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# Construct Validity of the Hare Psychopathy Checklist Revised (PCL-R) for the Purposes of Predicting Recidivism in Sex Offenders

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CONSTRUCT VALIDITY OF THE HARE PSYCHOPATHY CHECKLIST REVISED  
(PCL-R) FOR THE PURPOSES OF PREDICTING  
RECIDIVISM IN SEX OFFENDERS

being

A Thesis Presented to the Graduate Faculty  
of the Fort Hays State University in  
Partial Fulfillment of the Requirements for  
the Degree of Master of Science

by

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## ABSTRACT

To be eligible for civil commitment under the Kansas Sexually Violent Predator Act (K.S.A 59-29a02,1994), three criteria must be satisfied; being the person must have past sex offenses, a mental abnormality, and be likely to sexually recidivate within the community. The Hare Psychopathy Checklist-Revised (PCL-R) (Hare, 2003) is a tool often used by clinicians completing sexual predator evaluations as a means to assess for psychopathy, a mental disorder capable of satisfying criteria two. However, due to the amount of literature linking psychopathy to recidivism, the PCL-R has been presented and/or interpreted to also satisfy criteria three within the law, likely to recidivate. The current study examined whether this secondary application of the PCL-R in sexual predator evaluations is appropriate by correlating scores from the PCL-R (Hare, 2003), Static-99 (Hanson & Thornton, 1999), and Minnesota Sex Offender Screening Tool-Revised (MnSOST-R) (Epperson et al., 1998), two tools created for the purpose of measuring recidivism in sex offender populations. Results revealed no significant relationship between the PCL-R, Static-99, or MnSOST-R. An additional literature review suggests the way in which the term recidivism is defined in research may contribute to the conflicting findings between this study and previous studies supporting the PCL-R as capable of predicting recidivism in sex offenders. Research linking psychopathy to recidivism typically uses the term recidivism in a sweeping manner incorporating several different types of recidivism underneath it. However, studies that have broken recidivism down into subcategories such as any, serious, and sexual recidivism have not been able to find a significant relationship between psychopathy and sexual recidivism.

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## INTRODUCTION

Every year over 200,000 people are sexually assaulted in the United States (Truman, 2011). Those committing these offenses are predominately male and approximately half of them have offended before (Greenfield, 1997). A sex offender can have upward of a hundred victims before being arrested and prosecuted, and the exact number of victims for a sex offender is usually twice of that reported (*Recidivism of Sex Offenders*, 2001). The public perception is that there is no deterrence or cure for sex offenders and the best way to manage their deviant behavior is to lock them up and throw away the key. That is why there has been a rash of recent laws enacted by state legislatures, such as the Kansas Sexually Violent Predator Act (1994), or known better by the public as Stephanie's law, designed to keep repeat sex offenders off of the streets. This law created an indeterminate civil commitment for individuals judged to be violent sex offenders coming out of prison. There are many ethical and constitutional controversies surrounding the involuntary civil commitment and confinement of individuals who have served their time, as well as raising a number of concerns among mental health professionals about the state's ability to identify and treat violent sexual predators. This study examines one aspect of the controversies by examining whether a specific and commonly used assessment tool, The Hare Psychopathy Checklist-Revised (PCL-R) (1991, 2003) is a valid instrument in helping professionals to identify those fitting of involuntary civil commitment under the above mentioned law.

According to K.S.A. 59-29a (1994) to be eligible for sexual predator determination, a person must have committed a sexually violent offense.

K.S.A. 59-29a02 (1994) has defined sexually violent offense as:

- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto;
- (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto;
- (9) aggravated sexual battery as defined in K.S.A. 21-3518 and amendments thereto;
- (10) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto;

The prevalence and characteristics of these crimes in America can be examined by reviewing crime reports. For our benefit, the U.S. Department of Justice administers two statistical measures to collect data on the prevalence and nature of crime in America: the Uniform Crime Report (UCR) and the National Crime Victimization Survey (NCVS). The UCR presents crime counts for the nation by compiling data from monthly law enforcement reports. The NCVS was created to compliment the UCR by collecting data on unreported crimes, not included in the UCR. It collects information on nonfatal

crimes reported and not reported to the police against persons age 12 or older via personal interviews (*Crime in the United States*, 2012). Both programs measure violent as well as property crimes. Included in the measures of violent crime are simple assault, aggravated assault, robbery, rape, and sexual assault (Truman, 2011). For the present research, the prevalence of rape and sexual assault will be examined, as these crime reports consolidate all sex crimes into these two categories.

The Department of Justice's revised definition of rape is "The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim" (Department of Justice, 2012 p.1). Sexual assault has been defined as "Attacks or attempted attacks generally involving unwanted sexual contact between victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling. It also includes verbal threats" (Greenfield, 1997 p.1). The measurement of rape and sexual assault has been one of the most fundamental challenges to the field of victimization research to date due to the sensitivity of the subject and difficulty in making survey compatible questions to address the issue (Truman, 2011). However, the Department of Justice's UCR and NCVS are the most reliable data sets on sex crimes available. From these reports information on the characteristics of sex crime victims, offenders, and societies responses can be examined.

### **Victims**

Historically males have experienced higher rates of victimization to violent crimes when compared to females. However, an exception exists when it comes to

sexual assault and rape, in which the vast majority of victims are female. According to Bureau of Justice Statistics (2009) one for every 270 females will experience a rape or sexual assault in her lifetime, which is substantially higher than the one for every 5,000 males who will experience the same. Overall, an estimated 91% of rape and sexual assault victims are female (Catalano, Smith, Snyder, & Rand, 2009). This estimate of female victims by law enforcement is corroborated by imprisoned offender reports, which indicate 94.5% of rapists' victims and 84.8% of those sexually assaulted are female (Greenfield, 1997). Incarcerated offenders also revealed 80 % of their victims were under the age of 30, with a vast majority of victims under the age of 18. Youth (under 18) are approximately three times more likely to be a victim of sexual assault than adults (Truman, 2001). Reports reveal, per capita rates of rape/sexual assault were found to be highest among the 16 to 19 age group. Reports also revealed over half of rape occurrences happen prior to age 18, with 29% prior to the age of 12 (Greenfield, 1997).

According to the Bureau of Justice Statistics Report, *Victimizations not Reported to the Police* (2012), victims of rape and sexual assault are the youngest amongst victims described by incarcerated violent offenders. Four in ten rapists and eight in ten sexual assaulters reported their victim was a child. In two-thirds of these cases the offender had a prior relationship with the victim. Forty three percent of the time, the offender was a family member, and in a fourth of those cases, the victim was the offender's own child or stepchild. Incidents in which a sex crime is committed against a youth and is perpetrated by someone who was well known to the victim are the most likely to go unreported to the

police. The biggest reason for failing to report is fear of reprisal or getting the offender in trouble (Langton, Berzofsky, Krebs, &Smiley-McDonald, 2012).

### **Offenders**

On any given day corrections agencies are responsible for an estimated 234,000 offenders convicted of rape or sexual assault. This population accounts for roughly 5% of the total correctional population in the United States and continues to grow at a rate of 15% every year. This growth is one of the fastest amongst any violent crime category, only second to drug trafficking.

