

RISK OF VIOLENT RECIDIVISM:
A COMPARISON OF DANGEROUS AND NON DANGEROUS OFFENDERS

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ABSTRACT

In Canada, Part XXIV of the Criminal Code sets out provisions for designating and sentencing certain convicted individuals as "Dangerous Offenders". The intent of this legislation is the protection of society from dangerous sexual offenders and dangerous violent offenders.

Forty-five Dangerous Offenders from the Pacific Region of the Correctional Service of Canada were compared to a randomly selected group of 45 incarcerated "serious personal injury" offenders. There were very few differences between the Dangerous Offenders and the control group in their developmental histories and psychological functioning. Although the groups did not differ in the number of violent offences they had committed, the Dangerous Offenders had significantly more sexually related charges and convictions. To a large extent, this difference reflects only the severity of the Dangerous Offenders' index offences. They had considerably more charges and convictions (and victims) related to their index sexual assaults in comparison to the control group, and in comparison to the (officially recorded) previous sexual offences of the two groups. By contrast, the control group had more charges and convictions for violent nonsexual offences. Most importantly, the Dangerous Offenders and the control group did not differ on their current risk for violent recidivism as assessed by the Psychopathy Checklist-Revised (PCL-R) and the Violence Risk Appraisal Guide (VRAG).

The implications of these results are discussed in terms of the intent of the legislation and the assessment of risk in Dangerous Offenders hearings.

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INTRODUCTION

Dangerousness as a Legal Entity

Traced to "old Roman law" (Monahan, 1988), the notion of dangerousness remains crucial to legislation protecting society. Dangerousness is not a psychiatric classification or concept, but a legal one (e.g., Steadman et al., 1993; Stone, 1985), which has been used for offenders who are mentally ill (and therefore presumed to be unpredictable), sexual and violent offenders, and habitual or persistent offenders (Petrunik, 1982). The implicit assumption that dangerousness is a pathological trait has been propagated by "experts" such as psychiatrists (Miller & Morris, 1988; Petrunik, 1982), and enshrined in statutes such as Canada's Dangerous Offender legislation (Greenland, 1985; Rogers & Mitchell, 1991). In addition to criminal legislation, dangerousness has been used as grounds for involuntary civil commitment and treatment (e.g., Dix, 1983; Monahan, 1988; Mulvey & Lidz, 1995), and in capital sentencing proceedings (e.g., Worrell, 1987; see also Shah, 1978, for a list of legal/clinical decisions premised on dangerousness).

Despite the importance of dangerousness, many have indicated that the concept remains vaguely conceptualized (e.g., Webster & Menzies, 1987), and broadly defined in criminal statutes such as the Criminal Code of Canada (R.S.C., 1985). As a result, what constitutes dangerousness has varied over time and with (political) changes in public policy and administrative practices (Webster, Ben-Aron, & Hucker, 1985; Webster, Dickens, & Addario, 1985).

The courts have used the concept of dangerousness, and psychiatric testimony on dangerousness under the guise of science and certainty for the imposition of legal control (Webster & Menzies, 1987). Mental health experts, due to their training and professional status,

were presumed to be qualified to reliably conduct assessments of dangerousness (Otto, 1992; Petrunik, 1982; Pfohl, 1984; Shah, 1978; Steadman, 1983; Steadman & Cocozza, 1978), and expected to be able to separate the dangerous from the non-dangerous (Monahan, 1984). They were however neither qualified nor under any obligation to offer categorical pronouncements of dangerousness (Poythress, 1992). This concern was expressed by the Law Reform Commission of Canada (1976) prior to the inception of Canada's current Criminal Code provisions for Dangerous Offenders.

Dangerous Offender Legislation in Canada

Special preventive confinement laws for dangerous offenders and criminal psychopaths date back to the late 1800s although "the preventive confinement of dangerous persons...who are thought likely to cause serious injury in the future has always been practiced, to some degree, by every society regardless of the jurisprudential rhetoric employed" (Dershowitz, 1974, p.57; as cited in Webster & Menzies, 1987). In Canada, despite opposition (e.g., Law Reform Commission of Canada, 1975), legislation introduced in 1977 for Dangerous Offenders repealed provisions for Habitual Criminals (1947), Criminal Sexual Psychopaths (1948) and the Dangerous Sexual Offender legislation (1958) which had replaced the 1948 provisions. Now under Part XXIV (formerly Part XXI) of the Canadian Criminal Code, the 1977 amendments continue to offer (extended) protection against dangerous sexual offenders, and those who commit violent crimes of a non-sexual nature.

The Law Reform Commission of Canada (1975) had recommended that Dangerous Sexual Offender provisions be eliminated as "serious offences, including sexual offences, should be dealt with under the ordinary sentencing law" (as quoted in Schiffer, 1978; p.287; see

also Rogers & Mitchell, 1991). This "solution" has frequently been proposed (e.g., Berzins, 1983; Webster, Dickens, & Addario, 1985), as approximately one half of the designated Dangerous Offenders reviewed in various studies could have received life sentences for the offence(s) on which their Dangerous Offender application was based (Jakimiec, Porporino, Addario, & Webster, 1986; MacKay, 1983; Pos, Coles, Grant, & Schellenberg, 1987; Webster, Dickens, & Addario, 1985). Such sentences could have been imposed on the basis of the offender's current and previous convictions without the mandatory requirement of psychiatric testimony (Berzins, 1983), or the expense of an additional hearing. Parliament however has not conferred on judges the power to impose (lengthy determinate) sentences as "protective" sentences, even when evidence including psychiatric opinion has documented the propensity to commit violent sexual assaults or the potential for murder (as was the case in R. v. Henderson, 1990).

The Canadian Sentencing Commission (1987) subsequently recommended that the Dangerous Offender provisions be repealed as the nature of indeterminate sentences, and the primary focus on the offender rather than the offence, violated basic principles of criminal law (see also, Grant, 1985; Robertson & Dickens, 1988). As an alternative, the Commission recommended the imposition of an "extended sentence" only for the most heinous of crimes. Until recently, the trend in the United States had been towards greater determinacy and "just desert" (punishment) in sentencing, as indeterminate sentences although once generally accepted, were considered to be ineffective and unfair, and founded on unvalidated assumptions (Gottfredson & Gottfredson, 1988; Veneziano & Veneziano, 1987). In imposing only determinate sentences, a "just desert" model would inevitably focus on the severity of offences and the culpability of the offender without having to predict behaviour after an offender has served his or her sentence (Monahan, 1984).

Since its enactment, Part XXIV has been ridden with controversy and opposition. In their review, Webster and Menzies (1987) summarized the major criticisms of Part XXIV as: having loose evidentiary standards which represent a breach of civil liberties, imposing indeterminate sentences which are "unduly harsh and inflexible dispositions", mandating psychiatric testimony "given the documented inability to predict future dangerousness", and that the identification and trial of Dangerous Offenders is subject to political and ideological pressures (e.g., mass media) (see also, Price & Gold, 1976; Robertson & Dickens, 1988). Others have also suggested that the Courts in their application of Part XXIV have deflected responsibility for this poorly constructed and administered legislation to the mental health experts and to the Parole Board - which is required to review every Dangerous Offender after the first three years of incarceration and every two years thereafter¹ (section 761) (Grant, 1985; Rogers & Mitchell, 1991). The relative infrequency of Part XXIV applications along with other, albeit determinate, sentencing options also suggests that special provisions for Dangerous Offenders may be unnecessary (Webster, Dickens, & Addario, 1985).

According to the manner in which the legislation has been enacted, Dangerous Offender hearings occur after conviction, and must establish whether or not an offender is a Dangerous Offender and determine what sentence to impose.

The Designation of Dangerous Offenders

Several criteria must be met for a convicted offender to be sentenced as a Dangerous Offender. The Attorney General for a province, on the recommendation of the Crown (sec. 754

¹ These parole reviews which are also predictive, and often, if not always requiring psychiatric and/or psychological recommendations, should but have not received the same "prediction of dangerousness" scrutiny as the initial designation/sentencing hearing.

(1)(b)), has the discretion to make an application for a subsequent hearing to determine an offender's dangerousness after an offender has already been convicted of a "serious personal injury offence".² This prosecutorial discretion, and the threat of invoking a Dangerous Offender application, raises serious ethical concerns (Webster, Dickens, & Addario, 1985). For some years after the legislation was introduced, no Attorney General guidelines offering directions, or ensuring consistency across provinces, on appropriate applications were in place³ (Pos et al., 1987). In some instances, life terms have been handed down when Part XXIV may have been evoked (see Rogers & Mitchell, 1991; Ruby, 1987; for a review of the cases). Such arbitrary decisions, or discretion, at various stages of the Part XXIV process have however withstood challenges under the Canadian Charter of Rights and Freedoms (see Grant, 1985; Robertson & Dickens, 1988; Lyons v. The Queen, 1987; for a review of the case law).

Dangerous Offender applications have been successful in 78% of the cases suggesting that the adversarial process is tilted in favor of the prosecution (Rogers & Mitchell, 1991). Psychiatric opinion is influential, if not instrumental, in determining which offenders are subject to Dangerous Offender applications (e.g., Rogers & Lynett, 1991; Webster, Dickens, & Addario, 1985). In an exploratory study, MacKay (1983) concluded that psychiatric information regarding risk of future offending appeared to be one of the major contributors to the prosecutorial decision to proceed with a Dangerous Offender application. The Crown Files

² In 1994, the Solicitor General initiated proposed legislation that extended the application period for Dangerous Offender designations to the end of an offender's sentence, rather than only at the time of initial sentencing (Solicitor General of Canada, 1993). Responding to public concern, these provisions specifically targeted offenders who were at risk of committing a further sexual offence against a child. Unofficial sources (The Vancouver Sun, The Province, November 1, 1994) reported that the Solicitor General abandoned this proposal as the law would be unconstitutional in that The Canadian Charter of Rights guarantees a presumption of innocence (see also, Williams, 1990; Wood, 1988; for discussions of the related legal issues).

³ Some provinces now have, or are developing procedural and policy guidelines and criteria to assist Crown Counsel in establishing when a Dangerous Offender application is warranted (Bonta et al., 1996).

Research Project (Bonta, Harris, Zinger, & Carrier, 1996),⁴ in its survey of 21 Crown Counsel who had prosecuted at least one Dangerous Offender, has recently demonstrated how influential psychiatric opinion and diagnoses are in supporting a decision to proceed with an application. Other important factors include the offender's criminal history and prior response to incarceration, and the seriousness of their current offences, particularly sexual offences (MacKay, 1983; Bonta et al., 1996).

The purpose of a Dangerous Offender hearing is to determine whether the offender fits the Criminal Code definition of a Dangerous Offender (section 753) and to impose the appropriate sentence. The offender must first be convicted of a serious personal injury offence, as specified in section 752 of the Criminal Code, which includes two categories of offences:

- 752(a) an indictable offence, other than high treason, treason, first degree murder or second degree murder involving
 - (i) the use or attempted use of violence against another person, or
 - (ii) conduct endangering or likely to endanger the life or safety of another person or inflicting or likely to inflict severe psychological damage upon another person, and for which the offender may be sentenced to imprisonment for ten years or more, or
- (b) an offence or attempt to commit an offence mentioned in section 271 (sexual assault), 272 (sexual assault with a weapon, threats to a third party or causing bodily harm) or 273 (aggravated sexual assault).

Rogers and Mitchell (1991) have questioned the necessity of section 752 distinguishing between sexual (b) and nonsexual violent offences (a), though they have suggested a sexual assault (touching) may hypothetically be committed without violence and without endangering the life or safety of a victim (see, R. v. Wells, 1994).

The prosecution must further establish that an offender has certain characteristics in addition to having been convicted of a serious personal injury offence. Depending on the

⁴ The empirical review of the research on Dangerous Offenders for the present study was completed prior to the Solicitor General's Crown Files Research Project (Bonta et al., 1996) was released, and apart from a few notations has not been altered in light of Bonta et al.'s findings. The results of Bonta et al. (1996) are reviewed in Appendix C.

nature of the (offence) conviction, the prosecution would endeavour to establish one of two parts in section 753 of the Criminal Code, either of which would be sufficient for a finding of dangerousness:

753(a) that the offence for which the offender has been convicted is a serious personal injury offence described in paragraph (a) of the definition of that expression in section 752 and the offender constitutes a threat to the life, safety or physical or mental well-being of other persons on the basis of evidence establishing

(i) a pattern of repetitive behaviour by the offender, of which the offence for which he has been convicted forms a part, showing a failure to restrain his behaviour and a likelihood of his causing death or injury to other persons, or inflicting severe psychological damage on other persons, through failure in the future to restrain his behaviour,

(ii) a pattern of persistent aggressive behaviour, of which the offence for which he has been convicted forms a part, showing a substantial degree of indifference on the part of the offender respecting the reasonably foreseeable consequences to other persons of his behaviour, or

(iii) any behaviour by the offender, associated with the offence for which he has been convicted, that is of such a brutal nature as to compel the conclusion that his behaviour in the future is unlikely to be inhibited by normal standards of behavioural restraint, or

(b) that the offence for which the offender had been convicted is a serious personal injury offence described in paragraph (b) of the definition of that expression in section 752 and the offender, by his conduct in any sexual matter including that involved in the commission of the offence for which he has been convicted, has shown a failure to control his sexual impulses and a likelihood to his causing injury, pain or other evil to other persons through failure in the future to control his sexual impulses.

If the prosecution establishes any of the four parts of this disjunctive definition, the Court must find the accused a Dangerous Offender. Regardless of which subsection an application may have been based upon, Judges frequently consider the criteria simultaneously, and in their reasons for judgment often indicate which subsections have been satisfied.

In section 753(a) the first two sets of criteria focus on patterns of behaviour including the offence, whereas sections 753(a)(iii) and 753(b) emphasize the severity of the behaviour - not necessarily repetitive - with the offence (Watt & Fuerst, 1991; Webster, Dickens, & Addario,

1985). All four however, indicate that the establishment of dangerousness (in the future) rests on past behaviour (Coles & Grant, 1991). Rogers and Lynett (1991) have pointed out the tautological reasoning of section 753(b) as "any inappropriate sexual behaviour would be indicative of a failure to control one's impulses", unless the act was premeditated.

Difficulties have also arisen in defining and interpreting the various components of sections 753(a) and (b) including the meaning of "severe psychological damage" and "evil to other persons through a failure in future to control his sexual impulses" (for discussion, see; Coles & Grant, 1991; Grant, 1985; Rogers & Lynett, 1991). Others have simply indicated that the legislative changes passed in 1977 actually broaden the definition of dangerousness (Greenland, 1985), possibly enough to always secure a finding of dangerousness (Webster, Dickens, & Addario, 1985), with few changes, procedurally or substantively (Schiffer, 1978).

The Sentencing of Dangerous Offenders

If a Part XXIV hearing is unsuccessful in that the offender is not designated as a Dangerous Offender, the offender would receive the sentence that would have originally been imposed for his or her offences. When designated a Dangerous Offender, either a determinate or an indeterminate sentence could be imposed, although recently proposed legislative changes will eliminate the option of imposing determinate sentences for designated Dangerous Offenders (Canadian Newswire Press, 1996a).

There has been a shift towards greater legislative concern for public protection, though historically, indeterminate sentencing legislation was also motivated by the opportunity to offer psychiatric treatment (Gottfredson & Gottfredson, 1988; Petrunik, 1982). The Supreme Court of Canada has affirmed that public protection is the primary concern of the legislation, and the

justification for indeterminate sentences, not the offender's rehabilitation (e.g., R. v. Dwyer, 1977; R.v. Jones, 1994). At the same time, the purpose of indeterminate sentences has not been considered punitive, as much as to ensure time for the effective treatment of the offender (e.g., R. v. Noyes, 1986). As such, Part XXIV enables preventive detention while offering coercive treatment (see Coles & Grant, 1991; for an extensive discussion).

The probability that an offender would be "cured" is relevant to imposing a determinate rather than an indeterminate sentence, but not to whether the offender is a Dangerous Offender as that determination is based on past conduct (Carleton v. R., 1981). This standard has been reaffirmed in subsequent Dangerous Offender cases, and determinate sentences have rarely been imposed (Coles & Grant, 1991). Sentencing is not a function of dangerousness per se, as evidence on the probability of "cure" based on the likelihood of therapeutic success and/or risk of violence could influence the imposition of either an indeterminate or determinate sentence.

An offender may appeal the imposition of an indeterminate sentence but not the Dangerous Offender designation though such a finding would invariably be reviewed if an appeal is granted (R. v. Langevin, 1984). Recently, such a finding was reviewed and although the designation of Dangerous Offender was not justified in fact or in law, the Ontario Court of Appeal in allowing the appeal only quashed the order for the indeterminate sentence and released the offender (R. v. Currie, 1995).⁵

Dangerous Offenders (1978-1995)

At the end of 1995 - eighteen years after Part XXIV was enacted - 174 Dangerous

⁵ An appeal was subsequently granted and is to be heard by the Supreme Court of Canada.

Offenders were on record with the Correctional Service of Canada (CSC).⁶ Eighty-seven (50%) of these offenders were sentenced between 1990 and 1995 indicating an increase in the use of Part XXIV as in the first six years (1978-1983), only 33 (19%) were sentenced as Dangerous Offenders and 54 (31%) in the six subsequent years (1984-1989). Of the 174 Dangerous Offenders, there were still 154 (88.5%) incarcerated, 5 (3%) had completed their sentences following parole, 4 (2%) were on parole, 1 had been deported, and 10 (6%) had died. Six of the 10 that died were serving determinate sentences, and three deaths were suicides.⁷

Research on Dangerous Offenders

There have been a handful of studies examining Part XXIV as a legal process, and some of the reviews have described the characteristics of Dangerous Offenders. Without exception, the studies suffer from inadequate methodological designs - in particular, no comparison group. The research however claims that the protection of society is more "symbolic" than real as the Dangerous Offenders do not appear to be more dangerous than other offenders (Rogers & Mitchell, 1991).

Prior to the 1977 changes in the Criminal Code in which provisions for Habitual Criminals and Dangerous Sexual Offenders were repealed for those of Dangerous Offenders, several studies examined the offenders designated to be Habitual Criminals and Dangerous Sexual Offenders. The results of these studies questioned the application of the legislation. As with the current provisions, there were large regional disparities in the use of the legislation (Greenland, 1984; 1976; Jackson, 1982; Wormith & Ruhl, 1986). For example, British Columbia,

⁶ Statistics provided by the Research and Statistics Branch of the Correctional Service of Canada, March 1996.

⁷ Information Memorandum: Research and Statistics Branch of the Correctional Service of Canada, June 5, 1992.

which has about 10% of Canada's population, accounted for approximately 37% of the Dangerous Sexual Offenders. Furthermore, of the 109 offenders designated to be Dangerous Sexual Offenders between 1949 and 1977, the 40 who were sentenced in British Columbia represented only 1.8% of all the sexual offenders in that province (Greenland, 1984). Offenders incarcerated as Dangerous Sexual Offenders and as Habitual Criminals were also held for unduly long periods - longer than those convicted of murder (e.g., Greenland, 1977; Jackson, 1982). Yet, 72% of the 18 Habitual Criminals examined in Jackson's 1982 study were described by the Parole Board as nuisances, rather than dangerous. Some of the Dangerous Sexual Offenders were reportedly "just homosexuals" (Greenland, 1984), whereas others represented a "pathetic group of socially and sexually inadequate misfits" (Greenland, 1977; p.158). The same issue - in particular, the discriminatory and arbitrary application of the criminal law - remains of concern in the current Dangerous Offender provisions.

