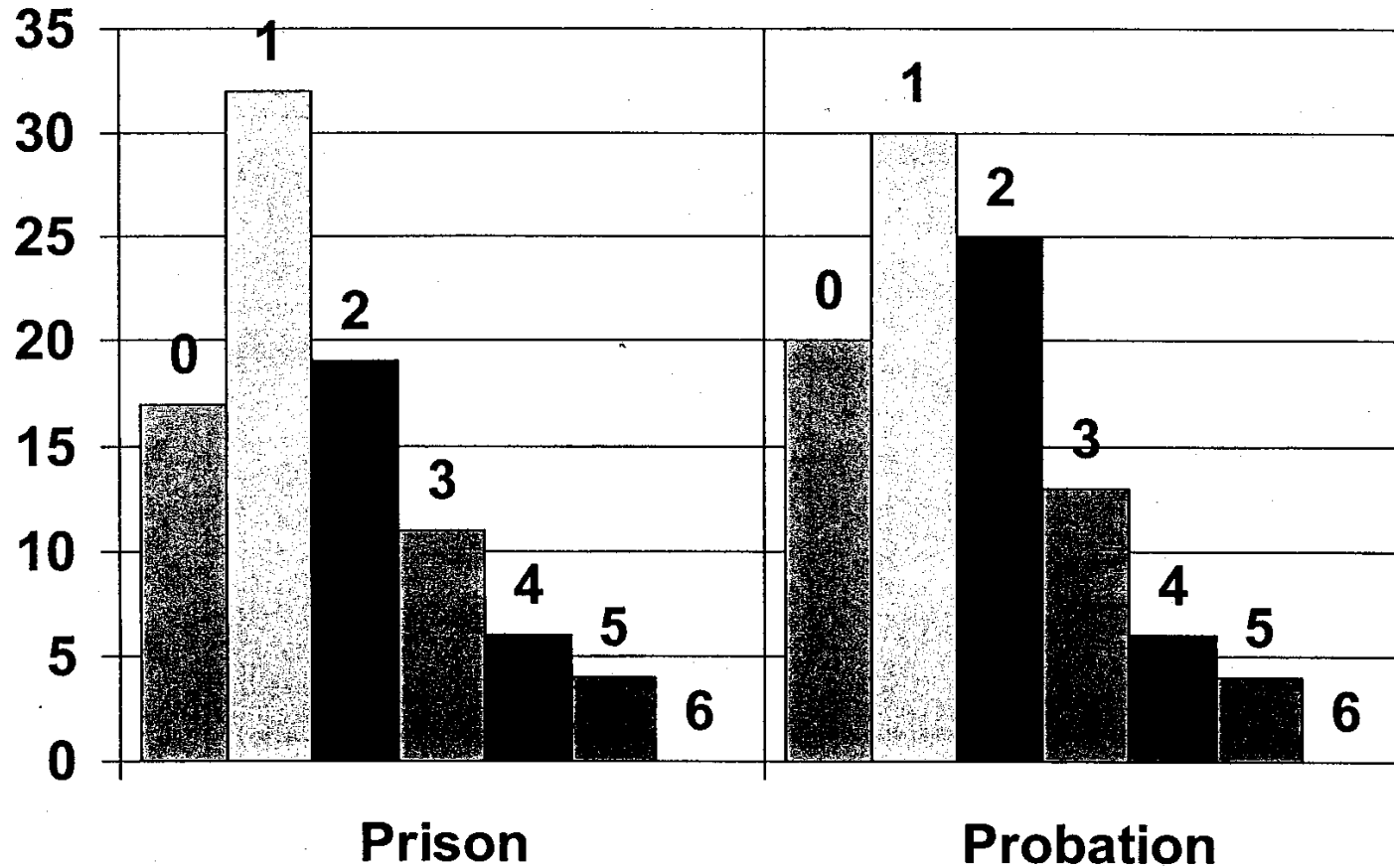
**For the prison sample, 225 men (68.8%) received a score of 0, 1, or 2, reflecting low to low-moderate risk. Only 32 men (9.8%) received a score of 4, 5, or 6, placing them in a moderately high to high risk group.**

**The adjusted recidivism rates for men with RRASOR scores of 0, 1, or 2 at ten years are 6.5%, 11.2%, and 21.1%, respectively (Hanson, 1997). By contrast, the adjusted recidivism rates for men with RRASOR scores of 4 or 5 at ten years are 48.6% and 73.1%, respectively.**

**For the probation sample, 252 men (74.4%) received a score of 0, 1, or 2, reflecting low to low-moderate risk. An almost identical number of men (33, 9.7%) received a score of 4, 5, or 6, placing them in a moderately high to high risk group. As a risk assessment tool, the RRASOR did not discriminate between those on probation and those in prison (i.e., the same proportion of men at high risk were in prison and on probation).**

