

## CHAPTER 10

# Sex Offender Polygraph Testing in the United States: Trends and Controversies

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PEGGY HEIL AND KIM ENGLISH

### AN IMPORTANT PREFACE

Sex offenses are carried out in secrecy and are seldom reported (Tjaden & Thoennes, 2006). Offenders may also conceal high risk behaviors that are frequently associated with sex offending. The polygraph examination is a useful tool for sex offender management professionals seeking to provide appropriate treatment for clients who are likely to have secretive lifestyles.

The polygraph is a lightning rod for controversy. This is unfortunate, but not because the use of the polygraph, like all intervention tools, requires ongoing scrutiny. It is unfortunate because the controversy distracts from the core dilemma. Sex offenders, like everyone else, must become honest to live a healthy, non-secretive lifestyle. The polygraph is to sex offender management what urinalysis testing is for drug treatment: a tool to assist the offender to stay the course of treatment. Its use underscores the need for honesty and serves as an

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*The Use of the Polygraph in Assessing, Treating and Supervising Sex Offenders: A Practitioner's Guide*  
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acknowledgment of the extreme difficulty in making significant and lasting lifestyle changes.

This chapter will review a myriad of issues that often overshadow polygraph testing generally and post-conviction polygraph testing specifically. First the history of the post-conviction polygraph examination is reviewed and this is followed by discussions of the value and controversies that surround its use.

### HISTORICAL CONTEXT

The use of the polygraph in the United States is common. Polygraph testing is typically used in the military, employment screening and law enforcement interrogation. Prosecuting attorney's offices often employ polygraph examiners, and defense attorneys frequently request clients undergo examinations. The military conducts approximately 30,000 polygraph tests per year with crime suspects and monitoring of espionage activities. In 1986, Congress established the US Department of Defense Polygraph Institute (DODPI) to provide research, training and quality control of military tests. DODPI also funded the development of computerized polygraph systems. Although decisions are made based on polygraph examination findings, these findings are rarely used in criminal courts.

#### A History of Polygraph Testing of Sex Offenders in the United States

According to Abrams and Simmons (2000), polygraph testing with property offenders dates back to the mid 1960s in Chicago with a judge who considered its use a '24-hour tail'. A judge in Portland, Oregon used the polygraph in 1973 to allow offenders with extensive criminal histories to be supervised in the community (Abrams & Simmons, 2000). Probation and parole officers along with treatment providers in Oregon and Washington began to use polygraph testing with convicted sex offenders in the mid- to late 1970s.

Use of the polygraph with sex offenders grew in the western United States and eventually expanded to jurisdictions across the nation. In 2000, English and colleagues (English *et al.*, 2000) conducted a telephone survey with a nationally representative sample. Researchers surveyed 732 probation and parole agencies and found that jurisdictions in 30 states were using the polygraph in sex offender management in the late 1990s.

In 2000, Burton and Smith-Darden surveyed several hundred treatment programs in North America for Safer Society

(Burton & Smith-Darden, 2001). The researchers found that 60% of adult community-based treatment programs, and 37% of adult residential programs used the polygraph. About one-third of adolescent community-based treatment programs and 19% of adolescent residential programs used this tool. This was the first survey to differentiate polygraph use across program types. The findings indicated that polygraph was used more frequently with community clients than residential clients, suggesting recognition of the risk this population posed to public safety. The next survey, conducted by McGrath, Cumming and Burchard in 2003, found over 70% of adult and 45% of juvenile community-based programs were using the polygraph (as cited in Kokish, 2005). The results indicated an increase in polygraph use across adult and juvenile community-based programs from the Burton and Smith-Darden 2001 survey.

While the polygraph was primarily used with adults in early years, it was also used with juveniles in some jurisdictions. For example, treatment programs in Oregon have used it with juveniles since the early 1980s, and Colorado began in the early 1990s. The American Polygraph Association recommends that it not be used with youth younger than 14, but some programs occasionally use it with offenders as young as 10.

Although many jurisdictions have set age limits for the use of the polygraph with young offenders, functional age is probably more important than biological age in determining whether polygraph testing is appropriate. A polygraph client regardless of age must be able to sit still, concentrate and follow what is being said. The individual must fit well into the cuff (specialized components have been designed for smaller persons), maintain reality contact, use abstract thinking, understand right from wrong, know the difference between truth and lies, and understand potential rewards and consequences. When testing youth, generally informed consent is obtained from parents or guardians as well as the examinee. Although there have been concerns regarding the emotional impact of using the polygraph examination on juveniles, one study of youth aged 13–18 found no adverse emotional reactions on the part of the youth (English *et al.*, 2002).

Finally, the use of the polygraph in the context of sex offender management continues to grow. Perhaps more importantly, its use continues to evolve as important questions are raised and addressed. A serious issue concerning 'compelling' individuals to incriminate themselves was resolved when the court stated that individuals under probation supervision were not in custody (*Minnesota v. Murphy*, 465 U.S. 420, 1984) and were free to invoke their constitutional protections against self-incrimination under the 5th Amendment. However, there is

considerable variation across jurisdictions in terms of implementation and consistency of practice remains an issue. Research and case law, along with practitioner experiences, will continue to define and refine practices in the US. Some of the current pressing issues in the use of the polygraph are discussed later in the chapter.

## WHY IS POLYGRAPH TESTING NEEDED?

### Under-Reporting of Sex Offences

The polygraph is vital to obtain information about offenders who are in treatment and under supervision; very little is known about their actual criminal past. This is because few sex crimes are reported to law enforcement, which assists offenders in keeping the secrets of their abusive pasts.

General population surveys in the US on sexual assault victimization suggest that few sex offences are reported to law enforcement agencies (National Victim Center and Crime Victims Research and Treatment Center, 1992; Tjaden & Thoennes, 2006). The most recent Violence Against Women survey in the US found that only 19 % of rapes of adult women and 13 % of rapes of adult males are reported to law enforcement (Tjaden & Thoennes, 2006).

Certain types of sexual assault victims, including younger victims and victims who know the perpetrator, are especially unlikely to report offences to law enforcement (Smith *et al.*, 2000). Not surprisingly, Hansen *et al.* (1999) found that stranger perpetration, physical injury, or life threat increased victims' disclosure.

### Underestimation of Offenders' Past Histories

Moreover, criminal justice records frequently underestimate the extent of an offender's past history. This assumption is supported by Abel's groundbreaking research. In 1988, Abel, Becker, Cunningham-Rathner, Mittelman and Rouleau interviewed paraphiliacs under conditions of guaranteed confidentiality and found that only 3.3 % of the paraphiliacs' self-admitted hands-on sex offences, such as rape and child molestation, resulted in an arrest. Less than 1 % of hands-off sex offences, such as exhibitionism and voyeurism, resulted in the offender's arrest.

It is clear that additional information, beyond criminal justice records, is needed to accurately assess an offender's risk of offending and to develop individually tailored treatment/supervision plans. However, the offender's risk can be understood only by knowing the age of

onset, frequency, variety and duration of the behavior. Research on sex offenders specifically, and criminology in general, has established these dimensions of criminal behavior as the strongest predictors of future crime. According to Monahan (1981), 'If there is one finding that overshadows all others in the area of prediction, it is that the probability of future crime increases with each prior criminal act' (p. 4).

