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## Rethinking Recidivism: Considerations for Counselors Working with Adult Clients in Sex Offender Treatment

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**Rethinking Recidivism: Considerations for Counselors Working with  
Adult Clients in Sex Offender Treatment**

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requirements for the Master of Science Degree in

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CERTIFICATION OF APPROVAL

CAPSTONE PROJECT

**Rethinking Recidivism: Considerations for Counselors Working with  
Adult Clients in Sex Offender Treatment**

This is to certify that the Capstone Project of

Claire Richards

Has been approved by the faculty advisor and the CE 695 – Capstone Project

Course Instructor in partial fulfillment of the requirements for the

Master of Science Degree in

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## **Abstract**

Sex offender treatment is often court ordered and part of conditional release for individuals who have been convicted of harmful sexual acts. Counselors working with this population have an important role in terms of supporting and addressing the needs of their clients, but also in terms of public safety. A cursory exploration of this treatment includes an overview of the role that risk/protective factors documented through assessments have on outcomes, the impact of restrictions regarding conditional release, and how the counselors are both impacted by and integral to this field. Counselors who work with this demographic are presented with informed analysis regarding the role of public perception, carceral response, societal determinants, and jurisdictional influence to be considered when conducting therapeutic response.

*Keywords:* sex offender, sexual abuse, risk factors, protective factors, conditional release, burnout, restorative justice

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## **Introduction**

After a person has been convicted of a sexual crime, response is very often influenced by the access to, participation in, and successful completion of sex offender treatment (Newstrom et al., 2018). This can include sentencing decisions and probationary measures, both of which play a large role in the individuals' ability to achieve the prosocial changes necessary to circumvent re-offending, re-entry into the carceral system along with significant contributions to their families and community (Kras, 2019). Counselors working with people who have sexually offended are ethically responsible for seeking the professional training necessary to "ensure the competence of their work and protect others from possible harm" (American Counseling Association, 2014, Section C.2.b). This includes the integration of culturally competent, socially conscious approaches.

When conducting assessments, facilitating group treatment, or providing individual psychotherapy, counselors should not only be using empirically supported tools and modalities, but maintain an awareness of personally held biases as they relate to the possibility for therapeutic change among those who have sexually offended (ATSA, 2016). A counselor's individual perception of someone's ability to change will influence capacity for change based upon how treatment is approached. Putting more emphasis on risk factors than protective factors, for instance, negates research that reports how numerous risk factors do not necessarily correlate with lower rates of successful treatment. (Olvr et al., 2011). Though the evidenced based risk-need-responsivity approach to the treatment for and community reintegration of those who have

been formerly incarcerated (Association for the Treatment of Sexual Abusers [ATSA], 2016) provides predictive validity, focusing only on risk strips an individual of their individuality. Counselors should be encouraged to use an interdisciplinary lens when providing treatment for this population.

### **Review of Literature**

Critical awareness of the deficits in available research in the fields pertaining to counseling should be an influencing factor in how counselors in training (CIT) learn. CIT should remain curious why certain voices are platformed and certain voices are erased in research and strive toward filling in those gaps when possible. According to the American Psychological Association [APA] (Azar, 2010), research that predominately uses participants from, reviewers of, or cultural beliefs held by Western, educated, industrialized, rich and democratic (WEIRD) societies may result in the “skewing our understanding of human behavior” (p.11). In the state of Minnesota, for example, the counseling profession is largely comprised of white, female individuals (Minnesota Department of Health, 2016). Consequently, taking an intersectional, interdisciplinary approach to the praxis of counselor education is a way of addressing how white supremacy impacts this field. (Grzanka, 2019). This review of literature endeavors to bring awareness not only to the best practices in the field, but also the knowledge that research around this topic has been gleaned through a predominantly white centric understanding to criminality, social norms, and access to treatment.