Pos et al. (1987) reviewed the first 21 Dangerous Offender hearings in British Columbia. The defense was successful in two of these cases in attacking the psychiatric testimony and establishing that the prosecution had failed to meet the Dangerous Offender criteria in one case, and "admitting nothing and requiring strict proof" of all evidence introduced by the Crown in the other case (Pos et al., 1987). Most of the offenders (17 of 21 or 81%) were prosecuted after being convicted of a sexual offence, and only 2 of these 17 offenders had not been previously charged with a sexual offence. Webster, Dickens, and Addario (1985) also noted that only 5 of the 32 Dangerous Offenders they reviewed had not previously committed sexual offences. Clearly, the legislation was being applied most often to repetitive sexual offenders.

There are large regional differences in the application of Part XXIV. Jakimiec et al. (1986) documented an increasing use of Part XXIV during the first nine years since it was proclaimed in 1977 with Ontario (29) and British Columbia (16) accounting for 75% of the 60 Dangerous

Offenders in Canada. Quebec, whose geographic region and population is comparable to Ontario, had not used the Dangerous Offender provisions during this period. This trend has continued. 1995 figures⁸ for Canada indicate that of the 174 Dangerous Offenders, Ontario (78) and British Columbia (43) have had 69.5% of the Dangerous Offenders and Quebec has had only two Dangerous Offenders (both designated in the last two years). These trends are consistent with the previous Habitual Criminal and Dangerous Sexual Offender legislation. Such differences may point to administrative ideology rather than only the personality or the risk of offenders in applying for a Dangerous Offender designation (Webster, Dickens, & Addario, 1985).

Statistics on regional differences were submitted as evidence in Lyons v. The Queen (1987) as the Court considered the arbitrariness of prosecutorial discretion as a constitutional challenge to Part XXIV. The Supreme Court of Canada was of the opinion that prosecutorial discretion does not constitute unconstitutional arbitrariness whereas the absence of such discretion could. The Supreme Court also acknowledged that while there were notable provincial differences, "there was no attempt to explain the significance of the data" (Lyons v. The Queen, 1987).

There have been two reports on Dangerous Offenders produced for the Solicitor General of Canada (Berzins, 1983; Koopman, 1985), both of which are merely descriptive and quite poor even by the most liberal of methodological standards. Although their findings must be seriously questioned, both studies pose the question of why certain offenders are selected for Part XXIV prosecution when their offences are not clearly more violent or destructive, or as extensive as other offenders.

⁸ Statistics provided by the Research and Statistics Branch of the Correctional Service of Canada, March, 1996.

In 1983, Berzins conducted the first investigation of offenders prosecuted under Part XXIV. It was concluded that some of the Dangerous Offenders were no more dangerous, and in some instances, less dangerous than other offenders with histories of persistent violence serving determinate sentences (Berzins, 1983). Some of the psychiatric opinion however indicated that the conduct of the offender need not be violent to be a Dangerous Offender (Berzins, 1983), which has also been expressed in some of the judgments of the Court (Pos et al., 1987). Attention was also drawn to "traumatic early life experiences and social conditions" in the most violent of the Dangerous Offenders (Berzins, 1983; p.66). This was subsequently challenged by Pos et al. (1987) as Berzins (1983) did not provide the specifics of her findings and Pos et al.'s data did not support her conclusions. Berzins (1983) also noted that there was considerable agreement between the psychiatrists as to the nature of an offender's difficulties, but opinions usually differed regarding the treatability of the offenders and the potential effectiveness of treatment. Again, few specifics were provided. Berzins (1983) concluded by suggesting that until greater safeguards in prosecutorial discretion were ensured, the justification for this legislation was compromised, and posed the question of why have offenders with lengthier or more repeated histories of violence not been prosecuted under this legislation? Apparently, these should be the offenders which the legislation and the Correctional system have sought to identify and control (Berzins, 1983).

Koopman's (1985) research examined 43 Dangerous Offenders and a comparison sample of 43 offenders with lengthy records, many with a violent history. The influence of language skills and ability on cognitive dysfunction and personality functioning was the focus of this study. The major results were that the Dangerous Offenders were not different from the control group on the actuarial data; almost one half of the Dangerous Offenders were diagnosed as having Antisocial Personality Disorder (ASPD); and there was an absence of treatment for the

Dangerous Offenders (Koopman, 1985). As many have argued (e.g., Webster, Dickens, & Addario, 1985), Koopman (1985) recommended the abolition of Part XXIV as the legislation did not provide for more protection in that there was no evidence that these offenders were more dangerous than those given long determinate sentences. Methodological problems, including the absence of any significance testing and very few descriptive statistics actually reported, seriously challenge the validity of Koopman's findings. As Pos et al. (1987) suggest, results indicating that the control group was no more violent than the Dangerous Offenders are not surprising as Koopman "hand picked" the comparison group and equated dangerousness (as did Berzins, 1983) with violence.

There were a number of concerns raised by both Berzins (1983) and Koopman (1985). They reported that the majority of the Dangerous Offenders were strange looking, unattractive, had unusual physical features, handicaps or mental disturbance giving them the impression of being dangerous (see also Webster, Dickens, & Addario, 1985). Pos et al. (1987) have however called into question the bases of these findings as well as their generalizability. It was also noted that reasons for denying parole were usually related to the need for treatment although treatment opportunities and suitable programs for Dangerous Offenders were clearly lacking, and that treatment for Dangerous Offenders may be a low priority, particularly in not having a scheduled time for release (Berzins, 1983; Koopman, 1985). Others have noted additional obstacles to treatment. In comparison to the nine percent of federal inmates in protective custody, the majority of Dangerous Offenders (32 of the 50 reviewed) were in protective custody or segregation, limiting access to treatment and programs perhaps necessary for release (Jakimiec et al., 1986). Similar circumstances and obstacles to treatment were extremely debilitating for the Dangerous Sexual Offenders under the previous legislation (Marcus, 1966; 1969; 1971). It is unclear to what extent this situation has improved. Evidence presented in

Dangerous Offender hearings often attest to the availability and accessibility of treatment for these offenders (but see, *R. v. Winter*, 1987), yet other sources have indicated that treatment for Dangerous Offenders is compromised, particularly in lieu of cutbacks, and remains a priority for offenders nearing the end of their determinate sentences (Canadian Press Newswire, 1996b).

The most recent published research on Dangerous Offenders was a descriptive study conducted by Jakimiec et al. in 1986. The files of 50 Dangerous Offenders were reviewed, of which 47 had received indeterminate sentences and were still incarcerated at the time of the study. Thirty-two percent of the offenders had been convicted of only one previous offence and in only four (8%) of these were there convictions for identical offences (Jakimiec et al., 1986). As in the figures reported by Pos et al. (1987), 78% (39) of the 50 offenders had committed sexual offences which resulted in their Dangerous Offender designation. The dangerous sexual offender may have remained, as Schiffer (1978) suggested, a distinct legal entity resulting in what Webster, Dickens, and Addario (1985) argue to be a discriminatory application of Part XXIV and not towards the prosecution of the most violent of offenders.

Several studies have suggested that regardless of treatment opportunities and progress, a significant portion of an indeterminate sentence must be served before serious consideration for release occurs (e.g., Berzins, 1983; Koopman, 1985). While release early in an indeterminate sentence may undermine the seriousness of the offence(s) and/or legislative intent, it also appears that there is a "determinate" component to indeterminate sentences. It has been indicated that release from an indeterminate sentence is seriously considered only after 8 or 9 years are served (e.g., Berzins, 1983; Webster, Dickens, & Addario, 1985). Others have equated the indeterminate sentence with a life sentence in the current Dangerous Offender statute (Koopman, 1985), the previous Dangerous Sexual Offender legislation (Greenland, 1984), and the previous provisions for Habitual Criminals (Jackson, 1982). Of the 49 Dangerous Offenders

sentenced in 1985 or prior (i.e., 10 years ago), 39 (80%) are still incarcerated (16 of 19 sentenced between 1978-1981 and 23 of 30 sentenced between 1982-1985) - the rest (10) are no longer in the system (sentence completed, on parole, or died).⁹

Psychopathy in Dangerous Offenders

The depiction of untreatable personality and character disorders, and in particular the image of the unruly psychopath, have often been employed by both experts and lawyers - particularly those for the Crown (Pos et al., 1987) - to establish a Dangerous Offender designation. Some have however suggested that there exists a more fundamental relationship between the legislation and psychopathy. For example, Petrunik (1982) has argued that, despite the more "esoteric" and "much criticized notion of psychopathy", the gradual shift in terminology from "psychopath" to "dangerous offender" belies a continuing concentration on the same type of person. Koopman (1985) makes a similar claim in suggesting that the Dangerous Offender, in combining the Habitual Criminal and the Dangerous Sexual Offender, has come to almost synonymously refer to psychopaths or sexual psychopaths.

Some have reported the prevalence of psychopathy and Antisocial Personality Disorder (ASPD) in their samples of Dangerous Offenders. For example, "many" of the 43 Dangerous Offenders in Koopman's (1985) study were reported as having been diagnosed as having personality disorders, and 18 (42%) with ASPD. Examining the types of diagnostic opinions offered by both Crown and defence experts in British Columbia's first 21 Dangerous Offender

⁹ Statistics provided by the Research and Statistics Branch of the Correctional Service of Canada, March, 1996.

cases, Pos et al., (1987) reported that 56% of the diagnostic opinions which were available¹⁰ indicated that the offender had a personality disorder and of these, 80% were diagnoses for ASPD and/or psychopathy. Invariably, the force behind diagnoses of psychopathy was that such diagnoses could readily establish a substantial degree of indifference and the probability of continued lack of control or restraint which also addressed the likelihood of future offending and the futility of therapeutic intervention (Pos et al., 1987). Reporting on a case study, Noone illustrated the judgmental rather than descriptive use of the term "psychopath" in a Dangerous Offender hearing as there were implications these offenders possess traits which "inexorably and without exception, propel them to continue and often escalate dangerous behaviour" (1986; p.55; see also Dix, 1980).

Rogers and Lynett (1991) have argued that ASPD in most cases should have little effect on a Dangerous Offender determination and that the Crown has, to a certain extent, relied on such diagnoses to bypass or satisfy the defining features of the Dangerous Offender criteria. Diagnostically, some of the DSM's ASPD criteria (e.g., American Psychiatric Association, 1987, 1994), as well as characteristics of psychopathy according to Cleckley (1982), are relevant to the defining features of Dangerous Offenders as specified in the Criminal Code.

Using a hypothetical Dangerous Offender case, the effect of a diagnosis of Antisocial Personality Disorder was demonstrated in the decision making of 333 Canadian psychiatrists. Lynett (1990) examined the effect of past antisocial history, the presence of a victim statement, and a formal diagnosis of ASPD, and found that the latter two were most influential in the judgments of psychiatrists. The diagnosis of ASPD significantly increased psychiatric ratings of future dangerousness, endorsement of a Dangerous Offender status and support of an

¹⁰ Diagnostic opinions were available in only 13 cases (6 expert opinions for the defence and 5 for the Crown were not available). Some "descriptive" opinions were also omitted as they could not be coded in the succinct diagnostic groups.

indeterminate sentence, and lowered ratings of treatment potential (Lynett, 1990). MacKay (1983) also found that the decision to apply for a Dangerous Offender designation was related to criminal past and incarcerations, but the presence of victim statements, ASPD diagnosis, and preliminary psychiatric reports was also influential in this decision.

Expert Testimony in Dangerous Offender Hearings

Section 755 of the Criminal Code specifies that the testimony of at least two psychiatrists - one nominated by the defense and one by the prosecution - must be heard in Dangerous Offender hearings.¹¹ This section also requires that the Court hear all other relevant evidence including the opinions of psychologists and criminologists.

Controversy has surrounded not only what testimony should be acceptable and admissible, but also the psychiatric requirement of Part XXIV hearings. Rogers and Mitchell (1991) have suggested that the mandatory psychiatric testimony in Part XXIV reflects a "fundamental mistrust", and appears to question the objectivity and impartiality of psychiatric opinion as no other form of hearing requires adversarially appointed experts. The adversarial system does encourage experts offering opinion evidence to become advocates (Coles & Grant, 1990; Pos et al., 1987), where one side is prompted to present evidence of risk and the other mitigating factors (Webster, Harris, Rice, Cormier, & Quinsey, 1994). The Courts have however regarded psychiatric testimony as they would that of any experts offering contradictory opinions in emphasizing their assistance in facilitating a more informed decision (see generally, Lyons v. The Queen, 1987). The legal requirement that both sides nominate psychiatrists also preserves the principles of fundamental justice in ensuring that both the rights of society and of

¹¹ Recently proposed amendments to the Criminal Code would require the testimony of only one psychiatrist (May 10, 1996) (Canadian Press Newswire, 1996a)

the offender are represented (R. v. Langevin, 1984). Whether or not psychiatric testimony should be required or allowed in Part XXIV hearings has also been challenged based on the nature of psychiatric opinion (e.g., Rogers & Lynett, 1991; Webster, Dickens, & Addario, 1985; Webster & Menzies, 1987).

The conclusions from the early dangerousness research have often been cited as the template on which to evaluate Canada's Dangerous Offender standard and the testimony of experts. Many have dismissed the contributions of mental health experts and/or recommended that they eschew these determinations (e.g., Rogers & Lynett, 1991; Webster, Dickens, & Addario, 1985), even though many of the "classic" prediction of dangerousness studies on which they have based their conclusions are largely irrelevant to Canadian Dangerous Offender determinations (Pos et al., 1987; Rogers & Lynett, 1991).

The problems, and in particular the unreliability of "predictions of dangerousness", have been well documented (e.g. Monahan, 1981; 1984; Webster & Menzies, 1987), and have been treated by the Courts in Part XXIV hearings as an issue of weight, rather than the admissibility of testimony (Webster, Dickens, & Addario, 1985). This was reaffirmed in Lyons v. The Queen (1987) where the Supreme Court of Canada considered the constitutionality of Part XXIV, and the argument that the use of psychiatric evidence was fundamentally unfair as such evidence was an unreliable predictor of future conduct. The Supreme Court of Canada in Lyons v. The Queen stated that:

"The test for admissibility is relevance, not infallibility. Judges at Part XXIV hearings do not assume that psychiatrists can accurately predict the future; however, psychiatric evidence is clearly relevant to the issue of whether a person is likely to behave in a certain way and, indeed, is probably relatively superior in this regard to the evidence of other clinicians and lay persons" (1987, p.48).

Webster and his colleagues have taken exception to this ruling and have argued that the Courts have essentially disregarded decades of research on the "prediction of dangerousness" (e.g., Webster, Dickens, & Addario, 1985; Webster & Menzies, 1987; Webster et al., 1994). It appears, however, that the Courts have carefully distinguished between the determination or designation of dangerousness and the prediction of dangerousness.

The Court in R. v. Jones (1988) indicated that debate on the prediction of dangerousness was irrelevant since the legislation has required the Court to do so. However, the standard for the determination of dangerousness was set out in Carleton v. R. (1981) when the Court interpreted the meaning of "likelihood" for proof of dangerousness "from the conduct of the offender up to the time of the hearing" negating the need for an actual prediction of dangerousness. The Supreme Court of Canada in Lyons v. The Queen (1987) reaffirmed that "inherent in the notion of dangerousness is the risk, not the certainty, of harm"; and this determination flows from the actual commission of a specific crime, the requisite elements of which have been proven to exist beyond a reasonable doubt.

The legislation requires testimony and evidence as to the "likelihood" of the offender's future behaviour and this decision, the "ultimate issue" or decision, rests with the Court. The Courts in response to the role of psychiatrists and the controversy surrounding the issue of dangerousness have also stated that expert testimony is only one facet of the evidence the Court must consider in reaching its decision (e.g., Carleton v. R., 1981). The Court must resolve two issues - designation and sentence: The former, as previously noted, is supposed to be based on past conduct. Much of the difficulty or the controversy in psychiatric testimony vis-à-vis the function of Judges in these hearings arises from expert testimony which addresses or is used to satisfy the legal criteria for the designation of a Dangerous Offender (section 753). In hearings, psychiatrists and psychologists may provide or be directed to testify on legal criteria or the

ultimate issue (whether or not the offender is dangerous or likely to repeat the crime), although the judgments of the various Courts have apparently and consistently condoned and minimized the significance of such testimony. Recent evaluations of the Dangerous Offender legislation have offered different opinions on the role or function of experts in these hearings.

Due to the difficulties associated with the long term prediction of violent recidivism, Rogers and Lynett (1991) argue that expert testimony should address the substantive criteria of the Dangerous Offender standard. Their review has demonstrated that the various Part XXIV criteria (e.g., brutality, indifference) are premised on unvalidated assumptions and that the Courts have failed to define the meaning of these dimensions (see also Coles & Grant, 1991; Grant, 1985; Webster, Dickens, & Addario, 1985). Rogers and Lynett's (1991) argument may be regarded as a challenge to the legislation rather than psychiatric testimony per se as the Courts would certainly not be bound by psychiatric interpretation or definition (see generally, Poythress, 1992). As Rogers and Lynett (1991) have noted, the Courts have essentially disregarded the position of the APA on the role of psychiatrists in the prediction of dangerousness (see Barefoot v. Estelle, 1983; for APA position).¹²

By contrast, Coles and Grant (1991) argue that, essentially mental health experts should avoid addressing legal issues, and in particular the ultimate issue of whether the offender will repeat the crime. Past behaviour clearly constitutes the evidence that is required to find an offender dangerous which the Court is clearly able to evaluate. The testimony of experts may serve to substantiate, invalidate, or qualify the conditions in which an offender with such a past is currently before the Court (Coles & Grant, 1991), and clearly pertains to the issue of whether

¹² The American Psychiatric Association (APA) submitted amicus curiae briefs claiming that mental health professionals are not presently competent to make reliable and accurate clinical predictions of violence and that, consistently, such professionals tend to overpredict dangerous behaviour.

the offender is likely to behave in a certain way (Lyons v. The Queen, 1987). The most any clinician can offer is a probability estimate of future violence as a risk assessment (Coles & Grant, 1991; Webster, Dickens, & Addario, 1985), leaving to the Court the decision of what is an unacceptable level of risk (Miller & Morris, 1988). Psychiatrists must always qualify their diagnostic opinions but the Courts also have the responsibility not to accept opinions of experts as statements of fact (see Diamond, 1985; Rogers, 1987, for thorough discussions of these issues).

In Part XXIV hearings, psychiatric and psychological testimony has addressed at least three distinct areas including the dangerousness of the offender according to the legal criteria, the character and treatability of the offender, and the risk of violence posed by the offender. Both Coles and Grant (1991) and Rogers and Lynett (1991) argue that mental health experts have a lack of input in the sentencing of the offender. It is to this end that psychiatric testimony would make the greatest contribution to Part XXIV, and in addressing the possibility of "cure" allow the Courts to impose the most appropriate sentence. As in the Defense of Mental Disorder (section 16)¹³, opinion evidence could address the character of the offender, the presence of mental illness, and treatability (Coles & Grant, 1990; 1991). In these opinions and prognoses - which are certainly predictive (e.g., Steadman, 1983) - expertise and testimony remains within the realm of mental health. The same argument can be made for assessments evaluating the risk of violent recidivism for an offender which has recently developed an empirical foundation.