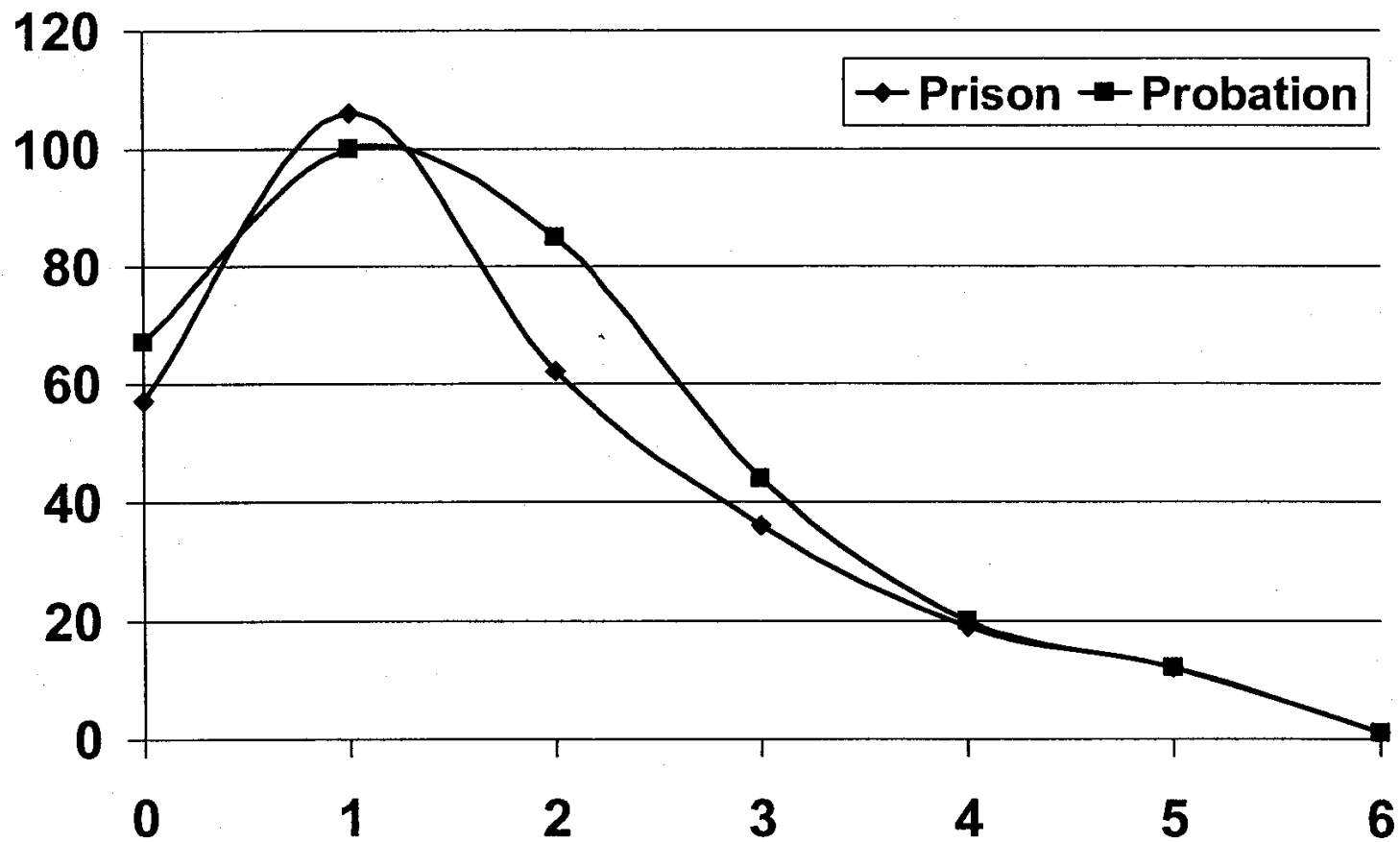
# Risk: RRASOR Scale

(number represents score on RRASOR)



# Risk: RRASOR Scale

(Frequency)



## SSPI

**The SSPI is a risk assessment scale designed specifically for offenders with "pedophilic interests." Like the RRASOR, the distribution of scores from the SSPI, ranging from 0 to 5, for both the prison and probation samples were very similar.**

For the prison sample, 195 men (59.6%) received an SSPI score (0, 1, or 2) that reflected low to low-moderate pedophilic interest, while a relatively small number of men (47, 14.4%) received a score (4 or 5) that would be associated with strong pedophilic interest

For the probation sample, 194 men (57.2%) received an SSPI score (0, 1, or 2) that reflected low to low-moderate pedophilic interest. This proportion is virtually identical to the prison sample. A somewhat larger proportion of this sample (70, 20.6%), however, received a score (4 or 5) that would be associated with strong pedophilic interest. This finding is consistent with the large number of men in the probation sample classified as pedophiles (cf., Offender Classification).

