

The Allegheny County Sex Offense Court

Using Evidence-Based
Practices to Increase
Accountability and Safety

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This project was supported by Award No. 2011-WP-BX-K001 awarded by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice. The opinion, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect the view of either the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking of the U.S. Department of Justice.

Acknowledgments

There are many people whose experience, expertise, and feedback informed this document. Among those the author wishes to thank are: The Honorable Donna Jo McDaniel, the Honorable Jill E. Rangos, Mia Thorton, Kathryn Collins, Alison Hall, Jasmine Rivera, and the many court administrators, court staff, and stakeholders involved in the Allegheny Sex Offender Court. Additionally, the author thanks Liberty Aldrich, Robert Wolf, and Matthew Watkins from the Center for Court Innovation.

To learn more about the sex offense court model, visit www.courtinnovation.org

2017

Overview

When Judge Donna Jo McDaniel started practicing law 40 years ago, she says the main preoccupation of courts handling rape cases was “what was she wearing.” A lot has changed since then. Today, walking into Judge McDaniel’s courtroom in Pittsburgh—and hers is hardly the only such courtroom—one hears sex offense cases treated with a focus on procedural justice, offender accountability, and victim safety. So what brought about the change?

The answer begins with a willingness to identify what works. There is a growing body of research highlighting effective ways to reduce recidivism in criminal cases. These evidence-based best practices include procedural fairness, risk and need assessments, and deterrence. While the bulk of this research has looked at the general criminal population, there is a growing body of work on sex offender management focusing on behaviors and typology, risk assessment, and community management strategies.

This paper profiles a specialized court that is making particularly effective use of some of this research. In operation since 2011, the Fifth Judicial District of Pennsylvania’s Sex Offender Court, located in Allegheny County, Pa., which includes the City of Pittsburgh, has worked with its partners to create a court-based response to sex offenses that enhances both victim safety and offender accountability.

What are Sex Offense Courts?

In an effort to promote victim safety and address the unique challenges sex offenders pose to the criminal justice system, in 2004, the Center for Court Innovation, together with the New York State Unified Court System, developed and implemented a sex offense court model in eight sites across the state. Similar to other problem-solving courts, sex offense courts bring all of a jurisdiction's sex offense cases before a single judge and staff who have received expert training in sex offender behavior and management techniques. The aim of the specialization is to provide a consistent response to sex offenses from arrest, through sentencing, to supervision by probation or parole and ongoing monitoring by the court. Additionally, sex offense courts seek to promote a more coordinated response, allowing court and criminal justice stakeholders to work together to implement best practices in sex offender management.

One of the key principles of the sex offense court model, and a primary goal of its adoption in Pittsburgh, is encouraging a strong degree of community collaboration. Research indicates including court staff, prosecutors, victim services, defense attorneys, intervention programs for abusive partners, treatment representatives, and law enforcement in sex offender management is effective at reducing recidivism.¹

Indeed, when it comes to this population in Allegheny County, there is a long history of collaboration and specialization. In 2003, Adult Probation developed two specialized sex offender caseloads. Three years later, Pittsburgh Action Against Rape officials helped form the Allegheny County Sex Offender Management and Containment Task Force. The goal of this new body was to bring local partners together

to share information and improve sex offender management. Members included the Office of the District Attorney, the Office of the Public Defender, Allegheny County Adult Probation, State Probation and Parole, Juvenile Probation, Allegheny County Detectives, Child Welfare representatives, treatment providers, and victim advocates. The group reviewed the Center for Sex Offender Management's Community Assessment Protocol² and team members met regularly to share information and study national best practices. In 2010, key task force members also travelled to Erie County, N.Y., to observe a sex offense court in operation and meet with their peers.

