

Sex Offender Risk Assessments in the Child Protection Context. Helpful or Not?

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When a convicted or alleged child sex offender is living, or having contact, with his own children or stepchildren, the obvious worry is that these children are victims or will become victims of sexual abuse. One way of determining the risk of this occurring is for the convicted or alleged offender to undergo a forensic sex offender risk assessment. In this article I raise questions regarding the usefulness of sex offender risk assessments within the statutory child protection context. Most importantly, I ask whether static and dynamic risk assessment instruments can accurately predict the risk an alleged or convicted sex offender poses to his own children. I conclude that 'high', 'moderate', and 'low' risk outcomes of forensic sex offender risk assessments in the child protection context are unreliable and can result in error, and explain that these errors have consequences that, within the child protection context, have consequences that can be dangerous to children.

■ **Keywords:** sex offender, risk assessment, child protection, sexual abuse

Over recent decades, considerable attention has been devoted to improving the reliability of sex offender risk assessments (Langton et al., 2007). Statutory bodies, when making important decisions about the sentencing and supervision of child sex offenders, the reunification of child sex offenders with their families, and contact between child sex offenders and potential child victims, now look to the opinion of risk assessment experts (usually forensic psychologists or psychiatrists) to guide their decision-making (Hanson, 2000).

In this article I examine the usefulness of forensic sex offender risk assessments within the child protection context and ask whether they can accurately predict the risk a convicted or alleged sex offender poses to his own children. Given many of these assessment tools have been developed within the criminal justice arena, it is important to be clear about the ways in which the child protection context is different, and to question whether these same assessment tools can be used to meet different goals in a different context. To begin with, I will explain when a sex offender risk assessment might be considered useful within the child protection context, what it is, and how it is done. I then explain why they are not fail proof and discuss their value within the child protection system.

Before I move on, it is important to say that much of the thinking that has contributed to the development of this

article has been drawn from my 10 years professional experience as a child protection worker in Victoria, Australia, and as such, my interest is in how these risk assessment tools can be translated from the criminal justice system to the child protection system. While many of these risk assessment tools have been developed in North America and, as Doyle and Ogloff (2009, p. 195) point out, are yet to be substantially validated for use in Australian populations, a detailed discussion about culture and place is really beyond the scope of this article. The advantage, I think, in maintaining a focus on the child protection context, as distinct from the Australian context, is that the issues raised in this article may be relevant to child protection jurisdictions internationally. I also point out that I have deliberately made the decision to refer to sex offenders in the masculine. To use gender-neutral terms would, I believe conceal the fact that most child sexual abuse is perpetrated by males (Itzin, 2001).

When Are Sex Offender Risk Assessments Used?

It is claimed that sex offender risk assessments can be used to predict the risk that a child sex offender poses to his own children (Davies, 2010a, 2010b; Hanson, 2000). This is a very specific claim and, to my knowledge, there has been no attempt in the literature to critically analyse this claim.

When a convicted or alleged child sex offender is living with and caring for his own children or stepchildren, the obvious worry is that these children may be victims or potential victims. Just because children have not disclosed sexual abuse does not mean that it is not happening, because research findings indicate that most victims of child sexual abuse do not reveal that the abuse is happening, and it is commonly accepted that official records only represent the ‘tip of the iceberg’ (Bacon, 2008). Furthermore, an absence of clinical ‘signs’ of sexual abuse, does not mean that sexual abuse is not happening because some signs or consequences, such as psychiatric disturbance and suicide attempts, may not occur until many years after the abuse has ended (Lamont, 2010).

Child protection may commission a sex offender risk assessment for individuals like:

- Geoff (not a real person) who was convicted of a child sex offence 16 years ago when he was a young adult. Geoff has no other known criminal history. Geoff’s new partner has two children who are now Geoff’s stepchildren. There is no indication that these children have been sexually abused.
- Andrew (not a real person) was convicted of a child sex offence two years ago. He spent nine months in prison because of this crime. Andrew’s partner has recently given birth to their first child.
- Charles (not a real person) is the father of three children. He has no known history of criminal behaviour. His children have never come to the attention of child protection and there is no indication that they have been sexually abused. Charles has been charged with ‘sexual penetration with a child under 16’ (a child at the school where Charles is employed as a teacher). The matter has not yet been to court.

