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COURT OF APPEALS
DIVISION II

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NO. 39631-9

STATE OF WASHINGTON
BY *JW*

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Detention of:

JOSEPH TOWNSEND,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

RESPONDENT'S OPENING BRIEF

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STATE OF WASHINGTON
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I. ISSUE PRESENTED

Was sufficient evidence presented at trial to establish that Mr. Townsend is a sexually violent predator?

II. STATEMENT OF THE CASE

A. Procedural History

This Sexually Violent Predator (SVP) civil commitment action was initiated on June 15, 2007. CP at 1-2. On that date, Joseph Townsend was nearing the end of his prison sentence imposed as a result of his 1999 conviction for Rape of a Child in the First Degree. CP at 4. Shortly before Townsend was scheduled to be released, the State filed the SVP Petition. His SVP commitment trial began on July 27, 2009. 7/27/09 RP at 8.

At trial, the State presented the testimony of Dr. Harry Goldberg, who conducted a forensic psychological evaluation of Townsend designed to determine whether Townsend met SVP criteria. Ted Neiland and Jennifer Wheeler, PhD testified regarding Townsend's participation in a sex offender treatment program while incarcerated. Finally, a videotaped deposition of Mr. Townsend was played for the jury.

In his defense, Townsend presented the testimony of Robert Halon, PhD, Mr. Townsend's mother, and a DSHS investigator. On August 6, 2009, the jury found that the State had proven Townsend

was a SVP beyond a reasonable doubt. CP at 10. Townsend was committed to the Special Commitment Center on McNeil Island (SCC) where he remains today. CP at 201-02. This appeal follows. CP at 207.

B. Substantive History

1. Townsend's Criminal Sexual History

Mr. Townsend has been convicted of one sexually violent offense as that term is defined in RCW 71.09.020(15). On January 21, 1995, 22-year-old Joseph Carl Townsend had sexual contact with J.M., an eight-year-old girl to whom he was not related and who was a stranger to him. Ex. 6. Townsend was at a party, and he and other guests were invited to spend the night. Early the following morning, Mr. Townsend entered the bedroom of eight-year-old J.M. He pulled down J.M.'s panties and stated, "Your mommy said I could do this." The Respondent then digitally penetrated J.M.'s vagina and performed oral sex on her. He told J.M., "Your mommy won't do anything about this," to which J.M. replied that her mother would call the police. When J.M. heard the Respondent unzip his pants, she screamed, and the Respondent fled the house. 7/29/09 RP at 202. On May 8, 1995, was convicted of Rape of a Child in the First Degree. He was incarcerated for that offense when this SVP case was filed. CP at 9.

In addition to the offense, Townsend has committed numerous

other sexually deviant. For an unconfirmed amount of time, 15-year-old Joseph Carl Townsend had sexual contact with his ten-year-old female cousin, which included of vaginal, anal and oral sex. *Id.* at 106. At the time of the offense, Mr. Townsend was living with his aunt and the victim. The offense was discovered when his aunt that caught him engaging in sexual contact with his cousin. *Id.* On October 13, 1987, Mr. Townsend was convicted of Sexual Intercourse without Consent in Great Falls, Montana. *Id.* at 107. In addition, the Respondent admitted raping a three-year-old female who his wife was babysitting. He described orally raping the young child, placing his tongue into her vagina, and rubbing her genitalia with his finger. *Id.* at 158.

While incarcerated, Mr. Townsend participated in the Sex Offender Treatment Program (SOTP) at Twin Rivers Correction Center. During an initial assessment interview in 2004, Mr. Townsend indicated strong interests in sexual contact (either forced or consenting) with children and adults, male and female, indicating that his preference was females who were age ten to seventeen. *Id.* Initially, the Respondent reported masturbating daily to fantasies of sex with children, and appeared very sexually preoccupied. *Id.* at 165.

The Respondent also disclosed his grooming behaviors. With one victim who was a thirteen-year-old developmentally delayed female who

had the mental capacity of a six year old, the Respondent groomed her by feigning a friendship and playing games with her. He would test her boundaries by touching her in non-sexual areas of her body, and eventually escalated to fondling her vagina and breasts. Ultimately, the Respondent coerced the developmentally delayed victim into oral, vaginal and anal intercourse. *Id.* at 162. When he was eighteen years old, the Respondent also groomed a fourteen-year-old boy into oral and anal sex. *Id.* at 161.

Over the course of SOTP, the Respondent reported a total of approximately forty unadjudicated victims – thirty-five females and five males, ranging in age from three to seventeen. *Id.* at 159. Only three or four victims were known to him with the remainder being stranger victims. Of the thirty-five female victims, the Respondent reports having stalked approximately twenty victims in public parks, masturbating while watching them from a distance, and then assaulting them behind thick bushes or in public restrooms. *Id.* RP at 128. When asked what he would do if released, Mr. Townsend stated that he felt unable to control himself in public, and would reoffend with another a child. *Id.* at 126, 155-56, 171.

2. Expert Opinion Evidence: Dr. Harry Goldberg

At trial, the State offered the expert opinion testimony of clinical

and forensic psychologist Harry Goldberg, Ph.D. Dr. Goldberg has considerable experience in the evaluation, diagnosis, treatment, and risk assessment of sex offenders. 7/29/09 RP at 185-91. Dr. Goldberg has been licensed in Washington as a psychologist since 1991. *Id.* at 9. Since 1995, Dr. Goldberg has evaluated approximately 600 individuals in California and Washington to determine whether they meet the statutory criteria for civil commitment pursuant to SVP laws. *Id.* at 192. Due to differences in statutory criteria, Dr. Goldberg has found that the individual he is evaluating meets SVP criteria approximately 15 percent of the time in California, and approximately 75 percent of the time in Washington. *Id.* at 193.

As part of his evaluation, Dr. Goldberg reviewed court documents, police reports, presentence investigation reports, criminal history information, Department of Corrections and Special Commitment Center records, and witness depositions. *Id.* at 196-97. Dr. Goldberg testified that the records he reviewed were of the type that he and other mental health professionals commonly rely upon when evaluating sex offenders. *Id.* at 197. Dr. Goldberg also interviewed Townsend when he was first assigned the case in 2005, and again approximately one month before trial in 2009. *Id.* at 198; 7/30/09 RP at 320-21.

Dr. Goldberg testified that, in his professional opinion, Townsend

suffers from four mental disorders: Pedophilia, Paraphilia, Not Otherwise Specified (NOS), Antisocial Personality Disorder, and Polysubstance Abuse. 7/29/09 RP at 211; 7/30/09 RP at 250, 257, 259. In diagnosing those conditions, Dr. Goldberg relied upon a classification system that is used universally by mental health workers, and is found in the American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, (4th ed. Text Revision 2000) (DSM-IV-TR). 7/29/09 RP at 207.

