WHAT THE DATA TELL US ABOUT THE RECIDIVISM RATE OF MEN PREVIOUSLY ADJUDICATED AS SEXUALLY DANGEROUS PERSONS AND RELEASED FROM CIVIL COMMITMENT

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Comprehensive, Technologically Advanced, and Empirically Validated Clinical Services

PERPETRATION OF SEXUAL VIOLENCE

- The U.S. Department of HHS reported in 2010 that 9.2% of victimized children were sexually assaulted.

- Studies conducted by the Crimes Against Children Research Center, show that:

  - 1 in 5 girls and 1 in 20 boys is a victim of child sexual abuse;

  - Self-report studies show that 20% of adult females and 5-10% of adult males recall a childhood sexual assault or sexual abuse incident;

  - During a one-year period in the U.S., 16% of youth ages 14 to 17 had been sexually victimized;

  - Over the course of their lifetime, 28% of U.S. youth ages 14 to 17 had been sexually victimized;

  - Children are most vulnerable to CSA between the ages of 7 and 13.

- The National Institute of Justice reported in 2003 that 3 out of 4 adolescents who have been sexually assaulted were victimized by someone they knew well.

- A Bureau of Justice Statistics report shows 1.6 % (sixteen out of one thousand) of children between the ages of 12-17 were victims of rape/sexual assault.

- A study conducted in 1986 found that 63% of women who had suffered sexual abuse by a family member also reported a rape or attempted rape after the age of 14. Recent studies in 2000, 2002, and 2005 have all concluded similar results.

- Children who had an experience of rape or attempted rape in their adolescent years were 13.7 times more likely to experience rape or attempted rape in their first year of college.
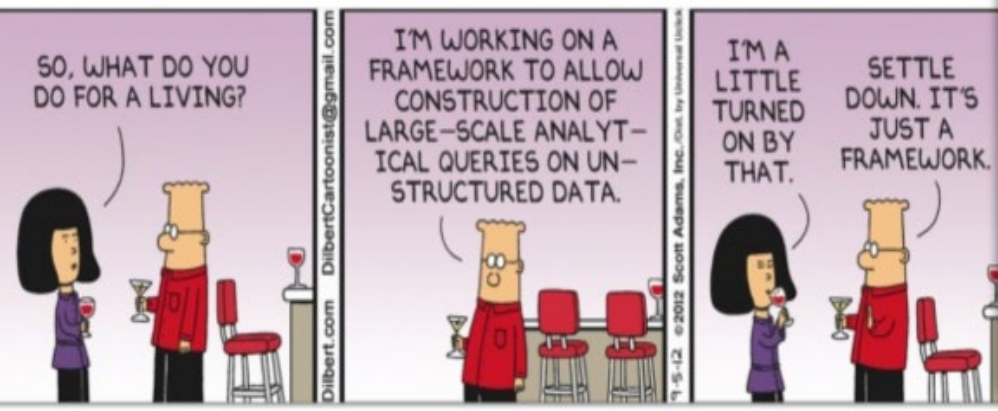
SEXUAL OFFENDER RECIDIVISM

- 90% of sexual crimes are committed by first time offenders.

- The vast majority of offenders are known to the victim/s.

- Sexual recidivism rates are the lowest among all major criminal categories (range of 3.4 to 7% in DOJ and other studies)

- Resources? Primary/Secondary Prevention? (we'll come back to that issue once the sexual recidivism data are presented)

