

## The Containment Approach to Managing Defendants Charged with Sex Offenses

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### [The Containment Approach and Defendants](#)

**THE CONTAINMENT APPROACH**, developed by Kim English, is an accepted, effective way to manage sexual offenders, based on empirical data and theoretical concepts consistent with the best available information from the field of community corrections. But will the approach work with pretrial defendants who have been charged with a sex offense?

It is important first to understand this approach and its application to offenders. The containment approach is a method of case management and treatment that emphasizes victim protection and public safety and implements strategies that depend on agency coordination and multi-disciplinary partnerships to hold sex offenders accountable. It is most effectively implemented through interagency and interdisciplinary teamwork. (*See also: (1) English, Kim, The Containment Approach: An Aggressive Strategy for the Community Management of Adult Sex Offenders, Psychology, Public Policy and Law, 1998, 4(1 & 2), 218–235.*)

The underlying principles of the Containment Approach include:

- Each sexual crime has significant potential for immediate and chronic harm to direct victims, their families, and communities.
- The great majority of sexual crimes are planned acts, committed within the context of an identifiable pattern integral to the offender's life.
- Working together, criminal justice and forensic mental health professionals can effectively identify, monitor, interrupt, and modify this pattern in many cases.
- Official response to sex crimes can assist or impede victim recovery in many cases.
- A victim-oriented philosophy for managing offenders consistently asks, "What is best for the victim?"
- Sensitive laws and practices can provide adequate safeguards without re-victimizing family members.

Collaboration takes the form of intra-agency, interagency, and interdisciplinary teams made up of professionals who specialize in sex offender cases. The containment approach begins with the

cooperation of supervision agencies, offense-specific treatment providers, and polygraph examiners. Information must be shared and communicated freely among supervision officers, treatment providers, and polygraph examiners to prevent sex offenders from maintaining secrecy and deception or playing members of the team against one another to the sex offender's advantage. Teamwork tends to overcome the fragmentation that is often generated by the multi-disciplinary, layered nature of the criminal justice system. As teamwork improves, offender management gaps will also begin to disappear.

Officers play a key communication role in the containment approach and act as a conduit of information among all players in this team approach. The goal of sex offense-specific treatment is to assist offenders in developing internal controls that will help these individuals control their deviant behavior and adjust to supervision, ultimately increasing public safety. Both the offender and the therapist should share progress with developing these internal controls with the officer. It is the responsibility of the officer to coordinate this communication with the therapist and include the offender in this process. The offender must be aware that the therapist and officer maintain regular communication throughout the course of treatment. This conveys to the offender that there is no secrecy around his or her sexual deviance or other criminal behavior.

Polygraph examinations are an effective treatment tool that should be used regularly to provide the sexual offender with an incentive to remain truthful with the treatment provider and the officer. The sex offender should be aware that communication among the officer, treatment provider, and polygraph examiner is standard practice and occurs frequently. This collaboration should be managed by the officer, with both the officer and treatment provider having input into the relevant questions asked by the polygraph examiner.

Again, interagency collaboration is a vital aspect of sex offender management. By successfully combining effort and resources, independent agencies can function as one entity to develop a unified approach to sex offender management within the community. This collaboration may include separate agencies, such as local, state, and federal law enforcement; area sex offense task forces; supervision teams of probation and pretrial services officers; reunification of social services agencies; and treatment providers. Just as important as establishing collaborative teams is maintaining any collaborative efforts. Regular meetings among all stakeholders regarding the success of the program should be held and updates regarding the success of the program should be provided to agency heads. Shared information is the key to effective supervision and public safety.

When developing any collaborative approach that includes any outside agency or provider having specific responsibilities or expectations, the probation or pretrial services office will likely find a memorandum of understanding (MOU) useful. This MOU should clearly outline the expectations and responsibilities of each member of the group and any issues that may arise about information sharing, especially in the case of pretrial defendants and confidentiality issues.