Dr. Goldberg also conducted a risk assessment to determine whether Townsend was more likely than not, as a result of his mental abnormality, to commit a predatory sex offense in the future. 7/30/09 RP at 81. The risk assessment involved actuarial instruments, a psychopathy test, and an examination of mitigating factors that could reduce Townsend's risk of reoffense. *Id.* at 81-133. An actuarial instrument is a list of factors which are associated with sexual re-offense. *Id.* at 82. When administered, the instrument identifies items which are statistically related to that individual's risk of recidivism. *Id.* In determining if Townsend's risk assessment met the statutory requirement of "more likely than not," Dr. Goldberg determined if Townsend's risk was "more than 50 percent". *Id.* at 83.

Dr. Goldberg employed the use of four actuarial instruments in his risk assessment of Townsend: the Static-2002, the Static-99, the

Minnesota Sex Offender Screening Tool – Revised (MnSOST-R), and the Sex Offender Risk Appraisal Guide (SORAG). *Id.* at 271-72. Dr. Goldberg testified that the risk assessment he conducted in Townsend's case indicated that Townsend is likely to engage in predatory acts of sexual violence if not confined to a secure facility. *Id.* at 310.

Dr. Goldberg also scored Townsend on the Hare Psychopathy Checklist – Revised (PCL-R). The PCL-R measures an individual's psychopathy, or level of criminal orientation. *Id.* at 311. Dr. Goldberg testified that people who have a deviant sexual interest in children and a high level of psychopathy are among the most likely to commit additional sex offenses. *Id.* at 312. Mr. Townsend's unusually high score on the PCL-R places him in this category of offenders. *Id.*

Based upon his education and experience and his review of the evidence, Dr. Goldberg testified that it was his professional opinion that Townsend has a mental abnormality that causes him serious difficulty controlling his behavior and makes him more likely than not to commit predatory acts of sexual violence if he is not confined in a secure facility. 7/30/09 RP at 265.

III. ARGUMENT

Mr. Townsend's argues on appeal that insufficient evidence was presented at trial to support the jury verdict that he is a sexually violent

predator. He focuses on alleged insufficiencies in the testimony of Dr. Harry Goldberg, a forensic psychologist who evaluated Mr. Townsend and testified for the State at trial. Mr. Townsend's argument is without merit because Dr. Goldberg's psychological evaluation of Mr. Townsend was current, and conducted according to valid professional standards. Dr. Goldberg's qualifications as an expert are not in dispute. Thus, Mr. Townsend's argument is without merit, and his appeal should be denied.

A. Standard of Review

A Sexually Violent Predator is an individual "who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." RCW 71.09.020(16).

The quantum of evidence in SVP commitment hearing should be examined under a criminal standard. *In re the Detention of Thorell*, 149 Wn.2d 724, 743, 72 P.3d 708 (2003). "Under this approach, the evidence is sufficient if, when viewed in the light most favorable to the State, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* at 744. This court must look at the evidence in the light most favorable to the State and determine whether

any trier of fact could, based on that evidence, determine that he met SVP criteria. When examining a claim that a verdict in an SVP case was based upon insufficient evidence, the court must determine whether the evidence, "viewed in a light most favorable to the State, is sufficient to persuade a fair minded rational person that the State has proven beyond a reasonable doubt that [Respondent] is a sexually violent predator." *Id.*

B. The State Presented Sufficient Evidence to Support the Jury's Verdict that Townsend Met the SVP Definition

Townsend asserts that Dr. Goldberg's actuarial risk assessment was invalid because it was conducted in 2005, approximately four years prior to Mr. Townsend's civil commitment trial in 2009. His argument ignores the fact that Dr. Goldberg's evaluation was ongoing from the time he was first assigned the case in 2005 through the trial date in 2009, and the opinion testimony Dr. Goldberg provided was current. Consequently, Mr. Townsend's argument is without merit, and his appeal should be denied.

1. Dr. Goldberg's Risk Assessment of Mr. Townsend Established that He is More Likely Than Not to Reoffend If Not Confined in a Secure Facility

Townsend argues that the risk assessment conducted by Dr. Goldberg was insufficient to establish that Townsend will more likely than not engage in predatory acts of sexual violence if not committed to a

secure facility. Brief Of Appellant at 16-17. He asserts that not enough of the actuarial instruments used by Dr. Goldberg "put Mr. Townsend at a greater than 50% chance of reoffending." *Id.* This argument misunderstands the nature of actuarial risk assessment, and ignores much of what was considered by Dr. Goldberg when he assessed Townsend's case. For these reasons, Townsend's argument lacks merit and should be rejected.

Dr. Goldberg evaluated Townsend's risk of reoffense, in part, by using four actuarial risk assessment instruments: the Static-2002, Static-99, Sex Offender Risk Appraisal Guide (SORAG), and Minnesota Sex Offender Screening Tool – Revised (MnSOST-R). 7/30/09 RP at 271. Townsend's score on the Static-2002 placed Townsend in the "high risk" category for reoffense, and placed him in the between the 94th and 98th percentile – among the approximately 4,000 sex offenders used to create the instrument. 7/30/09 RP at 283-84. The Static-99 was conservatively scored by Dr. Goldberg as 5 ("moderate high risk"), but could have been a 7 ("high risk") if information in the file was believed. 7/30/09 RP at 292-93. Townsend's score on the MnSOST-R placed him in the high risk category. 7/30/09 RP at 294. Finally, his score on the SORAG score equated to an 80 percent chance of reoffending within 10 years of release. 7/30/09 RP at 294. The predictive accuracy of actuarial instruments is not

infallible, but Dr. Goldberg noted, "no matter what instrument you give [Townsend], he's going to fall in the upper [risk] range when compared to other sex offenders." 7/30/09 RP at 298.

Dr. Goldberg also testified that the actuarial instruments *underestimate* actual risk because they are designed to identify whether a person will be arrested for, charged with or convicted of a sexual crime. 7/30/09 RP at 269-70. This is an important consideration because research in the field has shown that many more crimes are committed than are committed and subsequently reported to law enforcement for investigation. As someone with a significant number of unadjudicated victims, Mr. Townsend himself exemplifies this principle of underprediction. According to Dr. Goldberg, the fact that the results of actuarial risk assessment can be an underestimate of the actual recidivism risk is a "drawback" to using the actuarial instruments. *Id.* at 298.

In addition, Dr. Goldberg discussed many other factors that supported his conclusion that Mr. Townsend is "more likely than not" to reoffend. Most importantly, he discussed the fact that Townsend stated he would commit another sex offense if he were released in 2005. 7/30/09 RP at 286. He stated that he needed to get more sex offender treatment before he could safely be released, but failed to participate in treatment in the years since. *Id.*

Dr. Goldberg also noted that Mr. Townsend's unusually high level of psychopathy, together with his sexually deviant interest in children amounted to a "very dangerous combination" that research shows significantly increases the risk of reoffense. 7/30/09 RP at 312. Mr. Townsend had no viable plan for housing, employment or treatment if he were released, and he presented to Dr. Goldberg in 2009 as someone who had forgotten anything he may have learned in treatment. *Id.* at 320-21.

