State of California
State Authorized Risk Assessment Tool for Sex Offenders Review Committee
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October 11, 2011

SEX OFFENDER RISK ASSESSMENT IN CALIFORNIA

A law requiring use of individual sex offender risk assessment prior to sentencing was enacted in California in 2006. (Sex Offender Punishment, Control and Containment Act, Pen. Code, § 290.03; Stats. 2006, c. 337 (S.B. 1128), § 12, eff. Sept. 20, 2006.) The goal was to create a standardized statewide system to identify, assess, monitor and contain known sex offenders for the purpose of reducing the risk of recidivism posed by these offenders. (Pen. Code, § 290.03, subd. (b).) Individual risk assessment pinpoints offenders at higher risk of committing another sex crime to ensure appropriate sentencing and monitoring while on supervision, and also identifies those at low risk of re-offending, so that community resources can be more effectively utilized. Additionally, level of risk should help inform decisions by local law enforcement on whether to notify a community about a particular registered offender. New laws in 2010 expanded the types of risk assessment used in California, for use during treatment programs for registered sex offenders on probation or parole.

I. Risk Assessment Instruments

A. California Official Sex Offender Risk Assessment Instruments

- **Static-99R (static risk)**
- **JSORRAT-II (static risk-juveniles)**
- **SRA-FV (dynamic risk)**
- **LS/CMI (violence risk)**

A state committee on risk assessment was established in 2006 to choose the official risk assessment instruments authorized for use in California. (Pen. Code, § 290.04.) Known as the SARATSO Committee (SARATSO stands for "state authorized risk assessment tool for sex offenders"), in 2007 the Committee confirmed and adopted the initial legislative choice of the Static-99 (today, the Static-99R) as the static risk assessment tool to be used for assessing adult male sex offenders. In 2008, the SARATSO Committee chose the JSORRAT-II as the static risk assessment instrument for juvenile male sex offenders.

Chelsea's Law, enacted in 2010, requires providers to utilize SARATSO-designated dynamic and violence risk assessments as part of mandatory certified treatment programs, starting in July 2012. In spring 2011, the SARATSO Committee heard presentations by the authors of three dynamic tools (the Stable, HCR-20, and SRA-FV), and three violence tools (the VRAG, VRS-SO and the LS/CMI). There were pro's and con's to each tool, and selection was made after public hearings where input from the public and providers was considered. The SARATSO Committee meets on the second Thursday of each month, and anyone may join the public meeting by teleconference. (Check the SARATSO web site for meeting and other announcements: http://www.cdcr.ca.gov/Parole/SARATSO_Committee/SARATSO.html.)

The SARATSO Committee selected the Structured Risk Assessment-Forensic Version (SRA-FV) as the SARATSO dynamic risk assessment instrument. This dynamic instrument can be considered in conjunction with the Static-99 score to determine level of risk of re-offense even more accurately than when using the static instrument by itself. Incremental validity should improve risk assessments. The Level of Service/Case Management Inventory (LS/CMI) was selected as the risk assessment instrument to predict risk of future violence. There is currently no risk assessment instrument for female sex offenders which satisfies the statutory criteria for a static or dynamic tool, but the violence risk tool (LS/CMI) is valid for male and female sex offenders.

The law requires that a risk assessment instrument chosen by the SARATSO Committee must "reflect(s) the most reliable, objective and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated and cross-validated, and is, or is reasonably likely to be, widely accepted by the courts." (Pen. Code, § 290.04.) The SARATSO Committee must consult with experts in the field of risk assessment in choosing the instruments mandated for use in California. The SARATSO Committee is required to periodically evaluate the chosen risk assessment instruments, and if it determines that an instrument should be replaced, it must advise the Governor and Legislature and post the decision on its web site.

B. Assessment With Static Risk Tools (Static-99R, JSORRAT-II)

Probation must assess static risk using the Static-99R for sex offenders convicted of a registerable sex offense on or after July 1, 2008. (Pen. Code, §§ 290.06; 1203.) The score must be included in the pre-sentencing report (PSR) whenever such a report is prepared for the offender. (Pen. Code, § 1203(b)(2)(C), (d).) If there is no PSR, Probation must ensure that the court receives the Static-99R or JSORRAT score, pre-sentencing.

