

MINUTES
SENATE FINANCE COMMITTEE
March 15, 2005
9:03 a.m.

CALL TO ORDER

Co-Chair Wilken convened the meeting at approximately [9:03:04 AM](#).

PRESENT

Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: MARC ANTRIM, Commissioner, Department of Corrections; KIM ENGLISH, Consultant, Colorado Department of Corrections; JEFF JINKS, Consultant and Owner/Operator of Amigen-Jinks Incorporated; PEGGY HEIL, Consultant, Colorado Department of Corrections

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

The "Containment Model": A research-based presentation on sex offender management presentation by the Department of Corrections.

The Committee heard a presentation from the Department of Corrections and consultants regarding a new sex offender management program.

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Department of Corrections: The "Containment Model" A research-based presentation on sex offender management.

Co-Chair Wilken noted that the Department of Corrections would be presenting a research-based model pertaining to sex offender management.

MARC ANTRIM, Commissioner, Department of Corrections, thanked the Committee for the opportunity to introduce the Containment Model Approach to sex offender supervision that would be undertaken by the State of Alaska. Three consultants from a similar program operated by the Colorado Department of Corrections would be sharing their expertise about the Containment Model theory. Their presentation would also incorporate information about Polygraph testing.

KIM ENGLISH, Consultant, Colorado Department of Corrections, stated that, on behalf of the Alaska Department of Corrections, she, Peggy Heil, and Jeff Jenks would present information about a method of "managing sex offenders that is growing in use nationwide". The three of them "applaud the Department of Corrections for considering this to be a dangerous population". A slideshow presentation titled "Sex Offender Containment" [copy on file] was reviewed as follows.

US Dept of Justice Study

About 45 percent of state prisoners participating in the 1991 Bureau of Justice Statistics Survey committed the crime while they were on probation or parole.

*24% of prisoners serving time for RAPE

*19% of prisoners serving time for SEXUAL ASSAULT

L.A Greenfeld, Sex Offenses and Offenders, Feb. 1997:25

Ms. English summarized that approximately half of the prisoners who participated in the Study, to include "one in four or one in five known sex offenders", committed a crime while under correctional supervision.

Agenda: The Containment Approach

* The Need for Specialized Sex Offender Management Practices

*Rape Victims Don't Report the Crime

*The Containment Approach: The Goal is INFORMATION

*What We Can Learn From Sex Offenders

*Using the Polygraph Examination

*Treatment Provides Information

*A few words about housing, quality control and cost benefit of containment.

*Questions

Ms. English reviewed the presentation's agenda and stressed that the sex offender population is different than other offender populations. Because rape victims tend to not "report the crime, it must be understood how this affects what we understand about sex offenders and what we need to know about how to manage them". One of the goals of the Containment Approach is to obtain information

in order to protect the public.

Ms. English stated that much of what has been learned from sex offenders would be shared today. Mr. Jinks, who has conducted 34,000 polygraph examinations, would be discussing the benefits of polygraph examinations, and Ms. Heil, who developed and managed the Colorado Department of Corrections treatment program for more than 20 years, would be discussing how treatment programs allow for a better understanding of a sex offender in addition to assisting "them to change their life patterns". "Treatment provides an opportunity for the offender to change".

Ms. English stated that the presentation would also address the "big issue of prisoner housing" in regards to where a sex offender might live when they leave the Department of Corrections. The presentation would also address quality controls for any new method that might be implemented. "There is a cost benefit of containment".

Forcible Rapes in 2000

*Alaska ranked first in rapes per capita in the United States

*Alaska's reported rape is twice the national average**

** Alaska had 70.3 reported rapes per 100,000 inhabitants compared to 32 reported rapes US average.

www.disastercenter.com/crime/akcrime.htm

2003 Reported Crime Frequency in Alaska

*One forcible rape every 15.25 hours

(This rape represents an annual average)

Alaska Dept. of Public Safety,
2004 Uniform Crime Reporting

Ms. English reviewed the data and reiterated that it is based on information gathered from rape victims who actually reported the crime. The fact that Alaska ranks first in rapes per capita and that its reported number of rapes is twice the national average could be because "victims feel more safe" in this State or perhaps because law enforcement personnel respond differently at the local level.

Forcible Rapes increased 21.7%

Reported rapes in Alaska increased 21.7% from 2000 to 2003

There were 521 reported forcible rapes and 54 reported attempted rapes in 2003.

There are approximately 4300 registered sex offenders in Alaska communities.

Alaska Dept. of Public Safety Uniform
Crime Reporting

Ms. English stressed that research indicates that one rape in 100 is actually reported. The fact that the State's 4,300 registered sex offenders are widely disbursed would present a challenge.

Personal and Social Costs Of Sexual Assault Are Very High

- *More than half of victims have been raped more than once.
- *6x more likely to develop PTSD.
- *3x more likely to develop major depression.
- *13x more likely to attempt suicide.

Ms. English shared that in addition to those victims of sexual assault who develop depression or attempt suicide, victims are six times more likely to develop the uncomfortable symptoms such as night sweats, headaches, and nightmares associated with Post Traumatic Stress Syndrome (PTSD). The cost to society of the affect of sexual assault on victims "is incredibly high".

Alaska's Cost of Victimization

521 victims x \$86,500*

\$45,066,500 per year in costs to victims

*National Institute of Justice calculated the victim cost of one sexual assault at \$86,500

Only 16 % of victims in the *Rape in America* study reported the rape.

Kilpatrick, et al., 1992. Medical University of South Carolina. N=4008
Rape in America: A Report to the Nation.

Ms. English stated that the total lifetime cost for the 521 victims of a completed rape in the State would amount to \$45 million each year. Half of the 16-percent of sexual assault victims who actually reported the crime, reported it five years after it occurred. "Those crimes, of course, could never be prosecuted".

Who Reports?

*Younger age

*Knowing the Perpetrator Delay Disclosure

Smith, Letourneau, Saunders,
Kilpatrick, Resnick, Best, 2000

*Life threat

*Physical injury

*Stranger perpetrator Increase Likelihood of Disclosure

Hansen, Resnick, Saunders,
Kilpatrick, Best, 1999

Ms. English stated that those who tend to delay reporting the crime are younger and tend to know the perpetrator. "Offenders who choose children are choosing children who are unlikely to tell".

