

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 18, 2009

1:34 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Kim Elton
Senator Lesil McGuire
Senator Gene Therriault

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

Overview: Containment Model of Offender Management
HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

ANTHONY M. MANDER, PhD
Statewide Clinical Consultant
Sex Offender Programming
Anchorage, AK

POSITION STATEMENT: Discussed the Containment Model of Offender Management.

ROSE MUNAFO, Coordinator
Criminal Justice Planner for Sex Offender Programming
Department of Corrections
Anchorage, AK

POSITION STATEMENT: Provided information related to the Containment Model of Offender Management.

DWAYNE PEEPLES, Deputy Commissioner
Department of Corrections
Juneau, AK

POSITION STATEMENT: Provided information about polygraph use for sex offenders.

BERNIE TROGLIO, Probation Officer
Department of Corrections
Anchorage, AK

POSITION STATEMENT: Provided information related to parole revocation rates for sex offenders.

ACTION NARRATIVE

[1:34:40 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Elton, Wielechowski and French. Senators McGuire and Therriault arrived soon thereafter.

Overview - Containment Model of Offender Management

CHAIR FRENCH said the business before the committee is to hear an overview of the containment model of offender management. Hopefully this is just the first of what will be a series of hearings on various aspects of the problems of sex abuse and sex assault. Alaska leads the nation and we have to figure out where we can improve the system so that the next generation of Alaskans doesn't live under these high rates of sex assault and sex abuse of a minor.

[1:35:36 PM](#)

ANTHONY M. MANDER, Ph.D., statewide consultant for sex offender programming for the Department of Corrections introduced himself, Commissioner Joe Schmidt, and Deputy Commissioner Sam Edwards. He also introduced Rose Munafo who is the criminal justice planner for sex offender programming, Bernie Troglio who manages the supervision of sex offenders statewide, Laura Brooks who is in charge of mental health programs, and Donna White who is in charge of community corrections.

He noted that Commissioner Schmidt and Deputy Commissioner Edwards were most helpful in getting a rural program and halfway house started in Bethel and he is most appreciative.

[1:37:55 PM](#)

Senator McGuire and Senator Therriault joined the committee.

MR. MANDER described the containment model as a three-legged stool. The first leg of the model is sex offender specific treatment that is designed to teach offenders to recognize and control high-risk behavior including deviant thinking and affect

that leads to sexual offending. The second leg of the model is very specific monitoring of the sex offender. The treatment providers supply information, when available, to the supervision staff so they know what to look for in the field when offenders have been released. The third leg of the containment model is the polygraph examination; there are three types. First is the specific issue polygraph on denial that helps offenders work through denial issues related to their sexual offenses. He noted that in one study, fully 50 percent of convicted sex offenders completely denied having offended and another 48 percent had some sort of partial denial of their behavior. For example, they may have denied using force claiming the behavior was consensual. In that particular study, just 2 percent of the offenders admitted to all the behavior they were charged with.

MR. MANDER reported that a study he conducted in 1999 found that some 90 percent of the offenders had some form of denial, which is a problem. You can't help someone with a problem they don't admit they have so one of the first things they do with the polygraph assessment is to help the offender through their denial. It's only then that they're able to look at the underlying process and find out how they got into an offending cycle.

The second type of polygraph is a sexual history polygraph to find out what the offender has done over the course of their life. The offender fills out a variety of sexual history forms and then is given a polygraph to determine the truthfulness of their admissions. Basically, what they learn up front is the tip of the iceberg. The true nature of their offending doesn't become clear until completion of the sexual history polygraph.

The third type of polygraph is a maintenance and monitoring polygraph, which is designed to ensure that the offender is following the conditions of probation and parole. These polygraphs are very critical when an offender is placed in the community to tell if they are falling into a relapse cycle.

[1:44:09 PM](#)

CHAIR FRENCH asked him to clarify that all polygraphs take place post release from prison.

MR. MANDER replied that's correct; no polygraph work is done in the prison at this point. He noted that colleagues in Colorado do polygraph assessments in the prison treatment program. The benefit is that the offenders have gone through the denial phase and had their sexual history polygraphs prior to release. That's

important because you'd know what the offender has done so you'd know who to protect once they are released and back in the community.