Arrest and conviction data paints a portrait of a sex offender that is more likely to be male and more likely to be white than any other violent offender. According to the Bureau of Justice Statistics (1997), 99% of all arrestees for forcible rape in the late 1990's were male, and of those rapes 56% of the arrestees' were white. The UCR arrest data also indicates sex offenders tend to be older than other offenders. This apparent gap is evident when looking at age of incarcerated offenders. Less than 5% of incarcerated offenders are 50 or older, but approximately 7% of rapists and 12% of sexual assaulters in prison fall into this age range. The largest age group of offenders serving time for rape or sexual assault is those age 55 to 59.

Reports also indicate half of these individuals were serving time in corrections for a previous crime at the time of their arrest (Greenfield, 1997). This leads to the reality that many sex offenders have accumulated more than one criminal charge. According to Bureau of Justice Statistics (2003), one in four imprisoned sex offender has a prior

history of violent crime and one in seven has previously been convicted of a violent sex crime (Langan, Schmitt, & Durose, 2003).

### **Societies Response**

To manage and inhibit further victimization, policies have been set in place for the prevention and punishment of sex offenses. The sentence for a sex crime can range from a mild fine up to life in prison, with harsher sentences normally reserved for crimes against children, or repeat offenders (*Crime and Punishment*, 2011). In the late 1990's an estimated 34,650 arrests were made by law enforcement for forcible rape, and 94,500 arrests for other sex offenses. Half of these individuals were released prior to trial, which is the lowest pre-trial release rate for any violent felony second only to murder. The median bond of those released was \$23,500, with a little under half of defendants able to meet the expense. Felony prosecution is sought in 80% of rape cases and approximately 50% are convicted. Of those convicted, 80% plead guilty, a jury finds 14% guilty, and 4% are found guilty by a bench trial.

In 1992 an estimated 21,655 felony defendants were convicted of rape nationwide and of those convicted, two-thirds received a prison term. Defendants convicted by a jury were more likely to receive a prison term than those convicted in bench trials or taking a plea bargain and the term was noticeably longer. The average imposed term for those receiving a prison sentence is just under fourteen years. However, the average time served is lower. For rape the average sentence served holds steady at around ten years, and the average sentence served for sexual assault is three and a half to five years. Due to this common practice of early release, approximately 60% of

convicted sex offenders are not in prison, but rather are under conditional supervision in the community (Greenfield, 1997).

### **Registration, Notification, and Mandatory Sentencing Laws**

A requirement for most sex offenders living in the community is entry into the public sex offender registry. Sex offender registration laws are a relatively recent supervisory tool intended to promote public safety and reassurance. In their most basic character, registration laws create systems for tracking sex offenders following their release into the community (Sex Offender Sentencing, Monitoring, Apprehension, Registration and Tracking Office, 2008). The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act (1992) was the first law to set this trend into motion. This act required states to implement a sex offender registry program and for sex offenders to register their name and residential address with local law enforcement agencies. This act was later amended to include a community notification system in 1996 by Megan's law. Megan's law (1996) requires offender registries to release information to communities. Release of information has been defined as:

(1) The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State. (2) The designated State law enforcement agency and any local law enforcement agency authorized by the State agency shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released (Megan's Law, 1996).

In the same year, the Pam Lychner Sexual Offender Tracking and Identification Act (1996) was passed mandating lifetime registration for certain offenders, including those who have two or more sexual offenses against a minor, those convicted of aggravated sexual abuse, or those determined to be a sexually violent predator. However, even with the Jacob Wetterling Act, Megan's Law, and the Pam Lychner Act, an additional law was passed in 2005, Jessica's Law, as the result of the current laws' failure to truly protect children from violent sexual predators. Spurred by the kidnapping, sexual assault, and murder of a nine-year-old Florida girl, Jessica's Law (2005) was intended to increase punishment and monitoring of sex offenders. This law set a mandatory 25 years to life sentence for any offender convicted of a sex crime against a child under the age of 12. In addition offenders not sentenced to a life term, upon release, are required to wear a GPS device to constantly monitor their whereabouts (Jessica Lunsford Act, 2005).

Until recently, with the passing of the Adam Walsh Act (2006), or more specifically title I of this act, the Sex Offender Registration and Notification Act (SORNA), registration and notification laws have been a patchwork of standards with limited uniformity. SORNA (2006) was passed by congress and signed by President George W. Bush with the intent of providing more uniformity in sex offender registration and notification laws. This act added additional stipulations for sex offender registration to include a three tier registration system, an increased span of sex offenses requiring registration, and an increased penalty for failure to register (Adam Walsh Child Protection and Safety Act, 2006). As a result of this act all 50 states, the District of Columbia, principle U.S. territories, and tribal districts have sex offender registration and

notification systems (Sex Offender Sentencing, Monitoring, Apprehension, Registration and Tracking Office, 2008).

### **Recidivism**

Despite these cautionary regulations put in place, about one in five sex offenders under supervision in the community will be re-arrested for a sex offense (Greenfield, 1997). Twenty-four percent of prisoners serving time for rape and 19% of prisoners serving time for sexual assault were under community supervision at the time they committed their current offense. This information reveals that recidivism is a problem for a portion of sex offenders. Behavioral sciences generally refer to recidivism as repetitions of socially unacceptable or morally questionable behavior despite punishment or training to discourage such behavior. In legal contexts, recidivism is defined as the re-arrest, re-conviction, or re-incarceration of former inmates (Langan, Schmitt, & Durose, 2003). The recidivism rate of sex offenders is lower in comparison to the general violent offender population, with only 19.5% of sex offenders re-arrested compared to 41% of other violent offenders who get re-arrested within three years. However, sex offenders are increasingly more likely than the general violent offender population to be arrested for a new sex crime, with rapist 10 times more likely to be re-arrested for rape than non-rapist and sexual assaulters 7 times more likely to be re-arrested for sexual assault than those not previously convicted of sexual assault (Greenfield, 1997). Approximately 40% of sex offenders that recidivate commit their crimes within the first year following their release from prison. Age of release and prior prison sentence served does not appear to affect the recidivism rate of sex offenders, as is normally the case with other violent

offenders. However, one consistent predictor of recidivism in sex offenders is prior arrests. Those with more extensive records of arrests for sex crimes are twice as likely to be arrested for a new sex crime as those with only one prior arrest (Langan, Schmitt, & Durose, 2003).

Donald Ray Gideon is a prime example of a sex offender recidivist. Gideon was a malevolent man with an extensive criminal history. He was considered out of control as an adolescent and became a ward of the state at the age of 13. He had offenses including theft, burglary, armed robbery, and aggravated juvenile delinquency. He was in and out of facilities most of his life, and even served a ten year prison sentence after he raped and sodomized a 19-year-old college student at knife-point in 1982 (Smith, 1998). After his sentence, Gideon was released and came to reside in Pittsburg, Kansas. He obtained employment at a local restaurant where he met fellow employee, Stephanie Schmidt. Stephanie was a 19-year-old co-ed attending Pittsburg State University and was getting ready to celebrate her 20<sup>th</sup> birthday. Gideon's violent criminal history was not disclosed to his place of employment or to Stephanie Schmidt, and as a result Stephanie never got to celebrate her approaching birthday. Three days before the celebration she was kidnapped, raped, sodomized, and murdered by Donald Ray Gideon (Batterton, 2008).