Ms. English noted that victims who are more likely to report a rape are those who experienced a life threat, had physical injury, or were sexually assaulted by a stranger. Therefore, the people who participate in the studies she has conducted are stranger perpetrators or those who chose a "victim who is empowered to report" the crime.

Arrest Rates are Low

27% of reported sex crimes resulted in an arrest

NIBRS 1991-1996, Snyder, 2000

In Colorado, between 1994-98, 54% - 70% of those charged with a felony sex crime were convicted of a sex crime.

Ms. English reported that according to a study conducted in approximately 16 states, only 27-percent of reported sex crimes result in an arrest. Few victims report the crime and seldom is sufficient information available through which to make an arrest. In Colorado, sex crimes are charged as a felony. Between 50 and 70 percent of those so charged in Colorado are convicted. Some are pled down to misdemeanors. The recommendation is that "sex crimes never be pled to a crime outside the family of sex crimes" as otherwise, that information would not be included in "the record that this was a sex offender".

Sex Offender Recidivism Rates: Artificially Low

*Incest: 4-10%

*Rapists: 7-35%

*Child Molesters with female victims: 10-29%

*Child Molesters with male victims: 13-40%

*Exhibitionists: 41-71%

Marshall and Barbaree (1990)

Ms. English noted that while sex offender recidivism rates are generally quite low, it should be "realized that they are based on conviction data". Victims of incest tend to be young, less likely to report a crime; and usually know the perpetrator. Thus incest offenders' recidivism rates tend to be lower than the others. The recidivism rates of rape offenders increase over those of incest as typically the victim is an adult victim, a stranger, and there could be violence. "Overall, the official recidivism rate is going to be artificially low because victims are not empowered to report the crime; offenders choose victims that don't report the crime..."

Why Don't Children Report?

In one study, children ages 3-12 explained delayed disclosure by saying they feared being disbelieved, punished, or unprotected

Lawson & Chaffin, 1992

Ms. English stated that the children in this study were children who were sent to the emergency room for having a sexually transmitted disease. In the interviews, which were conducted by trained interviewers, "only half of the children disclosed that they had been sexually assaulted".

Age at Time of Rape
29% ... Less Than 11
32% ... 11 - 17
22% ... 18 - 24
7% ... 25 - 29
6% ... 30+
3% (unknown)

Ms. English stated that rape is typically a crime of youth, as 60 to 65-percent of victims are below the age of 18.

Adult Victims

71% concerned about family knowing.
68% concerned about others knowing.
69% concerned about being blamed by others.

Rape in America: Report to the Nation (1992)

Ms. English stated that oftentimes, the perpetrator of a rape against an adult is a family member. The fact that 69-percent of adult victims do not report a sexual assault due to concern about being blamed by others underscores the fact that, "we still have a society that blames the victim".

A goal of The Containment Approach is to obtain and share information.

The Containment Approach Containment Policies

POLYGRAPH TX CJS

Confidentially waivers
Surveillance officers
Consistent policies
Interagency teams
Employment restriction
Internet restriction

Approved Tx providers
Polygraph examiner approval
Leisure time monitoring
Family Reunification policies
LE Registration
UA
Monitored leisure time
72 hour MH hold
Ts & Cs of supervision
Victim therapist
Victim community approval
Cross training
Victim Services

Ms. English stated that "because of the lack of information and because the onus of obtaining any information at all has been on the back of the victim", one of the goals "of the Containment Approach is to obtain information from the offender and other places". Information gleaned from the offender is shared to protect the public and potential victims. The Containment Approach could be compared to a triangle, whose three points are anchored by the Polygraph Examiner, the Treatment Provider (TX), and the Criminal Justice System (CJS).

Ms. English stated that a Polygraph examination is one tool amongst the others. The tools listed would be implemented in addition to established CJS tools such as employment restrictions and Internet restrictions. The Containment Approach would include "consistent policies that are research driven that are intended to help manage" the population on a daily basis. This presentation would address the three anchors.

The Criminal Justice System Provides the Hammer
*Consequences for Failed Polygraph Examinations Must Be:
- Immediate
- Linked to the Implied Risk
- Include Increased Surveillance
- Involve Obtaining Corroborative Information
- Include Informing Others of Poly Results

Ms. English reviewed the list of consequences and stressed that offenders must understand that there would be a consequence for failing a polygraph examination, as the absence of a consequence would increase the likelihood that the offender would pass the exam. "The Containment Approach requires an incredible amount of collaboration across disciplines" to include the mental health system, the CJS, the law enforcement system, and the polygraph system. Information must be shared.

Sex Offenders Who Failed Supervision

- *Sees self as no risk
- *Diverse Victim Types
- *Fewer months in the community
- *Access to victims
- *Sexual Entitlement
- *Poor social influences

Hanson and Harris, 1998

Ms. English read the characteristics applicable to sex offenders who failed supervision. After release from prison, sex offenders who tend to fail "fail soon". "No matter what their conviction crime is", sex offenders "are considered a danger to all vulnerable people". Poor social influences means that "they have a lack of support".

What Can We Learn From Sex Offenders
Studies with ...

- *Guaranteed Confidentially
- *Anonymous Survey, or
- *Polygraph

Secrets Revealed

Polygraph Research at the Colorado Department of Corrections
Comparing Court Information v. Polygraph

	<u># of victims</u>	<u># of offenses</u>
Information		
at sentencing	2(1)	7(1)
Sex History	83(21)	394(50)
1st Polygraph	165(24)	511(95)
2nd Polygraph	184(26)	528(95)

Alhmeyer et al., 2000, studied 35 sex offenders in treatment and polygraph testing at the CO Dept. of Corrections. Average admission (medium) of contact & noncontact offenses.

Ms. English stated that during their initial research study collaborations, she and Ms. Heil utilized pre-sentencing investigation information that was available at the court hearing. The information regarding the number of known victims was compared to the number of known offenses. At the time of a perpetrator's sentencing, there was an average of two known victims and an average of seven known offenses.

