Upholding Accuracy and Ethical Practice in Assessing the Reoffense Risk of Sexual Offenders Using Actuarial Instruments:
A Rejoinder to Campbell

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Abstract

Discussion continues as to how best to assess risk for sexual reoffense. The Static-99/Static-99R is currently the most commonly used actuarial measure of sexual offense risk potential. Its prolific use in sexual offender civil commitment proceedings, which are highly contentious in and of themselves, has generated healthy debate as to its relative utility. Campbell and DeClue (2010) suggested that the Positive Predictive Value associated with Static-99/Static-99R scores is inadequate and that there are several other limitations inherent in using this instrument. Wilson and Looman (2010) responded, seeking to clarify issues associated with predictive accuracy, normative samples, and best practice in actuarial risk assessment. DeClue and Campbell (2010) and Campbell (2010) provided responses to Wilson and Looman. This brief paper addresses concerns regarding the Campbell (2010) response.

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Jan Looman and I recently published a paper regarding use of the Static-99/Static-99R in assessing recidivism risk for sexual offenders (Wilson & Looman, 2010), in response to an article published by Campbell and DeClue (2010). In our response, we sought to clarify issues associated with predictive accuracy, normative samples, and best practice in actuarial risk assessment. Our paper has spurred two responses from Campbell and DeClue. In this brief rejoinder, I will not address the DeClue and Campbell (2010) response, but will confine my comments to the response filed by Dr. Campbell alone (Campbell, 2010). While I hesitate to drag this out any further, there are some inaccuracies in Dr. Campbell's paper that require attention. In the interest of brevity, I will address those issues in bullet form.

1. Dr. Campbell states that we "rely extensively" on Hanson and Howard (2010). We certainly refer to this paper in providing our response to Campbell and DeClue. However, it would appear to be something of an overstatement to suggest extensive reliance on this paper when reference to it occurs in only one paragraph of an article that spans 11 pages (not including references).

2. Dr. Campbell suggests that using binary methodology to assess the accuracy of actuarial instruments is entirely consistent with how those instruments are used in practice. He then states that, in his more than 12 years of experience with SVP matters, "each and every" assessment report he has reviewed has

concluded that the offender "will, or will not" reoffend. Dr. Campbell also states that SVP proceedings allow for "one—and only one" of two decisions, commit or do not commit. Let me address these two points separately:

a. Like Dr. Campbell, I have several years' experience creating and reviewing sexual-offender assessment reports; although, my experience in SVP settings is only slightly more than three years. However, as the Clinical Director of a Sexually Violent Predator (SVP) program, I have the opportunity to see quite a few evaluator reports. Indeed, just by chance, I happen to have seven such reports (by six different assessors) on my desk as I write this response. To a one, none of these reports states that the offender in question "will, or will not" reoffend. Each and every one of them speaks of likelihood, which is inherently probabilistic and certainly not absolute—like "will, or will not." Indeed, it has always been my practice to report risk and not certainties, simply because even when something is more likely than not, there is still the chance that it will not occur. As evaluators, we cannot divine who "will, or will not" reoffend. Given what we know about sexual reoffense base rates, to do so would seem rather unwise.

I have been training professionals in the use and interpretation of the Static-99/Static-99R for more than eight years. In the standard training materials, the following slide appears:

Interpreting the STATIC-99

•   You **MAY NOT** say in your report that "research has shown that Mr. *X's* estimated recidivism potential over the next *Y* years is ?? to ?? percent."

•   You **MAY** say in your report that "research has shown that groups of men demonstrating the same empirical risk factors as Mr. *X* have been seen to recidivate at ?? to ?? percent over *Y* years."

It has been my routine to instruct users of the Static-99/Static-99R to present risk to reoffend as a percentage or probability over a certain time period—never as an absolute. In reality, within that certain time period, we are able to separate offenders into two groups—those who did, and those who did not, reoffend. However, that is outcome and not prediction. Use of a 2 X 2 table to report _**outcome**_ would be more than appropriate, but I continue to assert that splitting _**risk**_ into "will, or will not" is misleading.

b. Dr. Campbell states that all SVP evaluator reports make a definitive statement regarding civil commitment, and he is correct. All seven of the reports currently on my desk make a clear statement as to whether or not the offender in question meets the Florida criteria for civil commitment as a Sexually Violent Predator—a statutory distinction. However, it would be a grave mistake to suggest that this is the same thing as saying the offender "will, or will not" reoffend.