In each of these cases the goal of the sex offender risk assessment is to categorise the likelihood (either ‘low’, ‘moderate’ or ‘high’ risk) that the offender is, or will, sexually abuse his own child/ren. Important decisions about whether to close the case or issue a protection application with the view to obtaining a children’s court order are largely based on the outcome of this assessment.

What Is a Sex Offender Risk Assessment?

A sex offender risk assessment involves the individual being interviewed, observed and tested using a variety of tools and questionnaires that have been developed for the purpose of determining a risk level (low, moderate or high) in relation to future sexual offending.

The types of tools used to determine an individual’s risk level are commonly divided into two types — those that measure ‘static’ risk and those that measure ‘dynamic’ risk. Static risk factors are by definition unchangeable, such as criminal history, age of offender and preference for male

or stranger victims. They are considered useful for predicting long-term risk of re-offending. Dynamic risk factors are potentially more changeable and can be divided into two subgroups: stable dynamic factors and acute dynamic factors. Stable dynamic factors are factors that are relatively stable over time and include variables such as criminal attitudes, sexual fantasies and psychopathic characteristics. Acute dynamic factors tend to change more rapidly and include variables such as drug and alcohol use, relationships, employment and access to victims. Overall dynamic risk factors are more useful for offenders under supervision by which changes in their risk level can be evaluated over time. In these situations risk assessments can be regularly updated so that changed circumstances can be taken into account (Harris, 2006; Proeve, 2009; Wright, 2003).

There are a number of tools that measure static risk called ‘actuarial instruments’. Predictions based on these tools are considered to be more accurate than predictions based on clinical judgment and experience (Mossman, 2006). Generally, actuarial tools are based on studies that have identified risk factors in offenders’ histories. The developers of the tools have, based on their studies, devised ways of ‘weighting’ the different risk factors and of calculating the weights into a total score. Each score is associated with a level of risk, so that each individual sex offender can be classified as being at ‘low’, ‘moderate’ or ‘high’ risk of sexual re-offending (Ward & Beech, 2004). For example in 1999, Hanson and Thornton developed the Static-99, based on a 1998 study of approximately 28,000 sex offenders from England and Canada. The Static-99 is considered to be the most commonly used actuarial instrument (Harris, 2006). In order to determine a risk level, it asks 10 questions about the offender and each answer is prescribed a score; 5 questions are about the person’s criminal history, as this is seen as a crucial aspect of the assessment (Harris, Phenix, Hanson, & Thornton, 2003). Another question is: ‘Have you “ever lived with an intimate partner for 2 years?”’ Those who answer ‘no’ to this question will have a higher score than those who answer ‘yes’ because research has shown that the ‘risk to sexually re-offend is lower in men who have been able to form intimate partnerships’ (Harris et al., 2003, p. 25). On completion the 10 scores are totalled and the results sit within a predetermined ‘low’, ‘moderate’ or ‘high’ risk category.

It is important to note that the creators of the Static-99 acknowledge that it ‘does not include all the factors that might be included in a wide ranging risk assessment . . . [and that] a prudent evaluator will always consider other external factors that may influence risk in either direction’ (Harris et al., 2003, p. 3). They also recommend that information should be verified by ‘official records or collateral contacts’ (Harris et al., 2003, p. 5).

There are also a number of tools that measure dynamic risk. For example, the STABLE-2007 and the ACUTE-2007 are designed to measure changes in risk level by assessing dynamic risk factors. These tools were developed by Hanson and Harris in 2007, and updated from the

previous STABLE-2000 and ACUTE-2000, as well as the Sex Offender Need Assessment Rating (SONAR; Allan, Grace, Rutherford, & Hudson, 2007). The STABLE-2007 measures dynamic factors such as intimacy deficits, social influences, pro-offending attitudes, and sexual and general self-regulation. The ACUTE-2007 measures factors such as substance abuse, negative mood, and victim access (Allan et al., 2007).