MR. MANDER explained that what happens in Alaska is that 84 percent of polygraphs done in the community are the third type - the maintenance and monitoring polygraphs. With good reason, probation officers are most concerned with what the offender is doing today. If an offender is having unauthorized contact with kids or is stalking a potential victim, probation officers need to know about that immediately. The denial and sexual history polygraphs aren't done because they're in that reactive situation.

SENATOR ELTON noted that after the Governor signed the budget last year and after she asked the departments for proposals on potential savings, Department of Corrections sent the following recommendation as part of a July 31, 2008 memo:

Third year fiscal note funding for sex offender polygraphs - \$752,500.

1. The sex offender polygraph program is under performing. However, it has recently shown improvements in our ability to hire qualified polygraphists.

2. We propose to restrict the funding for 2 PFT probation positions until the program is performing at full levels.

He asked why there was a recommendation to not do what the Legislature thought was happening.

1:48:20 PM

DWAYNE PEEPLES, DEPUTY COMMISSIONER, Department of Corrections, explained that the money was a continuation of what had been start-up money. DOC listed a series of options for the Governor's office to select from and those were rejected. "We were told to go back and manage some other way," he said.

SENATOR ELTON asked for clarification that the money was spent for the program.

MR. PEEPLES confirmed that it was.

MR. MANDER described the polygraph as an information gathering system. It provides information about an offender's offence pattern that would be difficult to get otherwise, because sex

offenders naturally cover up their offending history. In FY08 DOC conducted polygraphs on 247 sex offenders released on community supervision. Only 9 had passed their sexual history polygraph examination. As previously mentioned, that was largely due to the fact that examiners were doing maintenance polygraphs and weren't able to get to the sexual history polygraph. Prior to passing the sexual history polygraphs, those 9 men had 12 known victims between them; after the polygraph the number of known victims increased to 42 victims – an average of 4.67 per offender. Before the polygraph they had 4 known adult victims and 7 known child victims; after passing the polygraph this jumped to 9 known adult victims and 33 child victims. None of the 9 offenders initially admitted to having male victims, but after passing the polygraph there were 8 male victims. Mr. Mander emphasized the importance of this information for two reasons. Not only is it important to know what victim classes to protect, but also because offenders with male victims recidivate at much higher levels. He noted that Colorado data indicated that at sentencing each offender had an average of 1 victim. After passing the sexual history polygraphs, the average jumped to 11 victims.

MR. MANDER said polygraphs also provide information on the issue of crossover. That is when an offender assaults in multiple age, gender, and relationship categories. Although offenders frequently do have a preferred victim type, it's proven to be false that they restrict themselves only to that victim type. In a study of 411 sex offenders, 50.6 percent of the rapists also admitted to molesting children. Another study of 127 rapists found that 64 percent of the men admitted to having child victims. Yet another study found 50 percent of child victims among rapists and another 15 percent were deceptive on the polygraph. Probably 50 percent to 65 percent of rapists also have child victims.

1:52:47 PM

SENATOR ELTON asked if the victims are identified and referred to victim services.

MR. MANDER clarified that the victims he's talking about are from the past; some are receiving services and some haven't been identified. When information on the victims is available the probation officers can facilitate getting victim services, but they don't search them out.

SENATOR ELTON suggested that if they can identify a child victim it seems that there may be a benefit to the state to offer

family services to that victim. Some of them will have difficult times and that will lead to costs in the future.

MR. MANDER agreed completely. National statistics show that the average cost per victim is about \$86,500 because a variety of agencies are impacted. In addition to family services and mental health agencies, the education system also is impacted because many of these students don't do well in school. They're 6 times more likely to suffer from post traumatic stress syndrome, 3 times more likely to suffer from depression, and 13 times more likely to attempt suicide. It's very important that there's coordination between departments; some states actually have a sex offender management board. Agency representatives sit on the board and help provide objective oversight to sex offender programs and assist in writing policy about procedures to follow. In those systems it's easier to pass information about victims back and forth and to get services to them.

[1:56:22 PM](#)

CHAIR FRENCH asked what the state is doing today with respect to specific treatment for sex offenders.

MR. MANDER explained that they do cognitive behavior treatment working to get the offenders to recognize the thoughts, emotions and behaviors that bring about relapse patterns. Currently, all the programs are community-based; the last institutional program was closed in 2003 by the previous administration. Recently a 20-bed halfway house program was opened in Bethel to serve the Yukon Kuskokwim region. That along with the 10 or 12 community slots in Bethel is the only institutional program at this point. There are community-based out-of-treatment programs in Juneau, Ketchikan, Kenai, Anchorage, Fairbanks and Palmer.