Ms. English stated that perpetrators provided more information "about who they are" during their participation in the Colorado Department of Corrections treatment program developed by Ms. Heil. One component of the treatment program is that the offender must

complete an assignment in which they "write out their entire sex history". This provides insight "regarding all of their victims and all of their patterns of accessing the victims". These sex histories indicated an average of 83 victims and approximately 400 offenses. "These are hands-on and hands-off offenses" to include voyeurism and rape.

Senator Olson asked regarding the numbers depicted in the parenthesis.

Ms. English clarified that the numbers depicted in the parenthesis are the medium or mid-point. That number is considered by some to present a more stable number; however, it should be noted, "that in this study, the majority of people that were passing the polygraph were the really high rate offenders": 30-percent of those who took the first polygraph passed; "they were the ones who were telling the truth and their numbers were very high". Therefore, the numbers at the point of the first polygraph examination were skewed and would increase as more offenders passed the polygraph. The numbers for the second polygraph depicts this. Over time, and with the use of additional polygraphs, more information is gleaned and more people pass the examination. The information should be used to inform treatment providers and develop supervision programs. She warned that those involved in sentencing an offender without the information provided by a polygraph examination or from a comprehensive treatment program, "might find it difficult to obtain past information. In other words, a treatment plan and a supervision plan might be developed inappropriately without the knowledge that the offender had actually committed more offenses.

Co-Chair Wilken inquired regarding the point in time that a polygraph examination would be conducted.

Ms. English responded that the first polygraph is typically conducted within the first six months of treatment.

Co-Chair Wilken understood therefore that it is conducted after a person is convicted.

Ms. English concurred.

Co-Chair Wilken asked whether the people who participated in the survey were incarcerated.

Ms. English affirmed that they were in prison. In the Containment Approach the Polygraph is referenced to as the Post-Conviction Polygraph.

Co-Chair Wilken asked for further information regarding the timing of the Polygraph.

Ms. English replied that the timing of the Polygraph is determined by how the system is established. It could be conducted while the person is incarcerated or after they have been released.

Ms. English clarified that in the system being proposed for Alaska, the Polygraph would be conducted when the person is released and living in a community. The information in this study was gleaned from offenders who were in treatment in a Colorado prison.

Co-Chair Wilken understood therefore that, in Alaska, the conducting of a Polygraph would be a condition of release.

Ms. English affirmed. They would be required to participate in treatment and a supervision plan that would include the use of a Polygraph. The conditions should specify that the offender must "cooperate, engage in treatment, and pass the Polygraph".

Senator Dyson asked whether an offender is granted immunity prior to taking the Polygraph.

Ms. English responded that there are four approaches to managing the issue of new disclosure. Further information in this regard would be provided later in the presentation.

Polygraph Research at the Colorado DOC
Comparing Court Information v. Polygraph
Admissions of Hands-on Crossover Offending
223 Sex Offenders Participating in SOTMP TC at the Colorado
Department of Corrections

<u>Type of Crossover</u>	<u>Court</u>	<u>Polygraph</u>
Adult & Child Victims	7%	70%
Male & Female Victims	9%	36%
Multiple Relationships	20%	86%

Heil, Ahlmeyer, Simons(2003)

Ms. English stressed the importance of this information, as it underscores that "we don't know very much" at the point of court sentencing. For example, during court proceedings, it was known that seven-percent of the 223 sex offenders had victimized both adults and children. That number increased to 70-percent when a Polygraph examination was conducted. She reminded that most of the offenders at that point were not passing the Polygraph examination. The heading "Multiple Relationships" would include such things as incest, being in a position of trust, or an acquaintance verses being a stranger. "Most people think that a stranger rapist is a

stranger rapist. This is not the case. This is a crime of opportunity". Research is beginning to reflect that. People incorrectly believe that incest perpetrators only commit that offense with family members, and that once the child ages, that person "is no longer at risk". Research indicates that victims of incest have testified that their family member perpetrator also harmed the victim's girlfriends.

180 convicted sex offenders on probation and parole in TX, WI, OR

Current Conviction Crime: Incest

N=80

Ever assaulted...

Assaulted strangers	35%
Assaulted from position of trust	57%
Assaulted adult victims	36%

Ms. English stated that absent the sex history of these incest offenders, and were information limited to their conviction crime, it would "never have been known that one-third of them had a history of assaulting strangers" or adult victims.

Average Age of Onset

<u>Study</u>	<u>Type of Offender</u>	<u>Age of Onset</u>
Freeman-Longo (1985)	Rapist Child Molester	18 15
Elliot (1984)	Juvenile Rapists	16 peak
Emerick &Dutton (1993)	Juvenile Child Molesters	13 median
Ahlmeyer et al. (2000)	Inmates	12
English et al. (2001)	Supervised on Parole or Probation	12

Average Lag Time in Detection

<u>Study</u>	<u>Type of Offender</u>	<u># of Years</u>
Freeman-Longo (1985)	Rapist Child Molester	6 13
Elliot (1986)*	Paraphiliacs	10
Ahlmeyer et al. (2000)	Rapists and Child Molesters	16

* as cited by Abel, Wisconsin Training Tapes

Ms. English stated that while the average age of onset varies, it occurs at a young age, "typically" age 15 or 16, but it could be as young as 12 or 13 years of age. There "is an enormous lag in the

protection time"; usually there is a lag time of ten to 15 years "before they come to the attention of the criminal justice system ... their coming to the criminal justice system is not a function of who they are, but rather the victim that they choose that reported that crime, that time".

How Does the Polygraph Work?

- Fear of Detection

- Fight or Flight Response

- Autonomic Nervous System

- Polygraph Responses

- Computerized Scoring/Manual Scoring.

JEFF JINKS, Consultant and Owner/Operator of Amigen-Jinks Incorporated, informed the Committee that he has conducted approximately 34,000 polygraph examinations since 1978. Prior to 1989, his examinations primarily focused on pre-conviction tests on offenders of all types of crime to include sex offenses, homicide, theft, and arson. The states of Oregon and Washington began conducting post-conviction sex offender testing in the early 1980s. In 1989, his company was the first to conduct post-conviction polygraph testing on sex offenders in Colorado.

