Approved February 13, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:05 a.m./~~p.m.~~ on January 24, 1991 in room 514-S of the Capitol.

All members were present except: Senator Gaines who was excused.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Christopher L. Smith, Community Mental Health Center of Crawford County
Marilyn Ault, Battered Womens Task Force
Juliene Maska, Assistant Attorney General
Chip Wheelen, Kansas Psychiatric Society
Ron Miles, State Board of Indigents' Defense Services
James McHenry, Kansas Child Abuse Prevention Council

Chairman Winter opened the meeting by requesting the committee introduce a bill amending the Uniform Commercial Code, by adding new Article 2A, concerning commercial lease of equipment.

Senator Morris moved to introduce the bill as requested. Senator Kerr seconded the motion. The motion carried.

The Chairman reopened the hearings on SB 18, SB 19 and SB 20.

- SB 18 - sexually violent offenders.
- SB 19 - persons likely to commit sexual acts as mentally ill person under treatment act for mentally ill persons.
- SB 20 - required supervision and treatment by mental health professional for sex offenders.

Christopher L. Smith, Operations Director of Community Mental Health Center of Crawford County, testified as a proponent of SB 18, SB 19 and SB 20. He stated his concern with the definition of "sexual motivation" in SB 18. He supported convictions for violent sex offenders and guidelines for treatment of those offenders.

Mr. Smith testified in support of SB 20 as an important measure. He encouraged establishment of state guidelines for qualified professionals, recognition of restitution as an element for the offenders and that this was an opportune time to create mandates for initiating cooperative efforts for treatment. He offered the members background information in support of his suggestions. (ATTACHMENT 1)

Marilyn Ault, Battered Womens Task Force, expressed support for SB 18, SB 19 and SB 20.

Juliene Maska, Assistant Attorney General, on behalf of the Victim Rights Task Force, testified in support of treatment for sex offenders as a critical step for recovery by the victims of these offenders.

The Chairman brought to the Committee's attention written testimony from Kelly Kultala, Kansas National Organization for Women in support of SB 18, SB 19 and SB 20. NOW also suggested provisions be instituted for lengthening of the statute of limitations for victims of these offenders. (ATTACHMENT 2)

Chip Wheelen, Kansas Psychiatric Society, testified in support of SB 18 and SB 20, and in opposition of SB 19. (ATTACHMENT 3) Mr. Wheelen stated he had visited with Dr. Walt Menninger prior to addressing the Committee.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:05 a.m./p.m. on January 24, 1991

Ron Miles, State Board of Indigents' Defense Services, requested amendments to SB 18. (ATTACHMENT 4)

James McHenry, Kansas Child Abuse Prevention Council, testified in support of SB 18, SB 19 and SB 20. (ATTACHMENT 5)

The hearings were continued to Friday, January 25, 1991 at 9:30 a.m. in Room 514-S.

Senator Morris moved to approved the minutes of January 15, 1991. Senator Bond seconded the motion. The motion carried.

The meeting was adjourned.

Date 24 January 1991

VISITOR SHEET
Senate Judiciary Committee

(Please sign)

Name/Company	Name/Company
Chip Wheelen, Ks Med. Soc.	
Jim McHenry (KCAPC)	
Michael WALDEN (CCMHC)	
RB Bamber	
Mary Johnson	
Marianne Johnson (KAFP)	
Michelle Sweeter John Peterson's Assoc.	
Paula Cox, legislative intern	
Mani Lee MHRS	
KEITH R LANDIS CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	
Robert Sanders (K.D.O.C)	
Paul Shelby OJA	
Ron Miles BIDS	
Linda DeCoursey KPA	
Marilynn Ault BWTF	
Juliene Maska A.G.	
Mary Neubauer, Assoc Pres	
Christopher L. Smith, Crawford Co. Mental Health	
Kevin Siek, Ks. Comm. on Disability Concerns	
Paul M. Klotz - Assoc of CMHCs Ks.	
Terry Larson Ks Alliance for the Mentally Ill	

COMMUNITY MENTAL HEALTH CENTER OF CRAWFORD COUNTY

BOX 550 30TH AND MICHIGAN PITTSBURG KANSAS 66762

PHONE: 316-231-5130

TESTIMONY TO THE SPECIAL COMMITTEE ON JUDICIARY

TESTIFYING: CHRISTOPHER L. SMITH, M.A.
OPERATIONS DIRECTOR

RICHARD H. PFEIFFER, L.M.S.W.
EXECUTIVE ADMINISTRATOR

TESTIMONY REGARDING: SENATE BILL NO.18
SENATE BILL NO.19
SENATE BILL NO.20

ATTACHMENTS INCLUDE:

1. INTERAGENCY PROTOCOL FOR TREATMENT PROGRAMS
2. RESTITUTION, TREATMENT, AND TRAINING MATERIALS FROM OREGON PROGRAM
3. SAMPLE OF SEX OFFENDER TYPOLOGIES
4. RESEARCH ARTICLES RE: COST OF REHABILITATION
5. ARTICLES DESCRIBING THE USE OF POLYGRAPHS IN TREATMENT AND SUPERVISION OF SEX OFFENDERS
6. STEP-BY-STEP: LEGALLY SOUND INVESTIGATIONS
7. MISSOURI HOUSE BILL 1370: MANDATED SEX-OFFENDER TREATMENT

Senate Judiciary Committee
Attachment 1
1-24-91

1-1/30

PROTOCOL

Inter-Agency Child Abuse Protection Team

GENERAL PREMISES

The primary purpose of the team shall be to provide an ongoing forum in which member agencies can coordinate all phases of case development from investigation through treatment. The team shall also be used for the dissemination of information or presentation of training materials pertinent to the functioning of the team. Program decisions shall rest with the RTAT Board or with the consensus of the participating agency administrative staff. Policy decisions shall not be the responsibility of the Abuse Team.

The team will consist of representative personnel from Mental Health, CSD. Police Agencies, specifically Vale, Ontario, Nyssa City Police Departments, Malheur County Sheriff's Department and Oregon State Police, Parole and Probation, District Attorney's Office, Juvenile Department and Restitution Treatment and Training, Inc. (RTAT).

The designated representative from each mentioned agency will act as a liaison between the Team and their co-workers such that information is both provided to and taken from the Team. It is the responsibility of each team member to update the team regarding any action or potential action taken by a team member's agency. Each member of the Team will assume responsibility for being an actively participating member with freedom to express feelings and opinions, state recommendations with expectation of feed-back and/or direction, and to openly state disagreement with a member or members of the team without fear of repression or reprimand.

Agency heads may attend the Team meeting when they feel the need if they are not regular members of the Team. Appropriate visitors will be introduced to the team and will be cleared by the Team beforehand as that is possible.

It should be noted that the PROTOCOL was prepared to serve as a guideline, not to supercede professional discretion. Each agency's participation shall be consistent with it's commitment to the interests of children within the context of the agency's statutory obligations.

INTRODUCTION:

National District Attorneys Association, American Prosecutors Institute, Mid-Winter Conference, February 15-18, 1989 "Treating Child Molesters in the Community, How and Why -- Should the Prosecutor Agree to Community Treatment for Sexual Molesters?" (This presentation will highlight one of the toughest local treatment programs for serious offenders in the country."

The aforementioned is a direct quote from program descriptions of a recent conference for the National District Attorneys Association Annual Meeting. The Restitution Treatment and Training Program, in a small rural Eastern Oregon County, is presented as one of the nation's toughest and perhaps most successful treatment programs for sexual offenders. How could this happen? Typically, national models for treatment programs spring forth from thriving urban areas where federal grants and other funding provide profuse income. Generally, notorious professionals draw attention to grand programs with an abundance of the nation's internship program and traditional professional support. How did it come to be that a small Eastern Oregon County can boast success of a nine year success period and eventually earn national notoriety?

The answer to this question lies within a commitment within two areas. Even as professionals have come and gone into the Malheur County Program, two very important commitments have remained and provide the reason for the program's national notoriety and success.

Before discussing those two important points, a sketch of dilemmas facing professionals in the area of child sexual abuse needs attention. It is these controversies, these road blocks, these difficulties that have forced the professionals in Malheur County to develop a unique and successful system.

PERVADING AND PERPLEXING ISSUES IN THE AREA OF CHILD SEXUAL EXPLOITATION:

...In some places, we have tremendous pressure coming from victim advocacy professionals suggesting that prosecution to the fullest extent of the law should be the only consideration in dealing with incestuous families. Cheers rise from the courtroom at a conviction. Failure is always felt with an acquittal, but in each case, success or failure depends on what happens to the offender and very little consideration is given to the victim. Those who advocate for this position suggest "if we cannot prosecute, we have failed". The entire success and failure is based upon what happens to the offender.