### **Sexual Psychopathy Laws**

After this incident and many other similar and tragic stories, legislatures in many states agreed that a small but dangerous group of repeat sexual offenders existed, and a duty was present to protect the public from their sexually deviant behavior. This concept is not unfamiliar. In the 1930's legislative interest in identifying and containing

dangerous sex offenders came to fruition when Michigan passed the first “sexual psychopath” law. By 1939, three states had passed similar laws targeting this population. The concept behind most of these laws was that sex offenders are psychologically disturbed and should receive treatment rather than punishment for their behavior. Under this assumption sexual psychopaths were committed to mental health facilities for treatment rather than receiving a prison sentence for their crime (Lieb & Matson, 1998). By the late 1960’s over half of the states had sexual psychopath laws, but these laws quickly lost public support due to their difficult application, racial bias, and the decreasing concern for the rights of sex offenders (Comer, 2010). Legislatures also noticed that the traditional mental health facilities were inadequate to address the special needs and risks the population presented. Traditional mental health facilities which were intended to treat the mentally ill, provided sex offenders’ access to potential victims, and the traditional therapies offered at most psychiatric hospitals were inadequate to address the very extensive and long-term needs of the sex offenders. (Vess, Murphy, & Arkowitz, 2004) For these reasons, the 1990’s ushered in a new standard in sex offender laws known as the sexual predator laws.

### **Sexual Predator Laws**

Sexual predator laws differ significantly from their previous counterpart in three major ways. First, sexual predator laws require commitment to a treatment center *after* criminal sentences have already been served, rather than having treatment be the alternative to serving criminal sentences. Second, whereas previous laws applied to anyone who had committed a sex offense, predator laws generally target repeat offenders.

And third, offenders committed under the new laws remain in treatment *until* they are judged safe to be released, which in many cases could mean indefinite commitment (Lieb & Matson, 1998). Currently twenty states (Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, Wisconsin) and the District of Columbia have sexual predator laws set into place (Association for the Treatment of Sex Abusers, 2010).

Before the process of sexual predator laws can be discussed, basic definitions within the law need to be addressed. Many states use identical or similar definitions within their own state's specific sexual predator law, therefore for the purpose of this paper, the Kansas definitions from the Kansas Sexually Violent Predator Act (1994), will be used. In addition, when referring to sexual predator laws, the Kansas Sexually Violent Predator Act (1994) will be the act referenced. Imperative definitions to the present research are as follows:

1. "Sexually violent predator" means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeat acts of sexual violence (K.S.A. 59-29a02, 1994).

There are three distinct criteria within this definition needing to be met to satisfy the entire definition, they are:

- (a) Person has been convicted of or charged with a sexually violent offense, (b) suffer from a mental abnormality or personality disorder, and

(c) this disorder makes the person likely to engage in future predatory acts of sexual violence (K.S.A. 59-29a01, 1994).

2. “Mental abnormality” means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others (K.S.A. 59-29a02, 1994).

3. “Likely to engage in repeat acts of sexual violence” means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others (K.S.A. 59-29a02, 1994).

Sexually violent offenses include:

(a) Rape, (b) indecent liberties with a child, (c) criminal sodomy, (d) indecent solicitation with a child, (e) sexual exploitation of a child, (f) aggravated sexual battery, (g) any conviction for a felony at any time prior to the law’s effective date that is comparable to this definition, (h) any federal or other state conviction for a felony offense that would meet the Kansas definition of sexually violent offense (K.S.A. 59-29a02, 1994).

### **SVP Process**

The process at which an offender can be civilly committed under any given sexual predator law is similar across states. In Kansas the process begins when a person who has been convicted of one or more sexually violent offenses is scheduled for release from incarceration in 90 days. The person is evaluated to determine whether he or she meets the definition of a “sexually violent predator,” presented in K.S.A. 59-29a02 (1994). An

inter-disciplinary team consisting of representatives from the Kansas Department of Aging and Disability Services (KDADS), Juvenile Justice Authority (JJA), and Kansas Department of Corrections (KDOC) make this determination, which is then forwarded to the court and other appropriate personnel. Once the court has received the evaluation results, the attorney general decides whether there is sufficient evidence to file a case, and if so a case is filed. Once a case has been filed a probable cause hearing takes place to determine if probable cause exists to believe the person named is a sexually violent predator. If probable cause does exist the person is referred to Larned State Hospital (LSH) for an evaluation by a mental health professional, normally a licensed psychologist. On the completion of the evaluation, a civil hearing is held. The defendant has the right to an attorney, his or her own expert witnesses, and a jury or bench trial. After the proceedings of a trial, the court or jury then has the responsibility, based on the evidence, to determine if the person is a sexually violent predator. If deemed so the person is transferred to Larned State Hospital's Sexually Violent Predator Treatment Program (SPTP) for control, care, and treatment in a secure facility until he or she is considered safe to be released to a less restrictive environment (K.S.A. 59-29a02, 1994).

### **Kansas SPTP**

The Kansas Sexually Violent Predator Treatment Act (1994) was created with the intention of protecting the public from further sexual victimization by locating the most dangerous repeat sex offenders and offering them a program of treatment to reduce their risk of re-offense. However, the broad definitions included within the law and the public distaste for sex offenders has consequently created a dumping ground for offenders who

have been socially banished because of their offenses. This “dumping ground” is not cheap to keep in operation and expenses rise every year as more offenders join the program.

Kansas’s Sexual Predator Program (SPTP) is located on the grounds of Larned State Hospital (LSH), and for the 2012 fiscal year, a budget of \$6,029,673 was reserved to house and treat the residents (A. Des Lauriers, personal communication, September, 2012). As of March 2010, the program has been operating above capacity, serving over 200 residents that have been court ordered to the program. The projected growth for the Kansas SPTP program is approximately 330 residents in 2018 (Huss, 2008). The estimated cost to house and treat these individuals is high at \$80,000 per resident per year (Lieb & Matson, 1998). In addition, as the program gets older so do the residents, and with aging residents comes additional medical care costs. Despite the collective costs, sexual predator laws remain popular among states. In fact, with the declaration of the Kansas Sexual Violent Predator Act (1994) being constitutional in *Kansas v. Hendricks* (1997) and *Kansas v. Crane* (2002), more and more states are passing their own sexual predator laws.

### **Kansas v. Hendricks**

*Kansas v. Hendricks* (1997) was one of the first Supreme Court cases that challenged the constitutionality of sexual predator laws. Leroy Hendricks, a convicted child molester, was the first offender committed to the Kansas SPTP program in 1994. Mr. Hendricks confessed that he would continue to sexually abuse children if given the opportunity, but despite his own admissions, he challenged the Kansas SVP statute under

which he was detained claiming it was unconstitutional on a double jeopardy (a second criminal punishment for a single crime) and *ex post facto* basis (a new punishment for a past crime) (Kansas v. Hendricks, 1997). At the conclusion of the trial, the Supreme Court defended the Kansas legislation in a 5-to-4 decision. The court supported the act, citing that even though Mr. Hendricks was criminally convicted prior to his civil commitment; criminal conviction was not a prerequisite for confinement under that Kansas SVP statute. It was additionally noted that the Kansas statute was not intended to be retributive or deterrent in nature, but like other conventional civil commitment statutes, intended to both incapacitate and to treat offenders therapeutically. The case further concluded that Mr. Hendricks was not entitled to be discharged merely on the grounds that he was untreatable, just as someone with a highly contagious untreatable disease would also not be released from treatment. Justice Clarence Thomas wrote for the majority, “We have never held that the constitution prevents a state from civilly detaining those for whom no treatment is available, but who nevertheless pose a danger to others” (Kansas v. Hendricks, 1997).