In this case, there is no doubt that sufficient evidence supports Dr. Goldberg' finding that Townsend is "more likely than not" to commit a future act of predatory violence if not confined in a secure facility. Dr. Goldberg provided the court with the factual basis for his opinion regarding Townsend's risk, and that opinion considered all factors that Townsend now alleges should result in reversal of his commitment. The trial court considered these same arguments and rejected them. Taken in the light most favorable to the State, the evidence overwhelmingly supports the jury's finding that Townsend will, more likely than not, commit predatory acts of sexual violence if not confined in a secure facility. Based on the evidence presented, no rational trier of fact could have found otherwise.

2. Dr. Goldberg's Opinions Were Supported by Reliable Factual Bases

Townsend argues that Dr. Goldberg's opinion testimony should be discounted because, he argues, the conclusions reached were founded upon incorrect facts. Specifically, Townsend takes issue with Dr. Goldberg's reliance on a positive drug test result, and documentation regarding a number verbal and/or physical outbursts by Mr. Townsend while at the Special Commitment Center. Appellant's Brief at 15. Any quibble Townsend may have on appeal with some of the evidence that was relied upon as proof of problems with drug use and behavior management is rendered moot by consideration of the testimony of his own expert witness at trial, Dr. Robert Halon.

After reviewing the same information that was reviewed by Dr. Goldberg, Dr. Halon came to the following conclusions about Mr. Townsend:

- Mr. Townsend is characteristically immature, selfish, pleasure oriented, impulsive, anti-authority and antisocial, and highly prone to alcohol or drug abuse or addiction. 8/4/09 RP at 634.
- Mr. Townsend tends to deny his problems. *Id.*
- "[T]he record reflects that once [Townsend] gets upset and thinks he's been wronged, he will act out impulsively." *Id.* at 632.

- Mr. Townsend's record blatantly suggests that it is reasonable to consider him a continuing danger of impulsive sexually acting out. *Id.* at 634.
- It was not surprising to see evidence of recent drug use in the record because he had been fairly well addicted to drugs for many years. *Id.* at 630.
- Mr. Townsend is an individual who tends to resent and disregard authority. This makes him vulnerable to problems with the law or supervisors in a workplace setting. *Id.* at 633.

In short, both professionals who were asked to evaluate Townsend agreed that he is prone to drug use and behavioral outbursts. Mr. Townsend's tenuous argument to the contrary should be rejected, and his appeal should be denied.

3. Mr. Townsend Overstates the Impact of His Treatment Performance

Mr. Townsend argues, in part, that his performance in SOTP undermines Dr. Goldberg's opinion that he is likely to commit new sex offenses if not confined to a secure facility. Townsend claims that the "tests" Dr. Goldberg administered during his evaluation come "months before Mr. Townsend finished his SOTP therapy, and did not adequately

take his treatment progress into account. Appellant's Brief at 12.¹ This argument indicates a fundamental misunderstanding of the facts of the case, including the details of Dr. Goldberg's testimony.

Edward Neiland was Mr. Townsend's primary treatment provider in the SOTP at Monroe, and testified at his SVP civil commitment trial. 7/29/09 RP at 153. Mr. Neiland treated Townsend for approximately one year August 2004 through October 2005. 7/29/09 RP at 154. The goal of the treatment program is not to "cure" the individual, but to aid the person in being better able to manage their problematic behavior. 7/29/09 RP at 147.

Honest and complete disclosure of one's sexual history is a prerequisite to having any form of success in the treatment program. 7/29/09 RP at 148-49. While in treatment with Mr. Neiland, Townsend disclosed having approximately 40 total child victims; 35 females and 5 males. 7/29/09 RP at 161. Some of the victimization he described involved grooming the intended victim to gain trust, and some involved forced sexual contact with strangers in places such as public restrooms.

¹ Presumably, Mr. Townsend is referring to the actuarial instruments used by Dr. Goldberg to help him assess Townsend's risk to reoffend if released. Townsend's statement on appeal that Dr. Goldberg administered no additional tests after 2005 is incorrect. For example, although researchers began development of the Static-2002 in 2002, it was not recommended for use until 2008. See Leslie Helmus, *The Stability of Recidivism for Static-2002 Risk Categories*, Presented at October 23, 2008 27th Annual ATSA Conference (Appendix 1). Here, the witnesses discussed at length that the science of risk prediction is constantly evolving and the opinions offered accounted for updates in procedure. See e.g. 8/5/09 RP at 703-05.

7/29/09 RP at 161. Having also been married while living in the community, Townsend described a marital relationship that was identified by his physical and sexual abuse of his wife. 7/29/09 RP at 162.

In addition, Mr. Neiland testified that, while in treatment, Townsend reported an "unusual or atypical number" of sexual fantasies about children, and was considered to be sexually preoccupied. 7/29/09 RP at 168-69. For Townsend, seeing a child on television was enough to trigger fantasies of sexual contact with children, and interaction with a female prison guard could trigger fantasies of rape. 7/29/09 RP at 166. Progress marked by "having fewer [behavioral] infractions toward the end of treatment," and Townsend's self-reported ability to better regulate his sexual behavior. 7/29/09 RP at 171. As mentioned above, Townsend's time in treatment did not end because he had been "cured." Rather, his allotted time in the program was up. *Id.* At the end of treatment, both Neiland and Townsend still believed more treatment was needed. Townsend believed that "if he [were] released and given access to children he would reoffend." *Id.*

As his civil commitment trial approached in 2009, Mr. Townsend began to claim that, at Mr. Neiland's request, he made up the information he provided in treatment. 7/1/09 Deposition of Joseph Townsend at

34-36.² He now claimed that he didn't really have the child victims he disclosed in treatment. Instead, according to Townsend in 2009, he was specifically instructed during SOTP to create a "fantasy time line" as part of a treatment assignment. *Id.* This claim is obviously false when viewed in the context of the rest of the evidence.

For example, Townsend first disclosed his offense history to Dr. Jennifer Wheeler in July 2004, the month *before* he entered the treatment program. 7/29/09 RP at 96. Dr. Wheeler was tasked with conducting an "intake assessment" of Townsend designed to assist in formulating the treatment plan to be used once he began to participate in the program. 7/29/09 RP at 93. During the assessment, Townsend reported that he had perpetrated sexual offenses against about 35 victims over a five-year period between the ages of 17 and 23. 7/29/09 RP at 107.

