

# **GUIDE TO THE WASHINGTON STATE SEX OFFENDER RISK LEVEL**

## **CLASSIFICATION SCREENING TOOL**

**Updated 2016**

The goal of the classification and notification law is to provide the proper amount of information about a releasing sex offender to the appropriate group of persons, so that they can take steps to protect themselves. The offenders risk level and resulting notification should be rationally related to the risk the offender poses to the community at large.

Items one through twenty-one are based upon the Sex Offender Screening Tool (SOST), a risk prediction instrument developed by the Minnesota Department of Corrections. Minnesota uses their SOST to determine sex offenders' risk levels for public notification purposes. In addition, they use the SOST to assist them in determining which individuals to refer for civil commitment.

The individual items contained in the SOST, and the relative weight assigned to them, were determined based upon a review of the existing scientific literature regarding factors which are empirically linked to re-offense. The state of Washington, using the Minnesota Sex Offender Screening Tool as a foundation, has made a number of revisions to the instrument as a result of its own inter-rater reliability study which was completed in January 1999. Future study will be required in order to determine the viability of the risk assessment tool with Washington State offenders.

The End of Sentence Review Committee decided to adopt the SOST for several reasons. Scientific literature on the prediction of future dangerousness holds the mental health professionals' clinical predictions are generally no better than chance. The literature does support the predictions of recidivism using instruments based on empirical studies linking certain factors to re-offense. The SOST is such an instrument.

### **GENERAL INSTRUCTIONS**

This document is used by the End of Sentence Review Committee (ESRC) consisting of: Department of Corrections (DOC), Indeterminate Sentence Review Board (ISRB), and the Department of Social and Health Services (DSHS), to assist in determining the appropriate community notification level for persons being released from DOC and DSHS. This tool is also used by local law enforcement agencies to classify sex offenders not releasing from state facilities. Unless otherwise noted, use only officially documented data sources such as police reports, presentence investigations, and court documents. Where indicated, self-reported information may be included, if considered reliable.

Items should be left blank only if no documented information is available. In many cases, if no data is available, an item may logically be judged as absent. For example, if alcohol/drug problems are not noted in the case file, item 12 should be scored as a zero, indicating no interference with functioning.

## **DEFINITIONS:**

**Reliable Offender Self-Report:** Refers to self disclosed information regarding behaviors that a prosecuting attorney would/could file criminal charges or that could result in a violation of supervision. This applies to Items 1 through 10 and the Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR) Items 3 and 4. Note: child sexual exploratory behavior should not be included. Polygraph information must be validated by a treatment program or a treatment provider; part of a written official assessment or report by treatment provider, psychologist, or psychiatrist. If polygraph is inconclusive or deceptive, do not count.

**Mentally Ill:** Offenders who are in a manic/delusional/or psychotic state should not be considered reliable unless there is independent corroborating evidence.

**Developmentally Disability:** Offenders with an IQ of 69 or below cannot be considered reliable do not count self report unless there is independent corroborating evidence.

**Culpability:** Begins at age 12 unless the offender has actually been adjudicated by a court or governmental agency for an offense which occurred prior to the age of 12. Therefore, offenses prior to the age of 12 shall not be counted unless an adjudication has occurred. Note: a continuing pattern of forcible sexual behavior prior to the age of 12 could be used as an aggravating factor.

**Family:** Persons who have a biological or legal parent-child relationship or individuals who have resided in the same household for a minimum of 12 months and are residing together at the time of the offense. Also includes, stepparents, grandparents, aunts, uncles, and sibling relationships, whether or not they are residing in the same residence.

**Offense:** All charges, arrests, convictions, and adjudications, for sexual criminal acts. Offense also encompasses parole board adjudications and revocations, Department of Corrections' community supervision adjudications and revocations, institution infractions and offender reliable self -report.

**Conviction/Adjudication:** Conviction/adjudication means a crime for which an offender has been found guilty by a court of general (superior or circuit) or limited (juvenile or district) jurisdiction, or has been found Not Guilty By Reason of Insanity (NGRI) under Chapter RCW 10.77 of a sex offense, or was found incompetent to stand trial for a sex offense and subsequently committed to DSHS under Chapter 71.05 or 71.34 RCW.