THE FOUR PILLARS OF RISK PREDICTION

- To establish facts

- To interpret facts

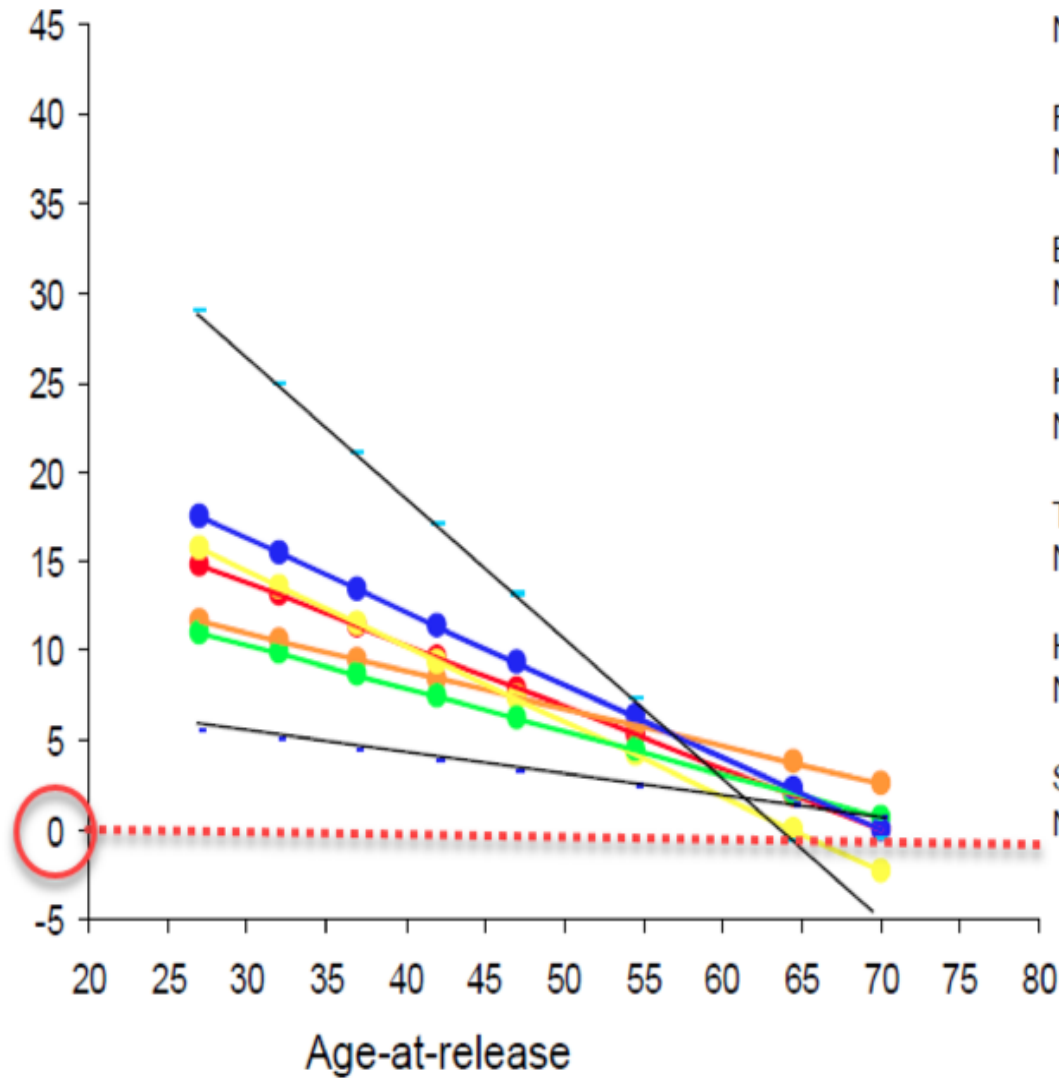- To offer opinions

- To dispel myths

Seven Studies on Age and Recidivism

Total Number of Subjects = 14704

Recidivism%

Lussier, 2009 (.93)
N=521(Black & Light Blue)

Fazel, 2006 (.99)
N=1,303(Blue)

Barbaree, 2003 (.99)
N=468(Yellow)

Hanson, 2002 (.96)
N=4,673(Red)

Thornton, 2006 (.86)
N=752(Orange)

Hanson, 2006 (.98)
N=3,452(Green)