### **Kansas v. Crane**

In Kansas v. Crane, (2002), Michael Crane, who was diagnosed with exhibitionism and antisocial personality disorder, held the State must show not merely likelihood that he would engage in repeat acts of sexual violence, but also an inability to control his violent behavior. State experts agreed that while Mr. Crane was diagnosed with a personality disorder that made it difficult for him to control his behavior, the disorder did not impair his volitional control to the point he was *unable* to control his

violent behavior. In the end, the Supreme Court ruled against Crane in a 7-2 split, citing under the law individuals do not need to demonstrate the *complete* inability to control themselves in regards to sexual violence, but instead they only need to be diagnosed with a mental abnormality or personality disorder that makes it “difficult” for them to control their dangerous behavior.

### **Clinical Implications**

A more substantial implication for the wave of new sexual predator laws is not entirely a legal implication, but rather an ethical one. Not only do the SVP laws have questionable legality, but they are riddled with ethical dilemmas as well. Under these laws psychologists must render an opinion on two critical matters: does the person have a mental disorder, and what is the “likelihood” the person will sexually recidivate if released into the community because of this disorder. An individual cannot be classified as a sexually violent predator unless found to be positive on both criteria. Thus expert testimony provided by psychological professionals plays an integral role in the outcome of trial (Jackson & Hess, 2007). The law’s phrasing of “likely” in “likely to engage in future predatory acts of sexual violence” implies that evaluators conducting sexual predator evaluations for the court must “predict” future behavior. However, the act of detaining an individual based on “predicted” behavior ventures into a very dubious area of ethics (Applebaum, 1998). To deal with the ambiguity, clinicians often take a comprehensive approach in conducting their sexual predator evaluations (Miller, Amenta, & Conroy, 2005). Clinicians conducting sexual predator evaluations are given considerable leeway in how they choose to conduct their evaluations. However, a

majority of clinicians in the forensic field agree that the assessment of paraphilias, substance abuse, personality disorders, and the assessment of psychopathy are essential in a sexual predator evaluations (Jackson & Hess, 2007).

### **Psychopathy**

Psychopathy, a characterological disorder characterized by the inability to generate empathy or remorse towards others masked by the presence of egocentrism and deceitfulness, has had a long historical interest and has been recognized by psychiatry far before it began to take the shape as a formal psychiatric disorder. The writings and case studies by clinicians such as Harvey M. Cleckley (1941) were particularly important in the initiation of its development. His book, *The Mask of Sanity* (1941), described the psychopath as an individual characterized by 16 different traits:

(a) superficial charm and good intelligence, (b) absence of delusions and other signs of irrational thinking, (c) absence of nervousness or other psychoneurotic manifestations, (d) unreliability, (e) untruthfulness and insincerity, (f) lack of remorse or shame, (g) inadequately motivated antisocial behavior, (h) poor judgment and failure to learn by experience, (i) pathological egocentricity and incapacity for love, (j) general poverty in major affective reactions, (k) specific lot of insight, (l) unresponsiveness in general interpersonal relationships, (m) sometimes uninviting behavior with drink, (n) suicide rarely carried out, (o) sex is impersonal, (p) trivial, (q) poorly integrated, (r) failure to follow up with any life plans (Cleckley, 1941)

Even with these characteristics presented, an operational definition of psychopathy was not attempted until 1975 at the NATO Advanced Study Institute (ASI). The debate over psychopathy definitions at the convention subsequently led to the development of measurement instruments and the DSM-III (American Psychiatric Association, 1980) criteria for antisocial personality disorder (Hare, 2007). Currently, the agreed upon conceptualization of psychopathy consists of multiple traits, including interpersonal (egocentricity, deceit, shallow affect, and lack of empathy) and behavioral traits (lying, stealing, or truancy). The forces that influence the development of psychopathy however are debatable. Research suggests it is likely a product of complex interactions between biological/temperamental predispositions and social forces (MacDonald & Iacono, 2006). One of the most troublesome features of the disorder is the lack of empathy for others, giving rise to the high potential of predatory and violent behavior (Hare, 2007). Today there are several instruments available to assess for psychopathy professionally and accurately, but the Psychopathy Checklist-Revised (PCL-R) by Robert Hare appears to be the leading selected tool (Hare, 1991, 2003).

### **Hare Psychopathy Checklist-Revised**

The Hare Psychopathy Checklist-Revised (PCL-R) (Hare, 2003), is one of the most well established and empirically researched risk assessment instruments available to the forensic community (Archer, Buffington-Vollum, Stredny, & Handel, 2006; Lally, 2003). It has been described as “the gold standard for the assessment of psychopathy” (Acheson, 2005, p. 431), and “state of the art...both clinically and in research use” (Fulero, 1995, p. 454). Currently the PCL-R consists of 20 items:

(a) glibness/superficial charm, (b) grandiose sense of self-worth, (c) need for stimulation/proneness to boredom, (d) pathological lying, (e) conning/manipulative, (f)lack of remorse or guilt, (g) shallow affect, (h) callous/lack of empathy, (i) parasitic lifestyle, (j) poor behavioral controls, (k) promiscuous sexual behavior, (l) early behavioral problems, (m) lack of realistic long-term goals, (n) impulsivity, (o) irresponsibility, (p) failure to accept responsibility for own actions, (q) many short term marital relationships, (r) juvenile delinquency, (s) revocation of conditional release, (t) criminal versatility (Hare, 2003)

Items are designed to assess an individual's level of psychopathy. The above items are scored based on information obtained from a semi-structured interview and review of any pertinent file and collateral information. These items are scored as either 0 = no, 1 = maybe, or 2 = yes, with total scores ranging from 0 to 40. Typically a score of 30 or higher would classify an individual as a psychopath (Hare, 2003).

### **Appropriateness of the PCL-R in Sexual Predator Evaluations**

The main role the measurement of psychopathy, as determined by the PCL-R, has in court is to satisfy the second condition within the law by providing support that the sex offender has a mental disorder. However, because of a significant amount of literature that links psychopathy and recidivism (Hemphill, Wong, & Hare, 1998; Leistico, Salekin, DeCoster, & Rogers, 2008), the presence of psychopathy has unpretentiously satisfied the third condition, likelihood to engage in sexual recidivism, as well. Courts gauging

recidivism probability based on PCL-R scores has raised the concern as to whether the PCL-R is being used/presented correctly in sexual predator evaluations.

Not all clinicians use the PCL-R to predict sexual recidivism. Rather to satisfy condition three, some clinicians choose to use instruments more specifically designed for the purpose of calculating the probability of recidivism in sex offenders. Two of these instruments are the Static-99 (Hanson & Thornton, 1999) and the Minnesota Sex Offender Screening Tool- Revised (MnSOST-R) (Epperson et al., 1998).