### Difficulty of Monitoring Offenders' Progress in Treatment

Another reason to use polygraph testing with sex offenders is that it is often difficult to monitor an offender's progress in treatment. For example, an offender may understand the material presented in treatment, but choose not to apply what has been learned, which makes it difficult to determine whether he is incorporating treatment skills into his lifestyle. Maintenance polygraph testing provides a useful tool to monitor these changes. Questions can focus on whether the offender is having unauthorized contact with children, masturbating to thoughts of a child, or engaging in other high-risk behaviors. Such information allows professionals to intervene before a new sex offence is committed. This is the objective of using monitoring polygraph tests. However, when new crimes are not prevented, monitoring polygraph exams can also be used as a tool to detect additional offences, allowing supervising officers to quickly initiate an investigation that might stop further offences.

### A Deterrent to High-Risk Behaviors

There is an accumulating body of evidence to indicate that polygraphy also functions as a deterrent to high-risk behaviors. Slightly more than half of the offenders in Harrison and Kirkpatrick's (2000) anonymous survey reported that polygraph testing decreased their grooming and masturbation behaviors. Twenty-seven percent reported decreased sexual touching of children as a result of polygraph testing.

Grubin *et al.* (2004) also found polygraph testing to have a deterrent effect on high-risk behaviors in a sample of sex offenders voluntarily participating in polygraph exams. The average number of disclosed high-risk behaviors significantly decreased between the first polygraph test and the second, indicating that polygraphy was effective in decreasing these behaviors. At the same time, disclosures of high-risk behaviors to treatment providers and supervising officers increased.

Abrams and Ogard, 1986 also studied the deterrent effect of polygraph testing on a general population of probationers and determined

that 69 % of offenders who received polygraph testing along with supervision successfully completed probation as opposed to only 26 % of offenders who received supervision alone. While this body of research is small and involves small sample sizes, it does indicate that the polygraph holds promise as a motivating factor to help offenders apply treatment skills, comply with supervision conditions, and avoid high-risk behaviors.

#### Identifying Risk Factors

Using the polygraph with sex offenders provides important information to supplement criminal justice records, as it can verify the accuracy of offenders' self-reported sexual histories and their compliance with supervision rules. This information can be used to assess individual risk factors. Several of the sexual recidivism risk factors identified in Hanson and Morton-Bourgon's meta-analysis (2004) can be further clarified through polygraph testing, including whether an offender has a sexual preoccupation (through knowledge of the frequency of sexual behaviors), has violated supervision rules, or has a history involving use of force in sex offences. Risk is ongoing, and research information is limited in terms of assessing factors that change over time, and in a moment. The polygraph examination can focus on relevant historical and recent factors that indicate risk behaviors and situations that might otherwise be overlooked.

#### INFORMATION REVEALED BY POLYGRAPH TESTS

Research has established that, in combination with treatment, polygraph testing provides significant information about sex offenders that can be used to effectively treat and supervise them (Ahlmeier *et al.*, 2000; Emerick & Dutton, 1993; English *et al.*, 2000; Heil, Ahlmeier & Simons, 2003a; Hindman & Peters, 2001; O'Connell, 1998). Offenders reveal more extensive sexually deviant histories than are typically disclosed in treatment settings without polygraph. Moreover, this information is quite similar to that obtained under conditions of guaranteed confidentiality or anonymous survey (Abel *et al.*, 1988; Freeman-Longo & Blanchard, 1998; Weinrott & Saylor, 1991).

The following offender characteristics are typical of sex offenders based on the research revealed in these studies: an under-identification of prior sex offences in official records; diverse sex offence behaviors; an earlier age of onset of sexually deviant behaviors; a detection lag-time between the initiation of sex offending and identification as a

sex offender in the criminal justice system; and persistent risk, meaning that offending appears to be well established in the individual's lifestyle.

#### Information on Offences and Diverse Victims

In a sample of 222 incarcerated sex offenders with non-deceptive sexual history polygraphs, for example, pre-sentence investigation reports had indicated a median of only one victim and two offences per offender prior to polygraph tests. By the time the offenders had become non-deceptive on sexual history questions during a polygraph, however, they were admitting a median of 11 victims and 36 sex offences per offender (Simons, Heil & English, 2004). These admissions were hands-on offences involving sexual assault of an adult or child. Studies including information on non-contact offences have revealed even higher numbers (Ahlmeier *et al.*, 2000; English *et al.*, 2000; O'Connell, 1998; Wilcox & Sosnowski, 2005).

In addition, 73 % of the non-deceptive sample acknowledged having both adult and child victims, 37 % acknowledged both male and female victims, 87 % acknowledged victims from two or more relationship categories (stranger, acquaintance, position of trust, or relative) including 83 % that acknowledged victimizing relatives, and 56 % that acknowledged bestiality. Although these numbers are shocking, they are consistent with the admissions made by Abel *et al.*'s (1988) community sample under conditions of guaranteed confidentiality.

In another study, researchers reviewed disclosures in 116 polygraph examination reports of youth in treatment for sex offences. The subjects ranged in age from 13 to 18. Important information about additional victims, abuse of prescription medication, bestiality and fire setting was obtained in the course of the examinations (English *et al.*, 2002). As a result of the testing, 42 % of the sample disclosed 141 additional victims, 8 of whom were siblings. Over 85 % of the victimizations involved hands-on crimes. Of the 64 youths who were taking their first examination, 8 reported previously undetected gender crossover offending.

#### Revelations of Earlier Onset of Sexually Deviant Behaviors

Along with revealing higher numbers of prior offences than otherwise known, studies indicate that most sex offenders began engaging in sexual offending behavior during childhood but were not apprehended until they were adults (Ahlmeier *et al.*, 2000; English *et al.*, 2000; Freeman-Longo & Blanchard, 1998; Hindman & Peters, 1988). In 2001,

Hindman and Peters reported that after the program started using polygraph, 71 % of adult sex offenders disclosed sexually abusing others when they were children whereas only 21 % of offenders had disclosed childhood sex offences prior to use of polygraphy. Similarly, the average age of sex offending onset was 12 in the Ahlmeyer *et al.* (2000) study and 11 in the English *et al.* (2000) study.

With a younger age of onset, it is not surprising that polygraph studies have also uncovered a significant interval prior to detection as a sex offender. The average time between initiations of sex offending and detection were calculated in two small studies. The results ranged from 14 years in the Wilcox *et al.* (2005) study, to 16 years in the Ahlmeyer *et al.* (2000) study. This time period is slightly higher than the Freeman-Longo (1985) anonymous survey study, which found an average detection gap of 6 years for rapists and 13 years for child molesters. Therefore, it appears that polygraph testing in conjunction with treatment significantly increases information on the extent of prior sex offending behaviors and the length of time the offender has been able to hide these behaviors.

Such information is valuable to those providing treatment and supervision of sex offenders. Contrary to traditional treatment wisdom, it is clear that removing access to a known victim type may not stop sex offending behavior, as offenders may seek an available vulnerable substitute for their preferred victim type. In this way, sex offending may be similar to substance abuse. Someone who is an alcoholic may like a specific type of drink, for example, but if the preferred drink is not available, another type of alcoholic beverage might be substituted.