## RRA

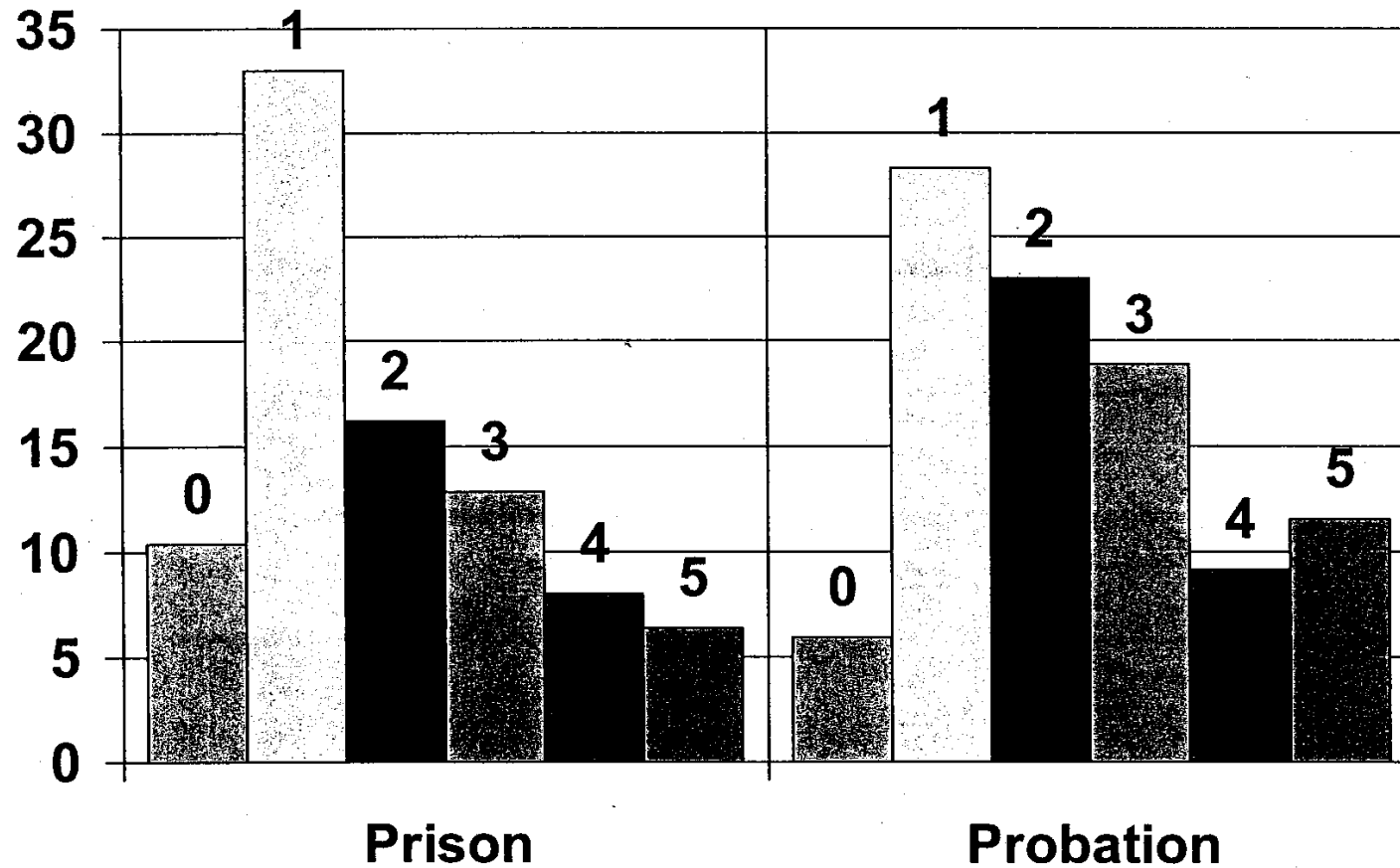
The RRA was developed for this project as a brief (4-item) scale that might be more sensitive to the risk posed by rapists and more violent offenders.

The distribution of RRA scores for the prison sample was relatively normal, with 116 men (35.5%) receiving the lowest scores (0, 1, or 2) and an equivalent proportion of men (120, 36.6%) receiving scores in the moderate range (3, 4, or 5). The highest risk scores (6 – 10) were received by only 27 men (8.2%).

Notably, the probation sample had a higher proportion of men in the lowest risk range (183, 54%) and an equivalent proportion of men in the moderate risk range (119, 35%). The probation sample had only 17 men (5%) in the highest risk range.

