

Civil Commitment: If It Is Used, It Should Be Only One Element of a Comprehensive Approach for the Management of Individuals Who Have Sexually Abused



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Written in collaboration with the Sex Offender Civil Commitment Programs Network.*

Introduction

Civil commitment of sexually violent persons provides a legal mechanism for the confinement of individuals convicted of sexual crimes in a secure treatment facility after incarceration when a court determines the individual is likely to engage in future acts of sexual violence. Twenty states and the District of Columbia have enacted laws permitting civil commitment. To meet the criteria for commitment, the individual must have committed a qualifying sexual offense (most often an offense involving physical sexual contact), the individual must suffer from a qualifying mental disorder, and the mental disorder must create a high probability that the individual will commit acts of sexual violence in the future.

Civil commitment of individuals convicted of sexual crimes is a controversial topic, with varying arguments for and against its value as a management strategy. In order to provide a comprehensive review of civil commitment, the Sex Offender Civil Commitment Programs Network (SOCCPN) and the Association for the Treatment of Sexual Abusers (ATSA) have joined in an effort to educate professionals, policy makers, and communities about civil commitment through a series of evidence-based documents. The focus of this document is on the role civil commitment may play, if utilized, for adults convicted of sexual crimes within the broader continuum of sexual offense-specific management and treatment.

Research Summary

What We Know About Sexual Offending:

Sexual abuse is a pervasive yet preventable worldwide problem that impacts everyone—individuals, communities, institutions, and society as a whole. The dynamics of sexual offending are also complex and multifaceted. Adults convicted of sexual crimes are an extremely diverse group of individuals who engage in sexually abusive behavior at differing frequencies and for varying reasons, and they present with different levels of risk for future sexually abusive behavior. There is also no specific “profile” or “type” due to the wide variety of differences among these individuals. Because of these complexities, responding effectively to sexual abuse requires the involvement of a wide range of disciplines and agencies, as well as adherence to best practices within correctional management.

As the majority of adults convicted of sexual crimes do eventually return to our communities, effective treatment and management is essential for the prevention of further abuse. Research has consistently demonstrated that “one size fits all” approaches are not effective at preventing sexual abuse and the most effective management strategies are grounded on what research has revealed about sexual crimes, specifically:

- 93% of children were sexually abused by someone known to them, such as a family member, acquaintance, teacher, coach, or friend, with approximately 7% being victimized by a stranger (Snyder, 2000).
- Although adults have a slightly higher likelihood of being sexually assaulted by a stranger, 73% of rapes against females age 12 and older were perpetrated by someone known to the victim (Catalano, 2006). Additionally, for male victims, 52.4% reported being raped by an acquaintance and 15.1% by a stranger (Black et al., 2011).
- Many adult males convicted of sexual crimes do not continue committing sexually abusive behaviors (i.e., reoffend) and the rate of sexual reoffense (i.e., rearrest and/or reconviction) is lower than the public generally believes. Large-scale studies have identified sexual reoffense rates of between 7 and 15% after approximately 5 years (Hanson et al., 2002; Hanson et al., 2009; Harris & Hanson, 2004).
- Additionally, for every 5 years an individual convicted of a sexual crime remains in the community offense-free, the risk of sexual recidivism declines by 50%, with low rates of recidivism (less than 5%) occurring after 10 years offense-free (Hanson, Harris, Helmus, & Thornton, 2014).

What We Know About Effective Correctional Practices:

Effective correctional practices are grounded within the Risk-Need-Responsivity (RNR) principles of offender rehabilitation, which provide guidance concerning how much service, what types of interventions, and how services should be delivered to offenders. In brief, the risk principle indicates that the intensity of services should be determined by the risk level of the individual, with higher-risk offenders receiving more intensive services than lower-risk offenders. The need principle maintains that interventions should focus on criminogenic (i.e., causing or likely to cause criminal behavior) factors associated with recidivism risk. The responsivity principle states that interventions should be provided in a manner that incorporates the offender’s individual characteristics, such as learning style, level of motivation, and other individual factors that may impact delivery of services.

Risk assessment is an integral aspect of the RNR principles as two of these principles, the risk principle and the need principle, require the use of empirically validated risk assessment tools. Risk assessment is also one of the most important and most frequent tasks required of those working with adults convicted of sexual crimes. Risk assessment provides guidance for level of supervision, intensity of services, and measuring changes in risk over time, and assists management professionals in individualizing interventions based upon a client’s identified risk

and need factors. Research has indicated that interventions for general offenders that adhere to the RNR principles are associated with significant reductions in recidivism, whereas interventions that fail to follow the RNR principles yield minimal reductions in recidivism and, in some cases, even result in increased recidivism (Andrews & Bonta, 2010a, 2010b; Andrews et al., 1990). The RNR principles are also applicable for adults convicted of sexual crimes, and sexual offense-specific treatment that adheres to the RNR principles has been shown to be the most effective at reducing recidivism risk (Hanson, Bourgon, Helmus, & Hodgson, 2009).