**Substantial Bodily Harm:** Means bodily injury which involves a temporary but a substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any body part or organ, or which causes a fracture of any body part. Documentation of injury must be part of the official record.

**Great Bodily Harm:** Means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any body part or organ. Documentation of injury must be part of the official record.

**Felony:** Any crime in which the offender is sentenced to a term of one year and one day or more. Note: Communication with a Minor for Immoral Purposes, if an offender has previously been convicted of this crime or of a felony sexual crime in this state or any other state is a felony.

**Gross Misdemeanor or Misdemeanor:** Any crime where the offender can be sentenced to one year or less.

**Arrest:** To deprive a person of his liberty by legal authority. It is the physical seizure of a person by an officer or submission to the officer's authority and control that is necessary to constitute an "arrest".

**Charges:** Formal complaint filed in court by the prosecuting attorney's office after review of a police investigation.

### **PART I: INSTRUCTIONS FOR EACH ITEM OF THE RISK LEVEL CLASSIFICATION TOOL**

#### **Item 1: Number of Sex/Sex-Related Convictions (juvenile, felony, gross misdemeanor):**

Include the total number of formal legal sex/sex-related convictions, including the convictions for which the offender is currently incarcerated. Score both felony and gross misdemeanor convictions, as well as, any juvenile adjudications.

If the act resulting in conviction occurred prior to July 1, 1990, the evaluator should examine the underlying facts of the criminal act(s) to determine if it was sexually motivated. However, if the criminal act occurred after July 1, 1990, the conviction can be said to be sexually motivated only if the Judgment and Sentence contains an express finding of sexual motivation. Code the actual number of convictions/adjudications.

#### **Examples:**

- a) The inmate has been convicted of three counts of First Degree Rape, a felony. **Score as three (3) felonies.**
- b) The inmate was charged with First Degree Rape and First Degree Burglary, both felonies. He/she was later acquitted of the Rape, but was convicted of the Burglary. **Score as zero (0) felonies (the Burglary conviction will be scored on item 2).**
- c) The inmate was charged with two counts of First Degree Rape, but was permitted to plead guilty to just one count of First Degree Rape. **Score as one (1) felony.**
- d) The official version of the conviction indicates the inmate committed a sex offense, and was charged with First Degree Rape with no finding. He/she later pled guilty to First Degree Burglary with no finding of sexual motivation. **Score as one (1) or zero (0) depending on the date the felony occurred. (Note: see item 1 paragraph**

- 2). If scored as a 1 do not score on item 2, (do not score twice.)**
- e) Information indicates the offender was charged with three counts of First Degree Rape in another jurisdiction. **Explore further. Score only if the offender was convicted.**

**Item 2: Number of Felony Convictions (not including sex/sex related offenses [scored in item 1]):**

Include the total number of formal legal convictions for **non-sex/sex-related** felonies. Juvenile/Felony adjudications may be used if the information indicating the offender was adjudicated guilty of a felony are reliable.

Examples:

- a) The offender was charged with First Degree Rape and Second Degree Burglary, but was later acquitted of the First Degree Rape and convicted only of the Second Degree Burglary. **Score as one (1) felony.**
- b) The offender was convicted of Possession of Drugs with the Intent to Deliver, **score as one (1) felony.**

**Item 3: Other Sex/Sex-Related Arrests or Charges Not Resulting in Conviction:**

Include all arrests or other charges not resulting in conviction. This information may be from any documented source, including the offender's self-report. The critical point is that some official, either the police or the court, felt there was probable cause to believe the offender committed the offense. If the person was later acquitted of any crime for which he was arrested or charged, do not count the arrest/charge.