#### Identification of Persistent Risk: Maintenance Polygraphs

The goal of maintenance testing is to discourage offenders from engaging in high-risk behaviors and catch problematic behaviors early in the relapse cycle. The objective is to intervene before the offender reoffends. Maintenance testing can help determine whether offenders are applying what they learn in treatment and complying with supervision conditions. The small amount of research that has reviewed maintenance testing suggests that a high percentage of offenders continue to engage in high-risk behaviors and that a significant percentage commit new sex offences while they are in treatment and under supervision.

As Colorado began to use the polygraph systematically with sex offenders, Tanner and Veeder (1997) reviewed the results of maintenance polygraph tests in a sample of 128 probationers participating in

treatment. As a result of polygraph testing, it was confirmed through offenders' self-reports that 82 % of offenders were engaging in high-risk behaviors during the time period covered by the maintenance exam. A more disturbing finding was that 48 % had committed new crimes, with 41 % committing new sex crimes involving a variety of hands-off and hands-on offences.

As these polygraph tests were administered during a time period when few consequences were associated with polygraph results, the tests may not have served as a deterrent. However, some studies have found a decrease in high-risk behaviors as a deterrent effect takes place (Grubin *et al.*, 2004; Harrison & Kirkpatrick, 2000). Interestingly, some proportion of the detected high-risk behaviors in the Tanner study correspond to decreases in high-risk behavior reported in the Harrison & Kirkpatrick survey (Table 10.1).

In addition to affecting current behavior, maintenance testing may also provide relevant information for conducting risk assessment protocols, and for evaluating ongoing risk. Further research is needed, but one preliminary study has shown a connection between a high rate of high-risk behaviors while in treatment and supervision, as determined through polygraph maintenance testing, with high numbers of prior victims and offences, as determined through non-deceptive sexual history tests (Simons, Heil & English, 2004). Outcome data are clearly needed to determine if this connection is indeed predictive of recidivism risk.

#### STANDARDS FOR POLYGRAPH TESTING OF SEX OFFENDERS IN THE US

As growing numbers of polygraph examiners became involved in sex offender testing, widespread debates emerged in the US about the best practices and procedures for using the polygraph. In recognition of this growing field of polygraph testing and the debate regarding best practices, the American Polygraph Association (APA) formed a Subcommittee for Post-Conviction Sex Offender Testing to increase field standards. This subcommittee developed minimum guidelines for sex offender testing along with a 40-hour examiner training program. Many jurisdictions have made the APA training a requirement for polygraph examiners conducting post-conviction sex offender testing. In addition, some states such as Illinois, Colorado and Texas, have adopted standards with specific requirements for polygraph examiners who test sex offenders supervised by the criminal justice system.

**Table 10.1** Comparison of high-risk behaviors during treatment Tanner and Veeder (1997) and Harrison and Kirkpatrick (2000) studies

Behaviors	Tanner & Veeder (1997) Maintenance polygraph results on 128 probationers participating in treatment		Harrison & Kirkpatrick (2000) Anonymous survey of 28 offenders in community treatment	
	Admitted behavior or scored deceptive (%)	Admitted behavior (%)	Decrease in behavior reported with polygraph testing (%)	Behaviors
Substance use	54 %	39 %	36 %	Substance use
Viewing sexually explicit materials	45 %	41 %	36 %	Frequenting adult book stores
Masturbation to deviant fantasies	32 %	29 %	57 %	Masturbation
Unauthorized contact with a minor	25 %	20 %	57 %	Grooming behaviors
Sexual contact with a minor	31 %	13 %	27 %	Sexual touching of children

## THE POLYGRAPH IN THE CONTEXT OF A CONTAINMENT TEAM

In the US, polygraph testing is generally seen as only one component of a comprehensive sex offender management program. Sex offenders are best contained by a team approach that includes comprehensive programming. Generally, the polygraph is implemented within the context of a collaborative team approach to managing sex offenders, known as the Containment Model (English, Pullen & Jones, 1996). The five-part containment approach operates in the context of multi-agency collaboration, explicit policies and consistent practices that combine case evaluation and risk assessment, sex offender treatment and intense community surveillance – all designed specifically to maximize public safety. The five components were identified from comprehensive field research in dozens of jurisdictions across the country. The containment approach consists of the following aspects:

1. A philosophy that values victim protection, public safety and reparation for victims as the paramount objectives of sex offender management.
2. Implementation strategies that depend on agency coordination and multidisciplinary partnerships.
3. A containment-focused case management and risk control approach that is individualized based on each offender's characteristics.
4. Consistent multi-agency policies and protocols, and
5. Quality control mechanisms, including program monitoring and evaluation.

The victim orientation is paramount. When the societal or criminal justice system responses to a sexual attack place the victim at fault, the trauma is magnified and recovery may be delayed (Hindman, 1988). Explaining that sexual abuse is a complex process rather than an act or series of acts, Finkelhor (1988) notes, 'Clinicians have often observed that the harm of some sexual abuse experiences lies less in the actual sexual contact than in the process of disclosure or even in the process of intervention' (p. 77-78). Understanding this point is vital for professionals interested in implementing the containment approach. The power and authority of police officers, lawyers, judges and social workers can weigh as heavily on the victim as on the perpetrator.

The Containment Model for managing sex offenders in the community calls for the creation of intra-agency, interagency and interdisciplinary teams. These teams can overcome the fragmentation that usually results from the multilayered nature of the criminal justice system. These teams are valuable for several reasons:

- They vastly improve communication among the agencies involved;
- They allow for quicker and less intrusive responses to victims (Epstein & Langenbahn, 1994);
- They promote the exchange of expertise and ideas;
- They facilitate the sharing of information about specific cases;
- They increase team members' understanding of what everyone on the team needs to do his/her job well; and
- Perhaps most importantly, they foster a unified and comprehensive approach to the management of sex offenders.

Collaborating agencies should include sex offender treatment programs, law enforcement, probation, parole, schools, social services, rape crisis centers, hospitals, prisons, polygraph examiners, researchers and victim advocate organizations. In a call to collaborate across disciplines and within communities for the purpose of addressing the epidemic of sexual assault, the American Medical Association added the following to the list above: attorneys, emergency room staff, universities and victims' assistance centers (American Medical Association, 1995).

Interagency and multidisciplinary collaboration can occur in many ways. In Colorado, for example, a state-level Sex Offender Management Board with multidisciplinary membership is defined in legislation and meets monthly. The Board has issued guidelines for the evaluation, treatment and behavioral monitoring of adult sex offenders, including sex offenders with developmental disabilities. In Oregon, probation and parole officers who work with sex offenders meet quarterly for two-day meetings in various locations across the state. The group has strict ground rules for participants and makes decisions by consensus. The agenda focuses on ensuring consistent practices across counties, and has subcommittees that focus on training and public policy. The state department of corrections sponsors the meetings that are attended by local law enforcement, the state police, treatment providers and polygraph examiners who work in the region.

Officials in Maricopa County (Phoenix), Arizona have worked to ensure a strong interagency and multidisciplinary approach to managing adult and juvenile sex offenders. The district attorney's office and the local police department partnered to train prosecutors and law enforcement officers statewide on effective interviewing and sex crime investigation techniques. The prosecutor's office is in the same building as probation, enhancing communication and cross-agency activities.