3. Dr. Campbell seems to have seriously misunderstood important aspects of our paper. In one section, he cites us for criticizing some practices associated with using the Static-99/Static-99R to assess reoffending risk and then, later, he suggests that we are defending the instrument against criticism or scrutiny. To be clear, as a sexual offender service provider, I have used the Static-99/Static-99R as a central component of my evaluations since the instrument was released. Although there are others, I believe that it represents either the best or one of the best means of actuarially assessing risk for sexual reoffending. However, to suggest that it is a foolproof measure, or that it can render an absolute answer as to the "will, or will not" issue, would be unwise. Indeed, I have no stake in whether or not evaluators do or do not use the instrument, although the literature is pretty clear that anchoring risk assessment in an actuarial measure is recommended (e.g., Quinsey, Harris, Rice, & Cormier, 2006). Similarly, defending an instrument with well-known limitations against acknowledgment of those limitations would also be foolhardy. I am simply befuddled as to how Dr. Campbell got the impression that we did not want people to criticize or scrutinize the Static-99/Static-99R. We quite transparently outlined many of the instrument's "foibles" and dedicated two sections of our paper to "Problems in Actuarial Risk Assessment with SVPs" and "Margins of Error." Ultimately, the Static-99/Static-99R will stand or fall on its own merits or limitations. In the meantime, I believe it is important to restate that the Static-99/Static-99R is ***a component of*** a comprehensive evaluation of risk, not ***the*** evaluation of risk in and of itself.

4. Dr. Campbell criticizes our recommendation that evaluators consider using the "high-risk/need" norms as those best approximating the SVP group. I fully agree with Dr. Campbell that it would be preferable to have so-called "local norms" for SVP. We said so clearly in our paper, even suggesting how this could be done. However, such local norms do not presently exist and I am not aware of any current project seeking to create any. Dr. Campbell also suggests that the offenders included in the high-risk/need normative sample are not representative of "contemporary U.S. offenders." This may, indeed, be true and it would be equally preferable to compare U.S. offenders to U.S. offenders, but it would appear that such samples are also currently lacking. Given the relatively low rate of release seen in most SVP settings, coupled with the relatively short follow-up that would be applicable in most jurisdictions, it may take some time to generate the sort of comparison group that Dr. Campbell (and I) would like to see. In the meantime, what should we do? As

someone who has interacted clinically with several thousand sexual offenders, on both sides of the U.S./Canada border, I think it would be a mistake to suggest that American offenders are so profoundly unique as to defy comparison to their international peers.

5. Dr. Campbell includes 10 tables detailing outcomes obtained if relying on the various normative groups suggested by the Static-99R research group (see www.static99.org, 2009, October). To cut to the chase, Dr. Campbell's tables ably show what we already know to be true—that most sexual offenders do not reoffend, and that "betting the base rate" yields greater accuracy than using the instrument, if the question on your mind is who "will, or will not" reoffend. On this, Dr. Campbell is entirely correct. Given what we know of sexual reoffense base rates (and even if we were to factor in some correction for underreporting), those evaluators who state that certain offenders "will" reoffend are probably going to be wrong more often than right. This will also be true of evaluators working in SVP settings where it is hoped that the offenders are of the higher risk type. However, I suggest that this is not the point.

SVP statutes were created to allow for the preventive detention of certain sexual offenders meeting certain criteria; the idea being that they would be removed from society until such time as their risk to others was sufficiently ameliorated—by treatment, time, or some other factor—that they might be able to safely rejoin society. To that end, we use the Static-99/Static-99R to help us identify who those preventive detainees should be. As noted previously, both here and in our original paper, this process includes a not insignificant degree of error. However, triers of fact rely on us to assist them in the particularly difficult job of deciding who should or should not be indefinitely civilly committed. Because we cannot tell them with certainty that the particular offender in front of them "will, or will not" reoffend, jurists will need to decide for themselves and their communities how much risk is too much risk. As we noted in our original response, the amount of risk the community will abide is likely considerably less than the amount of reoffending required to satisfy Campbell and DeClue's (2010) concerns regarding Positive Predictive Value.

6. Dr. Campbell concludes his response with sections on "Welcoming Scrutiny" and "Ethical Considerations." As before, I will deal with these two issues in separate bullets:

a. Dr. Campbell suggests that we "appear engaged in attempts at avoiding scrutiny for the Static instruments." I addressed some of this in bullet 3, but let me restate a couple of points: 1. The Static-99/Static-99R is not perfect, nor is it able to tell us with certainty who "will, or will not" reoffend. As a measure of risk to reoffend, it will stand or fall on its own merits or limitations. 2. Margins of error in the risk-assessment process have, do,

and will continue to wreak havoc on our attempts to protect society from reoffending by sexual offenders. As such, we must continue to refine current practices or seek better methods of identifying who presents the greatest risk to engage in this behavior. Continued discussion, research, and debate can only strengthen our efforts.

b. Dr. Campbell, in both the original Campbell and DeClue (2010) article and in his response to our article, states that SVP evaluators must identify the limitations of the instruments they use in deciding who does or does not meet civil commitment criteria, or who is likely to reoffend upon release. I could not agree more. To attempt to hide the often-troublesome "foibles" of the instruments we use would, indeed, represent unethical conduct.

In closing, Drs. Campbell and DeClue expend considerable effort to demonstrate the Static-99/Static-99R's failure to demonstrate sufficient Positive Predictive Value to "beat the base rate." Yes, but I am not convinced that this actually matters in the long run. In a field with a documented base rate of recidivism well below 50 percent, prognosticators of reoffense must be accustomed to being wrong more often than right. Regardless, judges and the community want information regarding reoffense likelihood beyond simply knowing the base rate. Current practices demonstrate a degree of comfort with preventively detaining those offenders whose "likelihood" of reoffending rises to a certain level. Ultimately, where the bar is set is a legal or social question.

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