

# Sexually Violent Predators Act and Static-99 Screening

*Results from the past  
three years of application*

Presentation to the  
**Virginia Crime Commission**

June 25, 2009

Eric Madsen, M.A.  
Sex Offender Screening and Assessment Unit

# Sexually Violent Predators Act

*A Quick Review of the legislation and the systems in place to carry it out.....*

- DOC maintains database of all offenders with predicate sex offenses, subject to screening, who are within 10 months of their release date.
- As of July 2006, the Static-99 is used in nearly all screenings, except females and offenders whose last sex offense was when they were under age 16.

# Sexually Violent Predators Act

Predicate offenses include:

- Rape
- Object Sexual Penetration
- Forcible Sodomy
- Aggravated Sexual Battery
- Carnal Knowledge
- Abduction
- Murder, capital, 1<sup>st</sup> and 2<sup>nd</sup> degree when involves a sex offense.
- Attempt to commit any of the above

# Sexually Violent Predators Act

The case is referred to the Commitment Review Committee (CRC) for further evaluation when.....

- Static-99 score = 4 AND
- Predicate offense = *one of the original 4*; Rape, Object Sexual Penetration, Forcible Sodomy or Aggravated Sexual Battery AND
- Victim is under age of 13, AND *in cases of ASB*, there is documented evidence of bodily injury.

# Sexually Violent Predators Act

The case is referred to the Commitment Review Committee (CRC) for further evaluation when.....

- Offender has any predicate offense AND
- Static-99 score = 5 or more

# Sexually Violent Predators Act

- Once case is referred to CRC:
  - DMHMRSAS contracts to have a full evaluation performed on the offender.
  - Evaluation is submitted to CRC and a non-binding recommendation is sent to the Office of Attorney General (OAG).
  - OAG reviews the case and either files for commitment, conditional release or does not file and offender is released per normal procedures.

# Static-99

- Took place of RRASOR within this SVP legislation, effective July 1, 2006.
- Researched and validated worldwide.
- Virginia one of only a few states using Static-99 “cutoff scores” in Sexually Violent Predator Screenings.

# Static 99

## Identifies 10 risk factors known to influence recidivism

1. Male victims
2. Ever Lived With
3. Non-contact sex offenses
4. Unrelated victims
5. Stranger victims
6. Prior sex offenses (3 points)
7. Index non-sexual violence
8. Prior non-sexual violence
9. 4+ sentencing dates
10. Age (over or under 25)



# Static-99

- Relies entirely on information available in the criminal record or that we can obtain from other law enforcement sources
  - Quantity and quality of information varies widely
- Uses established “coding rules”
- Score is associated to a risk category
  - 0,1 = Low
  - 2,3 = Moderate Low
  - 4,5 = **Moderate High**
  - 6+ = High