### **Static-99**

The Static-99 (Hanson & Thornton, 1999) was created to assess the long-term potential of adult male sex offenders to violently or sexually recidivate. The scale is composed of ten items, which were chosen based on the strength of prediction of sexual recidivism, relevance, and ease of use (Hanson & Bussiere, 1998). As implied by its name, the Static-99 is composed of all static risk factors. These risk factors are:

1. Youth
2. Short Term Relationships
3. Conviction of non-sexual index violence
4. Conviction of prior non-sexual violence
5. Prior Sex Offenses
6. Prior sentencing dates (excluding index)
7. Conviction for non-contact sex offenses
8. Unrelated Victims
9. Stranger Victims

## 10. Male Victims

Each factor is rated on a numerical scale of either zero or one, with the exclusion of factor five which has the possibility of being scored up to a three. Scores are assigned to each factor based on available file information, and a total score of 12 is possible. Total scores of six and above are considered high risk. There is also a probability of recidivism table available based on these categories separated by 5, 10, and 15 year probabilities to both violently and sexually recidivate. The Static-99 is one of the most used instruments for the prediction of sexual recidivism, and is also the most studied (Archer et al., 2006; Saleh, Grudzinskas, Bradford, & Brodsky, 2009). The instrument has been normed on in-patient and out-patient sex offenders, as well as forensic psychiatric patients (Hanson & Thornton, 1999). These norms have been studied and appear to generalize across cultures. Overall, the Static-99 is supported by statistical data indicating strong reliability and validity.

### **MnSOST-R**

The Minnesota Sex Offender Screening Tool- Revised (MnSOST-R) (Epperson et al., 1998) is a 16-item rating scale designed to predict sexual recidivism among rapists and extra familial sex offenders. Similar to the Static-99, the first 12 items measure static or historical risk factors. The remaining four factors measure dynamic or institutional factors. Each item has its own numerical rating scale, with scales ranging from -3 to +4. An overall total score of 31 is possible. Total scores of eight and above are considered high risk, and a score of 13 or above is recommended for commitment. A total score of 13 or higher has a corresponding 88% chance of recidivism. The MnSOST-R manual

reports acceptable psychometric properties for the instrument. However, follow-up studies have mixed reviews for the instruments psychometric properties (Barbaree, Seto, Langton, & Peacock, 2001; Bartosh, Garby, Lewis, & Gray, 2003; Robert, Doren, & Thornton, 2002). Despite the mixed reviews, at least eight states use the MnSOST-R in their routine sexual predator evaluations (Interstate Commission for Adult Offender Supervision, 2007).

### **The Current Study: Hypotheses and Purpose**

It is no surprise that clinicians' use the PCL-R to assess for psychopathy in sexual predator evaluations, and that most courts are also receptive to testimony based on PCL-R scores when considering the possibility of future sexual violence due to the amount of literature supporting such use (Dematteo & Edens, 2006; Hare, Clark, Grann, and Thornton, 2000; Hemphill, Wong, and Hare, 1998; Walsh & Walsh, 2006). However, since the PCL-R was created to measure the construct of psychopathy, not sexual recidivism, there is a concern as to the degree of appropriateness of this secondary application. The purpose of the current study is to evaluate just how appropriate this application is. To do this, the construct validity of the PCL-R for the purposes of predicting sexual recidivism will be evaluated. The PCL-R manual provides data supporting the construct validity of the PCL-R for the purpose of measuring psychopathy, but there is no data supporting the construct validity of the PCL-R for the purpose of measuring sexual recidivism.

Construct validity is extremely important when developing a measurement instrument in the psychological fields. Construct validity refers to the ability of an

instrument to measure the psychological concept being studied (Cronbach & Meehl, 1955). Without high construct validity, the instrument is not measuring the construct it claims to measure. In the determination of an instrument's construct validity; one subtype of validity that is examined is convergent validity. A measure has high convergent validity when it correlates with other measures that evaluate the same construct (Domino & Domino, 2006). For the purposes of this study correlations between the PCL-R, and two instruments designed to evaluate recidivism in sex offenders, the Static-99 and MnSOST-R, will be evaluated. The Static-99 and MnSOST-R have shown to be moderately/highly predictive of recidivism in sex offender (Langton et al., 2007; Stadtland et al., 2005). Therefore, if significant correlation scores are present among the instruments, as hypothesized, the use of the PCL-R for the purpose of recidivism prediction in sexual predator evaluations is supported.

### **Hypothesis One**

The PCL-R was created for the purpose of evaluating the construct of psychopathy, not recidivism. However, a significant amount of research shows a strong correlation between psychopathy and recidivism. Therefore it is hypothesized PCL-R scores will significantly correlate with Static-99 scores.

### **Hypothesis Two**

The PCL-R was created for the purpose of evaluating the construct of psychopathy, not recidivism. However, a significant amount of research shows a strong correlation between psychopathy and recidivism. Therefore it is hypothesized PCL-R scores will significantly correlate with MnSOST-R scores.

## METHODOLOGY

### **Subjects**

For the purpose of this study, a secondary database with de-identified subjects was utilized. The database was comprised of 125 subjects who were residents on the Sexual Predator Treatment Program (SPTP) at Larned State Hospital (LSH). All the subjects were male and had been civilly committed to the SPTP program after being determined sexually violent predators by the court. Of the 125 subjects whom reported a race, the vast majority were European-American (81%), followed by African American (9%), Hispanic American (6%), Native American (2%), and Other (1%). Age of the subjects varied from 27 to 86, with a mean age of 48 ( $SD=11.25$ ). In regards to marital status; 41% were separated or divorced, 38% were single or never married, 6% were married, and 15% did not report a status. The distribution of this sample closely reflects the population of committed sex offenders, who are predominately middle-aged white males (Durose & Langan, 2007).

### **Measures**

Three separate measures were examined in this research. They were the Hare Psychopathy Checklist – Revised (Hare, 2003), the Static-99 (Hanson & Thornton, 1999), and the Minnesota Sex Offender Screening Tool – Revised (Epperson et al., 1998).

#### **Hare Psychopathy Checklist- Revised (PCL-R)**

The PCL-R (Hare, 2003) is a 20-item assessment tool used in the measurement of psychopathy. The original tool was created in 1991 by Robert D. Hare to assess for the characteristics of psychopathy most notably conceptualized by Cleckly's work, *The Mask*

*of Sanity*, (1941). Items within the checklist are scored on a three-point scale (0= no, 1= maybe, 2=yes), with a total possible score of 40. Total scores of 30 or above are considered to be within the cut-off reflecting the diagnosis of psychopathy.

### **Static-99**

The Static-99 (Hanson & Thornton, 1999) is one of the most frequently used sex offender risk assessment tools used world-wide (Archer et al., 2006). It was created by R. Karl Hanson, Ph.D. And David Thornton, Ph.D. as a brief actuarial assessment designed to estimate the probability of sexual recidivism in adult male sex offenders. The scale includes ten items that measure static risk factors associated with sexual recidivism. Each item is scored on a numerical scale with 12 being the maximum total score attainable. Total scores of six or higher are classified as high risk.

