

Risk Assessment and Risk Management
with Sex Offenders:
Community Protection vs. Offender Rights

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The current generation of sex offender laws:

- Sexually Violent Predators
- Preventive Detention
- Extended Supervision
- Sex Offender Registry
- Community Notification

History of Sex Offender Statutes in USA

1930's – Sexual Psychopath Laws

1970's – many statutes repealed

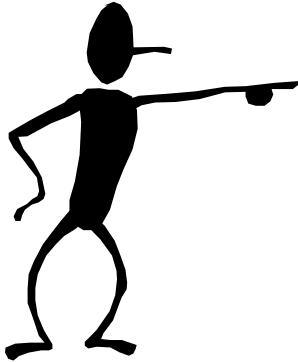
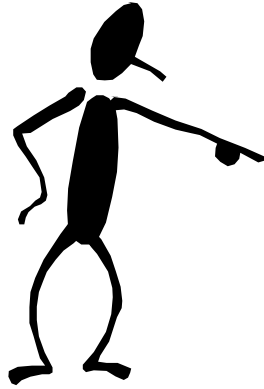
1990's – Sexually Violent Predator Laws

Assumptions of Community Protection Model:

- Less concerned about due process, proportionality of punishment, and protection of offender rights (justice model)
- Less concerned about treatment or rehabilitation to reduce recidivism (forensic-clinical model)
- Goal is incapacitation for public safety

NOBODY'S HAPPY

Lawyers



Legislators



Offenders

Public

AMERICAN PSYCHIATRIC ASSOCIATION

“A serious assault on the integrity of psychiatry...threatens to undermine the legitimacy of the medical model of commitment...must vigorously oppose these statutes, in order to preserve the moral authority of the profession and to ensure continuing societal confidence in the medical model of civil commitment.”

POINTS OF CONTROVERSY

- **Is this good public policy?**
- **Is this cost-effective?**
- **Is it Constitutional?**
- **What is the purpose?**

LEGISLATIVE INTENT

- **Small, identifiable group of risky offenders**
- **Have a diagnosable mental condition**
- **Don't meet current conditions for civil commitment**
- **Pose a threat to the community**
- **Offer treatment (SVP)**
 - **Treatment of what?**

The Issue of Mental Illness

- Preventive Detention does not address the issue of mental illness, and confines the court's consideration to likelihood of future violent or sexual offending.
- SVP laws require the presence of mental disorder that predisposes offender to future sexual offences, but . . .

Diagnosis and SVP

- Few SVP's are psychotic (less than 10% in California)
- Most have Axis II Personality Disorders
- Virtually all have paraphilias, by definition
- Is the reasoning too circular?
 - Paedophilia and Paraphilia NOS (Rape) are most common diagnoses, but they are defined by the same sexual behaviours that lead to conviction and imprisonment.

New Zealand's Preventive Detention

- Applied at time of sentencing
- Introduced into NZ law 1954
- Initially only sexual offenders
- 1993 removed need for prior convictions
- Added requirement of psychiatric report
- 2002 lowered age to 18
- Parallels move toward a policy position that is (seen as) tougher on crime

Preventive Detention Rarely Used

- 1992-1993: 86 offenders convicted of qualifying violent offences
- 408 convicted of qualifying sexual offences
- 6 sentenced to PD = 1.2%
- 2003-2004: 10 of 478 qualifying sexual offenders sentenced to PD, or 2.1%
- Since 1991: average 11 cases per year

SVP Rarely Applied

- 165,000 California Prison Inmates
- 750 sexual offenders released each month
- 120,000+ sexual offenders released since SVP law enacted (1 January 1996)
- 628 SVP commitments as of 1 June 2009
= 0.5% of released sexual offenders

Intent of Sex Offender Laws

- **Small, identifiable group of risky offenders**
- **Pose a threat to the community**
- **Require extraordinary measures**

Competing Interests

- Community protection vs individual rights
- Central premise: we can accurately identify high risk offender
- 2 questions: How accurately?
How high is high?