Examples:

- a) The offender admits committing a sex offense, but states he/she was never arrested/charged and there is no official record of the offense. **Score as zero (0) points.**
- b) The offender admits he/she was arrested for a sex offense in another state, but no official documentation exists. **Score as one (1) point.**
- c) The offender was arrested for a sex offense but rather than being prosecuted, the offender's parole was revoked. **Score as one (1) point.**
- d) The offender was arrested and charged with Rape but was found not guilty at trial. **Score as zero (0) points.**
- e) The offender was arrested for Rape but never charged. **Score as one (1) point.** The offender was charged but later dismissed due to lack of evidence. **Score as one (1) point.**

\*Stipulated order of Continuances (SOC) and Diversion (different victim) count for question # 3. 11-20-2014 - JP

**Item 4: Age at First Conviction or Adjudication for Sex/Sex-Related Offense:**

List the offender's actual age in years when first convicted or adjudicated guilty (not when crime committed) of a sex/sex-related crime.

Example:

- a) Offender was convicted of a sex crime at the age of twenty-three. He/she committed this crime when he/she was eighteen. **Score as two (2) points.**

**Item 5: Use or Threat of Weapon in Sex/Sex-Related Conviction(s)/Adjudication(s) (most severe across all convictions):**

Score this item if the offender used or displayed a weapon during the commission of any of his/her previous sex/sex-related conviction(s)/adjudication(s). Even if an offender's prior conviction/adjudication contains a special finding that the crime was committed while armed with a deadly weapon, the evaluator should still inquire into the facts of the crime to ensure that the weapon used meets the definition listed below.

A weapon is defined as any instrument capable of inflicting substantial bodily harm, great bodily harm, or death. Weapons can include: firearms (loaded or unloaded); any device designed as a weapon and capable of producing death or great bodily harm; any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm; or any fire arm that is used to produce death or great bodily harm. Hands are not considered weapons.

The implied presence of a weapon should also be scored. However, a threat of death should not be scored unless the offender mentions a specific weapon he/she intends to use to accomplish his goal. General threats without mention of any weapon will be accounted for in item 6 (d).

An offender's threat to use a weapon to harm third parties (including, for example, a child victim's animal or toy) should be **scored as four (4) points.**

Examples:

- a) The offender says to the victim, "If you don't take off your clothes, I'm going to get a gun and shoot your dog." **Score as four (4) points.**
- b) The offender cuts off the head of the child's toy and threatens to do the same to the child if he/she does not comply. **Score as four (4) points.**
- c) The offender says to the victim, "I have a gun in my pocket and I want you to do as I say." **Score as four (4) points.**
- d) The offender beats the victim with the telephone. **Score as six (6) points.**
- e) The offender states, "Take off your clothes or I'll kill you." **Score as zero (0) points.**

**Item 6: Use of Force in Sex/Sex-Related Conviction(s)/Adjudication(s) choose most severe:**

Score the greatest degree of force used by the offender during any of his past sex convictions or adjudications.

This item uses several terms which are defined below:

- a) None: Score when there is no evidence of any manipulation or coercion on the part of the offender. This criterion is most appropriate for cases of “statutory rape” where it is clear that the victim desired a relationship with the offender.
- b) Manipulation:  
Means to influence or manage deviously. This includes:
- ◇ engaging in sexual activity when the victim is impaired, sleeping, under the influence of drugs or alcohol, or unable to say no for any reason.
  - ◇ Traditional grooming behaviors such as using bribes or candy as a means of obtaining sexual contact.
  - ◇ Using love (i.e., "prove that you love me"), tricking or pressuring the person into sexual contact.
- c) Coercive/Position of Authority:  
*Coercion* means to force to act in a given manner by pressure, threats, intimidation, or to dominate without physical force.  
*Position of Authority* means a person who is charged with any duty or responsibility for the treatment, health, welfare, or supervision of another individual, either independently or through another, no matter how brief, at the time of the act.
- d) Threats of Violence:  
Verbal or written threats that the victim will be harmed if they do not submit. Score threats to third parties as three (3) points. Third parties include not only persons, but also other tangible things such as family pets or the victim’s prized stuffed animal, doll, etc.
- e) Physical Force or Violence:  
*Violence* means physical force exerted for the purpose of violating, damaging, or abusing. An act or instance of violent action or behavior. This includes restraining the victim by holding the victim down or not allowing them to leave. \* Do not score just because the victim is very young & offender put hand on penis/vagina
- f) Substantial/Great Bodily Harm:  
*Substantial bodily harm* means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any body part, organ, or which causes a fracture of any body part.