Despite the necessity of psychiatric testimony in Dangerous Offender hearings, which is certainly one of the most contentious aspects of this legislation, there has been virtually no

¹³ 1992 amendments to the Criminal Code have changed the insanity verdict to "not criminally responsible on account of mental disorder" (NCRMD) (e.g., Greenberg & Gratzner, 1994).

commentary from the field of psychiatry (Coles & Grant, 1991; Rogers & Lynett, 1991). Research has however indicated that the majority (22) of the 40 forensic professionals surveyed were in favor of some form of legislation for Dangerous Offenders, but not that which was currently in place (Webster, Dickens, & Addario, 1985). Of the 22 psychiatrists, 57% stated that psychiatric testimony should not be required and 83% preferred determinate sentences (Webster, Dickens, & Addario, 1985). The psychiatrists also felt that, apart from exceptional instances, testimony would err on the side of caution as it was difficult to predict dangerousness in accordance with Part XXIV with much confidence.

The Assessment of Risk

Most of the early dangerousness research examined the probability of violence in the community upon the release of institutionalized individuals diagnosed as mentally ill. In a review of the major studies on dangerousness, Webster and Menzies (1987, p.158) concluded that "an abundance of methodological concerns (including low base rates of violence, the situational character of dangerous conduct, and the difficulties in operationalizing prediction and criterion measures) have limited the effectiveness of these investigations", as well as their conclusions and generalizability (see also, Monahan & Steadman, 1994; Steadman et al., 1993; for more recent reviews). The main conclusions from what is now referred to as "first generation research" is that mental health experts were consistently accurate in no more than one in three predictions (Monahan, 1981). Despite warnings to the contrary (Monahan, 1981), these findings were accepted uncritically and generalized to all contexts and situations (Otto, 1992), resulting in a general view that mental health professionals are poor predictors of behaviour. The conclusions from the "first generation research" and the polemic attached to

dangerousness (Webster, 1990) have however led to the reformation of research strategies and policy issues (e.g. Steadman et al., 1993).

The concept of dangerousness primarily based on clinical judgment has been replaced by the actuarial construct of risk (Webster, Menzies, & Hart, 1994) in an attempt to overcome difficulties and biases inherent to the assessment of dangerousness (Hart, 1994). In contrast to dichotomous dangerousness judgments, risk of violence is a continuous probability statement scaled in terms of seriousness of harm. Furthermore, this is ideally assessed on an ongoing basis for shorter periods of time (e.g. Hart, 1994; Monahan, 1992; Monahan & Steadman, 1994), since the early prediction of dangerousness research dismissed the reliability of long term evaluations of dangerousness (e.g., Monahan, 1981; Stone, 1985). Although actuarial conclusions regarding risk are possible, clinical decisions anchored by actuarially validated risk factors would eventually achieve optimal results (Monahan & Steadman, 1994; Webster et al., 1994).

The difference between the legal concept of dangerousness - a potential based on the characteristics of an individual - and the decision-making concept of risk - the probability or risk of an actuality (violent behaviour) - has frequently been explained as a necessary conceptual and pragmatic distinction (e.g., Monahan, 1984; Mulvey & Lidz, 1984; Pollack, Gross, & Weinberger, 1982; Pos et al., 1987). However, in striving for methodological sophistication, actuarial composites would also not be without systematic sources of potential bias (Hart, 1994; Monahan, 1992); and the "transformation" of dangerousness to the notion of risk has not been without the sociopolitical concerns that beset the issue of dangerousness (Castel, 1991; Menzies, Chunn, & Webster, 1992; see also Foucault, 1978). Determinations of dangerousness - based on defining unacceptable levels of risk - are inherently social and political decisions (Miller & Morris, 1988; see also Prins, 1991).

In the assessment of risk for recidivism, and violent recidivism in particular, research has provided evidence for predictive validity of the Psychopathy Checklist (PCL) for both general and violent recidivism. The PCL-R has also served as the foundation for expert testimony in recent Dangerous Offender hearings (e.g. R. v. McMath, 1995; R. v. Neve, 1994).

The Psychopathy Checklist (PCL-R) and Risk of Violent Recidivism

The PCL was derived through the factor analysis of Cleckley's (1976) characteristics of psychopathy. Cleckley in the first edition of The Mask of Sanity (1941) was instrumental in synthesizing the concept of psychopathy by providing the most comprehensive descriptions and definitions of the traits and behavioural patterns of psychopaths. The PCL contains items reflecting both personality traits and antisocial behaviors and each item is scored on a 3-point scale (0,1,2) according to the extent that it applies, providing a dimensional measure of the "prototypical" psychopath, although the underlying construct of psychopathy may be categorical (Hare, Hart, & Harpur, 1991). Recent evidence has indicated that the construct of psychopathy may be a discrete taxon as the criminal behaviour of psychopaths is qualitatively distinct from that of nonpsychopaths (Harris, Rice, & Quinsey, 1994).

The PCL measures two correlated factors both of which are considered essential to a comprehensive assessment of psychopathy (Harpur, Hare, & Hakstian, 1989; Hart, Hare, & Harpur, 1992). Factor 1 describes a constellation of personality traits thought to be at the core of psychopathy, whereas Factor 2 describes behaviors which are indicative of a chronically unstable and antisocial lifestyle regardless of motivation. Factor 2 corresponds to a greater extent with the DSM-III-R and the DSM-IV's Antisocial Personality Disorder (ASPD) (Hart, Hare, & Harpur, 1991; see also, Widger et., 1996). The PCL provides a more specific diagnosis

than the DSM criteria for ASPD (e.g., Hare, 1983; Hart & Hare, 1989), and this is reflected in the incidence rates of psychopathy (15 to 25%) and ASPD (50 to 80%) in various criminal and forensic populations (Hare, 1991). Psychopathy may be considered a specific variation or subtype of ASPD (Hart & Hare, in press).

The PCL was subsequently revised (PCL-R), and both versions measure the same construct of psychopathy (Hare, 1991; Hare et al., 1990). The reliability, validity, and factor structure of the PCL and the PCL-R have been well established as a measurement of psychopathy in criminal populations (Green, 1988; Hare et al., 1990; Hare, 1991; Hart & Hare, 1989). The PCL and the PCL-R have since been used in several studies with various samples of offenders and in research examining the characteristics of psychopaths.

Psychopaths are disproportionately represented in correctional institutions and are generally more criminally active throughout their life span (Hare, Strachan, & Forth, 1992) and "burn out", once thought to occur, does not for violent offences (e.g., Harris, Rice, & Cormier, 1991). Psychopaths not only commit more crimes than the general criminal population, but they perpetrate crimes which are more violent and aggressive while in the community (Hare & McPherson, 1984; see also Serin, 1988, 1991) and when institutionalized (Wong, 1984). In comparison to nonpsychopaths, the violent offences of psychopaths are also less likely to be emotionally motivated or against people they know (Williamson, Hare, & Wong, 1987).

Although the PCL was not designed as a measure of recidivism, several studies have examined the predictive validity of the PCL-R for both general and violent recidivism. Hart, Kropp, and Hare (1988) found the PCL-R predicted outcome more accurately than a number of relevant criminal history and demographic variables in 231 offenders even when criminal history, previous conditional-release violations, and demographic variables were controlled. The psychopaths were four times more likely to fail on release and three times more likely to

violate the conditions of parole than nonpsychopaths. The majority (65%) of the psychopathic criminals (high PCL group) had their parole revoked or were reconvicted within a year, and the estimated probability of not being reapprehended after three years was only 18%. Using a French version of the PCL-R, Hodgins, Côté, and Ross (1992) reported similar findings in that their high psychopathy group of offenders recidivated faster and more often than the medium and low psychopathy groups. At one year follow-up, 50% of the high psychopathy group recidivated compared to 11% for the medium psychopathy group and 8% for the low psychopathy group.

Serin, Peters, and Barbaree (1990) compared the PCL-R with several standardized actuarial risk measures in addition to demographic and criminological variables in a sample of 93 federal male offenders from the Ontario Region and found that the PCL-R correlated more highly with failure on release than the actuarial measures (see also, Serin, 1992; 1996). The failure rates, for unescorted temporary absences and for subsequent conditional releases, for the high psychopathy group were 37.5% and 33%, compared to 0% and 7% for the low psychopathy group. All 3 actuarial risk scales as well as the PCL-R were significantly correlated with general recidivism, but the PCL-R, and in particular Factor 1, was the best predictor of violent recidivism (Serin, 1996). Factor 2, by contrast, was associated only with general recidivism. On follow-up (5 years), results were consistent in that the offenders with higher PCL-R scores had higher rates of recidivism (Serin, 1992). With an expanded sample of 300 male federal offenders and an average follow-up period of 5.5 years, psychopaths (PCL-R >29) failed at twice (general recidivism) and five times (violent recidivism) the rate of nonpsychopaths (Serin & Amos, 1995). Relative Improvement Over Chance (RIOC) was calculated to assess predictive efficiency and indicated that, for violent recidivism, 80% of the offenders that had PCL-R scores of 30 or greater were correctly identified.

The PCL-R has also been used in an investigation of a sample of young male offenders (Forth, Hart, & Hare, 1990). Significant correlations were reported between the PCL and the number of previous violent offences, and the number of institutional charges for violent and aggressive behaviour. This study also examined correlates associated with recidivism as 71 (94%) of the offenders were released during the course of the study of whom 56 (79%) reoffended. Ratings on the PCL were associated with the number of charges or convictions for violent offences but not with length of follow-up period, recidivism, and number of charges or convictions for nonviolent offences (Forth, Hart, & Hare, 1990).

The PCL-R has also predicted violent recidivism in various samples of mentally disordered offenders. Rice, Harris, and Quinsey (1990) in a follow-up study of 54 rapists released from a maximum security hospital found that PCL-R scores were predictive of both sexual offences and violent offences. On the basis of two variables, psychopathy and phallometric scores, 77% of the rapists were correctly classified on whether or not they sexually recidivated. Extending this research, Quinsey, Rice, and Harris (1995) examined the prediction of violence in 178 sexual offenders and found that the PCL-R Total Scores correlated significantly with both violent recidivism and sexually violent recidivism (average follow-up period was more than 78 months). The PCL-R was the best predictor of general violence, but prior convictions for sexual and nonsexual violence were better predictors of sexual violence than the PCL-R (see also, Quinsey, Lalumière, Rice, & Harris, 1995).

Harris, Rice, and Quinsey (1993; see also, Webster et al., 1994) examined and combined a large number of variables related to childhood history, adult adjustment, index offence, and assessment results thought to be useful in identifying violent recidivists in a sample of 618 serious offenders from a series of follow-up studies (e.g., Harris, Rice, & Cormier, 1991; Rice & Harris, 1992; Rice, Harris, & Cormier, 1992). The offenders were considered "dangerous" as all

had already committed at least one other serious offence in addition to their current offence, and 58% of the offenders were diagnosed as having "severe" antisocial personality disorders. The PCL-R Total Scores were the predictor of violent recidivism ($r = .34$) over a seven year follow-up period.

Using only the file data available at intake in the coding of variables, Harris, Rice, and Quinsey (1993) used a stepwise discriminant function analysis to differentiate between recidivists and nonrecidivists. A 12 risk factor actuarial instrument - now referred to as the Violence Risk Appraisal Guide (VRAG) - for predicting violent recidivism was developed, and validated on a subsample. The actuarial instrument had an accuracy of about 75% in the classification of recidivists and nonrecidivists (Harris, Rice, & Quinsey, 1993).

The Violence Prediction Scheme (VPS) which combines this actuarial estimate - the Violence Risk Appraisal Guide (VRAG) - and a clinical guide (ASSESS-LIST) has been developed (Webster et al., 1994). The VRAG is based on Harris, Rice, and Quinsey's (1993) research and has recently been cross-validated on a series of follow-up samples of sexual offenders assessed at a maximum security hospital (Rice & Harris, 1995).

Hypotheses

Research on Dangerous Offenders has examined Part XXIV of the Criminal Code as a legal and administrative process (Jakimiec et al., 1986; MacKay, 1983; Lynett, 1990; Pos et al., 1987; Webster, Dickens, & Addario, 1985), or described Dangerous Offenders and how their characteristics may have influenced the decision to proceed under this legislation (Berzins, 1983; Koopman, 1985). The latter studies, produced for the Solicitor General of Canada, were essentially qualitative and exploratory and often characterized Dangerous Offenders by

vaguely defined criteria, or by criteria which were not specified. More importantly, there have been few systematic comparisons between Dangerous Offenders and other offenders although some have claimed to have demonstrated that Dangerous Offenders are no more violent and/or at risk (for violent recidivism) than other offenders (e.g., Berzins, 1983; Koopman, 1985).

One of the most important components of "dangerousness" is the potential for violent recidivism. The criteria in Section 753 of the Criminal Code defining Dangerous Offenders state this explicitly. The risk or potential for future violence and harm posed by an offender is always taken into account in Dangerous Offender hearings, and in the justification of indeterminate sentences.

The present study was designed to overcome the major limitations of the research previously reviewed by comparing the scores of legislatively-designated Dangerous Offenders and a randomly selected group of "serious personal injury" offenders on the Psychopathy Checklist-Revised Form (PCL-R) and the Violence Risk Appraisal Guide (VRAG). In addition to the use of the PCL-R as a reliable measure of psychopathy, evidence has accumulated on the predictive validity of the PCL-R in assessing the risk of reoffending. Recent research on violent recidivism has also identified various risk factors that are predictive and has led to the development and validation of an actuarial instrument, the Violence Risk Appraisal Guide (VRAG). The main purpose of the current research is to compare Dangerous Offenders with other "serious personal injury" offenders on the PCL-R and the VRAG to provide a comparative estimate of the risk for violent recidivism posed by individuals designated to be Dangerous Offenders. These groups will also be compared on some of the characteristics identified by prior research as distinctive or important in Dangerous Offenders.

Based on the literature reviewed, this research has the following hypothesis:

The protection of society in the prosecution of the most dangerous offenders¹⁴ is the intent of the Dangerous Offender legislation (e.g., Coles & Grant, 1991), where the major objective in the imposition of the most severe sanction in Canadian law, the indeterminate sentence, has recently been re-affirmed by the Supreme Court of Canada as not for punishment, but for "the prevention of future violence" (R. v. Jones, 1994). It is therefore hypothesized that Dangerous Offenders should be at a greater risk (probability) of violent recidivism as reflected in higher scores on psychometric risk assessment instruments compared to a randomly selected group of violent offenders, who were not designated Dangerous Offenders.

¹⁴The British Columbia Court of Appeal has indicated that Part XXIV applications should be reserved for the "worst" offenders and the "worst" offences (R. v. Danchella, 1990; R. v. G.G.G., 1990).

METHOD

Subjects

The research group consisted of 45 offenders designated as "Dangerous Offenders" under Part XXIV of the Criminal Code of Canada (26% of the 174 Dangerous Offenders designated in Canada between 1978 and 1995) who were either sentenced in the Pacific Region¹⁵ of the Correctional Service of Canada (CSC) or transferred to the Pacific Region after being sentenced in another province.¹⁶ Forty Dangerous Offenders were incarcerated¹⁷ and two were on parole at the time of data collection (April 24-November 17, 1995). Three Dangerous Offenders were coded from other CSC files. One of these was a Regional Reception Assessment Center (RRAC) research file and one was based on a CSC "flimsy" file along with recent treatment progress evaluations from the institution in which the offender was currently incarcerated. Both of these Dangerous Offenders were sentenced in British Columbia but were currently incarcerated in Ontario. The final research subject was coded from a CSC file prepared for a Dangerous Offender hearing that was adjudicated on November 8, 1995 in British Columbia.¹⁸ These three research subjects did not differ from the other subjects in the research group in the type or sources of information available in their files.

The control group consisted of a randomly selected sample of 45 incarcerated violent offenders from the Pacific Region. Their most recent offence(s) had to be or include at least one

¹⁵ Based on national statistics of all Federal offenders at the end of 1992, the Pacific Region (B.C.) had proportionally more Dangerous Offenders (24%) than of all offenders (13%), and the Ontario Region was the only other region with proportionally more Dangerous Offenders (49%) than of all offenders (27%) (Motiuk & Seguin, 1992).

¹⁶ Forty of the Dangerous Offenders were sentenced in British Columbia, 4 in Alberta, and one in Ontario. The province where the control offenders were sentenced was not recorded.

¹⁷ Of the Dangerous Offenders currently incarcerated, 9 were at a maximum security prison (Kent), and 31 were at various medium security institutions (Mountain - 18, Mission - 6, Regional Psychiatric Centre - 3, William Head - 3, Matsqui - 1).

¹⁸ The defendant was designated, and received an indeterminate sentence.

"serious personal injury" offence as defined in the Dangerous Offender legislation (sec. 752 of the Criminal Code) for inclusion as a control subject. Of the control subjects, sixteen offenders were incarcerated at Mountain, 15 were at Kent, and 14 were at Mission Institution.

Sample Characteristics

There were no significant differences between the two groups in ethnic origin, years of education, or employment status. The mean age of both the Dangerous Offenders and the control offenders was approximately 32 years when they committed their most recent offence, and all offenders were male. The majority of the offenders were White (79%) and the rest were Native North American (16%) or of other ethnic origin (6%). The Dangerous Offenders and the control offenders were similar in their educational background and most (88%) had fewer than 12 years of formal education. Prior to any upgrading in prison, the Dangerous Offenders¹⁹ had completed an average of 8.34 (SD 2.86, range 0-16) years of school and the control group an average of 8.56 (SD 2.50, range 0-17) years. Thirty-two of the Dangerous Offenders and 33 offenders in the control group were unemployed when they committed their most recent offence. The only significant demographic difference between the two groups was marital status. Seven Dangerous Offenders and 16 control offenders were married or living common-law when they committed their current offences, $\chi^2 (1, N = 90) = 4.73, p = .02$, (the rest were single, separated or divorced).

Forty-two of the forty-five Dangerous Offenders were serving indeterminate sentences²⁰ and the remaining three Dangerous Offenders received aggregate determinate sentences of 10,

¹⁹ There was no information on the educational background of one of the Dangerous Offenders.

²⁰ Thirteen Dangerous Offenders were sentenced between 1980-1985 and another 16 between 1986-1990 and between 1991-1995.

14, and 16 years.²¹ Three of the control offenders received life sentences²² for their offences and the rest received sentences for their index offences ranging from 9 months to 15 years (some of which were consecutive to the time remaining in prior sentences). Excluding the three life sentences, the mean sentence length for the control group (n=42) was 5.63 years (SD 3.34), whereas the median sentence length for the entire control group was 5 years. Although 90% of the subjects had been previously convicted of criminal offences as adults, the current convictions for two of the Dangerous Offenders and five of the control offenders were the first offences for which they were ever charged, and another ten of the Dangerous Offenders and five offenders in the control group were serving their first Federal sentence (2 or more years).²³

Instruments

Psychopathy Checklist-Revised (PCL-R)

The Psychopathy-Checklist Revised (PCL-R), based on the traditional conception of psychopathy (Cleckley, 1976), consists of 20 items (see Appendix A for items). Each item is scored on a three-point scale according to the degree to which it applies to an individual (0 = does not apply; 1 = uncertain, applies to a certain extent; 2 = definitely applies). PCL-R Total

²¹ As previously noted two of the Dangerous Offenders - one who received an indeterminate sentence and one a determinate sentence - are now on Full Parole. Another Dangerous Offender who received a determinate sentence (10 years) was released on Mandatory Supervision, but this was subsequently revoked. At least five other Dangerous Offenders have been granted ETAs and JTAs, but for two, their privileges have been subsequently canceled.