## **Client Considerations**

### ***The Role of Risk***

In the state of Minnesota, anyone who has been convicted of a sexual offense is required to participate in a mandatory, predatory offender treatment assessment (Diebel, 2012). One of the reasons this is done is to understand how this individual poses a risk of reoffending upon release thus, recidivism prevention appears to be the driving force behind how treatment has been developed (Hanson et al., 2009). The focus of sex offender treatment is then not only to rehabilitate those who have caused harm, but also to mitigate the risk of others being harmed upon their release. In the state of Minnesota, studies have indicated a significant decrease in reoffending after participation in treatment (Duwe & Goldman, 2009).

Data does not necessarily support the idea that sex offenders are more prone to re-offending. The Department of Justice (2019) reports that although people convicted of sexual offenses receive longer sentences than other criminal populations, they are less likely to be rearrested after 9 years of community reintegration. The framing of this data, however, fails to show how the amount of time sexual offenders are incarcerated is determined or why there are such varied differences in conditional release from those of other violent offending populations.

Research by Hansen et al. (2018) suggests sexual offenders “are targeted because policy-makers believe they are likely to do it again. This a testable assumption, and, as it turns out, not entirely true.” (p.58).

### ***Assessment Tools and Approaches***

The risk-need-responsivity (RNR) framework was developed in the 1980s (Taxman et al. 2006) to provide individualized treatment by expanding the understanding of risk factors from purely static (age, criminal history, SES, ect.) to include dynamic risk factors (psycho-social functioning including interpersonal relationships, employment, ect.). Need is measured by the role of these risks in how, “daily functioning is impaired and involved in criminal (anti-social) behavior” (Taxman et al. 2006, p.3). This could also be gleaned by accounting for the presence or absence of protective factors. Responsivity incorporates how individual traits influenced by cognitive abilities, cultural considerations, mental health, and personality could impact the sort of treatment that will be most suitable (Taxman et al., 2006).

The RNR framework has allowed risk to be paramount in decisions of release, probationary terms, and parole are determined. Measured through assessment tools such as the Sexual Violence Risk-20 (SVR-20) the STABLE, and the Historical, Clinical, Risk Management: Version 3 (HCR-20), risk is the primary focus determining statistical probability of recidivism (Hansen et al. 2016). However, research supports utilizing assessments measuring the results of the need principle of RNR (de Vries Robbé & Mark Olver, 2021). Treatment based more in line with supporting those needs yield the lowest rates of recidivism, especially when coupled with engaging delivery methods, supporting the responsivity principle (Hanson et al., 2009)

More recently, research has noted the ineffectiveness in assessment tools that “only focus on risk factors and altogether ignore the potential value that patient strengths and positive environment factors may have for the assessment and treatment of adults who have sexually offended” (de Vries Robbé et al., 2015, p.52). When assessing the efficacy of how the RNR framework predicts recidivism, Ward and Laws (2010), developed the Good Lives Model (GLM) framework. In doing so, treatment shifted from how to best control an offender's risk of reoffending to the perspective of desistance, or the concept that someone who has sexually offended can receive treatment and not offend again (Ward & Laws, 2010). GLM incorporates a humanist, person-centered approach focusing on therapeutic alliance and client directed goals when aiming to rehabilitate people who have sexually offended (Taxman et al. 2006). The emphasis in GLM becomes the client’s desire to focus on their “prosocial” goals emphasizing, with the therapist's guidance, achievement of those goals thereby prioritizing their success over behavior consistent with risk linked to potential recidivism. (Ward & Laws, 2010, pp.13-15).

In his criticism of GLM, Glaisner (2011) argues that this approach is negligent due to the fact that it gives more credence to the individual aspirations of an offender than future victims. Glaisner (2011) argues GLM is paternalistic and often conflates a therapist’s morals and values with the goals set forth in treatment by a client. Glasiner believes that by not teaching offenders how to avoid offending, change is not something that can be achieved, resulting in treatment that ignores innate aspects of an individual allowing for them to “continue to exploit vulnerable victims” (Glasiner, 2011, p.342).

