

SMART PROSECUTION

SAFE Court: The Harris County Smart Prosecution Initiative

Avoiding the collateral consequences of a criminal conviction

I. Overview

Harris County SAFE—Survivors Acquiring Freedom and Empowerment—Court is a diversion program that gives women charged with prostitution in Harris County, Texas, the opportunity to clear the charge from their criminal records by completing a yearlong program of monitoring and social services. Operated out of the Harris County District Attorney’s Office, SAFE Court builds upon the office’s broader response to human trafficking.

SAFE Court focuses on high-risk adults who are arrested for prostitution and not currently victims of human trafficking. The goal is to help participants avoid the severe collateral consequences of a criminal conviction—which can make it difficult to find a job, secure housing, and access public benefits—and to provide a structure of accountability and support that these individuals need to get on a better path and avoid future justice involvement.

II. The Problem

In recent years, the Harris County District Attorney’s Office discovered that many individuals being arrested for prostitution in the county were being threatened or coerced by “exploiters”—men who purchase sex or exercise control over prostitutes as pimps. The problem in Harris County is acute: according to a 2009 report from the Texas State Legislature, the region is the largest international center for human trafficking. In an effort to confront this problem, the District Attorney’s Office in 2013 recruited a human trafficking specialist, Assistant District Attorney Ann Johnson, to head up a new Human Trafficking division, which would focus on prosecuting exploiters.

The Harris County District Attorney’s Office already had one powerful tool for diverting victims of human trafficking. Under Texas law, an individual charged with prostitution can claim a human trafficking defense if that individual is a current victim of trafficking. If the defense is substantiated, the district attorney’s office can dismiss the case, diverting the victim out of the justice system.

But the office’s focus on human trafficking brought to light a population of women and men who were being picked up by police for engaging in prostitution, but who were not working for—or not admitting working for—a pimp. These individuals could not claim a human trafficking defense and thus would normally face charges for moral turpitude and, if convicted, all the collateral consequences of a criminal record. However, many had an underlying history of victimization, such as having previously been a victim of child abuse or trafficking.

The Harris County District Attorney created the SAFE Court to respond to this population. The purpose is to hold this population accountable, but provide support and offer the opportunity to avoid a criminal record and stay out of the justice system.

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III. SAFE Court

The SAFE Court is modeled after the Harris County Growing Independent and Restoring Lives—GIRLS—Court, a specialized juvenile court for girls under 17 who have been trafficked or who are at risk of being trafficked. Participants in GIRLS Court have the opportunity to have their case dismissed and sealed if they complete a program of social services that offers help securing shelter and trauma-informed care.

SAFE Court was created with support from a Smart Prosecution grant from the U.S. Department of Justice's Bureau of Justice Assistance. The goal was to address the needs of individuals involved in prostitution who were too old to be eligible for GIRLS Court and who lacked a human trafficking defense, but who still deserved a chance to be diverted from the justice system.

The new court would enable these individuals to avoid conviction for a crime of moral turpitude, which could have serious long-term consequences. It would also seek to provide participants the help they need to avoid future involvement in the justice system and get on a new path.

Launched in April 2015, SAFE Court operates as a program of the District Attorney's Office, in partnership with the defense bar and probation. Ann Johnson represents the district attorney's office; Criminal Court Judge Pam Derbyshire presides over the court; community-based organizations such as the Houston Area Women's Center and The Bridge offer services for participants; and law enforcement helps flag potentially eligible cases.

The process for identifying potential participants in SAFE Court begins with law enforcement. Each night, the District Attorney's Office receives a list of everyone arrested and charged for prostitution-related offenses in Harris County. Individuals on the list are then screened for eligibility.

In order to be eligible for SAFE Court, an individual must be between 17 and 25 years old, be engaged in prostitution and facing a misdemeanor prostitution charge, and lack a human trafficking defense. (Current victims of human trafficking are screened out of SAFE Court and their cases are dismissed. They are also referred to voluntary services.) Individuals with a past violent felony conviction are ineligible for SAFE Court.

Courtney Chester, an assistant district attorney with prior experience working on domestic violence cases, oversees screening for SAFE Court.

After passing the initial screen, an individual will make their first court appearance. If counsel is appointed, Chester asks permission to interview the individual. Through this interview, Chester learns about the person's background and rules out the possibility of a human trafficking defense. The individual is then sent to probation, where the individual is evaluated for risk using the Texas Risk Assessment System.