Townsend "described engaging in sexual offenses with people who were known to him but also some who were strangers, and that sometimes he committed these offenses in very public, highly trafficked places, so department stores, parks, things like that." 7/29/09 RP at 107. He stated that he "feared that his violence towards [his wife] was escalating and that he might be in danger of causing her more severe harm, even perhaps killing her." 7/29/09 RP at 104. As part of the assessment, Dr. Wheeler

² Mr. Townsend's deposition was videotaped, and viewed by the jury at trial.

gave Townsend a psychological test designed, in part, to determine whether he was either exaggerating or withholding his offense history. The results indicated that neither was the case, and the reported history was accurate. 7/29/09 RP at 112-13.

Mr. Townsend made similar statements while being interviewed by Dr. Goldberg in 2005. 7/29/09 RP at 203-04. However, by the time he was interviewed for a second time in 2009, Mr. Townsend had disavowed virtually all of his previous disclosures. Rather, he simply alleged that he had been through treatment, and put the past behind him. 7/30/09 RP at 320. To Dr. Goldberg, and experienced treatment provider, this illogical change of position was concerning. Mr. Townsend presented in 2009 as a person who had not had any meaningful treatment. *Id.* Dr. Goldberg was also viewing Townsend's change in position in the context of diagnostic truths. Specifically, it is well known that sexual disorders such as pedophilia are usually chronic, lifelong conditions that people can learn to manage but not eliminate. 7/30/09 RP at 256.

Dr. Goldberg also had the benefit of reviewing Mr. Townsend's life history as told through the hundreds of pages of records he received and reviewed. In addition, as a person with years of experience in treating and supervising the treatment of high risk sex offenders, Dr. Goldberg was able to properly evaluate Mr. Townsend's eve of trial personality change.

7/29/09 RP at 186-89. Thus, when viewed in the light most favorable to the State, Dr. Goldberg's analysis was appropriate and justifiable. His opinions were not the product of "mere speculation," and Mr. Townsend's argument should be rejected.

IV. CONCLUSION

For the foregoing reasons, the State requests that this Court deny Townsend's appeal, and affirm his civil commitment as a sexually violent predator.

RESPECTFULLY SUBMITTED this 4th day of June, 2010.

ROBERT M. MCKENNA
Attorney General

A handwritten signature in black ink, appearing to read 'J. Choate', written over a horizontal line.

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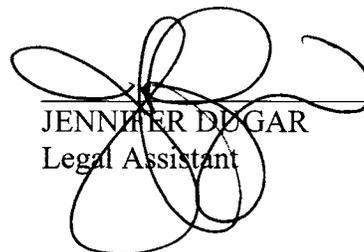
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I certify under penalty of perjury under the laws of the state of
Washington that the foregoing is true and correct.

DATED this 4th day of June, 2010, at Seattle, WA.



JENNIFER DOGAR
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APPENDIX 1



The Stability of Recidivism for Static-2002 Risk Categories

Leslie Helmus

R. Karl Hanson

David Thornton

Presented at the 27th Annual Research and
Treatment Conference of the Association for the
Treatment of Sexual Abusers, Atlanta, Georgia

October 23, 2008



Public Safety
Canada

Sécurité publique
Canada

Canada

Static-2002

- Empirically derived actuarial risk assessment tool designed to predict sexual recidivism
- Easily scored from commonly available criminal history information
- Can be used by psychologists, parole/probation officers, treatment providers, police officers, etc..
- Appropriate for adult male sexual offenders



Goals of Static-2002

- 1) Increase coherence and conceptual clarity
 - Static-99 is atheoretical, part of dustbowl empiricism

- 2) Improve consistency of scoring criteria
 - E.g., convictions, charges, sentencing occasion

- 3) Reduce counter-intuitive scorings
 - Static-99 has possibility of lower score upon recidivism

- 4) Increase predictive accuracy
 - More items, altered definitions



Static-2002

- 14 items grouped in 5 conceptual categories
- Scores range from 0-14
 - Low risk (0-2); low-moderate (3-4); moderate (5-6); moderate-high (7-8); and 9+ is high risk
- 4 items are same as Static-99 with same coding rules
- 4 items are same with modified coding rules
- 6 new items
- 2 items deleted: single, and index non-sexual violence



Static-2002 Items (grouped by categories)

- 1) **Age**
 - Age
- 2) **Persistence of Sexual Offending**
 - Prior sex offences, Juvenile arrest for sex offence, High rate of sex offending
- 3) **Sexual Deviance**
 - Non-contact convictions, male victims, 2+ victims under 12 at least one of whom is unrelated
- 4) **Relationship to Victim**
 - Unrelated victim, Stranger victim
- 5) **General Criminality**
 - Any prior involvement in CJS, Prior sentencing occasions, Breach of conditional release, 4 years free prior to index, Prior non-sexual violence



Goal of this Presentation

- Review/update our research validating Static-2002 and comparing it to Static-99
- Explore variability in predictive accuracy
- What are the best recidivism estimates for Static-2002?



Methods

- 8 samples
 - 7 from Helmus (2007) with some modifications, 1 new sample (Denmark)
- Datasets cleaned and merged. Cases deleted if:
 - No follow-up info (e.g., offender not released)
 - More than one Static-2002 item missing
 - ANY item on Static-99 missing (except Item 2: Single)
 - Illogical Static-99/Static-2002 codings



8 Samples ($N = 3,034$)

- CSC: B.C. (Boer, 2003; $n = 299$)
- CSC: Quebec (Bigras, 2007; $n = 487$)
- CSC: Warkworth (Langton et al., 2007; $n = 354$)
- CSC: Detained (Haag, 2005; $n = 198$)



8 Samples continued

- Bridgewater: MTC (Knight & Thornton, 2007; $n = 485$)
- Denmark: Psychiatric (Bengtson, 2008; $n = 311$)
- Canada: DSP (Hanson et al., 2007; $n = 702$)
- U.K. Multi-Site Treatment (Harkins & Beech, 2007; $n = 198$)



Descriptive Information

- All samples had both rapists and child molesters (overall split 38% and 51%)
- Total missing information: 1.8% of cases had one item missing on either Static-99 or Static-2002
- Average age = 39 ($SD = 12$)



Descriptive Information

- Average follow-up: Ranged 3.4 – 14.8 years ($M = 7.5$)
- 4 samples used convictions as outcome; 4 used charges
- Overall recidivism rates
 - 15.2% sexual (8 samples)
 - 25.6% violent, including sexual (7 samples)
 - 39.7% any recidivism (7 samples)



ROC Meta-Analysis Results

	Sexual Recidivism*	Violent Recidivism*	Any Recidivism*
Static-99	.66	.66	.66
Static-2002	.68	.70	.71

* Differences Significant ($p < .05$)



ROC Meta-Analysis Results: Significant Variability

- Static-99 and Static-2002 showed significant variability in predictive accuracy across samples for all three outcomes
- What gives?
 - Restriction of range in Static-2002 scores across samples?
 - Other variables moderating predictive accuracy?



