

Supervision of Sex Offenders: A Multi-Faceted and Collaborative Approach

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CURRENTLY, THE SEX OFFENDER supervision program in the Middle District of Florida (MDFL) consists of a multi-faceted program that balances reentry, treatment, and community protection. A review of the United States Sentencing Commission's statistics reveals that the MDFL has consistently exceeded the national average in the sentencing of sexual offenders, particularly in the category of child pornography and prostitution offenses (USSC, Statistical Information Packet, FYs 2003 to 2009).

In view of the fact that the MDFL sex offender population was convicted primarily of non-contact offenses (such as possession/distribution of child pornography), consider this: Offenders who committed non-contact sexual offenses were more likely to recidivate than those whose offenses involved sexual contact with a victim (Hanson and Morton-Bourgon, 2004). No longer can possessors of child pornography be viewed as significantly less serious than so-called travelers or perpetrators with contact victims. In fact, the data appear to reflect that the non-contact offender is more likely to recidivate. Because of the heightened vulnerability of these offenders' victims, risk reduction is the overarching theme of our program.

Any strong wheel has a hub with many overlapping spokes that provide strength. We consider the court, the Administrative Office, and the chief United States probation officer as the hub of

this wheel, and the essential supervision strategies are the overlapping spokes within that wheel. In our view, this is the model of a successful, multi-faceted approach to supervising sex offenders. This article will outline our multi-faceted and collaborative approach in the MDFL. At the conclusion, we will recount our application of this approach to a [case-in-point](#) we will refer to as JM.

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The Hub

Role of the Court

The district court, through sentencing and timely supervision response, is the foundation of a successful supervision program. To have a successful sex offender supervision policy, the U.S. probation office requires adequate support from the district court. Florida is heavily populated and consists of several major theme parks, attractions, and beaches. Many of these attractions cater to families and are located in the MDFL. Florida news media is replete with incidents involving children who have either been sexually molested, abducted, or killed. As a result, in the past 20 years, state legislation has progressively enacted more stringent laws to help reduce risks to the community from sex offenders.

Our court supports a comprehensive district policy, which was developed and is maintained through a committee process that brings together officers from around the district and in different disciplines. This policy is continuously reviewed and its guidance is responsive to changes in law, outcome-based research, and lessons learned through supervision experience. The policy provides comprehensive direction in areas such as state registration requirements; notification and third-party risk; preparing the presentence report; supervision contact standards; sex offender treatment and polygraph examinations; assessing and responding to missing children and Amber alerts; alternative plans for potential disasters (hurricanes, tornadoes, etc.); and Halloween, which is a major calendar event that attracts children. Our court also supports us through the imposition of certain special conditions. Tailored special conditions provide our office with the added tools necessary to better monitor and control the risks associated with sexual offenders on federal supervision. These include: sex offender treatment and polygraph examinations; state registration requirements; no direct contact with minors (under the age of 18) without approval from the probation officer; not entering any area where children frequently congregate, including schools, daycare centers, theme parks, playgrounds, etc.; not possessing, subscribing to, or viewing any video, magazines, or literature depicting children in the nude or sexually explicit positions; not possessing or using a computer with access to any on-line service at any location (including employment) without approval from the probation officer; and submitting to a search of person, residence, place of business, storage units, computer, or vehicle by probation office at a reasonable time and in a reasonable manner, based upon reasonable suspicion.

The search condition is probably the most important tool the probation office has available, but it must be used judiciously. This tool has been very effective in supervising sex offenders, because we have taken a systematic and methodical approach. Although offenders on federal supervision have a reduced expectation of privacy, they do not relinquish their fourth amendment right altogether. While probable cause is not required, reasonable suspicion must still be present before conducting a search (*U.S. v. Carter*, 566 F.3d 970, 11th Cir. 2009). Reasonable suspicion is achieved when we reasonably believe, based upon available information, that a crime has been committed or is about to be committed. After an evaluation of the history of the case, the circumstances of the crime for which the offender is on supervision, and the conduct since the term of supervision commenced, reasonable suspicion is based upon current information (MDFL Manual, Chap. 15, April 2009). Assessing each case separately, rather than using a blanket approach, ensures that, despite an offender having a lower expectation of privacy, his or her individual rights are still not being infringed upon. This also has increased the likelihood of finding evidence of criminal conduct after having obtained a sufficient level of

reasonable suspicion, which then strengthens our court's support and collaboration in our approach to sex offender supervision.

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Role of the Administrative Office

Without budget support, a truly multi-faceted approach to supervising sex offenders is not possible. Besides policy guidance, the Administrative Office provides budget support and allocation as essential elements.