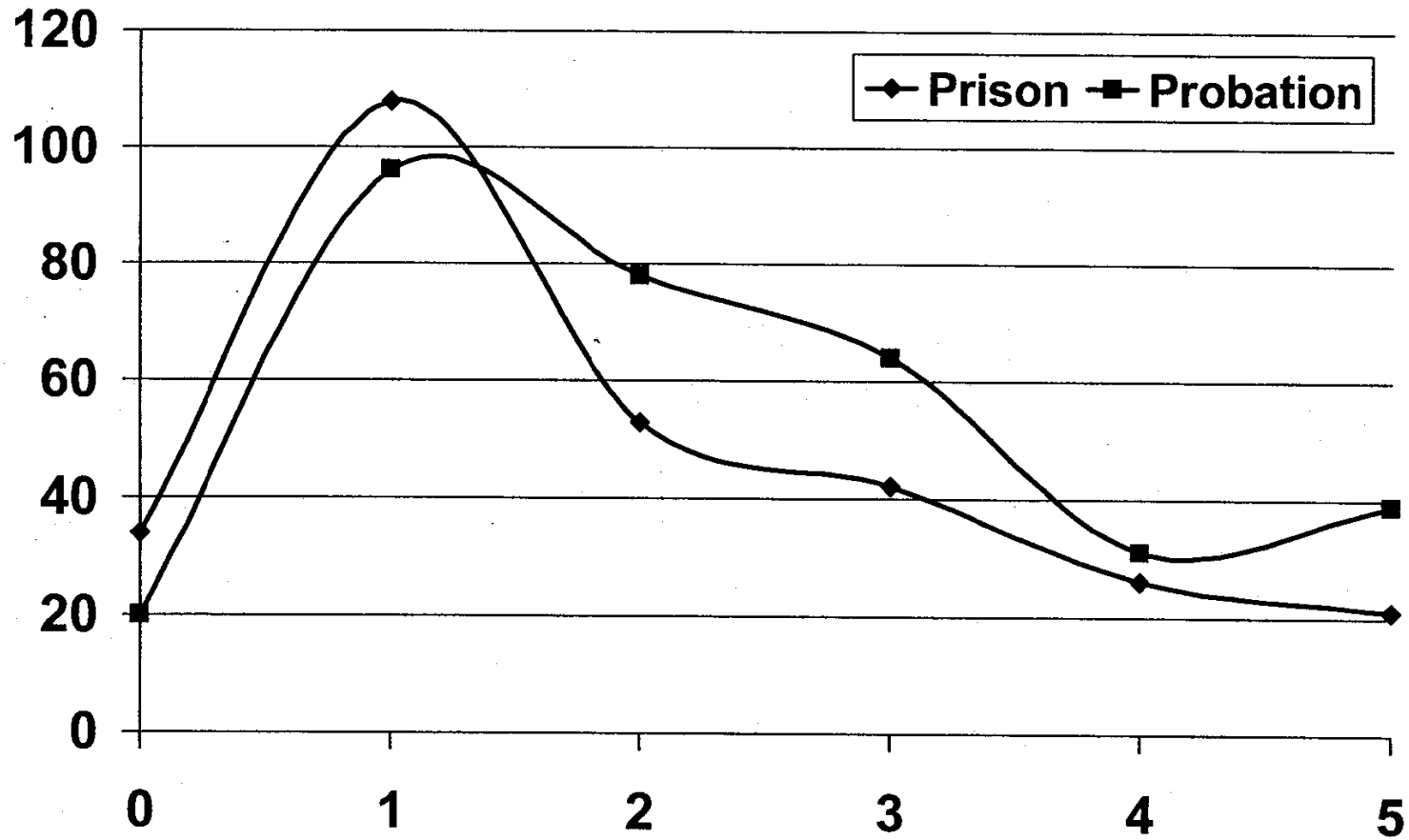
# Risk: SSPI Scale

(number represents score on SSPI Scale)

