SEXUAL CRIMES AGAINST CHILDREN:
A STUDY OF OFFENDER RECIDIVISM

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Introduction

Sex crimes against children remain among the most horrific crimes in our society. In Vermont, there were 1,296 incidents involving sex crimes against children reported to the National Incident-Based Reporting System between 2004 and 2009. When a defendant is convicted of a sex offense, the Department of Corrections offers a variety of treatment programs aimed at treating and preventing further crimes. This study did not evaluate the efficacy of specific programs. Rather, this study examined the rate of recidivism and a typology of offenders in order to inform policy makers about who is likely to recidivate.

Key Findings:

- The overall recidivism rate for persons convicted of sex crimes against children was 20%.
- Only two defendants out of 160 were eventually reconvicted of a sex crime against a victim.
- First Time Offenders had the lowest recidivism rate.
- Factors not recorded in the data (such as treatment or individual characteristics) will likely explain who recidivates.

Demographics of Cohort

All defendants (N=223) convicted of a child sex crime1 in Vermont between 2004-2009 were the subjects of the recidivism study. All the defendants were male. The average age of defendants at disposition was 39 years of age; the median age was 38 years of age. Race and ethnicity data were available for 70% of the cohort. Two hundred and ten (94.1%) defendants were white and eight (3.5%) defendants were African American. Defendants from other racial and ethnic backgrounds accounted for about 1.8% of the cohort population. Table 1 illustrates the total of all criminal cases disposed during the study period and, of those, the number of cases that had a conviction for a child sex crime and the percent of those cases of the total.

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1 13 VSA 2602, 13 VSA 2822, 13 VSA 2823, 13 VSA 2824, 13 VSA 2827, 13 VSA 2828, 13 VSA 3253a, 13 VSA 3253(A)(8) and 13 VSA 3258.
Table 1: Criminal Cases Disposed by County 2004-2009

<table>
<thead>
<tr>
<th>County</th>
<th>Total Criminal Cases Disposed</th>
<th>Total Child Sex Cases with a Conviction</th>
<th>Percent Child Sex Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addison</td>
<td>321</td>
<td>4</td>
<td>1.2%</td>
</tr>
<tr>
<td>Bennington</td>
<td>677</td>
<td>27</td>
<td>3.9%</td>
</tr>
<tr>
<td>Caledonia</td>
<td>354</td>
<td>17</td>
<td>4.8%</td>
</tr>
<tr>
<td>Chittenden</td>
<td>5,034</td>
<td>39</td>
<td>0.95%</td>
</tr>
<tr>
<td>Essex</td>
<td>95</td>
<td>4</td>
<td>4.2%</td>
</tr>
<tr>
<td>Franklin</td>
<td>402</td>
<td>23</td>
<td>5.7%</td>
</tr>
<tr>
<td>Grand Isle</td>
<td>124</td>
<td>1</td>
<td>0.80%</td>
</tr>
<tr>
<td>Lamoille</td>
<td>219</td>
<td>6</td>
<td>2.7%</td>
</tr>
<tr>
<td>Orange</td>
<td>155</td>
<td>13</td>
<td>8.3%</td>
</tr>
<tr>
<td>Orleans</td>
<td>136</td>
<td>5</td>
<td>3.6%</td>
</tr>
<tr>
<td>Rutland</td>
<td>1,332</td>
<td>16</td>
<td>1.2%</td>
</tr>
<tr>
<td>Washington</td>
<td>635</td>
<td>19</td>
<td>2.9%</td>
</tr>
<tr>
<td>Windham</td>
<td>907</td>
<td>40</td>
<td>4.4%</td>
</tr>
<tr>
<td>Windsor</td>
<td>1,121</td>
<td>9</td>
<td>0.80%</td>
</tr>
<tr>
<td>Total</td>
<td>11,512</td>
<td>223</td>
<td>1.9%</td>
</tr>
</tbody>
</table>

