The Sex Offender Recidivism Commission (SORC) has been charged with identifying policies and procedures for reducing criminal re-offense. The legislation that created the SORC requires the SORC to “investigate and study the most reliable protocols for assessing and managing the risk of recidivism of sex offenders. The commission shall develop the Massachusetts authorized risk assessment protocols for sexual offenders including, but not limited to, any special assessment protocols for juveniles, female offenders and persons with developmental, intellectual, psychiatric or other disabilities. The commission shall assess the effectiveness and necessity of sections 178C to 178P, inclusive, of chapter 6 of the General Laws and the guidelines promulgated by the sex offender registry board, pursuant to section 178K of said chapter 6, as those sections relate to: (i) determining a sex offender’s risk of re-offense; (ii) degree of dangerousness posed to the public; and (iii) the general public’s access to information based upon the offender’s risk of re-offense and the degree of dangerousness.”

The Commission by a close vote has decided not to explore in a significant way the role that sentencing and correction policy can play in the reduction of recidivism. Several Commissioners feel that exploring this area is beyond the scope of the SORC and that the SORC lacks the time to examine this area of policy in sufficient detail to take a position or make recommendations.

However, SORC does take note of the following:

1. Incarceration is a tool for prevention of recidivism. Sex offenders cannot reoffend while incarcerated with the exception of sex crimes committed against fellow inmates and staff of correctional facilities.
2. Treatment and monitoring while incarcerated or as a condition of parole or probation provides strong incentives and controls on offenders who may benefit from such programs and policies. Once an offender is not under the supervision of corrections, parole, or probation, there is no mechanism available to compel offender treatment or monitoring.
3. Assuming reliable assessment and treatment is available, literature suggests that having that information available to a judge at disposition of a criminal case is critical. See e.g. The Importance of Assessment in Sex Offender Management: An Overview of Key Principles and Practices, The Center for Sex Offender Management (US DOJ) 2007.[[1]](#endnote-1)
4. Supervision and treatment should complement each other to maximize public safety. These are practices that can be accomplished through judicial dispositions.
5. Having accurate evidence based risk evaluation and pre-sentencing analysis available at sentencing will allow judge to target higher risk offenders with more intensive court-ordered treatment strategies including longer periods of supervision. It is widely accepted that over-supervision of low risk offenders can have the unintended consequence of increasing recidivism risk.
6. Recidivism prevention is only one aspect of the role of the judge in sentencing. The judge must also consider the underlying law (including minimum mandatory sentence or conditions of probation) and the crime, including its impact on the victim.

While SORC did not endeavor to address these areas during its work, sentencing is clearly an important area of consideration for policymakers considering strategies to reduce recidivism.

1. “Following an individual’s conviction or adjudication for a sex offense, the judge bears the responsibility for determining the most suitable disposition. Yet for a number of reasons, judges report experiencing more difficulty making disposition decisions in adult- and juvenile-perpetrated sex offense cases than in other types of criminal or delinquency cases (Bumby & Maddox, 1999; Bumby, Talbot, West, & Darling, 2006). Therefore, at this early phase of the criminal or juvenile justice process, formal assessments such as presentence reports and psychosexual evaluations (which identify level of risk and intervention needs) can be helpful for judges as they consider the disposition of these cases.” [cite to article] [↑](#endnote-ref-1)