These jurisdictions, Colorado, Oregon and Maricopa County, are examples of the team approach that is central to containing sex offenders in the community. In these settings, treatment providers, supervising officers and polygraph examiners form tight teams that monitor each

sex offender. In Phoenix and some counties in Colorado, surveillance officers supplement the work of the supervising officer by working out of their cars to monitor each offender's location and activity in the community.

The containment approach can operate in a variety of environments, from probation and parole to prison settings. In Colorado, the prison sex offender treatment program partners with parole, community-based halfway houses, treatment providers in the community, victim advocate organizations, law enforcement officers and polygraph examiners. The containment team in prison is adapted from the community version. Therapists work closely with polygraph examiners who travel to the prison regularly. To fulfill some of the functions of supervising officers, therapists network with prison housing and work supervisors to monitor the offender's behavior outside of treatment. An important part of treatment delivery is the expectation that offenders will engage in community service activities by providing information on how they have selected victims and set up their crimes. This information is shared with law enforcement, prosecutors, school officials and victim advocates. When offenders prepare for release, therapists work with parole officers in the community. Treatment staff actively participate in the work of the state Sex Offender Management Board.

The core containment team should consist, at a minimum, of a therapist, supervising officer and polygraph examiner. All members of the team should have specialized training to work with sex offenders, and additional members should be added as appropriate. For example, a child protective worker or victim advocate who is involved in the case is often included in a containment team. In addition to information provided by the core team members and polygraph testing, therapists will need additional sources of information in order to treat an offender effectively. These additional information sources might include testing of sexual arousal or interest, psychological assessments or testing, and information from collateral contacts such as family members, victim advocates, employers and ministers. Supervising officers also depend on a variety of information tools, which can include collateral contacts, home visits, surveillance officers, GPS or pager monitoring, and urinalysis. In short, polygraph testing is just one in a varied set of tools that improve the treatment and supervision of sex offenders.

Polygraph testing should not be used in isolation. If teams believe that polygraph testing will eliminate the need for collateral sources of information or can be used in place of treatment, they have unrealistic expectations for the polygraph. Good supervision and treatment require an inquiry into more than three behavioral questions every three to six months, which is all that a polygraph usually covers. When a polygraph

test does raise concerns, of course, containment team members must turn to their collateral sources of information and increase supervision of the offender to try and determine the meaning of the concerns raised by the polygraph.

It is also essential to use the polygraph in combination with treatment. Some supervising agencies have tried to implement polygraph testing in lieu of treatment, because they believed that treatment of this population was unlikely to succeed. However, research indicates that polygraph testing alone does not produce the number of admissions produced by treatment combined with polygraph testing (Ahlmeyer *et al.*, 2000). The reverse is also true: treatment alone does not produce the number of admissions as treatment with polygraph testing produces. Such admissions, of course, provide crucial information for the containment team.

#### Criminal Justice Incentives for Compliance

Criminal justice supervision is also important, as it provides the incentive for compliance with treatment and polygraph testing. Supervising officers are responsible for overall management of offenders in the community. They monitor and encourage the offender's compliance with court- or parole board- imposed conditions of community placement. Supervision conditions establish the structure and expectations that support lifestyle change. When offenders do not comply with conditions and pose a risk to community safety, it is the supervising officer's responsibility to report violations to courts and parole boards, resulting in potential revocation to prison.

Supervising officers accomplish their mandate through a variety of methods including in-office meetings with the offender, home visits, contacts with significant individuals in the offender's life, electronic or GPS monitoring, urinalysis, polygraph testing and offender treatment. Since confidentiality is waived with the supervising agency as a condition of treatment, information from offence-specific evaluations and therapists help officers recommend conditions that limit the offender's access to potential victim pools or high-risk situations. By enforcing treatment compliance, offenders are given opportunities to address problems that contribute to their offending behavior. Information provided through the process of polygraph testing should be combined with information from collateral sources such as community members, criminal justice records, treatment and psychological exams, and monitoring polygraph tests to form a more complete picture of the offender's risk and adjustment in the community.

Home visits provide clues to the offender's behavior in the community and, consequently, level of risk. The officer's knowledge of the offender's lifestyle and risk factors can be vital in developing critical polygraph questions. Officers also depend on such visits plus collateral sources of information obtained from neighbors and family members to investigate potential problems identified during the process of polygraph testing. Both polygraph testing and collateral sources of information are valuable complementary methods in the effective assessment and supervision of sex offenders.

#### Responding to Previously Undisclosed Offences

Because treatment combined with polygraph testing provides better information on prior offences and new criminal behavior, containment teams must resolve how they will handle the offences disclosed through polygraph tests. With respect to new offences, of course, teams generally inform offenders that there will be no confidentiality or immunity from prosecution.

Admissions of prior offences are handled in one of three ways in the United States. The first method involves no immunity. All admissions of previously unknown offences are disclosed to law enforcement or child protective services. This approach allows victims to be identified and treated, but as it subjects the offender to further prosecution, it may discourage admissions. A common variation of this method involves reporting only offences that fall under mandatory reporting laws, generally offences involving minors.

The second method commonly used in the US is to grant limited immunity on prior offences. In order to use this method, teams must seek cooperation from prosecuting attorneys. Under this approach, offenders sign a limited immunity agreement with the prosecutor's office that specifies that all crimes will be reported to the prosecuting attorney's office, allowing victims to be identified and treated. As long as the offender successfully completes treatment and supervision, however, he/she will not be prosecuted for prior sex offences. If the offender drops out of or fails treatment and supervision, the crimes can be prosecuted. Thus, this approach creates an extra incentive for complying with treatment and supervision.

Arranging immunity agreements with prosecutors can be difficult, however. As an elected official, a prosecutor may be concerned that the public will view such agreements as excusing sex offences. Moreover, offenders may disclose crimes that occurred in jurisdictions outside the purview of the prosecutor.



The third method entails no immunity for prior offences, but offenders are asked to disclose prior sex offences without providing details such as the name of the victim or location of the offence. As a result, sufficient facts are not provided to evoke requirements for mandatory reporting. Typically, the age, gender and general relationship category (relative, position of trust, acquaintance, or stranger) are recorded, which provides teams with knowledge of the variety and frequency of past offending behaviors. Unfortunately, this method does not allow victims to be identified and treated. Nevertheless, as case law evolves in this field, it appears that there will be increased pressures to use the second or third method to handle past offence admissions as those methods sidestep self-incrimination concerns.

#### EFFECTIVENESS OF THE CONTAINMENT MODEL

The Containment Model is a relatively new approach to dealing with sex offenders, and there are few studies evaluating its effectiveness. However, the studies that have been conducted show promising results. For example, Maricopa County Adult Probation Department in Arizona has been using the containment approach since 1986. A program evaluation indicated only a 2.2% sexual recidivism rate and a 13.1% criminal recidivism rate among 419 male offenders who had been on lifetime supervision for an average of 36 months (Hepburn & Griffin, 2002). In this study, recidivism was measured by arrest for a new sex offence or any new criminal offence. This compares favorably to the Hanson *et al.* (2002) meta-analysis that reported an average sexual recidivism rate, as measured by re-arrest or reconviction, of 12.3% and criminal recidivism rate of 27.9% over a median 46 month follow-up period.