Skelton, 2008 (.97)
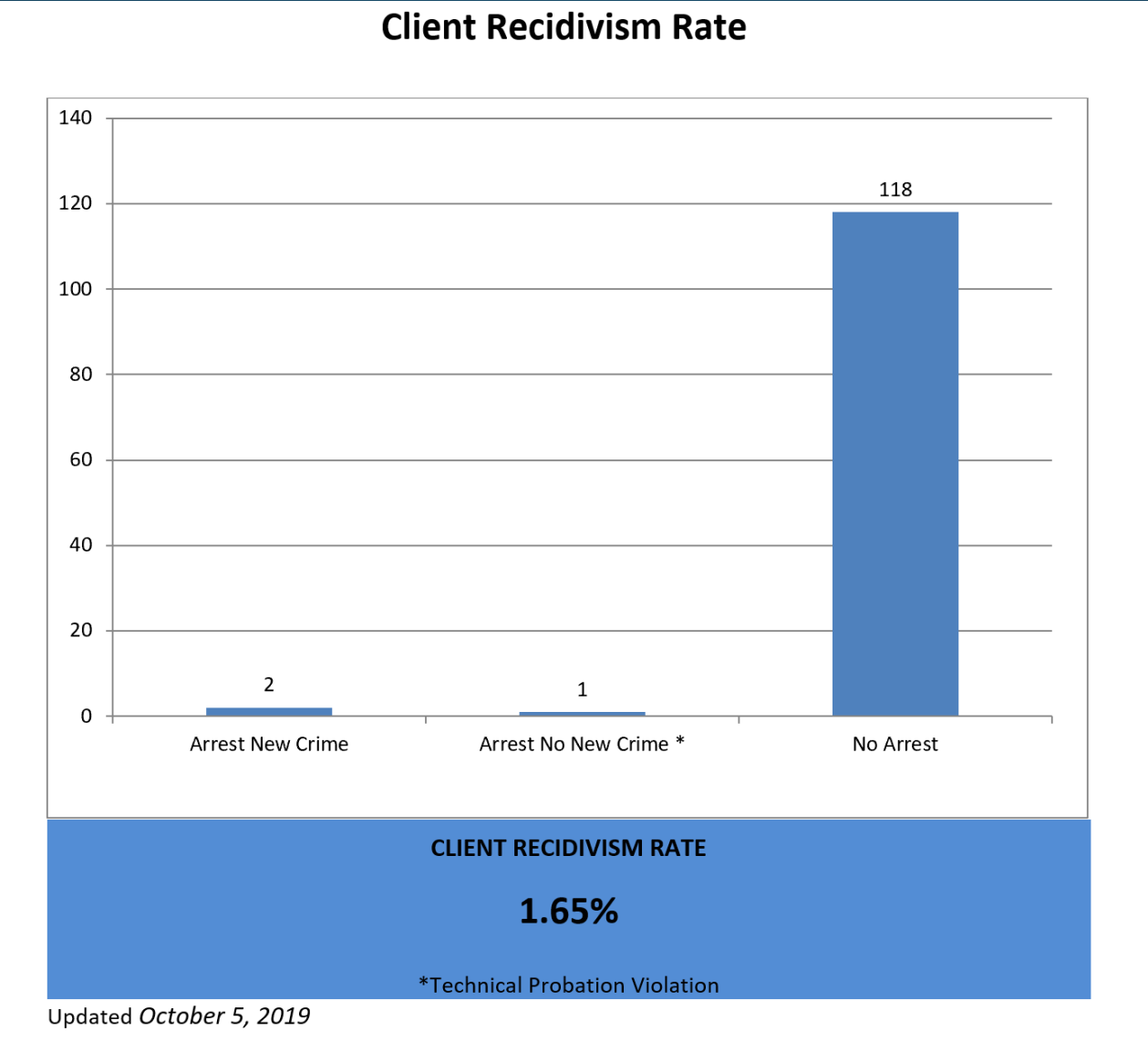N=5,880(Black & Dark Blue)

Age-at-release

THE DATA ON MEN RELEASED FROM CIVIL COMMITMENT AS SEXUALLY DANGEROUS PERSONS UNDER M.G.L. CHAPTER 123 A § 9

- Total of 121 men formerly deemed as sexually dangerous persons under Massachusetts law and released from civil commitment

- In Massachusetts men found no longer sexually dangerous are unconditionally released, but still subject in some cases to terms of probation (clock stops while the person is civilly committed) and sexual offender registration

- Data collected between November 1, 2016 and October 5, 2019 (almost three years)

- *Age range of subjects between 29 and 80 years old*

THE DATA ON MEN RELEASED FROM CIVIL COMMITMENT AS SEXUALLY DANGEROUS PERSONS UNDER M.G.L. CHAPTER 123 A § 9

Client Recidivism Rate

CLIENT RECIDIVISM RATE

1.65%

*Technical Probation Violation

Updated *October 5, 2019*

FRE 702: ADMISSIBILITY OF EXPERT TESTIMONY

- If scientific, technical, or other specialized knowledge will *assist the trier of fact* to understand the evidence or to determine a fact in issue a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

THE BASICS OF RISK PREDICTION: RELIABILITY AND VALIDITY

- Reliability: Refers to consistency of measurement
- across time
- across observers or raters
- internally
- Reliability establishes the upper limit for test validity
- Unreliable test cannot be valid; but an invalid test can be reliable

THE BASICS OF RISK PREDICTION: RELIABILITY AND VALIDITY

- Validity: Refers to the accuracy of measurement: Does the test measure what it purports to measure?