A comprehensive approach to the management of adults who have sexually abused is first grounded in the RNR principles and then based upon five fundamental principles: victim centeredness, specialized knowledge/training, public education, monitoring and evaluation, and collaboration (CSOM, 2008). These five principles underlie all aspects of management, from investigations, prosecutions, and dispositions to assessment, supervision, treatment, reentry, and other management strategies, which could include registration/notification, incarceration, and civil commitment.

Given the importance of adherence to the RNR principles for effective practice, sexual offense-specific treatment and management should incorporate variations of interventions reflective of the offender's identified areas of risk and need (i.e., level of supervision, treatment dosage/intensity). In addition, these interventions should allow for adjustment over time as an offender's risk and need factors may change, and continuity of care is essential for successful outcomes.

Community-Based Supervision & Treatment:

Effective supervision strategies are imperative for the prevention of sexual abuse. Community supervision (i.e., parole, probation) provides accountability for offenders who are in the community and assists recently released offenders with transitioning back into the community by providing structure, support, and oversight. Effective community supervision also includes other collaborative partners, such as sexual offense-specific treatment providers, community support persons, victim advocates, and other involved professionals. A coordinated system for the management of adults convicted of sexual crimes can enhance the safety of the community by facilitating successful offender reintegration, protecting victims, and preventing future incidents of sexual violence.

Sexual offense-specific treatment is also an essential component of a coordinated system for the management of adults convicted of sexual crimes, as treatment is designed to target the individual processes that are related to the perpetration of sexually abusive behavior. These methods focus on assisting adults convicted of sexually abusive behavior to identify and change the internal and external factors that contribute to sexual offending; develop strategies to avoid, control, or productively address risk factors before reoffense may occur; and develop strengths and competencies so that they can address their needs appropriately. There is evidence that

treatment programs that follow the risk, need, and responsivity principles are associated with lower rates of sexual recidivism as compared to programs that do not follow these principles or no treatment at all (Hanson, Bourgon, Helmus, & Hodgson, 2009).

Institutional-Based Supervision & Treatment

Effective treatment programs within prison, civil commitment, and other locked settings should also be grounded in the RNR principles; utilize empirically validated risk assessment instruments, measures, and methods; employ treatment methodologies based in research and reflective of best practices standards and guidelines; and incorporate meaningful measurement of changes in risk over time. Institutional-based supervision and treatment should also be reserved for adults who present with a higher identified level of risk and need, as determined by validated risk assessment instruments.

Incarceration is one possible consequence for adults convicted of sexual crimes, although not all adults convicted of sexual crimes receive prison sentences and the length of prison sentences varies. Incarceration is also ideally utilized for offenders identified as high risk at the time of sentencing. A certain percentage of adults convicted of sexual crimes under community supervision may exhibit increased risk which results in a change from community-based supervision to prison-based supervision.

While prison serves a community safety purpose due to removing from the community adults who have sexually offended, this protection lasts only as long as the length of incarceration. Research has demonstrated that punishment in and of itself does not deter future sexual reoffending, while effective interventions can reduce reoffense rates (Bonta & Andrews, 2007; Smith, Goggin, & Gendreau, 2002). Therefore, it is important that sexual offense-specific treatment is available during incarceration for adults convicted of sexual crimes. Additionally, consideration for release on parole or other reductions in intensity of services should utilize information from treatment, particularly validated measures demonstrating risk reductions and treatment gains. Finally, transitional services are an important component for maintaining community safety, as research has demonstrated that prison-based treatment in conjunction with community-based reentry services reduces the risk for future sexual reoffending. These transitional services should include, at a minimum, community-based supervision, additional therapeutic support, and community reintegration services.

If civil commitment is used as an option following completion of a prison sentence, it should only be applied to adults convicted of sexual offenses who continue to demonstrate high levels of risk. Currently, civil commitment of sexually violent persons is utilized for a small portion of adults convicted of sexual crimes (i.e., an average of 2–3% of offenders released from prison in most states). Adults who are civilly committed based upon a sexual conviction should have access to the same high-quality treatment services that are available in community- and other institutional-based settings. Treatment should focus on the reduction of risk by targeting

criminogenic needs, and the intervention setting/level and intensity/dosage should be commensurate with the assessed level of risk and need. Once risk and need are reduced to a level that is manageable within a community-based setting, there should be a mechanism to transition to a community-based supervision and treatment setting, much like that which occurs after prison-based supervision and treatment.

