Beyond Conviction Rates: Measuring Success in Sexual Assault Cases

INNOVATIVE
Sustaining effective practices and promoting systemic change

INFORMED
Training, resources, and assistance supported by research and experience

PRACTICAL
Customized strategies that are accessible, responsive, and easy to apply

What We Do

<table>
<thead>
<tr>
<th></th>
<th>Resources</th>
<th>Consultations</th>
<th>Training Events</th>
<th>Partnerships &amp; Initiatives</th>
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<tbody>
<tr>
<td>Resources</td>
<td>Create, research, and curate publications, statutory and case law compilations, and other resources that strengthen prosecution practices</td>
<td>Offer on-demand 24/7 consultations with our seasoned prosecutors to answer case-specific inquiries, discuss strategy, conduct research, and recommend data-driven solutions</td>
<td>Develop curricula and facilitate a wide range of specialized in-person and web-based trainings designed to empower prosecutors and allied professionals</td>
<td>Provide long-term support in building frameworks for coordinated responses to gender-based violence including data collection and analysis, task force development, and training</td>
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Support
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Objectives

Implement promising sexual assault prosecution strategies
Integrate performance measures into existing data systems
Measure prosecutorial effectiveness in ways beyond conviction rates

“What’s your conviction rate?”

Why does this question miss the point?
Do conviction rates...

<table>
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<th>Tell us...</th>
<th>Don’t tell us...</th>
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<tbody>
<tr>
<td>• Accurately measure outcomes?</td>
<td>• Number of cases investigated v. charged</td>
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<tr>
<td>• Tell us about the complexity of the cases?</td>
<td>• Number of cases pled</td>
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<td>• Help us assess whether we are being responsive to victims’ needs?</td>
<td>• Charges pled to</td>
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<tr>
<td>• Reveal anything about whether prosecutors are aggressively pursuing all sexual assault cases?</td>
<td>• Dispositions of closed cases prior to trial</td>
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Conviction Rates...

“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)
What is the danger in over-relying on conviction rates?

- Over-reliance on conviction rates
- Victims don’t report
- Law enforcement does not bring cases to prosecutors
- Charge only “winnable” cases
- Decline “complex” cases

What are your goals in sexual assault prosecutions?
**Conviction**
Hold the offender accountable
Create a record

**Avoid recidivism**
Victim’s voice heard
Victim safety

**Build trust in the system**
Punish the offender
Community awareness

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**Unique Opportunity**
The Sexual Assault Justice Initiative (SAJI)

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**Rethinking Performance Measures**
*Lessons from the Sexual Assault Justice Initiative (SAJI) and The Model Response to Sexual Violence for Prosecutors (RSVP): An Invitation to Lead*
Establish Baseline
Identify Performance Measures
Build Capacity
Measure Success

Baseline
• Where is your starting point?
• Ideally, look beyond numbers in an information management system
• Conduct case review to identify challenges and patterns
  • e.g., lack of charging when alcohol is involved; victim is disabled
• Inform choice of performance measures
Performance Measures

<table>
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<tr>
<th>What they are</th>
<th>What they are not</th>
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<tr>
<td>• Define what is expected of an organization or an individual</td>
<td>• One-time snapshots of effectiveness</td>
</tr>
<tr>
<td>• Way to understand quantitatively processes and services</td>
<td>• Outcome evaluations based on guilty verdicts</td>
</tr>
<tr>
<td>• A target for which you can strive</td>
<td>• Cause-and-effect determinants</td>
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Types of Measures

**Outcome / output measures**
- Number of cases that resolve to a sexual assault charge

**Satisfaction and quality measures**
- Victim survey

**Efficiency and timeliness measures**
- Time frame between charging and disposition

Measures for Prosecutors

<table>
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<th>Office Level</th>
<th>Individual Level</th>
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<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>
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Defining Measures

• Refer to baseline / case review
• Account for case complexity
  • What factors make a case more complex?
  • Devise method for categorizing cases based on complexity factors
• Establish process to collect and analyze information

What can we do to increase “success” in sexual assault cases?

Training

Mentoring

Experience

Analyze evidence

Understand offenders

Understand victims

Able to work with victims

Litigation skills and experience

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

Rebut myths
Build Capacity

• Provide training on core competencies
• Engage technical assistance providers
• Leverage expertise of allied professionals
• Recognize and address the impact of vicarious trauma

Victim Participation

Prosecution engagement

SANE/SART

Law enforcement engagement

Advocacy support

What do you think happened in this case?

What strategies could you employ to (perhaps) have better victim engagement with the criminal justice system?
Promising Practices

- Specialized units / prosecutors
- Effective cross-examination
- Strong closing argument
- Anticipate defense strategies
- Utilize SART
- Argue for effective sentence
- Ethical / aggressive trial strategy
- Use a theme and theory
- Post-conviction issues
- Expert testimony
- Educate through voir dire
- Electronic evidence
- Identify corroborating evidence
- Identify and remove biased jurors
- Litigate admission of other bad acts
- Exclude Rape Shield evidence

Measurement Framework

- Look beyond conviction rates to track your progress and improve your response to sexual assault.
- Collaborate with multidisciplinary partners to evaluate and develop a more comprehensive response.
- Institutionalize practices to improve the knowledge and skills for prosecuting sexual assault.