- Several types: face, content, concurrent, predictive, construct

- Predictive validity: How accurately does the test forecast some event or outcome?

THE DUALITY OF ERROR!

Prediction	Outcome		
	Dangerous	Safe	Totals
Dangerous	a (TP)	b (FP)	a +b
Safe	c (FN)	d (TN)	c +d
Totals	a +c	b + d	a +b + c + d

DO THESE INSPIRATIONAL STATEMENTS MATTER WHEN THE TOPIC CONCERNS SEXUAL OFFENDERS?

- "One would rather that twenty guilty persons should escape punishment of death than that one innocent person should be condemned and suffer capitally." --Sir John Fortescue (c. 1394-1476), Coffin v. United States

- "It is better that five guilty persons should escape unpunished than one innocent person should die." Lord Hale (1678), Coffin v. United States

- "We believe that it is better for ten guilty people to be set free than for one innocent man to be unjustly imprisoned." William O. Douglas in Furman v. Georgia

THE METHODOLOGIES OF RISK ASSESSMENTS

- Actuarial Tools (e.g., Static-99R)
- Guided Clinical (e.g., SVR-20)
- Hybrids (e.g., STABLE-2007, SRA-FV)
- Psychological Testing (e.g., PAI, MMPI-2, MCMI-IV)
- Sexual Testing (e.g., MSI-II)
- Psychophysiological Testing (e.g., PPG, AASI)
- Research on Static/Dynamic Risk (e.g., age, treatment)
- Clinical Training/Expertise/Diagnoses

CORRELATION BETWEEN PREDICTOR AND CRITERION-SOME EXAMPLES (MEYER ET AL., 2001)

- Aspirin and reduced risk of death by heart attack   .02
- NSAID drugs and pain reduction   .14
- Post-high school grades and job performance   .16
- Criminal history and recidivism among MDOs.   .18
- SAT scores and subsequent college GPA   .20
- {VRAG and sexual recidivism, 10-yr replication}   .20
- Gender and weight (men are heavier)   .26
- Screening mammogram and detection of breast cancer within 2 years   .27
- {RRASOR and sexual recidivism   .27
- {STATIC-99 and sexual recidivism   .33

CORRELATION BETWEEN PREDICTOR AND CRITERION-SOME EXAMPLES (MEYER ET AL., 2001)

- Elevation and lower daily temperature, USA .34

- Weight and height (U.S. adults) .44

- {SORAG and sexual reconvict} .45

- {MnSOST-R and sexual recidivsm by rapists} .47

- {MnSOST-R and sexual recidivism, 6 yr} .51

- Gender and arm strength for adults .55

- Nearness to the equator and daily temperature .60

- Gender and height U.S. adults (men are taller) .67

IN OTHER WORDS...

"Expert testimony is only an ordinary guess in evening clothes."

Justice Curtis Bok

CONCLUSIONS…

- The SEXUAL recidivism rate for approximately 3 years of 121 men formerly deemed to be sexually dangerous persons under Massachusetts law as of October 5, is 1.65 percent. With a baserate this low, of men who had *previously* been deemed legally to be sexually dangerous persons, and then released, how can valid affirmative risk decisions be made by any expert or court?

- Given baserate and other statistical considerations concerning what we know about sexual offense recidivism, and the inherent bias/subjectivity of experts – will the situation of risk prediction grounded in science ever improve? And what about the added pressures exerted on experts by government and prosecutorial agencies?

- If risk prediction based upon a scientific approach never improves in this area, does anyone care?

- What do these findings mean?

- Is civil commitment worth it? (the baserate problem)

- Are we misusing our resources?

- Are we committing the appropriate men?

- Do treatment programs such as the SOTP at the Massachusetts Treatment Center contribute to these positive findings concerning low recidivism?

- Will these positive findings persist into the future as more longitudinal data are gathered?

- Are programs such as the Boston Release Network (BRN) a vital part of the solution?

- Can Experts predicting dangerousness ever be justified in their professional opinions?

DISCUSS…