...On the other hand, we have family system approaches asking for non-prosecution in cases of family incest. These professionals beg the prosecution and court to look upon family incest as a sign of family dysfunction, requiring blame to be divided among family members. This process leans away from prosecution and toward "family therapy". With this approach, it is suggested that family incest is not as traumatizing as "stranger to child" sexual abuse.

...We have legislatures becoming aware of the devastating problem of sexual abuse. Through public hearings, horror stories are told by adults regarding their own childhood sexual abuse. The response from law makers is to stiffen the penalties for crimes committed against children, especially younger children. Unfortunately, the result of this well intentioned response is that sex offenders will be very unlikely to confess and will be very likely to force the system to try each one of these cases in court. When stiff penalties or automatic prison terms exist, sex offenders more often will say "prove it". In legislatures zeal to say "we will not tolerate sexual abuse of young children", it seems that the workload is doubled within the system and failures to have convictions involving young children will be cut in half.

...We have judges throughout the country faced with sentencing hearings where sex offenders are portrayed as victims rather than perpetrators. The idea that someone could commit sexual crimes against children for pleasure is difficult for anyone to accept who is not sexually abusing children. Therefore, when sexual offenders indicate they were victims as children, courts are often faced with decisions requiring a humanitarian approach. Often, courts are impatient to view sexual offenders as victims and prone to not hold sex offenders accountable for their actions due to the sexual abuse of the perpetrator in childhood.

...We have mandatory sentencing in some states as another response to our objection and horror to child sexual abuse. Often, when sexual abuse is discovered in states where mandatory sentencing exists, families are encouraged not to report when sex offenders are facing, as an example, eight years in prison. Prosecutors in this dilemma often feel pressure when reports are made to reduce the charges in order to avoid separating the family for many years. In situations where mandatory jail terms exist, it would often be safer for the sexual offender to take the life of the child rather than be convicted of sexual offenses. In many states, leniency or creative sentencing is more likely in cases of murder than with child sexual abuse. Often, the results of mandatory prison terms is that the offender receives a much lesser charge to avoid residual impacts on the family.

...We have therapists all over the country agreeing to treat sexual offenders without admissions of guilt. In other words, the therapeutic community has taken over for the system and says "I will cure this offender". If therapists are questioned in regards to how treatment can occur without an admitted "problem", the response is usually "there is no data that suggests a man must admit to sexual offending and be prosecuted in order to successfully complete treatment." This process, of course, would do away with our system of court and consequence since therapists will be able to treat problems even if the problems are not discussed or admitted.

...We have judges throughout the country faced with the dilemma of sentencing following convictions. As one judge reported with extreme frustration, "In sentencing following a conviction, I attempt to do the humanitarian thing and require this individual to complete therapy". Two months later the therapist reports back to the court that the therapeutic intervention has determined the crime was not committed. Therefore, treatment is inappropriate. The judge continued to question, "Why did we spend thousands of dollars on preliminary hearings, trials, juries, and prosecution if the therapist in four very expensive sessions can make these determinations for us?"

...We also have throughout the country forensic psychologists operating booming businesses. In many areas, it is the mental health field or the forensic psychologist who has become the "system". It is not uncommon to lay in the hands of psychologists our intervention systems. Admittedly, the system has been, at times, ineffective in implementing solid legally sound investigation systems, appropriate interviews with children, and effective networking systems. The response to this mediocre competency level is to make decisions that psychologists can provide the most appropriate answers. It is not uncommon to submit a client for evaluation requiring psychological and perhaps physiological testing to determine whether or not the crime has occurred. The result is a battle of the psychologist to determine guilt or innocence rather than returning back to the mediocre system and requiring competency.

...On the far end of the spectrum, we have those who suggest we should decriminalize sexual contact with children. On this rather distant end of the sprectrum, we have those from the Rene Guyon Society advocating "sex before eight or it's too late". A more familiar cry comes from individuals who suggest it is the system who causes trauma to children and that if sexual abuse was decriminalized, the system would not have "become the perpetrator" and children would be protected. As one minister stated, "why don't you do the same with child sexual abuse as we have done with alcohol? Decriminalize it and then it will not be a crime."

...Finally, we seem to have lost the understanding of the difference between or perhaps the marriage between C.R.I.M.E. and H.E.L.P. In presenting the Restitution Treatment and Training Program Sex Offender Treatment Contract in Wyoming, a psychologist was outraged. His statement was "How dare you call yourself a treatment program, this looks as though it is from Nazi, Germany". The psychologist was challenged in return in regards to the difference between a sexual offender and a criminal who robs a bank. The question was asked, "How many psychologists advocate in court 'help' or treatment for the bank robber?" Is the statement made, "Your Honor, I will treat this individual who has robbed a bank." The question can be asked, If an individual robs a bank, why are we absolutely sure of the criminal nature of this crime and the appropriate criminal consequence? Yet, if an individual robs a precious individual, a vulnerable human being of childhood, why do we have a sense that the criminal automatically needs H.E.L.P. instead of recognizing the true issue of C.R.I.M.E.

The psychologist in Wyoming continued to argue. "What you advocate in this treamtent program is unconstitutional. You are taking away the rights of the individual guaranteed to human beings by the Constitution of the United States. How dare you call yourself a therapist or a treatment program". The answer to the psychologist filled the room, "How many of these rights would the individual lose if he/she was sent to prison?" The psychologist finally responded and perhaps eloquently stated the absolute tragedy in our country in being able to deal appropriately with this problem. "You cannot compare robbing a bank and child sexual abuse because when you rob a bank, you are committing a crime against adults!"

In summary, these ten issues are examples of the conflict and perplexing ideations and thoughts throughout the country as we attempt to deal with the problem of child sexual abuse. Obviously, these are diverse and emotionally laden ideas which have a profound impact on our ability to face the problem appropriately. The program in Malheur County has lent a sensitive ear to all of these dilemmas. The solution, based on two extremely important ideas, provides the most important and perhaps most successful balance in being able to protect the community, protect potential victims, and, at the same time, provide sensitivity to the unique nature of family sexual abuse.

THE TEAM APPROACH

The underlying success of the Malheur County Program is attributed to the fact that each professional recognizes the importance of interagency cooperation. Regardless of our individual successes, failures, ideations, or philosophies, it is clearly understood that without cooperation, our efforts fail and children are further traumatized. Interagency cooperation

requires an admission that we cannot work alone.

Historically, the Malheur County Program began in 1980 with a traditional case of family incest. Through a rather bizarre chain of events, professionals learned that through working together maximum success could be obtained. Children's Services Division was able to protect the child, the prosecution was able to obtain a conviction, LawEnforcement were able to see the fruits of their labor through a conviction, and, finally, the Defense Attorney involved was able to secure for his client a criminal consequence less offensive than incarceration. Through perhaps accidentally stumbling through this case, the group of professionals in Malheur County recognized the need for working together. When interagency cooperation occurs, successes must be shared but success is also profoundly evident.

The history of Malheur County also indicated that previous to an effort of working together, failure was prevalent. If the family system approach was implemented, extremely dangerous sex offenders were not prosecuted, they continued to reoffend, and children were continually traumatized. If independent prosecution occurred, often the family appeared to be destroyed and through incarceration, the victim seemed to "become the perpetrator" in the eyes of the family. Neither approach seemed to work and the Malheur County professionals took on the task of finding the middle ground where a solution existed.

With the evolution of one successful case, the sex offender was placed into a treatment program, the child was allowed to remain at home, a trial was avoided, although a prosecution had taken place. The family was placed in a treatment program with a decision being made that the primary treatment goal would be to repair the damage to the victim. It was this concept that encouraged the professionals involved to organize and attempt to draw up plans for an implementation of a program.

Many decisions were made in regards to protocol and philosophy. The following is a list of assumptions made by the Sexual Abuse Interagency Team in October, 1980. It was through these assumptions that the program became organized and flourished for the next few years.

It was assumed that since most crimes were committed within the family, it would be important to keep the family together. Offenders were allowed to live with their victims while involved in treatment. It was also assumed that we would be successful in treating sexual offenders within a nine month period and that a diversion program would be the most appropriate method of prosecution. Not only were offenders allowed to remain in the home, but offenders were brought into treatment without a comprehensive evaluation and obviously physiological measurements were not implemented. Finally, as far as sex offenders were concerned, it was assumed that offenders would be honest with the treatment specialists, that offenders would have positive feelings about a therapeutic intervention, and offenders

would be highly motivated toward completing the treatment program.

Assumptions concerning the family included the belief that the non-offending parent would have positive feelings about agency intervention and that primarily older children, those in adolescence or in early stages of sexual development would be the primary category of victims involved in the treatment program. The Interagency Team assumed that the entire family would be motivated toward repairing the damage to the victim and that generally the family would be a place of emotional safety and security for the victim.