Lowden *et al.* (2003) studied the implementation of the Containment Model at the Colorado Department of Corrections. This program employed intense treatment with polygraph testing in the institution. When paroled, the offenders participated in treatment, supervision and polygraph testing in the community. Researchers found that 84% of the offenders who participated in the advanced phase of institutional treatment successfully completed parole versus only 52% of the offenders who had not participated in treatment. By the third year following parole discharge, 21% of the offenders who participated in the advanced treatment phase had been arrested for any crime versus 42% of the offenders who had not participated in treatment.

A study of Jackson, County Oregon's probation and parole program also found support for the containment approach. Comparing outcome

data on offenders in the Jackson County program with a comparison group from a nearby county, researchers found that offenders who stayed in treatment for at least one year were 40% less likely to have a new felony conviction than those in the comparison group (England *et al.*, 2001).

Stalans (2004) studied probation sex offender programs in several counties in Illinois and concluded 'all specialized probation programs should be based on the containment approach and should include (a) at least three unannounced random field visits per offender every month, (b) a full-disclosure polygraph and a maintenance polygraph exam every six months, and (c) a tight partnership between probation officers and treatment providers that includes probation officers appearing at random times at the treatment site to check on offenders' attendance' (p. 599).

In sum, evidence is mounting that use of the post-conviction polygraph testing, when combined with intense specialized treatment and supervision, is an effective method for managing sex offenders.

#### CONTINUING ISSUES RELATED TO THE USE OF THE POLYGRAPH IN THE US

Polygraph testing for sex offenders has evolved in the US, however a number of issues are unresolved. Use of the polygraph continues to grow, nevertheless polygraph, treatment and supervision professionals continue to debate a number of aspects of the polygraph. Questions remain, for example, about the accuracy of the polygraph, about how specific polygraph questions should be worded, whether the polygraph increases false admissions, how effective the polygraph is with psychopaths, and what to do about sex offenders' use of countermeasures. Following is a discussion of these issues.

##### Accuracy

According to the National Research Council (NRC) 2003, the most researched and accurate type of polygraph test has a single-incident focus, that is, the test is limited to one specific event. NCR (2003) identified the median accuracy rate of this test at 89%. A post-conviction sex offender test is rarely limited to one specific incident, however. Instead, it usually involves three or four questions addressing behavior within a specified time frame. This is a multiple issue test.

Such a multiple issue test is considered less accurate than a single issue exam and is somewhat comparable to an employment 'screening

test', although these tests typically involve more than three to four relevant questions. The average accuracy rate for a well-executed screening test is 80 % (Krapohl, Senter & Stern, 2005). However, the overall accuracy of polygraph testing can be increased by applying a 'successive hurdles' approach (Meehl & Rosen, 1955). That is, if an offender scores deceptive on a multiple issue test, there should be a follow-up test. The focus of the follow-up test should be narrowed to the single issue of most concern. This second, single issue test will have a higher accuracy rate, and having greater specificity, the single issue test can better distinguish the true positives from the false positives.

The polygraph does compare favorably in terms of accuracy to many other instruments that are currently used with sex offenders. It has been well established that actuarial instruments are more accurate than clinical judgments in identifying risk for a new conviction for a reoffense. However, LaFond and Winick (2004) state, '... actuarial risk assessment can identify a group of sex offenders who will sexually re-offend at a rate that can 'conservatively be estimated at 50 % and could reasonably be estimated at 70 % to 80 %'. Even if this high accuracy is achieved, predictions will have a false-positive rate of from 20 % to 50 %' (p. 1177). Because actuarial assessments are not repeated, as polygraphs can, it appears that these tests may have a lower accuracy rate than polygraph testing.

Vigil and Jenks (2004) point out that many commonly relied on medical procedures have comparable accuracy to polygraph testing, from pap smears, mammography, and endoscopy for gastric cancer. Based on this information, it appears the accuracy rates on polygraph are similar to many commonly relied upon tests.

#### Utility versus Accuracy

One debate in the field is between the uses of broad questions versus very specific questions on the examination. Broad questions allow treatment providers and supervising officers to cover a wide range of concerns. For example, in some jurisdictions, containment team members attempt to validate the offender's self-reported sexual history during a single polygraph exam. Frequently these tests will ask whether the offender intentionally withheld information on their documented sexual history. Deceptive responses do not provide specific clues on the areas that the offender might be withholding information.

Over time this practice is becoming less common and has shifted to more focused tests covering three or four specific types of behavior. This is the utility versus accuracy debate: do we ask broad questions to obtain disclosures on a variety of issues, or do we narrow the question

and increase accuracy of the examination result. When case management decisions are based on polygraph examination results, accuracy becomes a critical issue, not a casual one. Currently, the field appears to be moving in the direction of prioritizing accuracy.

#### Examiner Skill Impacts Accuracy

As with clinical practice, an important factor that affects the accuracy of polygraph results is the skill of the examiner. Examiners' skills vary based on their training and expertise in various components of the test: question construction (requires knowledge of sex offender minimizations), pre-test interviewing, post-test interviewing, chart scoring, machine calibration, testing environment and identification of counter-measures.

Because most treatment providers and supervising officers do not have sufficient knowledge to assess an examiner's skill, a quality assurance audit by a neutral polygraph examiner can help programs select the most appropriate examiners. Some programs require examiners to maintain videotape recordings, charts and reports to be used in random audits. In addition, programs that use multiple examiners may have a greater sense of the skill of individual examiners in comparison to others in the group.

One potential threat to accuracy may occur when offenders begin to anticipate too well the experience they will have at the examiner's office. Although past research on 'habituation' to an examiner or the testing process has found no effect, post-conviction testing is long term and requires safeguards against this possibility. Post-conviction sex offender testing is unusual in that the offender participates in multiple tests over the course of supervision, and the extent to which offenders might habituate to routine testing is unknown. Using multiple examiners may guard against habituation.

#### Question Construction Affects Accuracy

Other important elements of polygraph testing with sex offenders include asking behavioral questions and eliminating intent questions. Sex offenders have many rationalizations for their sexual offending behaviors. Intent questions can provide an out for the offender. Consider this question: 'Did you intend to drink at the party?' The offender might be able to legitimately pass the question, even if he drank alcohol at the party, if he had previously told himself that he would just drink pop at the party.

Question construction requires great skill and experience. Accuracy hinges on well-constructed questions (among other things). For this reason, examiners require special training and supervision before working with this population.

#### Offender Preparation Improves Accuracy

An essential part of the polygraph examination process involves offender preparation for the exam. Besides offering offenders the tools necessary for change, therapists help offenders to understand definitions of sex offences and help offenders to decrease rationalizations and denial. This is the beginning of helping offenders successfully engage in the polygraph examination process. Therapists also instruct offenders to carefully and thoroughly document their history of deviant sexual behavior. As a result, examiners are able to conduct more effective tests with the offender because the offender recognizes the behaviors of concern. It is also helpful if the polygraph examiner, treatment provider and supervising officers all use the same definitions for sexual contact and for different types of sexual offences.

The National Research Council's (2003) review of polygraph testing states: 'Both examinee and examiner may have difficulty knowing whether an answer to such a question is truthful unless there are clear and consistent criteria that specify what activities justify a 'yes' answer. Examinees may believe they are lying when providing factually truthful responses, or vice versa' (p. 1).