Mr. Jinks disclosed that the first test was conducted at the request of a local therapist who suspected his client was not telling the complete story. Rather than the desire to test the important question of the "accuracy or reliability" of a Polygraph test, the therapist's primary interest was to see what kind of information he could obtain outside of "a therapeutic setting". The offender who was in an eight-year probationary program for sexually assaulting one of his daughter's friends, admitted during the pre-test Polygraph activity conducted prior to the actual Polygraph test, to four other sexual assaults. After the Polygraph examination was concluded, he admitted to an additional three assaults, including both of his daughters. Their being sexually assaulted had never been suspected before. After this, the therapist had the entirety of his clients tested, and the information gleaned from the Polygraph examinations turned the therapist's program "upside down as far as what he learned".

Mr. Jinks stated that in order for a Polygraph to be effective, there must be "a fear of detection". Absent that fear, it would not be "a reliable and accurate tool". When the fear of detection is present, "the fight or flight response takes control". This affects a person's Autonomic Nervous System, which is the body's system that is measured in a polygraph test. People are unable to exert control of this system, which includes such things as blood pressure, pulse rate, blood volume, and the galvanic skin response,

which is an electric current that flows through the fingertips. This response is measured through electrodes attached to the fingers, that measures such things as perspiration. Respiration is also measured. Polygraph computerized scoring technology was developed in 1989. The polygraph testing that is typically depicted on television with the ink pens that move up and down on a scroll of paper is older technology that is seldom utilized anymore.

Mr. Jinks continued that initially, Polygraph test scoring was determined by the examiner's interpretation of the lines on the chart. New computerized technology, referred to as Polyscores, now analyze the data through the use of a series of complicated mathematical algorithms developed by Johns Hopkins University who "touts" that, under "perfect" testing scenarios, it has a very high accuracy rate. A perfect test scenario would be one that is "a specific issue Polygraph on a specific situation": approximately one-third of Polygraph tests are conducted under those circumstances. Typically, the utility type of Polygraph tests "more than one relevant area or testing on more than one issue".

Accuracy of the Polygraph Test

National Academy of Sciences (2003) set median accuracy at 89% with a range of 70 to 99%

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*Information from Raymond Nelson & H.
Lawson Hagler(2004)*

Mr. Jinks communicated that the National Academy of Sciences' study determined the median accuracy of Polygraphs at 89-percent. Studies having an accuracy rate of 70-percent were those that were conducted "in the worst circumstances" in that their pre-employment Polygraph examination contained up to 20 key relevant questions. That would result in an inaccurate test. Even though those tests earned a 70-percent accuracy rating, Polygraph professionals consider that rate as "unacceptable". Polygraph examinations of sex offenders typically "test a maximum of three to four relevant questions": this increases both the accuracy and reliability rate. Another important consideration in Polygraph accuracy "is the experience of the examiner himself". The goal of examiners is to achieve an accuracy rate of 99-percent. In reality, the accuracy rate is approximately 95-percent in regards to "this population of individuals".

What happens during an exam?

1. Pre-Test

- Review medical conditions
- Sign release and consent forms
- Explain purpose of exam

- Review terminology
- Develop final questions
- Calibrate instrument

Mr. Jinks declared that a "polygraph is a medical recording device" and should be administered when a person "is at their most normal"; not when a person is sick or in discomfort. It is acceptable to test a person who, as a matter of routine, takes prescription medicine or has had, for instance, long-term discomfort from a lingering backache.

Only 2-4 Questions Allowed

There can be NO surprise or trick questions.
Questions must focus on BEHAVIORS.

- No mental state questions.
- No intent questions.

No emotionally laden language
"rape" "murder" "molest"

Mr. Jinks stated that a Polygraph is never conducted without the process being explained, to include the questions that would be asked. "There is no surprise tactic". The reason being that a "surprise response" resembles a deceptive response. The pre-testing component could take between half-an-hour to an hour and a-half to conduct. Terminology is important; the definition of words must be understood.

Mr. Jinks continued that one reason the first Polygraph is not conducted when an offender initially enters the program is because the treatment provided includes legal clarification of terminology and definitions.

Mr. Jinks stressed, "this particular population rationalizes better than any other criminal in the world". Rationalization "is used to excuse their behavior"; they do not view their victims as victims; instead they place the blame for the offense on the victim.

2. In-Test

- 2-4 relevant questions tucked inside 10-20 comparison questions
- Relevant questions must be specific
- Run 3 sets of charts
- Score and interpret chart markings (pen tracings)

Mr. Jinks stated that while many areas are discussed in the pre-test interview, the Polygraph examination itself is limited to two to four relevant questions. Unlike comparison questions, which are

board-based, relevant questions are very specific. A minimum of three sets of charts is run in order to provide consistency of responses.

3. Post Test

- Conducting an in-depth interview with examinee, giving him/her an opportunity to explain deceptive findings

Mr. Jinks stated that one of the most important aspects of a Polygraph is the post-test interview. The experience of the examiner is an important element of this phase. A thorough job must be conducted in the pre-test interview, as from it, questions are developed and information is gleaned from the individual "without an interrogative approach" being conducted. The pre-test interview is simply a question and answer period, and an observer "would be surprised on" how non-confrontational it is. Some might view the pre-test interview as "boring". The post-test interview; however, could become "more confrontational" without being argumentative. The examiner could make statements that convey to the individual that, "they are having problems in certain areas, or that in their opinion, they are not telling the truth in certain areas". The confession rate of offenders in the post-test interview who failed the Polygraph examination is approximately 90-percent. In summary, rather than relying solely on the Polygraph examination results, statements made by the examiner in the post-test interview are important.

The Purposes of the PC Exams Vary

- Sex History: Obtain information on past victims and past methods used to access those victims. Need to know age of onset, frequency, extent of crossover behavior.
- Specific Issue: Offender may be in denial about the crime..., or may be facing a new accusation..., or may have failed a recent examination... .
- Maintenance: Check out assault patterns and behaviors regarding supervision conditions. Looking for precursor behaviors!!!