Another Perspective: Logistic Regression

- Stability of logistic regression coefficients
- B_0 : proxy for recidivism base rate
- B_1 : proxy for predictive accuracy
- Requires fixed follow-up periods
 - Total $n = 1,923$ for fixed 5-year sexual ($k = 8$)
 - Total $n = 1,132$ for fixed 10-year sexual ($k = 5$)
 - Total $n = 1,732$ for fixed 5-year violent ($k = 7$)
 - Total $n = 1,142$ for fixed 10-year violent ($k = 5$)



Logistic Regression Meta-Analysis

	<i>k</i>	<i>n</i> recid	Total <i>N</i>
Sexual: 5 year	7	282	1,892
Sexual: 10 year	4	236	1,085
Violent: 5 year	6	414	1,701
Violent: 10 year	5	392	1,142
Any: 5 year	6	663	1,704
Any: 5 year	5	586	1,149



Logistic Regression Meta-Analysis

	B_0	Q	B_1	Q
Sexual: 5 yr	-3.14	17.62**	.255	5.69
Sexual: 10 yr	-2.59	12.62**	.237	4.45
Violent: 5 yr	-2.67	11.08*	.270	4.45
Violent: 10 yr	-2.27	12.73*	.281	8.74
Any: 5 yr	-2.21	11.39*	.316	11.75*
Any: 10 yr	-1.67	17.78**	.310	15.33**



Next Step: Cox Regression

- Explore potential variables moderating predictive accuracy and recidivism base rates
- Advantage: uses survival data (not fixed follow-ups), so complete sample included in analyses



Cox Regression Results: Sample Type

- Sample Type:
 - Pre-selected high risk: $n = 994$ (Bridgewater, Denmark Psychiatric, CSC Detained)
 - Routine CSC cases: $n = 1,140$ (B.C., Quebec, Warkworth)
- After controlling for Static-2002, routine CSC samples had significantly lower sexual ($\text{Exp}(B) = .438$) and violent recidivism ($\text{Exp}(B) = .713$)
- Static-2002 and sample-type interaction for all 3 outcomes: greater predictive accuracy in CSC samples



Cox Regression Results: Offender Type

- Rapists ($n = 835$) versus Child Molesters ($n = 1,025$; $k = 5$)
- After controlling for Static-2002 score, child molesters had significantly lower sexual ($\text{Exp}(B) = .752$), violent ($\text{Exp}(B) = .548$), and any recidivism rates ($\text{Exp}(B) = .538$)
- No interactions



Given these findings, what are the best recidivism estimates to use?



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Recidivism Estimates: Methods

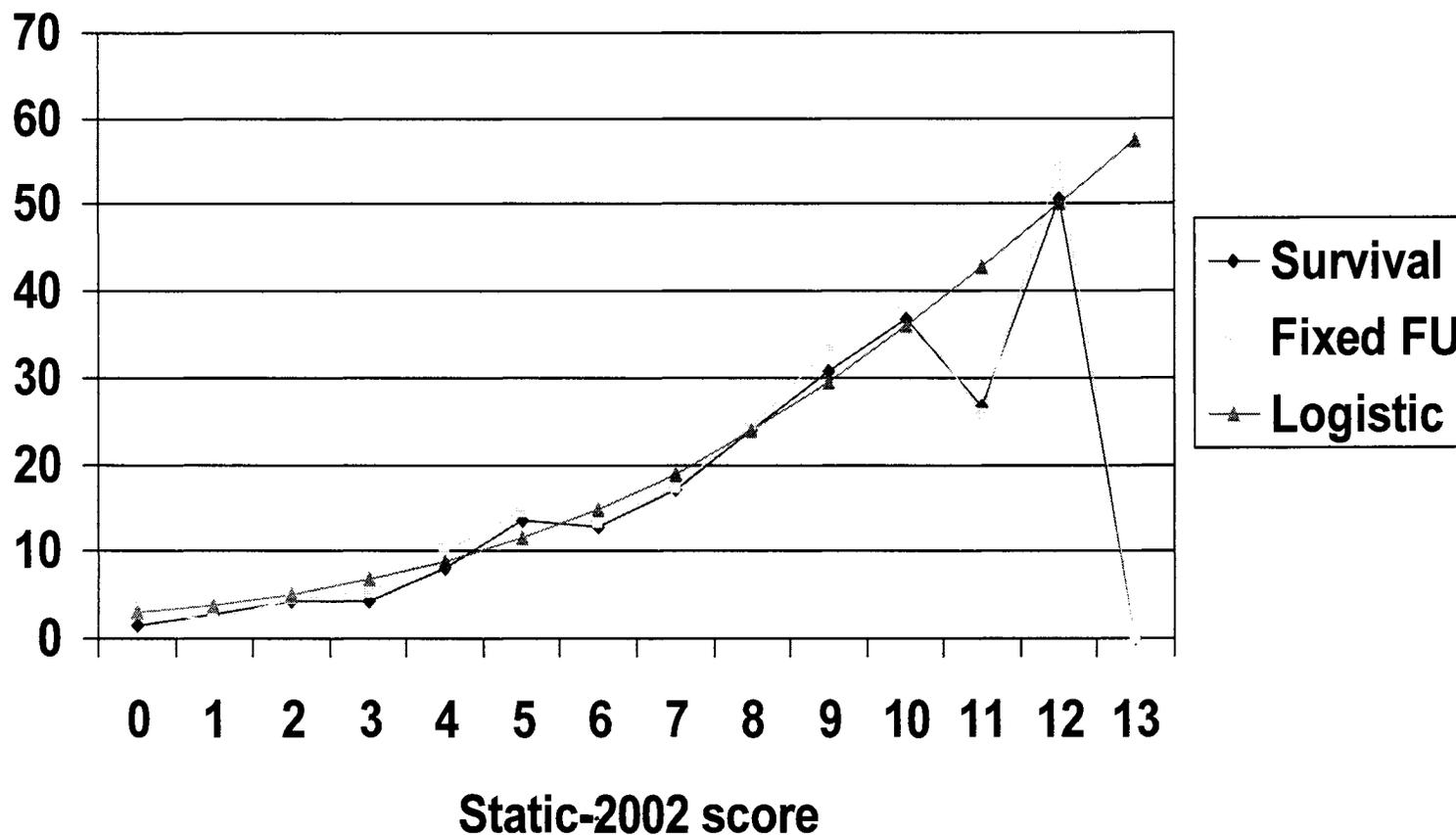
- 1) Survival analysis (original Static-99 norms)
 - Random fluctuations (e.g., 10 and 15 year sex recid rates for Static-99 scores of 0 and 1)
 - Only use offenders with specific score - noisy and with small sample sizes (scores of 6+ on Static-99)