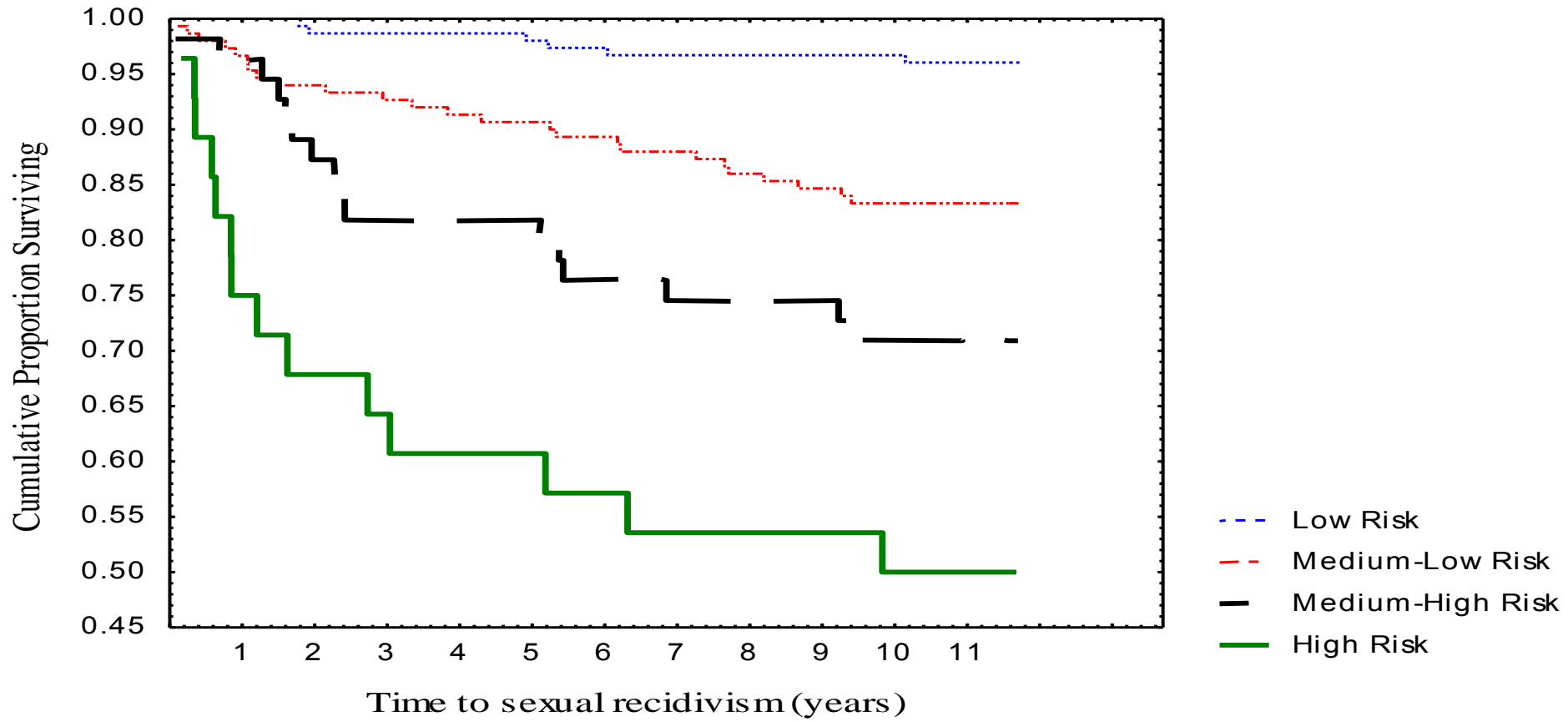
Actuarial risk assessment – the foundation of current best practice

Applying findings about groups to individual offenders – matching the data to the case

Static- 99

(Hanson & Thornton, 1999)

- Prior Sex Offenses (0-3)
- Prior Sentencing Dates (0-1)
- Convictions of non-contact sex offenses (0-1)
- Index non-sexual violence (0-1)
- Prior non-sexual violence (0-1)
- Unrelated victims (0-1)
- Stranger victims (0-1)
- Male victims (0-1)
- Age (0-1)
- Single (0-1)



Variables that make a difference:

Age

<u>Age at Release</u>	<u>Low Risk</u> <u>n (%)</u>	<u>Medium Risk</u> <u>n (%)</u>	<u>High Risk</u> <u>n (%)</u>
<20	0 (0%)	213 (13%)	4 (25%)
20-30	341 (6%)	1051 (13%)	99 (26%)
31-40	668 (5%)	891 (14%)	88 (31%)
41-50	561 (3%)	568 (7%)	80 (25%)
51-60	402 (2%)	315 (4%)	37 (19%)
>60	363 (3%)	181 (4%)	18 (6%)
Total	2335 (4%)	3219 (11%)	326 (25%)