### **Minnesota Sex Offender Screening Tool- Revised (MnSOST-R)**

The MnSOST-R (Epperson et al., 1998) is a 16-item rating scale designed to predict sexual recidivism among sex offenders. The first 12 items measure static or historical risk factors, while the remaining four factors measure dynamic or institutional factors. Each item has its own numerical rating scale, with scales ranging from -3 to +4. An overall total score of 31 is possible. A score of eight and above is considered high risk, and a score of 13 or above is recommended for commitment.

### **Procedure**

This researcher used a database composed of PCL-R, Static-99, and MnSOST-R scores reflecting cut-off labels. The database included data from the mentioned measures on 125 subjects from the Sexual Predator Treatment Program (SPTP) at Larned State

Hospital (LSH) in Larned, KS. Data was transposed from an excel file into a SPSS 20 file, and then analyzed accordingly.

## RESULTS

Analyses were conducted to test the two hypotheses previously discussed. For both hypotheses a Spearman's Rank-Order correlation was utilized to evaluate the strength of relationships between the variables. A Spearman's Rank-Order correlation was the best-suited test to evaluate the data, as there was no linear relationship between the variables due to the way they were labeled. Each variable had three value labels grouping the data for each variable into one of three classifications. Cut-offs for these classifications were based on the raw scores obtained and the recommended cut-offs respectively included in the PCL-R, Static-99, and MnSOST-R manuals. For the variable psychopathy level, the three classifications were no psychopathy (1), low psychopathy (2), and high psychopathy (3). For the Static-99, the three classifications were low recidivism risk (1), moderate recidivism risk (2), and high recidivism risk (3). The same classifications of low (1), moderate (2) and high recidivism risk (3) were also used for the variable MnSOST-R (See Table 1). A fourth category, labeled excluded and represented by the number 4, was also included in the original database for the variable MnSOST-R. This label was assigned to one participant. For analysis purposes, this value label was omitted because it jeopardized the monotonic relationship between the variables and was better represented as a blank.

In addition to the Spearman's Rank-Order correlations, split-file frequencies were also conducted for both hypotheses to further evaluate the relationship between the

variables. Bar charts are included to provide a better understanding of the relationships between the variables portrayed by the split-file analyses (See Figures 1 and 2).

To ensure the Static-99 ( $M=2.22$ ,  $SD=.87$ ) and the MnSOST-R ( $M=1.97$ ,  $SD=.87$ ) were measuring the same construct (sexual recidivism risk) in this study's sample, a Spearman's Rank-Order correlation was performed before testing the two hypotheses. The analysis revealed the correlation between the Static-99 and MnSOST-R was statistically significant,  $r_s(55)=.60$ ,  $p<.01$  (two-tailed) (See Table 3), supporting the assumption the instruments were measuring the same construct.

### **Hypothesis One**

To assess whether recidivism risk levels as measured by the Static-99 ( $M=2.22$ ,  $SD=.87$ ) could be predicted from psychopathy levels as measured by the Hare Psychopathy Checklist-Revised (PCL-R) ( $M=2.00$ ,  $SD=.82$ ) a Spearman's Rank-Order correlation was conducted. For a perfect relationship to exist between the two variables, those receiving a 1 on psychopathy level would also need to have a 1 on recidivism risk, those with a 2 on psychopathy level would need a 2 on recidivism risk, and so on. It would be unlikely for a perfect relationship to exist between the variables, but a significant relationship would suffice to support the use of the PCL-R for predicting recidivism. However, this analysis did not display a significant relationship. The analysis revealed the correlation between PCL-R scores and Static-99 scores was not statistically significant,  $r_s(61)=.05$ ,  $p>.01$  (two tailed) (See Table 3).

Split file frequencies further supported the lack of a significant relationship between the variables (See Table 4). PCL-R value label, no psychopathy (1), factored highest onto the Static-99 value, high risk (3) (63%). Low psychopathy (2) factored evenly onto all three recidivism values, low (1), moderate (2), and high (3) (33%). Lastly, high psychopathy (3) factored highest onto high risk (3) (58%) (See Figure 1). No consistent relationship between the values was present.

### **Hypothesis Two**

To assess whether recidivism risk levels as measured by the MnSOST-R ( $M=1.97$ ,  $SD=.87$ ) could be predicted from psychopathy levels as measured by the Hare Psychopathy Checklist-Revised (PCL-R) ( $M=2.00$ ,  $SD=.82$ ) a Spearman's Rank-Order correlation was conducted. The analysis revealed the correlation between PCL-R scores and MnSOST-R scores was not statistically significant,  $r_s(65)=.15$ ,  $p>.01$  (two-tailed) (See Table 3).

Split file frequencies further supported the lack of a significant relationship between the variables (See Table 5). PCL-R value label, no psychopathy (1), factored highest onto the MnSOST-R value, low recidivism risk (1) (50%). Low psychopathy (2) marginally factored highest onto low recidivism risk (1) (40%), and high psychopathy (3) factored highest onto high recidivism risk (3) (44%) (See Figure 2).

Table 1

*Variables and Method of Assessment with Applicable Value Labels*

Variable	Assessment Method	Value Labels
Psychopathy Level	PCL-R	1 = No psychopathy 2 = Low psychopathy 3 = High psychopathy
Static-99 Recidivism Risk	Static-99	1 = Low risk 2 = Moderate risk 3 = High risk
MnSOST-R Recidivism Risk	MNSOST-R	1 = Low risk 2 = Moderate risk 3 = High risk

Table 2

*Mean and Standard Deviation Values for All Variables*

Variable	Mean ( <i>M</i> )	Standard Deviation ( <i>SD</i> )
Psychopathy Level	2.00*	.82
Static-99 Recidivism Risk	2.22**	.87
MnSOST-R Recidivism Risk	1.97***	.87