Assumptions concerning the "system" included the understanding that criminal court would be an advesarial environment for children. It was believed that all efforts should be made to avoid the criminal court arena for children and, in fact, it was believed that should the sexual offender place the child in that position, treatment should not be available. Additionally, assumptions were made that the primary focus of the interagency work would be to repair the damage to the victim.With the diversities of priorities and disciplines, the approach of treatment focused on the child seemed to be consistent within each discipline. Treatment approaches for the benefit of only the sexual offender were avoided and rejected. The "system" of professionals agreed to coordinate if the child or the victim was the primary focus of effort.

THE RESTITUTION PHILOSOPHY

Interagency cooperation is the primary modality for the program's success. The philosophy of "restitution" has also made a tremendous contribution to program fulfillment. Although many of the aforementioned assumptions have obviously fallen by the wayside, been disproven, or proceeded through rejection, the one philosophy that has remained intact is the general attitude about restitution. In 1980, it was believed that the sex offender should be required to pay emotional, psychological, and financial restitution to the victim. It was also believed that the "victim" involves not only the child, but the family, the community, and society. The Restitution Treatment and Training Program has been successful with using the "spirit" of restitution as the overriding philosophy. It is, in fact, the restitution idea that has provided the groundwork for success and eventually for the notoriety experienced by the program in Malheur County.

R. T. A. T., INC.

Restitution, Treatment and Training, Inc.

P.O. Box 800 • Ontario, Oregon 97914 • (503) 889-3910

PROGRAM DESCRIPTION
MALHEUR COUNTY SEXUAL ABUSE TREATMENT PROGRAM

INTERAGENCY SEXUAL ABUSE TEAM

An innovative Sexual Abuse Treatment Program, (SATP), has been developed in Malheur County, Eastern Oregon. Paramount to the success of this program is the interagency cooperation which has been developed since 1975. The interagency emphasis has two major functions, one of which is the investigative team approach. Each abuse/neglect complaint in Malheur County is automatically handled through a team effort with child protective workers and law enforcement officers. This procedure allows each investigation to minimize the trauma to the victims and maximize efficiency for the agencies involved. In addition to this investigative effort, the "TEAM" concept is used on a continuing basis to serve victims and their families participating in the Sexual Abuse Treatment Program. Weekly meetings are held to include five agencies who continually participate in the Sexual Abuse Team on a continuing basis. The five agencies who participate in the Sexual Abuse Team are: DISTRICT ATTORNEY, the JUVENILE DEPARTMENT, LAW ENFORCEMENT PERSONNEL, CHILDREN'S SERVICES DIVISION, and MENTAL HEALTH CLINICIANS. These agencies coordinate to maintain and monitor individuals throughout the treatment program.

Products of this interagency coordination committee insure success of the program and meet the special needs of victims and their families. Education and training in the dynamics of sexual abuse are constantly provided through these agency meetings. The JUVENILE DEPARTMENT, and CHILDREN'S SERVICES DIVISION coordinate in an effort to protect children involved in the treatment plan and to insure that the non-offending spouse will participate and follow through with the treatment plan. Information shared in these meetings assist the DISTRICT ATTORNEY and PAROLE AND PROBATION officers in monitoring their clients and assuring that legal requirements are being met. Contact and coordination with the DISTRICT ATTORNEY is the key to assuring that there is coordination between offenders, defense attorneys, and the court process. This coordinating committee monitors services to the entire family and assures maximum protection for the community.

Beginning in 1980, the treatment program was originally operated within the MALHEUR COUNTY MENTAL HEALTH AND COUNSELING CENTER. Effective Oct. 1,1985, the program was reorganized as R.T.A.T., a private non-profit corporation, which continues to have public agency support. The primary modality for treatment is peer group involvement. Participants in the program are simultaneously involved in groups for sex offenders, non-offending spouses, teenaged victims, (female & male), preteen victims (females), juvenile offenders, male victims, and both little girl and little boy victims. for ages 3-9 years of age. Due to the coordination efforts of the interagency team, a large number of sexual abuse cases are detected and a large population of very small children are treated within the program.

TREATMENT GOALS

The primary goals of the treatment program is to repair the damage done to the victim of the sexual abuse situations. This goal is paramount throughout the entire treatment process and all participants in all agencies work toward this goal. Offenders are not accepted into the SATP unless they can participate in the goal of repairing the damage done to their victim. Most decisions made in the treatment program and in the interagency team are made with this primary goal in mind.

The second goal of the treatment program is to assist the family in making a decision about reunification, independent of the sexual abuse situation. This goal has been formulated in order to avoid having the child victim be responsible for family reunification or for family disintegration. At no time, does involvement in this program presuppose that the family will work toward reunification. However, family treatment, family resolution, and family clarification regarding the sexual abuse is paramount to repairing the damage done to the child victim.

The third goal of the SATP is to reduce the possibility of recidivism rate on the part of the offender. Through participation in the team concept, the community can be guaranteed maximum protection from the possibility that the offender will repeat the crime.

AFTERCARE TREATMENT

An aftercare phase of treatment has been developed over the past few years and has become invaluable to victims and their families who need ongoing treatment beyond the intensive therapy received in the primary phase. This phase of treatment provides peer support and counseling for the new families, provides material and services to victims involved in the SATP, and also provides education for the community. The aftercare treatment was developed to fulfill the needs of families after the first three goals of the program are met.

Families who have completed the intensive treatment program of the restitution approach would be involved in the aftercare phase of treatment to assure a clarification of the treatment goals that have been accomplished and also to assure that progress continue to be made in families. If family reunification has not been possible, the offender will, nonetheless, be required to be involved in the aftercare part of the program throughout the remainder of the probation requirement. Involvement in the aftercare program not only assures protection for the victim, but also provides an appropriate monitoring system for the sex offenders.

COMMUNITY EMPHASIS

Aside from dealing directly with the sexually abusive families, a fourth goal of the SATP is to provide education, information, training, and awareness regarding sexual abuse to the community. Human Sexuality courses are offered to the entire community and to all participants in the SATP. Education and training is provided to businesses, community groups, and schools regarding sexual abuse by agency team members. Training for parents in the area of sex education is also provided. Preschool/Head Start Programs are provided with educational materials and programs to use with very young children in efforts to detect sexually abusive situations at an early age. These prevention efforts are providing the community with a keen awareness and understanding of the probelsm of sexual abuse.

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As the awareness of the problem of incest or sexual abuse develops, it becomes obvious that communities will be required to respond in some manner to these situations. This awareness is especially keen in a rural setting and community members demand appropriate and equitable responses. Malheur County has developed a unique and successful program that meets the needs and concerns of their rural community. Since 1980, approximately 700 victims and their families have participated in the treatment program. The interagency coordination of this program assures maximum protection to the victim and maximum utilization of the community's resources. Treatment of the entire family provides an equitable, appropriate approach to the sexual abuse. The preventative efforts of this program provide the community with, not only an appropriate response to the problem, but with a possibility of deterring or eliminating sexual abuse of children in the future.

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PROGRAM GOALS

DEFINITION OF SEXUAL ABUSE

Sexual abuse, for the purpose of this program, occurs when the perpetrator has a relationship to the victim, and exploits the power of that relationship to involve the victim in an overtly sexual act. This definition of incest may include nonfamily members who do have power over a child through a relationship, but may not be part of the child's family.

PROGRAM GOALS

1. The primary goal of the Restitution Treatment and Training Program (RTAT), is to repair the damage done to the victims of the sexually abusive relationship. This goal is paramount throughout the entire treatment process and all participants in the family work toward that goal throughout the treatment program.

2. The second goal of RTAT is to assist the family in making a decision about reunification, independent of the incestuous situation. To presuppose family reunification or family separation will subject the child victim to further damage. At no time does involvement in this program presuppose that the family will work toward reunification but, rather toward making an appropriate decision about reunification <u>after</u> the child's needs have been met.

3. The third goal of RTAT is to reduce the possibility of recidivis on the part of the offender.

GENERAL DESCRIPTION OF TREATMENT

This treatment approach recognizes that, since sexual abuse normally occurs in families, the most appropriate approach to the treatment is to involve the family unit. The treatment approach is founded on the belief that the most appropriate method of dealing with the problems of sexual abuse is to use all family members as tools to repair the damage done to the child victim. This program, however, does not limit its membership to family groups and, therefore, will accept a non-offending spouse or victim who is in need of treatment. Adult offenders will not be accepted unless they can be integrated into a process that will be working toward the primary goal of the program which is to repair the damage done to the child victim.

The primary modality in this treatment program is peer group involvement. The participants in this program will be involved simultaneously in group processes such as:

1. Groups for sex offenders for perpetrators of the sexually abusive act or acts.

2. Groups for non-offending spouses.

3. Groups for child victims, both male and female.

4. Groups for adults who were molested as children.

Additional components of RIAI include a human sexuality education program and an aftercare treatment program. Individual therapy sessions are scheduled on an as-needed basis, always in addition to the work done in groups, which is seen as primary. The purpose of peer groups is to prepare all family members for the clarificati process which will repair the damage done to the victims. Marriage counseling, non-offending spouse/victim counseling, sibling/victim counseling, and offender/victim counseling will preceed the family clarification process.