- 2) Observed rates for fixed follow-ups
 - Same problems as above, & much reduced sample size

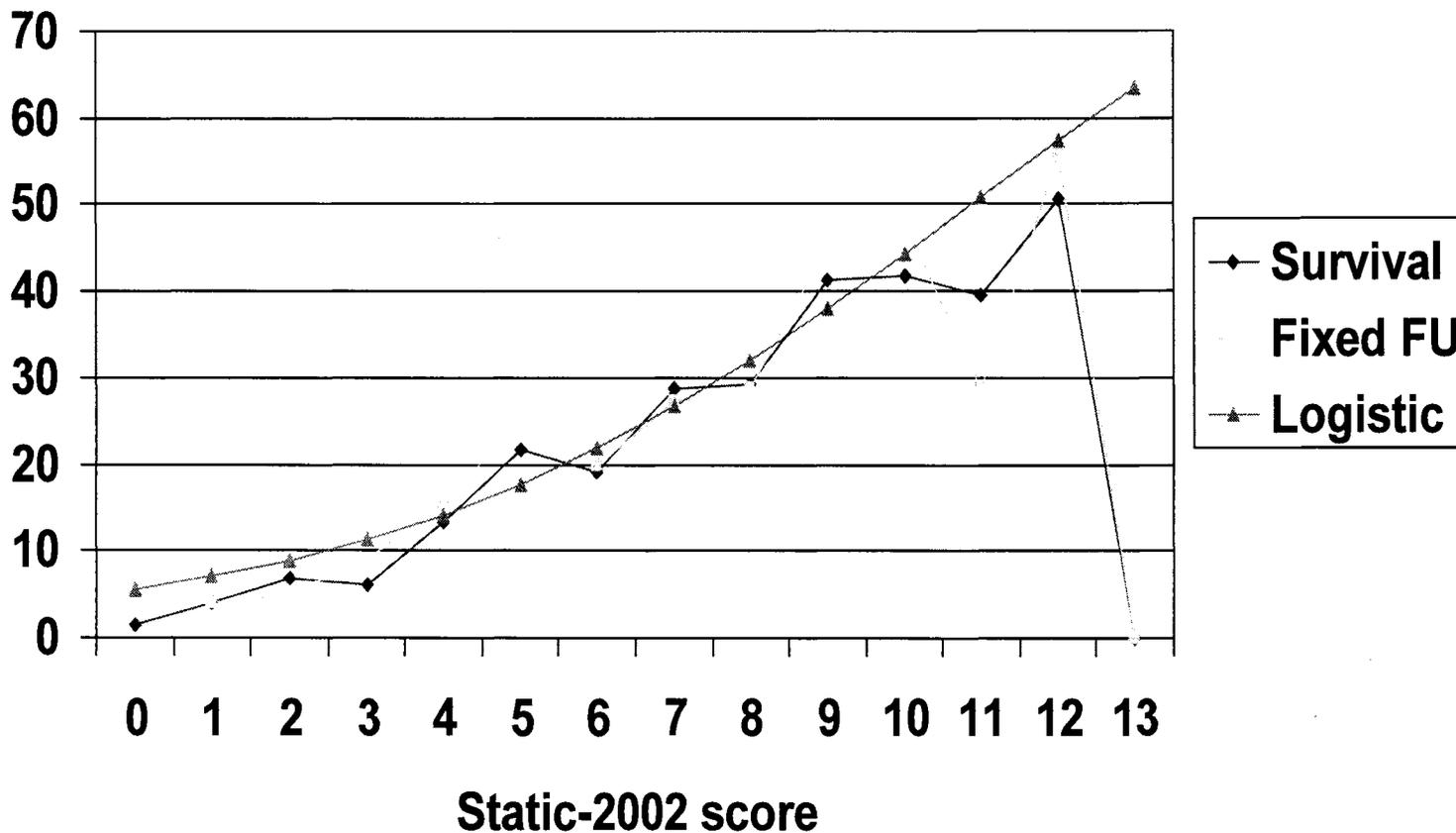
- 3) Predicted values from fitted logistic regression curves (**preferred option**)
 - Reduced overall sample size, requires logistic distribution
 - Corrects random fluctuations by using B1 (the whole dataset) to smooth the estimates