"Fantasies are tantamount to planning sessions... ."

William Pithers, 1990

Mr. Jinks stated there are primarily four different types of Polygraph examinations. The sex history Polygraph is administered three to six months into the treatment program after the offender has written their sex history. In response to the question regarding how the information gleaned might be used against the individual, he shared that detailed information on past victims is not typically sought. The primary goal is to garner information

such as the name, age, and access they had to the victim. The information is vague to the point that it could not be used against the individual. However, it should be noted that the administrators of the treatment program could utilize the information. The fact that offenders know that a thorough sex history of their victims is a component of their therapy has proven to be valuable to the Colorado treatment program. He reiterated that it is common that offenders are in denial of their crime. "Many of them have pled without admitting to the crime itself". If the offender continues to be in denial, the Polygraph would be the first test conducted, as for treatment to be effective, the individual must admit the situation. "The Polygraph is extremely successful in accomplishing this". A Polygraph is also administered as the result of failing a previous examination or as the result of a recent allegation against them. These would be the most accurate examinations, as it would address a specific point in time, a very specific allegation. The maintenance polygraph, which is conducted approximately every three to six months, is conducted when the individual is under supervised conditions, such as being on probation.

Sex History Exam

- *Types of past victims (gender, age, relationship)
- *Frequency of assaults
- *Types of behaviors (voyeurism, rape, child molesting, internet)
- *Modus Operandi !!!!
 - Did they get friendly with parent?
 - Go to church to find single, exhausted moms?
 - Always engaged in obscene phone calls before rape?
 - Lured child with puppy?

Mr. Jinks reviewed the components of the sex history examination. He noted that the use of pets is a common modus operandi as pets attract children. "While a vast majority of such people are just fine and are doing it for sheer enjoyment of teaching kids", he is always suspicious of a youth sports coach, a Sunday school teacher, a boy scout leader and others who have no children. Unfortunately, "some of these people do this type of thing for the wrong reasons ... they prey on children and take those positions so they can be around children".

Specific Issue Exam

- * Used when offender is denying offense or significant aspects of the offense
- * Used when there is an allegation
- * Used to clear up a past deceptive test

Mr. Jinks stated that while an offender might admit to a sexual

assault they commonly deny that force was used. The specific issue examination could be used to address this issue. Oftentimes, offenders "will throw a bone" in the hope that efforts would concentrate on that. When such maneuvers are identified in the examination process, therapy would be used to address it, and a follow-up Polygraph is conducted.

Monitoring Polygraph

- * To monitor problem behavior...
- * Since entering treatment
 - While on probation/parole
 - Since the last polygraph exam
 - Conducted every 3-6 months

Mr. Jinks stated that the Monitoring Polygraph is conducted to evaluate a person's behavior while on probation as well as to evaluate whether the treatment program developed for the individual is working.

Monitoring Testing

- * Provided information on whether the offender is changing his lifestyle and applying what they are learning in treatment
- * Provides information on whether he is continuing to engage in high-risk behaviors

Mr. Jinks reviewed the Monitoring Testing component and reiterated that, initially for him, the amount of crossover behavior that was exposed in the post-conviction testing was surprising. "These guys are very busy, they are sexually motivated to a lot of different things and they are committing a lot of different sex crimes". He shared that he originally "had a preconceived notion in my business that a rapist... that was primarily his crime and he was just going to go after adult women". He has "found just the opposite to be true, they prey on everyone and anything at any time if given the opportunity".

Specific-Issue Tests Are Used to Clarify Risk Concerns

A specific-issue exam should be scheduled when concerns persist even after increasing surveillance.

Mr. Jinks warned that once the program is begun, even were an offender to pass the Polygraph, it is not the time to relax and think that the treatment has worked. "That is not the case many times". Oftentimes, an offender who passes a Polygraph test has the false impression that he has "free reign to do what he did before ... because everyone now trusts him..."

Polygraph as a Deterrent

Abrams and Ogard, 1986

Studied the deterrent effect of polygraph on offenders on probation:

- * Supervision with polygraph - 69% successful compliance with probation
- * Supervision without polygraph - 26% successful compliance with probation

Mr. Jinks read the information. The polygraph is a 24-hour leash as the possibility of undergoing another examination is on offenders' minds. People have been quoted as saying that they were "tempted to do" something decided against it because they knew a polygraph test was scheduled.

Examiner Qualifications

- * Graduated from APA accredited polygraph school
- * Colorado Standards: Minimum of 150 criminal issue exams.
- * Minimum of 50 clinical exams in 12-month period.
- * 40 hours of specialized training every 3 years.

Mr. Jinks stated that the tests with the 70-percent examination success rates were conducted by less experienced examiners. In addition to the scientific aspect of a Polygraph, "there is also the artistic approach". This is the area in which the Polygraph examiner's credentials are important. He reviewed the Colorado examiner qualifications. Post-conviction sex offender Polygraph examinations are "trickier" to conduct than other types of exams, due to the offenders' tendency to rationalize. Personally, he would require that an examiner conduct a minimum of four to five tests per week to retain qualifications. He shared that after not conducting an examination for a period of approximately ten days, the interviewing and interrogation technique process must be refreshed.

Implementation Considerations

- * Develop procedures
- * Educate therapists
- * Develop sex history questionnaires
- * Set examiner qualifications and requirements
- Videotape exams
 - * Develop system to track and use results
 - * Educate stakeholders
 - * Develop consequences

Simons, Heil, Ahlmeyer, 2003

Mr. Jinks reviewed the process and voiced that the State of Colorado is willing to share the questionnaires it has developed. The State of Alaska has, to date, already developed very thorough

Polygraph qualifications and requirement guidelines. Videotaping of the examinations "is a must", as, in Colorado's experience, offenders would say one thing during the Polygraph examination and then communicate something else to the therapist or deny that they had said something. Sex offenders have been "secretive and manipulative their entire lives...".