Only designated juveniles will be assessed on the juvenile tool, the JSORRAT-II, prior to the dispositional hearing. Under California law it is impossible to know whether a juvenile will be required to register as a sex offender prior to disposition, because only those offenders placed at the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (formerly the California Youth Authority) are required to register as sex offenders. (Pen. Code, § 290.008.) Thus, the law requires Probation to assess, pre-sentencing, only those juvenile sex offenders as to whom Probation recommends placement at DJJ. (Welf. & Inst. Code § 706.) Similarly, some adult registrants will be ordered at sentencing to register as a sex offender under the discretionary registration section, Penal Code section 290.006. Since these registrants are not mandated to register until sentencing, Probation will be required to score the risk assessment instrument pre-sentencing only if Probation is recommending the person be ordered to register at sentencing.

If the offender is sentenced to prison, the packet sent by Probation to the California Department of Corrections and Rehabilitation (CDCR) must include the static risk assessment score. (Pen. Code, §1203c.) This is sent as part of the Facts of Offense Sheet (FOS), which includes both the risk assessment score and information about the offender and circumstances of the offense. (Pen. Code, § 1203e.) The FOS should be included in the probation officer's report, if any, and sent to both CDCR and the California Department of Justice (DOJ), for inclusion in the offender's file. DOJ will make the FOS information and the Static-99 score accessible to law enforcement agencies as part of the sex offender registration database.

C. Assessment With Dynamic and Violence Risk Tools

Treatment providers are responsible for scoring the LS/CMI (violence risk tool) once, within 120 days after the sex offender enters the treatment program, while on supervision. The treatment provider can fill out the violence tool and score it online, and the score will automatically be stored on a secure server and sent to the DOJ Sex Offender Tracking Program for inclusion in the sex offender registry. The treatment provider should also inform the supervising officer of the violence risk score.

Treatment providers are also responsible for scoring the SRA-FV (dynamic risk tool) on an ongoing basis during treatment. The dynamic score must be communicated to the supervising officer, who must send it to the DOJ Sex Offender Tracking Program for inclusion in the sex offender registry within 30 days. (DOJ is working on a way to automate this process.)

D. Risk Assessment On Release From Incarceration Or Commitment To A Mental Institution

Registrable sex offenders sentenced to prison or a mental institution must be assessed prior to leaving the institution. (Pen. Code, § 290.06(a)(1), (3).) Even though offenders are also assessed pre-sentencing, risk assessment scores can change during incarceration.. For example, scores can go up if the person commits another sex offense or violent offense while incarcerated—or down if the offender's age changes the score. A person does not have to be reassessed upon re-release (for example, on a parole revocation) that occurs within five years of the initial release, although reassessment is permissible. (Pen. Code, § 290.06(b).) Conviction for a new registrable sex offense will trigger another risk assessment at the pre-sentencing stage, and on release from custody if the person is sentenced to prison or a mental facility.

For those who were convicted of a registrable sex offense prior to July 1, 2008, and who were not assessed upon release from CDCR, the law requires that they be assessed while they are on parole. (Pen. Code, § 290.06(a)(2).) For a person convicted of a registrable offense and released on probation prior to July 1, 2008, the law requires that they have been assessed if they were still on a probation caseload as of January 1, 2010.

II. Use of the Containment Model Is Mandated In 2012

The California Sex Offender Management Board made a number of recommendations for changes to sex offender management laws in 2010, and some became law. As of July 2012, all registered sex offenders on probation or parole must participate in treatment programs. (Chelsea's Law (A.B. 1822, 2010 Leg. Sess.; enacted following the murders of Chelsea King and Amber Dubois.) The state must use the Containment Model, a victim-centered approach requiring close communication and collaboration between parole or probation officer, treatment provider, and polygraph examiner, and victim advocate. Polygraph examiners must meet the state standards, which are based on the American Polygraph Association standards, and are posted at www.casomb.org.