²² Previous studies have also reported whether the Dangerous Offenders were designated after being convicted of offences for which they may have received life sentences. In the present study, 19 Dangerous Offenders and 24 control offenders were convicted of offences which had possible life sentences.

²³ Unfortunately, it is not possible to specify under which section(s) of the Dangerous Offender legislation the Dangerous Offenders were successfully prosecuted. That information was not always available, or recorded from the offenders' files.

Scores can range from 0 to 40 and represent the degree to which an individual resembles the prototypical psychopath. Scores of 30 or above are considered diagnostic of psychopathy (Hart, Hare, & Forth, 1994). The PCL-R consists of two stable, oblique factors (Hare et al., 1990; Harpur, Hakstian, & Hare, 1988) which are correlated, on average, .56 for various prison samples, and .53 in forensic samples (Hart, Hare, & Harpur, 1992). Factor 1 is defined by items reflecting the interpersonal and affective characteristics of psychopathy, whereas Factor 2 items are related to the impulsive, antisocial, and unstable behavioural aspects of psychopathy. When it is not possible to score the item with confidence, the item is omitted and the respective Factor and Total Scores are prorated. As many as 5 items can be omitted without an appreciable reduction in reliability (Hare, 1991). The PCL-R includes a semi-structured interview and a file review procedure although researchers and clinicians²⁴ have used only file information to score and derive ratings for the PCL with acceptable interrater reliability and predictive validity (e.g., Harzis, Rice, & Cormier, 1991). This procedure, particularly when there is extensive file information, has the same psychometric properties as the interview method (Hart, Hare, & Harpur, 1992).

Violence Risk Appraisal Guide (VRAG)

Harris, Rice, and Quinsey (1993) used a stepwise discriminant function analysis of variables coded from the files of a forensic sample of 618 men to develop and validate an actuarial instrument for the prediction of risk for violent recidivism, the Violence Risk Appraisal Guide (VRAG). Only variables with high interrater reliability that discriminated

²⁴ Notably, the psychiatrist nominated by the Crown in R.v.McMath (1995) based his PCL-R assessment of psychopathy only on file information. The defense in Dangerous Offender hearings frequently do not allow experts for the Crown the opportunity to interview their clients to guard against the client/defendant providing self-incriminating evidence.

violent recidivists and nonrecidivists across various subsamples were retained (Harris, Rice, & Quinsey, 1993). The 12 items (see Appendix B), consisting of both continuous and dichotomous variables, are weighted and then summed into a VRAG Total Score which can then be converted into a correlational probability of violent recidivism based on the validation sample (Webster et al., 1994). When items on the VRAG cannot be scored, they are coded as not applicable and scored as 0 so the item neither increases nor decreases the VRAG Total Score (G.T. Harris, personal communication, March 8, 1995).

Interrater Reliability

To assess interrater reliability in the present study, intraclass correlation coefficients (ICC₁; Shrout & Fleiss, 1979) were calculated using a one-way random effects model. Interrater reliability for the PCL-R was based on scoring from two raters for 27 subjects (14 Dangerous Offenders and 13 control offenders). The ICC₁ for Factor 1 was .89, .88 for Factor 2, and .90 for the PCL-R Total Score. Based on two raters for 15 subjects (8 Dangerous Offenders and 7 control offenders), the ICC₁ for the VRAG Total Score was .68.

Procedure

Subject Selection

A national CSC list of Dangerous Offenders (dated: March 8, 1995) identified the Dangerous Offenders currently incarcerated or on parole in the Pacific Region. An updated list of Dangerous Offenders (dated: September 13, 1995) generated by the Offender Management System (OMS) for the Pacific Region was later consulted for any subsequent Dangerous Offender designations, and because offenders are periodically transferred between national

regions. All of the Dangerous Offenders (41) identified by the (CSC) as currently in the Pacific Region were included in the research group. The other four Dangerous Offenders included in the research group were identified through other sources. Three of the Dangerous Offenders were identified from information discovered while coding CSC files (e.g., Reasons for Judgment referring to other cases), and one Dangerous Offender was identified through the media coverage of a recent trial. The objective in selecting Dangerous Offenders for this research was to access as many Dangerous Offender CSC files as possible in the Pacific Region.

The Offender Management System at the Regional Office of the CSC also generated random lists of violent offenders incarcerated at Mountain, Mission and Kent institutions as of August 4, 1995. These institutions were chosen as the majority of Dangerous Offenders in the research group were incarcerated at these three Pacific Region institutions (33 of 40: 82.5%; see note 17). The lists represented a randomized subset of all of the violent offenders incarcerated at each of the institutions serving life or indeterminate sentences, or meeting detention criteria 1A or 2A (CSC criteria for serious and/or violent offences).²⁵

As the OMS lists were produced in ascending order of F.P.S. numbers, every third offender at Mountain and Mission institutions and every sixth offender at Kent (the list for this institution was twice as long as the other two institutions) that met the “personal injury offence” criterion was selected as a control subject. However, selecting every third or sixth

²⁵ These criteria identified offenders whose major offence may have included but are not limited to one of the following: First Degree Murder, Second Degree Murder, Non Capital Murder, Capital Murder, Attempted Murder, Manslaughter, Arson, Trafficking in Narcotics, Robbery, Armed Robbery, Robbery with Violence, Robbery with Threats, Break Enter and Commit, Assault, Aggravated Assault, Assault with Intent to Commit, Assault with a Weapon, Assault Causing Bodily Harm, Use of Firearm while Committing an Indictable Offence, Kidnapping, Forcible Confinement, Sexual Assault, Rape, Indecent Assault on a Female, Sexual Assault with a Weapon, Incest and, Gross Indecency. Although all of the offenders on the lists provided by the Regional Office were categorized by one of these offences, their most recent conviction, which may have occurred after this offence classification (e.g. following a conditional release), might have been for another violent offence or a non violent offence.

offender was not necessary to ensure that the selection of the control group was randomly selected as F.P.S. numbers are arbitrarily assigned numbers - any sequential selection process could be used. Offenders classified as committing First or Second Degree Murder - which are offences specifically exempt from the serious personal injury criterion - or classified as serving indeterminate sentences (Dangerous Offenders and Dangerous Sexual Offenders) were not counted in selecting every third or sixth F.P.S. number. If the offender was no longer at an institution or could not be used in this research, the next third (or sixth) F.P.S. number was considered until an offender meeting the serious personal injury criterion was found.²⁶

To ensure an adequate number of subjects for interrater reliability analysis in the number of subjects in the present study which were also subjects in another unrelated study, the final three control subjects were selected from a random list of sexual offenders provided by a doctoral student in clinical psychology.²⁷ These three control offenders also met the serious personal injury offence criterion.

File Information and the Coding of Variables

Federally incarcerated inmates each have a number of institutional files. These include the Critical Document Insert (CDI) file, Case Management files, Psychology files, Education files, Employment files, and Discipline files. These files contain police reports, RCMP F.P.S. sheets, Pre-Sentence Reports, Reasons for Judgment, intake assessments and correctional plans, criminal profiles, progress reports, reports of psychological and psychiatric assessments,

²⁶ Fifteen offenders on the lists had been released or transferred prior to data collection and another 12 offenders' - not counting those that committed first or second degree murder - most recent offence did not meet the criterion of a serious personal injury offence. In one case the majority of the Case Management file was in French and could not be coded.

²⁷ This student was coding CSC files for her dissertation and was unaware of the purpose or hypothesis of the present study.

treatment progress evaluations, community assessments, and parole and mandatory supervision decisions and reports. These files were used to abstract information regarding demographic information, developmental history, history of psychological functioning, criminal history, and risk of violent recidivism.

Demographic information abstracted included ethnic origin, marital status, years of education, and employment status. Developmental histories were searched for information regarding the occurrence of physical abuse, sexual abuse, parental alcohol or drug abuse, a violent family background, parental criminality or maladjustment, and the age the offender left or was removed from home. Psychological functioning was coded according to mental health evaluations regarding any childhood learning disabilities or retardation, any childhood psychiatric diagnosis or hospitalization as well as any adult psychiatric hospitalization or fitness to stand trial evaluations.

The developmental and psychological history of the offenders was usually coded from psychological and psychiatric assessments, but other reports on file often contained similar or other relevant information. Although the two groups had the same types of reports on file, the Dangerous Offenders generally had more extensive files and were evaluated by psychiatrists and psychologists more often.²⁸ However, regardless of group, the thoroughness of the offenders' developmental and psychological history (particularly information about childhood and family life) was also contingent on how cooperative an offender was, the thoroughness of

²⁸ This may be in part a function of currently being incarcerated for longer periods of time and/or a function of their designation. Although all offenders' files begin on their first admission to the Federal system, the Dangerous Offenders following their most recent conviction have been incarcerated for an average of 80 months whereas the control offenders have been incarcerated an average of 42.8 months. This was calculated from the sentence date of the offender to the end of data collection, November 1995, and did not include the two Dangerous Offenders who have been paroled.

earlier reports as information was often carried forward, and when (e.g., age) and for which offences the offender was first, and subsequently incarcerated in the Federal system.

IQ scores or, when unavailable, the offender's estimated IQ range based on the reported opinions of psychiatrists and/or psychologists served as a measure of current (adult) intellectual functioning. Alcohol and drug abuse as well as intoxication during the commission of their most recent offence was also documented. With the exception of age and educational level, all of these demographic, developmental, and psychological variables were coded dichotomously.

Several aspects of the offenders' offence history were also coded. These included age at index offence, age when first charged, the number of victims in the index offences, and the number of index, and past non-violent, violent, and sexual charges and convictions. Offenders' criminal records were recorded from RCMP Fingerprint Services (F.P.S.) sheets which list charges, convictions, and dispositions from the time of an offender's first appearance in adult Court to his or her most recent convictions. A cutoff of 17 years old was used as adult records typically begin at 17, although some F.P.S. sheets began at 16 because of different provincial criteria and transfer (to adult court) decisions.

The definition of violent offences was that adapted by Hare, McPherson, and Forth (1988), and included murder, manslaughter, attempted murder, assault, robbery, kidnapping, possession of a weapon and, arson,²⁹ whereas nonviolent offences included theft, PSP, fraud, escape, driving offences and, drug offences. The offences, Break and Enter and Commit, and Uttering threats, were also coded as non-violent offences unless official records indicated that the offences were violent. Past sexual charges and convictions included not only sexual offences

²⁹ Hare, McPherson, and Forth (1988) also included sexual assault as violent but sexual offences are tabulated separately in the present study.

but also offences related to and part of the sexual assault (e.g., unlawful confinement) as well as convictions (e.g., common assault, possession of a weapon) which are pleas to “lesser” offences in documented sexual assaults.

The completed Psychopathy Checklist (PCL-R) and the Violence Risk Appraisal Guide (VRAG) were the Risk of Violent Recidivism variables. Although many items and/or criteria of the PCL-R and the VRAG pertain to offenders at the time of their most recent offences, the offenders' entire file (i.e., also during their current incarceration) was used to score these instruments and represent the offenders' current level of risk.³⁰

Missing Data

Considering the amount and range of information collected on each offender, there was relatively little missing data. Estimated values had to be substituted only for the IQ scores of three control offenders who did not have either IQ scores or estimates of IQ functioning on file.³¹ As there were no cognitive deficits or impairment noted by any evaluations, these were all coded as being within the average range.

³⁰ For the most part, this does not effect the scoring of VRAG apart from item 1 (PCL-R Total Score, see Appendix B). Research on the PCL-R has provided evidence for the temporal stability of psychopathy, particularly for Factor 1 items, and the decline with age in Factor 2 scores was relatively slight (e.g., Harpur & Hare, 1994).

³¹ IQ scores were available for 40 Dangerous Offenders and for 34 control offenders. Psychiatrists' and/or psychologists' estimated IQ range were available for the other 5 Dangerous Offenders but for only 8 of the 11 control offenders with no IQ results reported or IQ scores on file.

RESULTS

Primary AnalysesIndex Offences

Table 1 outlines the recorded index offences of the Dangerous Offenders and the control offenders in various categories. Because most offenders were convicted of multiple offences which may include different offence categories, or because they pled to lesser offences, the offence frequencies in Table 1 do not accurately portray the diversity of offences for which the offenders were convicted nor the intent or extent of some of their offences. Offenders were classified as having committed a sexual offence if their conviction offences included any sexual offence that met the criterion of a "serious personal injury offence".³² Only one control offender was convicted of both an assaultive offence and a robbery (but not a sexual offence), and was included under the assaultive offence category.

The majority (89%) of Dangerous Offenders were sentenced as Dangerous Offenders after being convicted of a sexual offence,³³ which is to some extent predictable, as prior studies examining the legislation have reported similar figures. Bonferroni corrected chi-squares ($p < .01$) indicated that the Dangerous Offenders were more likely to have been convicted of sexual offences and the control offenders more robbery related offences³⁴ (Table 1).

³² Some of the Dangerous Offenders have been convicted of, and subsequently designated as dangerous, for sexual offences (e.g. rape, indecent assault on a female) which have been repealed and replaced by other Criminal Code provisions. All of the personal injury offences on which the control group was selected were based on current Criminal Code offences.

³³ This number may be an underestimate as one of the Dangerous Offenders convicted of Assault with a Weapon and Attempted Kidnapping with Intent to Confine was attempting to abduct a female. One of the control offenders convicted of Kidnapping and Possession of a Weapon was also attempting to abduct a woman who managed to escape.

³⁴ This was not influenced by the manner in which the offences were collapsed across categories as 3 Dangerous Offenders and 2 control offenders had both sexual assault and robbery convictions but for only one offender in each of the groups were the convictions for separate offences (e.g., not in the context of a sexual assault).

Table 1

Percentages of Dangerous Offenders and Control Offenders Convicted in Various Offence Categories

Index Offence	Dangerous Offenders N=45	Control Offenders N=45	Chi-Square
Sexual Offences	89% (N=40)	44% (N=20)	20.00 *
Assaultive Offences	9% (N=4)	16% (N=7)	0.93
Manslaughter	0% (N=0)	2% (N=1)	--
Robbery	2% (N=1)	36% (N=16)	16.32 *
Arson	0% (N=0)	2% (N=1)	--

Note. Sexual offences included Sexual Assault (or Rape), Sexual Assault Causing Bodily Harm, Sexual Assault with a Weapon, Aggravated Sexual Assault, Indecent Assault (on a Male or Female), Attempted Sexual Assault (or Attempted Rape), Anal Intercourse, Sexual Intercourse with a Female under 14, and Break and Enter and Commit Sexual Assault. Assaultive offences included Assault with a Weapon, Aggravated Assault, Assault Causing Bodily Harm, Kidnapping/Forcible Confinement, and Possession of a Weapon (sec. 87). Robbery included Robbery, Armed Robbery, and Robbery with Violence.

Dashes indicate small cell frequencies violated the minimum expected frequency needed for chi-square tests.

* denotes chi-square significant at $p < .001$

According to the charges and convictions recorded on the offenders' F.P.S. sheets (and offence details), the Dangerous Offenders committed significantly more violent index offences³⁵ than the control offenders, $t(88) = 3.07$ ($p = .001$). Significance testing was one-tailed as violent offences are regarded and evaluated - particularly in Dangerous Offender hearings - as an essential consideration in the risk of recidivism of Dangerous Offenders.³⁶ The Dangerous Offenders had 266 ($M = 5.91$, $SD = 5.72$) charges and convictions for violent index offences of which 254 (95.5%) were for, or related to, sexual offences. By contrast, the index offences of the control group included 135 ($M = 3.00$, $SD = 2.80$) violent charges and convictions, and 63 (47%) of those were related to sexual assaults.

There is a 2:1 ratio of Dangerous Offenders to control offenders convicted of sexual index offences (Table 1). Comparing only these offenders, the Dangerous Offenders had significantly more charges and convictions related to their sexual assaults, $t(57.20) = 2.70$, ($p = .004$), and significantly more victims, $t(57.31) = 2.77$ ($p = .004$) than the control offenders. The average number of index offence sexual charges and convictions was 6.35 ($SD = 5.89$) for the Dangerous Offenders and 3.15 ($SD = 3.28$) for the control group. The Dangerous Offenders had more than twice as many index (sexual assault) victims ($M = 4.00$, $SD = 4.66$) than the offenders in the control group ($M = 1.60$, $SD = 2.04$).³⁷ Twenty-three (of the 40) Dangerous Offenders had 2 or more victims (range 1-19; median = 6).

Table 2 summarizes the status of the offenders at the time of their index offence. Only 16

³⁵ Index nonviolent charges and convictions are excluded from these comparisons as the groups had a combined total of only 38 nonviolent charges and convictions.

³⁶ Unless otherwise noted, all significance testing for offence history and risk of violent recidivism (in the Primary Analyses section) was one-tailed.

³⁷ The control group's average is slightly skewed by one offender who had ten victims compared to the rest of the control group who had one victim, except for one offender who had two victims and one offender who had three victims. Excluding the offender with ten victims, the index sexual offenders in the control group had an average of 1.16 victims.

Table 2

Status of Dangerous Offenders and Control Offenders at the Time of their Index Offence

Status	Dangerous Offenders N=45	Control Offenders N=45
At Liberty	36% (N=16)	24% (N=11)
On Conditional Release	53% (N=24)	58% (N=26)
Reached Warrant Expiry Date (W.E.D)	7% (N=3)	2% (N=1)
Recent release from Forensic Psychiatric Institute (FPI) or Riverview Psychiatric Hospital	4% (N=2)	0% (N=0)
Escaped	0% (N=0)	9% (N=4)
Conviction offence while incarcerated	0% (N=0)	7% (N=3)

Dangerous Offenders and 11 control offenders were at liberty (e.g., not incarcerated or under supervision), while the majority of the offenders in both of the groups were on some form of conditional release. Seventeen of the twenty-four (71%) Dangerous Offenders on conditional release were on Probation, Parole, or Mandatory Supervision for prior sexual assaults, whereas only 4 of 26 (15%) offenders in the control group (on conditional release) were on Parole or Mandatory Supervision for prior sexual assaults.³⁸

Offence History

There was no difference in the average age of the two groups at the time of committing their index offence, $t(88) = .02$ ($p = .98$). The average age was 32.24 (SD 9.48) for the Dangerous Offenders and 32.20 (SD 7.75) for the control group. Although the control group tended to be slightly younger when they were first charged with an offence (M 17.54, SD 6.02) compared to the Dangerous Offenders (M 19.11, SD 9.49), this difference was also non-significant, $t(73.41) = .92$ ($p = .36$).³⁹

Table 3 shows the mean number of charges and convictions for nonviolent, violent nonsexual, and sexual offences⁴⁰ for the Dangerous Offenders and the control group according to F.P.S. criminal records and offence details. All offences are mutually exclusive in that no charge or conviction⁴¹ could be counted more than once. Table 3 is partitioned to compare the

³⁸ One of the three Dangerous Offenders and the control offender who was required to serve his entire prior sentence (WED), as well as one of the control offenders who escaped, had also been incarcerated for sexual assault.