**Original Charge**
The most frequent original charge for the cohort was lewd and lascivious conduct with a child, which accounted for 74.4% of the 223 defendants. The second most common charge (9%) was aggravated sexual assault where the victim was less than ten years old. Chart 1 illustrates the base conviction of the cohort in percentages.
**Sentencing**

For the defendants in this cohort, the most prevalent sentence received was incarceration. Out of 223 people, 91 (40.8%) were sentenced to incarceration, 82 people (36.8%) received a split sentence, 44 (19.7%) received probation, and six (2.7%) received a deferred sentence. The majority of defendants (54.9%) who were sentenced to incarceration received a minimum sentence of 1095 days (three years) or less. Additionally, the majority of defendants (52.7%) who were sentenced to incarceration received a maximum sentence of 1825 days (five years) or less. Chart 2 illustrates the percent of defendants receiving a particular sentence.

![Chart 1: Base Conviction, Percent of Cohort N=223](chart.png)
For analysis and comparison, offenders were classified into three types: (1) First Time Offenders with no prior record of convictions; (2) Recidivist Offenders with a prior record of convictions that did not include a sex offense; and (3) Recidivist Sex Offenders (including crimes against adults). First Time Offenders were those defendants that had no prior convictions for any offense. Recidivist Offenders had no prior sex convictions, but had other criminal history. Recidivist Sex Offenders had at least one prior sex crime conviction.² Chart 3 illustrates the type of sentence by the type of offender.

² Sex crimes include crimes against and adult or child victim
Recidivism
Recidivism can be defined in many ways. For this analysis, a recidivist was defined to be any defendant in this cohort who was reconvicted of any crime prosecuted in a Vermont Superior Court, Criminal Division, including violations of probation and motor vehicle offenses. A defendant was determined to be eligible to recidivate if he was no longer incarcerated on the base offense or if there was no incarceration sentence given at the base offense. Recidivists were tracked on several measures: 1) the type of the first recidivist arrest; 2) the length of time until the first recidivist arrest; 3) the most serious recidivist arrest of their entire future career; and 4) how many subsequent trips the defendant made through the criminal courts that ended with a conviction.

First Time Offenders
Of the total cohort of 223 defendants, 128 (57%) had no prior criminal record. The average age of this group at the time of the conviction was 41 years old. Ninety-four (73%) defendants were convicted of lewd and lascivious conduct with a child. Eighteen (14%) were convicted of a sexual assault crime, while twelve defendants (9%) were convicted of sexual exploitation. Within this group of 128 individuals, 92 (71%) were eligible to recidivate within this time period—12 (13%) individuals did recidivate.

Of the 12 recidivists, one was convicted of a new sex offense against a victim, a sexual assault against a 16-year-old or lower. Three defendants were convicted of failing to comply with the Sex Offender Registry. The remaining seven individuals did not recidivate with a new sex offense, but received the following charges: unlawful restraint (1) simple assault (1), DUI (1), larceny (1), resisting arrest (1), careless or negligent driving offense (1), and violation of abuse prevention order (3).

Recidivists were tracked beyond their first recidivism conviction, creating a future criminal history. These 12 individuals also had 24 separate cases go through the criminal justice system through conviction in their future criminal history. Six individuals went through the system once (for the first recidivist offense), four people went through the system twice, one person went through the system four times, and one person went through the system six times. Only one defendant had another sex crime against a victim during the follow-up period as his most serious future offense. Eventually, a total of four defendants failed to comply with the Sex Offender Registry. For two defendants, their most serious recidivist offense was a violation of a protection order. One defendant’s most serious offense was an assault and battery. The remaining defendants did not commit a violent crime.

Recidivist Offenders
Within the cohort of 223 defendants, there were 73 (32.7%) Recidivist Offenders. The average age of this group of 73 at their first conviction was 24 years old. At the time of their base offense conviction, the average age was 35. Over 75% (55) of the Recidivist Offenders were convicted of lewd and lascivious

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3 See Chart 6, and accompanying text, for a discussion of the different measures of recidivism.
conduct with a child. Twelve (16.4%) were convicted of sexual assault and another five (6.8%) defendants were convicted of were for sexual exploitation.