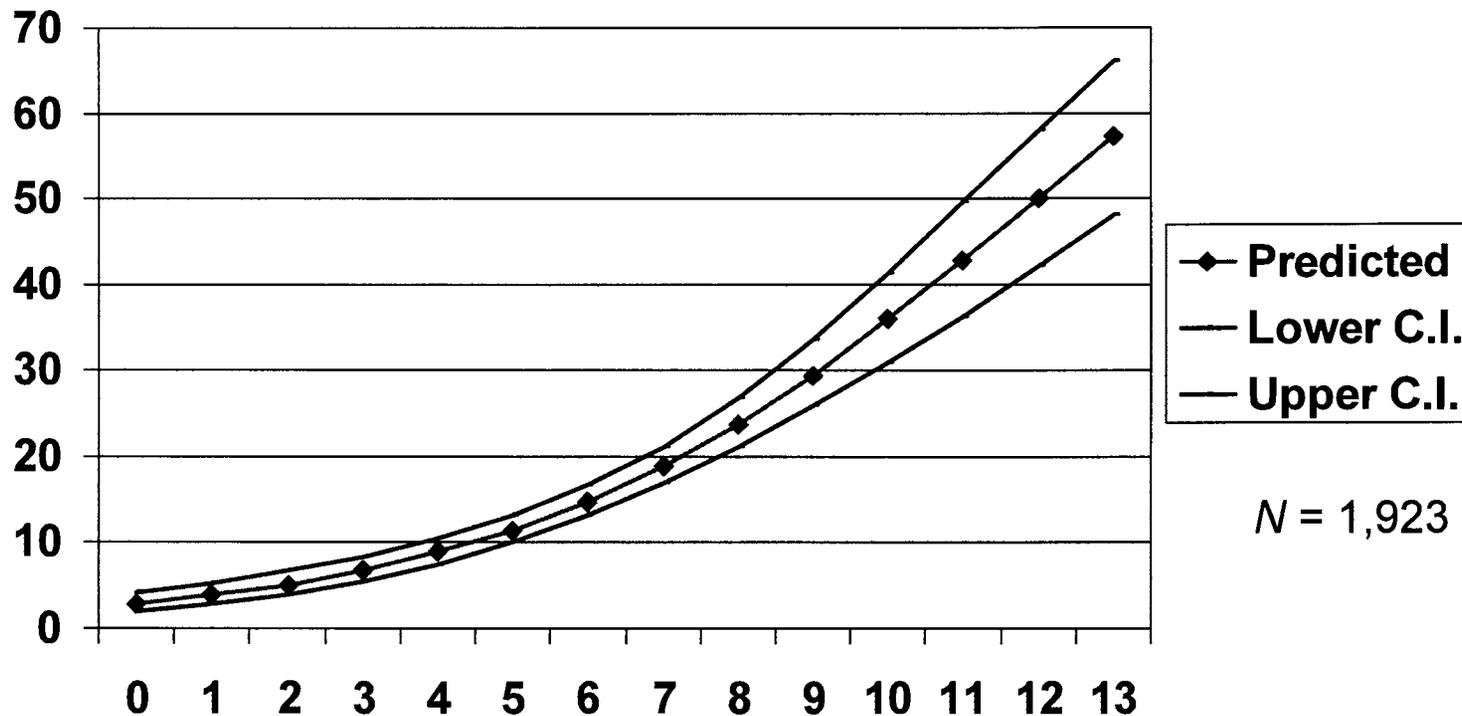
Example: 5 year Sexual Recidivism



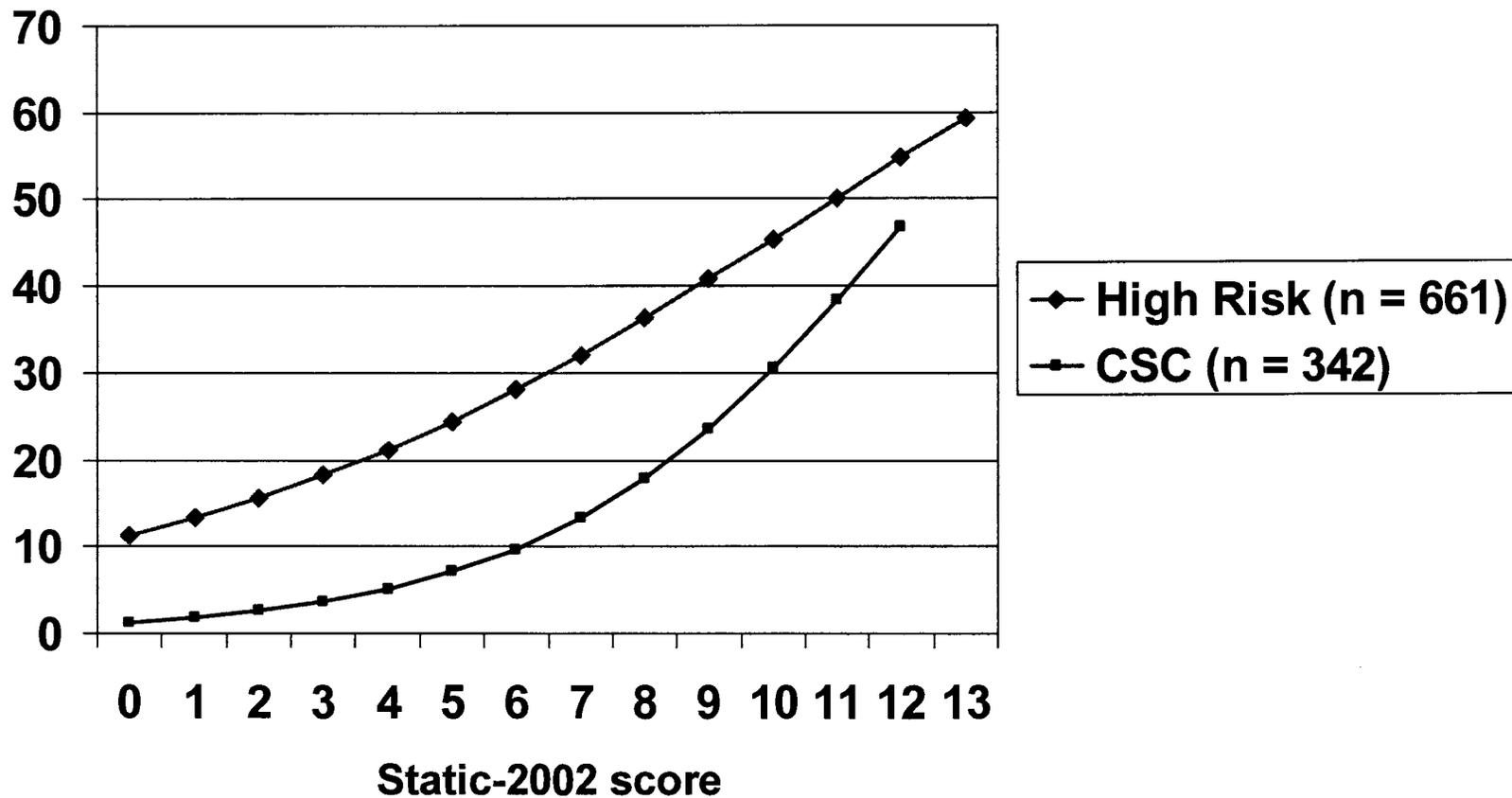
Example: 10 year Sexual Recidivism



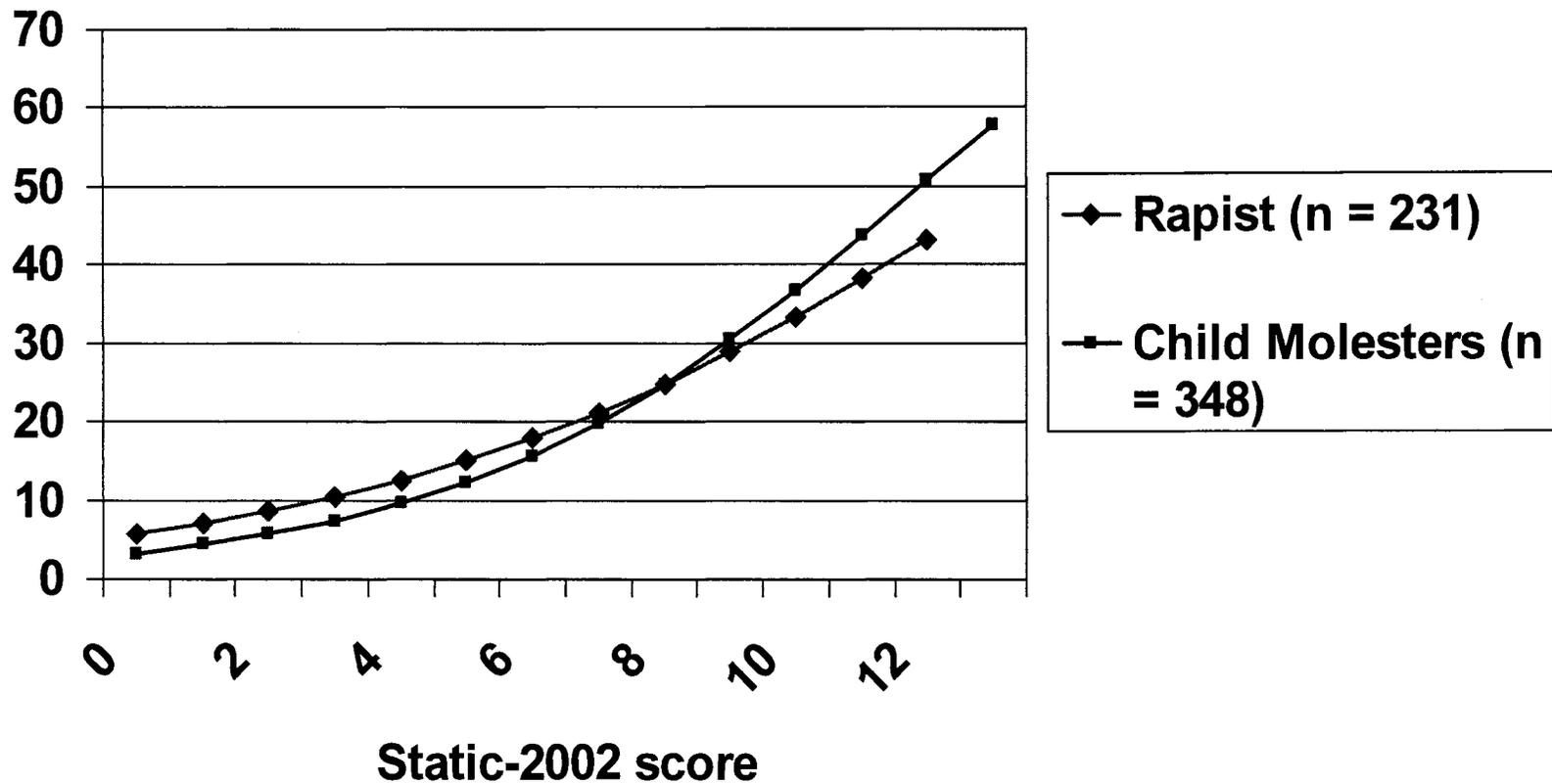
Example: 5 year Sexual Recidivism 95% Confidence Intervals for Logistic Regression Estimates



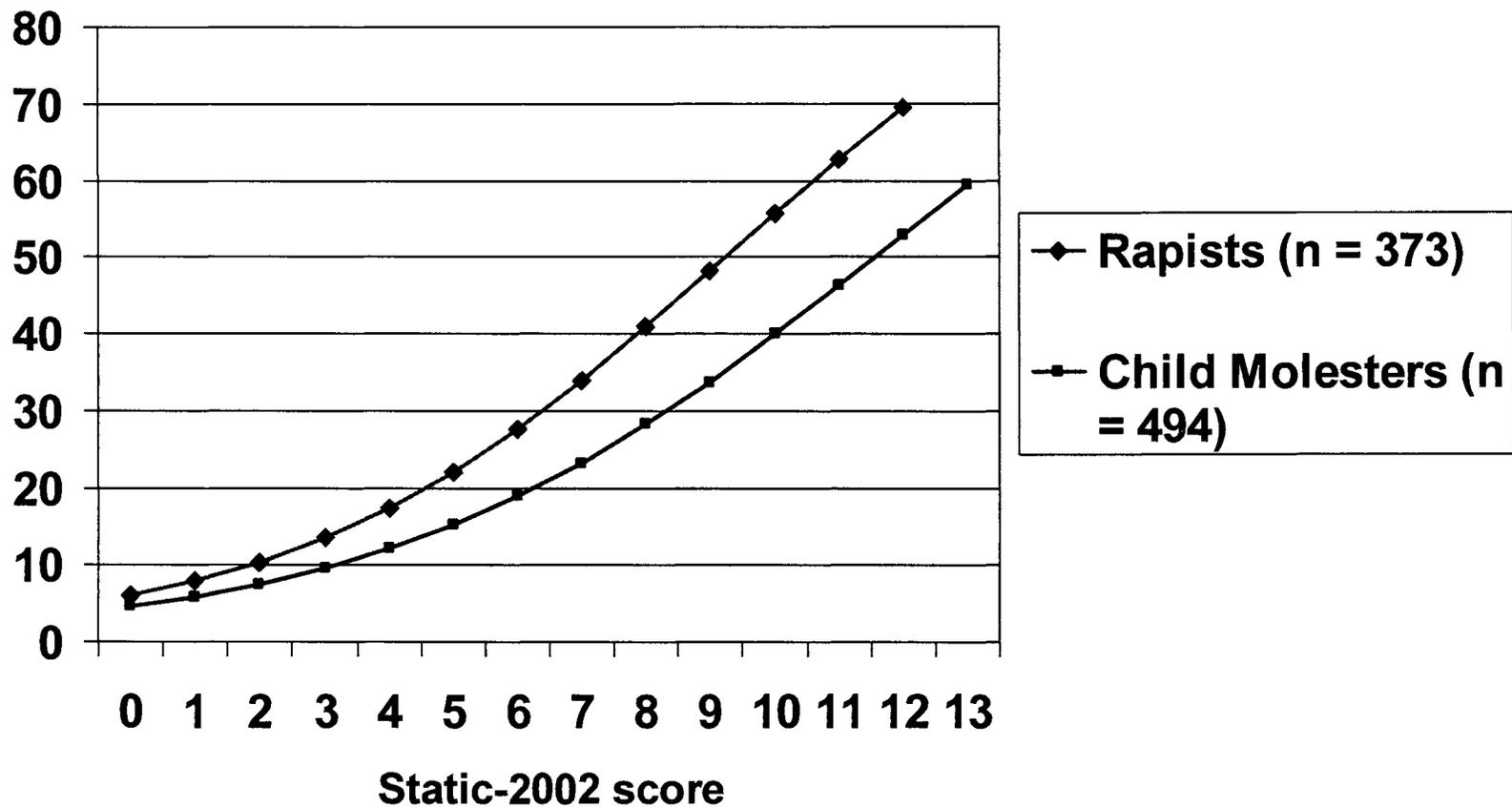
10 Year Sexual Recidivism Rates (from logistic regression estimates)



10 Year Sexual Recidivism Rates (from logistic regression estimates)



5 Year Violent Recidivism Rates (from logistic regression estimates)



Conclusions

- Static-2002 shows significant variability across samples
 - Likely due to base rate differences
- Use recidivism rates from smoothed logistic regression estimates (when it fits logistic distribution)
- May require separate estimates for routine CSC cases, rapists versus child molesters



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For more information on this presentation or on Static-2002 (e.g., for obtaining the Static-2002 recidivism tables), contact:

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Static-2002 Coding Rules should be available within the next month.

Check:

www.static99.org



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