³⁹ The age of first charge(s) was unclear for one of the Dangerous Offenders and for four control offenders, and not included in these analyses.

⁴⁰ Juvenile sexual offences were tabulated with adult sexual offences as juvenile sexual offences (as well as any inappropriate sexual behaviour) would be submitted as evidence in Dangerous Offender hearings.

⁴¹ Charges and convictions will be hereafter simply be referred to as charges, as charges must proceed convictions.

Table 3

Means and Standard Deviations for the number of F.P.S. Recorded Offences of Dangerous and Non Dangerous Offenders

Type of Offences	<u>Past Charges and Convictions</u>			<u>Index and Past Charges and Convictions</u>		
	Dangerous Offenders	Control Offenders	t-value	Dangerous Offenders	Control Offenders	t-value
Comparison of Dangerous Offenders (n=45) and Control Offenders (n=45)						
Non Violent Offences	5.29 (6.23)	20.33 (18.08)	-5.28 *	5.53 (6.55)	20.93 (18.56)	-5.25 *
Violent Non Sexual Offences	2.04 (3.94)	5.98 (6.38)	-3.52	2.31 (4.08)	7.58 (7.59)	-4.10
Juvenile and Adult Sexual Offences	3.29 (3.41)	1.53 (3.30)	2.48 †	8.93 (5.91)	2.93 (4.42)	5.45 ††
Comparison of Offenders (n) with charges or convictions in the offence category						
Non Violent Offences ^a	(n=37)	(n=38)		(n=37)	(n=39)	
	6.43 (6.32)	24.08 (17.20)	-5.93 *	6.73 (6.65)	24.15 (17.86)	-5.69 *
Violent Non Sexual Offences ^a	(n=23)	(n=31)		(n=25)	(n=35)	
	4.00 (4.78)	8.68 (5.96)	-3.20	4.16 (4.75)	9.74 (7.27)	-3.59
Juvenile and Adult Sexual Offences ^a	(n=35)	(n=13)		(n=44)	(n=23)	
	4.23 (3.31)	5.31 (4.27)	-0.82	9.14 (5.81)	5.74 (4.72)	2.58 †

Note. ^a t-test for unequal sample sizes

t-test significant at: * p < .001, two-tailed. † p < .01, one-tailed. †† p < .001, one-tailed

mean number of charges for past offences (left side of the table) with index offences (right side of the table). The previous section examined differences between the groups on index offences but not in relation to the offenders' past offences. The two groups are also compared on the same charges excluding the offenders who did not have any charges in an offence category (lower sections of the table). These analyses were conducted to restrict the comparison between groups to offenders who were charged with the same type of offences. Significance testing was one-tailed for violent offences, and two-tailed for non-violent offences.

The Dangerous Offenders were charged with significantly more past juvenile and adult sexual offences than the control group and the mean number of sexual charges increased considerably when index sexual offences were tabulated with past sexual offences (top part of Table 3). However, there are group differences when comparing only the offenders who were charged with sexual offences (lower part of Table 3). For past sexual offences, there was no significant difference between the groups and the 13 control offenders' mean number of charges for these offences (5.31) was slightly higher than the mean for the 35 Dangerous Offenders (4.23). Including juvenile sexual offences (coded for ages 17 and under) did not influence this comparison as only one of the control offenders committed a juvenile sexual offence, and was also convicted of one adult sexual offence.⁴² There was no difference between the groups when only the past number of adult sexual charges for 33 Dangerous Offenders ($M = 3.91$, $SD = 3.34$) and 13 control offenders ($M = 5.23$, $SD = 4.34$) were compared, $t(17.88) = -.99$ ($p = .16$).

⁴² Because only one control offender committed a juvenile sexual offence, no significance testing was conducted on juvenile sexual offences. Ten Dangerous Offenders had a total of 14 sexual charges and convictions as juveniles. Two Dangerous Offenders had four and two juvenile sexual charges respectively and no past adult sexual charges, and the other eight committed sexual offences as juveniles and as adults. The odds ratio for 22% versus 2% indicates that the Dangerous Offenders were 12.57 times more likely to have been charged with sexual offences as juveniles.

Comparing only sexual offenders on past and index sexual offences (lower right side of Table 3), the Dangerous Offenders (n=44) were charged with significantly more sexual offences than the control offenders (n=23). When index sexual offences were included, the average number of charges (9.14) increased more than twice for the Dangerous Offenders compared to their average for past sexual offences (4.23). There was only a marginal increase in the control group's sexual offenders mean number of charges when index offences were added to past offences (5.31 versus 5.74).

For violent nonsexual offences, one tailed t-tests were non-significant and in the opposite direction. The control group had more violent nonsexual charges than the Dangerous Offenders and this was consistent for past offences, all offences (index and past), and when the analysis was restricted to only those offenders charged with violent nonsexual offences. As can be seen in the lower part of Table 3, more control offenders than Dangerous Offenders were charged with violent nonsexual offences and the control group had more than twice the average number of charges for violent nonsexual offences than did the Dangerous Offenders. If t-tests for violent nonsexual charges were two-tailed, these differences would all be significant at a probability of $p < .01$.

The current research has tabulated sexual and violent nonsexual charges separately as past research on Dangerous Offenders has consistently indicated that sexual offenders have been prosecuted under this legislation.⁴³ Upon combining sexual and violent nonsexual offences, there was no difference between the groups in the mean number of all violent offences (including juvenile sexual offences), $t(88) = .57$ ($p = .28$). The average number of violent charges

⁴³ The Dangerous Offender legislation also distinguishes between violent offenders and sexual offenders (although invariably the Court would hear evidence of any violent offences and any inappropriate sexual behaviour).

was 11.36 ($SD = 6.62$) for the Dangerous Offenders and 10.51 ($SD = 7.31$) for the control offenders.

As can also be seen in Table 3, the offenders in the control group had significantly more past nonviolent (property) charges than the Dangerous Offenders. As previously noted, the two groups had a combined total of only 38 index nonviolent charges which had only a marginal effect on the group means across all offenders in the groups (top part of Table 3) and across only the offenders in the groups that had committed property offences (lower part of Table 3). Notably, approximately the same number of Dangerous Offenders and control group offenders have been charged with nonviolent or property offences.

Risk of Violent Recidivism

The hypothesis that Dangerous Offenders would be at greater risk for violent recidivism was examined using the Psychopathy Checklist-Revised (PCL-R) and the Violence Risk Appraisal Guide (VRAG). Means and standard deviations are reported in Table 4. One-tailed t-tests were non-significant for PCL-R and VRAG Total Scores. There were also no differences between the Dangerous Offenders and the control offenders on the two PCL-R factors. With the exception of almost equivalent means for Factor 1, the means on Factor 2 and PCL-R and VRAG Total Scores were slightly (but not significantly) higher for the control group.

Examining the Box-and-Whisker Plots for the groups' VRAG Total Scores, and the PCL-R Total and Factor Scores (Figure 1), several aspects of the groups' distributions of scores are notable. First, the median values for the two groups across the Total Scores, and the Factor Scores, are very similar (as are the means in Table 4). Second, the plots' interquartile ranges, which contain 50% of the groups' data, are also similar for the VRAG Total Scores and for the

Table 4

Means and Standard Deviations of Dangerous and Non Dangerous Offenders on the PCL-R and the VRAG

Risk Factor	Dangerous Offenders	Control Offenders	t-value
PCL-R Total Scores	27.38 (5.41)	28.40 (4.62)	-0.96
PCL-R Factor 1	10.75 (3.02)	10.72 (3.02)	0.04
PCL-R Factor 2	12.76 (3.57)	13.47 (2.87)	-1.03
VRAG Total Scores	13.60 (9.53)	15.80 (7.54)	-1.24

Note. None of the t-tests (one tailed) were significant.

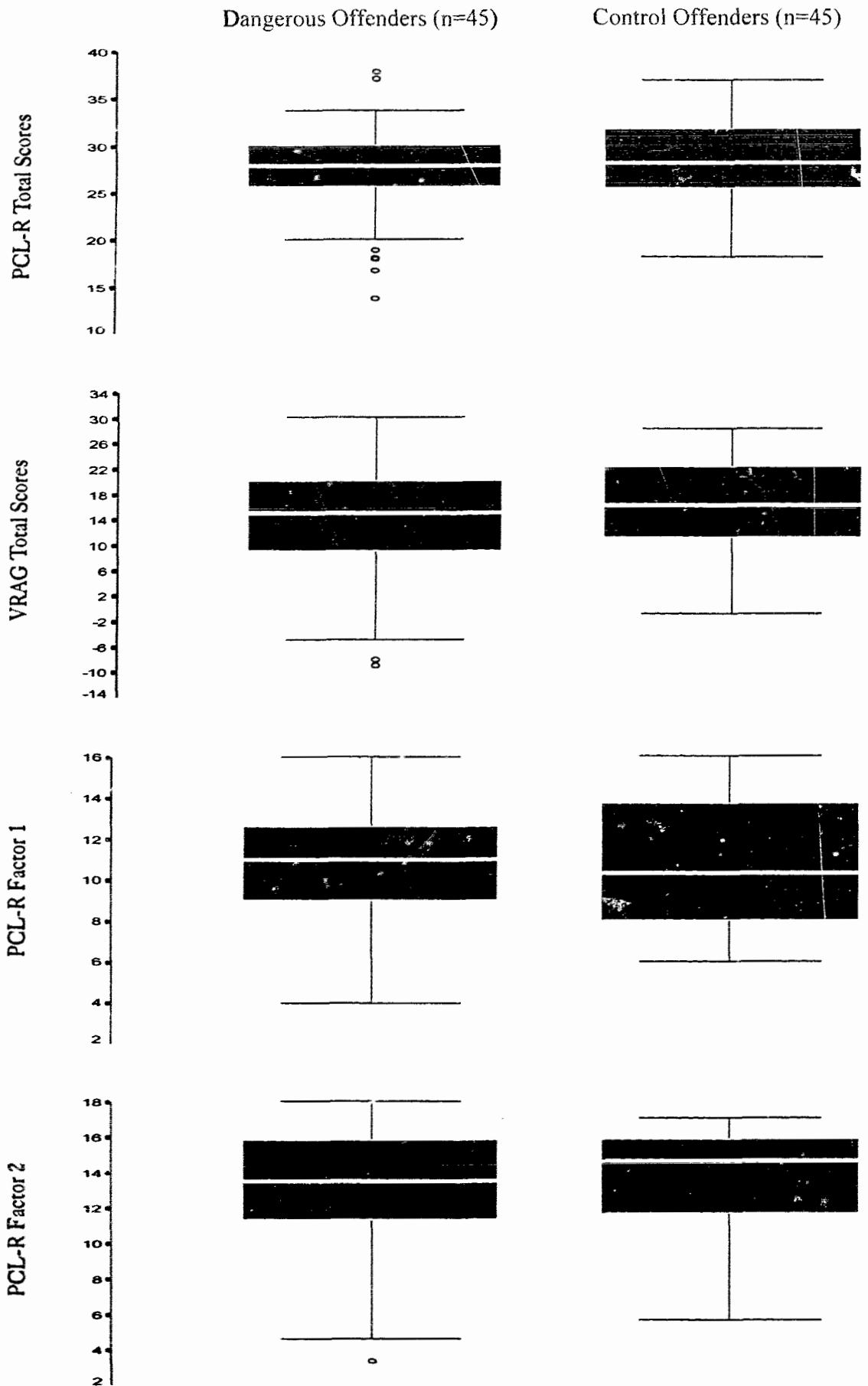


Figure 1. Box-and-Whisker Plots for PCL-R and VRAG Total Scores, and PCL-R Factor Scores.

PCL-R Total Scores and Factor 2 Scores. The control group's interquartile range for Factor 1 appears more dispersed than the Factor 1 interquartile range for the Dangerous Offenders, but this difference is rather marginal according to the scaled Factor 1 scores. Finally, for the Dangerous Offender's VRAG Total Scores, PCL-R Total Scores and Factor 2 Scores, but not for any of the control group plots, there are outlying cases indicating a greater dispersion of scores.

PCL-R Total Scores ranged from 13.7 to 37.8 for the Dangerous Offenders and from 18 to 36.8 for the control offenders. Using the PCL-R Total Score cutoff of 30 and above (Hare, 1991), 13 (29%) of the Dangerous Offenders and 19 (42%) of the control offenders would be classified as psychopaths. The Dangerous Offenders and the control group did not differ significantly in the prevalence of PCL-R assessed psychopathy, $\chi^2(1, N = 90) = 1.75, p=.19$.

While approximately 64% of the offenders in the study would not be classified as psychopathic, 43% (22 Dangerous Offenders and 17 control offenders) had PCL-R scores between 25 and 30. Only 19 of the 90 offenders had PCL-R Total Scores of less than 25 (see also the PCL-R Total Score plots in Figure 1).

Converting the VRAG Total Scores into actuarial estimates⁴⁴ (Webster et al., 1994), the control offenders had a slightly higher probability of violent recidivism at 7 years (.55) and at 10 years (.64) than the Dangerous Offenders. The Dangerous Offenders' mean Total VRAG Score (13.60) was just under the cutoff of 14 which is the lower boundary for the range of VRAG Total Scores (14-20) for the control group's mean VRAG Total Score (15.80). Within the VRAG Total Score range for the Dangerous Offenders (7-13), the estimated probability of violent recidivism

⁴⁴ These estimates are based on follow-up data for 618 men who were evaluated and/or treated at Penetanguishene Mental Health Centre (Oak Ridge Division), a secure hospital for individuals who have been referred from the Courts and other prisons or psychiatric facilities, which have since been cross-validated on a sample of 159 sexual offenders assessed at a maximum security hospital (Rice & Harris, 1995).

is .44 after 7 years and .58 after 10 years.⁴⁵

Item Analyses

In finding that there were no significant differences between the Dangerous Offenders and the control offenders on the PCL-R and VRAG Total Scores or on the PCL-R Factors, the individual items of the PCL-R and the VRAG were examined for differences between the groups. The means and standard deviations (or percentages for dichotomous variables) for the PCL-R items and VRAG items are reported in Tables 5 and 6. One-tailed t-tests and chi-squares are also reported without any correction to the family-wise error rates.

Of the 32 PCL-R and VRAG items, there were only 4 significant (one-tailed) differences. On the PCL-R, the Dangerous Offenders had significantly higher scores on parasitic lifestyle and promiscuous sexual behaviour. Higher scores on promiscuous sexual behaviour may, in part, be a function of most Dangerous Offenders being sexual offenders in that the scoring of this PCL-R item refers to sexual offences, and that background information on the sexual behaviour of offenders tends to be more thorough for sexual offenders.⁴⁶ On the VRAG, the Dangerous Offenders were significantly more likely to have had more attendance and/or discipline problems in elementary school (item 2), and never to have married (item 8). These differences were all significant at $p < .05$ and would not have been significant if the alpha level had been adjusted for the family-wise error rates.

⁴⁵ This research has not differentiated between Dangerous Offenders with indeterminate sentences ($n=42$) and those with determinate sentences ($n=3$). There is only a marginal difference between the PCL-R means for the entire sample of Dangerous Offenders (Table 6) and the means for Dangerous Offenders with indeterminate sentences (Factor 1, $\underline{M} = 10.80$, Factor 2, $\underline{M} = 13.15$; Total Scores, $\underline{M} = 27.80$). However, the marginal difference in the mean Total VRAG Score for the Dangerous Offenders with indeterminate sentences (14.33) places them in the same probability range for violent recidivism as the control group.

⁴⁶ There was enough relevant information to score the PCL-R item, promiscuous sexual behaviour for the Dangerous Offenders, but this item had to be omitted for 12 control offenders.

Table 5

Means and Standard Deviations for Dangerous and Non Dangerous Offenders on PCL-R Items

PCL-R Item	Dangerous Offenders	Control Offenders	t-value ^a
1. Glibness/Superficial Charm	0.91 (.74)	0.86 (.74)	0.31
2. Grandiose Sense of Self Worth	1.39 (.73)	1.51 (.63)	-0.79
3. Need for Stimulation/Proneness to Boredom	1.18 (.67)	1.43 (.67)	-1.63
4. Pathological Lying	0.98 (.74)	1.33 (.60)	-2.47
5. Conning/Manipulative	1.77 (.42)	1.71 (.51)	0.64
6. Lack of Remorse or Guilt	1.58 (.58)	1.45 (.59)	0.99
7. Shallow Affect	0.95 (.65)	1.03 (.66)	-0.53
8. Callous/Lack of Empathy	1.66 (.48)	1.54 (.50)	1.11
9. Parasitic Lifestyle	1.24 (.64)	1.00 (.65)	1.78 *
10. Poor Behavioural Controls	1.93 (.25)	1.98 (.15)	-1.02
11. Promiscuous Sexual Behaviour	1.93 (.25)	1.67 (.59)	2.42 *
12. Early Behavioural Problems	1.19 (.85)	1.08 (.88)	0.55
13. Lack of Realistic, Long Term Goals	1.42 (.55)	1.44 (.55)	-0.20
14. Impulsivity	1.72 (.50)	1.83 (.44)	-1.10
15. Irresponsibility	1.50 (.51)	1.59 (.54)	-0.76
16. Failure to Accept Responsibility for Own Actions	1.42 (.62)	1.36 (.53)	0.55
17. Many Short-term Marital Relationships	0.62 (.82)	0.76 (.89)	-0.53
18. Juvenile Delinquency	1.21 (.91)	1.19 (.85)	0.12
19. Revocation of Conditional Release	1.39 (.82)	1.95 (.30)	-4.18
20. Criminal Versatility	0.93 (.78)	1.47 (.84)	-3.12

^a t-values for unequal samples sizes are reported for items in which the difference between the group sizes (omitted items) was greater than 1.

* t-test (one-tailed) significant at $p < .05$

Table 6

Characteristics of Dangerous and Non Dangerous Offenders on Violence Risk Appraisal GuideItems

VRAG Item	Dangerous Offenders	Control Offenders	t or χ^2 value
1. Psychopathy Checklist (PCL-R) Score	3.89 (3.05)	3.91 (3.01)	-0.03
2. Elementary School Maladjustment	1.91 (2.16)	1.04 (2.21)	1.88 *
3. DSM-III Diagnosis of Personality Disorder	84	93	1.80
4. Age at Index Offence	-1.07 (2.72)	-1.13 (2.44)	0.12
5. Separation from Parents under age 16	64	84	5.54
6. Failure on Prior Conditional Release	56	89	12.46
7. Non-violent Offence History	1.29 (2.13)	2.27 (1.75)	-2.38
8. Never Married	53	33	2.88 *
9. DSM-III Diagnosis of Schizophrenia	2	0	1.01
10. Victim Injury	1.56 (.66)	1.53 (.81)	0.14
11. Alcohol Abuse	1.09 (1.00)	1.02 (1.08)	0.30
12. Female Victim Index Offence	80	64	3.28

Note. For continuous variables, means (with standard deviations in parentheses) are reported. For dichotomous variables, percentages are reported. T-tests were used to compare continuous variables and chi-squares for the dichotomous variables.