*Great bodily harm* means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any body part, organ or other serious bodily harm.

In order to count as substantial harm or great bodily harm, the harm must be directly linked to the offender’s use of force. Causing a person to contract a sexually transmitted disease (i.e., AIDS) does not count as substantial or great bodily harm. Must be documented evidence i.e.; police report, doctor assessment, PSI, etc.

**Item 7: Total Number of Victims of All Sex/Sex-Related Offenses:**

Score the total number of victims of sex/sex-related offenses and convictions/adjudications. The information may be gathered from police reports and legal documentation as well as the offender's self-report.

\*Do not score victims that are in the room that are not participating in activity unless directed or asked to or brought into the room for that purpose.

\*Do not score victims if an internet crime with undercover police officer.

**Item 8: Age of Victims of Sex/Sex-Related Offenses (circle all that apply):**

This item refers to all of the victims counted in item 7. If an offender has multiple victims across more than one age range, score all applicable age ranges and total. If the offender sexually assaulted just one victim, but the abuse occurred over a long period of time and extended through more than one age range specified in the item, score only the age range at the onset of the offense. However, where there was intervention from the criminal justice system, score all applicable age ranges. Consider culpability as defined on page 2.

Examples:

- a) The offender sexually assaulted one victim from the time the victim was five until he/she was thirteen. No intervention by the criminal justice system during this period. **Score as two (2) points, category a.**
- a) The offender sexually assaulted two victims, one eight and one nine years old. **Score as two (2) points, category b.**
- c) The offender molested his/her daughter when she was five years old. He/she was convicted of this offense and sentenced to prison, where he/she served three years. After his/her release from prison, the offender again molested his/her daughter when she was fourteen years old. **Score as four (4) points, categories a and d.**

**Item 9: Other Characteristics of Offense(s) (circle all that apply):**

This item was designed to reflect research conducted by the FBI on offenders who escalated their pattern of sexual offending to eventually include kidnapping and murder. The item refers to other patterns of behavior during commission of any sex/sex-related offense, past or present. Category (b) refers to any single incident (excludes multiple incidents of ongoing incest or child molestation). Category (c) generally refers to those offenders who transport their victims from one area to another. Category (d) generally refers to sadistic behavior exhibited which is beyond that necessary to accomplish the sexual assault.

Examples:

- a) The offender abducts a woman in her apartment and takes her across the hall to his/her apartment. **Score as four (4) points on ( c ).**
- b) The offender moves a woman from the living room to the bedroom of her apartment. **Score as zero (0) points.**
- c) The offender uses a broom handle to vaginally rape his/her victim. She sustains vaginal lacerations. **Scores as four (4) points on (d).**
- d) The offender uses a cigarette to burn the victim. **Scores as four (4) points on (d).**

### **Item 10: Length of Sexual Offending History:**

Refers to the amount of time a person has been offending, and includes incidents discovered through the person's self-report. Calculate this time period by identifying the offender's oldest sex or sex-related offense and his/her most recent sex or sex-related offense. Culpability begins at the age of 12 unless the offender has actually been adjudicated by a court for an offense which occurred prior to the age of 12.

#### Examples:

- a) The offender is convicted and sentenced to prison for First Degree Rape. The file contains no evidence of any other sex or sex-related offenses, nor does the offender report any other such acts. **Score as (a), less than one year.**
- b) The offender was convicted of Indecent Liberties in 1988. After serving a two year prison sentence, the offender is released. In 1995, he/she was convicted of Third Degree Rape. At the time of the review for sex offender classification and notification purposes, the file contains no evidence of any other sex or sex-related offenses, nor does the offender report any other such acts. **Score as (c) five years or more.**
- c) The offender was convicted of Sodomy in Utah in 1990, and Communicating with a Minor for Immoral Purposes in Washington in 1994. While in prison for his most recent sex crime, the offender admitted to his counselor he/she had raped his daughter in 1985. **Score as (c) five years or more.**