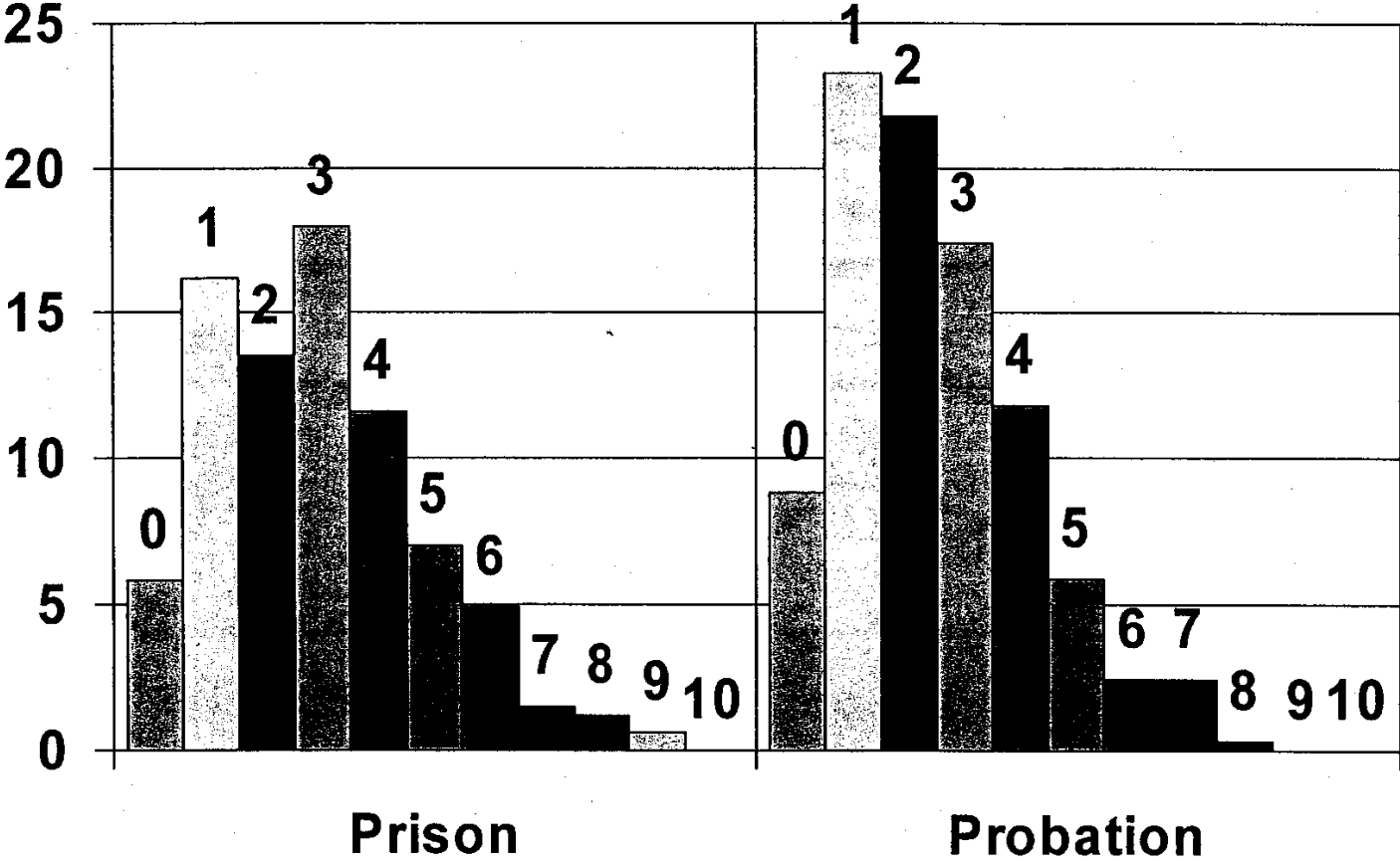


# Risk: SSPI Scale

(Frequency)

