

Corrections Research: Manuals and Forms

CODING RULES FOR THE STATIC-99

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The Static-99 is a brief actuarial instrument designed to estimate the probability of sexual and violent recidivism among adult males who have already been convicted of at least one sexual offence against a child or non-consenting adult. It is not recommended for adolescents (less than 18 years at time of release), female offenders or offenders who have only been convicted of prostitution, pimping, public toileting (sex in public locations with consenting adults), or possession of indecent materials.

The scale contains 10 items: Prior sexual offences, Prior sentencing dates Any convictions for non-contact sex offences, Current convictions for non-sexual violence, Prior convictions for non-sexual violence, Unrelated victims, Stranger victims, Male victims, Young, and Single.

Information required to score Static-99

The minimum information required for scoring Static-99 is the offender's official criminal record and information concerning the victim gender and the pre-existing relationship between the victim and the offender. One item (marital status) requires additional information from official records, collateral contacts, or offender self-report. If there is insufficient information to identify marital history, the offender should be scored "0" on this item. The assessment should, nevertheless, be considered valid.

Three items (Male Victims, Unrelated Victims, Stranger Victims) may be scored from information not contained in the official criminal records. Such information could include reports by child welfare agencies, victims, collateral contacts, or self-reports by the offender himself. Information derived solely from polygraph examinations would not normally be used, unless it can be corroborated by additional information (e.g., child welfare investigation) or the offender provides enough information to support a new criminal investigation.

Although potentially useful, an interview with the offender is not required to score Static-99.

Definitions

A. Sexual Offence

For the purpose of Static-99 scoring, a sexual offence is officially recorded sexual misbehaviour or criminal behaviour with sexual intent. To be considered a sexual offence, the sexual misbehaviour must result in some form of criminal justice intervention or official sanction. The criminal justice intervention includes arrests, charges, parole violations and convictions. Sanctions include fines, imprisonment, and community supervision.

Count both juvenile and adult offences. Sexual offences are scored only from official records. Do not count self-reported offences.

The type of criminal justice intervention could include the following:

- Arrests and charges
- Convictions
- Institutional rule violations
- Probation, parole and conditional release violations

To be considered a sexual offence, the offence need not be explicitly sexual (e.g., sexual assault). Offences that occur at the same time as the sexual offence and are considered part of the sexual misbehaviour are included. Examples of these charges would be rape and false imprisonment, rape and kidnap or rape and battery. In the case of an offender convicted of rape and false imprisonment, the offender would be coded as being convicted of two sexual offences.

The non-sexual charge/conviction need not occur along with a sexual offence for the non-sexual offence to be considered sexual. For example, convictions of murder for sexual killers, kidnapping when the planned sexual assault did not occur, or assault convictions plead down from sexual assault. Similarly, a non-sexual offence, such as theft, could count as a sexual offence when the intention of the offence was sexual (e.g., theft of underwear by fetishists).

The sexual misbehaviour comes in two categories. Category A includes sexual behaviour with children and non-consenting adults. This category includes contact offences as well as exhibitionism and voyeurism. Sex with animals or dead bodies would also be included in Category A. Category B includes sexual behaviour that is illegal, but the parties are consenting or no specific victim is involved. This category includes prostitution and pimping offences, consenting sex in public places (gross indecency), and pornography offences. Behaviours such as urinating in

public, or nudity associated with mental impairment would also be included in Category B.

Category B offences are counted as sexual offences if the offender has at least one Category A offence. Static-99 is not recommended for offenders who only have Category B offences.

The targeted sexual misbehaviour may be associated with different offences in different jurisdictions. The following is a list of offences that would typically be considered sexual, although other non-sexual offences may qualify when they indicate sexual intent or sexual misbehaviour.

Category A

- Incest
- Rape (includes in concert)
- Penetration with a foreign object
- Sodomy (includes in concert and with a person under 14)
- Oral copulation
- Sexual assault
- Sexual battery
- Sexually assaulting an animal
- Sexual homicide.
- Indecent exposure, exhibitionism
- Voyeuristic activity (Trespass by night)
- Lewd or lascivious acts with a child under 14
- Annoy/molest children
- Invitation to sexual touching
- Unlawful sexual intercourse with a minor
- Contributing to the delinquency of a minor (unless clear evidence that offence had no sexual elements)
- Attempted sexual offences

Category B

- Crimes related to child pornography
- Pimping/pandering
- Offering prostitution services
- Seeking/hiring prostitutes
- Consenting sex in public locations
- Indecent behaviour without a sexual motive (e.g., urinating in public)

Certain sexual behaviours may be illegal in some jurisdictions and legal in others (e.g., prostitution). Count only those sexual misbehaviour that are illegal in the jurisdiction in which the risk assessment is being conducted, and were illegal in the jurisdiction in which the acts were committed.