# Static 99 - Questions

## 1. Young

- Aged 25 or older 0
- Aged 18 – 24.99 1

## 2. Ever lived with a lover for at least two years?

- Yes 0
- No 1

## 3. Index non-sexual violence – Any Convictions?

- No 0
- Yes 1

# Static 99 – Questions Continued

## 4. Prior non-sexual violence – Any Convictions?

- No 0
- Yes 1

## 5. Prior Sex Offenses

<u>Charges</u>	<u>Convictions</u>	<u>Score</u>
0	0	0
1-2	1	1
3-5	2-3	2
6+	4+	3

# Static 99 – Questions Continued

## 6. Prior Sentencing Dates (excluding index)

- 3 or less 0
- 4 or more 1

## 7. Any convictions for non-contact sex offenses

- No 0
- Yes 1

## 8. Any Unrelated Victims

- No 0
- Yes 1

# Static 99 – Questions Continued

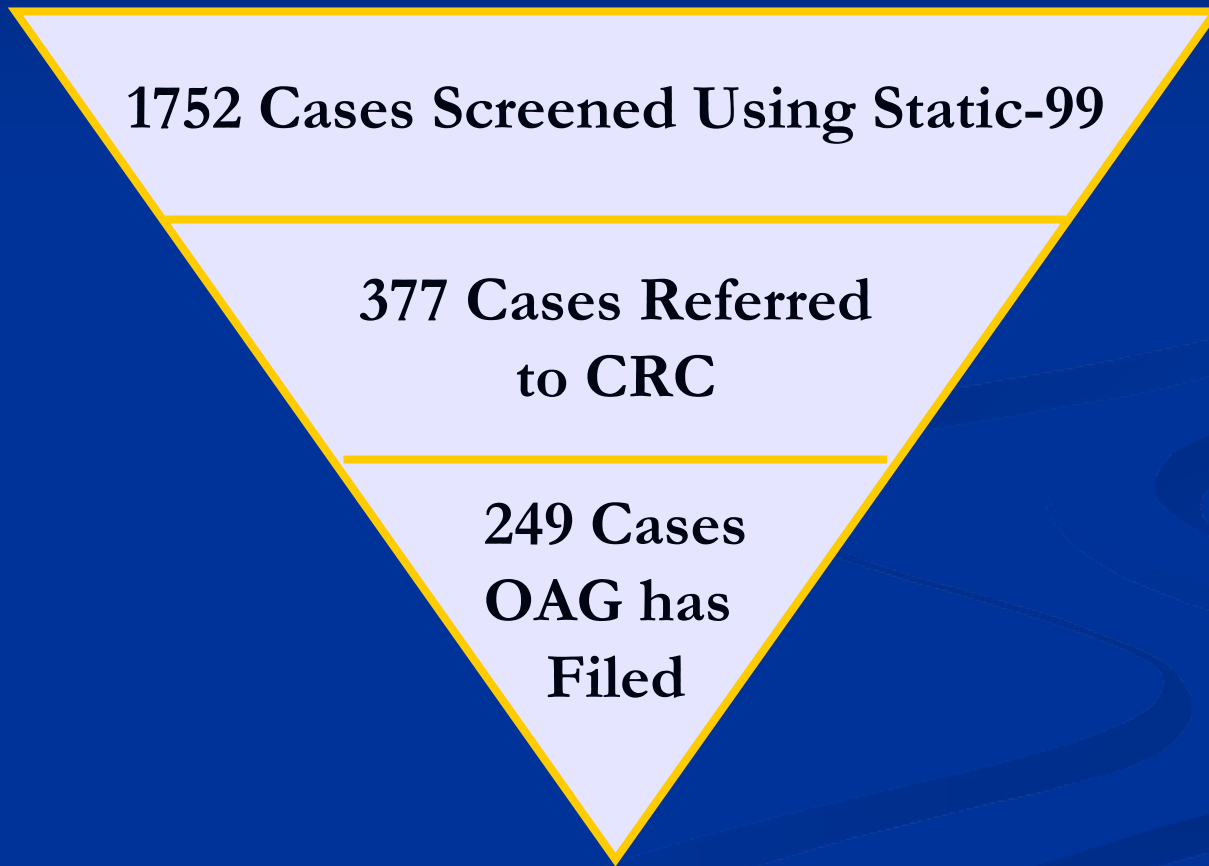
## 9. Any Stranger Victims

- No 0
- Yes 1

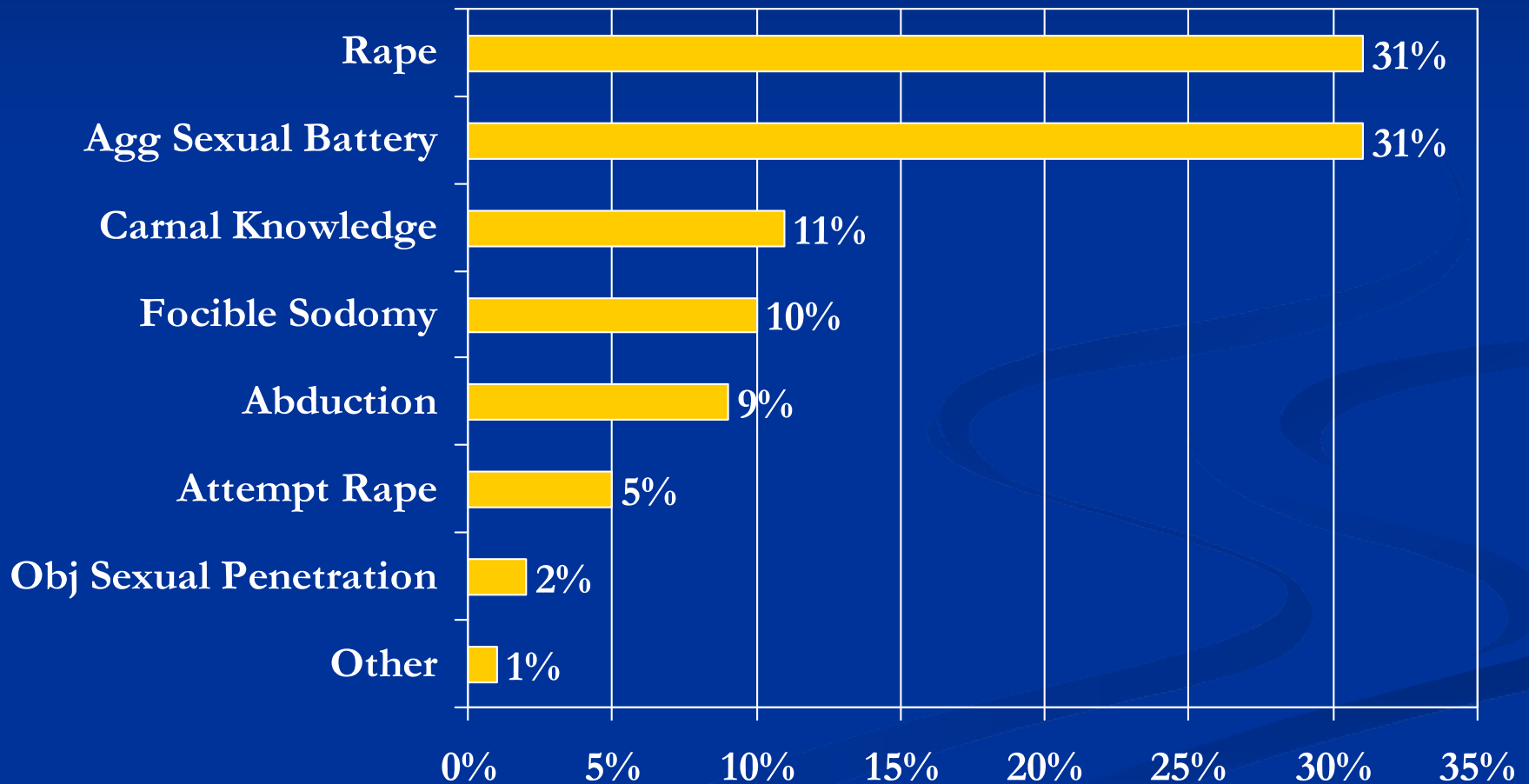
## 10. Any Male Victims

- No 0
- Yes 1

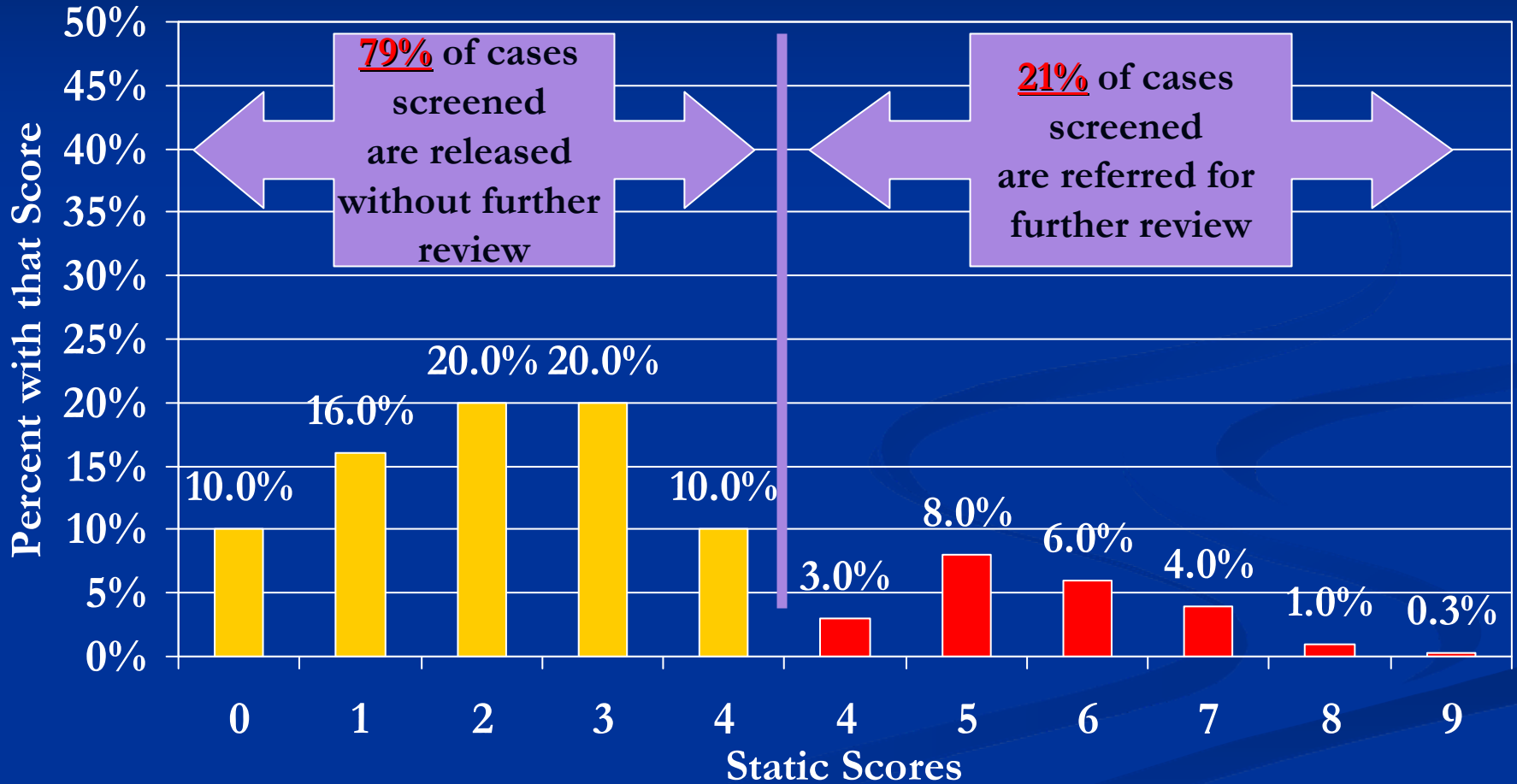
# Actual Numbers from the Application of SVPA for the Past 3 Years