\*  $N = 125$ . \*\* $N = 63$ . \*\*\* $N = 67$

Table 3

*Correlations Between the PCL-R, Static-99, and MnSOST-R*

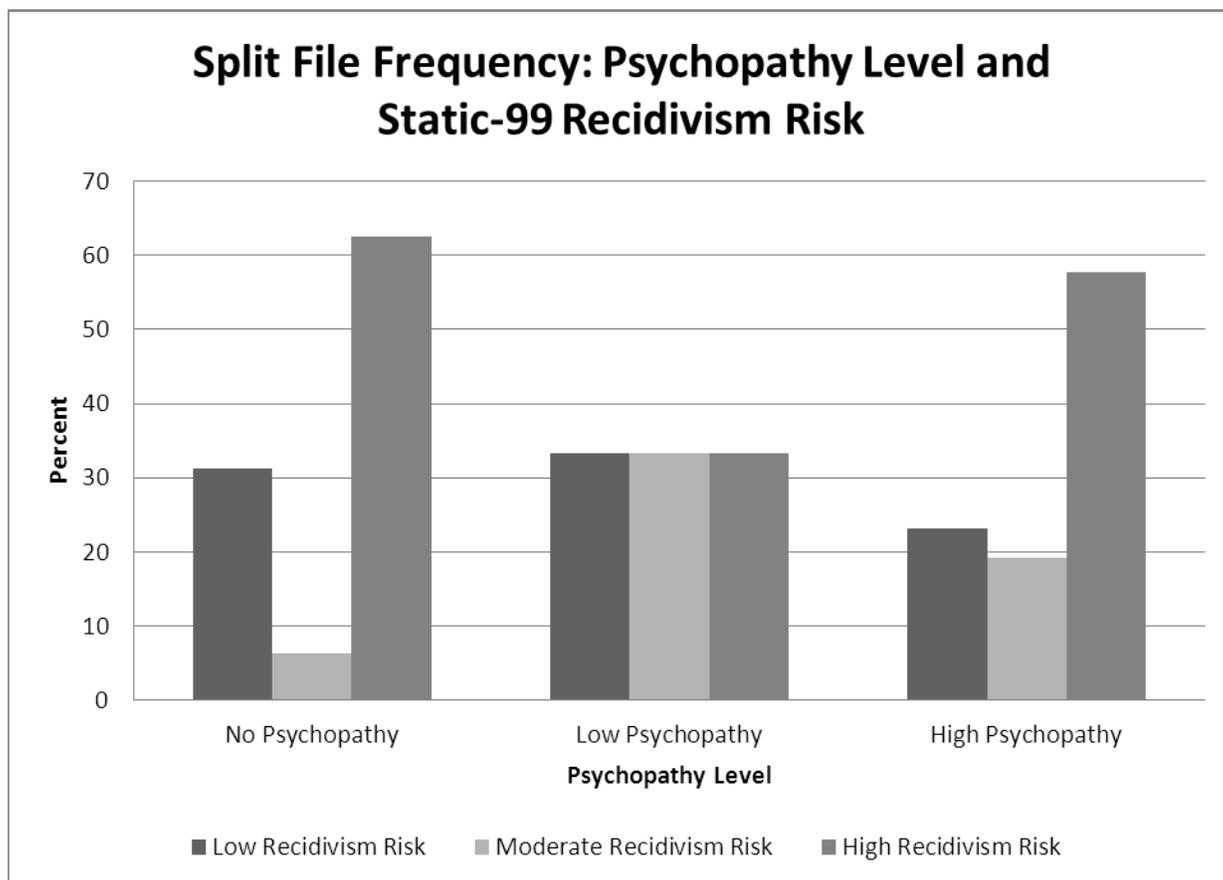
Measure	PCL-R	Static-99	MnSOST-R
PCL-R	_____		
Static-99	.05	_____	
MnSOST-R	.15	.60*	_____

\*  $p < .01$

Table 4

*Split-File Frequency Percentages Between the PCL-R and Static-99 Cut-Off Labels*

Psychopathy Level	Static-99 Recidivism Risk Level	Valid Percent
No psychopathy	Low risk	31
	Moderate risk	6
	High risk	63
Low Psychopathy	Low risk	33
	Moderate risk	33
	High Risk	33
High Psychopathy	Low risk	23
	Moderate risk	19
	High risk	58

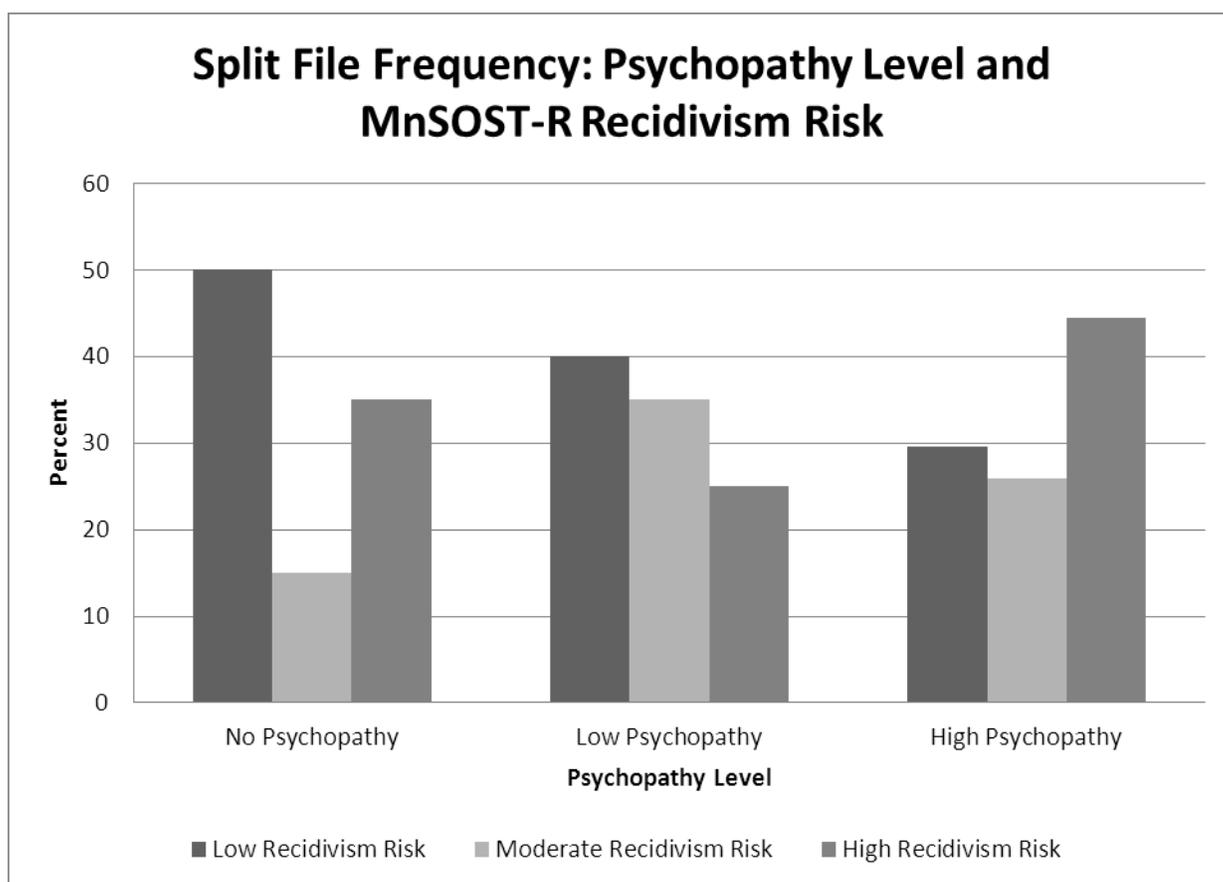


*Figure 1:* Split-file frequency between psychopathy level and Static-99 recidivism risk levels, displayed as percentages.

Table 5

*Split-File Frequency Percentages Between the PCL-R and MnSOST-R Cut-Off Labels*

Psychopathy Level	MnSOST-R Recidivism Risk Level	Valid Percent
No psychopathy	Low risk	50
	Moderate risk	15
	High risk	35
Low psychopathy	Low risk	40
	Moderate risk	35
	High risk	25
High psychopathy	Low risk	30
	Moderate risk	26
	High risk	44



*Figure 2:* Split-file frequency between psychopathy level and MnSOST-R recidivism risk levels, displayed as percentages.