Of the 73 defendants in this group of recidivist offenders, 53 (72%) were eligible to recidivate—16 defendants recidivated. Of these 16, three were for DMV offenses, three for failure to comply with the Sex Offender Registry, three involved assault, two involved violations of abuse prevention orders, and there was one of each of the following offenses: aiding the commission of a felony, DUI, prescription fraud, retail theft, and a hunting offense.

These 16 individuals also had 18 separate cases go through the criminal justice system in their future criminal history. Nine individuals went through the system once (for the first recidivist offense), three people went through the system twice, and one person went through the system three times. None of the recidivists were convicted of a sex offense against a victim during the follow up period. Eventually, a total of 4 defendants failed to comply with the Sex Offender Registry. For one defendant, the most serious recidivist offense was a violation of a protection order. Four defendants’ most serious offense was an assault and battery. The remaining defendants did not receive a conviction for a violent offense.

**Recidivist Sex Offenders**

Twenty-two defendants in this cohort had prior sex convictions, 9.8% out of the overall cohort. The average age at disposition for these 22 people was 40.7 years old and the median was 40.6 years old. The average age at which this group received their first conviction was 31.9 years old, with the median at 29. The majority of the offenses were lewd and lascivious conduct with children. Two defendants received each of the following offenses: sexual assault with the victim under ten years old, sexual assault with the victim under 16 years old and, sexual exploitation.

Four out of the fourteen defendants who were eligible recidivated. Their offenses included: lewd and lascivious conduct with child, failure to comply with Sex Offender Registry, DUI second offense, and careless/negligent vehicle operation.

These four individuals also had seven separate cases go through the criminal justice system in their future criminal history. Two individuals went through the system once (for the first recidivist offense), one individual went through the system twice, and one individual went through the system three times. Only one defendant was convicted of another sex crime against a person during the follow-up period. For one defendant, the most serious recidivist offense was failing to comply with the Sex Offender Registry. The remaining two defendants did not receive a conviction for a violent offense.
Recidivism Comparison Among Groups

Within this time period, 160 defendants in this cohort were eligible to recidivate. Thirty-two (16.8%) defendants were convicted of a new offense. Out of the 32 people who recidivated in the cohort, 13 (40.6%) did so within the first six months, and 19 (59.4%) did so within the first year.

Of the 12 First Time Offenders, six (50.0%) recidivated within the first six months. Time to recidivate was measured from the expected release date to the date of the first offense for which they received a conviction. Of the 16 Recidivist Offenders, nine (56.3%) of them committed a new offense within the first year of release. The four Recidivist Sex Offenders recidivated within a year. Chart 4 below illustrates the time to recidivate among the various groups.

When looking at the complete picture, out of the 160 defendants who were able to recidivate, only two (1.2%) individuals committed a new sex offense against a victim. One defendant earned a new conviction for lewd and lascivious behavior with a child and one defendant earned two new convictions for sexual assault against a minor. Failing to comply with the Sex Offender Registry was the most common recidivist crime, with nine defendants earning a conviction for this crime. The rate of recidivism varied by the type of defendant. First Time Offenders had the largest number (93) of potential recidivists, and the lowest recidivism rate of 13% (n=12). Recidivist Sex Offenders had the highest recidivism rate at 28%, while having the fewest number (n=4) of defendants eligible to recidivate. Chart 5 illustrates the rate of recidivism by type of offender.
Measuring Recidivism
There are varying definitions of recidivism employed by policy makers, researchers and program administrators. Each definition captures a different aspect of the issues surrounding criminal justice planning. When the Vermont Sentencing Commission was active, the Commission defined recidivism as any conviction, including probation violations, regardless of when the conviction was earned. This is the definition used here. The Department of Corrections generally uses a three year recidivism window. It tracks all defendants for three years, and those who earn a new criminal conviction (not a probation violation) are considered recidivists. Finally, the Vermont Legislature in “The War on Recidivism Act” of 2011, ordered the Department of Corrections to calculate recidivism as:

[T]he rate of recidivism based upon offenders who are sentenced to more than one year of incarceration, who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of supervision resulting, and the new incarceration sentence is at least 90 days.  