When the clarification process has been completed and all efforts of all family members have been made to repair the damage done to the child victim, then the family will be assisted in making a decision about reunification. The amount of effort in this phase of the treatment program will, obviously, vary from one situation to another. All efforts will be made, however, to avoid making the sexual victim feel responsible for the reunificati decision.

When the above mentioned treatment goals have been specifically met, it is hoped that the family will then become primarily involve in the second phase of RIAI. The aftercare component will, hopefully, provide support for the family, an ongoing educational focus, and, also, a monitoring device for the offender. Peer group involvement for support and for assistance in the functioning component of the treatment process are viewed as extremely importar to the ongoing process within these families. Offenders, particularly, will hopefully be involved in the aftercare phase of treatment throughout the entire length of their probation.

INTERVENTION STRATEGY

It is believed that the most appropriate way to provide a cohesive and functioning treatment program is to assure interagency cooperation. The Malheur County Program has been developed from the concept that agencies working together will be able to functior more efficiently and, consequently, provide maximum effort in repairing the damage done to sexually abused children. The following is a description of how agencies will coordinate and functic in order to involve incestuous families in the sexual abuse treatment program. The following is a guideline for interagency coordination, however, it is realized that some situations may vary,

due to special circumstances.

1. A complaint is received by law enforcement or Children's Services Division regarding the possibility of sexual abuse. The investigative team which is composed of law enforcement agencies and of a particular child abuse complaint and, also determine whether or not that abuse involves sexual misconduct. If sexual abuse is involved, the child abuse team investigator arranges for separation of the alleged perpetrator and the victim, until the investigation is completed. The alleged perpetrator will be removed from the family by either being placed under arrest and incarcerated or by voluntarily residing somewhere else in the community, pending completion of the investigation. Those people working in the investigative phase will exert all possible effort to protect the child victim from, not only physical abuse, but will assure his/her emotional security, as well.

2. The child abuse investigation team, made up of Children's Services Division and law enforcement representatives, will jointly conduct the investigation. The team will then reports its findings to the interagency sexual abuse team to, specifically, include the District Attorney's Office, Mental Health personnel, and the Juvenile Department. Of primary importance during this initial stage of the investigation is a determination of whether or not the non-offending spouse will be able to protect the child from further victimization in the home. All efforts are made to support the non-offending spouse and encourage the non-offending spouse to protect the child from further victimization. All efforts will be made to have the children remain in the home of the non-offending spouse, if the safety of the children can be determined.

3. The investigative team members from Children's Services Division or from law enforcement will seek permission from those involved in the sexual abusive situation to be contacted by other participants in RIAT for the purpose of peer counseling. When the consent is given, the investigative team members will, then, arrange for ACT II members to make contact with the recently investigated offender and non-offending spouse. The non-offending spouses will talk with the recently investigated non-offending spouse and encourage him/her to understand the importance of protecting the child from further victimization. Offenders already in the ACT II treatment phase will contact the alleged offender and encourage him/her to take part in the evaluation at RIAT. This effort will be especially important for the offender who has recently been charged and arrested but who has not yet entered a plea of guilty or not guilty. There will also be a list of teenage victims who will volunteer to do peer counseling for a newly investigated victim. Names and telephone numbers of these people providing peer counseling can be obtained through the sexual abuse teatment coordinator.

1-14/30

4. Every effort will be made to establish a positive and cooperative rapport with non-offending spouses and victims. Hopefully, peer contact will have taken place prior to the initial interview at RTAT and this will assure a positive attitude about treatment. Literature and other information will be provided to new clients, so that positive relationships can be established and treatment can begin as soon as possible. Non-offending spouses and victims will be immediately entered into the program and oriented into peer group involvement. Every effort will be made to assist the victim and non-offending spouse in feeling protected and comfortable within, not only the home environment, but the treatment program, as well.

   Hopefully, the alleged offender will have had the opportunity to talk with other offenders in the program prior to his initial intake session. It is also hoped that the offender has already been charged with the crime and arraigned through the court process previous to coming to RTAT for an interview. Peer counselors for offenders are encouraged to attempt to accompany the alleged offender on his/her initial intake session. During the first session, the alleged offender will be presented with information about the program and the program goals. Treatment modality requirements and program descriptions will be presented.

   All efforts will be made to encourage the offender to view the treatment program as an appropriate solution to the dilemma the offender presently faces. The offender will beinvited to attend sex offender group therapy sessions and will also be asked to give permission for other offenders in the program to continue their contact with him/her outside the program. The offender will not be required to give any information about the investigation or about his previous behavior. It will be explained that any information the offender does wish to share can and may be later subpoenaed into a court of law. The offender will be encouraged to understand that these early sessions are for information gathering and peer counseling, rather than requiring him to make a decision about applying for the program.

   After RTAT has been explained thoroughly and after the offender has been given several contacts with other offenders and has participated in two sex offender group meetings, he/she will be given the opportunity to participate in an extensive evaluation as to the appropriateness of the offender becoming involved in the program. An evaluation time will be set up for the offender after he/she has entered a plea of guilty. The offender will not be seen or evaluated after this initial program orientation, unless he/she enters a plea of guilty and admits to the factual allegations against him/her.

5. The evaluation of the offender may take place over an extended period of time. Integral parts of the evaluation include, not only interviewing the offender and offender's responses through objective testing, but interviewing with the victim, the non-offending spouse, and the offender's participation

in the sex offender groups will be considered for the evaluation process. The offender will be, initially, asked about the sexual contact betweenrhimself/herself and the victim and, also, information will be gathered as to the offender's sexual history and arousal patterns. During this evaluation period, the offender will be expected to comply with the guidelines for sexual offenders much the same as for other offenders who are already involved in the program. The offenders will be expected to cooperate with those guidelines, especially the "no contact order".

Since the offender has already entered a plea of guilty, a presentence report will be simultaneously written by Adult Probation and Parole. It is hoped that both of these evaluations will be completed simultaneously so that coordination can be assured. Critical to the evaluation process will be the offender's potential to repair the damage done to the child victim. This criteria should be a critial part of a pre-sentence evaluation, so that recommendations from Probation and Parole and RTAT can be consistent.

6. The personnel of RTAT will provide weekly reports to the Interagency Abuse Team members composed of District Attorney's Office, Children's Services Division, Juvenile Department, law enforcement agencies, and Probation and Parole. Attendance, general level of cooperation, and progress will be reported at weekly meetings of this interagency committee. Not only will the offender's behavior and evaluation process be discussed, but the position of the non-offending spouse and the emotional security of the victim will be discussed on a weekly basis. Any information that the interagency team has regarding the evaluation of the offender will be compiled and considered. The final evaluation process may take as long as three months for final disposition. It is believed that, throughout this process, agencies can coordinate so that the most appropriate decision can be made about the offender's potential for treatment and that all possible protection of the child victim and non-offending spouse can be assured.

7. It should be noted that no offender will be evaluated for RTAT, if he or she chooses to reject the charges and place the victim in a position where he/she must participate in a trial. If the offender chooses the option of entering a plea of not guilty and requiring that the victim participate in a jury trial, the offender will give up his/her right to seek admittance into the program, even if a guilty verdict is returned.

8. A written psychological/sexual report from the treatment personnel will be submitted to the District Attorney, to the Interagency Abuse Team members, and to Probation and Parole. The offender will be required to continue to attend the sex offender group meetings and any other treatment requirements of RTAT. Until sentencing, however, treatment of the offender will be indirect. If the offender is incarcerated previous to admittance to RTAT his specific treatment plan

will be developed, following that incarceration period.

ALTERNATIVES FOR OFFENDERS

If the offender is not accepted into the treatment program, the District Attorney may consider other alternatives, such as:

1. Criminal prosecuction with the possibility of involvement in the sex offender program at the Oregon State Penitentiary.

2. The probation stipulation requiring voluntary admission to the sex offender treatment program located on the campus of the Oregon State Hospital.

3. If the offender is no amenable to treatment due to an arousal problem, it may be recommended that individual sex offender treatment (aversion therapy) should be considerated. If the primary sexual problem is not one of incest but of pedophilia or some other generalized sexual arousal deviation, then it would be most appropriate to have that offender seek treatment for the arousal deviancy, previous to entrance into RTAT. It should be noted, however, that if the offender is not appropriate for treatment, the non-offending spouse and victim will participate in the treatment program, independent of the offender.

4. It is a general belief of the Interagency Abuse Team that, if an offender enters a plea of not guilty and is subsequently found guilty in the court, a punitive measure would be a most appropriate consequence, rather than an alternative treatment modality. It is felt that treatment for sex offenders should only be considered if they are willing to protect the child from the court process.