The work of the task force facilitated increased collaboration among agencies and support for the project of Allegheny County developing its own sex offender court. Preliminary work on the latter included an analysis of the existing procedures that identified a number of discrepancies and inefficiencies. These included:

- A lack of goals and clarity across the court system regarding sex offender supervision and management.
- Inconsistent processing and adjudication of sex offenders throughout the system.
- The absence of a specialized docket for sex offenders.
- A failure to consistently impose charge-specific conditions on sex offenses.

In 2010, the Center for Court Innovation provided training and technical assistance to the Fifth Judicial District Court of Pennsylvania to plan and implement the state's first sex offense court. In place since 2011, the court hears criminal sex offense cases for which a conviction would require Megan's

Law Registration.³ All qualifying cases are assigned to two dedicated sex offense court judges. If convicted and given a county sentence (jail, intermediate punishment or probation), offenders are immediately assigned a specialized probation officer and referred to a treatment provider approved by the sex offender assessment board. All offenders are subject to charge-specific conditions and must submit to polygraph examinations to ensure compliance.

In June 2016, there were 290 active cases in the Allegheny County Sex Offender Court. Defendants found guilty are sentenced to an average of five years of county supervision and, on average, each probation officer supervises more than 70 people on any given day. An initial review hearing is held before the sentencing judge within two to three months of the person being placed on probation. For people sentenced to a period of incarceration, the initial review hearing is held within 30 days of parole. Thereafter, compliance hearings are held approximately every month to four months, depending on a person's progress, and at the discretion of the judge and the Adult Probation Department.

Since the court's inception, Allegheny County has instituted an expedited specialized docket for all qualifying sex offense cases. Once sufficient probable cause is identified, cases with qualifying charges are placed on the sex offender court track. The court's coordinator ensures cases are assigned to one of the two designated judges and that they are placed on the court calendar within 45 to 60 days from the date of the preliminary hearing. In addition, the judges only grant continuances if there are extenuating circumstances. This expedited processing works to reduce the time to disposition, quickly removing dangerous predators from the street, getting offenders under supervision and enrolled

in treatment more swiftly, and cutting back on delays that risk re-traumatizing victims. Pittsburgh Action Against Rape advocates agree that the “swift docket has a huge positive impact on victims.” Since 2010, there has been a 37 percent reduction in the time to disposition of these cases (it took an average of 193 days to dispose of these cases in 2015 compared to 307 days in 2010).

Recidivism rates for this population are typically low – since 2011, only 8 participants (2 percent of the total) in the Allegheny Sex Offense Court reoffended within one year of the start of their supervision and 4, or one percent, reoffended with a new sex crime.⁴ This represents a 45 percent reduction in overall recidivism and an 18 percent reduction in people reoffending with a new sex crime.⁵ In addition, of the 67 people who have completed supervision without a violation, only three have been re-arrested for any crime and no one has been re-arrested for a new sex crime.

Once the court was in place, the Sex Offender Management and Containment Task Force that spurred its creation continued to meet. Probation officers and victim advocates, for example, worked to deepen their collaborations, which included cross-training between probation officers and victim advocacy groups, court team trainings with the Center for Sex Offender Management and the Center for Court Innovation, and regular communications that facilitated victims connecting with Adult Probation with questions and concerns.

What Makes This Court Different?

Procedural Justice in Allegheny Sex Offense Court

Procedural justice is a crucial component of the evidence-based best practices employed by the specialized court. Key strategies to ensure procedural fairness include the court offering the defendant ample opportunities to be heard through regular review hearings. During these monthly compliance hearings, the judge engages the defendant in a conversation about programming and supervision and addresses any challenges the offender may be encountering in maintaining compliance. In addition, the two judges are consistent in their sentences and their review hearings, using a sanctioning matrix and ensuring a full allocution to be certain offenders understand the terms and conditions of probation.

The court also prioritizes input from victims. Prior to offering an offender a plea agreement, the Allegheny County prosecutor consults with the victim, and every victim is given the opportunity to submit an impact statement and read or have it read before the court. Because of the unique trauma associated with these crimes, the court also includes victim services provided by either Pittsburgh Action Against Rape or the Center for Victims. Victims can be connected with a victim service agency prior to a case being scheduled or at any point during the court process. Services offered by the court include victim advocacy, counseling, and support with the goal of promoting the rights, safety, and recovery of victims in the aftermath of trauma and throughout the court process.