#### Consequences Improve Accuracy

It is an underlying theory of polygraph testing that the subject must have something at stake for the test to register a physiological response. In post-conviction testing, the offender must fear detection (Kircher *et al.*, 1988). Heil, Simons and Ahlmeyer (2003b) found the use of a decisions grid that provided a range of negative and positive consequences for polygraph results increased the percentage of offenders scoring non-deceptive on polygraph exams. These grids were designed to promote consistent decisions and to encourage offenders to disclose pertinent information to their therapists before the polygraph test. The study found that when offenders knew that the polygraph results would be related to consequences, they were more likely to provide accurate information in response to polygraph questions. During the time period when the decisions grid was implemented, only 9% of the tests were

scored non-deceptive. After full implementation of the grid, however, 55% of the tests were scored non-deceptive, and the non-deceptive rate climbed to 67% when all therapists in the program supported the use of the decisions grid.

Another factor that appears to affect the rate of non-deceptive results is the therapist's attitude toward polygraphy. Heil, Simons and Ahlmeyer (2003b) found that therapists who were rated by supervisors and polygraph examiners as supportive of polygraph testing were more likely than unsupportive therapists to have clients that scored non-deceptive on exams. Even when therapists were supportive of polygraph testing, however, a failure to complete paperwork and assign timely consequences decreased the percentage of non-deceptive results. Therapists with the highest proportion of clients with non-deceptive findings were both supportive of polygraph testing and consistent in assigning positive or negative consequences for test results.

Although consequences can be used to increase the accuracy of polygraph tests, most programs in the US do not base major case decisions on a deceptive polygraph exam alone. Even if an offender scores deceptive to sexually abusing a child, the information is ordinarily not considered sufficient to revoke an offender's parole, for example. The results of such a test should certainly signal further investigation, however, and may warrant moving the offender out of a home where a child resides until the deceptive response can be clarified. At the same time, programs and containment teams are more inclined to use non-deceptive polygraph results as support for positive case decisions. Thus, an incarcerated offender who appears to be progressing in treatment might be more likely to be recommended for parole if his polygraph tests are non-deceptive and tend to validate the offender's progress in treatment.

#### Is the Polygraph Effective with Psychopaths?

Several studies have addressed polygraph testing with psychopaths (Hammond, 1980; Patrick & Iacono, 1989; Raskin & Hare, 1978). No statistical differences were found in the accuracy rates of the polygraph with psychopaths compared to other offenders. Many clinicians assume that psychopaths have no conscience and therefore will have no detectable physiological responses when lying. However, like other criminals, psychopaths are invested in keeping secrets, and they generally do not want others to know what they have done. In this way, they do fear detection. Therefore, the test can be an especially useful tool given the risk this population presents to the public.

### Does Polygraph Testing Increase False Admissions by Sex Offenders?

While it is certainly possible for offenders to fabricate admissions, there is no indication that this happens more often when the polygraph is used than when it is not used in treatment. Nevertheless, a prevalent concern in the field is that the polygraph process results in false admissions from sex offenders in response to sanctions for false-positive outcomes. As a result, some programs are leery of imposing consequences based on polygraph results.

Certainly, it is much easier to fabricate information successfully during therapy without the polygraph, since this intervention provides no checks on the information disclosed. However, it has been the experience of the first author that offenders report failing polygraphs when they report inaccurate numbers of crimes – by disclosing either too few or too many sex offences to the examiner. To ensure accuracy of the examination results, therapists should instruct offenders to prepare accurate sexual histories before they take a polygraph exam. When an offender provides inaccurate information, it is more likely that he or she will withhold information on prior offences than fabricate additional offences since additional offences are associated with increased restrictions. Therapists that are concerned about false admissions as a result of polygraph testing can simply seek collateral information to clarify the results and then retest the area of deception.

*Accuracy: Let's do the math.* Math equations can be used to illustrate the improved accuracy of repeat testing. At the mean accuracy rate of 80 % for a multiple issue polygraph, an offender has 20 chances out of 100 of being found deceptive when he is actually telling the truth (false positive). If the test were repeated, focusing exclusively on the area in which the offender was found to be deceptive, the accuracy rate would be closer to the single incident accuracy rate of 89 %. Using this rate, an offender has 11 out of 100 chances of making a false admission and being found truthful on the test (false negative). Therefore, the probability of the offender being found deceptive on a test in which he was telling the truth and then truthful on the next test when he was lying is only 2.2 %. Even if the second single focus test has the lower accuracy rate of 80 %, the chance of a false positive on the first test followed by a false negative on the follow-up test is only 4 %. If the single focus test were repeated a second time, the offender would have only a .24 % chance of being found initially deceptive when he was telling the truth and being found truthful on both follow-up tests when

he was fabricating an admission.

$$20/100 \times 11/100 = 220/10,000 \text{ or } 2.2\%$$

$$20/100 \times 20/100 = 400/10,000 \text{ or } 4\%$$

$$20/100 \times 11/100 \times 11/100 = 2420/1,000,000 \text{ or } .24\%$$

*One Final Point on False Admissions.* If the polygraph process is producing fictitious admissions, these admissions are remarkably similar across studies employing guaranteed confidentiality (Abel *et al.*, 1988; Elliot, 1994; Weinrott & Saylor, 1991), anonymous survey (Freeman-Long, 1985) or polygraphy (Ahlmeyer *et al.*, 2000; Emerick & Dutton, 1993; English *et al.*, 2000; Heil *et al.*, 2003a; O'Connell, 1998).

High rates of adult and child crossover have been determined in multiple studies (Table 10.2). For instance, Abel *et al.* (1988) studied 244 paraphiliacs, who had committed acts against adults, under conditions of guaranteed confidentiality. The sample primarily consisted of individuals living in New York and Tennessee. Forty-nine percent admitted molesting children. O'Connell (1998) studied 127 probationers participating in community treatment with polygraph in Washington. Sixty-four percent of rapists admitted having child victims. Ahlmeyer *et al.* (2000) studied 143 inmates participating in treatment with polygraph in Colorado. Fifty percent of rapists acknowledged victimizing children. Freeman-Longo (1985) conducted an anonymous survey of 23 rapists participating in an institutional forensic sex offender treatment program in Oregon. The rapists reported 5090 sex offences including 319 child molestations and 178 rapes. Weinrott and Saylor (1991) using a confidential computer-administered interview found 32 % of incarcerated rapists in Washington admitted child molestation.

Comparable consistency was found in studies evaluating relationship crossover (Table 10.3). In a sample of 561 paraphiliacs, Abel *et al.* (1988) determined through guaranteed confidentiality that 66 % of interfamilial offenders had sexually assaulted outside the family. Weinrott and Saylor (1991) studied 99 institutionalized sex offenders in Washington using a confidential self-report survey. Fifty percent of incest offenders admitted extra-familial child sexual abuse. English *et al.* (2000) studied a sample of 180 probationers and parolees participating in polygraph testing in four different states. Sixty-four percent of sex offenders who had committed incest admitted sexually abusing victims outside the family. Heil *et al.* (2003a) studied 223 inmates with polygraph testing and found 64 % of offenders victimizing relative children admitted victimizing non-relative victims.