In the case of offenders who are under community supervision, information about dynamic risk (e.g., relationships, attitudes, substance use) can be gathered by their corrections officers who work with, and monitor, their client's activities. In the case of Geoff and Charles, who are not under community supervision and have not had recent contact with the criminal justice system, most of the information about dynamic risk is likely to be gathered from them directly in the form of clinical interview and psychometric testing.

Examples of psychometric tests that can be used to inform these assessments are:

- The Abel-Becker Cognitions Scale (ABCS), which is used to measure distorted beliefs about sexual offending against children. The ABCS 'consists of 29 statements consistent with pro-pedophile attitudes, which are rated on a 5-point scale for agreement' (Allen et al., 2007, p. 352).
- The Rape Myth Acceptance Scale (RMAS), which assesses 'beliefs supportive of sexual violence and aggression. Nineteen beliefs about rape are rated for agreement on a 7-point scale. Higher scores indicate greater support for myths about rape' (Allen et al., 2007, p. 353).
- The Fear of Intimacy Scale (FIS), which 'measures an individual's anxiety about close, dating relationships. The FIS contains 35 items rated on a 5-point scale from 1 (*not at all characteristic of me*) to 5 (*extremely characteristic of me*). Higher scores indicate a greater fear of intimacy' (Allen et al., 2007, p. 354). (See Allen et al., 2007 for further examples of psychometric tests that measure dynamic risk.)

Another example of a tool that is used to measure dynamic risk is the Abel Screen, which was developed by Gene Abel in 1995. The Abel Screen is a psychometric instrument that is designed to measure sexual attraction toward children (a potentially changeable risk factor which might be targeted in treatment; Allan et al., 2007, p. 348). It is based on research that found that 'viewing time' is a measure of sexual interest. It involves the participant viewing a total of 160 slides of clothed adults, teenagers and young children. While viewing the slides the participant is instructed to rate how sexually arousing each picture is. 'Visual reaction time' or 'viewing time' of each slide is secretly measured throughout the process and in this way an assessment is made about whether or not the participant has a sexual interest in children (Gordon & Grubin, 2004).

Many forensic psychologists use at least one actuarial instrument to measure static risk as well as information gathered from psychometric testing and collateral sources to guide their 'adjustment' of the actuarial score. An offender might score 'high risk' on the Static-99, but information gathered about dynamic risk might suggest that there have been a number of positive changes in the offender's life and that the risk he now poses to children is 'low' (Wright, 2003).

Sex Offender Risk Assessments Are Not Fail Proof

Many experts agree that actuarial instruments are not fail proof. For example, Proeve (2009) says 'at best, actuarial instruments have demonstrated moderate predictive validity'. Doyle and Ogloff (2009) agree that actuarial instruments 'are still only moderately accurate and are recommended to be considered a work in progress' (p. 193). The creators of the Static-99 themselves acknowledge that a 'weakness of the Static-99 is that it demonstrates only moderate predictive accuracy' (Harris et al., 2003, p. 3).

Other experts are very sceptical about the usefulness of actuarial methods. According to Logan (2000) 'the capacity of social science to predict the likelihood, frequency, and nature of sex offender recidivism . . . is vastly overstated' (p. 594). Wright (2003) agrees that 'the exact prediction of recidivism is an expression of wishful thinking rather than empirical reality' (p. 2). Beyer, Higgins, and Bromfield (2005) concur that there is 'still no accurate and reliable method of predicting risks for individuals' (p. 80). Possibly the most obvious problem with actuarial tools is that an individual's criminal history often only represents the 'tip of the iceberg', and as Kemshall and McIvor (2004) point out, given criminal history is a crucial aspect to any risk assessment, risk is often underestimated in those who have no criminal history.