In the event a victim has not been put in touch with services prior to the scheduling of the case, the court liaison coordinates immediate services for the victim upon a referral from any level of the court process.

Risk and Needs Assessments

Emerging research into general offender populations suggests that programming should respond to both the risk level and needs of an offender and that the most effective interventions are based in behavioral change philosophies. Evidence also indicates that applying risk, need, and responsivity principles leads to better outcomes with sex offenders (Gordon & Nicholaichuk, 1996; Hanson, 2006; Mailloux et al., 2003).⁶

With this in mind, the Allegheny court uses four treatment providers, approved by the Pennsylvania Sex Offender Advisory Board, that rely on a variety of risk and needs assessments to help formulate treatment recommendations, including the Static 99R and Abel assessments. The court has worked closely with these treatment providers to better understand the use of validated assessments to gauge dynamic risk and needs and to provide programming that targets those specific areas. To ensure consistency, the court is working to standardize the use of assessments across treatment providers.

In addition to treatment providers, the judges presiding over the sex offense cases and other court partners have been trained on how to identify risk, need, and responsivity factors that may affect an offender's ability to comply with court orders, probation conditions, and treatment expectations. Additional training provided information on sex offending behavior and best practices in offender management. As a result

of this training, the court team identified risk assessment as a priority for probation to inform supervision and programming. Following the training, Pittsburgh Action Against Rape secured funding to have probation officers trained on the Static 99R, an actuarial risk assessment for use with adult male sexual offenders. The information gathered by the tool assists advocates in safety planning with victims.

In Allegheny County, probation works with treatment providers to utilize appropriate risk and needs assessments to formulate treatment and supervision plans. Offenders may also have additional criminogenic factors addressed in a variety of ways. The specialized probation officer sex offender unit works to educate behavioral health providers and housing and employment counsellors about sex offenders and to foster collaborations to ensure criminogenic factors are addressed. The specialized court team has identified providers willing to house sex offenders and provide drug and alcohol treatment, and has worked to build bridges with others to ensure that those needs are addressed. This collaboration includes regular meetings and communication between the providers and probation officers, and education about sex offenders for both groups. Allegheny County Adult Probation has also created three community resource centers for probationers that cluster social services in a one-stop shop where offenders can access employment assistance, adult education and GED preparation, cognitive behavioral therapy, intervention programs for abusive partners, and drug and alcohol testing and evaluation.

Deterrence

To further enhance accountability, the court and its partner agencies spent many hours identifying evidence-based deterrence strategies to incorporate into their compliance monitoring calendar. Judge Jill Rangos—along with Judge McDaniel, one of the specialized court’s two assigned judges—recognized at the beginning that “each defendant is different but they have similar issues... What tools do we have to keep them in the community safely and what tools do we have to sanction them swiftly if non-compliant?”

To that end, the Allegheny court created protocols and policies regarding violations of probation or termination from treatment. All offenders in the court have specialized conditions as part of their supervision, including mandated sex offender treatment, no contact with minors, and no alcohol use. Treatment providers and probation officers are in regular communication, which includes discussing polygraph results, treatment goals, and how well a person is meeting those goals. Jasmine Rivera, the Special Services Unit Supervisor for the Adult Probation Department, explains that, if a violation is suspected with this population, “we have to be swift and we have to be fair in our sanction. The sex offense court allows us to do that. We can detect and respond quickly.”

If an offender violates the terms of supervision, he or she is immediately brought before their sex offender court judge. During the planning of the court, judges, court staff, and other partners developed a sanctioning matrix described by the judges as a “template of progressive sanctions that gives us tools in our belt” to respond to non-compliance. The judge addresses the violation and imposes appropriate sanctions, which may include the imposition of additional conditions,

placement on house arrest, or a short jail stay. To facilitate a rapid response to infractions, the court works to ensure a clear understanding of the possible sanctions available to a judge or probation officer.