Institutional rules violations, probation, parole or conditional release violations resulting in arrest or institutional punishment would be considered sexual offences if the behaviour could have resulted in a charge/conviction for a sexual offence if the offender was not already under legal sanction.

The following offences would not normally be considered sexual offences:

- Annoying children
- Consensual sexual activity in prison (except if it was forced or sufficiently indiscreet to meet criteria for gross indecency).
- Failure to register as a sex offender
- Being in the presence of children, loitering at schools
- Possession of children's clothing, pictures, toys
- Stalking (unless sexual offence appears imminent)
- Reports to child protection services (without charges)

Sometimes the violations are not as clearly defined as a sexual arrest or conviction. The determination to count an institutional rules violation or probation, parole, or conditional release violation as sexual offence is dependent upon the nature of the sexual misbehaviour. Some probation, parole and conditional release violations are clearly of a sexual nature, such as when a rape or child molestation has occurred or behaviours involving exhibitionism or possession and use of child pornography. These violations would count as the index offence if they were the offender's most recent criminal justice intervention.

In general, violations due to "high-risk" behaviour would not be considered sex offences. However, some high-risk behaviour may count as a sexual offence if the risk for sexual offence recidivism was truly imminent and an offence failed to occur only due to chance factors, such as detection by the supervision officer or resistance of the victim. Examples of this behaviour would include an individual with a history of child molest being discovered alone with a child and about to engage in a "wrestling game." Another example would be an individual with a long history of abducting teenage girls for sexual assault being apprehended for attempting to lure teenage girls into his car.

Non-sexual institutional rules violations, probation, parole and conditional release violations, and charges and convictions such as property offences or drug offences are not counted as sexual offences, even when they occur at the same time as the sexual offences.

Some offenders suffer from sufficient mental impairment (major mental illness, development delays) that criminal justice intervention is unlikely.

For these offenders, informal hearings and sanctions/placement in treatment facilities would be counted as both an arrest and conviction for a sexual offence.

Similarly, for members of the clergy or military, being publicly denounced and sent to special treatment facilities would count as both an arrest and conviction for a sexual offence.

Instances in which juveniles (ages 12–15) are placed into residential care for sexual aggression would count as an arrest and conviction for a sexual offence. Sexual misbehaviour of children 11 or under would not count as a sex offence unless it resulted in official charges.

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

B. Index offence

The index offence is the most recent sexual offence. It could be a charge, conviction, or rule violation (see definition of sex offence). Sometimes index offences include multiple counts, multiple victims and numerous crimes perpetrated at different times because the offender may not be detected and apprehended when they first begin to offend. Some offenders are apprehended after a spree of offending. If this results in a single conviction regardless of the number of conviction counts, then all counts, regardless of the time frame, are considered part of the index offence.

An offender may commit a number of sexual offences in different jurisdictions in a spree of offending prior to being arrested. Even though the offender may have a number of sentencing dates in different jurisdictions, the charges and convictions would constitute only one index offence. Furthermore, historical offences that are detected after the offender is convicted of a more recent sexual offence would be considered part of the index offence (pseudo-recidivism).

For two offences to be considered separate offences, the second offence must have been committed after the offender was detected and detained and/or sanctioned for the previous offence. For example, an offence committed while an offender was released on bail for a previous sexual offence would supersede the previous charge and become the index offence.

Convictions for sexual offences that are subsequently overturned on appeal can count as the index offence.

C. Historical Offence(s):

An historical offence is any sexual or non-sexual institutional rules violation, probation, parole or conditional release violation(s) and/or arrest charge(s) or conviction(s) based on sexual misbehaviour occurring PRIOR to the index offence. This includes juvenile and adult offences.

SCORING PROCEDURE:

1. PRIOR SEXUAL OFFENCES

This item is based on officially recorded institutional rules violations, probation, parole and conditional release violations and arrest charges and convictions. Only institutional rules violations, probation, parole, and conditional release violations and arrest charges and convictions of a sexual nature that occur PRIOR to the index offence are included. The basic concept is whether the offender has already been detected and/or sanctioned for a sexual offence and then continued to offend.

A. Do not count the index offence

The index offence charge(s) and conviction(s) are not counted, even when there are multiple offences and/or victims involved, and the offences occurred over a long period of time.