During the past several years, the Office of Finance and Budget, working with the Office of Information Technology, proactively created a budget allocation for law enforcement-type needs. This was in response to a recommendation from the Information Technology Advisory Council (ITAC). Terry A. Cain, chief of the Information Technology Policy Staff and Jim Baugher, chief of the Budget Division, were largely responsible for the implementation of the Counsel's recommendation.

As a result, every district in the nation, by formula, receives law enforcement-type funds, which can be applied to a wide variety of needs, including training and equipment for search and seizure and computer forensics. This coupled with the already existing treatment allocation can provide a much-needed, balanced approach to supervising sex offenders.

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Role of the Chief United States Probation Officer

The last essential core player in a district is the chief United States probation officer. As with the court and the Administrative Office, without chief probation officer support and approval, a multi-faceted approach cannot succeed. The chief probation officer is responsible for a national effort to promote and gain support for the needs within the district.

Within their respective districts, chief probation officers are responsible for securing policy approval from the court, usually the chief judge. Finally, and equally important, the chief probation officer is responsible for allocating those law enforcement funds provided by the Administrative Office. A chief probation officer who supports policy development, seeks policy approval, and funds these policies through training and product purchasing, moves the district toward a successful multifaceted approach to managing sex offenders.

In the MDFL, the chief probation officer or designee is responsible for approving the execution of searches of offenders. In assessing reasonable suspicion, the chief probation officer discusses the case with the officer, the supervisor, and oftentimes a member of the computer forensic group. These discussions of the relevant factors are followed by a formal written request to the chief probation officer for approval to conduct the search. In addition to providing relevant details of the case, including the offender's history, the instant offense, and his or her conduct while on supervision, there are two important questions to answer: Why might the search be productive, and are there any alternatives to conducting a search that will dispel our concerns?

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The Spokes in the Wheel

Role of the Presentence Officer

Very early in the process, the presentence officer lays a foundation for the eventual supervision of a sex offender. Grounded in the Monograph 107, *Presentence Investigation Report*, the presentence officer must consider many aspects when preparing the presentence investigation (Guide to Judiciary Policy, Vol. 8, Part D). The presentence report must not only be useful to

the sentencing court and the Bureau of Prisons (BOP), but also to the future supervision officer.

A detailed presentence investigation not only gives the sentencing court the needed facts to properly apply the sentencing guidelines and impose the appropriate sentence, but also provides others with vital facts. In a possession of child pornography case, knowing an offender's age of attraction can be essential for the treatment provider. Compiling the offender's criminal history is not only important in calculating the offender's guideline range, but is essential in evaluating the offender's danger to the community. During the eventual supervision of the offender, the supervision officer will benefit from knowing the offender's criminal history when assessing risk or planning a search. Additionally, the offender's personal and family history is valuable to all those involved in the supervision process. The presentence officer cannot predict what information will be vital during the assessment of reasonable suspicion as to whether a search condition will be executed.

Tailored special conditions, formulated from the facts of the case and the offender characteristics, are also an important part of this process. Without them, effective supervision is impossible.

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Role of the United States Probation Office

In the majority of cases, senior United States probation officers (Sr. USPO) supervise the sex offenders and other high-risk cases in the MDL. In the last several years, our training and experience has increased our consciousness of the steps needed to treat the offender and control risk. Not only does supervising a sex offender initially require more work than supervising other offenders, but the level of intense supervision continues throughout the sex offender's period of supervision. Consequently, a Sr. USPO's caseload is significantly reduced to maintain that higher level of supervision and accountability.

Upon release from the BOP, sex offenders are required to register in Florida within a 48-hour period. Florida law also requires registered sex offenders to have a special identifier on their driver's license. In order to help facilitate the re-entry of sex offenders, the Second Chance Act of 2007 makes funding available to assist in registration fees and in housing upon leaving prison and to obtain identification documents. The Sr. USPO must also enroll the sex offender into a sex offender-based treatment program, requiring a psychosexual evaluation, and promptly schedule a polygraph examination that outlines the offender's sexual history and conduct. This is important, since the instant offense may not fully represent the offender's sexual history. The Sr. USPO is also required to conduct a thorough inspection of the home and property; address any third-party risk issues, and develop with the sex offender an appropriate disaster plan. Initially, and throughout supervision, all of these activities require additional follow-up and verification in order to ensure compliance.