Only high-risk individuals are eligible for SAFE Court. Those individuals found to be low-risk are placed in a standard six-month pre-trial diversion program, where they perform community service and report regularly to probation. Upon successful completion of the diversion program, their cases are dismissed.

SAFE Court is generally structured as a 12-month probation. Participants sign a contract stating that they will comply with program requirements, which include individualized social

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service programming, such as drug treatment, trauma-informed care, or parenting training; holding a job or attending school; and regular reporting to court and probation.

Participants report to a dedicated SAFE Court probation officer from the Harris County Probation Department and attend the semi-monthly SAFE Court sessions. At these sessions, each participant and their defense counsel confer privately with Judge Derbyshire, program staff, and the SAFE Court probation officer to discuss their progress. The SAFE Court probation officer monitors compliance. Requirements for reporting and attending court become less frequent as a client progresses. (If the participant is in in-patient treatment, staff at the inpatient facility will deliver progress reports at court sessions on their behalf.)

Participants who fail to comply with the terms of their probation receive sanctions, which may include more stringent reporting requirements or community service. They are not immediately removed from the program.

Individuals who abscond from SAFE Court and are rearrested or return voluntarily may also have the opportunity to remain in the program, at the discretion of the SAFE Court judge, probation, defense counsel, and the prosecutor. Those who ultimately leave the program face their original misdemeanor prostitution charges. Leaving SAFE Court does not result in additional sanctions, such as a charge enhancement.

Participants who successfully complete the SAFE Court program have their case dismissed and expunged from their records.

IV. Evaluation and Methodology

The research partner, Dr. Lisa Muftic, associate professor of criminal justice and criminology at Sam Houston State University, will create an impact evaluation by collecting and analyzing data, reporting on the structural and procedural aspects of SAFE Court, and assessing factors that impact SAFE Court outcomes.

Dr. Muftic has access to a wide array of data from a variety of sources including courts, police, adult probation and community agencies. Demographic and program data generated from SAFE Court participants is also collected and integrated into a central database by Community Supervision and Corrections Department and made available to the research partner. Data is also culled from court observation and participant surveys (i.e. satisfaction and exit surveys) conducted by the research partner.

During and after data collection and analyses, the research partner will examine and report on the development and implementation of SAFE Court, including the referral and assessment process, characteristics of participants served by the program, and services received by program participants. Next, the research partner will explore whether variations in structural and procedural dimensions of the SAFE Court are related to participant outcomes such as program compliance, completion, and recidivism as predicted (e.g. higher program intensity should lead to better outcomes). Then the research partner will examine whether individual-level factors, such as demographics, criminal and substance abuse severity, victimization history, and trauma symptomology, impact SAFE Court outcomes.

The evaluation plan and measurements is expected to provide a valid assessment of the impact of the project. Simple statistics will be used to summarize key aspects of program

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delivery, client and staff characteristics and SAFE Court structure and process. Bivariate analyses will explore how client characteristics, (e.g. criminogenic risk, treatment motivation, trauma symptomology, demographics) relate to program outcomes including admission, compliance, completion and recidivism.

If the data allows, multivariate statistical analysis will be used to determine whether these relationships control for other individual factors. Multivariate techniques include logistic regression models for limited dependent variables (e.g. successful program completion or lack of completion). In instances where time-at-risk differs across participants, (e.g. post program recidivism), survival analysis techniques (i.e. Cox regression) will be employed. To examine the impact of individual level factors on the extent and direction of changes in the clients' levels of treatment, motivation and psychosocial adjustment, ordinary least squares (OLS) regressions will be used. The research design for the recidivism analyses will include the SAFE Court participants as compared to participants in the Pre-Trial Diversion Track and non-participating individuals charged with prostitution, matched via propensity score matching (PMS) by offense type, criminal history, age, race, and sex.

V. Results

Currently, the Harris County SAFE Court is working with 27 participants—the maximum capacity for its probation officer. (In the first year, seven individuals left the program, either for personal reasons or due to violations of their probation. Seven also absconded. Whenever a slot has become available it has been quickly filled.)

The program was originally planning to serve 20 clients in the first year, but there was higher-than-expected demand from eligible individuals. In response to this demand, the Harris County District Attorney decided to create a 12-month pre-trial diversion track for those high-risk individuals who are eligible for SAFE Court but who cannot participate in the court because it is operating at capacity.

The first SAFE Court participants will graduate in the spring of 2016.