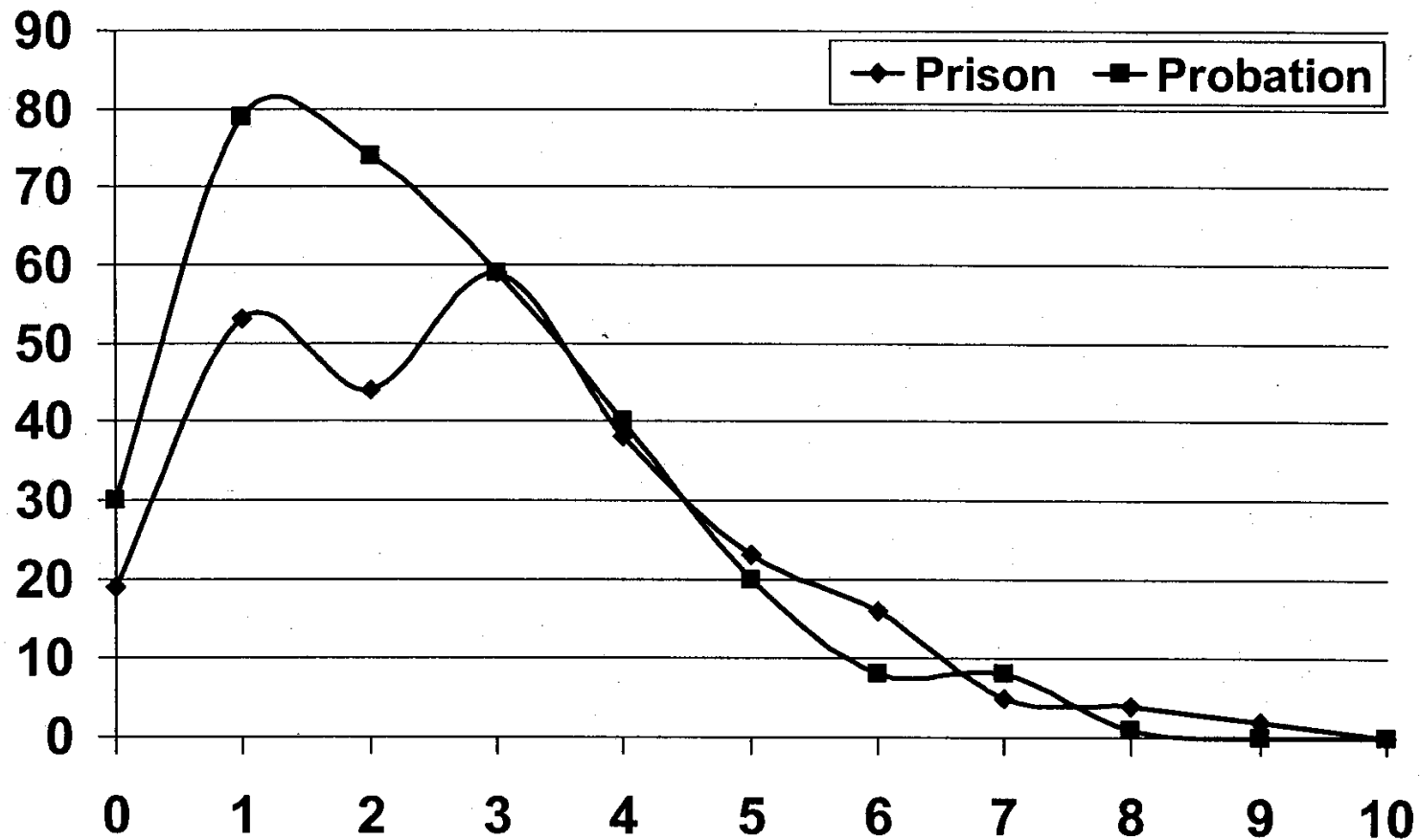


# Risk: RRA Scale



# Risk: RRA Scale

(Frequency)





### Relationship of Risk Scales to Outcome

We examined the relationship of the four risk scales to three criminal history "outcome" variables that we had coded: Number of Sex Offenses, Number of Non-Sex Offenses, and Degree of Violence. The bivariate (Pearson) correlations among these variables are provided in the last chart. All of the reported correlations are significant at  $p < .01$ .

The results were rather interesting. The Department's ICL was correlated (related to or associated with) the Number of Non-Sexual Offenses and the RRA score. The ICL was uncorrelated with the Number of Sex Offenses, the SSPI, and the RRASOR. In essence, the ICL is sensitive to general criminal history but is not useful as a risk assessment for most sexual offenders in the system, a substantial majority of whom are child molesters and have little or no general criminal history.

The RRASOR and the SSPI were highly inter-correlated (.73) and both were highly correlated with Number of Sexual Offenses. The RRASOR and SSPI were not related, however, to Degree of Violence or Non-Sexual Offenses. The RRA appeared to accomplish what it was intended for, to assess risk associated of violence and non-sexual offense history. The RRA was also correlated with the ICL. The difference between the ICL and the RRA, is that the RRA was correlated with violence, whereas the ICL was not.

# Correlation of Risk Scales with Outcome

\*p < .01

	# Sex Off	# Non-Sex Off	Deg. of Viol	RRASOR	SSPI	RRA	ICL
# Sex Off	-	-.01	.02	.60*	.47*	.29*	-.06
# Non-Sex Off		-	.09	.03	-.05	.40*	.41*
Deg of Viol			-	.11	.03	.47*	.14
RRASOR				-	.73*	.40*	.08
SSPI					-	.17	.04
RRA						-	.36*
ICL							

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## References

Hanson, R. K. (1997). The development of a brief actuarial risk scale for sexual offense recidivism. (User Report 97-04). Ottawa: Department of the Solicitor General of Canada.

Seto, M. C., & Lalumiere, M. I. (2001). A brief screening scale to identify pedophilic interests among child molesters. Sexual Abuse: A Journal of Research and Treatment, 13, 15-25.

## Coding Criteria

### Date of Birth; DOB;

Actual birth date xx/xx/xx

### 2. Age at incarceration; AI;

-1 – unclear

x – write in age at time of incarceration for governing sex offense

Same variable applies for probationers-code age at time of incarceration for governing sex offense.

### 3. Number of Months to Discharge from Prison; DP;

-2 - if on probation

-1 – unclear

x – write the amount of time in months before the individual is expected to be discharged from prison to the street (simply subtract the anticipated date of discharge from 2003).

### 4. Number of Months to Discharge from Probation; Prob;

-2 - if in prison

-1 – unclear

x – write in when probation will end (calculate amount of time in months - see above)

### 5. County of Current Residence; CR;

-1 - Unclear

0 - Out of state

1 - Androscoggin

2 - Aroostook

3 - Cumberland

4 - Franklin

5 - Hancock

6 - Kennebec

7 - Knox

8 - Lincoln

9 - Oxford

10 - Penobscot

11 - Piscataquis

12 - Sagadahoc

13 - Somerset

14 - Washington

15 - Waldo

16 - York

If on probation, code for current residence in the community. If in prison, code for county of sentencing court.

6. **Educational Status; EDU;**

- 2 – N/A – Subject never when to school
- 1 – unclear
- x – write in actual grade level

Code for the highest-grade level subject **COMPLETED**. If subject has graduated from high school or a GED write in 12, Associates degree = 14, Bachelors degree = 16 and anything above bachelors = 18.