CHAIR FRENCH asked if it's fair to say that a rapist or child molester who is sent to state prison will be released without having been forced to go to treatment or undergo a polygraph examination while in prison.

MR. MANDER replied that's right. There's no treatment in prison at this time, but they will have had a risk assessment. He does about 50 of those every year and 2 other providers do another 40.

[1:59:41 PM](#)

CHAIR FRENCH asked if the risk assessments are targeted at offenders that may need that focus or if it's a random check on who is released.

MR. MANDER explained that they focus on offenders who are close to release and then on those who are the highest risk. Resources are insufficient to assess everyone.

ROSE MUNAFO, Planner, Criminal Justice and Sex Offender Programming, Department of Corrections, added that even when there was institutional treatment, they didn't have the authority to force a sex offender to go to treatment. "We could recommend it, sometimes the court would order it, but we really could not make anyone do treatment, which is unfortunate."

CHAIR FRENCH noted that the courts had some back and forth about what it meant to fail treatment or to revoke probation for failing to complete treatment, but he doesn't recall the outcome.

MR. MANDER said HB 366 addressed offenders who were court ordered to treatment and then removed unfavorably. They could lose their mandatory good time.

[2:01:25 PM](#)

SENATOR MCGUIRE asked if they use biofeedback in the cognitive assessments.

MR. MANDER said no.

SENATOR MCGUIRE asked if they've considered it.

MR. MANDER replied biofeedback is a stress management treatment whereas a cognitive behavioral approach has proven to be more successful with sex offenders. In any kind treatment certain techniques might be used to deal with specific problems, but a lot of the traditional techniques either don't work or exacerbate the problem. Some studies actually show an increase in recidivism when certain traditional methods are used while current research indicates that the cognitive behavioral approach actually is working to reduce recidivism. They focus on a cognitive behavioral approach primarily because it's the best practice at this time.

SENATOR MCGUIRE asked if they do any sort of exit assessment to assess what each offender will look like in the community. One of the questions ought to ask whether they're likely to reoffend.

[2:04:14 PM](#)

MR. MANDER explained that the risk assessments they perform are a form of exit interview. They use tools to come up with a best guess of which people are the most dangerous with respect to the kind of harm they might cause if they recidivate. For example, one offender may expose himself and have thousands of offenses but never touch anybody, whereas another offender may have fewer offenses and be very dangerous when they do offend. They evaluate that information, they write a report and make recommendations to the probation officer, the offender, and the safety nets in the community. Safety nets are people who are in a position to observe the offender on a day-to-day basis and are trained to observe and report any signs of pre-relapse. The offenders that get risk assessments receive them pre-release. Everyone doesn't get a risk assessment because of insufficient resources.

MR. MANDER said he believes that institutional treatment is needed, particularly for the most dangerous people. While some offenders could be treated effectively in a half-way house and some could do fine with just community treatment, there are others who need intense institutional treatment prior to release. Those offenders probably should go through all phases of an institutional program, a half-way house program, community treatment and intense post-release supervision. But there aren't resources for that right now.

SENATOR MCGUIRE reminded him that when the Oregon project came to Juneau and when the legislation was passed, the mindset was one of acceptance that ratcheting up penalties for this group of people doesn't work. This population needs to be contained to prevent future harm to children and people in the community. Although she's cognizant of the institutional treatment he's discussing, she would be more interested in having baseline assessments and exit interviews for all sex offenders. She asked what the Legislature can do to help.

[2:08:39 PM](#)

MS. MUNAFO said the reality is that all sex offenders cannot be supervised to the maximum so there has to be a way to focus on the people that are the most high-risk and will do the most harm if they reoffend.

[2:10:25 PM](#)

CHAIR FRENCH commented that she and Senator McGuire are saying the same thing. What we want you to do is to use the polygraph to find out who is the most dangerous and focus on them, he said.

MR. MANDER pointed out that in FY08 there were 157 petitions filed to revoke probation on sex offenders and 127 of those were for substance abuse or general non-compliance. 30 petitions were filed for sexual breaches, which could be for possessing pornography or having unauthorized contact with a child. That information was obtained through polygraphs so the probation officers were able to intervene before a new offense happened. "That's the containment and that's what the polygraph allows us to do," he said.

