

Presentation to the Legislative Council Special Committee on Sexually Violent Person Commitments

“Assessing Risk for Sexual Recidivism and Treatment Progress”

Presenters:

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Overview Of Presentation

1. General philosophy of Chapter 980 program on the issue of assessment/evaluation.
2. Risk assessment for court reports.
3. Assessing and reporting on treatment progress.

Philosophy of the Chapter 980 Program Relative to Assessment and Evaluation

1. Recognition that assessment/evaluation are critical components of the program, and this work is taken very seriously.
 - Evaluations play a key role in commitment and release decisions.
 - Assessments play an ongoing role in the treatment program.
 - Dealing with very difficult issues.

2. Committed to the use of the best tools and techniques available.

- Rapidly expanding and advancing field of research.
- Chapter 980 evaluations/assessments are real world applications of what is often the latest research.
- The program will continue to incorporate the best approaches into our efforts to assess/evaluate patients.

3. Recognition that the role of DHFS in the system is to provide an objective, professional assessment/evaluation of the patient.
 - DHFS provides/establishes a process or environment that facilitates the work of professionals charged with responsibilities under the law.
 - DHFS does not “form” and present a professional opinion to the court.
 - Ultimately, the professional opinion of experts play a key role in court decisions under Chapter 980.

4. Committed to the concept that DHFS is responsible for attempting to ensure that the courts have the best available information to guide their actions.

- In some cases, DHFS may present opinions/perspectives that are not consistent.
- Court is the final decision-maker.

Chapter 980: The Evaluation Process

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Outline Concerning The Evaluation Process

- Statutory evaluation/testimony requirements
- The evaluation process for “mental disorder” and recidivism risk
- Description of the evaluators’ experience
- Potential concerns from the evaluators’ perspective

Statutory Evaluation Requirements for DHFS

- Post-probable cause assessment [980.04]
- “Annual” re-examinations [980.07(1)]
- When Court ordered [980.07(3), 980.08, & 980.09]

Testimony Requirements

- Virtually every 980.04 evaluation
- Virtually all Court-ordered re-examinations
- In contrast: Vast majority of 980.07(1) re-examinations do not immediately result in testimony, but growing number some months later

Evaluating for the “Mental Disorder”

- Standard diagnostic process
- Concept involving “predisposes” the person to commit a sexually violent act quite regularly narrows to disorders of (1) sexual arousal and/or (2) personality
- “Mental disorder” not typically where the main argument made at trial, and virtually never the main re-examination hearing topic

Assessing Recidivism Risk

- Typically start with actuarial instruments
- “Standard” set across the 17 states with sex offender civil commitment laws
- Wisconsin evaluators both set the trend and are in keeping with the national trend
- Reason for use: most empirical support for risk assessment accuracy

The Rapid Risk Assessment for Sex Offender Recidivism (RRASOR)

- Item 1: Prior sex offense charges/ convictions
[= 0, 1, 2, or 3 points]
- Item 2: Reached 25th birthday at assessment
[yes = 0, no = 1]
- Item 3: Any sex offense against a male
[yes = 1, no = 0]
- Item 4: Any extrafamilial victim
[yes = 1, no = 0]

RRASOR Score Interpretations

- Score 5-yr recon. 10-yr recon.
- 0 4.4% 6.5%
- 1 7.6% 11.2%
- 2 14.2% 21.1%
- 3 24.8% 36.9%
- 4 32.7% 48.6%
- 5 49.8% 73.1%
- 6 [no data for this score]

Illustrative case

- Male, born 6/14/60
- Convicted 1981 on 2 counts of S.A. (same victim), got prison time, suspended, probation for both; unrelated neighbor boy
- Charged for S.A. (1 ct.) in 1983 while on probation, charge dismissed in lieu of probation revocation and imprisonment
- Convicted of S.A. in 1995, been in prison since, until now...

Illustrative Case - RRASOR assessment

- Priors = 2 convictions, 3 charges = score of 2 on this item
- Age > 24.99; = score of 0
- Male victim = yes, score of 1
- Extrafamilial victim = yes, score of 1
- Total score = $2 + 0 + 1 + 1 = 4$
- About 49% reconviction likelihood in 10 years (give or take, like a Gallop poll result)

Other Typical Risk Assessment Considerations

- Psychopathy and deviant sexual arousal
- Treatment benefit
- Age
- Mandated community supervision (time both relative to expected life span, absolute)
- Statement of intent to re-offend

Risk Management Considerations (mostly for re-examinations)