In order to help control risk, the MDL incorporates the assistance of other probation officers within a division. These officers are introduced to the sex offenders who reside in their geographical area of supervision and are utilized sporadically during the course of a sex offender's supervision. Sr. USPOs supervise multiple counties or a much larger supervision area than an officer with a generalized caseload. The Sr. USPO conducts home inspections with the officer to familiarize him or her with the residence. This benefits both the probation office and community for several reasons. If issues develop in a case, one of these officers may simply drive by the residence or conduct surveillance and report the information back to the specialist. Additionally, when faced with events that pose a special risk, such as Halloween, or when responding to Amber alerts, the Sr. USPO must often contact several sex offender residences and cannot accomplish this in a short period of time. Because probation officers within the division are already familiar with these cases, they can help respond to these events quickly and effectively. Although the Sr. USPO is the primary case officer, involving other officers increases the overall effectiveness of controlling risk.

Role of the Supervising United States Probation Officer

Due to the complexity, increased demands, and constant public safety issues that surround the supervision of sex offenders, supervisors in the MDL assume more involvement and responsibility. This added involvement ensures that supervisors are supportive and understand the many activities and requirements of supervising several sex offenders, which can be stressful. Most supervisors in our district already have a working knowledge of supervising sex offenders, since many have previously supervised these cases as Sr. USPOs. If not, they have the added responsibility of developing that working knowledge and expertise. This is accomplished by learning more thoroughly the applicable case law, policies, and treatment methods.

The supervisor's involvement begins with the initial case planning and continues throughout supervision. Depending on the nature of the case, various issues are commonly discussed, which include: assessment of registration requirements; assessment of third-party risk and notification requirements; development of supervision objectives and strategies; fostering relationships with law enforcement and other community resources; and review of treatment reports and polygraph examinations. Supervisors are also readily available to discuss any pertinent matters that may arise. This involvement and familiarization enable supervisors to perform field visits and other necessary supervision activities if the case officer is absent.

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Role of Collateral Contacts

In a multi-faceted approach, it is imperative that the case officer develop a network of contacts. Establishing a collateral network of individuals who interact with the sex offender gives a more defined notion that "community supervision" is taking place. Some important partners are family members, friends, neighbors, employers, clergy, and even law enforcement, who may have frequent contact with the sex offender (Guide to Judiciary Policy, Vol. 8, Part E, Chap. 4, Sec. 430.20). From our experience, an involved USPO is a source of comfort for anxious neighbors residing near sex offenders. Case officers should independently assess an offender's circumstances through field and collateral contacts at a level appropriate to the issues in the individual case (Guide to Judiciary Policy, Vol. 8, Part E, Chap. 1, Sec. 170(e)).

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Role of the Treatment Provider and Polygrapher

Treatment vendors who provide sex offender-based counseling are crucial in managing sex offenders in the MDL. They are expected to work closely with the probation officer and be an instrumental part of that officer's collateral network. To ensure that treatment begins positively, the case officer will help set the tone by attending the first treatment session with the sex offender. This demonstrates to the offender that the officer and treatment provider share a willingness to cooperate, communicate, and share information with the sex offender's best interest in mind. Various issues are often discussed, such as the sex offender's own deviant sexual thoughts and behaviors; risk factors or issues of noncompliance; family issues, such as reunification; goals and objectives; and empathizing with victims. Because treatment vendors are such an integral part of supervision, frequent contact is essential.

The polygraph examination is an important part of the treatment process; it is a tool to help ensure that the sex offender is maintaining compliance with both treatment and conditions of supervision. Generally, we use two types of examination. The initial examination, done within the first two months of supervision, covers sexual conduct throughout a lifetime. Used to identify risks and plan supervision needs, its primary purpose is to gain an accurate picture of the sex offender. This examination often reveals additional acts of victimization not previously

identified.

Additional polygraph examinations take place approximately every six months and are used for monitoring and treatment. The focus is specific to the highest risk issues for that offender and may change with the current circumstances.

Communication with both the treatment vendor and polygrapher prior to the examination is important to discuss any treatment issues, noncompliant behavior, and any other concerns. This communication will aid in the development of effective questioning during the examination, thereby increasing the usefulness of this tool.

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Role of the Search Team

By virtue of their illicit conduct, sex offenders thrive on secrecy. A search condition can help ensure that a sex offender's behavior is within the acceptable limits of conduct. If the office determines that there is reasonable suspicion to conduct a search, then preparation and planning of the search begins. The search team consists of a pool of probation officers throughout the district who have met certain criteria. The MDFL has developed a training curriculum that entails a comprehensive review of policy and legal aspects in conducting a search, and a mock search to plan, execute, and conduct a search. Participants receive feedback from more experienced staff, and if selected to be part of a search team later, they are often grouped with more experienced officers. In order to ensure safety, officers must be qualified to carry a firearm and oleoresin capsicum spray (MDFL Manual, Chap. 15, Section 1508, April 2009).