Section 5, Subsection b(1).


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Chart 5: Recidivism Rate by Type of Offender

- First Time Offenders N=12: 13%
- Recidivist Offenders N=16: 16%
- Recidivist Sex Offenders N=4: 28%
Chart 6 illustrates how the differing definitions of recidivism result in different rates. Under the Legislative definition, only 59 defendants were eligible to be recidivists. That is because 100 defendants did not receive the predicate one year incarcerative sentence. Only eight defendants were reconvicted and sentenced to the requisite 90 days or more, therefore, the recidivism rate under the Legislative definition was 13.5%. The Department of Corrections follows defendants for the same length of time. In this cohort, 121 defendants could be followed for exactly three years. Of those, 19 earned a new conviction, making the recidivism rate 15.7%. The VCJR column illustrates the recidivism rate used throughout this report. The last block of columns in Chart 6 illustrates the same 121 defendants that were out for at least three years, but captures new recidivists beyond the three year DOC cutoff. Eleven defendants of the 121 committed a new offense for which they were convicted after that three year period. The recidivism rate using this method was 23%. The method employed by this study (recidivism rate 20%), any conviction by any offender, was used to give policy makers and stakeholders a more “real time” approach to recidivism.

![Chart 6: Recidivism by Different Measures](chart6.png)

**Predictors of Recidivism**

In prior studies, we have been able to suggest who is likely to recidivate and who is not, employing relevant statistical methods. In this study, logistical regression was employed, but no model could be

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found that explained recidivism with any accuracy. This is despite the fact that several variables were correlated to recidivism. Many factors were found not to be statistically correlated to recidivism, among them: prior probation violations, prior sex offenses, the sentence received at the base offense, the base offense, age at base conviction, race of the defendant, and county of conviction. Table 2 below illustrates the factors that were shown to be correlated at a statistically significant level. 6

<table>
<thead>
<tr>
<th>Variable</th>
<th>Pearson’s r</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age of Defendant at Disposition</td>
<td>.007</td>
</tr>
<tr>
<td>Age at First Conviction</td>
<td>.001</td>
</tr>
<tr>
<td>Total Criminal History</td>
<td>.030</td>
</tr>
</tbody>
</table>

These factors, when combined, did not accurately predict who would recidivate and who would not. This indicates that factors outside those captured by a defendant’s criminal history affect recidivism. The most likely factors include treatment and community support for the offenders.

**Conclusion**

It is encouraging that the overall recidivism rate was 20%. This finding is consistent with our prior finding that 24% of defendants who sexually assault adults recidivate. 8 The recidivism rates are low compared to other violent crimes. For example, we found the overall recidivism rate for Domestic Violence was 53%. 9 Also encouraging was that only two defendants (1.2%) committed a new sex crime against a victim. This indicates that treatment may be a strong factor in predicting recidivism.

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6 Statistical significance (Pearson’s r) illustrates that the findings most likely did not occur by chance. The .05 level of significance was used for this research. This means that we are 95% confident that the relationship or association found did not happen by chance.

7 Criminal history is calculated as: ( total number of prior felony convictions + (total number of prior misdemeanor convictions *.5) + (total number of prior probation violations *.25).

8 http://vcjr.org/reports/reportscrimjust/reports/sexualassaultreport_files/Sexual%20Assault%20Recidivism.pdf

9 http://vcjr.org/reports/reportscrimjust/reports/darecidivism_files/Domestic%20Assault%20Recidivism.pdf