Continued research continues to measure where the focus of treatment should be placed as to both support a client and support the prevention of further sexual trauma (ATSA, 2016). The development of the Structured Assessment of Protective Factors (SAPROF) explores

another approach to sex offender treatment from examining how protective factors can be a determinant in recidivism (de Vries Robbé & Mark Olver, 2021). At the 2021 ATSA Conference, de Vries Robbé & Mark Olver, presented research advancing the idea that protective factors can be rebuilt and taught post incarceration and serve as evidence to potential for recidivism. Protective factors are understood as personal characteristic (internal factors such as intelligence, secure attachment, coping skills or motivational factors such as employment, attitudes toward authority, medication compliance) or environmental circumstances (external factors such as healthy interpersonal relationships, housing stability, racism, ect.) that aids in lowering risk. (de Vries Robbé & Mark Olver, 2021). In their presentation of the SAPROF's reliability and construct validity, de Vries Robbé & Olver (2021) discuss how dynamic protective factors (such as agreeable nature, positive influences, intrinsic motivation for a crime-free future) hold just as much importance as dynamic risk factors such as history of violence, impulsivity, substance use, ect. When results of the SAPROF screener were incorporated into the development of treatment planning, evidence supports a reduction in recidivism even with difficult populations such as individuals living with psychopathy. (Olver & Riemer, 2021).

By and large, research supports having dedicated, healthy, and supportive people involved in the lives of those seeking sex offender treatment regardless of the lens through which risk is being measured (ATSA, 2016). In her mixed methodological research, Kras (2018) uses qualitative and quantitative data to explore how support, and the perception of support, impact recidivism. Both instrumental support (such as material/financial support in the form of housing, job security, transportation, food access, ect.) is fundamental, expressive support (the psychological and emotional benefits which can be derived from intimate, healthy relationships with family, friends, children, probation officers and partners) have historically also been

measured to predict recidivism (Kras, 2018). Yet, Kras (2018) found “no statistically significant relationships” (p 40) between recidivism and the perceived social/emotional support of a previous offender and at times found the inverse, including the relationship to a probation officer (PO).

A correlation was between higher reentry rates for those who reported positive relationships with their probation officers. Qualitative interviews presented this was likely due to participants seeing their POs as friends and self-disclosing information that led to arrest. (Kras, 2018). Kras (2018) suggests that this phenomenon suggests a lack of social connections potentially as a result of “deficits in interpersonal skills” (p.47), it also could be the result of how the PO is trained to respond. A PO is more likely to “involve the justice system” (Kras, 2018, p.47), resulting in re-entry into carceral systems, because those are the tools at their disposal. This outcome may interrupt progress made in sex offender treatment and compound how risk is then measured when conditional release is presented again.

### ***Implications of Restrictions***

After being released, a person charged with committing a sexual offense will be responsible for understanding how, and when to comply with sex offender registration and notification (SORN) in their state (Diebel, 2012). This will come with implications for housing and employment as well as social, emotional interactions. SORN is often enforced through software monitoring equipment, GPS monitoring devices, polygraph tests, as well as communication with sex offender treatment counselors (Diebel, 2012). Helping a client understand these restrictions, expectations, and expenses is one way that a counselor can forge a strong therapeutic alliance with a client simply because an incarcerated client will not be

positioned to achieve optimal success while working within their scope of practice (ATSA, 2016).

Reintegration into society frequently involves a considerable amount of surveillance, restrictions, and lifestyle adjustments for people who have committed sexual offenses (Diebel, 2012). Though supervised community integration is preferential to incarceration, counselors should have an awareness of the detrimental impact this presents in a client's life, and how that presents both emotionally and logistically (Hansen et al., 2018).

Criminal and civil regulatory laws contribute to difficulty in determining where intention and accidental ignorance conflate, and it is completely possible for recidivism to transpire as a result of a probation violation (Jones & Sawyer, 2019). The decision to re-incarcerate is then at the discretion of a PO based on their understanding of why an individual violated probation and can often be ambiguous and does not always account for the nuance which can exist for someone navigating the stringent parameters of their probationary terms (Newstrom et al., 2018). As an example, in the state of Minnesota, someone who is registered as a sex offender and on probation, must report "the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person" and must report any changes to this information to their PO "within five days of the time it becomes applicable" and "immediately inform" their PO again when this is no longer applicable. (Diebel, 2012, p. 11).