\*Pre-culpability only for SAY treatment with certified Sex Offense Treatment Provider

### **Item 11: Felony Committed Upon Previous Release from Institution/Secure Facility:**

Score the amount of time which passed from the date the offender was released from an institution (including, but not limited to, jail, work release, secure mental health facility, secure juvenile facility, and juvenile group home) to the date he committed any new felony offense (sexual or non-sexual in nature) which resulted in a conviction or pending charge.

\*Must have documentation

\*Offenders who are booked and released counts

\*If confined for a non-delinquent act, could be reason for mitigation

### **Item 12: Alcohol/Drug Usage Pattern (12 months prior to most recent offense):**

This item measures the degree of interference with the offender's functioning (family, work, social, interpersonal, physical, and mental) caused by alcohol or drug use. The item is limited to the year prior to the offender's most recent offense.

#### Example:

- a) The offender drank heavily during his/her twenties, but has been abstinent for the last ten years. He/she committed his sex offense five years ago. **Score as zero (0) points.**

- b) The offender drinks occasionally, and was drinking at the time of the offense. **Score as two (2) points.**
- a) The offender uses illicit drugs on a regular basis and was under the influence of speed at the time of the offense. **Score as four (4) points.**

**Item 13: Prior Sex Offender Treatment/Programming:**

This item refers to the offender's participation in inpatient or outpatient treatment. It applies to any treatment received, regardless of the offender's age. A court-ordered evaluation is not considered treatment/programming.

Examples:

- a) The offender commits a new sex offense following the completion of a sex offender treatment program. **Score as six (6) points.** \*If the offending behavior is not charged, you still score it here.
- b) The offender originally receives a SSOSA or SSODA on his/her current offense. However, that SSOSA/SSODA is revoked (for any reason other than a new sex offense and the person serves the remainder of their sentence incarcerated). **Score as zero (0) points.**

**Item 14: Number of Significant/Marital Relationships:**

This item refers to the relationships in which the offender participated which involved some degree of commitment from one or both partners. It includes formal and common-law marriages and live-in relationships, regardless of whether the relationship was same sex or heterosexual. Information may come from any source, including the offender's self-report. The duration of the relationship must be at least one year. The presence of children is not determinative.

For Juvenile Offenders: Most juveniles will score zero on this item. Score only if the juvenile offender was or is married, or lived with a significant other for more than one year.

**Item 15 (score only 15a. or 15b, not both):**

**15a: Adult Employment History Pattern:**

Score this item only if the offender was over the age of 18 years old prior to the beginning of his incarceration.

Score the offender's employment pattern during the three years before his/her arrest. Information may come from any source, including the offender's self-report.

**15b: Juvenile Early School History Pattern:**

Score this item only if the offender was 18 years of age, or younger, prior to the beginning

of his current incarceration or under the jurisdiction of JRA.

**Item 16: Presence of Multiple Paraphilias:**

Score the total number of paraphilias. Information must come from any documented mental health diagnosis or sexual deviancy treatment report. Note: personality disorders are NOT paraphilias and do not count for the purposes of the risk assessment instrument.

<u>Zoophilia (Bestiality):</u>	having sex with animals
<u>Coprophila and Urophilia:</u> excitement	use of feces or urine for sexual excitement
<u>Exhibitionism:</u>	exposing genitals to an unsuspecting stranger
<u>Fetishism:</u>	sexual behavior involving the use of non living object (s) such as underwear, feet, shoes
<u>Frotteurism:</u>	sexual touching of or rubbing against person against their will
<u>Necrophilia:</u>	sexual activity with a dead person
<u>Telephone Scatologia</u> (Obscene Phone Calling)	telephone calls to a non-consenting listener which involves verbalized erotic or obscene (lewd) language
<u>Pedophilia:</u>	urges involving sexual activities with pre-pubescent children
<u>Rape NOS:</u>	sexual assault/forced sexual intercourse again non-consenting partner
<u>Sexual Masochism:</u>	personal gain of sexual pleasure by being beaten, humiliated, bound, or made to suffer, this can include infantilism (being treated as a helpless infant clothed in diapers etc.)
<u>Sexual Sadism:</u>	gaining sexual pleasure by intentionally inflicting pain (physical or emotional) on another, includes humiliation
<u>Tranvestism:</u>	dressing as the opposite sex for sexual pleasure
<u>Voyeurism (Peeping):</u>	sexual spying on others