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To further ensure compliance and non-compliance is identified quickly, all offenders are brought before the court for regular review hearings, at which time sanctions or incentives may be imposed. As Rivera notes, “We look at everything, including what they are doing well. The probation officers talk with each other and have case reviews with treatment providers prior to court. It’s our job to put the pieces together and present it to the judge.” Judge Rangos notes of the review hearings, “We’re actually seeing what is helping them be successful and identify what is holding them back.” The judges work to instill an atmosphere of accountability in the court, at times by first calling a compliant defendant who may receive a reward or promise of a reward. As Judge McDaniel explained, this helps to give all of the defendants in the room “something to work for.” Then a non-compliant defendant may be called up and sanctioned. This has the effect of making the court’s expectations clear, along with its willingness to impose consequences.

As so many of these cases result in the defendant remaining in or returning to the community, victim and community safety are key. Indeed, it was because of this imperative that Alison Hall, the executive director of Pittsburgh Action

Against Rape, helped promote the idea of a sex offense court model to the original sex offender task force. Hall felt that a specialized court could more safely transition offenders back into the community, provided more collaborative relationships among the court's partners were already in place.

"Change can't happen without dialogue," Hall observes. "And the respect is there because of the relationships prior to the court's existence." To enhance victim safety, victim advocates work closely with the court, helping to identify the level of communication and involvement the victim is interested in receiving regarding the status of the offender. If the victim opts to receive information about compliance, it is provided via their advocate. The advocate may also connect the victim to the probation officer, who can help with any other questions or concerns they may have.

Conclusion

By integrating the most recent research on effective sex offender management into the policies and practices of the court and its partners, the Allegheny County Sex Offense Court has designed a judicial response that enhances both victim safety and offender accountability. Alison Hall of Pittsburgh Action Against Rape notes that, as a result of the court, “judges are aware of the complexities of these cases and the impact on victims.” Everyone involved in setting-up the court agrees it would not have happened without the prior work that went into building resilient partnerships. As one partner to the court put it, the court exists because of “strong and collaborative relationships among unlikely partners.” With a foundation built on collaboration, evidence-based best practices, and a dedication to victim safety, the Allegheny Sex Offense Court is a model for other jurisdictions seeking to better respond to the complexity of sex offense cases.

Endnotes

1. Carey, S.M., Macklin, J.R., and M.W. Finigan. (2012). What Works? The Ten Key Components of Drug Court: Research-Based Best Practices. *Drug Court Review VIII: 1: 6-42*; Cissner et al. (2013), Op Cit.
2. For more information on the Community Assessment Protocol, visit www.csom.org. Mincy, Jethwani, & Klempin, 2015
3. Qualifying offenses for mandatory registration include a person convicted of or pleading guilty to any of the following sexually violent offenses: rape; involuntary deviate sexual intercourse; sexual assault; institutional sexual assault; aggravated indecent assault; indecent assault, where the offense is a misdemeanor of the first degree or higher; kidnapping, where the victim is a minor; luring a child into a motor vehicle or structure; incest, where the victim is a minor; prostitution, where the offender promotes prostitution of a minor; obscene and other sexual materials & performances, where the victim is a minor; sexual abuse of children; unlawful contact with a minor; and the sexual exploitation of children
4. Recidivism is defined as a re-arrest resulting in a conviction within a designated time frame.
5. This is compared to people sentenced to qualifying sex offenses prior to the start of the specialized sex offender court (2008-2010).
6. For a general introduction to Risk-Need-Responsivity principles see, Michael Rempel, 'Evidence-Based Strategies for Working with Offenders' (2014), available at: <http://www.courtinnovation.org/sites/default/files/documents/Evid%20Based%20Strategies.pdf>.

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