Anecdotally, this author has witnessed a situation when a client's probation violation was amassed because of a borrowed car. The client was using a family member's car because he did not have the financial means to fix the vehicle he registered with the state. This individual was

under fiscal stress when his employer terminated him because someone under 18 years old was hired (working within proximity of a minor would be a probation violation). This individual was under emotional stress because his wife was hospitalized with complications from Covid-19, and he was trying to maintain supervised visitation with his children for many reasons including fear of Child Protection Services reporting a missed visit. This individual was seeking new housing because his rental unit was under new ownership and the new property owner was terminating his lease given his criminal history. On the way to supervised visitation with his children, he hit a deer. The police officer who responded called his PO. When asked how long he had been driving this unregistered vehicle, he truthfully answered about two weeks. This individual reported not remembering if he had been made aware of his required responsibility to inform his PO within five days of driving a different car or if he simply forgot given other factors in his life. (personal communication, October 14<sup>th</sup>, 2021).

Polygraph tests are an example of another restriction often used during probationary release. POs in the state of Minnesota can request a polygraph test when deciding if a safety plan is approved (Diebel, 2012). Safety plans are often required for permission to obtain employment, see relatives, or engage in activities and can be mandated by a PO for an individual to travel, secure employment, or visit with relatives, they are financially responsible for the test which can cost hundreds of dollars (ATSA, 2014).

Polygraph tests have become a way of not only gauging intent, but also a tactic to derive previously unreported information (ATSA, 2014). In their research, Jung et al (2020) investigate the efficacy of polygraph tests when obtaining information previously not reported. Jung et al. (2020) attests that reliability or validity of polygraph results in corresponding research has yielded results based upon poor research models and ambiguous justifications. Though Jung et al

concluded an increase in self-reported sexual history, “the increase was not dramatic” (2020, p.7) and it should be noted there was a higher rate of disclosure from those incarcerated at the time of the polygraph test. They concluded this was possibly because those who underwent the polygraph while their trial was underway or on probation were “afraid of disclosing new information” (Jung et al, 2020, p.9) that may result in a detrimental action.

Recently, the use of polygraph tests in sex offender treatment programs as they relate to mandated reporting has been brought into question. Minnesota Supreme Court of Appeals ruling in the case of the State of Minnesota v. Adam Charles McCoy (2021) accentuates the complication between mandated polygraphs in court ordered sex offender treatment and finds them to be self-incriminating and the resulting prosecution of charges derived unconstitutional.

When court ordered to complete sex offender treatment as part of his conditional probation which included submitting to a polygraph, Adam McCoy felt as if he had no choice (MN v. Adam McCoy, 2021). During the appeal hearing, judges attest that McCoy’s denial of a polygraph could result in termination from the program, a probation violation, and probable re-incarceration (MN v. Adam McCoy, 2021). Lawyers for McCoy cited that these admissions to sexual misconduct with a minor derived during the polygraph were inadmissible considering Minn. Stat. § 634.03 (MN v. Adam McCoy, 2021) in which his statement was “made under the influence of fear produced by threats.” (p.2) as well as a violation of his Fifth Amendment privilege against self-incrimination (MN v. Adam McCoy, 2021). In their ruling, the State of Minnesota Supreme Court (2021) specifically states:

it seems imperative that full disclosure of sexual behavior is an important component of successful sex-offender treatment, so encouraging full disclosure should be part of the protocol, but use of the full disclosure to prosecute crosses a fundamental line, especially

as in this matter where there exists very limited evidence to support the charge independently other tha[n] the disclosure itself. (p.8)

While restrictions may be a necessity for their client to engage in treatment, the negative effects restrictions can have on mental health should also be documented and observed by counselors. Advocating for the best outcomes includes understanding how probationary measures will impact a client's ability to maintain protective factors or mitigate risk factors including financial strain, ability to retain employment, fear of self-incrimination, or ability to live in safe housing.

## **Counselor Considerations**

### ***Individual Implications***

Burnout in the mental health field is something that receives a significant amount of attention, research, training, and discussion (Parsonson & Alquicira, 2019). Counselors working in sex offender treatment contend with specific facets of the job which may contribute to professional burnout and elevated levels of stress different than counselors working with other populations (Shelby et al., 2001).