- Elopement likelihood
- Expected supervisory compliance
- Self-management issues such as impulsivity
- Intensity of sexual deviance
- Treatment continuity, availability
- Substance abuse history
- Access to victim-type
- Type and degree of social support system
- Medical issues

Evaluation Recommendations

- Recommendation for/against commitment
- Re-examination recommendations
 - (1) remaining at secure facility
 - (2) consideration of supervised release
 - (3) consideration of discharge
- Petition “with Secretary’s approval”: yet to occur

Evaluators' Experience of (Re)examination Process

- Strong responsibility felt for “high cost”
- Take the statutory language to heart
- Most highly adversarial court cases for psychologists
- Attorneys on both sides specialize, causing high intensity relative to research findings
- Evaluators spend a good deal of time countering “experts” with faulty info

Potential Concerns

- 45-day time limit between p.c. & trial
- Rights inclusive of competency to proceed to commitment trial
- 6-month re-examination only serves to “second guess” or reiterate earlier findings
- Lack of room for stipulation “plea bargain”, such as for outpatient commitment
- Different bases for opinions between treatment and evaluation staff

Assessing Patients' Progress in Treatment and Reporting to the Courts

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November 16, 2004

Relevant Chapter 980 Law Revisions, Effective April 2004

- The State must prove by clear and convincing evidence one of the following:
 - That it is still likely that the person will engage in acts of sexual violence if the person is not continued in institutional care
 - That the person has not demonstrated significant progress in his or her treatment or the person has refused treatment

Significant Progress in Treatment Definition

- Engagement in treatment specifically designed to reduce sexual re-offense risk
- Patient must demonstrate that progress has been made through all of the following:

- Meaningful participation in the Chapter 980 treatment program
- Sufficient treatment participation to allow individual treatment needs to be identified
- Willingness to work diligently on addressing treatment needs
- Understanding of thoughts, attitudes, emotions, behaviors and sexual arousal linked to his/her sex offending, and identify when these occur
- Sufficiently sustained change in these thoughts, attitudes, emotions, behaviors and management of arousal, such that it is reasonable to assume change can be maintained and continued through treatment in the community

Treatment Progress Reports

- Since January 2004, Sand Ridge Secure Treatment Center treatment teams have submitted Treatment Progress Reports to Courts in conjunction with the Periodic Re-Examinations
- Treatment Progress Reports apprise the court of patients' treatment involvement and progress, if any

Treatment Progress Reports

- Directly address legal requirement of treatment refusal/significant progress in treatment for supervised release
- Indirectly address recidivism risk as it may be affected by patients' refusals of or meaningful involvement/progress in treatment

Treatment Progress Reports

- Focus treatment team's clinical decision-making
- Communicate treatment team's appraisal
- Formally apprise patient of treatment progress and remaining needs

Effect of Treatment on Re-Offense Risk

- Comprehensive sex offender treatment reduces sexual recidivism (but does not eliminate it)
- Patients who begin but drop out of treatment, or are removed for poor participation (and therefore would likely not be viewed as having made significant progress in treatment), do not have lower recidivism rates

Four Treatment Targets

- Deviant Sexual Interests
 - sexual preoccupation
 - child preference
 - rape-coercion preference
 - sadistic interest
 - offense-related fetish

- Distorted Attitudes
 - rape minimization
 - women deserving rape
 - women as deceitful
 - adversarial sexual attitudes
 - sexual entitlement
 - child abuse supportive beliefs
 - hostile/minimizing toward specific victim group

- Socio-Affective Functioning
 - inadequacy (poor me, victim stancing)
 - distorted intimacy balance
 - aggressive/grievance thinking (easily sees self as wronged, will be wronged again, ruminates on past grievances)
 - callous/shallow emotions (unemotional/shallow brief emotions like flash of rage)
 - lack of emotionally intimate relationships

- Self Management
 - lifestyle impulsiveness (irresponsible decision-making)
 - poor cognitive problem-solving (difficulty generating alternative strategies to resolve problems)
 - poor impulse control

Assessment of Treatment Progress

- Multiple methods, based on assumption that patient's self-report is least accurate
 - observation of patient in treatment sessions, especially self-awareness and skills acquisition
 - patient's homework
 - observation of patient outside treatment sessions by all staff members
 - penile plethysmograph
 - polygraph

Progress in Treatment

- Lengthy process
- Multiple challenges
 - full, detailed disclosures
 - self-awareness
 - physiologic examinations
 - 24/7 scrutiny
 - challenging environment
 - achievement must be demonstrated in all domains over considerable time period