B. Count historical offences

Code the total number of charges and convictions that occurred prior to the index offence. Historical institutional rule violations, and probation, parole and conditional release violations for sexual misbehaviour are coded as one charge. Even though the offender may have violated several conditions of parole during one parole violation, it is only counted as one charge, even if there were multiple sex violations. If the offender violated parole on more than one occasion, each separate occasion is counted as one charge. For example, a parole violation in 1988 for alcohol consumption, being in the presence of minors and indecent exposure would count as one charge. If the offender had another parole violation in 1994 for alcohol consumption and possession of child pornography, it would be coded as a second charge.

When the coding of historical offences is completed, separately compute a) the total number of charges/arrests and b) the total number of convictions. The Static-99 score is based on either the total number of charges or the total number of convictions for all sexual or non-sexual offences based on sexual misbehaviour, depending on which indicates the highest risk level.

Generally when the offender is arrested, they are initially charged with one or more criminal charges that may change when the offender is convicted. Sometimes charges are dropped for a variety of legal reasons, or “pled out” to obtain a plea bargain. As a basic rule when calculating arrest charges use the most recent charging document as your source of official charges.

All the charges and convictions are coded, even when they involve the same victim, or multiple counts of the same offence. For example, three charges for sexual assault involving the same victim would count as three separate charges.

In some instances the offender has been arrested for a sexual offence, but there are no formal charges filed, or the charges are dropped and the offender is released. If the offender is arrested and there are no formal charges filed, a “1” is coded under charges, and “0” is coded under convictions. If the offender is arrested and one or more formal charges are filed, the total number of charges is coded even when there is no conviction.

The following is an example of counting arrest charges and conviction counts.

HISTORICAL OFFENCE # 1 (1987)

CHARGES

Count 1 Lewd and Lascivious Acts W/Child
Count 2 Lewd and Lascivious Acts W/Child
Count 3 Lewd and Lascivious Acts W/Child
Count 4 Sodomy
Count 5 Oral Copulation
Count 6 Burglary

= 5 CHARGES

CONVICTIONS

Count 1 Lewd and Lascivious Acts W/Child
Count 4 Sodomy
Count 5 Oral Copulation
Count 6 Burglary

= 3 CONVICTIONS

For this 1987 historical offence, 5 charges and 3 convictions should be recorded on the coding form.

In the case of a plea bargain, where the conviction is different from the initial charges after the arrest (e.g., rape is pled down to false

imprisonment), both the charge and conviction are considered sexual. If an offender is convicted and the conviction is later overturned on an appeal, code as one charge.

C. Determine Score for Prior Sex Offences:

Convert the total number of arrest charges and convictions (use the highest) to a score of 0,1, 2 or 3 according to the following guidelines for prior sex offences.

none			0
1	conviction	1-2 charges	1
2-3	convictions	3-5 charges	2
4 or more	convictions	6 or more charges	3

2. PRIOR SENTENCING DATES

Count the number of distinct occasions on which the offender was sentenced for criminal offences. The number of charges/convictions does not matter, only the number of sentencing dates. Court appearances that resulted in complete acquittal are not counted, nor do convictions overturned over on appeal. The index sentencing date is not included.

Charges/arrests are generally not counted; however, a charge/arrest counts if the offender was under criminal justice supervision at the time and the arrest resulted in a return to prison. This would include individuals on probation, parole and conditional release. Institutional rule violations do not count even when the offence was for behaviour that could have resulted in a legal sanction if the offender had not already been incarcerated.

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

The offences must be of a minimum level of seriousness. The offences need not result in a serious sanction (the offender could have been fined), but the offence must be serious enough to permit a sentence of community supervision or custody/incarceration (as a juvenile or adult). Driving offences generally do not count, unless they are associated with serious penalties, such as driving while intoxicated or reckless driving causing death or injury.

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

3. **NON-CONTACT SEX OFFENCES**

This category includes convictions for non-contact sexual offences, such as exhibitionism, possessing obscene material, obscene telephone calls, voyeurism, and the illicit sexual use of the Internet.

Charges and arrests do not count, nor do self-reported offences. Sexual offences in which the offender intended to make contact with the victims (but did not succeed) would be considered attempted contact offence and not coded as non-contact offence (e.g., invitation to sexual touching). Some offences may include elements of both contact and non-contact offences (e.g., sexual talk on Internet then arrange to meet child victim). In that case the conviction would count as a non-contact sex offence.