A form of interagency collaboration that is highly recommended is officer participation in area and regional task forces. Not only do these task forces provide vital information and resources for officers, but participation also may help foster networking and develop longstanding working relationships. Participation in a regional task force may make it possible to share resources, specifically computer forensic services, which may help reduce operational costs. Many regional task force organizations provide a multitude of training opportunities; these may be available to probation and pretrial services officers through the district's membership in the group.

Interdisciplinary collaboration may include combining the resources of reunification agencies, which may include child protective services, community corrections, and educators. Intra-agency collaboration includes the combined efforts of the district's chief, deputy chief, supervising officers, information technology staff, mental health specialist, location monitoring specialist, cyber-crime specialist, search team coordinator, and line officers to develop supervision strategies to address the needs of defendants or offenders.

It is also important to illustrate the collaborative effort that officers, specialists, and supervisors

must implement for this approach to be successful. The supervisor's involvement with the officer should begin with the initial case assignment and continue throughout supervision, including staffing and case planning various issues as needed. The supervisor should ensure that the officer is addressing all case-specific issues, including:

- Assessing whether registration or notification requirements apply;
- Assessing third-party risk, foreseeable risk, and notification issues;
- Developing supervision strategies to meet identified objectives;
- Reviewing psychosexual evaluations, monthly treatment reports, and any other pertinent information to determine any change in risk and need.

Supervisors should encourage issue-driven staffings on such pertinent matters as:

- Discussing the results of polygraphs,
- Determining imposition of special conditions at the time of sentencing,
- Assessing the need for a sex offense-specific evaluation at the time of the presentence report, and
- Assessing the need for searches.

They should ensure that officers who supervise sex offenders consistently uphold the orders of the court and effectively protect the community.

The sex offender specialist should demonstrate the traits, characteristics, and skills required of an officer as well as the specialized knowledge required of a specialist. The specialist should be an authority on all aspects of supervising sex offenders. The officer who serves as a sex offender specialist should use his or her special training, knowledge, and skills—along with the multidimensional skills expected of all officers—to assess and deliver the appropriate level and type of supervision required in each case. The sex offender specialist should support the district by serving as a consultant to other officers by:

- Being proficient in legal issues and case law relating to the sex offender population;
- Formulating and updating local policies and procedures;
- Partnering with officers in the case assessment and planning process;
- Staffing responses to noncompliance with officers and supervisors;
- Developing and assessing the quality of community resources and treatment providers; and
- Serving as a liaison to other staff members of the court family and outside agencies.

The supervision of sexual offenders is more demanding, emotionally taxing, and intense than the supervision of most other defendant and offender populations. Sex offenders pose distinct and inherent risks to the public, due to the harm they may potentially cause the most unsuspecting of victims. The risk factors they present often necessitate intense, enhanced, and non-traditional supervision strategies to ensure community protection. Such strategies include:

- Enhanced and high frequency fieldwork—including home inspections, employment, and community contacts—conducted during both traditional and non-traditional hours;
- Regular, consistent staffings with the sex offender treatment provider and polygraph examiner;
- Establishment of a network of collateral contacts (i.e., family members, state probation/parole officers, and local law enforcement) who are contacted routinely during supervision;

- Monitoring of the defendant or offender's employment; and
- Use of location monitoring, when appropriate.

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## **The Containment Approach and Defendants**

So is this approach appropriate for officers to use with pretrial defendants who have been charged with a sex offense-related crime? It is imperative that officers supervising defendants charged with a sex offense address and monitor closely throughout supervision any factor that would present the defendant with an opportunity or temptation to engage in criminal or antisocial behavior that could harm another individual. In making this assessment, officers should look at two areas: stable dynamic risk factors and acute dynamic risk factors. The stable dynamic risk factors are variables that may be slow to change. Stable dynamic risk factors most significantly related to sexual recidivism are:

- deviant sexual arousal
- pro-rape or pro-child-molester attitudes
- emotional loneliness
- lifestyle impulsivity
- antisocial attitudes and activities
- intimacy deficits and conflicts in intimate relationship
- ineffective problem solving.