A search team is assembled by the deputy chief probation officer. The search team consists of: the case officer and supervisor, since they are the most knowledgeable about the case; officers who will conduct the searching of the residence; officers who will forensically review any electronic evidence; an officer to conduct inventory of evidence; and a search coordinator, who is ultimately in charge of executing the search. The search team then undergoes a comprehensive presearch briefing in which all roles are identified, along with the details of the case and how the search will be executed. After executing the search, the team reassembles for a debriefing, which provides valuable feedback on the execution of our searches and ultimately strengthens our processes.

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Role of the Computer Forensic Team

In the mid to late 1990s, United States Probation Officer Dan Weiser founded the computer forensic program in the MDFL. The program eventually grew to its current size of 12 members, which allows the group to support our geographically large district. The program grew not only out of need but also as the result of its successes.

Initially, the MDFL attempted to partner with existing computer forensics programs established at other law enforcement agencies. This proved to be largely unsuccessful, as those agencies had and have large backlogs of their own computer forensics investigations. The MDFL did not have the luxury to wait several months to determine if a sex offender had violated the terms of supervision. Also, those agencies were solely geared toward investigating new crimes, and not whether an offender had committed a technical violation by inappropriately using the Internet.

Thus, out of necessity, the MDFL developed a least intrusive but technically feasible approach to its computer forensics program. To accomplish this, the MDFL developed a model not only for the laboratory, but also for the field, such as an offender's residence or employment. Our field model allows us to meet the least intrusive prong of our policy. Often we can forensically preview computers and storage media at an offender's residence and determine that they have no evidentiary value. This allows the offender, or maybe more importantly his family, to

continue on with their approved activities, and lessens the load of evidentiary items we are seizing for more in-depth examination at our office. Other times in the field, we can discover evidence of a new law violation and immediately assess a plan of action, including removing the offender from the community. We use the same comprehensive tools in the field as in our laboratories. As a result, we are limited only by time as to the amount and type of data we can review in the field. Without our comprehensive field model, a decision to remove an offender from the community could come too late.

From late 2007 to early 2009, the MDFL conducted at least six residential searches of sexual offenders, which included examination of their computers and associated electronic media. All but one of these computer forensic examinations resulted in the discovery of evidence of a violation of supervised release. In four of the cases, the computer forensic group discovered evidence of new law violations, including possession, receipt, and production of child pornography. The resulting sentences imposed for the new law violations totaled over 84 years of imprisonment and the removal of dangerous offenders from society.

When the computer forensics team is not participating in an offender search or examining computers and related media, the team is attending training and honing their skills. Not only does the training help the computer forensics examiner gain expertise with specific tools and concepts, it also helps to build the examiner's *curriculum vitae*, and thus courtroom credibility.

Training is also essential due to the constant developments and changes in technology. Volunteers for our computer forensics program commit to a career-long program of annual training and continued development. As a result, the team is ready to serve the district and enforce the conditions of the court.

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Role of Local and Federal Law Enforcement

In response to the increased public scrutiny and registration laws in Florida, many law enforcement agencies have developed sex offender units with designated personnel to process sex offenders for registration. These sex offender units conduct visits to all registered sex offenders in their jurisdiction, whether or not they are on some form of community supervision. This enables law enforcement to be proactive in monitoring and tracking offenders and enforcing Florida law related to sexual offenders.

Officers who supervise sex offenders in the MDFL have developed good working relationships with many of these units. Because these agencies share the goal of reducing risk and protecting the community, there is frequent contact among our agencies. These agencies have been on stand-by when our office conducted searches (as a safety precaution for probation officers conducting the search), provided intelligence concerning the offender or family members, and assisted investigations of violations.

The United States Attorney's Office and various federal law enforcement agencies have also been vital collaborative partners. Once our office has discovered new law violations, federal agencies have adopted our cases and assisted in the investigations in areas such as subpoena compliance and presenting the case to the U.S. Attorney's Office for prosecution.

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Closing

As we have shown, all these groups represent the hub and spokes of our sex offender supervision wheel. Without this multi-faceted and collaborative structure, our supervision of sex offenders would enjoy less success. On the following pages is a [case-in-point](#) that shows in detail how we apply our approach to supervising sex offenders.

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