## DISCUSSION

According to Kansas's Sexually Violent Predator Treatment Act, (2004) three criteria must be satisfied to be civilly committed as a sexually violent predator. In brief, the person must have committed past sexual offenses, have a mental abnormality, and is likely to sexually re-offend if in the community. Psychopathy, as assessed by the PCL-R, is one approach clinicians' take during sexual predator evaluations to satisfy condition two, mental abnormality. The PCL-R was created as a means to measure the construct of psychopathy, however due to the amount of literature (Dematteo & Edens, 2006; Hare, Clark, Grann, and Thornton, 2000; Hemphill, Wong, and Hare, 1998; Walsh & Walsh, 2006) linking psychopathy to recidivism, the PCL-R has additionally been used to evaluate the construct of recidivism and support criteria three, likely to sexually re-offend if in the community. A survey conducted by Walsh and Walsh, (2006) reveals this trend, "Being assessed as psychopathic by the PCL-R was generally cited as a factor that experts testifying for the state considered in reaching the conclusion that the defendant would likely commit future sex offenses" (p.498). The purpose of the current study was to investigate whether the secondary application of the PCL-R for predicting sexual recidivism in sexual predator evaluations is appropriate.

To evaluate this statement, PCL-R cut-off labels for psychopathy (No psychopathy, Low psychopathy, High psychopathy) were correlated to Static-99 and MnSOST-R recidivism cut-off labels (Low risk, Moderate risk, and High risk). Correlations in both analyses were not significant, challenging this researcher's original hypotheses that PCL-R scores would be significantly correlated to the two measures.

This raises the question as to why this study was not able to demonstrate a relationship between psychopathy and recidivism, as so many other studies were able to do.

Perhaps, the findings in this study were not a fluke. A more detailed literature review revealed a definition problem within previous literature. In a large portion of the literature used to support psychopathy as a predictor of recidivism, the term recidivism was used comprehensively, sweeping the different types of recidivism into one definition. This is likely overlooked when citing these sources in court. One study that defined recidivism in more detail (Barbaree et al., 2001) evaluated the predictive accuracy of several risk assessment instruments, including the PCL-R. In Barbaree's study (2001), the term recidivism was broken down into:

1. Any recidivism: meaning a re-offense of any kind (p. 502).
2. Serious recidivism: meaning new non-sexually violent or sexual re-offense (p. 502-503).
3. Sexual recidivism: meaning sexual re-offense involving physical contact with the victim (p. 503).

Findings revealed the PCL-R was able to predict general and serious recidivism, but not sexual recidivism (Barbaree et al., p. 507). This may provide a hint as to why so many studies have been able to find a strong link between psychopathy and recidivism and this study was not able to: a definition problem.

Like Barbaree et al. (2001), another recent study found similar results (Coid, Ullrich, and Kallis, 2013). In a press release, Coid stated instruments used to predict how

likely a psychopathic prisoner is to re-offend are “utterly useless” and “you might as well toss a coin” (Kelland, 2013, p.1). Results of Coid’s study revealed that while risk assessment tools were relatively accurate for predicting recidivism in prisoners with no mental disorders (75%), they were less accurate with psychopathic prisoners (46%). Applying this research to sexual predator evaluations creates a predicament, as the presence of a mental disorder is essential in sexual predator evaluations. In conclusion, Coid provides great recommendations for this predicament stating, “We need to prioritize the development of new assessment tools for these hard-to-predict-groups” (Kelland, 2013 pg.2). In addition to this valid suggestion, it would be also be beneficial for future research to conduct longitudinal studies measuring the real-world recidivism rates of released psychopathic sex offenders.

### **Limitations**

There are a couple limitations to the current study. First, while data was collected from 125 participants, not every participant had a score on all three measures. This decreased the sample population by at least half in each analysis. Due to the decreased  $N$ , the chances of finding significant results were also decreased. This is duly noted, however since significant results were found in the correlation between the Static-99 and MnSOST-R, which had the lowest  $N$  of all the analyses, it is unlikely the decreased population was a significant issue in this study.

Another limitation of the study was a methodological one. The purpose of the study was to evaluate whether the PCL-R could appropriately be used as a tool for predicting sexual recidivism in sexual predator evaluations. This was attempted by

correlating PCL-R cut-off labels to Static-99 and MnSOST-R cut-offs labels. Even though the Static-99 and MnSOST-R have been shown to moderately-highly predict sexual recidivism, no instrument is 100% accurate. A study in which actual recidivism is evaluated in conjunction with PCL-R scores would better reflect the real world relationship between the PCL-R and its ability to predict sexual recidivism.

### **Clinical Implications**

Sexual predator evaluations and court proceedings have always been riddled with clinical implications, appropriate test application is just one of many. Clinicians conducting sexual predator evaluations are inherently stuck between a rock and a hard spot. They play a role in protecting the public from repeat sex offenders' predatory behaviors, but also play a role in detaining individuals essentially indefinitely based on *predicted* behavior. Clinicians often turn to assessment tools to make the ambiguity of sexual predator evaluations a little clearer. However, this study's findings revealed one of those assessment tools, the PCL-R, may be more complicated than is thought, and clinicians need to be scrupulous of the psychological tests they use and how they are applied.

The decision to civilly commit in sexual predator court proceedings however does not fall in the hands of the clinician. Clinicians fulfill their due diligence by citing the limitations of their assessments and the tools they use. Therefore, the clinical implications of this study fall more into the hands of the legal field, and the lawyers and judges responsible for questioning evidence provided in court proceedings. Based on this study's results, it would be reasonable for legal personnel to question the PCL-R's ability

to predict sexual recidivism. It would also be reasonable to question the studies used to support such application of the PCL-R because of the way the term recidivism is defined in such studies. Lastly, it would be wise for clinicians to provide as much evidence as possible to support their conclusions in sexual predator evaluations, and by no means rely solely on one tool that appears to save time by evaluating two constructs simultaneously.

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## Appendix



# FORT HAYS STATE UNIVERSITY

*Forward thinking. World ready.*

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## OFFICE OF SCHOLARSHIP AND SPONSORED PROJECTS

DATE: March 14, 2014

TO: Courtney McCue, B.S.  
FROM: Fort Hays State University IRB

STUDY TITLE: [548752-1] Construct Validity of the Hare Psychopathy Checklist-Revised (PCL-R) for the Purpose of Predicting Recidivism in Sex Offenders

IRB REFERENCE #: 14-077  
SUBMISSION TYPE: New Project

ACTION: APPROVED  
APPROVAL DATE: March 13, 2014  
EXPIRATION DATE: March 12, 2015  
REVIEW TYPE: Full Committee Review

Thank you for your submission of New Project materials for this research study. Fort Hays State University IRB has APPROVED your submission. This approval is based on an appropriate risk/benefit ratio and a study design wherein the risks have been minimized. All research must be conducted in accordance with this approved submission.

This submission has received Full Committee Review based on the applicable federal regulation.

Please remember that informed consent is a process beginning with a description of the study and insurance of participant understanding followed by a signed consent form unless documentation of consent has been waived by the IRB. Informed consent must continue throughout the study via a dialogue between the researcher and research participant. Federal regulations require each participant receive a copy of the signed consent document. The IRB-approved consent document must be used.

Please note that any revision to previously approved materials must be approved by this office prior to initiation. Please use the appropriate revision forms for this procedure.

All SERIOUS and UNEXPECTED adverse events must be reported to this office. Please use the appropriate adverse event forms for this procedure. All FDA and sponsor reporting requirements should also be followed.

Please report all NON-COMPLIANCE issues or COMPLAINTS regarding this study to this office.

Please note that all research records must be retained for a minimum of three years.

Based on the risks, this project requires Continuing Review by this office on an annual basis. Please use the appropriate renewal forms for this procedure.