7. **Marital Status; MS;**

- 1 – unclear
- 0 – single, never married
- 1 - married
- 2 - separated
- 3 – divorced
- 4 – widowed

8. **History of Major Mental Illness; MI;**

- 1 – unclear
- 0 – absent
- 1 - present

This requires clear documentation that the individual has been diagnosed and/or treated for some form of psychosis (e.g., schizophrenia or bipolar disorder [Manic-Depressive Illness])

9. **Cognitive Functioning (MR); CF;**

- 2 – no information about MR or cognitive functioning
- 1 – unclear
- 0 – no evidence to suggest MR
- 1 – yes, there is some degree of mental retardation or borderline intellectual functioning.

10. **Alcohol Abuse History; AH;**

- 1 – unclear
- 0 – no evidence in records
- 1 – yes

11. **Drug Abuse History; DH;**

- 1 – unclear
- 0 – no evidence in records
- 1 - yes

12. Governing Offense; GO;

- 1 – unclear
- 0 - unlawful sexual contact (misdemeanor)
- 1 – unlawful sexual contact (felony)
- 2 – sexual abuse of minors (misdemeanor)
- 3 - sexual abuse of minors (felony)
- 4 – sexual misconduct with a child under 14 years of age (only misdemeanor)
- 5 – visual sexual aggression against child (only misdemeanor)
- 6 – solicitation of child by computer to commit a prohibited act (misdemeanor)
- 7 – solicitation of child by computer to commit a prohibited act (felony)
- 8 - gross sexual assault (felony)

13. Offense Type by Act; ACT;

- 1 - Unclear
- 0 - Molestation (No genital to genital, genital to anus, or oral-genital contact. Sexual acts restricted to touching, kissing, fondling)
- 1 - Oral-genital contact only (Gross Sexual Assault)
- 2 - Attempted anal and/or vaginal penetration (Attempted Gross Sexual Assault)
- 3 - Anal or vaginal penetration (Gross Sexual Assault)
- 4 - Both oral sex and anal/vaginal penetration (Gross Sexual Assault)
- 5 - Repeated anal and/or vaginal penetration during incident (Gross Sexual Assault)
- 6 - Sadism (include foreign object penetration)
- 7 - Other (e.g. attempted molestation, attempted oral-genital contact)

Code for the highest level documented in the governing offense. Code "0" as being lowest and "6" as being the highest.

14. Total Number of Sexual Offenses; TNSO;

- 1 – unclear
- x – write in total # of sexual offenses, including the governing offense

Offenses do not require conviction.

15. Total Number of Non-sexual, Offenses; NSBO;

- 1 – unclear
- x – write in total # of non-sexual offenses

16. Degree of Violence; DOV;

- 1 – unclear
- 0 – only verbal coercion
- 1 – instrumental physical force
- 2 – expressive physical force
- 3 - extreme force

Code for the highest level of aggression documented in any sexual offense committed by the individual. Although, most often, it will be the governing offense, it may be a prior offense. “Instrumental physical force” means that there was no force or aggression beyond what was necessary to gain the compliance of the victim. “Expressive physical force” is the use of force or aggression that clearly exceeds what was needed to gain the victim’s compliance (e.g., slapping, kicking, punching). Extreme force should be coded only in those cases where there was a high degree of violence (the victim was rendered unconscious, or the victim received severe physical injuries demanding medical attention).

17. Victim Ages; VA;

- 1 - unclear
- 0 - all child victims (age 11 or younger)
- 1 - all teen victims (age 12 – 17)
- 2 - all adult victims (age 18 or older)
- 3 - child victims + teen victims
- 4 - teen victims and adult victims
- 5 – child, teen and adult victims

Pay close attention to the actual age of the victim at the time of the offense (not what may be implied by the charge).

18. Victim Gender; VG;

- 1 - unclear
- 0 - Female victims only
- 1 - Male victims only
- 2 - Mixed (victims of both genders)

19. Victim Relationships; VR;

- 1 - unclear
- 0 - all victims related to offender (not exclusively biological)
- 1 - some victims known (acquaintance) but unrelated
- 2 - all victims unknown (strangers)
- 3 – cross-over (victims of multiple types of relationships)



**20. Offender Classifications; OC;**

- 0 - Rapist (all victims age 18 or older)
- 1 - Incest: (exclusive, within family child molester, include step and foster children, cousins, nieces and nephews; if there are incest plus non-incest victims, code for non-incest, e.g., 2 or 3)
- 2 - E.C.M.: (extrafamilial child molester, victims generally are unknown, generally single offense against same victim, non-sexual crimes common; assaults may include attempted or completed penetration)
- 3 - Pedophile (victims generally known to offender; generally multiple offenses against same victim; non-sexual crimes rare; assaults generally characterized by caressing, fondling, frottage and no penetration)
- 4. Hebophile (all victims are between the ages of 13 – 17)

Item **20A** on the coding sheet represents PRIMARY victims. **20B** on the coding sheet represents SECONDARY victims. In the vast majority of cases there will be no secondary classification; therefore 18B should be coded “-2”. In some instances, however, there maybe “cross over” (victim falls into more than 1 classification category).