Given the severity of harm that a counselor will regularly encounter, there is an obvious potential for those working with this population to become defeated by the prevalence of sexual abuse, tangential trauma, and violence (McCartan et al, 2020). Conceptually, sex offender treatment providers are working toward eradication of sexual abuse to mitigate the residual impacts of sexual abuse can be achieved through reduction in recidivism (McCartan et al, 2020). In their research, McCartan et al. (2020) suggest that providers may find that this feels paltry in comparison to the sheer quantity of sexual abuse that is experienced or wonder how this can be

addressed through a larger, systemic approach. How this work is approached becomes a crucial factor to burn out as evidenced by research published by Shelby et al (2001) citing that over half of counselors they interviewed working with this population reported they became “discouraged by client change” and experienced “emotional hardening, rising anger, declining tolerance,” (p.1206) as a result. None of these qualities are optimal when ethically responsible for providing unconditional positive regard for clients (American Counseling Association, 2014, Section C.2.b). However, this same study by Shelby et al. (2001) reported that support and additional training for counselors working in sex offender treatment may be able to reduce feelings associated with high rates of burnout. Addressing burnout is then something that becomes a personal and professional responsibility as Parsonson & Alquicira (2019) surmise since, perhaps more than other fields of counseling, when working in sex offender treatment, “ethical intelligence requires continuous self-awareness and vigilance to prevent compromised performance...questioning of oneself and maintenance of self-care...” (p.15) should be at the forefront of a provider's mind when practicing s to avoid personal harm and professional negligence.

### ***Structural Implications***

Although self-care is an identifiable way of addressing burnout and mitigating impacts of secondary trauma, barriers to this often become too complicated for counselors to individually manage (Parsonson & Alquicira, 2019). If self-care needs to happen on a personal, professional, and organizational level to be most impactful, a provider is often subject to barriers in each of these categories making it more complicated to achieve a desirable outcome (Parsonson & Alquicira, 2019). Therefore, when considering employment, a counselor should prioritize the culture of an agency and comfortability with colleagues equally to time management techniques,

paperwork, or mindfulness techniques to avoid taking work home. (Parsonson & Alquicira, 2019)

As mentioned earlier, sexual abuse prevention may very well be a primary focus for many providers in this field. Therefore, belief in one's personal ability as well as organizational and governmental abilities to properly understand and disseminate information regarding impactful sex abuse prevention is self-care (Parsonson & Alquicira, 2019). Advocating for sex abuse prevention as a public health concern is one way that counselors can feel they are part of a larger contribution to this issue (McCartan et al, 2020). A multidisciplinary, public health approach to this concern requires both macro level attention as well as interpersonal support as evidenced the research of McCartan et al. (2020) stating that sex abuse "affects all levels of society, occurs internationally, and has a multitude of impacts upon the individual, community, and society" (p.1215), a counselor in this field could easily become burnout at the interconnectedness of this issue. Shifting approach from a reactive, punitive response to a person-centered response allows for the core, foundational reasons why sexual harm and abuse transpires (Olver & Riemer, 2021). The intersection of shame, misinformation, fear, and punishment perpetuate the power and privilege intertwined with sexual abuse (Samaran, 2019) Therefore, adopting sex offender treatment models that support individual growth that explore these concepts can allow for a disruption to this norm (Kaba, 2021).

### ***White Supremacy and the Criminal Justice System***

Over two million people - and disproportionately people of color - are incarcerated in the United States making it the international leader for prison populations (Sawyer & Wagner,

2020). According to a report from the NAACP (2021) one in every twenty Black males in the United States is incarcerated either in state or federal prison. In the state of Minnesota, even though only 7% of residents are Black or African American (U.S. Census Bureau, 2019), 36.3% of prisoners in Minnesota are Black.