* t-test (one-tailed) or chi-square (one-tailed) significant at $p < .05$

Multivariate Analyses

There were no univariate differences between the Dangerous Offenders and the control group on the PCL-R and VRAG Total Scores and the PCL-R Factor Scores, and the few differences reported for the individual items of the PCL-R and the VRAG would not have been significant with a corrected alpha level. The item analyses did indicate that the differences in the means or percentages were evenly distributed between the groups in that the Dangerous Offenders had higher scores on 9 of the 20 PCL-R items (Table 5) and 6 of the 12 VRAG items (Table 6). Whether combinations of the PCL-R and VRAG items could discriminate and/or describe any differences between the Dangerous Offenders and the control group was examined.

A discriminant function analysis using a step-wise procedure (minimize Wilks' Lambda) was run with the research and the control groups as the criterion variables. PCL-R and VRAG items, excluding VRAG item 1 (PCL-R Score), were entered as the predictor variables. In order to perform the discriminant analysis, the value 1 was assigned to omitted PCL-R items⁴⁷ as a suggested procedure for various computations (Hare et al, 1990; see also

⁴⁷ Although PCL-R items were omitted in 9% of the cases, each offender's PCL-R was valid with respect to the permissible number of omitted items for prorating Factor and Total Scores (Hare, 1991). All PCL-R items were scored for only ten (11%) of the offenders. For the rest of the sample, 29 (32%) had one, 31 (34%) had two, 13 (14%) had three, and 7 (8%) had four omitted items (c.f., Serin, 1993). The omitted items were evenly distributed between the Dangerous Offenders (47%) and the control offenders (52.5%). Two items, Shallow Affect and Many Short-Term Marital Relationships, accounted for 40% of the omitted items. Shallow Affect can be difficult to score with confidence from file information particularly when psychiatric and psychological evaluations do not consider or report on the affective functioning or presentation of an offender. Many Short-Term Marital Relationships, in absence of information to the contrary, was omitted in many instances as recommended in the PCL-R manual (Hare, 1991), when an offender was young and/or had been incarcerated for much of his adult life. In other instances, the information required to score this item seemed unimportant to and/or not clearly documented in the reports on file. This item had to be omitted for 21 Dangerous Offenders and 24 control offenders.

Harpur, Hare, & Hakstian, 1989). The overall analysis was highly significant (canonical correlation = .74, $\chi^2(6) = 67.36, p < .0001$), and 83% of the offenders were correctly classified by the first and only discriminant function (kappa = .66, indicating 67% agreement (accuracy) beyond chance, see Bartko, 1991). Mean scores of the predictor variables for the Dangerous Offenders and the control offenders and the correlations between the predictor variables and the discriminant function are reported in Table 7.

The predictors with the highest correlations with the discriminant function (promiscuous sexual behaviour, criminal versatility) suggest that the Dangerous Offenders are more sexually oriented in their crimes, whereas the control offenders are more criminally oriented, which is consistent with the prevalence of different types of offenders in the groups (Table 1) and their offence histories (Table 3). The other predictors, while not as important to the discriminant function, could also be interpreted as being consistent with describing the control offenders as more criminally oriented than the Dangerous Offenders, in being more deceptive (pathological lying) and more likely to be personality disordered (or antisocial)⁴⁸ (VRAG item 3). By contrast, the predictors for the Dangerous Offenders are more suggestive of greater psychopathology or instability in having had more problems in elementary school (VRAG item 2) and in being more likely financially dependent on others (parasitic lifestyle).

Secondary Analyses

Offender Types

To explore the possibility that the types of offenders within the groups may have

⁴⁸ Of the control offenders having a DSM-III Diagnosis of Personality Disorder (VRAG item 3), 83% were for APSD or antisocial within a mixed personality disorder diagnosis, compared to 68% of the Dangerous Offenders who had a DSM-III Personality Disorder diagnosis.

Table 7

Summary of Discriminant Function Analysis with Group (Dangerous vs. Control) as Criterion and PCL-R and VRAG Items (2-12) as Predictors

Predictor	Means and Standard		<i>r</i>
	Deviations		
	Dangerous Offenders	Control Offenders	
1. Promiscuous Sexual Behaviour (PCL-R)	1.93 (.25)	1.49 (.59)	0.45
2. PCL-R: Pathological Lying (PCL-R)	0.98 (.72)	1.33 (.60)	-0.25
3. Parasitic Lifestyle (PCL-R)	1.24 (.64)	1.00 (.64)	0.17
4. Criminal Versatility (PCL-R)	0.93 (.78)	1.47 (.84)	-0.30
5. Elementary School Maladjustment (VRAG)	1.91 (2.16)	1.04 (2.21)	0.18
6. DSM-III Diagnosis of Personality Disorder (VRAG)	2.22 (1.83)	2.67 (1.26)	-0.13

Note: *r* is the correlation between each of the predictors and the Discriminant Function.

Means and standard deviations adjusted for value of 1 assigned to omitted PCL-R items. Means and standard deviations for scores on Diagnosis of Personality Disorder (VRAG) are reported although this variable was coded as a dichotomous variable (84% of the Dangerous Offenders and 93% of the control group were coded as having a DSM-III Personality Disorder).

differed, the Dangerous Offenders and control offenders were compared on PCL-R and VRAG Total Scores for different offender types (Table 8). The offender types were based on classifications used in other research programs (Rice, Harris & Quinsey, 1990; Quinsey, Rice & Harris, 1995). Offenders were classified as rapists if they ever sexually assaulted or attempted to sexually assault a female aged 14 or over (actual or attempted physical contact of a coercive nature with clear sexual intent) or as child molesters if they had actual or attempted physical sexual activity with a female under the age of 14 when they were at least five years older or had sexually assaulted a male under the age of 16 when at least 5 years older than the victim. There were only four incest offenders (sexual offences against only family members) and they were not included in Table 8.⁴⁹ No tests of significance were performed due to small cell (group) sizes for some of the offender types.

On the PCL-R, Total Score means across offender types are all within 1.5 points for the Dangerous Offenders and the control offenders.⁵⁰ There is greater variability in the VRAG Total Scores, particularly across the offender types with the smallest cell sizes (child molesters, mixed sexual offenders). However, on both instruments, the rapists had the highest Total Scores and they were followed by marginally lower scores for the 22 nonsexual control offenders. For all of the sexual offenders (Total columns), rapists had the highest PCL-R and VRAG scores followed by the mixed sexual offenders and the child molesters.

⁴⁹ One Dangerous Offender and 3 control offenders were classified as incest offenders. One other Dangerous Offender was excluded as he did not ever commit or attempt a sexual assault.
⁵⁰ Only one of the ten child molesters could be classified as psychopathic, whereas 36% (5 of 14) of mixed sexual offenders, and 38.5% (15 of 39) of the rapists were assessed as psychopathic on the PCL-R. To the extent that they can be compared, these psychopathy rates (and PCL-R means) appear higher than those reported elsewhere for different types of sexual offenders and rapists (e.g. Barbaree et al., 1994; Forth & Kroner, 1994; Serin, Malcolm, Khanna & Barbaree, 1994) while others have reported similar rates of PCL-R assessed psychopathy in a "more serious" sample of rapists (35%) (Brown, 1994), and higher rates of psychopathy in rapists (45%) and child molesters (30.5%) civilly committed to indefinite terms after being judged to be "sexually dangerous" (Prentky & Knight, 1988).

Table 8

PCL-R and VRAG Total Score Means and Standard Deviations for Offender Types

Offender Type	Psychopathy Checklist-Revised (PCL-R)			Violence Risk Appraisal Guide (VRAG)		
	Dangerous Offenders N=43	Control Offenders N=42	Total N=85	Dangerous Offenders N=43	Control Offenders N=42	Total N=85
Rapists	28.65 (4.58) (n=25)	30.32 (4.75) (n=14)	29.25 (4.65) (n=39)	17.24 (7.14) (n=25)	16.86 (7.05) (n=14)	17.10 (7.01) (n=39)
Child Molesters	24.43 (6.19) (n=8)	24.15 (1.63) (n=2)	24.37 (5.49) (n=10)	7.37 (10.94) (n=8)	1.50 (3.54) (n=2)	6.20 (10.03) (n=10)
Mixed Rapist/Child Molesters	27.51 (6.25) (n=10)	28.43 (6.11) (n=4)	27.77 (5.99) (n=14)	11.70 (10.15) (n=10)	19.50 (7.51) (n=4)	13.93 (9.89) (n=14)
Non Sexual Control Offenders		27.75 (4.42) (n=22)	27.75 (4.42) (n=22)		16.18 (7.16) (n=22)	16.18 (7.16) (n=22)

History of Developmental Abuse and Psychological Functioning

Many of the following comparisons between the Dangerous Offenders and the control offenders are not directly related to the hypothesis and the primary purpose of this study, but stem from the major findings and the questions posed by the earlier research on Dangerous Offenders. The results also provide some data on the background of the offenders in the two groups.

The frequency of abusive and/or potentially aversive developmental experiences of the Dangerous Offenders and the control group offenders are reported in Table 9. The majority of the offenders in both of the groups reported having experienced some form of physical abuse, suffered from emotional abuse or neglect, and/or grew up with parents or guardians who abused alcohol or drugs. Although, the majority (59%) of Dangerous Offenders also came from violent family backgrounds or violent surrogate placements (e.g., foster homes), only reports of sexual abuse significantly differentiated the two groups, $\chi^2(1, N = 90) = 10.18, p = .001$. The odds ratio⁵¹ indicated that Dangerous Offenders were four times more likely to have reported incidents of having been sexually abused than offenders in the control group (60% vs. 27%, odds ratio = 4.12). There was also a greater frequency - but for only approximately one third of the Dangerous Offenders - to report having had parents who committed violent offences or enlisted the assistance of their children in committing offences, had psychiatric problems and/or were overtly promiscuous⁵² (parental criminality or maladjustment). However, the two

⁵¹ Odds ratios are an alternative measure of association which are particularly useful in the 2 X 2 case and refer to the odds that an individual in one group will fall in a particular category versus the odds that an individual from a second group will fall in that same category (e.g. Howell, 1992; Nunnally & Bernstein, 1994).

⁵² In some instances, offenders had witnessed and/or were made to watch their mothers or fathers engage in sexual behaviour.

Table 9

Percentages of Dangerous Offenders and Non Dangerous Offenders Reporting Abusive
Childhoods

Developmental Experience	Dangerous Offenders N=45	Control Offenders N=45	Chi-square
Physical Abuse	53% (N=24)	62% (N=28)	0.73
Sexual Abuse	60% (N=27)	27% (N=12)	10.18 *
Emotional Abuse or Neglect	69% (N=31)	51% (N=23)	2.96
Violent Family Background	59% (N=26)	43% (N=19)	2.23
Parental Drug or Alcohol Abuse	70% (N=31)	59% (N=26)	1.24
Parental Criminality or Psychological Maladjustment	32% (N=14)	16% (N=7)	3.06

Note. There was insufficient information on the family of one Dangerous Offender and one of the offenders in the control group to code violent family background, parental drug or alcohol abuse and, parental criminality or psychological maladjustment.

* denotes chi-square significant at $p < .005$.

groups did not differ significantly in the ages that they left or were removed from their homes, $t(79) = .74$ ($p = .46$). The mean ages for leaving home for the Dangerous Offenders and the control group were 15.76 ($SD = 3.60$) and 15.14 ($SD = 3.96$) respectively.⁵³

Table 10 outlines the history of mental health evaluations and the psychiatric hospitalization of the Dangerous Offenders and the control group. Stringent criteria were employed requiring reports of formal mental health intervention or sanctioned assessments and not mere reference (particularly in childhood) to having seen or visited a psychiatrist or psychologist or, in adulthood, remands for treatment or sentencing assessments.

Although there were no significant differences between the groups, Childhood Psychiatric Diagnosis or Hospitalization approached significance ($p = .05$) where the Dangerous Offenders were 3.23 (odds ratio for 24% vs. 9%) times more likely than the control group to have been diagnosed or hospitalized in childhood or early adolescence. This included only approximately 25% of the Dangerous Offenders and of these, seven had been diagnosed and/or placed on psychiatric medication as children and four had been institutionalized at an adolescent treatment facility (Maples) or in a special class run by psychologists.

Table 10 reports a similar number (9, 10, 11) of Dangerous Offenders, and the same number (4) of control offenders in each of the categories. The same offenders do not account for these group frequencies as 23 Dangerous Offenders and nine control offenders fell into at least one category, whereas only three Dangerous Offenders and one control offender appear in all three of the categories.

Although nine of the Dangerous Offenders and four of the control offenders were assessed as being learning disabled or retarded in childhood or adolescence (Table 10); there

⁵³ These analyses excluded two control offenders and five Dangerous Offenders as the information was missing or unclear as well as two Dangerous Offenders who were still living at home at the time of their index offences.

Table 10

Documented History of Psychological Functioning

Psychiatric Evaluations	Dangerous Offenders N=45	Control Offenders N=45	Chi-square
Learning Disability or Retardation	20% (N=9)	9% (N=4)	2.12
Childhood Psychiatric Diagnosis or Psychiatric Hospitalization	24% (N=11)	9% (N=4)	3.74
Adult Psychiatric Hospitalization or Fitness Evaluations	22% (N=10)	9% (N=4)	3.04

Note. There was insufficient background information to code either for learning disability or retardation and for any childhood psychiatric history in one of the control offenders.

None of the chi-square tests were significant.

were no differences between the two groups on IQ based on Wechsler's 1981 classifications of adulthood IQ or, more importantly, when IQ was dichotomized as retarded or borderline versus higher IQ levels, $\chi^2(1, N = 90) = 1.09, p = .16$. According to their more recent IQ scores or estimated IQ range, only one of the control offenders was in the borderline range whereas three Dangerous Offenders were of borderline intelligence⁵⁴ and one Dangerous Offender was retarded.⁵⁵

The two groups also did not differ in alcohol abuse as 32 (71%) of the offenders in each of the groups were reported to have abused alcohol or to be alcoholics as adults. In contrast, only a third (33%) of the Dangerous Offenders compared to 53% of the control group were reported to have abused or be addicted to drugs.⁵⁶ The control group was 2.29 (odds ratio) times more likely to have abused drugs than the Dangerous Offenders and this difference approached significance, $\chi^2(1, N = 90) = 3.66, p = .05$. Intoxication was however not a factor in the commission of their most recent offence as the groups did not differ in the degree to which they were intoxicated⁵⁷, $\chi^2(3, N = 89) = 1.64, p = .65$, and at least 50% of the offenders in both groups were not intoxicated at the time of the offence.

⁵⁴ One of the Dangerous Offenders in the borderline group was classified according to the estimates of psychiatrists and psychologists (borderline/retarded) as no IQ results were available.

⁵⁵ Although not systematically documented, it can be noted that some of the Dangerous Offenders participated in various treatment programs for offenders with limited cognitive skills.

⁵⁶ Of the 16 control offenders who committed robbery as their index offences, 75% were addicted to or abusing drugs, and had committed similar offences and property related offences in the past probably to sustain their drug habits.

⁵⁷ This was based on a 4 point rating scale from not intoxicated to severe intoxication (large quantities of alcohol or drugs).

DISCUSSION

Risk of Violent Recidivism

The purpose of the Dangerous Offender legislation through the identification and sentencing of offenders designated to be dangerous is the protection of society by preventing future violence (R. v. Jones, 1994). Since the enactment of the legislation in 1977, critics have maintained that the legislation is applied in an arbitrary fashion and some have suggested that the designated Dangerous Offenders may not differ from, or be any more "dangerous" or violent than, other offenders (e.g., Berzins, 1983; Koopman, 1985). The purpose of this study was to compare Dangerous Offenders with a randomly selected group of nondesignated offenders who had also committed a "serious personal injury offence" - which is necessary for a Dangerous Offender application - on measures demonstrating predictive validity in assessing risk of violent recidivism. Judges in Dangerous Offender hearings must address the risk posed by an offender, not necessarily for the designation of a Dangerous Offender (Lyons v. The Queen, 1987), but in the determination of which sentence to impose.

Offence Characteristics

Of the 45 Dangerous Offenders in the present study, only one had never been charged with or convicted of a sexual offence, and 40 (89%) were designated to be Dangerous Offenders after being convicted of a sexual offence. This finding is consistent with previous research where approximately 80% of the Dangerous Offenders were prosecuted following conviction for a sexual offence (Jakimiec et al, 1986; Koopman, 1985; Pos et al., 1987). The Dangerous Offender who had never been charged or convicted of a sexual offence suffered from a delusional disorder and had been "stalking" a woman (and her family) for a number of years

which finally culminated in a vicious attack on her elderly step-father. According to both official records as well as evidence presented in Court (Reasons for Judgment), nearly all of the Dangerous Offenders (96%) can be characterized as sexual offenders who on more than one occasion had raped or attempted to rape adult women and/or sexually assaulted female or male children or adolescents. This figure is slightly higher than the 1992 national figure of 90% (based on 121 Dangerous Offenders) who had sexual offences in their background (Motiuk & Seguin, 1992).

The Dangerous Offenders and the control offenders were compared on their charges and convictions as a rough gauge of the extent and severity of their criminal histories and as a consideration in assessing risk. Measures of past violence have been the best predictors of future violent behaviour (e.g., Klassen & O'Connor, 1989), and previous convictions for violent offences, and for sexual offences, have discriminated between sexual offenders who were and were not subsequently reconvicted for a sexual offence (Quinsey, Rice, & Harris, 1995). Although multiple charges are usually laid because of the nature or severity of an assault or the number of separate offences or victims, official records are a conservative and biased estimate of the number of sexual and nonsexual offences committed by an offender (e.g., Abel, Mittelman, & Becker, 1985). The Court in Dangerous Offender hearings would hear not only evidence of the extent and specifics of the offences committed by an offender, but also evidence of any previous violent and/or any inappropriate sexual behaviour which may not have resulted in criminal charges.

Based on their official (F.P.S.) criminal records, there was no significant difference between the Dangerous Offenders and the control offenders in the number of charges and convictions they had sustained for violent offences. According to the classification of violent and nonviolent offences used in other research (e.g. Hare, McPherson, & Forth, 1988), the

average number of violent charges and convictions (including juvenile sexual offences) for the Dangerous Offenders and the control offenders were 11.36 and 10.51 respectively. These comparisons (charges and convictions) did not however consider the time the offenders were not incarcerated (i.e., having the opportunity to commit offences) which should be accounted for when comparing groups on their offences - particularly their past offences. Because significantly more Dangerous Offenders committed sexual index offences and the control group committed significantly more robbery-related index offences, results that indicate that the groups had histories of different types of violent offences are not surprising.

There were twice as many Dangerous Offenders who committed sexual index offences than control offenders. The Dangerous Offenders also had considerably more charges and convictions, and more than twice the number of victims related to their index offences than the control group. Nearly all (95.5%) of the charges and convictions of the Dangerous Offenders for violent index offences were related to sexual assaults. There was also a rather dramatic, and significant, increase in the number of charges and convictions related to these offences compared to the past sexual offences of the Dangerous Offenders, and to the sexual offences of the control group. This may reflect in part on the different patterns of sexual offending or types of sexual offenders that are targeted or designated as Dangerous Offenders, at least in comparison to the control offenders in this study who committed sexual index offences. While 50% of the 40 Dangerous Offenders whose index convictions were for sexual offences which involved only one victim or a number of victims during one assault, others had numerous victims during a spree (days to months) of sexual offences, or a number of victims over many years of (officially) undetected assaults or continuous abuse. Only two of the 20 control offenders who were convicted of index sexual offences committed sexual assaults during a spree of sexual offences, or as a pattern of continuous assaults with more than one victim.