**21. Initial DOC Classification Level; ICL;**

- 2 – no classification score
- x – write in initial score

**22. RRASOR Score; RRASOR;**

The Rapid Risk Assessment for Sex Offender Recidivism (RRASOR) was developed by Hanson (1997) as a brief, easily scored set of variables for predicting risk. The RRASOR score is calculated by adding the scores from the following 4 variables:

1. 14. 18. 19.

**23. SSPI Score; SSPI;**

The Screening Scale for Pedophilic Interests (SSPI) was developed by Seto and Lalumiere (2001) as a brief, easily scored set of variables for assessing risk among adult child molesters. The SSPI score is calculated by adding the scores from the following 4 variables:

14. 17. 18. 19.

**24. RRA Score; RRA;**

The Rapist Risk Assessment (RRA) is a rationally derived composite of 4 variables intended to reflect risk posed by rapists. The RRA score is calculated by adding the scores from the following 4 variables:

1. 14. 15. 16.

*Please note that appended pages are to calculate items 22, 23 & 24.*

## Calculating the 3 Risk Scores

### Item #22: How to calculate the RRASOR score:

1. Using Item 1 (DOB) and Item 3, determine the man's age at the time that he will be discharged from prison; if he is on probation, determine his age when he first returned to the community.  
Age 25 or Older, score 0  
Age 18 – 24.99, score 1
2. Using Item 12 (Total # of Sex Offenses):  
[excluding the current (governing) sex offense]  
None (No known prior sex offenses), score 0  
1 prior conviction or 2 prior charges, score 1  
2 or 3 convictions or 3 - 5 charges, score 2  
4 or more " or 6 - - " score 3
3. Using Item 16 (Victim Gender):  
Only female victims, score 0 (all known victims are female)  
Any male victim, score 1
4. Using Item 17 (Victim Relationship):  
Only related victims, score 0  
[related victims include spouse, biological & step children, grandchildren, in-laws, nieces, nephews, cousins, if the offender is in a parental role to a victim living in the same household, it is related]  
Any unrelated victim, score 1

ADD the scores for Items 1 – 4; the sum is the score for #19.  
[Range = 0 – 6]

**Item #23: How to calculate the SSPI score:**

1. Using Item 16 (Victim Gender):  
Any male victim, Yes, score 2  
No, score 0
2. Using Item 12 (Total # of Sex Offenses):  
[excluding the current (governing) sex offense]  
More than 1 victim : Yes, score 1  
No, score 0
3. Using Item 15 (Victim Ages) :  
Any victim age 11 or younger, Yes, score 1 [Option 3 on Item 15]  
No, score 0
4. Using Item 17 (Victim Relationship):  
Only related victims, score 0  
[related victims include spouse, biological & step children,  
grandchildren, in-laws, nieces, nephews, cousins, if the offender  
is in a parental role to a victim living in the same household, it is  
related]  
Any unrelated victim, score 1

**ADD the scores for Items 1 – 4; the sum is the score for #20.  
[Range = 0 – 5]**

**Item #24: How to calculate the RRA score:**

1. Using Item 1 (DOB) and Item 3, determine the man's age at the time that he will be discharged; if he is on probation, determine his age when he first returned to the community.  
Age 25 or Older, score 0  
Age 18 – 24.99, score 1
  
2. Using Item 12 (Total # of Sex Offenses):  
[excluding the current (governing) sex offense]  
(Inclusive, charge, arrest, conviction not necessary)  
None (No known prior sex offenses), score 0  
1 prior sex offense, score 1  
2 or 3 prior sex offenses, score 2  
4 or more prior sex offenses, score 3
  
3. Using Item 13 (# of Nonsexual, Battery Offenses):  
(Include Assault, Assault & Battery, Assault with Dangerous Weapon, Robbery, Armed Robbery, Attempted Murder, Manslaughter, Murder, Terrorizing, etc.)  
None, score 0  
1 score 1  
2 or 3, score 2  
4 or more, score 3
  
4. Using Item 14 (Degree of Violence):  
Only verbal coercion, score 0  
Instrumental force, score 1  
Expressive force, score 2  
Extreme force, score 3

**ADD the scores for Items 1 – 4; the sum is the score for #21.  
[Range 0 – 10]**

### Coding Sheet - Maine Project

CON ID # \_\_\_\_\_

CODERS INITIALS \_\_\_\_\_

ITEM #	ITEM	SCORE	
1.	DOB		
2.	AI		
3.	DP		Write in # of months
4.	PROB		Write in # of months
5.	CR		
6.	EDU		
7.	MS		
8.	MI		
9.	CF		
10.	AH		
11.	DH		
12.	GO		
13.	ACT		
14.	TNSO		
15.	NSBO		
16.	DOV		
17.	VA		
18.	VG		
19.	VR		
20A.	OCa		
20B.	OCb		
21.	ICL		
22.	RRASOR		
23.	SSPI		
24.	RRA		