Instructions for coding non-sexual violence offences (Items 4 & 5)

Non-sexual violent offences are convictions for non-sexual violence that appear on the official record. Juvenile and adult convictions are counted. Charges do not count. The victims for the non-sexual violence could be the same victims as for the sexual offences or they could involve different victims. Non-sexual violent offences are based on the official records and not on the behaviour involved. Example offences include murder, kidnapping, forcible confinement, wounding, assault causing bodily harm, assault, arson, threatening, using a weapon, and robbery. Robbery involves theft with a confrontation with the victim that includes violence or threat of violence. Theft of property without confrontation with the victim would not count (e.g., domestic burglary).

The offences must involve the intention to harm or constrain the victim. Offences concerning the possession of weapons would not count unless the weapon was used in the commission of a violent or sexual offence. Offences that are not counted include negligence causing injury or death and driving accidents. Manslaughter offences normally are counted, except if there is clear evidence that the offender had no intention to harm the victim (i.e., accident).

If the behaviour was sexual, but the offender was convicted of non-sexual violence, the same conviction counts as both a sexual offence and non-sexual violent offence. For example, an offender previously convicted of rape and forcible confinement would be coded as having two sexual offences and one non-sexual violent offence.

Aggressive behaviour during the commission of the sexual offence (e.g., excessive victim injury, sadism) does not count as non-sexual violence unless there was a conviction for non-sexual violence.

Convictions for non-sexual violence that occur after the index sexual offence are not counted.

4. INDEX NON-SEXUAL VIOLENCE

Refers to convictions for non-sexual violence that are dealt with on the same sentencing occasion as the index sex offence. These convictions can involve the same victim as the index sex offence or they can involve a different victim. All non-sexual violence convictions are included, providing they were dealt with on the same sentencing occasion as the index sex offences. Example offences would include murder, wounding, assault causing bodily harm, assault, robbery, using a firearm, kidnapping, arson and threatening.

Arrest/charges do not count, nor do convictions overturned on appeal.

5. PRIOR NON-SEXUAL VIOLENCE

This category includes any conviction for non-sexual violence prior to the index-sentencing occasion.

Arrest/charges do not count, nor do convictions overturned on appeal.

Instructions for coding

The previous items (prior offences) are based on official records.

The following items concerning victim characteristics (Unrelated Victims, Stranger Victims, Male Victims) are based on all available information, including self-report, victim accounts, and collateral contacts. The items concerning victim characteristics, however, only apply to sex offences in which the victims were children or non-consenting adults (Category A sex offences). Do not score victim information from non-sexual offences or from sex offences related to prostitution/pandering, possession of child pornography, and public sex with consenting adults (Category B sex offences).

6. UNRELATED VICTIM

A related victim is one where the relationship would be sufficiently close that marriage would normally be prohibited, such as parent, uncle, grandparent, and stepsister. Spouses (married and common-law), however, would be considered related. When considering whether step-relations should be considered related or not, consider the nature and the length of the pre-existing relationship between the offender and the victim. Step-relationships lasting less than two years would be considered unrelated (e.g., step-cousins, stepchildren). Adult stepchildren would be

considered related if they had lived for two years in a child-parent relationship with the offender.

7. STRANGER VICTIM

A victim is considered to be a stranger if the victim did not know the offender 24 hours before the offence. If the victim is a stranger, the victim is also unrelated and the offender should receive points in both categories. Victims contacted over the Internet would not normally be considered strangers unless a meeting was planned for a time less than 24 after initial communication.

8. MALE VICTIM

Included in this category are all sexual offences involving male victims. Possession of child pornography involving boys, however, would not count. Exhibitionism to a mixed group of children (girls and boys) would not count unless there was clear evidence that the offender was targeting the boys. Attempting to contact male victims over the Internet would count.

9. YOUNG

This item refers to the offender's age at the time of the risk assessment. If the assessment concerns the offender's current risk level, it would be his current age. If the assessment concerns an anticipated exposure to risk (e.g., release, reduced security at some future date), the relevant age would be his age when exposed to risk. Static-99 is not intended for those who are less than 18 years old at the time of exposure to risk.

10. SINGLE

The offender is considered single if he has never lived with an adult lover (male or female) for at least two years. An adult is an individual who is over the age of consent to marriage. The period of co-habitation must be continuous with the same person. Legal marriages involving less than two years of co-habitation do not count. Male lovers in prison would not count.

Question & Answers:

Question: In 1990, Mr. Smith is convicted of molesting his two step-daughters. The sexual abuse occurred between 1985 and 1989. While on conditional release in 1995, Mr. Smith is reconvicted for a sexual offence. The offence related to the abuse of child that occurred in 1980. Which conviction is the index offence?

Answer: The 1990 and 1995 convictions would both be considered part of the index offence. Neither would be counted as sexual offences. The 1995 conviction is pseudo-recidivism because the offender did not reoffend after being charged with the 1990 offence.

