

FAQ: Static 99R

What is it?

A 10-question Yes/No checklist that is described as the mostly widely used instrument in the world to assess the likelihood that a person with a conviction for a sex offense will reoffend.¹ Called the Static-99R after the year it was created — 1999 (R signifies that it has been revised since it was created) — and for the “static” or fixed life-factors that researchers suggest predict reoffending, the creators of the Static-99R initially sought to review existing research to create a tool to house people with conviction for sex offenses more effectively in prison, and to decide who should be eligible for release.

How does it work?

Composed of ten questions, the higher the score on the Static-99R (which has a maximum score of 12) the higher the likelihood of committing another sex offense. The tool focuses on the person’s convictions; the most points are allocated for prior offenses. Points are added for multiple convictions (particularly for sex offenses), and if the victims are unrelated to the perpetrator, are strangers, and/or are male.²

Experts disagree!

After lengthy study, in 1999 the American Psychiatric Association concluded that the civil confinement of people with convictions for sex offenses was a “misuse of psychiatry,”³ yet the American Psychological Association has made no such proclamation. “Alice In Actuarial-Land: Through the Looking Glass of Changing Static-99 Norms,” a 2010 research paper in the *Journal of the American Academy of Psychiatry and the Law*, suggests that the “lure of quantification” advanced the Static-99R without clear evidence to suggest that scores effectively predict recidivism. While acknowledging that professional judgment is not necessarily any more effective, the authors “sound” a “call to caution” in the “weighty decisions involving an individual’s liberty and the protection of public safety.”⁴

Baked in homophobia?

While the questions on Static-99R are not overtly homophobic, it is easy to see how queer/gay men might be at a disadvantage with this instrument. People who engaged in relations with males (and more than 99 percent of people in civil commitment are male) receive more “points” that increase their “risk.” Another question asks: “Ever lived with a lover for at least two years?” If they respond no, they are awarded a point. Living with a same-sex lover used to be and sometimes still is risky for many in the U.S. Yes to both of these questions adds a total of two points. According to the publically available Static 99 r coding sheet a total of 4 points places one in the “Moderate, High” risk category.⁵

Smart to be leary of risk assessment!

From predictive or preventive policing such as the Los Angeles Police Department’s Operation Los Angeles Strategic Extraction and Restoration (LASER) Program⁶ which uses a risk assessment program to profile “chronic offenders” in an “identified hotspot”, to for profit initiative’s like Northpointe Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)⁷ that “scientifically” assessed the risk of all defendants in Florida’s Broward County to determine sentencing, these instruments, as many recent investigations have uncovered, aren’t that effective. And, they aren’t bias free: If an address “predicts” crime, couldn’t this be because specific (and almost always non-white) neighborhoods are under more surveillance by police than others? And while actuarial data may identify which life factors facilitate recidivism in a specific cluster or group, tools generated from this data appear less useful when applied to specific individuals.

¹ See website description of instrument: <http://www.static99.org/>

² Official Static 99R coding form: http://www.static99.org/pdfdocs/Static-99R_coding_form.pdf

³ See, for example, “APA Opposes Civil Commitment of Sex Offenders After Prison” in *Psychiatric News*. Retrieved at <http://psychnews.org/pnews/98-08-21/civil.html> (from the American Psychiatric Association, *Dangerous Sex Offenders: A Task Force Report of the American Psychiatric Association* (Washington, DC: APA, 1999) <http://psychnews.org/pnews/98-08-21/civil.html>

⁴ Sreenivasan S, Weinberger L.E., Frances A., Cusworth-Walker S. (2010). “Alice In Actuarial-Land: Through the Looking Glass of Changing Static-99 Norms.” *American Academy of Psychiatry and the Law* 38(3):400-6.

⁵ Official Static 99R coding form: http://www.static99.org/pdfdocs/Static-99R_coding_form.pdf

⁶ *Dismantling Predictive Policing in Los Angeles*. (May 18 2018). Report Summary: Stop LAPD Spying Coalition. Retrieved at <https://stoplapdspying.org/wp-content/uploads/2018/05/Before-the-Bullet-Hits-the-Body-Report-Summary.pdf>

⁷ Angwin, J., Larson, J., Mattu, S and Kirchner, L. (May 23, 2016). “Machine Bias: There’s software used across the country to predict future criminals. And it’s biased against blacks.” *ProPublica*. Retrieved at <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>