Summary: Value of Polygraph Testing in Risk Assessment

- Increase information on past offenses
- Evaluate treatment effectiveness/compliance
- Evaluate risk of child contact

Without the poly we're operating blind

Mr. Jinks stated that the increased amount of information retrieved from the Polygraph examination was recognized by correctional staff as having the most value. Polygraphs provided more complete and honest information that correctional staff had been able to obtain otherwise, and the acceptance of that fact led to "team" efforts in developing effective treatment programs.

Caution

- * Polygraph testing should never be used in isolation

- * Multiple methods should always be used
- * Polygraph = treatment = more information than Polygraph or treatment alone
- * Admissions made in the process of polygraph testing should be confirmed through collateral sources or retesting.

Heil, 2004

PEGGY HEIL, Consultant, Colorado Department of Corrections, shared that during the first ten of her twenty years experience in administering sex offender treatment programs, the benefit of Polygraph testing was unavailable. She would never desire to develop treatment programs again without it, as it would be akin to being "blind to what's going on". However, she warned that a Polygraph should not be used in isolation, as it would provide incomplete information. Under normal circumstances, only three questions could be asked during the Polygraph test and any additional information about the reason for an offender's deceptive might not be difficult to acquire. Someone would be required "to monitor their behavior" ... looking at what they are saying in treatment. What is needed is a collection of information from a variety of information sources, "including collateral information from family members, employers, etc". She stressed that "Polygraph plus treatment produces more information about the offender than Polygraph or treatment alone".

Options for Processing Information on Past Crimes

No Immunity

Specific information (i.e., date, place, name of victim) would not be collected on past crimes

Information on the range, type, and pattern of sex offenses would be collected

Information on the range and type of past crimes would be reported in an M.O. database that could be queried by law enforcement

Sentencing limitations

Specific information on past crimes would be obtained and reported to the appropriate law enforcement agency

If District Attorneys decide to prosecute they would utilize sentences, which increase the length of supervision but still allow for the possibility of community supervision when the offender is complying with treatment and monitoring requirements

Sentence options could include: lifetime probation, sex offender's act (1 day to life) or deferred sentence

Limited Immunity

Specific information on past crimes would be obtained and reported to the appropriate law enforcement agency

Offenders would sign a limited immunity agreement, which would include provisions that they would not be prosecuted on the offense as long as they complied with recommended treatment and did not reoffend

Full Immunity

Specific information on past crimes would be obtained and reported to the appropriate law enforcement agency

Offenders would not be prosecuted for past crimes

Heil, 2000

Ms. Heil stated that the Member's question pertaining to how the information gained from an offender's Polygraph would be treated could be addressed through a variety of options to include: no immunity; sentencing limitations; limited immunity; or full immunity. Colorado opted not to ask an offender for actual dates, locations, or names of victims; but rather choose to seek

information relating to patterns of behavior. These questions could include such things as the age and gender of the victim and the relationship category. A profile could be developed from such general information.

Ms. Heil stated that "other jurisdictions have worked with district attorneys to grant Limited Immunities" in that were an offender "to continue to participate in treatment, comply with supervision, then they would not be prosecuted for the crimes". Actual names, locations and other specific information would be collected, and were the offender to become noncompliant with the terms of their treatment, the information would be used for prosecution purposes. One of the positive results of limited immunity is that being able to identify a victim could allow assistance to be provided to them.

Ms. Heil stressed that the State of Alaska should decide how to address this issue prior to incorporating Polygraph testing.

Value of Treatment: Public Safety

Goal of Treatment is Public Safety		
<u>Recidivism Reduction</u>	<u>Information for Supervision And Detection</u>	<u>Prevention & General Detection</u>
Teach offenders lifestyle change	Determine offending Patterns of Specific offenders	Contribute to General Knowledge of Sex Offenses

Ms. Heil stressed that sex offender treatment is different than traditional mental health treatment. Contrary to the common belief that sex offenders could not be cured and that treating them is a "waste of resources ... there are several benefits to treating sex offenders". Teaching skills about how to manage their behavior and not re-offend is important. Similar to an alcoholic who might choose to drink again, they might "choose to re-offend"; particularly if they were under stress, as "they enjoy the behavior".

Ms. Heil stressed that efforts must be made within "the criminal justice system to create a culture that makes the choice to manage their problem more desirable than" re-offending. Polygraph is one incentive in that regard, as the offender knows that it would increase the likelihood of their being caught. There must be consequences for an offender not choosing to manage their behavior. Valuable information is discovered in treatment: "Why do they do what they do; the patterns" that occur prior to re-offending so

that intervention might prevent the occurrence of a new victim. Information that is provided could be used to develop new treatment plans; determine the appropriate housing for an offender after release; and increase the chance that someone who re-offends might "be caught sooner rather than later".

Ms. Heil shared that in Colorado, information about offenders' "crime dynamics" was shared with law enforcement, so that, were any unsolved crime to fit a known offender's pattern, action could be taken.

Ms. Heil stated that the final component learned in treatment is knowledge about how this behavior "develops in people"; how they "groom victims, or set up their offenses". This information is also shared with law enforcement, victim treatment providers, and others.

Ms. Heil distributed a statement written by a sex offender in treatment titled "Grooming Families and Children" [copy on file] that reads as follows.

GROOMING FAMILIES AND CHILDREN
Accountability Statement

The simple fact was, all of my victims were kids or had the mind of a child. And it's hard for someone to believe a child, or that I could do this, because I was the type of person who would help out when someone needed something, such as a ride, money, something fixed on the car or in the house. I would also make sure people knew that I was doing this. That way, if one of my victims did say something, I would tell them, "I couldn't do something like that. Look at what I've done. No. How could I do something like that? For some reason, the kid is lying." Then, I would bring up incidents where that child had lied.

I also set this up by giving the kid a toy or money, and when he told his parents about it, I would tell the parents, "No, it wasn't me. Hell, I can't afford to give my own kid money or toys like that," and just simple things like that. So, after a long time of making the child out to be a liar, that's when I would assault him. Then, if he did tell, no one would believe him. Most of the family was dysfunctional anyway, and all of my victims were either physically abused or mentally abused. So, communication in the family wasn't that good, and I know this from the story. And the parent didn't have time for the kids, or they just annoyed them.