Score only for juveniles age 16 and over. Juveniles under 16 years of age score zero on this question. Check all that apply for data collection only.

\*Do not score “provisional” diagnoses or rule out

\*Diagnosis must be given by PhD level or above

**The remaining items refer to the subject’s current term of incarceration.**

**Item 17: Release Environment:**

Release environment includes the interpersonal, vocational, and social milieux of the

offender at the time of his release from his current incarceration.

- a) Relatively Stable, **score as zero (0) points if:**
  - ◇ Has an agency approved residence
  - ◇ Has an agency approved follow-up treatment program in place, if recommended, i.e., sex offender, alcohol and/or drug, anger management, mental health, etc.
  - ◇ Has a pro-social support system (not involved in a gang).
  - ◇ Has employment and/or viable job skills and a history of satisfactory employment and/or is a student.
  - ◇ Is on prescribed medication, if prescribed.
- b) Moderate Disorganization/Stress, **score as two (2) points if:**
  - ◇ May meet some of the criteria in (a), but not all factors are in place, and/or if returning to residence where offending behaviors occurred score here. Exception: DO NOT score against juveniles when returning to parental care, when minors may be parent even if offense was against a minor.
- c) Major Disorganization/Stress, **score as four (4) points if:**
  - ◇ Inmate/patient will not provide a discharge plan including residence, support systems, employment, financial stability, and if recommended, follow up treatment or is a transient (no residence).

**Item 18: Age at Release from Institution:**

Score the age of the offender at the time of his release from his current incarceration.

\*For SSODA youth, go by the date booked into facility or date of disposition

**Item 19: Discipline History While Incarcerated:**

This item refers to the offender's officially documented disciplinary infractions during his current term of incarceration. Score all major infractions, not simply those relating to an offender's sexual deviancy. Major infraction as the result of 4 minor infraction does not count as a major infraction.

When scoring juveniles, score only if the juvenile offender has committed one of the following violations (Chapter 275 WAC, Disciplinary Sanctions):

\*Do not score SSODA youth here unless committed to RA.

- a) Escape or attempted escape
- b) Staff assault or attempted staff assault
- c) Peer assault or attempted peer assault
- d) Extortion, blackmail, or demanding or receiving money or anything of value from other persons in return for protection or under threat of injury
- e) Using physical force, intimidating, or coercion against any person
- f) Setting or causing an unauthorized fire

- g) Possession/manufacturing of weapons/explosives/escape tools
- h) Tampering with locks or other security hardware or equipment
- i) Interfering with staff performing duties relating to the security and/or safety of the facility
- j) Property damage in excess of one thousand five hundred dollars
- k) Possession/use/distribution of drugs or alcohol or paraphernalia
- l) Rioting or inciting others to riot
- m) Refusal of urinalysis or search
- n) Other behaviors which threaten the safety and security of the facility or its staff and residents
- o) Acts directed toward others in writing or physical confrontation

**Item 20: Chemical Dependency Treatment While Incarcerated:**

This item recognizes treatment in which offenders are involved in or has completed at the time of this assessment during his/her current term of incarceration.

\*For SSODA youth, count previous 12 months in the community

**Item 21: Sex Offender Treatment While Incarcerated:**

This item recognizes treatment in which offenders are involved at the time of this assessment during his/her current term of incarceration.

\*For SSODA youth, count current SSODA participation as Sex Offender Treatment.