Importance of Reentry Services

As noted above, it is important that reentry services be available as part of a comprehensive approach to sexual offense-specific management and treatment. Research has demonstrated that the availability of prosocial support and the provision of resources targeting criminogenic needs (e.g., employment, education, housing, etc.) can reduce risk for sexual reoffending. However, although adults convicted of sexual crimes are eligible for general reentry services in most states, there are few, if any, reentry programs that address their unique needs (Daly, 2008). While there is limited research on specialized reentry services for individuals convicted of sexual crimes, a promising practice for offender reentry that is utilized for adults being released from prison in several states (e.g., California, Oregon) as well as extensively in Canada is the Circles of Support and Accountability (COSA) program. Significant reductions in sexual reoffending have been observed for high-risk adults convicted of sexual crimes who participated in COSA (Wilson, Cortoni, & McWhinnie, 2009; Wilson, Picheca, & Prinzo, 2005). Although the availability of specific services will vary across jurisdictions, accessibility and use of reentry services are an essential component of any attempt to reintegrate civilly committed adults convicted of sexual crimes back into the community.

Summary

Implementation of a comprehensive and effective management strategy for adults convicted of sexual crimes requires adherence to the RNR principles and recognition that “one size fits all” approaches are not effective at preventing future sexual crimes. Research has demonstrated that the most effective practices are based on a continuum of services that are available at all levels of management, both community-based and within locked settings; are individualized based upon an offender’s identified areas of risk and need; and are delivered in a manner reflective of the offender’s responsivity factors.

Where utilized, civil commitment may be one component of a comprehensive continuum of responses to sexual offending. Civil commitment has been used for a small group of chronic, violent, and/or predatory adult sex offenders. Such sex offenders should ideally have had the opportunity to receive community- and/or prison-based supervision and treatment prior to being civilly committed. Similar to other management techniques, it is essential that civil commitment programs are evidence-based, are individualized, adhere to recognized best practice standards, and provide a continuum of services based upon research. Additionally, it is integral that civil commitment programs develop processes for committed persons to be conditionally released to a

less restrictive setting when deemed appropriate due to a reduction in dynamic risk factors and resulting treatment gains.

References

- Andrews, D. A., & Bonta, J. (2010a). *The psychology of criminal conduct* (5th ed.). New Providence, NJ: LexisNexis.
- Andrews, D. A., & Bonta, J. (2010b). Rehabilitating criminal justice policy and practice. *Psychology, Public Policy and Law*, *16*, 39-55.
- Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- Catalano, S.M. (2006). *National Crime Victimization Survey: Criminal Victimization, 2005*. U.S. Department of Justice, Bureau of Justice Statistics.
- Center for Sex Offender Management (CSOM). (2009). *The Comprehensive Approach to Sex Offender Management*. Retrieved from: http://www.csom.org/pubs/Comp_Approach_Brief.pdf
- Daly, R. (2008). *Treatment and Reentry Practices for Sex Offenders*. Vera Institute for Justice. Retrieved from: <http://www.ovsom.texas.gov/docs/Reentry-and-Treatment-Practices-for-Sex-Offenders.pdf>
- Hanson, R.K., Bourgon, G., Helmus, L., & Hodgson, S. (2009). The principles of effective correctional treatment also apply to sexual offenders: A meta-analysis. *Criminal Justice and Behavior*, *36*(9), 865-891.
- Hanson, R. K., Harris, A. J. R., Helmus, L., & Thornton, D. (2014). High risk sex offenders may not be high risk forever. *Journal of Interpersonal Violence*.
- Hanson, R. K., & Morton-Bourgon, K. (2004). *Predictors of sexual recidivism: An updated meta-analysis* (Corrections User Report No. 2004-02). Ottawa: Public Safety and Emergency Preparedness Canada.
- Harris, A.J.R. & Hanson, R.K. (2004). *Sex Offender Recidivism: A simple question*. Ottawa: Public Safety and Emergency Preparedness Canada.
- Smith, P., Goggin, C., & Gendreau, P. (2002). *The Effects of Prison Sentences and Intermediate Sanctions on Recidivism: General Effects and Individual Differences*. Retrieved from: <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ffcts-prsn-sntnscs/ffcts-prsn-sntnscs-eng.pdf>
- Snyder, H.N. (2000). *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics*. U.S. Department of Justice, Bureau of Justice Statistics.

Wilson, R.J., Cortoni, F., and McWhinnie, A.J. (2009). Circles of Support & Accountability: A Canadian National Replication of Outcome Findings, *Sexual Abuse: A Journal of Research and Treatment*, vol. 21: pp. 412 - 430.

Wilson, R.J., Picheca, J.E., & Prinzo, M. (2007). Evaluating the effectiveness of professionally-facilitated volunteerism in the community-based management of high risk sexual offenders: PART ONE—Effects on participants and stakeholders. *Howard Journal of Criminal Justice*, 46, 289-302.