Source	Admitted # of Sex Crime Victims Mean (Median)	
	Inmates (n=35)	Parolees(n=25)
PSIR	2(1)	2(1)
Sexual History	83(21)	4(2)
1st Poly	165(24)	6(3)
2nd Poly	184(26)	7(3)

Includes victims of contact and non-contact sex offenses
Ahlmeier, Heil, McKee, English, 2000

Ms. Heil shared that the inmates included in this polygraph study were in the advanced portion of treatment. Their treatment would have consisted of approximately nine months of four-times a week meetings. The parolee comparison group had not received any treatment in prison, had recently been released into the community, and had not started treatment at the point of Polygraph testing. While the deception rate was similar, the inmates, after initially being deceptive, provided accurate information during treatment. The parolees who were not in treatment, did not. This supports the fact that the combination of Polygraph and treatment would provide "the most information".

Sex Offender Treatment

*Offense Specific

- Non-trust basis/external verification of statements
- Verify changes in behavior
- Client's responsibility to change
- Client has choices
- CONSEQUENCES if directives are not followed
- Focus on present
- Limited confidentiality
- Behavior change reg'd

*Traditional Therapy

- Accept client statements as truth
- Client has choice to change
- Non-judgment and supportive of client choices
- No consequences for choices
- Focus on insight regarding the past
- Complete confidentiality
- No change required

Ms. Heil stressed that the sex offender treatment program, which is an accountability-based approach, is "very different from traditional mental health treatment". She reviewed both treatment program approaches. The sex offender program should include consequences for an offender's buying of such things as pornography as it "creates that interest and moves them closer to re-offending". Sex offender information is shared with the law enforcement community, as this is important in promoting safety.

Does Sex Offender Treatment Work?
Washington State Institute for Public Policy

<u>Type of Treatment</u>	<u>Recidivism Rate</u>	
	<u>Without</u>	<u>With</u>
Cognitive-Behavioral	6.4%	3.5%
Psychotherapy	6.4%	11.2%
Behavioral	6.4%	5.5%

Ms. Heil stated that different types of treatment were surveyed to address the question of whether the money spent on sex offender treatment "is a wise" expenditure of tax dollars. The findings indicate that traditional psychotherapy treatment increased the recidivism rate of sex offenders while the use of cognitive-behavioral treatment, "which is what sex offense treatment is", decreased the recidivism rate by half.

Intensity and length of treatment had a measurable effect on outcome
English, 2003

This finding is similar to drug and alcohol research findings

Ms. Heil stated that an intense and lengthy treatment program is required in order for an offender to manage their behavior.

Parole Outcomes 1993-2002
N=1585

"Phase 2" is the Therapeutic Community
*No treatment: 52.3% Completed; 47.7% Revoked
*Phase 1: 70.0% Completed; 30.0% Revoked
*Phase 1 & 2: 84.3% Completed; 15.7% Revoked

Differences are significant
Colorado Division of Criminal Justice, ORS

Ms. Heil stated that the sex offender treatment programs utilized by the Colorado Department of Corrections consists of two phases: treatment and polygraph testing while the person was incarcerated; and supervision, treatment, and polygraph testing when they were paroled and released into the community. She reviewed the findings associated with those who had completed parole with treatment to those who had received no or some treatment. Treatment resulted in "a cost savings", as those who fail and whose parole is revoked are sent to prison. This is a "more expensive location" than living in the community.

Parole Release v. Discharge

VIOLENT ARREST at 1 year

*No treatment: 8.4% Discharge from Parole n=1003
14.3% Discharge from Prison n=2040

*Phase 1: 3.0% Discharge from Parole n=1003
7.9% Discharge from Prison n=2040

*Phase 1 & 2: 0.9% Discharge from Parole n=1003
6.9% % Discharge from Prison n=2040

Differences are significant

Colorado Division of Criminal Justice, ORS

Ms. Heil noted that those who are discharged without parole were also studied and compared to those discharged with parole. The group that had parole supervision as they transitioned out of incarceration "did better as far as violent arrests".

Success is in the combination of prison
and community containment

Twin Rivers Correctional Center in Washington

*After 2000 days, 40% of sex offenders receiving only prison
treatment only prison treatment failed

*After 2000 days, 15% of sex offenders receiving prison
treatment and community treatment and supervision failed

Gordon & Packard, 1999

Ms. Heil stated that both groups in this study had received treatment while incarcerated; however, those who did not have follow-up supervision and services in the community had a higher failure rate.

Where will sex offenders live after their release from prison?

Research Regarding Living Arrangements

*Sex offender probationers living with their families in
Denver were more likely to have a criminal & technical
violation than those living in other types of residences

*For high-risk offenders, those with no support and living
with a family member or friends had the highest numbers of
violations

* Living with a family member or friends does not necessarily
mean that he or she is living in a supportive or healthy
environment

Colorado Sex Offender Management Board, 2004

Research Regarding Living Arrangements

*Those who had support in their lives had significantly lower numbers of violations than those who had negative or no support

*Recommendation -Efforts should be made to ensure that the sex offender's support is positive in order to aid in his or her treatment

Colorado Sex Offender Management Board, 2004

Ms. Heil stated that some treatment providers in Colorado tested a program called Shared Living Arrangements, in which offenders live together in a house with supervision and receive treatment including Polygraph testing. While some people were concerned that sex offenders were living together, this study indicated that those receiving this type of support re-offended less and had fewer other problems than those who lived with their families.

Positive Support Defined

*Awareness of the cycle, offense patterns and early abuse signs

*Familiarity with the offender's schedule and whereabouts

*The ability to enhance and encourage application of the offender's treatment tools outside of the therapy setting.

*A working relationship with the treatment provider and criminal justice supervisor.

*The ability to acknowledge the seriousness of the offending behavior

*The ability, skills and tools to hold the offender accountable early in the onset of risky behaviors.

*Willingness to report non-compliance to the containment team.