Variables that make a difference:
victim type

Female child victims

	<u>Number Released</u>	<u>Reoffended</u>	<u>Percentage</u>
Low	599	38	6.3%
Medium	330	39	11.8%
High	16	2	12.5%
Total	945	79	8.4%

Male child victims

Low	0	--	--
Medium	143	28	19.6%
High	11	7	63.6%
Total	154	35	22.7%

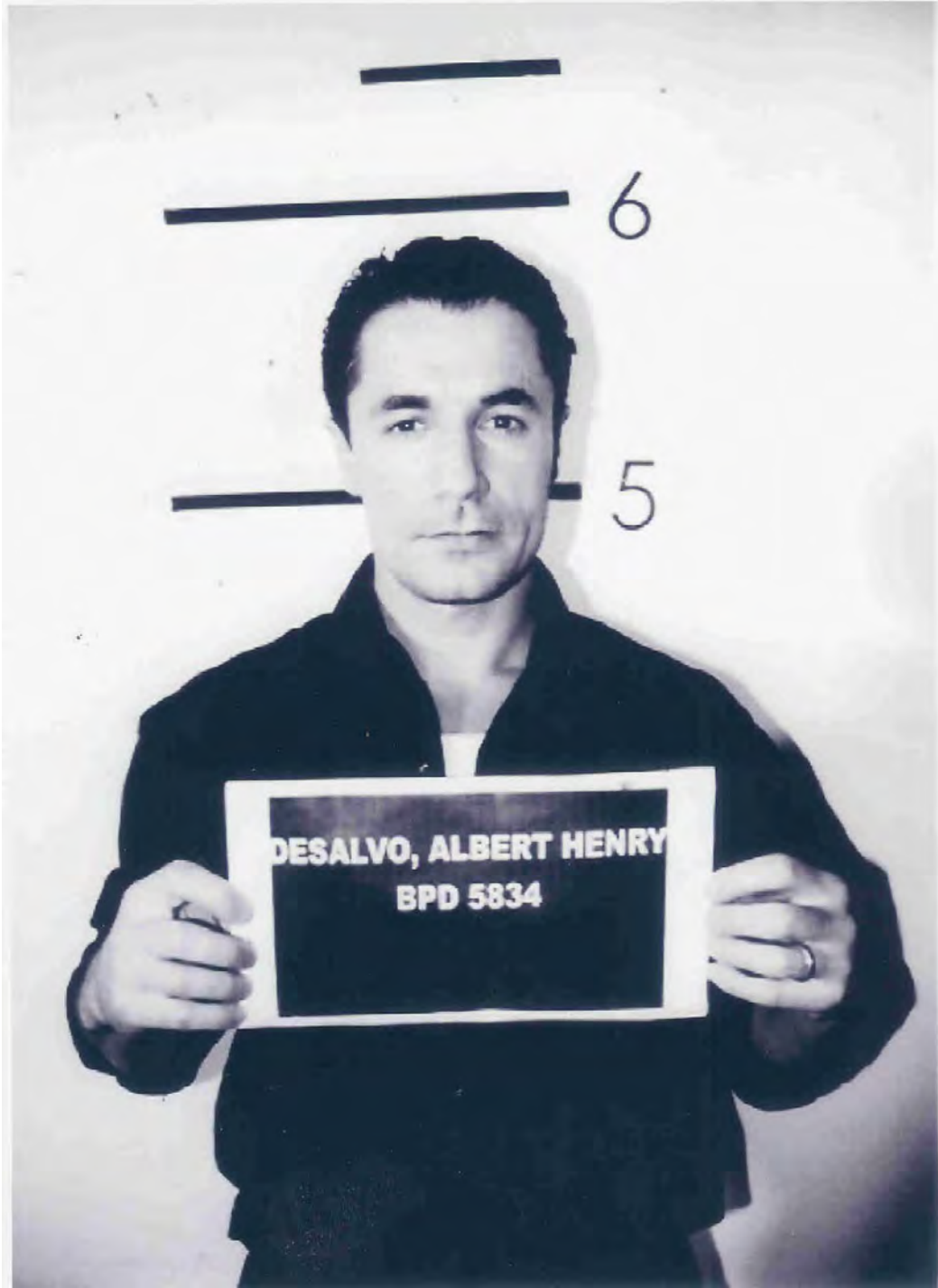
Do offenders remain “true to type”?