Question: In April, 1996, Mr. Jones is charged with sexual assault for an incident that occurred in January, 1996. He is released on bail and reoffends in July, 1996, but this offence is not detected until October, 1996. Meanwhile, he has been convicted in September, 1996, for the January, 1996 incident. The October, 1996 charge is dropped because the offender is already serving time for the September, 1996 conviction. What is the index offence?

Answer: The October, 1996 charge is the index offence because the offence occurred after Mr. Jones was charged for the previous offence. The index sexual offence need not result in a conviction.

Question: In January, 1997, Mr. Dion moves in with Ms. Trembley after dating since March, 1996. In September, 1999, Mr. Dion is arrested for molesting Ms. Trembley's daughter from a previous relationship. The sexual abuse began in July, 1998. Is the victim related?

Answer: No, the victim would be considered unrelated because when the abuse began, Mr. Dion had not lived for two years in the same household as the victim.

Question: At age 15, Mr. Miller was sent to a residential treatment centre after it was discovered that he had been engaging in sexual intercourse with his 12 year old stepsister. Soon after arriving, Mr. Miller sexually assaults a fellow resident. He is then sent to a secure facility that specialised in the treatment of sexual offenders. In neither case were charges laid. At age 24, Mr. Miller sexually assaults a cousin and is convicted shortly thereafter. Mr. Miller has how many prior sexual offences?

Answer: 2 prior arrests and 2 prior convictions. Although Mr. Miller has no prior convictions for sexual offences, there are official records indicating that he has engaged in sexual offences as an adolescent that resulted in custodial sanctions on two separate occasions. The index offence at age 24 is not counted.

Question: Mr. Smith received an historical parole violation on July 4, 1992 for violating several conditions of parole including child molestation, lewd act with a child and contributing to the delinquency of a minor. How many historical charges would Mr. Smith receive for his parole violation?

Answer: 1 charge and no convictions. Probation, parole and conditional release violations for sexual misbehaviour are counted as one charge, even when there are violations of multiple conditions of release.

Question: Mr. Moffit was charged with child molestation in April, 1987 and absconded before he could be arrested. He travelled to another jurisdiction and was arrested and convicted of child molest in December, 1992. He served 2 years in prison and was released in 1994. He was apprehended, arrested and convicted in January of 1996 for the original charges of Child Molestation he received in April, 1987. Which offence is the index offence?

Answer: The most recent offence date, December, 1992 becomes the index offence. In this case, the offence dates should be put back in chronological order given that he was detected and continued to offend. The April, 1987 charges and subsequent conviction in January of 1996 become the historical offence.

Question: While on parole Mr. Jones who had an extensive history of child molestation was found at the county fair with an 8 year-old male child. He had met the child's mother the night before and volunteered to take the child to the fair. His parole was violated and he was returned to prison. Is this a prior sex offence charge?

Answer: No. Being in the presence of children is not counted as a charge for prior sex offence unless an offence is imminent. In this case Mr. Jones was in a public place with the child among many adults. This would comprise "high-risk" behaviour but not a charge for a sex offence.

References

Hanson, R. K., & Thornton, D. (2000). Improving risk assessments for sex offenders: A comparison of three actuarial scales. Law and Human Behavior, 24(1), 119-136.

Hanson, R. K., & Thornton, D. (1999). Static-99: Improving actuarial risk assessments for sex offenders. User Report 99-02. Ottawa: Department of the Solicitor General of Canada.

Static-99 Coding Form

Risk Factor	Codes	Score	
Prior Sex Offences (Same rules as in RRASOR)	Charges	Convictions	
	None	None	0
	1-2	1	1
	3-5	2-3	2
	6 +	4+	3
Prior sentencing dates (excluding index)	3 or less	0	
	4 or more	1	
Any convictions for non- contact sex offences	No	0	
	Yes	1	
Index non-sexual violence	No	0	
	Yes	1	
Prior non-sexual violence	No	0	
	Yes	1	
Any Unrelated Victims	No	0	
	Yes	1	
Any Stranger Victims	No	0	
	Yes	1	
Any Male Victims	No	0	
	Yes	1	
Young	Aged 25 or older	0	
	Aged 18 – 24.99	1	
Single	Ever lived with lover for at least two years?		
	Yes	0	
	No	1	
Total Score	Add up scores from individual risk factors		

TRANSLATING STATIC-99 SCORE INTO RISK CATEGORIES

Score Label for Risk Category

0,1 Low
 2,3 Medium-Low
 4,5 Medium-High
 6 plus High