A. Sex Offender Treatment Programs and Providers Must Be Certified by 2012

Chelsea's Law also requires that by July 2012:

- **Treatment providers must be certified by CASOMB to meet minimum state standards, which are posted at www.casomb.org.**
- **Treatment programs (even those used by individual treatment providers) must be certified by CASOMB as meeting the requirements for a sex offender-specific program, also posted at www.casomb.org.**
- **Polygraph exams must be used.**
- **Treatment providers will assess offenders using the SARATSO-mandated tools for assessing dynamic and violence risk.**

Applications for provider and program certification are available on the CASOMB web site and certification, or provisional certification, should be completed by July 2012. Applications should be filed no later than March 2012. Both the treatment provider and the sex offender-specific program must be certified, and require two separate applications. There are licensing, education and experience requirements for providers. Programs must meet criteria for a sex-offender specific curriculum.

B. TRAINING AND OVERSIGHT OF RISK ASSESSMENT

SARATSO is required to train treatment providers to score the SRA-FV and LS/CMI. Training announcements are posted on the SARATSO web site:

www.cdcr.ca.gov/Parole/SARATSO_Committee/SARATSO.html

ALL TREATMENT PROVIDERS MUST ATTEND ONE OF THESE TRAININGS TO BE ELIGIBLE TO SCORE THESE TOOLS. Probation and parole officers can attend these trainings on a space-available basis, but treatment providers have priority.

SRA: FV

- January 27, 2012
  - Location: 100 S Main Street, Los Angeles, CA 90012 (Department of Transportation Building)
- March 2, 2012
  - Location: 2015 E Shields Avenue, Yosemite Room, Fresno, CA
- March 29, 2012
  - Location: Sacramento, CA (location TBA)
- May 9, 2012
  - Location: San Diego, CA (location TBA)

LS/CMI

- January 26, 2012
  - Location 100 S Main Street, Los Angeles, CA 90012 (Department of Transportation Building)
- March 1, 2012
  - Location: 2015 E Shields Avenue, Yosemite Room, Fresno, CA
- March 28, 2012
  - Location: Sacramento, CA (location TBA)
- May 8 & 9, 2012
  - Location: San Diego, CA (location TBA)

Sign up for training with SARATSO staffer Amy Means beginning on October 1, 2011: amy.means@cdcr.ca.gov. There will be a fee of $50.00 per participant to attend a training event. Trainings may be certified for Continuing Education Units (CEU). Participants wishing to receive CEU credit for the courses they attended will need to submit an additional $15.00. Travel and accommodations are to be booked by the attendee.

It is possible that SARATSO will offer more training sessions later in the year but no dates have been set at the present time; all providers should attend one of the scheduled trainings or have attended a similar course approved by the SARATSO Committee (e.g., training on scoring a tool conducted by the author of the tool).

SARATSO is required to train Probation, Parole, and DMH to score the Static-99 and JSORRAT-II. Treatment providers can attend the following trainings on a space-available basis, but supervising officers have priority.

JSORRAT-II

- December 1, 2011
  - Location: Sacramento (location TBA)

Advanced Static-99R Training/Inter-Rater Reliability Study, for Probation and Parole super-trainers only

- May 2012 (Date TBA)
  - Location: Sacramento (location TBA)

Sign up with SARATSO staffers Amy Means beginning on October 1, 2011: amy.means@cdcr.ca.gov. There is no charge but you must book your own travel and accommodations.

The SARATSO Training Committee is responsible for overseeing the training of persons designated by Probation, Parole and DMH to score the risk assessment instruments. The Training Committee consists of the three members on the SARATSO Committee (representing DMH, CDCR, and the Attorney General), plus a member representing the Chief Probation Officers of California. (Pen. Code, § 290.05.) Each agency required to score the risk assessment instruments must designate key persons within their organizations (known informally as the "super-trainers") to attend the trainings sponsored every two years by the SARATSO Training Committee. Experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk must conduct these trainings. (Pen. Code, § 290.05.) The persons trained by the experts in turn train persons within their own organizations to score each SARATSO (official state risk assessment instrument). Any person administering the risk assessment instrument must be trained at least every two years. (Pen. Code, § 290.05(c).)