JUVENILE COURT INVOLVEMENT

Upon entrance into the treatment program, if deemed appropriate by the Team, the non-offending spouse will be approached by a representative from the Juvenile Department. At that time, a Juvenile Department Contract may be implemented to specifically outline the expectation for the non-offending spouse and the victim. It is hoped that this meeting will be set up as soon after the investigation as possible, so that it can be clearly outlined for the non-offending spouse the treatment expectation concerning the non-offending spouse and the child victim.

It will be understood by entering into this informal contract that failure to comply with the specifications of the contract will result in bringing the matter before the Juvenile Court. It will be the Juvenile Department's responsibility to take this action should noncooperation of the non-offending spouse become an issue.

TREATMENT FOLLOW-UP

The personnel in RTAT will be using certain criteria to evaluate the process through the treatment program. Weekly meetings of the Interagency Team will be used for the purpose of sharing information or progress, attendance, and general level of cooperati for all family members. Simultaneous treatment for the offender, non-offending spouse, and victim requires constant monitoring and follow-up which will be most appropriately evaluated in the Interagency Team weekly meetings. Progress will be assessed as follows:

1. Offender - The offender will be given a contract during the evaluation portion of his/her entract into the program. It will be expected that all of these guidelines will be met while the offender is in treatment. It is expected that the offender will go through certain phases of treatment as follows:

   a. The first phase of the treatment for the offender will be to have the offender accept responsibility for the sexually abusive act and indicate to those working with him/her that all denials and rationalizations for the sexual contact have been extinguished. This is a requirement to, not only admit to the sexual contact, but to admit full responsibility for that sexual contact. The first phase will be evaluated by three criteria which are:

      1) The offender's descriptions of the sexual contact will match with and be validated by the victim.

      2) The polygraph examination will be passed, indicating the offender's ability to establish an open and honest relationship with the treatment personnel.

      3) There will be a general change in the attitude, co-operation and behavior of the offender.

   b. During the second phase, it is expected that the offender will have made every attempt to evaluate the damage done to the child victim. The offender must go through an educational process which allows him/her to evaluate and analyze the damage done to the victim and to prepare himself/herself to repair the damage. This phase will primarily work toward a culmination where the offender is prepared to clarify for the victim.

   c. In the third phase of treatment, the offender will participate in clarification sessions between himself/herself and all other family members with the paramount goal of repairing the damge done to the victim.

d. The offender will work with other fmaily members to evaluate the possibility of reunification within the family. This will be done through marital, individual, and family counseling sessions. Some of this counseling may be arranged with other agencies.

e. The final phase will include the offender becoming involved in the aftercare treatment portion of the program where the offender will participate in peer group involvement throughout the duration of his/her probation. It will be expected that the polygraphs will be used to monitor progress throughout the aftercare phase of treatment.

If at anytime, the offender does not follow through with the treatment plan, the therapist will submit to the District Attorney's office, a written letter stating an inability to work with the offender. It will be recommended to the District Attorney's office that action be taken to alleviate this problem. Reports to Probation and Parole will also be an integral part of monitoring the offender throughout treatment.

2. Non-Offending Spouse - The non-offending spouse will be integrated into the group process as soon as possible.

a. The first phase for the non-offending spouse will be to become aware of his/her responsibility in the abusive situation within the home. It will be important that the non-offending spouse be taken through a treatment process in which recognition can be made regarding his/her responsibilities in the family dynamics that helped the sexually abusive situation evolve.

b. During the second phase, it is expected that the non-offendino spouse will make every attempt to evaluate the damage done to the child victim by creating an atmosphere in which the offender could operate. This will be done through an educational process and through peer support in the non-offending spouse group.

c. The final phase will be in assisting the non-offending spouse to prepare for and complete the clarification process for the victim. The non-offending spouse and all children in the family will participate in the clarification process to:

1. Repair the damage done to the victim.

2. Assist the family in making a decision about reunification.

It should be noted that, should the non-offending spouse fail to progress in treatment, this, too, will be reported and acted upon by the Interagency Team process.

3. Victim - The victim will be integrated into the group process from the early stages of involvement in the treatment program. The treatment will progress in the following phases:

a. The first phase will be to assist the victim in recognizing that he/she is the focus of all efforts in the treatment program. During this first phase, the victim will be assisted in feeling comfortable and protected within the treatment program. It is particularly important that a positive and congenial attitude be instilled within the victim so that he/she does not continue to feel responsible for the family unit, for the situation of the offender, or for the family turmoil which may be taking place within the home.

b. The second phase will be to assist the victim in understanding sexual functioning and sexual responsibility so that all blame for the sexual contact can be given to the offender. This will be presented in an educational manner and through group discussions and processes.

c. The next phase will be to include the victim in a clarification process with the non-offending spouse, with the other siblings in the family, and, finally, with the offender. It will be expected that the offender will organize and convey an attitude within the clarification so that all damage to the victim can be repaired.

d. The fourth phase will be to allow the victim to participate in a reunification decision, independent of the sexual abuse situation. All efforts will continue to be made to protect the victim from further damage throughout this process.

e. The final phase for the victim will be to incorporate him/her into the aftercare treatment modality of the treatment program. It hoped that after the treatment process has taken place, the victim will then feel competent to assist others in this situation and will continue to be involved in the aftercare treatment process to assure a positive self-concept and continued growth.

Nov. 15, 1982
PREPARED BY:
Jan Hindman, M.S., Director,
Incest Treatment Program

LH/lp

Revised: June 5, 1986
Lucy Hutchens, M.Ed.
RTAT Coordinator

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TABLE 4

____homosexual contact
____heterosexual contact

1 -- not at all descriptive
2 -- slightly descriptive
3 -- moderately descriptive
4 -- fairly descriptive
5 -- greatly descriptive

I.

___ Introvert
1. ___superficially stable (good job, no previous arrests,polite)
2. ___family as isolated
3. ___family spends excessive time together
4. ___father views family as safe/a shelter
5. ___views daughter as a permissible alternative to wife
6. ___wouldn't go outside of family for sex
7. ___some degree of depression

___ Rationalizer: uses lofty words or plausible sounding reasons to ex

8. ___wanted to "show them what love is"(Lover) :confuse sex and lo
9. ___wanted to give them sex education (Teacher)
10. ___she wanted it/came on to him (Blamer)
11. ___protecting her from other more corrupt men by satisfying he n
(often with a moralistic attitude) (Protector)
12. ___
13. ___wants sex to produce a superior offspring; elite attitude(Elit
14. ___feels has right to do whatever he wants with his own
child--no one else's business (Exclussive Property)
15. ___Sex as a fun activity so no reason to bar child from it(Sexual
Free

___Typprant
16. ___authoritarian
17. ___relies on intimidation
18. ___strict disciplinarian
19. ___uses threats for submission
20. ___uses actual beatings for submission
21. ___Patriarch: hides problems, preserves image of competence;
sees family as in debt to him and owe him (i.e. sex)
22. ___has affection for daughter
23. ___wife has retreated emotionally and/or sexually
24. ___drink but as secondary to their authoritarianism
25. ___Macho attitudes regarding sex(sex as expression of virility no
closeness
26. ___jealous possessiveness of daughter/victim
27. ___paranoid thinking patterns present to some degree

___Alcoholic
28. ___uses drink as lubricant for closeness with others(either
emotional or physical)
29. ___blots out dependency needs with drinking
30. ___blames the drinking, not himself
31. ___uses drinking to blot out guilt

I.

___Psychopathic personality
32.___sex with daughter as stimulation, novelty and excitement
33.___'get-even' aggressiveness and hostility toward world
34.___also involved in illegal activity, drug abuse, fights, flashy life-style
36.___feels no guilt
37.___sex as pleasure, not expression of love
38.___sexually promiscuous and indiscriminant:___pansexual
39.___also use rationalizations (see page 1)
40.___evidence of organicity
41.___impulsive
42.___rape

___Pedophiliac
43.___socially immature and inadequate
44.___fears adult women
45.___poor self esteem
46.___sexual involvement reflective of a preadolescent sexual developm
47.___fear rejection
48.___sexual with children outside of the family as well

___Psychotic
49.___history of major psychiatric disorder
50.___on medication
51.___history of hospitalization
52.___delusional
53.___presence of hallucinations
54.___psychotic with psychopathic tendencies: use of violence/rape

___Subculture
55.___isolated, rural family culture
56.___permissive subculture where sexual expression is part of the family style: members sleep together, bath together, etc.

III.

