BEYOND CONVICTION RATES

Measuring Success in Sexual Assault Prosecutions

AEQUITAS: THE PROSECUTORS’ RESOURCE ON VIOLENCE AGAINST WOMEN

AEQUITAS
AVAILABLE 24/7 VIA TELEPHONE AND/OR EMAIL

TECHNICAL ASSISTANCE
• Case Consultations
• Research

TRAININGS
• Live
• Online

RESOURCES
• Recorded Webinars
• Model Briefs, Motions, Expert Reports, etc...
• Sample Voir Dire Questions, Expert Examinations, etc...

AEQUITAS: THE PROSECUTORS’ RESOURCE ON VIOLENCE AGAINST WOMEN
SUPPORT
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“WHAT’S YOUR CONVICTION RATE?”
“One of the most enduring realities of sexual assault is that very few cases result in arrest, prosecution, and conviction of [perpetrators].”

CASSIA SPOHN & KATHARINE TELLIS, POLICING AND PROSECUTING SEXUAL ASSAULT: INSIDE THE CRIMINAL JUSTICE SYSTEM 101 (Lynne Rienner 2014)

IF NOT CONVICTIONS, THEN WHAT?

What other ways can you measure success when you work on sexual assault cases?
- Prosecutors?
- Law Enforcement?
- Service Providers?
- Advocates?
- Others?

HOW IS YOUR SUCCESS MEASURED?

- Data collection
  - What type?
- Performance reviews
- Victim input
- Not at all
Are sexual assault cases a priority?

How do you define success in sexual assault cases?

What is the desired outcome?
**DESIRED OUTCOME**

- Conviction on the lead charge or other charges?
- Victim safety?
- Victim’s voice being heard?
- Punishing the offender?
- Community awareness?

**DESIRED OUTCOME CONT’D**

- Creating a record?
- Reducing the likelihood for re-offense?
- Some combination of all of these, or something else entirely?

What are some practices that may increase success in sexual assault prosecutions?
PROMISING PRACTICES

- Specialized units/prosecutors
- Identify all corroborating evidence
- Expert testimony
- Electronic evidence
- Effective cross-examination
- Anticipate defense strategies
- Ethical/aggressive trial strategies
- Apply appropriate case theme
- Strong closing argument
- Utilize SART
- Argue for effective sentence
- Post-conviction issues

COMPONENTS OF A SUCCESSFUL PROSECUTOR

Adapted with permission from Teresa Scalzo, former Director of the National Center for the Prosecution of Violence Against Women and former sexual assault prosecutor.

VICTIM PARTICIPATION
What about conviction rates?

CONVICTION RATES

<table>
<thead>
<tr>
<th>TELL US...</th>
<th>DON'T TELL US</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jury determined prosecution proved the charge beyond a reasonable doubt</td>
<td>* Number of cases investigated v. charged</td>
</tr>
<tr>
<td></td>
<td>* Number of cases pled</td>
</tr>
<tr>
<td></td>
<td>* Charges pled to</td>
</tr>
<tr>
<td></td>
<td>* Dispositions of closed cases prior to trial</td>
</tr>
<tr>
<td></td>
<td>* Number of cases dropped</td>
</tr>
<tr>
<td></td>
<td>* Victim “satisfaction”</td>
</tr>
<tr>
<td></td>
<td>* Victim safety</td>
</tr>
</tbody>
</table>

OTHER ISSUES WITH CONVICTION RATES

1. Differentiate between a conviction after a jury trial, a conviction after a bench trial, and a guilty plea?
2. Guilty as charged or lesser?
3. How is data collected?
4. Affect on institutional morale?
DO CONVICTION RATES...

- Accurately measure outcomes?
- Tell us about the complexity of the cases?
- Help us assess whether we are being responsive to victims’ needs?
- Reveal anything about whether prosecutors are aggressively pursuing all sexual assault cases?

If not conviction rates, what?

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How Can We Measure Prosecutor Performance?

WHAT ARE PERFORMANCE MEASURES?
- Define what is expected of an organization or an individual
- Way to understand quantitatively business processes, products, and services
- A target that you strive for

WHAT AREN’T THEY?
- One-time snapshots of effectiveness
- Outcome evaluations: guilty verdicts
- Cause-and-effect determinants
CATEGORIES OF PERFORMANCE MEASURES

- Outcomes/output measures
- Satisfaction and quality measures
- Efficiency and timeliness measures

MEASURES FOR PROSECUTORS

<table>
<thead>
<tr>
<th>OFFICE-LEVEL</th>
<th>INDIVIDUAL-LEVEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>How well the office performs overall relative to the intended outcomes</td>
<td>Individual contribution to overall outcomes</td>
</tr>
<tr>
<td>Processes in the aggregate</td>
<td>Adherence to processes</td>
</tr>
<tr>
<td></td>
<td>Skills, capacity, and capabilities</td>
</tr>
</tbody>
</table>

PROSECUTION PERFORMANCE MEASUREMENT PROJECT
What is the right outcome in prosecution?

Accountability

ACCOUNTABILITY MEASURES

What is the goal in sexual violence cases?
- Punishment / retribution
- Deterrence
- Rehabilitation
- Restoration
POSSIBLE MEASURES

PUNISHMENT / RETRIBUTION
- Incarceration
- Cases receiving maximum penalty
- Convictions

DETERRENCE
- Timeliness of adjudication
- Certainty of consequences
- Length/severity of sentence
- Incarceration

POSSIBLE MEASURES CONT’D

REHABILITATION
- Offenders placed in treatment
- Assessment of treatment needs and consideration of victim and community safety
- Recidivism

RESTORATION
- Victim satisfaction
- Victim safety
- Restitution

STRATEGY

Prevention → Intervention → Suppression

Reentry → Evaluation

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**PREVENTION**

- Outreach to the community
- Education
- Myth-busting
- Safety
- Consent

**INTERVENTION**

- Outreach to victims
- Confidential advocacy
- Increased reporting
- Access to counseling

**SUPPRESSION**

- Collaboration with allied professionals
- Thorough investigations
- Aggressive prosecution
**REENTRY**
- Meaningful sentencing
- Intensive probation/parole
- Monitoring

**EVALUATION**
- Audit practices
- Interview allied professionals
- Canvas victim experiences
- Gather statistics

**GOING FORWARD**
- Institute prosecution practices that apply to individuals and can be adopted office-wide
- Integrate existing data into performance measures and partner with researchers
- Develop transparent policies that support victims and are aimed at holding offenders accountable