MS. MUNAFO added that the other piece is the treatment because that's where you get the sex history. If it's a matter of record that an offender has one or more adult female victims, it's when treatment is supplemented by polygraph that you learn that he also has small children victims and little boy victims.

CHAIR FRENCH clarified that the polygraph examiners gather the information, which is passed to the treatment providers. He asked for a sense of the number of treatment providers statewide who confront these sex offenders with the polygraph results.

[2:13:06 PM](#)

MR. MANDER replied there are multiple providers in most areas. Historically, the community programs were set up and funded as aftercare programs for the institutional programs. When the men were in prison they were in group treatment every day for several hours and had individual treatment several times a week. Some had family sessions as well, but not often. The community programs were funded for an hour and a half group session once a week and an individual treatment session once a month. It takes community program treatment providers longer to get to know these men and figure out their risk signs.

MS. MUNAFO added that they're in the community and posing risk while the treatment provider is figuring it out versus in a secure environment. In several states the litmus test on whether or not a person is ready to leave institutional treatment is if they can pass the sex history polygraph. In this state we don't find that out until the offender's back out on the street for several months if not a couple of years.

CHAIR FRENCH said he's going to have buttons made that say, "POLYGRAPHS IN PRISONS" and ask people in the capitol to wear them.

MR. MANDER said they'd appreciate his following through on that.

2:15:09 PM

SENATOR WIELECHOWSKI asked if the 157 petitions to revoke parole were based on polygraphs.

BERNIE TROGLIO, Probation Officer, Department of Corrections, said not all, it's partially based on the polygraph and the other part is based on technical violations.

MS. MUNAFO added that more than just polygraph evidence is needed to go to court. For example, if you're testing an offender about whether or not he's had inappropriate contact with potential victims, you'd do a maintenance polygraph asking about contact with children in preferred and other age ranges. If he's failing the polygraph, then his probation officer can confront him with the results. If he still denies, you take steps to contain him by watching more closely and restrict his movement. If he's still not responsive, you'd file a petition to revoke probation based on the fact that he's not doing what his conditions of probation or parole mandate.

MR. MANDER added that it begins with the polygraph. Another tool to contain an offender is surveillance.

2:17:22 PM

SENATOR WIELECHOWSKI referenced the "Summary Outcome Information" in the data sheet from DOC and calculated that 67 percent of the people in community treatment reoffended, which seems very high. He recalled that the recidivism report that came out a year or so ago indicated that the recidivism rate for sex offenders was 30 to 40 percent.

MR. MANDER said it's a fair question and they'd look at the data more closely because recidivism for sex offenders is generally lower than for generic offenders. Typically it's 20 to 30 percent over a long period of time. Looking just a year out of prison will give a lower rate, which is why it's usually expressed in terms of a survival curve.

2:20:27 PM

SENATOR MCGUIRE said studies she's read report rates as high as 70 and 80 percent. The basic premise of the Oregon containment project was that despite all types of treatment and stiff penalties, this population continues to reoffend. She continued:

I think it's really important that Alaskans not misunderstand, and have on the public record that it's

only a 20 percent recidivism rate for sex offenders in this state. I don't think that's the number. And I don't know how the data is being put together in this particular compilation, but I would appreciate it if you could go back and look at those numbers and make an effort to see what are the true sex offenders and what is that rate within Alaska. And then perhaps compare it to the most current national average.

CHAIR FRENCH noted that one of the UAA Justice Center researchers will talk to the committee about those data points as well as case attrition. "It's a narrowing pool that you work through until you get to a convicted sex offender that we're focusing on today," he added.

MR. MANDER agreed to provide additional information.

[2:22:32 PM](#)

MR. MANDER highlighted the need to improve data collection and analysis and said they will continue to work with UAA. It will also be important to recreate community treatment programs in rural areas like the one in Bethel. That program has gone well and they hope to have polygraph examinations there sometime this or next year.

CHAIR FRENCH referenced the table on page 2 of the handout and asked how many polygraphs were administered to the 247 sex offenders who in FY08 were on community release.

MR. MANDER clarified that the numbers in the table are cumulative; 668 polygraphs were administered as of 12/31/08.