___Incidental sexual contact:
57.___dependency needs on child
58.___attempts to deny erotic or dependency needs toward child
59.___attempts at excessive self control or denial
60.___sexualized games with the child
61.___symbiotic attachment with child
62.___sexual interest increased as child matures, i.e., adolescent
63.___household voyeurism

___Ideological sexual contact
64.___sexual activity believed beneficial to the child
65.___uses idealization and rationalization
66.___niave or unaware of the consequences for the child

___Psychotic Intrusion
67.___poor reality testing and object choice

___Rustic Environment
68.___accept incest as natural practice, part of their value system

TABLE 4 (page 3)

True Endogamous Incest
69. ___diminished impulse control
70. ___appear quite well-adjusted and well functioning in other areas.
71. ___outgrowth of role disturbances within family
72. ___related to a specific point in time: crisis related
73. ___father is responsible for the object choice
74. ___flight from adult responsibilities to a more exciting, fulfilling period in his life
75. ___Inhibited
76. ___Conventional
77. ___rigidly devoted to identity as "family man"
78. ___determined to fulfill sexual neeeds within his marriage
79. ___evidence of frustration and anger involving the wife
80. ___relates to daughter on all levels as if she were the wife
81. ___feels guilty and frightened
82. ___scapegoats the girls for leading him on
83. ___coerces or threatens her into silence
84. ___threatens with violence
85. ___compulsion for repetion of the activity
86. ___authoritarian
87. ___limits daughter's outside contacts
88. ___involved serially with other younger children in the family

Misogynous Incest
89. ___fear and/or hatred of women
90. ___history of conflict with own mother
91. ___tendency toward violence and punishment of women (wife-beating rape, physical abuse of children)
92. ___daughter viewed as a possession
93. ___abuses daughter as revenge toward the wife
94. ___views women in elaborate extremes (from virginal to whorish)

Imperious Incest
95. ___view selves as emperors in their household domain
96. ___play out the male chauvinist role
97. ___grandiosity as compensation for mediocre achievement level
98. ___rustic background
99. ___poor education
100. ___few job skills
101. ___religiosity with rigid fundamentalist identification

Pedophilic Incest
102. ___discomfort with adult peer relationships
103. ___easily threatened sexually by adults
104. ___attraction and/or activity with other children outside of the
105. ___sets the activity up as a game

Child Rape
106. ___confuses masculinity with power
107. ___feels sexually adequate only by frightening and overpowering
108. ___need to punish
109. ___attraction to violence
110. ___poor impulse control
111. ___fear of discovery
112. ___chronically antisocial

Perverse Incest (Pornographic)
113. ___involves forbidden fantasies

‹BLE 4 (page 4)

114. ___without specificity or limit to their sexual needs (polymorphous)
115. ___solve conflicts though sexual activity
116. ___responsibility to partner as secondary to own needs
117. ___need to go beyond limits of soically acceptable sexual practice to explore whatever is most forbidden; incest as ultimate taboo
118. ___create their own pornographic material from the activities
119. ___multiple partners
120. ___denial of guilt

121. ____
122. ____
123. ____
124. ____
125. ____
126. ____
127. ____
128. ____
129. ____
130. ____

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R[illegible]EARCH

DOES REHABILITATING CHILD MOLESTERS PAY?

--*by Robert A. Prentky & Ann Wolbert Burgess*

The escalation of sexual aggression over the last several decades has become an increasingly acute problem, manifested in costs to both victims and society at large. The long-term psychological impact of sexual assault on adult and child victims has been documented many times. The costs incurred by society include a network of medical and psychological services provided to aid victim recovery; the investigation, trial, and incarceration of offenders, often in segregated units or special facilities; and the invisible blanket of fear that forces potential victims to schedule normal daily activities around issues of safety. Everyday decisions for parents, such as choosing daycare or babysitters or permitting unsupervised outside play, or equally common questions for adult women, such as when to leave work in the evening, what mode of transportation to use, where to park the car, where it is safe to walk or jog, and whether to use a first name on the mail box or in the phone book become major concerns, especially in larger cities.

Exploring strategies that may effectively reduce victimization rates is an obvious response to these massive costs. One such strategy is offender treatment. The critical questions about such a strategy are what it costs to rehabilitate and whether rehabilitation reduces the risk that an offender will recidivate. How much risk of reoffending must decrease in order to justify the cost of treatment is essentially a social policy question. While we cannot answer the question, "Is it worth it?" we can tentatively address these questions: Does treatment decrease the risk of reoffending? and, What are the relative monetary costs of victimization and of treatment?

Of all the applications of cost-benefit analysis to rehabilitation and resource allocation in correctional institutions, applications to sex offenders are a noteworthy omission. In fact the only study we are aware of that has looked at the monetary cost to society of sexual victimization is Frisbie's (1969) study of 887 sex offenders in California. Chapter 4 in Frisbie's monograph, entitled "Society pays and pays," delineates the lengthy and expensive process begun when a sex offender is charged with a crime. Frisbie concluded that "The magnitude of measurable and hidden costs implicit in processing a sex offender's case from apprehension, through trial, jail, institutionalization at Atascadero or prison or both, and final discharge from probation or parole, cannot but jar society into more vigorous concern over the tax dollars which are channeled into financing the present system" (1969, p.99).

We set out to design and implement a cost-benefit model to examine the question, "Is offender treatment cost effective?" Although space does not permit a detailed description of the model or of procedures for calculating costs, we would be happy to discuss these issues with readers who write to us at the address given below.. For the remainder of this column we will discuss the outcome of the study.

The model proposes in the first case that a convicted child molester is committed to the Massachusetts Treatment Center. He spends 5.1 years at the Center at a cost of $118,146. He is released to the street with a .25 risk of reoffending within the first five years. The cost of reoffense is $183,333.

The model proposes in the second case that a convicted child molester is sent to prison. He serves 2/3 of his minimum sentence (7 years) at a cost of $158,635. He is released to the street with a .40 risk of reoffending within the first five years. The cost of reoffense is $183,333.

The expected cost associated with a treated child molester was determined to be $163,979.25 ($118,146 + [$183.333 x .25]). The expected cost associated with a non-treated child molester was determined to be $231,968.20 ($158,635 + [$183,333 x .40]). The difference is $67,988.95.

The difference of $67,989 represents the additional cost of *one* victim in the event of reoffense by *one* offender. Hypothetically, if 1,000 untreated child molesters were released from prison, the actual cost incurred by society over a period of five years would be $67,989 x 1000, or about $68,000,000.

The reliability of probability estimates of reoffense is critically dependent on the accuracy of available data. Given that there are no absolute probabilities or risks associated with reoffense, it makes sense to ask what the *minimal* difference in reoffense rates between treated and non-treated groups would be for the cost difference to be negligible.

If we hold constant the recidivism rate of .40 for non-treated child molesters, the recidivism rate for treated child molesters would have to be approximately .62 for there to be no difference in cost. Stated alternatively, if the recidivism rate for nontreated child molesters is .40, there will be no difference in cost if the recidivism rate for treated child molesters is 22% higher (≥.62).

If we hold constant the reci-

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di[illegible] rate of .25 for treated child molesters, the recidivism rate for nontreated child molesters would have to be approximately .03 for there to be no difference in cost. That is, if the recidivism rate for treated child molesters is .25, there will be no difference in cost if the recidivism rate for nontreated child molesters is 3% or lower. In other words, if the recidivism rate for treated child molesters is .25 and if the recidivism rate for nontreated child molesters is higher than 3%, then treatment is cost effective.

We set out to design a stringent model, one that would be as blind to preconceptions and bias as possible and one that would, if anything, underestimate costs. Our assessment of recidivism was as rigorous as possible: We considered all charges for a large domain of criminal conduct, regardless of arrest or conviction, to be evidence of recidivism. Moreover, the population on whom we gathered recidivism data (129 child molesters at the Treatment Center) can reasonably be considered the most dangerous--i.e., at the highest risk of reoffense--in the Massachusetts penal system.

We did not, and realistically could not, assess and quantify the long-term psychological costs of victimization. Such costs are levied not only against the child who was victimized but against society as a whole. Indeed, it may be argued that these emotional costs far outweigh the monetary costs in their impact on society. If treatment is effective in reducing victimization rates, as it has been shown to be, the potential savings, human as well as monetary, given crude estimates of victimization rates, would be incalculable.

Given the magnitude of the costs of sexual victimization, the social and political response to the problem has been remarkably deficient. Why? Perhaps because, despite our common-sense appreciation of what impedes and what facilitates behavior change, our instinctive need is to exact our pound of flesh in response to wrongdoing, particularly when the perpetrator is a stranger and the act is as incomprehensible as child molestation is to most of us.

The most rudimentary response to those who violate the law appears in the Old Testament as *lex talionis*, or the law of "An eye for an eye, a tooth for a tooth." Our language teems with colloquial expressions that convey this sense of justice: The wrongdoer, for instance, should get "a taste of his own medicine," or his "just deserts," or his "comeuppance," or simply "what's coming to him." We note with approval that "What goes around, comes around."

Psychologically, we may need to see wrongdoers punished; the desire for retaliation is almost an instinctive response to those who hurt us. But the effectiveness of this response in redressing wrong is limited. Those of us who have developed a long-term attachment know the limited utility of punishment as a way to mitigate hurt or achieve restitution. Those of us who have acquired some expertise in modifying behavior, whether as parents, teachers, or therapists, appreciate the liabilities of punishment in affecting long-term behavior change.