Upon release, racial biases in policing also indicate a higher chance of recidivism for Black males, layering on additional stress and fear post incarcerated (NAACP, 2021). The Prison Policy Institute (2019) concludes "repeated arrests are related to race and poverty, as well as high rates of mental illness and substance use disorders". (Jones & Sawyer, 2019). Given that 80 percent of all released prisoners are arrested again within 6 years, it is no surprise that mental health outcomes are not extremely favorable (NAACP, 2021). It is also important for counselors to be aware of the how lack of representation in the mental health field, as evidenced by Black practitioners making up only 2% of APA members (American Psychological Association, 2017), contribute to treatment with this already at-risk population.

In their interdisciplinary publication Grazka et al. (2019) recognize and offer response to the role of White supremacy in the counseling field, reminding their peers that, "intersectionality may inform critical race work and transnational racial justice efforts in counseling psychology." (p.513). As nationwide movements continue to highlight the problem over reliance on police and prisons presents in America, counselors working in sex offender treatment may want to stay curious about other approaches to addressing sexual violence outside of the carceral system.

### ***Other Models of Addressing Harm***

When describing the work that has been led by Black, Indigenous, and people of color to abolish the current carceral system and support transformative justice models, Mariame Kaba

(2021) argues that “increasing rates of incarceration have a minimal impact on crime...moreover crime and harm are not synonymous.” (p.15). Prisons do not seem to serve as a mechanism to end sexual violence as “the current approach hasn’t ended it.... most rapists never see the inside of a courtroom... [and] two-thirds of people who experience sexual violence never report it to anyone” (p.34 ).

Recognizing the systemic harm of this system, the individual harm of incarceration (Stringer, 2019) and presenting methods for healing for both offenders and survivors is harm reduction. In her interdisciplinary book, Nora Samaran (2019) incorporates attachment and race theory to theorize "the opposite of masculine rape culture is masculine nurturance culture...violence is nurturance turned backward” (pp.17-18). Providers mindful of the co-occurring socio-emotional realities of their clients, prioritizing treatment modalities that aim to dismantle the implications White Supremacy (including misogyny), and addressing the indoctrination of cultural norms should continue to publish their outcomes.

Restorative Justice (RJ) is an evinced based (Llyod & Borrill, 2019) approach to criminal behavior aiming to provide facilitated support for offenders and victims to acknowledge harm and attempt to repair the damage through interpersonal interactions which can “produce psychological benefit for victimized individuals” (p. 87) and marginal evidence in a reduction of PTSD symptoms. Quantitative research (Kennedy et al., 2018), provides data correlating reduction in recidivism with RJ programs. Kennedy et al. (2018) report that participants of a RJ program recidivated at a rate of 16% versus the control group who had a recidivism rate of 68%. While this article does caution against this model being used with populations who have sexually offended, citing that listening to victim impact statements may be “unhelpful or even detrimental to their rehabilitation” (Kennedy et al., 2018, p.5), organizations like Generation Five or Creative

Interventions offer ways of community members to implement transformative justice models to address sexual abuse from a community instead of from the police (Mills, 2014). By providing free workbooks, comprehensive documents outlining the work, zines, and workshops, these groups believe that sexual harm can be addressed through “social justice analysis whereby accountability is broadened beyond individuals to the wider communities and institutions responsible for the conditions within which harms took place” (Mills, 2014)

### **Conclusion**

The aim of sex offender treatment is to reduce an individual’s risk of sexually re-offending as a preventative measure to enhance public safety (ATSA, 2016). Counselors are poised to not only engage in best practices supported by evidenced based research, but also understand how they are personally impacted by this work to ensure optimal outcomes for themselves, their clients and advocacy in the field (McCartan et al, 2020). By recognizing how the intricacies of social structures and systemic oppression provide unique obstacles for sex offenders, counselors have an opportunity to approach treatment from more than just risk prevention (McCartan et al, 2020). Supporting a whole individual outside of the harm they have committed is not only an ethical approach to counseling (ACA, 2014) but also offers lower instances of recidivism (Olver & Riemer, 2021). Keeping aware of inherent biases as they pertain to individual beliefs, research, treatment models, and response structure allows intersectional application resulting in greater success outside of the homogeneity of the counseling profession. (Grazka et al. 2019). Sex offender treatment can still be improved upon if counselors advocate for humanistic responses and keep open minds to how this work can be most impactful.

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