- 37% of re-offenders with only adult victims in history reoffended against child victims
- 17% of re-offenders with only child victims in history reoffended against adult victims
- 10% of re-offenders with only female child victims in history reoffended against male victims
- 17% of re-offenders with male child victims in history reoffended against female victims

Psychopathy and Deviant Arousal: A Dangerous Combination

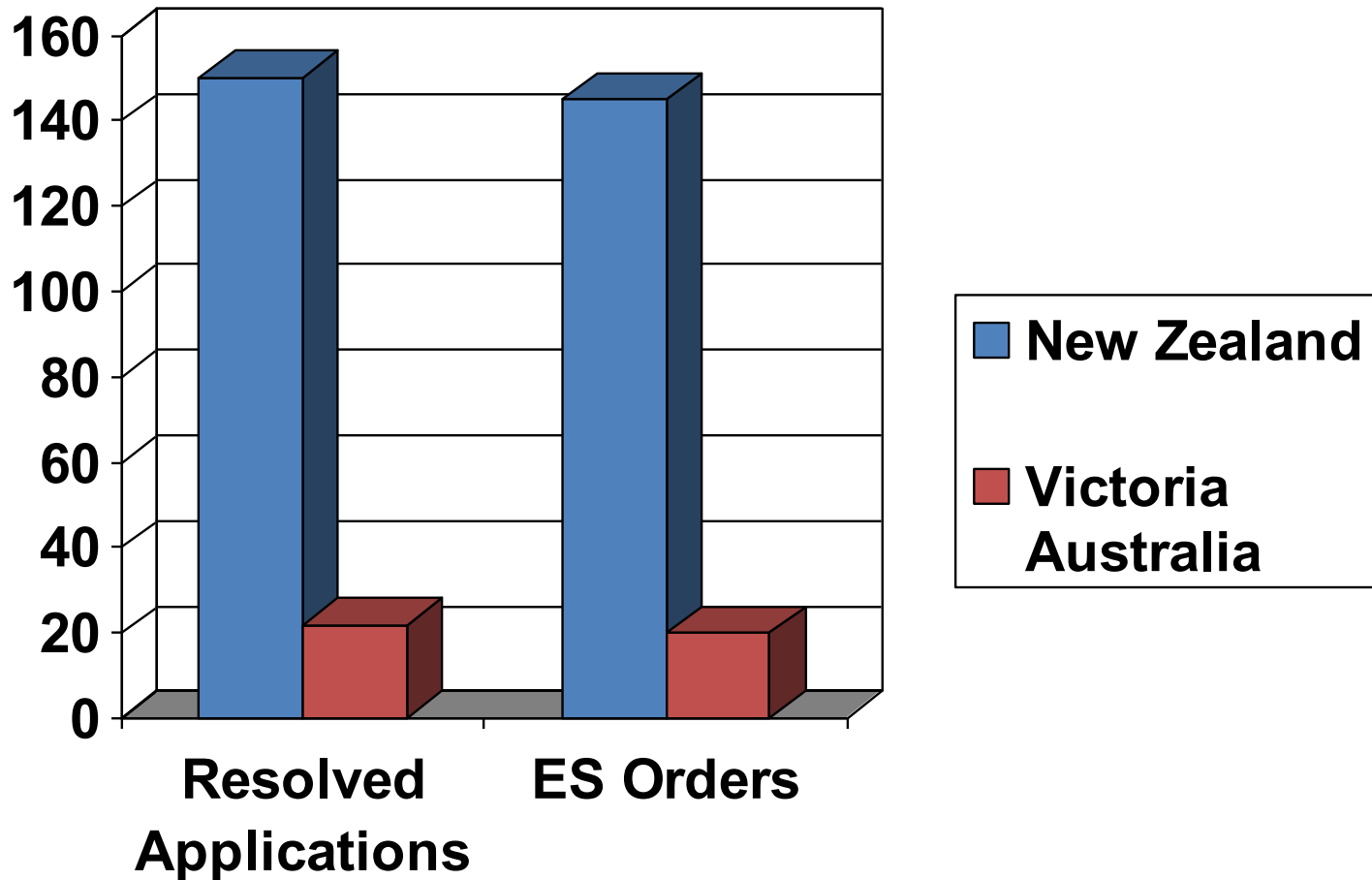






The Boston
Strangler

Extended Supervision: Similar laws, different implementation



Summary and Conclusions

- We can say something useful about risk, within limits
- We are getting more specific in our understanding of risk, but not with all groups
- Risk is contingent and dynamic
- Effectiveness of our efforts remains to be seen