Dr. Amy Phenix, co-author of the Coding Rules for the Static-99R (with Dr. Karl Hanson and Dr. David Thornton), has conducted the official SARATSO trainings on the Static-99 since 2008. The trainings are attended by the designated super-trainers from Probation, Parole and DMH. She will conduct the advanced Static-99R training/inter-rater reliability study in May 2012. Dr. Douglas Epperson, author of the JSORRAT-II (the state juvenile risk assessment instrument) conducted trainings in 2008 and 2009 for Probation and CDCR/DJJ personnel, who will be training those scoring the juvenile risk assessment instrument. The next JSORRAT-II training by Dr. Epperson is on December 1, 2011. Dr. David Thornton, author of the SRA-FV, will do the 2012 trainings on this instrument. Larry Chatterton will do the 2012 trainings on the LS/CMI (author, Dr. James Bonta).

Questions about scoring the risk instruments are first submitted to the super-trainers (this applies to all tools except the LS/CMI, which has no super-trainers; an on-line network of mentors will be available for questions on this tool). If they cannot answer the question, the super-trainer submits it to the expert retained by the SARATSO Committee. The SARATSO expert has the ability to adjust the risk level if empirical research supports that decision. (Pen. Code, § 290.005.) The decision of the expert is final.
The Training Committee monitors the consistency and quality of risk assessments. To that end, the Training Committee arranges for experts in the field of risk assessment to monitor the scoring of the instruments, to ensure inter-rater reliability. The SARATSO Committee can also retain experts to use data collected from California sex offender risk assessments to conduct validation studies on a California population.

Notwithstanding any other law, persons authorized by statute to score the SARATSOs, or experts retained by the SARATSO Committee to train, monitor or review scoring, must be granted access to all relevant records pertaining to registered sex offenders being scored. These include, but are not limited to, criminal histories, sex offender registration records, police reports, probation and pre-sentencing reports, judicial records and case files, juvenile records, psychological evaluations and psychiatric hospital reports, sexually violent predator treatment program reports, and records that have been sealed by the courts or the Department of Justice. (Pen. Code, § 290.07.)

III. Use of Risk Assessment Scores

Sex offender risk scores are used:

- **Pre-sentencing by a judge**
- **To determine need for community notification**
- **To determine supervision level**
- **To inform treatment decisions**

There are four main uses for the risk assessment scores. First, at sentencing the score must be considered by the judge who is imposing sentence on an offender whose offense will require him or her to register as a sex offender. (Pen. Code, 1203(b), (d).) Probation should submit the score to the court whether or not a pre-sentencing report is prepared for the offender.
Second, the score may be considered by local law enforcement in making a decision on whether a registered sex offender poses a current risk to the public, and if a community notification is made on an offender found to be posing a risk to community safety, the score can be disclosed. (Pen. Code, § 290.45(a).)

Third, the risk assessment score determines whether a registered sex offender must be supervised on a high risk case load while on probation or parole. (Pen. Code, § 1202.8, 3008.) All sex offenders on parole supervision scoring high risk on the Static-99 must report frequently to designated parole officers, shall participate in an appropriate sex offender treatment and monitoring program, and are required to wear a GPS monitoring device. (Pen. Code, § 3004, 3010.) Beginning January 1, 2009, all high risk sex offenders on probation must wear a GPS monitoring device unless a court determines that such monitoring is unnecessary for a particular person. (Pen. Code, § 1202.8(b).) High risk sex offenders on probation must also be placed on intensive and specialized probation supervision and required to report frequently to supervising probation officers. (Pen. Code, § 1203f.)

Fourth, the risk assessment score is one factor which may be considered in the placement of a sex offender in a treatment program, and which helps inform the level of treatment.
Risk assessment scores are not displayed on the public Megan's Law Internet web site, although in 2013 the law requires that the static and future violence scores be posted for those offenders on the web site. Beginning in 2012, no one may be granted exclusion from that web site unless the person has a low or moderate-low Static-99 score. (Pen. Code, § 290.46, subd. (e)(4).)

Even though California uses individual risk assessment, California still utilizes an offense-based classification system for sex offenders. Display on the public sex offender web site, and extent of information disclosed on the web site, is governed by the type of sex offense conviction, rather than the individual's risk assessment score. Obtaining relief from the duty to register is not yet tied to individual risk assessment. (Pen. Code, § 290.5.) The frequency of the duty to register as a sex offender is not related to the offender's risk assessment scores. (See Pen. Code, § 290.012.) The California Sex Offender Management Board has recommended that duration of registration, as well as public notification, should be related to the offender's risk level, as well as other criminal history factors and compliance with registration laws.