In contrast, acute dynamic risk factors may change rapidly, within days or even hours, and may signal the need for immediate intervention. Officers should assess acute dynamic risk factors during every interaction with the defendant. Factors include:

- alleged victim access
- substance abuse
- emotional collapse
- sexual preoccupations
- acute mental illness
- collapsed social supports
- lack of cooperation with supervision.

Comparing the Containment Model with the goals of pretrial supervision should make it clear that the model has application for defendants as well. The three prongs of the model are case management, mental health treatment, and the polygraph. Starting with the polygraph, to assess a specific condition of release through the use of the polygraph in limited scope may be appropriate, if ordered under 18:3142(c)(B)(xiv)—“satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.” While use of the polygraph in pretrial status is distinct from its traditional use in a treatment capacity, it is clearly an effective tool that will assist in determining compliance with release conditions and support the pretrial mission of community safety.

That leaves two additional prongs: case management and mental health treatment. The approach to supervising defendants or offenders charged with a sex offense, when they present similar risks, should not be vastly different. Officers supervising defendants charged with a sex offense

should still adhere to a blend of good, sound, traditional and non-traditional supervision techniques. Officers should employ intensive and non-traditional supervision strategies aimed at reducing risk. Examples include increased field and community contacts, unannounced home inspections, non-traditional work/field hours, collateral contacts, and community observation. Additionally, when conditions permit, using state-of-the-art technology can provide officers with a wealth of information. Computer monitoring and forensics not only will allow officers to confirm that defendants are committing new criminal offenses, but will allow officers to gain insight into the defendant's thought patterns, possibly shedding light on any changing acute dynamic risk factors. Location monitoring, and specifically Global Positioning Satellite Systems (GPS), allows officers to monitor defendants' movements within the community, identify risky behavior, and intervene appropriately should a defendant enter an area of increased risk, such as a school, playground, or victim's neighborhood. Location monitoring also provides the supervision officer with controlling strategies that assist in structuring a defendant's daily schedule.

Finally, how can a defendant undergo mental health treatment and specifically address the dangers associated with child sexual exploitation without forgoing his or her constitutional rights? Recently, the treatment services branch introduced Specialized Treatment for Defendants charged with Sex Offenses. Officers can now use this specialized treatment model to provide defendants with crisis intervention, support, healthy coping skills, cognitive behavioral therapy, and keys to a successful incarceration. This specially designed program for pretrial defendants provides assessments and group counseling designed to help defendants handle the impact of arrest and preparation for incarceration. This is not sex offender treatment. The program is extremely helpful in identifying defendants with suicidal ideation and deviant thoughts, which allows an officer to remain proactive in his or her supervision approach. The program model provides officers with additional information and intelligence that may impact their supervision strategies. (*See also: New Defendants, New Responsibilities: Preventing Suicide Among Alleged Sex Offenders in the Federal Pretrial System: James M. Byrne; Arthur J. Lurigio; Roger Pimentel Federal Probation Volume: 73 Issue: 2 Dated: September 2009, pp. 40 to 44.*)

The effective management and supervision of the sexual offender will always challenge the field of community corrections. As we have learned over time and illustrated by many tragic cases that are often highlighted in the media, even the best practices cannot prevent all victimization. However, as professionals working in the field on a day-to-day basis, we must strive to implement effective supervision strategies with this population that minimize the potential risk to the community and unsuspecting victims. While a defendant charged with a sexual offense during the pretrial stage is entitled to certain rights against self-incrimination and overbearing restrictions, he or she is not immune to collaborative supervision models and intensive strategies that are risk based and safety driven. The collaborative team approach, specialized mental health counseling, intensive supervision strategies, and use of technology are principles and strategies that can be applied effectively to the alleged sexual offender. For decades, the Containment Model has provided a framework of sound sex offender management principles for the post-conviction world. The evolution of this model for the pretrial sexual offender is not only logical, but necessary to ensure community safety.

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