CHAIR FRENCH said he's trying to get a feel for how often those 247 individuals were given polygraph examinations.

MS. MUNAFO explained that it varies by individual but typically someone would be given a polygraph examination about four times a year.

CHAIR FRENCH asked what happens in Bethel, for example, if polygraph examinations are a condition of parole and there isn't an examiner in the community. "What do you do for those individuals in the YK Delta?"

MS. MUNAFO replied it's not much different in the YK Delta than Anchorage, Fairbanks, Juneau or anywhere else. Post-conviction sex offender polygraph examination is a specialized field that

requires additional schooling after becoming a polygraph examiner. Currently only two of the seven qualified examiners live in Alaska. The other five fly up from the Lower-48 so flying to Bethel isn't much different than flying to Fairbanks, for example. She surmised that Alaska someday will have a contingent of polygraph examiners who have been trained to assess sex offenders. Judging from the experience of other states, it'll probably be five to ten years from now.

2:27:58 PM

SENATOR MCGUIRE suggested there's room to consider volunteer preventative polygraph examinations for incest and child molestation. By the time someone is in the system for these crimes, the souls of the people who have been left behind are, for all intents and purposes, injured for life. We need to think about things to do at the outset, before a child's life is taken permanently, she said. If you haven't thought about it, would you consider having that discussion in the future, she asked.

MS. MUNAFO said she's given it a lot of thought and she has information to provide, but education is the key. It takes a long time, but communities have to be educated such that they don't tolerate sex abuse and they develop a way to deal with it. Vermont started a program about 15 years ago that was voluntary in the sense that offenders could call in anonymously and get help for their victim and themselves. Mississippi has the "Stop It Now" model. Early intervention and education in the school is part of it and that's what the sex offender management model does. We'd want to consider that here, she said. When you have people looking at the sex offender programs who deal with the victims day in and day out they start to become more aware of what happens to victims and so you get the early prevention. People are going into the schools to work with and help kids beyond the "good touch bad touch" teaching. It's more than cursory.

2:33:04 PM

MR. MANDER relayed that a provider started a safety-net program in the community of Metlakatla. Over time he had trained about 50 people so that eight offenders in the community each had a safety-net team that was knowledgeable about their relapse cycles. Most of the offenders had been through institutional treatment and were cooperative, but one refused to develop a safety-net team so community leaders came forward to form a community safety net. Ten or twelve community members met the man when he returned and told him that he was welcome in Metlakatla, but his behavior was not welcome. Community

education is very important and more needs to be done in that area, he said.

[2:35:14 PM](#)

CHAIR FRENCH asked Ms. Munafo to send the information she has his office and he'll distribute it to other members.

SENATOR ELTON asked what the end result is if DOC is compelled to meet a court order that mandates a particular treatment regime for a sex offender and it doesn't happen. He noted that it had been an issue when a now retired Juneau superior court judge ordered a certain treatment regime that wasn't done.

JOE SCHMIDT, Commissioner, Department of Corrections, explained that DOC doesn't have sex offender treatment in prison right now. They asked for a program last year and will ask for one again this year, but they're expensive. If a judge were to order treatment it's likely that DOC would be out of compliance and would return to the Legislature to talk about a solution. "I don't know how we could comply without funding," he said.

[2:38:32 PM](#)

MS. MUNAFO suggested it's important to analyze all the factors and consider how expensive it is not to provide sex offender treatment programs in prisons.

CHAIR FRENCH said it sounds as though the ball is in the Legislature's court. We're in the budget sub-committee process now and it's good we've had this conversation to highlight the need to focus on that and other aspects, he said.

MR. MANDER highlighted the importance of considering victim costs because the overall financial impact across departments is enormous. If each victim costs \$86,500 in the Lower-48, it's probably \$100,000 for each victim in Alaska. "We don't have to prevent that many victims in order to pay for our programs," he said.

COMMISSIONER SCHMIT added that those are good justifications to do what we're trying to do and he could show the victim costs to the Legislature. But the fact remains that without funding DOC would be out of compliance in the meantime.

MS. MUNAFO said it's more than just a fiscal cost; there's a societal and human cost to not addressing something that causes such devastation in communities.

2:40:40 PM

CHAIR FRENCH thanked the participants and adjourned the Senate Judiciary Standing Committee at 2:40 pm.