We appear to resist treating child molesters because it is a "humane" response to egregious behavior. If the overriding goal, however, is reducing the rates of victimization and the costs incurred by victimization, and if rehabilitation of offenders can clearly be shown to reduce the likelihood of reoffense over time, then it is imperative that we overcome our resistance to treating child molesters, not for the sake of the offenders but for the sake of the victims.

This study was supported by the National Institute of Justice (82-IJ-CX-0058), the National Institute of Mental Health (MH32309), the Office of Juvenile Justice and Delinquency Prevention (84-J[illegible]-AX-J010) and the Commonwealth of Massachusetts. The study is in press in *The American Journal of Orthopsychiatry*. Interested readers may direct correspondence to the Research Department, Massachusetts Treatment Center, Box 554, Bridgewater MA 02324.

Robert A. Prentky, Ph.D., is Director of Research at the Massachusetts Treatment Center, is in the Department of Psychiatry at Boston University School of Medicine, and is affiliated with New England Forensic Associates in Arlington, MA. Ann W. Burgess, RN, D.N.Sc.,is van Ameringen Professor of Psychiatric Mental Health Nursing, University of Pennsylvania.

CALL FOR RESEARCH PAPERS

Two afternoon sessions of about 3-1/2 hours each have been scheduled during ***APSAC's second annual meeting*** *for 20-minute presentations of research papers, each followed by a 10-minute period of discussion.*

Papers should present original scientific research, not previously published, pertaining to child abuse. Thematic areas to be covered at the Conference include survival and long-term effects, medical diagnosis of sexual abuse, fatal cases of physical abuse, cultural issues, cults and rituals, and reunification vs. permanency planning. Research in these areas is likely to receive favorable consideration. Research may be from any discipline. Previous presentation (as opposed to publication) will not be disqualifying.

Submit 300-word abstracts to:
David Finkelhor, Ph.D.
Associate Director
Family Violence Research Program
University of New Hampshire
Durham NH 03824

Fourteen abstracts can be accepted by the committee which Dr. Finkelhor will chair. Papers that are worthy of presentation but cannot be be accomodated in the schedule will be assigned to poster sessions during the meeting.

1-26/30

POLYGRAPH

A Tool For The Defense

An Attorneys Guide
For The Use Of
The Polygraph Technique

Prepared By:
Gary F. Davis

September, 1987

PROFESSIONAL POLYGRAPH
1427 West Douglas
Wichita, Kansas 67213
(316) 262-2621

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STEP BY STEP

Sixteen Steps Toward Legally Sound Sexual Abuse Investigations

by
Jan Hindman

1- 28/30

SECOND REGULAR SESSION

HOUSE BILL NO. 1370

85TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEINMETZ (Sponsor), SHEAR, CAIRNS, LANG AND McGEE.

Read 1st time January 10, 1990 and 1000 copies ordered printed.

DOUGLAS W. BURNETT, Chief Clerk

3033-2

AN ACT

To repeal sections 193.265, 452.310, 492.304, 566.030, 566.060 and 568.060, RSMo 1986, and section 43.402, RSMo Supp. 1989, relating to the protection of children, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 193.265, 452.310, 492.304,
2 566.030, 566.060, and 568.060, RSMo 1986, and section
3 43.402, RSMo Supp. 1989, are repealed and eighteen new
4 sections enacted in lieu thereof, to be known as sections
5 43.402, 193.265, 211.093, 452.310, 492.304, 566.030,
6 566.060, 568.060, 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, to read
7 as follows:

43.402. The superintendent of the patrol shall
2 organize a missing persons unit within the patrol, which
3 unit shall be the central repository for this state for
4 information regarding missing persons. The head of this
5 missing person unit shall, with the approval of the
6 superintendent of the patrol, establish the services
7 deemed necessary to aid in the location of missing
8 persons including, but not limited to, the following:

EXPLANATION—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

HB 1370 -- Protection of Children

Sponsor: Steinmetz

This bill raises the fees for vital records by one dollar and directs that the revenue derived from the increase in fees be deposited in the child protection and training fund. This fund shall be administered by the Department of Social Services to fund a special team established within the department. The team will:

(1) Provide training, expertise and assistance to county multidisciplinary teams for investigation and prosecution of child sexual abuse cases;

(2) Provide training and information to the Division of Family Services employees who investigate child abuse and neglect complaints;

(3) Assist in the investigation of child sexual abuse cases, upon the request of local law enforcement agencies, prosecutors, or Division of Family Services staff;

(4) Assist county multidiciplinary teams to develop protocols for the investigation and prosecution of child sexual abuse cases.

The bill raises the penalty for statutory rape and statutory sodomy to a class A felony. It enhances the penalties for certain offenses when they are committed against a child in connection with a ritual or ceremony. It creates the crime of sexual malpractice and makes it a class A

(Continued)

misdemeanor. Sexual malpractice occurs when a physician, counselor, psychotherapist or other mental health professional engages in sexual contact with a person who is a patient or former patient under the age of eighteen.

The bill changes the definition of child abuse. The filing of a petition that sets forth allegations of abuse or neglect of a child in the juvenile court shall act as an immediate stay to any proceedings filed in the circuit court under chapter 452, which involved such juvenile. The bill prohibits a judge from ordering electronic recording of therapy sessions of a child victim for use as evidence.

The time for commencement of any civil action for damages suffered as a result of childhood sexual abuse shall be within eight years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever occurs later.

The bill mandates the Department of Social Services to implement a pilot program to provide treatment services for juvenile sex offenders. The Division of Family Services is allowed to provide treatment services, when funds are available, for child sexual abuse victims in instances even when the perpetrator is not a person responsible for the care, custody and control of the child.

KANSAS

Kelly Kultala, state lobbyist

January 22, 1991

RE: SENATE BILLS 18, 19 & 20

The National Organization for Women (N.O.W.) is the largest feminist organization in the world and has taken a very active role in ending violence against women and children.

Research has shown that at least one of every three women and one of every seven men have been sexually abused by the time they reach 18. Violence against women and children is the most fundamental violation of basic rights and deprives them of their right to life, liberty, and pursuit of happiness.

To stop this progression of violence, N.O.W. supports all campaigns of action and education in defence of women. Senate bills 18, 19 & 20 are a step in the right direction. The violent offender not only needs to be punished, they need to be rehabilitated, to protect future generations from falling into the same patterns of violence.

In conclusion, N.O.W. applauds the Interim Committee in recognizing the problems of children who are victims of sexual assault and who suppress the memory of that assault. However, N.O.W. does not agree with the recommendation of leaving current law regarding this issue at a status quo. N.O.W. would prefer the statute of limitations be erased from the law books in regards to the reporting of child abuse by the victims or have it extended throughout the life of the victim.

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Kansas Psychiatric Society

1259 Pembroke Lane
Topeka, KS 66604
Telephone: (913) 232-5985
or (913) 235-3619

January 23, 1991

TO: Senate Judiciary Committee

FROM: Kansas Psychiatric Society *Chip Wheelen*

SUBJECT: Senate Bills 18, 19, and 20

The Kansas Psychiatric Society appreciates this opportunity to offer comments regarding the three bills that are a product of 1990 Interim Proposal 42. We recognize the emotionality surrounding this public policy question, and commend the Legislature for proceeding cautiously in its deliberations.

Senate Bill 18 appears to be the best measure among the three for purposes of dealing with the "sexually violent predator." It incorporates a number of due-process procedures to assure the rights of a person accused of predatory sexual acts. It is extremely important to assure the constitutional rights of an accused person when the outcome of the trial could be the functional equivalency of a life sentence to a facility operated by the Department of Social and Rehabilitation Services.

Senate Bill 18 does, however, leave a couple of questions unanswered. For example, new section three says that evaluations shall be conducted by persons deemed to be professionally qualified. This qualification would be pursuant to administrative rules and regulations adopted by the Department of SRS. Yet, it is the person so defined by those regulations who will be placed in a position of great power because of the presumed qualification to judge whether a "sexually violent predator" is likely to engage in future acts of sexual violence. This is the first definition found at new section one, and it is extremely important to the entire bill. Yet, this crucial determination is left to the bureaucratic exercise of administrative rules and regulations. Furthermore, regardless of whom may be determined qualified by rules and regulations to exercise such judgement, from a clinical perspective, it would be very difficult if not impossible to determine whether a person is likely or not likely to engage in future acts of sexual violence. This would thus incorporate a predisposed bias for a clinician to opine that a person is more likely than not to engage in such behavior.

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Senate Bill 20 also appears meritorious in that it would provide for the continued treatment of persons who could become repeat sexual offenders. Perhaps there exist provisions in current law which allow the court to require such treatment during one's sentence, but if not, we would respectfully suggest that this would be the first step and that the provisions of SB 20 would then follow.