Whether these are the types of sexual offenders that are "meant" to be designated as Dangerous Offenders and whether or not they are high risk offenders can only be addressed with comparisons to a matched group of sexual offenders.

Psychometric Risk Instruments

The Psychopathy Checklist-Revised (PCL-R) and the Violence Risk Appraisal Guide (VRAG) were used to assess risk. The PCL-R has correlated with both general recidivism (Hart, Kropp, & Hare, 1988; Serin, Peters, & Barbaree, 1990) and violent re-offending (e.g., Harris, Rice, & Cormier, 1991; Serin, 1996), while the VRAG has discriminated between violent recidivists and nonrecidivists (Harris, Rice, & Quinsey, 1993; Rice & Harris, 1995). It was hypothesized that the Dangerous Offenders, by virtue of their designation and the intent of the legislation, would have higher scores on these instruments compared to a randomly selected group of "serious personal injury" offenders. There were no significant differences between the Dangerous Offenders and the control group on either the PCL-R or the VRAG indicating that, based on these instruments, both of the groups have the same probability of recidivating. One-tailed univariate tests - which would have detected smaller significant mean differences in the predicted direction than two-tailed tests - were nonsignificant for the PCL-R Total Scores, the PCL-R Factors, and for the PCL-R and VRAG items (corrected for family-wise error rates). The Dangerous Offenders and the control offenders (as groups) are both in the moderately high range for risk of violent recidivism as predicted by both the PCL-R and the VRAG.

The Dangerous Offender legislation is predicated on the assumption of risk and future harm in justifying the designation and largely indeterminate sentencing of Dangerous Offenders. Results using empirically validated measures which indicate that Dangerous Offenders are not any more likely to recidivate than a randomly selected group of "serious

personal injury" offenders certainly challenge aspects of the legislation and perhaps its intent, particularly when Part XXIV applications are meant to be reserved for the "worst" offenders (R. v. Danchella, 1990; R. v. G.G.G., 1990). To some, these results may not be surprising or unexpected as they have argued that Dangerous Offenders would not differ from other violent offenders (e.g. Rogers & Mitchell, 1991; Webster, Dickens, & Addario, 1985). The selection of offenders to prosecute and/or designate as Dangerous Offenders has not been based on any empirical foundation (or any official guidelines), but based on legislatively defined criteria subject to the discretion of prosecutors, the consent of the Attorney General, and the decisions of the Court. To the extent that these offenders have committed heinous or sadistic offences or assaulted numerous victims, they have been "dangerous" and were found to be Dangerous Offenders. However, the claim to have legislatively based the designation and sentencing of Dangerous Offenders on a greater or distinctive probability of violent recidivism is not supported by the results of the present study as other serious personal injury offenders have the same likelihood of violent recidivism (based on the PCL-R and the VRAG).

Another manner in which to evaluate Part XXIV is to consider the purpose of sentencing designated Dangerous Offenders. Three of the four major goals in sentencing (deterrence, incapacitation, treatment) are based on both preventive and predictive assumptions (e.g., Gottfredson & Gottfredson, 1988). The final sentencing goal, just desert (retribution) which focuses exclusively on past behaviour is not germane to evaluating Part XXIV as the Supreme Court of Canada has repeatedly denounced punishment as the purpose for sentencing designated Dangerous Offenders (R. v. Jones, 1994). The principle of general deterrence, if in fact an objective of the legislation or the Courts, cannot be evaluated, nor can specific deterrence, as so few Dangerous Offenders have completed their sentences or have been released (10 of 174: 6%). The results of the present study, based on empirically validated

measures, do however challenge the incapacitative (precluding the opportunity for future harm) and the treatment (rehabilitative) goals of the legislation as Dangerous Offenders are not at a higher risk to recidivate violently than other offenders convicted of violent index offences.

Psychopathology

PCL-R Scores and the Prevalence of Psychopathy

The mean PCL-R Total Scores of 27.38 for the Dangerous Offenders and 28.40 for the control group were higher than the PCL-R normative pooled mean of 23.6 (Hare, 1991). The PCL-R distributions for the two groups were very similar but also quite high as 78% of the Dangerous Offenders and 80% of the control offenders had PCL-R scores of 25 or more.

Using the recommended PCL-R cutoff of 30 and above (Hare, 1991), there was no significant difference between the groups in the prevalence of psychopathy. Thirteen (29%) of the Dangerous Offenders and 19 (42%) of the control offenders would be classified as psychopathic. Although these rates are considerably higher than the base rate of 15-25% reported by Hare (1991) to be normally found in forensic populations, the distribution of PCL-R scores and the prevalence of psychopathy vary with the type and severity of offenders in various samples. The offenders in the present study could be considered to be a "serious" or violent sample of offenders as all of the offenders committed at least one sexual or violent index offence that had a possible sentence of ten years (definition of "serious personal injury" offence), and most (78%) were also convicted of prior violent offence(s). Violence, particularly instrumental violence, has been strongly associated with psychopathy (Hart, Hare, & Harpur, 1992; Williamson, Hare & Wong, 1988).

Comparing only offenders who had charges or convictions for sexual offence(s), the prevalence of PCL-R assessed psychopathy for 44 Dangerous Offenders was 30%, and 39% for 23 sexual offenders in the control group. The lower rate of PCL-R classified psychopaths in the Dangerous Offender group may be partially accounted for by the prevalence of different types of sexual offenders in the two groups. Specifically, in comparison to the control group, the Dangerous Offenders had more, though relatively few, child molesters. Typically, in comparison to other types of sexual offenders (e.g., rapists), child molesters and fixated pedophiles in particular would not be expected to (and have not) score(d) as high on psychopathy (see Hart & Hare, *in press*, for a review of the use of the PCL-R with sexual offenders). By contrast, the highest prevalence of PCL-R assessed psychopathy in the two groups was for 10 of the 22 (46%) control offenders who had never committed a sexual offence. The index offences of these offenders included various types of robberies (e.g., armed robbery, robbery with violence), or nonsexual assaults on other males or females. All of these offenders also had histories of other violent offences as well as nonviolent and property related crimes.

In the assessment of "dangerousness", there is a linear relationship between the PCL-R and risk of violent recidivism, but not all high risk offenders will necessarily be psychopathic (Serin & Amos, 1995). For example, some offenders who have committed particularly heinous and/or sadistic types of sexual offences have not scored high on psychopathy (Gacono & Hutton, 1994), nor have child molesters (e.g., Miller et al., 1994; Quinsey, Rice, & Harris, 1996). However, these types of sexual offences or offenders (e.g., sadistic rapists, pedophiles) are among those most frequently targeted and/or prosecuted under the Dangerous Offender legislation. Research with sexual offenders is beginning to account for the risk posed by specific types of sexual offenders with the PCL-R and other predictors (e.g., Quinsey, Rice, & Harris, 1996). Whether these are the same types of sexual offenders designated to be Dangerous

Offenders should also be examined. Although the PCL-R will not discriminate among all forms of dangerousness, there is an empirical relationship between high PCL-R scores and the "likelihood of dangerous behaviour" (Gacono & Hutton, 1994), and most, if not all psychopathic offenders are high-risk offenders (Serin & Amos, 1995).

Personality and Mental Disorders

In considering the prevalence of psychoses and schizophrenia, the present results were consistent with Koopman's (1985) finding that "mental illness" was not characteristic of the Dangerous Offenders (or of the inmate comparison group) in her study. While three of the Dangerous Offenders had experienced psychotic episodes and one had a delusional disorder, only one of the Dangerous Offenders and none of the control offenders in the present study could be diagnosed as having schizophrenia according to DSM-III criteria (VRAG item 9). These figures are slightly lower than those reported by Koopman (1985) as nine of the Dangerous Offenders and four offenders in the inmate comparison group in her study had been diagnosed with schizophrenia at some point. The discriminatory potential of VRAG item 9 (DSM III diagnosis of schizophrenia) for non-psychiatric offender samples (as in the present study) would appear to be rather limited (however, see Bonta et al., 1996: Appendix C). To date, the VRAG has been standardized and validated only with psychiatric groups of offenders.

Previous research on Dangerous Offenders has often discussed offenders diagnosed with "non-insane" personality disorders and in particular Antisocial Personality Disorder (ASPD) or psychopathy and the implications of these diagnoses in supporting or justifying the designation of a Dangerous Offender (Berzins, 1983; Koopman, 1985; Noone, 1986; Pos et al., 1987; see also, Lynett, 1990).

Most of the Dangerous Offenders and the control offenders in the present study had a DSM-III personality disorder as assessed on VRAG item 3 (84% and 93% respectively). While these figures may appear higher than those previously reported for Dangerous Offenders, Pos et al., (1987) focused on diagnoses offered at trial and the percentages do not represent the frequency of personality disorders in their sample of Dangerous Offenders but the occurrence of personality disorder diagnoses (56%) in relation to other diagnostic categories. Koopman (1985) also did not report the prevalence of personality disorders in the Dangerous Offenders in her study, apart from ASPD (42%). Others have reported personality disorder prevalence rates ranging from 28% to 55% in nonrecidivist and recidivist mentally disordered offenders (Harris, Rice, & Quinsey, 1993), and 58% to 88.5% in various types of sexual offenders (Quinsey, Rice, & Harris, 1995; see also Berner et al., 1992), whereas the base rate for ASPD in convicted offenders has been reported to be as high as 80% (Hart, Hare, & Harpur, 1992; Widget et al., 1996). The high prevalence of personality disorders (and ASPD) reported in the present study and in other studies again brings into question the utility of identifying personality disorders, not as risk markers per se, but as meaningful psychiatric diagnoses for these populations. However, and as was the case in the present study, the low frequency of various personality disorders (apart from ASPD), as well as the comorbidity among these disorders, makes further statistical analyses difficult or rather meaningless.

Psychological Functioning

Several aspects of psychological functioning previously identified in research as important or prominent among Dangerous Offenders were also examined. The two groups were compared on their current reported or estimated range of intellectual functioning. Although Koopman (1985) indicated that performance of the Dangerous Offenders on the

TONI may not have captured their actual intellectual functioning, "many" of the 43 Dangerous Offenders in her study were reported to have scored in the borderline range (11 scored within the mentally handicapped range of which two had previously been diagnosed as retarded). Intelligence however did not differentiate the two groups in Koopman's study, nor was there any significant difference between the Dangerous Offenders and the control group in intellectual functioning in the present study. But in contrast to the figures reported by Koopman (1985), only three of the Dangerous Offenders were of borderline intelligence and only one was mentally retarded, although nine had been previously diagnosed as retarded or as having a learning disability in childhood or adolescence.

Research on Dangerous Offenders (Berzins, 1983; Koopman, 1985) as well as the Reasons for Judgment in some Dangerous Offender hearings (e.g. R. v. Jack, 1995; R. v. McMath, 1995) have frequently referred to the horrendous or tragic developmental backgrounds of these offenders. Examining the developmental histories of the offenders in the present study, the majority of the Dangerous Offenders and the control offenders were abused as children (the severity of the abuse was not analyzed). However, the two groups differed significantly on only one type of abuse. The Dangerous Offenders were significantly more likely to have reported incidents of sexual abuse than the control offenders, which is consistent with the research on the developmental abuse of various types of offenders (e.g., Dutton & Hart, 1992; Romano & De Luca, 1996) as nearly all of the Dangerous Offenders were sexual offenders. However, the difference between the groups in the reported occurrence of sexual abuse may also be partially accounted for by the number of sexual offenders in the groups as there were approximately twice as many Dangerous Offenders than control offenders who committed sexual offences (98% versus 51%). There may be (perceived) advantages to reporting (real or exaggerated) incidents of abuse particularly for sexual offenders (when the abuse was

first disclosed was not recorded). Interviewers also may devote greater attention to sexual matters with convicted sexual offenders in comparison to offenders convicted of other offences (e.g., robbery) which may be less likely to elicit or allow for the reporting of such abuse.

There were no significant differences between the Dangerous Offenders and the control group in the number of offenders who required (and received) psychiatric assessments or hospitalization in childhood and in adulthood. Ten (22%) of the Dangerous Offenders were psychiatrically hospitalized or remanded for fitness evaluations in adulthood (in Koopman's study, 10 (23%) Dangerous Offenders also had been previously hospitalized).

Previous research has also indicated that alcohol and drug abuse was "to a much greater extent" clinically significant and instrumental in the commission of offences, particularly the sexual offences of the Dangerous Offenders than that of the inmate comparison group (Koopman, 1985). In the present study, there was no difference between the two groups in the prevalence of alcohol abuse and/or alcoholism, but the control offenders were more likely to have been abusing or addicted to drugs. And in contrast to Koopman's (1985) finding, alcohol or drug intoxication was not a factor in the commission of the index offences (of the present subjects) as the majority of offenders in both of the groups were sober.

Limitations of the Research

The major shortcoming of this research was relying on file information to code the various characteristics of the offenders, and to complete the PCL-R. When reviewing files, the absence of information cannot be taken as confirmation that certain events or incidents have not occurred unless that is stated explicitly. Research utilizing interviews, by contrast, would at least ensure that the pertinent questions have been posed to the subjects as well as providing an opportunity to confirm, clarify, or challenge the accuracy of file information.

Although reliability on the PCL-R scoring in the present study was quite high and comparable to reliabilities reported by others completing the PCL-R based on file information (e.g., Harris, Rice, & Cormier, 1990; Hart & Hare, 1989), the validity of scoring the PCL-R only from files has been challenged (Serin, 1993). Specifically, in research examining the validity of the coding of file-only versus file-plus-interview procedures, Wong (1988) found that file information resulted in slightly more conservative (or underestimated) PCL-R scores, whereas Serin (1993) reported that the file review procedure overestimated coding on the PCL-R. To some extent, validity has greater clinical rather than research implications as interrater reliabilities for both PCL-R coding procedures are highly consistent, but the ensuing PCL-R protocols result in discrepant classification decisions when the two methods are compared (Serin, 1993). Although the emphasis of the present study was the comparison of two groups, the generalizability or translation of research based on file information to applied situations must be qualified. The PCL-R should be completed with an interview as the interactional style of the offender and the impressions of the interviewer are pertinent to the coding of various PCL-R items (those which are most often difficult to score from files) (Hare, 1991; Serin, 1993), but this may not always be possible in some forensic situations in which decisions or recommendations must be made. Clearly, additional research is warranted in this area.

Other methodological concerns include sample size, the selection of control subjects, and the relatively poor interrater reliability on the VRAG (compared to the interrater reliability for the PCL-R in the present study). With respect to sample size, 50 subjects per cell is recommended as the necessary power to detect a medium effect size (Cohen, 1992). There were only 45 offenders in the two groups in the present study as no other Dangerous Offenders (or their files) could be located in this prison region. The control offenders were selected from three institutions whereas two of the Dangerous Offenders were on Parole and rest were at six

different medium and maximum security prisons (not including the two Dangerous Offenders whose files were accessed but who were incarcerated in Ontario). While the selection of control offenders could have been more representative (from other institutions), they are nonetheless a randomly selected group of serious personal injury offenders. Finally, the relatively lower interrater reliability on the VRAG ($ICC_1 = .68$) may have resulted from a lack of training (on the VRAG) between the raters or differing objectives in the research of the two raters which may have had different emphases with respect to file information, and VRAG item criteria which are in the process of being clarified and detailed more extensively (e.g., Webster & Eaves, 1995). The interrater reliability on the VRAG ($ICC_1 = .68$) is nonetheless in the very good range of reliability (Bartko, 1991).

Although a number of suggestions for future research have been made, perhaps the most essential direction would be to compare Dangerous Offenders on various risk factors and offence characteristics with a randomized or a "matched" group of sexual offenders. As noted in the preceding discussion, many of the differences between the groups could be at least partially explained by the prominence of different types of offenders in the two groups. Because most Dangerous Offenders are sexual offenders, comparing Dangerous Offenders with randomized or matched groups of sexual offenders would allow for the examination of more specific hypotheses with respect to the selection of offenders designated to be dangerous. Although a randomly selected group of offenders, such as the group employed in this study, is necessary for a thorough evaluation of Part XXIV, clearly the legislation, the Crown and/or the Courts have targeted or regard sexual offenders as more "dangerous" than other offenders who have committed "serious personal injury offences". In this regard, the present study does raise questions regarding the perception of, and attitudes towards, violent behaviour and dangerousness. Unquestionably, the Courts (and prosecutors) may be considered less tolerant

of repeat sexual offenders (in comparison to other violent nonsexual offenders) by virtue of designating them as Dangerous Offenders more often.

A matched groups design should attempt to account for the persistence or severity of sexual offending as the number of victims and/or the (unusual) duration of assault(s) may set apart offenders who are more likely to be designated Dangerous Offenders in comparison to other sexual offenders. In the present study, some of the Dangerous Offenders had previous convictions or charges related to sexual assaults. Others, particularly pedophiles, managed to evade detection and prosecution but victimized children over a long period of time and were charged and convicted accordingly (as their index offences). Still others may not necessarily have an official record of past sexual offences, although their most recent convictions involved a number of victims as part of a crime spree, or they kept and assaulted their victim(s) for "unusually" long periods of time. Any of these scenarios could be considered within the definitions of 753 (b) and/or (a) of the Dangerous Offender legislation. Matching subjects would have to rely on officially documented offence(s), although prosecutors may have been aware of other inappropriate sexual behaviour for which an offender was not charged whether or not they were applying for a Dangerous Offender declaration.

Summary and Conclusions

The primary purpose of the present study was to compare Dangerous Offenders with a randomly selected group of violent offenders on the PCL-R and the VRAG. Research on the PCL-R, a measure of psychopathy, has demonstrated its predictive validity in assessing risk for violent recidivism, whereas the VRAG, an actuarial instrument, was developed to discriminate between violent recidivists and nonrecidivists.

The results indicated that there were no significant differences between the Dangerous Offenders and the control offenders on either the PCL-R or the VRAG and that, as groups, they have the same likelihood of violent recidivism. Because of the design of the present study and the prevalence of the different types of offenders in the two groups, results only address the probability of violent recidivism. Only a matched groups design can attempt to address, or control for, the severity (or type) of risk for violent recidivism in Dangerous Offenders as almost all of the Dangerous Offenders were repetitive sexual offenders. The Dangerous Offenders also committed significantly more index offences and had approximately four times the number of victims than did the control offenders.

Recently, the Ministry of the Solicitor General released the findings of a study of Dangerous Offenders (Bonta et al., 1996). This research compared 64 Dangerous Offenders (32 were from British Columbia) with 34 "Detention Failures" - offenders who committed a subsequent violent offence after being required to serve their entire sentence because they were identified as potentially violent. There were very few differences between the Dangerous Offenders and the Detention Failures on various aspects of their index offences and their criminal histories, and in the index offences and sexual histories of the offenders in the two groups that committed index sexual offences (Bonta et al., 1996). The results of Bonta et al. (1996) and comparisons between Bonta et al (1996) and the present study are reviewed in Appendix C.