**Table 10.2** Multiple studies using different methods find consistent information about rapists committing child molesting offences

	Abel <i>et al.</i> (1988)	O'Connell (1998)	Weinrott & Saylor (1991)	Freeman-Longo (1985)	Heil <i>et al.</i> (2003a)
Sample description	Community sample of paraphiliacs	Probationers in treatment & supervision	Civily committed sex offenders in a hospital treatment program	Inmates in a forensic treatment program	Inmates in prison treatment program
Sample location	New York & Tennessee	Washington State	Washington State	Oregon	Colorado
Data collection technique	Self-report with Guaranteed Confidentiality	Self-report with Polygraph Testing	Self-report with Guaranteed Confidentiality	Self-report with Anonymous Survey	Self-report with Polygraph Testing
Rapist admitting child molestation	49 %	64 %	32 %	23 rapists admitted 319 child molestations	-

**Table 10.3** Multiple studies using different methods find consistent information about incest offenders victimizing non-relatives

	Abel <i>et al.</i> (1988)	English <i>et al.</i> (2000)	Weinrott & Saylor (1991)	Heil <i>et al.</i> (2003a)
Sample description	Community sample of paraphiliacs	Probationers & parolees in treatment & supervision	Civily committed sex offenders in a hospital treatment program	Inmates in prison treatment program
Sample location	New York & Tennessee	Oregon, Texas & Wisconsin	Washington State	Colorado
Data collection technique	Self-report with Guaranteed Confidentiality	Self-report with Polygraph Testing	Self-report with Guaranteed Confidentiality	Self-report with Polygraph Testing
Incest offenders victimizing non-relatives (%)	66 %	64 %	50 %	64 %

While the rates of these behaviors are relatively consistent across populations, a lower frequency of gender crossover has been established in these studies (Table 10.4). Emerick and Dutton (1993) studied 76 'high-risk' juvenile offenders in a hospital treatment facility in Arizona. Forty-three percent of the polygraphed juveniles acknowledged assaulting both male and female children. English *et al.* (2000) found 29% of the parolees and probationers participating in polygraphy reported having both male and female victims. Similarly, Simons *et al.* (2004) found 37% of the 222 inmates participating in polygraphy disclosed both male and female victims. If offenders are fabricating admissions, they are doing so consistently across 20 years of research in multiple locations across the US.

#### Offenders' Use of Countermeasures

As polygraph testing of sex offenders increases, offenders' use of countermeasures needs to be addressed. Because offenders usually participate in multiple tests, they have opportunities to experiment with countermeasure techniques and attempt to perfect them. Any information they may need on countermeasures is easily accessed over the Internet.

Fortunately, well-trained and experienced examiners easily detect most of the countermeasure techniques, and the result is typically an inconclusive, rather than a non-deceptive, test result. Increased use of countermeasures has the potential to invalidate results; so most containment teams develop significant consequences for an offender's established use of countermeasures. Offenders are generally warned ahead of time that major consequences can result from efforts to sabotage the test. Consequently, containment teams may be more inclined to make case decisions when it has been clearly established that the offender used countermeasures. Experienced examiners are more likely to detect the use of countermeasures, and they usually warn an offender during the test to discontinue the tactic.

If a major decision (i.e., revoking the offender to a more secure environment, terminating the offender from a treatment program, etc.) is contemplated because of an offender's attempt to sabotage a polygraph, the containment team frequently obtains a second opinion on whether the offender was actually using countermeasures. By conducting a quality assurance review of the polygraph charts and videotape, a second polygraph examiner can render an opinion on whether there is sufficient evidence to indicate sabotage before the team implements any major decisions. This places teams on stronger ground when implementing a consequence. If this manipulation effort is ignored, offenders

**Table 10.4** Multiple studies using different methods find consistent information about gender crossover

Sample description	Emerick & Dutton (1993)	Abel <i>et al.</i> (1988)	English <i>et al.</i> (2000)	Simon <i>et al.</i> (2004)
High-risk juvenile sex offenders in hospital treatment program	Arizona	Community sample of paraphiliacs	Probationers & parolees in treatment & supervision	Inmates in prison treatment program
Sample location	Arizona	New York & Tennessee	Oregon, Texas, & Wisconsin	Colorado
Data collection technique	Self-report with Polygraph Testing	Self-report with Guaranteed Confidentiality	Self-report with Polygraph Testing	Self-report with Polygraph Testing
Offenders with gender crossover (%)	43%	20%	29%	37%

may attempt to use countermeasures to avoid disclosing information that is pertinent to effective treatment and supervision.

#### Influence of Base Rates

When the polygraph test is inaccurate, the base rate of behaviors queried can impact the direction of the error. Some clinicians express concern that the base rate of behaviors questioned in polygraph exams is low. As a result, they fear the direction of error will be toward finding offenders deceptive when they are telling the truth.

However, as first evidenced by Abel's research with guaranteed confidentiality, undetected offences are not rare events. Therefore, it appears that the base rate of undetected offences is relatively high. Tanner and Veeder's (2001) research also indicates that base rates of offenders engaging in high-risk behaviors while in treatment and supervision are relatively high. With a high base rate, errors are more likely to be in the direction of false negatives (i.e., scoring non-deceptive when the offender was lying) than false positive (i.e., scoring deceptive when the offender is telling the truth). This again points to the importance of using additional tools and sources of information to monitor the offender's risk.

If polygraph testing becomes an effective deterrent, offenders can discontinue high-risk behaviors and the error rate can shift in the direction of false positives. This again provides support for the practice of repeating tests when deception is indicated. It also lends support for the importance of using multiple sources of information to monitor offenders since an offender can score truthful on a polygraph when lying about a behavior or score deceptive when telling the truth.

#### ADVANTAGES FOR OFFENDERS: WHAT'S IN IT FOR THEM?

Why would anyone voluntarily give up information about him/herself that is likely to bring disapproval from others? Most offenders have successfully hidden the extent of their sex offending behavior for years, and they generally expect that prior behaviors will not be detected. They also have every reason to hide information about their sex offending histories, because full disclosure usually results in shame and, often, in rejection by significant others. When such behaviors are revealed, others may reassess whether they want to continue in a relationship with the offender.

Offenders also suspect that full disclosure will result in more severe sanctions, decreased access to previously undetected victims, as well as

increased scrutiny and other limitations. Once their relationships with therapists and supervising officers have been established, offenders are likely to see potential disruption of the status quo as risky. It is much easier simply to acknowledge only the information that is available to the therapists in criminal justice records than to undergo a polygraph. However, without disclosing the extent, duration and variety of prior offending behavior, the offender is likely to stay in a perpetual 'pretend normal' state, and relapse prevention plans may not even address the offender's highest risk offence behaviors. In fact, offenders may be returned to living arrangements where undetected victims are present, as child relatives are less likely to report offences (Russell, 1986; Smith *et al.*, 2000).

Although offenders often resist taking the step of disclosing prior offences, once they actually do, they find that there are a variety of benefits. For instance, the offender no longer has to maintain secrets in his relationships with others. For the first time, he/she is free to form genuine relationships with others without fear of rejection should these other people discover 'who he/she really is'. Offenders often worry how others will react to their prior offences, and they may need emotional support after an initial disclosure. However, eventually they typically feel a sense of relief after disclosing the information.

In addition to allowing offenders to form more genuine relationships, disclosing complete information on past deviant sexual behavior allows treatment to address the offender's specific needs, thereby increasing opportunities for him/her to benefit from treatment, have a more satisfactory lifestyle and develop a sense of self-respect. This finding is supported by two studies that used anonymous surveys to query sex offenders' views about the relevance of polygraphs to their progress in treatment.