While SBs 18 and 20 appear to be meaningful legislation, SB 19 does not. As you might expect, whenever the Legislature considers amendments to the Treatment Act for the Mentally Ill, the Kansas Psychiatric Society becomes somewhat apprehensive. Senate Bill 19 would certainly warrant such apprehension. It would allow a "qualified mental health professional" to determine whether a person who has been diagnosed as mentally ill is likely to commit a criminal sexual act. The key to this particular language is the definition of qualified mental health professional, which is relatively new to the Kansas Statutes. Last year, during the Legislature's deliberations regarding mental health reform, the phrase "qualified mental health professional" was developed to define who may serve as a so-called gatekeeper for purposes of implementing the community-based mental health system throughout Kansas. We do not believe that the Legislature envisioned the role of the "qualified mental health professional" as one involving such serious decisions as are prescribed by SB 19.

Senate Bill 19, if enacted, would hypothetically present an opportunity for a person who happens to be the victim of a treatable, manageable mental disorder to receive a life sentence to a state psychiatric hospital. While this would represent the worst of all scenarios, it is a distinct possibility. Furthermore, that person could never have engaged in any kind of criminal sexual behavior other than in his or her fantasies, or perhaps even the imagination of a "qualified mental health professional." It is for these reasons that we respectfully recommend that SB 19 be reported not recommended for passage. If in your judgement SB 19 should be pursued, we would suggest that the phrase "qualified mental health professional" at line 20 of page 2, be replaced with the phrase "persons licensed to practice medicine and surgery or a licensed psychologist."

Thank you for considering our comments and concerns.

/cb

The Expanded Duty of a Psychiatric Health Care Provider to Third Parties

WAYNE T. STRATTON, J.D.,* *Topeka*

For the second time in less than 90 days, a Kansas court has appeared to expand traditional tort rules to enlarge the responsibility and duty of a physician or hospital. This column in the October 1990 issue of KANSAS MEDICINE reported on the Kansas Supreme Court's decision in *Arche v. United States of America,* in which the Court found there to be an action for wrongful birth. Now the United States District Court for the District of Kansas has entered a preliminary decision in a suit for damages for wrongful deaths. While the factual situation is heartrending and undoubtedly led to the Court's decision, the result is, nevertheless, expansive of the duty of health care providers to third parties.

The patient had a long and sad history of mental illness, characterized by violent and sexually deviant behavior. He repeatedly attacked other patients, as well as members of his own family. Throughout the 1970s and early- to mid-1980s, he was hospitalized in various VA centers. Eight days after he was discharged from the Veteran's Administration Medical Center, he raped, sodomized and killed a three-year-old girl and a six-year-old girl in Topeka. He had been heard to express murderous thoughts and told the psychiatrist that he needed to try to stay away from little girls.

The Court addressed the issue of the obligation of a hospital or therapist to protect potential victims of their patients from danger. Generally, there is no duty to control the conduct of another in order to protect a third person from harm. However, the Court noted the exception to the rule by recognizing that a duty arises when there is a special relationship between two persons which gives one person definite control over the actions of the other. In applying this exception to the therapist–patient relationship, the Court held that once a therapist does determine, or under applicable professional standards reasonably should have determined, that a patient poses a risk of violence to others, he or she bears a duty to exercise reasonable care to protect possible victims.

Am I liable if my patient harms someone?

The Court appears to have extended the duty to protect to not only readily identifiable victims, but also to those for whom the therapist could have reasonably foreseen an unreasonable risk of harm. The duty to protect is no longer necessarily limited to those individuals whose actual identity is known to the therapist; the Court stated the victim may also be a member of a class of persons that is readily identifiable.

This ruling has significant ramifications for Kansas psychiatrists. It presents an immediate dilemma. Under the current statutes in Kansas, psychiatrists are allowed to warn potential victims only when "such person has been specifically identified by the patient," according to K.S.A. 1989 Supp. 65-5603(6). In its decision, however, the Court stated, "In order to satisfy the standard, plaintiff need not necessarily prove that the VA employees actually knew the identity of plaintiff's decedents."

It is not clear that this conflict in the law has been presented to the Court, and the decision may be subsequently altered. Meanwhile, Kansas physicians and hospitals must be aware of the implications of the decision and the burden cast upon them. Filing a petition for involuntary hospitalization may be appropriate in such situations.

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*KMS Legal Counsel.

Comments appearing herein are not intended as a substitute for legal analysis or advice. Answers to legal questions depend largely upon the particular facts of a case. The reader is urged to consult an attorney for answers to specific legal questions.

These comments do not necessarily represent the views of KANSAS MEDICINE, or the Kansas Medical Society. For further information, contact Mr. Stratton, 515 S. Kansas, Topeka, KS 66603, 1-800-332-0248.

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TESTIMONY OF RONALD E. MILES, DIRECTOR
STATE BOARD OF INDIGENTS' DEFENSE SERVICES
SENATE BILL 18
JANUARY 24, 1991

Good morning. Mr. Chairman and members of the committee. Thank you for allowing me to comment on Senate Bill 18.

Senate Bill 18 defines and sets out a procedure for commitment and treatment of persons found to be 'sexually violent predators,' and while the board and I will not take a stand for or against the bill itself, I would applaud its aims which are to isolate those persons who are prone to the commission of sexually violent crimes.

I wish to provide the committee with what I believe are some technical adjustments that should be made to the bill. First, on Page 3, Line 25, we should provide for the 'effective' assistance of counsel for any person subject to this act. Since we are considering commitment or, in other words, a loss of freedom, the constitutional right to counsel has been interpreted over the years to guarantee adequate and effective representation and, thus, I think it should be included in this bill.

In reviewing the bill, the provision of counsel and other defense related services is assured to all indigent persons. The bill, however, is not clear as to which level of government, state or county, should be responsible for the payment of these services. It appears that this is a civil commitment proceeding and, therefore, does not immediately fall under the provisions of the Indigents' Defense Services Act (1982). Most of the offenses which could result in this commitment proceeding, however, are felonies and, thus, are covered at the original trial under the provisions of the Indigents' Defense Services Act. Other offenses mentioned in this bill, however, are misdemeanors and are currently being paid by the counties. Obviously, we would prefer that the counties pick up the tab for this civil proceeding, but for the sake of uniformity, the Board of Indigents' Defense Services probably should be responsible for this expenditure. Regardless of the committee's final decision, the bill should specify how defense services are to be paid.

I presume that I will be asked to prepare a fiscal impact statement at some point in the near future. At this time, I do not have the data to help me prepare such a statement. I have asked some of our staff attorneys in the public defender offices to look at the bill and help me to estimate its fiscal impact. I have also asked my people to look at some of the legal issues involved in the bill. I hope to have at least one of our public defenders appear before you tomorrow and share with you the concerns from the defense attorney's perspective.

Thank you for your attention and I will stand for questions.

Submitted by:
RONALD E. MILES, DIRECTOR

REM:mcm

Senate Judiciary Committee
attachment 4
1-24-91

4-1/1

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EXECUTIVE DIRECTOR
James McHenry, Ph.D.

Testimony before the Senate
Judiciary Committee
January 22, 1991

Re: SB 18, 19 and 20

The Kansas Child Abuse Prevention Council wishes to express appreciation for the protective orientation toward child victims of sexual abuse encompassed in SB 18, 19 and 20. The desire to protect Kansas children from sexually violent predators is well worth acting upon. In FY 1990, confirmed cases of child sexual abuse (826) accounted for nearly one-third of all child abuse and neglect reports confirmed in that year (2,552). This is a pattern that has persisted since 1987.

A second compelling fact was highlighted in a detailed journal article entitled "Expert Testimony in Child Sexual Abuse Litigation", Nebraska Law Review, vol. 68, 1989. According to the authors, "No studies indicate that incarceration is effective in preventing sex crimes when the perpetrator is released from prison."

The authors do cite a recent study that reliably identified factors associated with recidivism. These included: "(1) marital status (those offenders who were single or divorced were more likely to re-offend); (2) those who re-offended were less likely to endorse the goals of the treatment program (which included decreasing pedophilic behavior); and (3) re-offenders were more likely to have committed sexual crimes against both males and females, and against both children and adolescents." (p. 137)

Evidence of this nature suggests that it may be possible to isolate certain characteristics that are typical of persons likely to engage in predatory acts of sexual violence. Shielding children and society from these individuals is clearly in the public interest.

We are pleased to see that SB 18 includes a funding provision for SRS, contained in new Section 10. It would be unfair to ask SRS to take up the duties assigned under this bill without appropriate financial support.

Thank you for considering KCAPC's interest in the critical topics addressed by SB 18, 19 and 20.

Testimony provided by James McHenry, Ph.D.
Executive Director

Senate Judiciary Committee
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