Ms. Heil stated that those offenders who had positive support upon their release had the fewest re-offenses.

Senator Olson asked for further information as to how the Shared Housing scenario provided a more positive outcome.

Ms. Heil responded that those living in a shared living arrangement benefited because others in the house who were in treatment and were subject to Polygraph testing would report something another offender was doing in order to avoid having themselves held accountable and jeopardizing their own supervision. Therefore, they, in a sense, became a positive support group, as they would report when another was "engaged in high risk behavior".

The Containment Approach: Quality Control

*Training training training

*Written protocols

*Adequate supervision

- *Standards for practice
- *Regular team meetings
- *Individual treatment plans
- *Measures of progress/program evaluation

Or how will you know if you are getting anywhere?

Ms. English stressed that "the Containment Approach would save money in the long run". A lot of training would be required for everyone involved. Therapists, Polygraph examiners, and law enforcement personnel must work together and understand everyone's role in the process. Individualized management plans are crucial to an offender's success and would assist in deterring the committing of a new sex crime.

Cost Benefit

Considering benefits to crime victims in addition to taxpayer, each taxpayer dollar spent on a cognitive-behavioral program for adult sex offenders returns between \$1.19 and \$5.27 in victim and taxpayer benefits

Washington State Institute for Public Policy

Ms. English stated that the Washington State Institute for Public Policy routinely conducts benefit analysis on a variety of issues. Recent estimates indicate that for every dollar invested in treatment would result in a minimum \$1.19 return. Were the "mammoth victimization cost" of \$86,000 per victim included, the return would exceed five dollars.

Senator Dyson asked for further clarification regarding the \$86,500 victim expense.

Ms. English replied that \$86,500 is the estimated lifetime cost.

Senator Dyson asked whether this amount excludes State and taxpayer expenditures.

Ms. English replied that the majority of the costs "would be borne by [the] public eventually". It would include such things as lost work time, hospitalization and medical costs, and criminal justice response expenses.

Senator Dyson suggested that the manner in which this information is presented should be reexamined as it implies that \$86,500 is the cost to the victim.

Ms. English appreciated the input and stated that the information would be revisited.

Senator Dyson understood therefore that the cost to the victim includes such things as mental health issues, missed work, and failed relationships. He inquired to the direct costs to the public for such things as the perpetrator's incarceration, Court System services, treatment, and other services. He assumed that those expenses would exceed \$86,500.

Ms. English could not recall the specific items included in the cost study.

Senator Dyson clarified that the question is whether the total cost of the crime would significantly exceed \$86,500.

Ms. English affirmed that the total cost would be significantly more. Incarceration expenses typically exceed \$25,000 per year per person.

Ms. Heil pointed out that the victim expense figure is dated. No more recent study is available. It is likely that the costs have increased.

Senator Dyson asked the percent of sex offenders who are female.

Ms. English commented that the number of female sex offenders is less than ten percent. However, "the reporting rate for those who have been victimized by women is even lower than the" reporting rate of those victimized by men.

Senator Dyson voiced being surprised that approximately one-third of the victims in Alaska are male child victims. He asked whether this percentage was similar to that experienced in Colorado.

Ms. English affirmed that it was.

Senator Olson noted that Alaska has "a disproportionate number of Alaska Natives" incarcerated. Therefore, he inquired whether the study could provide a breakdown in this regard.

Ms. English asked for clarification whether the question is in regard to cultural differences.

Senator Olson affirmed.

Ms. English replied that the Containment Approach "is culture neutral". There is no reason to think it would not work uniformly.

Senator Dyson remarked that alcohol is involved in a

disproportionate number of violent and sexual crimes in Alaska. He asked whether this is reflected in the research.

Ms. English replied that, "lots of times there is alcohol and drugs involvement". Offenders often attempt "to get victims intoxicated". Even were alcohol or drug use to be a concern of a sex crime, "the substance abuse would be secondary" to the "sex crime". It would get treated, but it is not "an excuse".

Mr. Jinks interjected that from a Polygraph standpoint, alcohol and drugs are not a common factor in child molestation cases; however, they are often a component in rape cases.

Ms. Heil added that many offenders intended to commit a sexual assault. "They took drugs to boost their courage to go ahead and act out". Alcohol and drugs could make victim more vulnerable. Therefore, alcohol gets involved in many ways. "It is a unique issue in and of itself". The sex offending issue must be addressed, and if substance abuse "is a risk factor in their pattern of behavior", it must also be addressed.

Senator Dyson stated that, according to the information regarding recidivism rates, it appears that child molesters with male victims have more victims.

Ms. English replied that research "suggests that".

Senator Dyson noted that this population also appears to have a higher recidivism rate.

Ms. English stated that, "they seem to get caught more". "It's hard to know; but child molesters with male victims often are perpetrating outside the family". She referenced the statement distributed earlier by Ms. Heil that was written by the child molester, which specified how a child was "set up". In her opinion, "the recidivism rates make more sense" when the crossover" information is considered, as it clarifies "how busy they are".

Senator Dyson inquired regarding the purpose of this presentation. He assumed that the purpose was to develop a similar approach in this State.

Commissioner Antrim affirmed. He stated that the Department would be implementing a pilot program in Anchorage in the summer of 2005. The sex offender assessment portion of the program has already been conducted. This would be tied in with the treatment, polygraph, and supervision components. A \$500,000 increment is included in this year's budget to support the program.

Senator Dyson asked whether the three consultants services would be utilized.

Commissioner Antrim affirmed that they would serve in a "guide" capacity in getting the State's program established. The State would have its own in-State personnel.

Co-Chair Wilken understood therefore that an associated increment would be forthcoming in the FY 06 budget.

Commissioner Antrim affirmed. He thanked Committee Members for the opportunity to present the information to them. "Protecting children is one of this Administration's biggest efforts...". It is the Department's "single most important thing we can do to do that". The Containment Approach would prevent more victims. The approach has wide-ranging implications at the Department and the community level.

Co-Chair Wilken thanked the Department and the presenters for the information.

#

ADJOURNMENT

Co-Chair Wilken adjourned the meeting at 10:34 AM.