In both surveys, the majority of offenders believed that the polygraph was beneficial in their treatment progress (Harrison & Kirkpatrick, 2000; Kokish, Levenson & Blasingame, 2005). In particular, the offenders in Harrison and Kirkpatrick's (2000) survey reported that the polygraph helped them share information with treatment providers and comply with treatment and supervision rules. In addition, the majority of offenders, 25 out of 28, believed that they could not manipulate the polygraph. In the Kokish *et al.* study, 72 % of the 95 offenders surveyed believed that the polygraph increased their honesty with self, therapists and group members. Many reported a positive impact on their social relationships as a result of their increased honesty.

On two separate occasions, sex offenders at the Colorado Department of Corrections were interviewed by newspaper reporters and child mentoring program staff to obtain information on detecting and preventing

child molesters from abusing children in sports and mentoring programs. In both instances, sex offenders reported that the possibility of polygraph testing was one of the best deterrents to predators. Although most offenders would probably choose not to participate in polygraph if it were voluntary, it appears that testing helps offenders to become more honest, establish more genuine relationships, comply with treatment/supervision requirements and refrain from problematic behavior.

## THE EFFECT OF THE POLYGRAPH INFORMATION ON PROFESSIONALS

### The Value of Additional Information

Clearly, integrating polygraph testing with treatment creates additional work for both therapists and supervising officers. Therapists must review criminal justice records to determine documented offences, read the offender's written sexual history and determine areas that require polygraph testing. After the polygraph report comes back, professionals may have to question offenders about deceptive results and track follow-up testing. In addition, professionals need to be familiar with the offender's high-risk behaviors and provide input into aspects to be covered in maintenance polygraph tests.

Nevertheless, there are advantages to professionals in using the polygraph. The information obtained through the polygraph process improves both treatment and supervision, as it is not necessary to depend exclusively on an offender's admissions or criminal justice record for indications of risk and treatment need. In addition, the polygraph serves as a prompt for the offender to disclose more complete information. Treatment can therefore focus on real issues, as professionals waste less time on attempts to get the offender to divulge risk information. As a result, offenders tend to progress more rapidly in treatment.

As a consequence of having more accurate risk information, professionals are less likely to endorse relapse prevention plans or supervision plans that place the offender in situations where he is likely to fail. For example, an offender who is convicted of a crime involving the rape of an adult female may reveal during polygraph testing that he also sexually abused female children. Without this information, a therapist might support the offender's return to his home where his minor age daughter lives, thereby setting up a high-risk situation for the offender and daughter and increasing the offender's likelihood of reoffence.

Moreover, an occasional polygraph result supports an offender's claim that he has only committed one sexual offence. This information serves

as a reminder that some offenders are telling the truth and that offenders have individual histories and levels of risk. As a result, more accurate treatment and supervision plans can be formulated.

### Additional Information Can Be Hard to Bear

Of course, using the polygraph can also have some serious negative effects on professionals, as it deepens the exposure of therapists and supervising officers to the devastating impact of sexual assaults and the serious nature of sex offending. This increased exposure may prove overwhelming and can push containment team professionals to the point of burnout, especially when their self-esteem is tied to their clients' progress. Professionals may be disappointed when maintenance testing identifies ongoing problems, as this can cause them to question their skill and/or the effectiveness of treatment and supervision. As a result, they can develop a skeptical attitude that is apparent in their interactions with offenders.

Worse yet, professionals can take out their frustration on their clients, co-workers, or family. This 'parallel process' was first described in reference to victim treatment providers. Parallel process involves professionals taking on some of the characteristics of the population with which they are working, such as abuse, powerlessness, rage, secrecy and denial (McAllister, 1997). Professionals may be especially vulnerable to negative job impacts when they are experiencing high stress in other areas of their lives.

Sex offenders frequently try to manipulate professionals, so the professionals who are effective with them tend to scrutinize the offender's statements and behavior. However, this skill becomes problematic when the scrutiny carries over into interactions with co-workers. This process often affects team communication and functioning, and if offenders become aware of the breakdown, they tend to exacerbate splits between team members in order to take the focus off their own behavior. If team members are aware of the symptoms of parallel process and the resulting team dysfunction, they can try to intervene before the process becomes incurable. Symptoms of team dysfunction include team communication breaking down, team members avoiding each other, team members being intolerant of different opinions, team members making assumptions about other members and holding on to assumptions that maintain their anger, and team members recruiting others who will value their opinions and join their side.

Preventive measures include training new staff about the symptoms of trauma and parallel process, establishing a team culture that allows members to debrief the materials they are exposed to, and setting team



rules for resolving conflicts. In a survey of therapists working at the Colorado Department of Corrections, most reported that they relied on their co-workers for support to deal with job impacts. If teams acknowledge negative job impacts, members can ask others on the team if they are feeling stress, thus creating opportunities for members to debrief. More formal opportunities can also be developed by scheduling periodic meetings where professionals can talk about job impacts in a safe environment.

Helpful team rules can include the following: agreeing to resolve conflicts at the lowest level by first trying to resolve them directly with the other member of the team, listening to and respecting each other's point of view, reviewing the file or interviewing the offender together, and always paying attention to others' concerns about the offender. On specialized units, it is always helpful if agencies allow professionals to rotate off a caseload either temporarily or permanently when a break is needed.

Prior to initiating polygraphy, administrators should prepare staff for potential negative job impacts. It is understandable that sex offenders attempt to maintain secrets about their offending history and ongoing problems, so the inability of a team member to obtain the same level of information without the polygraph does not reflect on his/her skill or the skill of the team. The polygraph simply provides an additional tool. Information obtained during testing emphasizes how difficult it is for offenders to change and highlights the importance of the containment team's work. Complete knowledge of the scope of the problem helps teams develop sound plans to help offenders change and promote public safety.

## CONCLUSION

Polygraph testing with convicted sex offenders remains controversial. While the NRC (2003, p. 4) determined that polygraph testing could detect deception at odds well above chance, they also noted that it was far less than perfect. Cross and Saxe (2001) point out the risks of polygraph testing sex offenders: 'Errors with deceptive individuals can lead to new offences against children, whereas errors with truthful individuals can devastate people's lives' (p. 203). While this caution is important to remember, the same errors can be made without polygraph and result in similar consequences.

Will offenders be more honest about new offences without polygraph testing? Is clinical judgment of therapists and supervising officers more accurate than polygraph testing? These are pressing questions. Similar

concerns arise with risk prediction. Actuarial assessment instruments, although far from perfect, have been found to be more effective than clinical judgment alone. Perhaps more appropriately, the questions should focus on whether use of the polygraph increases the team's ability to discern prior and current offences, promote honesty in offenders and deter high-risk behaviors. Errors in judgment regarding an offender's self-reported offence behavior most likely will happen at increased rates without the polygraph and have the same potential consequence as errors with polygraph.

In sum, many sex offenders have finely honed manipulation skills. Polygraph provides another tool that can be used as a more objective and independent source of information. Its use in any given jurisdiction requires a careful and thoughtful undertaking, with significant collaboration and communication among well-trained and knowledgeable professionals. Like the field of sex offender management itself, the use of the polygraph will evolve and improve with study and careful implementation.

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