The present study and Bonta et al. (1996) have similar results for different comparison groups leading to discrepant conclusions. The Bonta et al. (1996) study examined the similarities between Dangerous Offenders and an "established" group of high risk offenders, whereas the present study examined the differences between Dangerous Offenders and a randomly selected group of incarcerated Federal offenders who had also committed at least one

serious personal injury index offence. The findings of these studies are consistent in that, apart from the type of offences committed and the number of victims in their index offences, there were few differences between the Dangerous Offenders and either of the comparison (or control) groups of offenders. Both studies also point to the need for comparisons between Dangerous Offenders and others groups of sexual offenders on risk factors that are predictive of violent and/or sexual recidivism.

To some extent, Bonta et al. (1996), as did Koopman (1985), attempted to evaluate the Dangerous Offender legislation by comparing Dangerous Offenders with a "select" group of offenders. In comparing their groups, Koopman (1985) claimed that there were no differences (not any "more dangerous") and concluded that, because they were similar, the legislation does not provide more protection for society and should be abolished, whereas Bonta et al. (1996) found very few differences and concluded that, because they were similar, Dangerous Offenders are a high risk group of offenders. By contrast, the results of the present study indicate that Dangerous Offenders are also similar to a randomly selected group of serious personal injury offenders, and the groups do not differ in their probability of violent recidivism. These results also call into question the need for distinct legislative provisions for Dangerous Offenders and the necessity of imposing indeterminate sentences.

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APPENDIX A

Psychopathy Checklist - Revised

Factor 1	Factor 2	Total Score	
<input type="checkbox"/>		<input type="checkbox"/>	1. Glibness/Superficial Charm
<input type="checkbox"/>		<input type="checkbox"/>	2. Grandiose Sense of Self Worth
	<input type="checkbox"/>	<input type="checkbox"/>	3. Need for Stimulation/Proneness to Boredom
<input type="checkbox"/>		<input type="checkbox"/>	4. Pathological Lying
<input type="checkbox"/>		<input type="checkbox"/>	5. Conning/Manipulative
<input type="checkbox"/>		<input type="checkbox"/>	6. Lack of Remorse or Guilt
<input type="checkbox"/>		<input type="checkbox"/>	7. Shallow Affect
<input type="checkbox"/>		<input type="checkbox"/>	8. Callous/Lack of Empathy
	<input type="checkbox"/>	<input type="checkbox"/>	9. Parasitic Lifestyle
	<input type="checkbox"/>	<input type="checkbox"/>	10. Poor Behavioural Controls
		<input type="checkbox"/>	11. Promiscuous Sexual Behaviour
	<input type="checkbox"/>	<input type="checkbox"/>	12. Early Behavioural Problems
	<input type="checkbox"/>	<input type="checkbox"/>	13. Lack of Realistic, Long-term Goals
	<input type="checkbox"/>	<input type="checkbox"/>	14. Impulsivity
	<input type="checkbox"/>	<input type="checkbox"/>	15. Irresponsibility
<input type="checkbox"/>		<input type="checkbox"/>	16. Failure to Accept Responsibility for Own Actions
		<input type="checkbox"/>	17. Many Short-term Marital Relationships
	<input type="checkbox"/>	<input type="checkbox"/>	18. Juvenile Delinquency
	<input type="checkbox"/>	<input type="checkbox"/>	19. Revocation of Conditional Release
		<input type="checkbox"/>	20. Criminal Versatility
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Raw Sum
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Number of Missing Items
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adjusted Sum (from tables 1,2, and 3)

APPENDIX B

Violence Risk Appraisal Guide (VRAG)

1 Psychopathy Checklist (PCL-R) Score

- | | |
|---|---|
| <input type="checkbox"/> Scores 4 and under = -5 | <input type="checkbox"/> Scores of 15 through 24 = 0 |
| <input type="checkbox"/> Scores of 5 through 9 = -3 | <input type="checkbox"/> Scores of 25 through 34 = +4 |
| <input type="checkbox"/> Scores of 10 through 14 = -1 | <input type="checkbox"/> Scores 35 and over = +12 |

2 Elementary School Maladjustment

- | |
|--|
| <input type="checkbox"/> No problems = -1 |
| <input type="checkbox"/> Slight (minor discipline or attendance) problems = +2 |
| <input type="checkbox"/> Moderate (seeming behaviour or attendance) problems = -2 |
| <input type="checkbox"/> Severe (serious discipline and/or attendance) problems = +5 |

3 DSM-III Diagnosis of Personality Disorder

- | | |
|----------------------------------|-----------------------------------|
| <input type="checkbox"/> No = -2 | <input type="checkbox"/> Yes = +3 |
|----------------------------------|-----------------------------------|

4 Age at Index Offence

- | | |
|--|--|
| <input type="checkbox"/> Age of 39 or over = -5 | <input type="checkbox"/> Age of 27 = 0 |
| <input type="checkbox"/> Age of 34 through 38 = -2 | <input type="checkbox"/> Age of 26 or under = +2 |
| <input type="checkbox"/> Age of 28 through 33 = -1 | |

5 Separation from Parents under Age 16 (except for death of parent)

- | | |
|-----------------------------------|----------------------------------|
| <input type="checkbox"/> Yes = -2 | <input type="checkbox"/> No = +3 |
|-----------------------------------|----------------------------------|

6 Failure on Prior Conditional Release

- | | |
|---------------------------------|-----------------------------------|
| <input type="checkbox"/> No = 0 | <input type="checkbox"/> Yes = +3 |
|---------------------------------|-----------------------------------|

7. Non-violent Offence Score (for past offences)

- | | | |
|--|---|--|
| <input type="checkbox"/> Robbery (bank, store) | 7 | Non Violent Offence
Raw
Score

<input style="width: 40px; height: 20px;" type="text"/> |
| <input type="checkbox"/> Robbery (purse snatching) | 3 | |
| <input type="checkbox"/> Arson (church, house, barn) | 5 | |
| <input type="checkbox"/> Arson (garbage can) | 1 | |
| <input type="checkbox"/> Threatening with a weapon | 3 | |
| <input type="checkbox"/> Threatening | 2 | |
| <input type="checkbox"/> Possession of Weapon | 1 | |
| <input type="checkbox"/> Theft Over | 5 | |
| <input type="checkbox"/> Theft Under | 1 | |
| <input type="checkbox"/> Break and Enter | 1 | |
| <input type="checkbox"/> Fraud (extortion, bank scams) | 5 | |
| <input type="checkbox"/> Fraud (forged cheque, impersonation) | 1 | |
| <input type="checkbox"/> Mischief | 1 | |
| <input type="checkbox"/> Trafficking in Narcotics | 1 | |
| <input type="checkbox"/> Dangerous Driving, Drive While Impaired | 1 | |
| | | |

8. Never Married

- | | |
|--|---|
| <input type="checkbox"/> Ever married (or equivalent) = -2 | <input type="checkbox"/> Never married = +1 |
|--|---|

9. DSM-III Diagnosis of Schizophrenia

- | | |
|-----------------------------------|----------------------------------|
| <input type="checkbox"/> Yes = -3 | <input type="checkbox"/> No = +1 |
|-----------------------------------|----------------------------------|

10 Victim Injury (for Index Offence): the most serious is scored

- | | |
|---|--|
| <input type="checkbox"/> Death = -2 | <input type="checkbox"/> Treated and Released = +1 |
| <input type="checkbox"/> Hospitalized = 0 | <input type="checkbox"/> None or slight = +2 |

11. History of Alcohol Abuse

- | | |
|--|--|
| One point is allotted for each of the following: <input type="checkbox"/> Parental alcoholism | |
| <input type="checkbox"/> Teenage alcohol problem <input type="checkbox"/> Adult alcohol problem <input type="checkbox"/> Alcohol involved in a prior offence <input type="checkbox"/> Alcohol involved in the index offence. | |
| <input type="checkbox"/> 0 = -1 | <input type="checkbox"/> 1 or 2 = 0 <input type="checkbox"/> 3 = +1 <input type="checkbox"/> 4 or 5 = +2 |

12. Female Victim (for Index Offence)

- | | |
|-----------------------------------|----------------------------------|
| <input type="checkbox"/> Yes = -1 | <input type="checkbox"/> No = +1 |
|-----------------------------------|----------------------------------|

Appendix C

The Crown Files Research Project

Recently published, The Crown Files Research Project: A Study of Dangerous Offenders (Bonta et al., 1996) compared 32 Dangerous Offenders from British Columbia and 32 Dangerous Offenders from Ontario, with 34 Detention Failures from Ontario (offenders who when released re-offended violently, after being identified as potentially violent and required to serve their sentences to Warrant Expiry Date: WED). The Detention Failures were selected as a comparison group as an "established" group of high risk offenders which Bonta et al. (1996) suggest, in retrospect, "could have been designated Dangerous Offenders". The purpose of the study, through the review of both correctional (CSC) files and files from Crown offices, was to comprehensively describe the characteristics of the Dangerous Offenders and their offences, to examine any differences between the Dangerous Offenders from the two provinces, and to evaluate the Dangerous Offender designation process by comparing the Dangerous Offenders with the Detention Failure group to determine whether the offenders who have been designated as dangerous are actually high risk violent offenders.

Before comparing the Crown Files Research Project and the findings of the present study, the results from Bonta et al. (1996) will be briefly summarized. The Dangerous Offenders and the Detention Failure group did not differ significantly on any personal-demographic characteristics at the time of their index offences (IQ, grade completed, marital status, employment status), apart from the Dangerous Offenders being older ($M = 34.4$ versus $M = 26.7$) and predominantly Caucasian (95% versus 68%). Approximately 70% of Federal inmates are Caucasian (Correctional Service of Canada, 1994; as cited in Bonta et al., 1996).

The Crown Research Project examined several aspects of the offenders' index offences and found that the index offences committed by the Dangerous Offenders were significantly more likely to involve some form of brutality than those of the Detention Failure group (70% versus 48%) (Bonta, et al., 1996). However, examining only the offences which had some evidence of brutality, the Detention Failures were more likely to have used excessive physical violence, but this difference was not significant and may have been skewed by the number of pedophiles among the Dangerous Offenders as the pedophiles often used nonphysical methods of coercion (Bonta et al., 1996). Of the offences involving brutality, only 20% of the Dangerous Offenders compared to 35.5% of the Detention Failures used excessive physical violence. There was also no difference between the groups on their use of weapons, or on (any) victim injury, although the majority of the Dangerous Offenders and Detention Failures injured their victims (62% and 68% respectively), and used weapons in the commission of their index offences (50% and 65% respectively).

The Dangerous Offenders and the Detention Failures were also compared on the seriousness of their criminal histories based on the Cormier-Lang Criminal History Scale (Webster et al., 1994), the age when they were first arrested, and the percentage of offenders who had juvenile records, had been previously incarcerated, had failed on probation or parole, had a prior assault, and had prior "violent sex" (on what this was determined was not specified). The groups differed significantly only on their history of failure while on conditional release. Bonta et al. (1996) suggested that it was "not surprising" that the Detention Failures were significantly more likely to have previously failed on probation or parole than the Dangerous Offenders (97% versus 73%).

There were almost five times the number of Dangerous Offenders (59) that committed sexual index offences compared to the Detention Failures (12), and this difference was

significant. Of these offenders, the Dangerous Offenders had more than twice the number of index victims than the offenders in the Detention Failure group (M of 3.2 versus M of 1.5), and this difference was also significant. However, the index sexual offences of the two groups did not differ in the percentage of female victims, or the percentage of victims under the age 16, or under the age of 13 (for the Dangerous Offenders, 86% of their index victims were female, 59% of the victims were under 16, and 43% were under 13, M of victim age was 15.1) (Bonta et al., 1996).

Examining their sexual histories, Bonta et al. (1996) found no differences between the groups as nearly all (97%) of the 59 Dangerous Offenders and all 12 of Detention Failures who were convicted of sexual index offences had evidence on file of forcible sexual activity (as perpetrators) prior to the age of 16 years. However, the Dangerous Offenders reported a significantly greater number - although the range was quite dramatic (0-201: $M = 27.2$) - of undetected sexual offences compared to the index sexual offenders in the Detention Failure Group ($M = .82$) (Bonta et al., 1996). In their sexual histories, the Dangerous Offenders also had significantly more female (both adult, and child) victims than the sexual offenders in the Detention Failure Group, but Bonta et al. (1996) noted that having more victims may have been a function of age as the Dangerous Offenders were older.

The PCL-R was used to compare the prevalence of psychopathy (cut-off of scores of 30 and above) in the Dangerous Offenders (19 of 48: 40%), with any diagnosis of ASPD in the Dangerous Offenders' files (73%), and the prevalence of ASPD coded from file information based on DSM-IV criteria (54%). Bonta et al. (1996) indicated that the Dangerous Offenders' rates of ASPD were similar to those of other offender populations but the base rate of psychopathy was almost twice the rate for offender populations in Hare's 1991 PCL-R validation sample (15-25%). However, there were no significant differences between the

Dangerous Offenders and the Detention Failures in a PCL-R assessment of psychopathy, or in either of the methods used to assess the prevalence of ASPD (Bonta et al., 1996). By contrast, the Detention Failure group was significantly more likely to have been diagnosed with a schizophrenic disorder than the Dangerous Offenders (27% versus 8.5%), and this was the only clinical-personality difference between the two groups (Bonta et al., 1996).

Bonta et al. (1996) also reported that there were no differences in the index offences or the characteristics of the Dangerous Offenders targeted by the two provinces (Bonta et al., 1996). In conclusion, Bonta et al. (1996) suggested that in practice the current Dangerous Offender legislation is applied to the same type of offenders targeted by the previous Dangerous Sexual Offender legislation, and that the contemporary Dangerous Offenders, although more likely to have committed a sexual offence than the Detention Failure group, are a high risk, violent group of offenders as they had similar characteristics as the Detention Failure group.

Given the probable overlap of Dangerous Offenders between the two studies, it may not be surprising that the characteristics of the Dangerous Offenders in the Crown Research Project are similar to the Dangerous Offenders in the present study. Comparing the Crown Research Project findings to the present study, the Dangerous Offenders were male, Caucasian (95% versus 84%), scored in the average IQ range (\underline{M} = 94.9 versus \underline{M} = 98.8), had grade eight education (8.5 versus 8.3), and were approximately 33 years old (34.4 versus 32.2) and unemployed (63% versus 71%) at the time of their index offence. The only notable personal-demographic difference was that more Dangerous Offenders in the present study were single at the time of their index offences than the Dangerous Offenders in the Crown study (64% versus 48%).

Approximately 90% of the Dangerous Offenders in both of the studies committed sexual offences which led to their designation. Compared to the Detention Failures, the Dangerous Offenders in the Crown study had an average of 3.2 versus 1.5 index victims (Bonta et al., 1996), whereas in the present study the Dangerous Offenders had an average of four index victims compared to 1.6 for the control offenders. These differences were significant in both studies.

There are some differences between the Crown Files Research Project and the present study. However, some of these differences may reflect differences in the manner in which certain variables were coded. Bonta et al. (1996) indicated that over one-half of the Dangerous Offenders were convicted pedophiles (the criterion for pedophilia was not specified), whereas only eight (18%) Dangerous Offenders in the present study had only child victims (e.g., female victims under 14 and/or male victims under 16). The majority of Dangerous Offenders did not have an official history of prior violent sex (39%) (Bonta et al., 1996). In contrast, in the present study, 78% of the Dangerous Offenders had past charges or convictions for juvenile and/or adult sexual offences (by contrast, 51% had charges or convictions for past violent nonsexual offences compared to 46% of the Dangerous Offenders in Bonta et al. who had a prior assault). Bonta et al. (1996) also reported that there were no statistically significant differences between the Dangerous Offenders and the Detention Failures in the seriousness of their criminal histories based on the Cormier-Lang Criminal History Scale (Webster et al., 1994). In the present study, the control offenders had significantly higher scores on VRAG item 7⁵⁸ (Non Violent Offence History), which is based on the Cormier-Lang Criminal History Scale (Webster et al., 1994). As previously noted, Bonta et al., (1996) suggested that it was "not surprising" that the Detention Failure group was significantly more likely to have failed on a prior conditional

⁵⁸ In the results section, one-tailed t-tests were reported for the PCL-R and the VRAG items. To provide comparisons to the Crown Study, two-tailed t-tests for VRAG item 7 was significant at $p = .01$, and both VRAG item 6 and PCL-R item 19 were significant at $p < .001$.

release than the Dangerous Offenders. In the present study, the serious personal injury control offenders were also significantly more likely to have previously failed on probation and/or parole as reflected in PCL-R item 19 (Revocation of Conditional Release) and the VRAG item 6 (Failure on Prior Conditional Release). Based on item 19 of the PCL-R, 98% of the control offenders and 77% of the Dangerous Offenders in the present study previously violated conditions of probation or parole. These figures are similar to the 97% of the Detention Failures and 73% of the Dangerous Offenders violating conditional release reported by Bonta et al., (1996).

In comparison to the Dangerous Offenders, the use or abuse of alcohol and drugs was more of a factor for the Detention Failures in the Crown study, and the control offenders in the present study. The Detention Failure group was significantly more likely to have been under the influence of alcohol or other drugs, and to have had victims who were intoxicated and/or drugged during the commission of their index offences (Bonta et al., 1996). Although the majority of the control offenders in the present study were not intoxicated during the commission of their index offences, they were more likely to have abused or been addicted to drugs. Approximately 50% of the Dangerous Offenders in both of the studies were not intoxicated or under the influence at the time of their index offences.

The mean PCL-R Total Score of 27.6 for the Dangerous Offenders (n=48) in the Crown Files Research study was very similar to mean PCL-R Total Score of 27.38 for the Dangerous Offenders (n=45) in the present study (mean PCL-R Total Score for DOs with indeterminate sentences in the present study (n = 43) was 27.8). The mean PCL-R Total Score for the Detention Failures was only marginally lower at 27.0 (Bonta et al., 1996) whereas, in the present study, the serious personal injury control offenders' mean PCL-R Total Score of 28.40 was only marginally higher. As previously noted, 40% of the Dangerous Offenders in the Crown Files Research

study met Hare's (1991) diagnostic cut-off for psychopathy. In the present study, 13 of the 45 (29%) Dangerous Offenders or 13 of the 42 (31%) of the Dangerous Offenders with indeterminate sentences would be classified as psychopathic. Comparing the four groups (across the two studies), the highest rate of PCL-R assessed psychopathy (42%) was in control offenders in the present study (32% of the Detention Failures in the Bonta et al., study would be classified as psychopathic). Although these psychopathy rates of approximately 30-40% are considerably higher than the base rates reported for Hare's (1991) validation samples of offenders which was 15-25%, they may be more representative for offenders that commit violent or serious personal injury offences.

Bonta et al., (1996) also recorded the Nuffield (1982) Statistical Information on Recidivism (SIR) scale, which is available in the files of all non-Aboriginal male Federal inmates, and found no difference in the mean scores of the Dangerous Offenders and the Detention Failures. The Dangerous Offenders were distributed across the SIR prognostic risk levels but Bonta et al., (1996) indicated that the SIR may not be particularly suitable for use with sexual offenders and currently it is being improved for such application. The Dangerous Offenders, as well as the control offenders, in the present study were also distributed across the Webster et al., (1994) prognostic risk levels for the VRAG (see Figure 1), which has since been cross-validated on a sample of sexual offenders (Rice & Harris, 1995). This indicates that not all Dangerous Offenders are high risk offenders, and as groups, they do not differ from other groups of violent offenders