Another problem with actuarial tools is that they only really tell us about the group the individual belongs to (Berlin, Galbreath, Geary, & McGlone, 2003; Doyle & Ogloff, 2009). This can be explained by reference to an insurance company needing to have some sense of which groups of individuals are at most risk of having a heart attack. Individuals who are overweight, smoke cigarettes, and have high levels of cholesterol might be in a high risk group, but this doesn't mean that everyone in the group is at equally high risk of having a heart attack, because numerous other characteristics contribute to a person's true risk (Berlin et al., 2003). So a 'low risk' outcome for a sex offender simply means that the sex offender is part of a 'low risk' group, not that the individual sex offender himself is actually 'low risk'. The individual himself might actually be 'high risk'. Hart, Michie, and Cooke (2007; as cited in Harris & Rice, 2007, p. 1648) agree that, 'close matches between predicted and observed rates of recidivism are a property of groups, but individual scores are so imprecise as to lack value'. Harris (2006), in his context specific framework, also acknowledges that

if our primary concern deals with the aggregated long-term risk posed by a group of individuals, actuarial instruments almost certainly provide the most valid means of assessing such risk. If we are concerned with setting forth the relative probability that a particular individual will re-offend at some undetermined point in the future, actuarial instruments provide a moderate degree of accuracy, albeit one prone to errors. (p. 7)

A further problem with actuarial tools is that different tools have been shown to produce different outcomes for the same offender. The results of a study done by Barbaree, Langton and Peacock (2006) showed that the Static-99 and four other actuarial tools did not identify common groups of high, moderate or low risk individuals and that a few offenders had rankings that varied from a low risk to a high risk rank on different instruments. The authors 'at least partly explained' (Barbaree et al., 2006, p. 437) that each of the instruments is high on different risk dimensions and that the way to resolve this problem is to 'combine the percentile ranks obtained into a mean or average percentile ranking' (p. 438). However, Doren (as cited in Barbaree et al., 2006, p. 438) suggests 'a high-risk result from either employed instrument would lead to a high risk conclusion for the individual's sexual recidivism risk'. So not only is there disagreement about how to resolve the problem, but both recommendations are based on the assumption that clinicians will use all five instruments and yet many clinicians do not (Palk, Freeman, & Davey, 2008).

A problem with tools that measure dynamic risk (which involve 'self-report') is that some offenders might be motivated to find out as much as they can about the tests so that they can successfully 'fake good'. Johnson (2007) agrees that many sex offenders do their own research and 'possess books on criminology and psychology' (p. 387). Ruiz, Drake, Glass, Marcotte, and van Gorp (2002) found that there was detailed information on the Internet about various psychological tests and that if individuals were to access this information they could use it to manipulate an outcome. Edens, Hart, Johnson, Johnson, and Oliver (2000) note that the Personality Assessment Inventory (PAI) is often used with offender populations and concur that 'self-reports may be particularly susceptible to response distortion. This is a major potential problem, because deceitfulness is construed as a core symptom of psychopathy' (p.137). It is also possible for offenders to educate themselves about the Abel Screen and in this way they will become aware that it measures their 'visual reaction time'. The degree to which this fore knowledge can impact test results is unclear because of a lack of research in this area.

How Can Sex Offender Risk Assessments Be Used in the Child Protection Context?

It should go without saying that some convicted child sex offenders should never be allowed to live with, or care for, children. Offenders who have a history of multiple child sex

offences do not need to have a sex offender risk assessment for it to be known that they pose an unacceptable level of risk to children. However, the risk posed by Geoff, Andrew and Charles is more difficult to know, and this is why a sex offender risk assessment is so attractive. In the absence of any 'direct evidence' (e.g., a disclosure from the child, or critical information provided by the nonoffending parent), this 'expert evidence' (of 'high', 'moderate' or 'low' risk) often provides the only basis from which critical decisions can be made — to either leave the offender in the home with the children and close the case, remove the offender from the home and close the case, or remove the children from the home. But is this risk determination reliable? I argue that not only are low, moderate and high risk determinations unreliable and likely to result in error, but these errors have consequences, and these consequences can be dangerous to children.

