**Draft Report:** **Introduction by Commissioners Dr. Laurie Guidry; Dr. Robert Kinscherff; Dr. Ray Knight; Larni Levy, Esq.**

**May, 2016**

The Commission to Reduce Sex Offender Recidivism[[1]](#endnote-1) was created in 2013 to investigate, study and develop “the most reliable protocols for assessing and managing risk of recidivism of sex offenders” in Massachusetts including “special assessment protocols for juveniles, female offenders and persons with developmental, intellectual, psychiatric and other disabilities. The Commission shall assess the effectiveness and necessity of…[the sex offender registration and notification act, G.L. c.6, §§178C-178P]…and the guidelines promulgated by the sex offender registry board [803 CMR 1.00-1.41[[2]](#endnote-2)]…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 “shall submit a report, detailing the results of its investigation and study, any recommended legislative or regulatory action and a timeline for implementation to the governor, the president of the senate, the speaker of the house of representatives and the clerks of the house of representatives…” Acts of 2013, Chapter 38, §208[[3]](#endnote-3).

To fulfill this legislative mandate, the Commission submits this report that includes recommendations in the following areas:

1. Actuarials and best practices in risk assessment;
2. Assessment and disposition of special populations;
3. Data collection;
4. Sexual abuse prevention and coordination between agencies;
5. Collateral consequences of sex offense convictions;
6. Sentencing reform

The Commission recognizes that dangers from sexual offending are real and that public safety is well served by reducing incidences of sexual offending. Thoughtful policy informed by a careful assessment of what is effective offers the Commission’s best avenue to achieve this goal.

The Sex Offender Registry Board (SORB) assigns classification levels to over 11,000 individuals who have been convicted or adjudicated for an enumerated sex offense.[[4]](#endnote-4) The categories include Level 1 (low), Level 2 (moderate) or Level 3 (high) risk of re-offense and danger to the public. Individuals finally classified as Level 2 (after July 12, 2013) and 3 are required to register in person at their local police station and their personal information is publicly available on the internet[[5]](#endnote-5). Guaranteeing that community notification targets the highest risk offenders and provides to the public the most accurate risk information possible is essential for public safety.[[6]](#endnote-6) Under-classification threatens public safety by failing to identify those most likely to reoffend. Similarly, over-classification undermines public safety by diverting scarce resources from crime fighting efforts to the registration and supervision of low risk offenders. Because best practices in risk assessment have evolved substantially over the last fifteen years, this report and its recommendations will reflect those substantial changes in order to create the most reliable and valid classifications.

1. Throughout this report, recidivism refers to sexual recidivism unless otherwise specified. [↑](#endnote-ref-1)
2. This cite references guidelines in effect at the time the Commission met and drafted this report. [↑](#endnote-ref-2)
3. SECTION 208. There shall be a special commission established pursuant to section 2A of chapter 4 of the General Laws 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 shall consist of: 2 members of the senate, 1 of whom shall serve as co-chair; 2 members of the house of representatives, 1 of whom shall serve as co-chair; the chairman of the sex offender registry board or a designee; the commissioner of probation or a designee; the commissioner of mental health or a designee; the secretary of public safety and security or a designee; the secretary of health and human services or a designee; and 6 persons to be appointed by the governor, 3 of whom shall have expertise in the assessment, treatment and risk management of adult sex offenders and familiarity with the research on recidivism of sex offenders, 1 of whom shall have experience in the assessment, treatment, and risk management of juvenile sex offenders and familiarity with the research on recidivism of juvenile sex offenders, 1 of whom shall be a representative of the Massachusetts District Attorneys Association, and 1 of whom shall be a representative of the committee for public counsel services. The commission shall convene not later than 60 days after the effective date of this act.
The board shall submit a report, detailing the results of its investigation and study, any recommended legislative or regulatory action and a timeline for implementation to the governor, the president of the senate, the speaker of the house of representatives and the clerks of the house of representatives and senate not later than 180 days after the effective date of this act. [↑](#endnote-ref-3)
4. Sex offenses are defined in G.L. c.6, s.178C. [↑](#endnote-ref-4)
5. Individuals classified as level 2 *before* July 12, 2013 are not placed on the internet. Moe v. …………………. [↑](#endnote-ref-5)
6. *Doe No. 380316 v. SORB*, 473 Mass. 297, (2015) (goal to ensure “’classification and notification system is both fair and accurate’”)(citations omitted); Doe *7083 v. SORB,* 472 Mass. 475, 482-483 (2015) (to comport with due process, classification must be based on “current” risk to community); *Doe No. 8725 v. SORB*, 450 Mass. 780, 787 (2008)(dissemination must be based on an assessment “of the person’s *current* level of dangerousness and risk of reoffense.”); *Doe v. Attorney General*, 430 Mass. 155, 168 (1999); *Doe No. 24341 v. SORB*, 74 Mass. App. Ct. 383, 387 (2009). [↑](#endnote-ref-6)