**PART II OTHER NOTIFICATION CONSIDERATIONS**

The purpose of sex offender classification and notification is to enable citizens to protect themselves by providing relevant information regarding releasing sex offenders to that group of persons who need to know about a particular offender. Scientific literature generally supports the conclusion that intrafamilial offenders have a lower risk of recidivism than other sex offenders. In addition, their potential victim pool (as judged by past victims) is limited in scope compared to most other offenders. Notification considerations A and B listed in Part II of this instrument exclude intrafamilial offenders. Generally, broad dissemination of information regarding intrafamilial offenders would not effectuate the Legislature’s intent.

**A. Victim(s) of the extra-familial sex offense(s) were particularly vulnerable or incapable of resistance due to physical or mental disability, ill health, or age.**

Score this item “YES” if the victims were vulnerable due to youth (five years old or younger), had a physical or mental disability, or ill health which left them incapable of resisting the sex offense or significantly impaired their ability to protect themselves and/or report the offense. If the offender is a juvenile, the age difference between the offender and the victim must be taken into consideration.

Physical, mental, and ill health means physical, mental, and/or ill health because of disability, illness, or physical limitation. An offender who purposely drugs or intoxicates their victim is not captured here; however this could be a reason to aggravate the risk level.

\*For youth that have offending history prior to the age of 12, start at the age of culpability and the victim's age at that time.

**B. The sex offense(s) was of a predatory nature.**

Score this item "YES" if the offense was predatory per statutory definition (i.e., acts directed toward strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization).

Examples:

- 1) The offender snatched the victim from a playground. The victim had never seen the offender previously. **Score as "yes"**
- 2) The offender had known the victim for several months prior to the offense. The offender often offered to babysit the victim. After the offense occurred, the offender gave the victim a dollar and some candy. Thereafter, the offender periodically gave the child small gifts as part of the ongoing grooming process whenever the child would visit the offender. **Score as "yes"**

Note: for juvenile offenders, score this item only if the juvenile offender is soliciting babysitting jobs for the purpose of having access to victims or has established a pattern of babysitting primarily for the purpose of victimization.

**C. Offender continued to act out his/her sexual deviancy during incarceration.**

Score this item "YES" if the offender displayed sexually deviant behavior during his/her incarceration. Sexual deviancy is defined as illegal sexual behavior or inappropriate behavior that is directly related to reinforcement of the sex offender's offense cycle, such as collecting pictures of children, inappropriate touching/boundary issues, keeping secret diaries with sexually explicit content, or written plans to sexually offend. Existence of sexually deviant behaviors can be confirmed either by direct observation or reliable self-report. Do not count consensual sexual behavior between offenders.

\*Score this item for an offender's CURRENT incarceration only. Also, behaviors that do not reflect an offender's MO should not be scored. For example, a child molester who collects photos of children should receive a hit; a child molester who masturbates as a female officer is passing by doing count should not be scored.

## FINAL SCORING AND CLASSIFICATION:

If the offender scored 46 or less and had no notification considerations the community Risk Level would be I. If the offender scored 46 or less and had one or two notification considerations the community risk level would be 2. If the offender scored 46 or less and had three or four notification considerations or had a score above 47 the community risk level would be 3.

**Departure Language** allows for aggravating and mitigating factors. As previously stated, the goal of the classification and notification law is to provide the proper amount of information about a releasing sex offender to the appropriate group of persons, so that they can take steps to protect themselves. The offenders risk level and resulting notification should be rationally related to the risk the offender poses to the community at large. Scientific literature demonstrates that intrafamilial sex offenders pose a lower risk of recidivism than other types of sex offenders. Additionally, the group of persons to whom they pose a risk upon release (judged by the identity of their past victim(s)) is very small compared with other offenders. Therefore, in order to effectuate the goal of the notification statute, offenders who are strictly intrafamilial offenders will presumptively be classified as Risk Level I. The necessary information about such offenders will be disseminated to that group of persons which needs to know about the offenders' pending release: law enforcement and the offender's families. However, the presumptive classification of intrafamilial offenders as Risk Level 1 can be overridden based upon articulable reasons which support a broader dissemination of information about an offender.