In the child protection context a risk determination based on static variables is unreliable because it tells us about the group the individual belongs to rather than their individual risk. Goddard, Saunders, Stanley, and Tucci (1999) put it this way:

the limitations of actuarial assessment instruments, which are derived from statistical generalizations believed to be predictive of the behaviour of groups of like individuals, are readily apparent. Child protection workers are not attempting to predict the behaviour of groups of parents or groups of families. They are required to know which particular abusive parent will abuse which particular child, when and in what particular circumstances. (p. 254)

Moreover, it is unreliable because of the emphasis on criminal history, and this means that someone like Charles is guaranteed to receive a label of 'low risk'. Given it is commonly accepted that reported cases only represent the 'tip of the iceberg', and also suggested that 'offenders with certain characteristics (such as higher intelligence) may simply be more adept at avoiding detection' (Harris, 2006, p. 4), it is very possible that the true risk category for Charles is in fact high risk.

In the child protection context, a risk determination based on dynamic variables is unreliable because the risk determination is prone to change as an individual's life circumstances and risk factors change — certainly within years, sometimes within weeks or days. For offenders under community supervision (in the criminal justice context) this is not a problem; in fact, knowledge of dynamic risk factors is useful so that changes in an individual's risk level can be monitored and responded to over time. However, in the child protection context, there is the need to make a decision: to leave the offender in the home and close the case, to remove the offender from the home, or to remove the child/ren from the home. Monitoring of sex offenders in the long term, or even in the short term, is not considered to be a child protection responsibility.

In the child protection context some individuals might also be able to 'beat' the test. For example, Geoff, Andrew,

and Charles would all be given advance notice about the sex offender risk assessment and at least some basic information about where they need to go to have the assessment, what it is about, and why it is necessary. This might enable them to do their own research and prepare themselves for the test.

If 'low', 'moderate' and 'high' risk determinations are unreliable, and if mistakes can be made, then it is important to consider the consequences of these mistakes and in what ways these consequences may be dangerous for children. Clearly, the most obvious danger of an inaccurate 'high risk' assessment is a parent being removed from the home, and a child losing emotional ties to a parent who does not pose a risk. Alternatively, to mistakenly name a parent 'low risk' could result in no intervention and the parent remaining in the home unchecked, which could sentence a child to sexual abuse and its damaging consequences. In this instance, the parent may become even more empowered and use this 'low risk' label to strengthen his dominance and control over his child.

There can also be dangers involved in an accurate 'low risk' assessment if this assessment is only valid for days or months. For example, Andrew might score 'high risk' on the Static-99, but a number of dynamic variables, such as stable employment and a protective nonoffending parent, may result in his overall risk level being adjusted to 'low', and so the case is closed. However, if for some reason Andrew were to become the sole parent of his child and cease work — the risk he poses to his child may become 'high'. Of course, these changes do not constitute a concern in and of themselves, and are unlikely to result in a report being made to child protection.

A further danger is the tendency for organisations to rely on and value what they 'think' can be measured while interventions that cannot be 'measured' are forgotten and ignored (Harcourt, 2007). In a child protection system that is under increased scrutiny, a risk level that has been objectively measured by an expert can protect the organisation from blame when tragedies occur. The well informed and holistic assessment of the child protection worker that cannot be measured is undermined (Goddard et al., 1999). What is really needed is a collaborative approach, in which the focus is on the detail and the substance of the sex offender risk assessment rather than the final risk category. In this way detailed information about dynamic risk variables that is gathered by the forensic psychologist or psychiatrist, is used by the child protection worker to inform their own holistic assessment, which is based on visits to the home, building relationships with children and families, increasing their protective capacity, and includes new information as it is gathered over time.

Conclusion

Within the child protection context, categorising convicted or alleged sex offenders as 'low', 'moderate', or

'high' risk of sexually abusing their own children is unreliable and potentially dangerous to children. These types of risk determinations are dangerous because they can be wrong, and even when they are not wrong, they can change.

This does not mean that sex offender risk assessments have nothing to offer. They offer the unique perspective of a forensic psychologist or psychiatrist, and detailed information about dynamic risk factors that are important to inform the child protection assessment. Of particular concern is the assigned level of risk — because it can be wrong, because it can change, and because it can undermine a holistic assessment that involves all parts of the child's system, is outreach based and is conducted over time.

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