# CRC Referrals by Predicate Offense



# Static Scores in Virginia Cases





# When Static Score = 4

- 13% of all cases screened, scored a 4.
- 4 out of 5 cases that score a 4 are released without further review under SVPA.
- The OAG releases 1/3 of all cases referred to them with a Static score of 4.
- Static scores of 4 represent the lowest incidence of cases reviewed under SVPA and have lowest rate of commitment.

# When Static Score = 4

- In the cases scoring a 4 on the Static that the OAG filed petition on.
  - 61% were civilly committed
  - 17% were conditionally released
  - 11% released without SVP status
- Static-99 scores are consistent with the application of SVPA legislation. The higher the Static score the more likely case will be found SVP.

# Bodily Injury

## Making the case to remove requirement from SVPA legislation

- Violence and links to recidivism are already incorporated into Static-99 instrument.
- Not all dangerous sex offenders leave a mark, i.e. male victims and oral sodomy.
- Bodily Injury cannot be inferred from the nature of the offense. (Need documentation to prove it.)
- Nature of information in the files has dramatic impact on Static-99 scoring, as well as evidence of bodily injury.

# Bodily Injury

## Making the case to remove requirement from SVPA legislation

- Small number: 32 = Actual number of offenders released over the past 3 years without a full review because of lack of documented evidence of bodily injury.
- Of these 32 cases, 11 demonstrated significant risk factors consistent with those for which this legislation was designed.

# Bodily Injury

## Making the case to remove requirement from SVPA legislation

If we remove the Bodily Injury requirement from this legislation.....

- We can expect a nominal 1-2% increase in the number of cases referred to the CRC for further review.
- We can expect an average of 9-10 more SVP evaluations per year.

# Case Example Released without further review using Bodily Injury Loophole

- Convicted of 15 counts of Aggravated Sexual Battery. History of offending against children over the past decade. Most charges nolle prossed. Past conviction for Contributing Del of Minor which involved exposing himself to male child.
- All victims were 6-10 year old males and involved oral sodomy or rubbing behaviors.
- Scored a 4 on Static-99 and there was no evidence of bodily injury.

# Another Case Example Released without further review using Bodily Injury Loophole

- Convicted of 2 counts of ASB and 2 counts of Indecent Liberties. Nolle Prossed Attempt Rape, Forcible Sodomy and Object Penetration. Prior conviction for ASB, 1 count ASB and 1 count of Indecent Liberties were nolle prossed. Self reported other victims that he was not charged for.
- Victims from convictions were 10 and 11 year old females.
- No evidence of bodily injury.



# SVPA Conclusions

- Static-99 is successful at identifying high risk sex offenders.
- The assignment of conditions on scores of 4 creates loopholes for dangerous offenders to return to the community without any thorough review of their risk.
- The elimination of the bodily injury requirement would produce a nominal 1-2% change to the number of evaluation referrals, yet would more appropriately identify high risk offenders for a thorough review before being release to our communities.



# SVPA Future Considerations

- Eliminate condition victims must be under age 13 for Static score of 4.
- SVPA needs language to address the needs of the Parole Board to have SVP evaluations completed in cases they are considering for parole.
- Video court proceedings for certain aspects of SVP court proceedings would save significant \$\$ and resources.

# Contact Information

- Eric Madsen, M.A.

Sex Offender Screening and Assessment Unit

Virginia Department of Corrections

6900 Atmore Drive

Richmond, Virginia 23225

[Eric.Madsen@vadoc.virginia.gov](mailto:Eric.Madsen@vadoc.virginia.gov)

804-674-3131, ext. 1534