CHILDREN'S LAW OFFICE

Insights

A glimpse into timely topics affecting the investigation and prosecution of child abuse in South Carolina

Hormonal Therapy for Treatment of Sex Offenders Remains Controversial

In what might otherwise be a routine guilty plea, a recent Virginia case reveals the danger of relying solely on hormonal therapies to prevent sex offenses.

Joseph Frank Smith gained national notoriety in 1983 when he agreed to "chemical castration" as a condition of his probation in a Texas court. He moved to Richmond, Virginia, began taking weekly doses of Depo-Provera, and was featured on an episode of *60 Minutes* as a success of chemical castration treatment.

Smith is gaining attention again because, in addition to the sex offenses for which he pled guilty, he is now a suspect in as many as 75 sex crimes in the Richmond area since 1988. Authorities believe Smith committed the offenses in the same manner he did over a decade ago in Texas – entering homes wearing nothing but a mask to commit sexual offenses against women and children. *See* Craig Timberg, *Rapist's Life Stirs Doubt About Drug Treatment*, Washington Post, December 6, 1998, at B1.

What Drugs Are Supposed To Do

The most frequently used drug in the United States to treat sex offenders is a manufactured form of the female hormone progesterone marketed under the trade name Depo-Provera. When injected in men, the drug reduces the level of circulating testosterone. According to proponents, a reduced level of testosterone reduces sex drive, which in turn should reduce sexual offending.

Proponents argue that existing studies show drug treatments to be effective in lowering repeat sex offenses. Other researchers, however, point out that methodological problems limit the usefulness of these studies. Consensus exists only at a highly general level: Drug treatments may be effective with some offenders, in conjunction with therapy, if those offenders are highly motivated, voluntarily enter into the treatment, and voluntarily continue with both drugs and therapy.

Limitations of Hormonal Treatments

A significant problem with relying on hormonal treatments is that they may give the public a false sense of security that the offender no longer poses a danger. This sense of security is misplaced for the following reasons:

- Research on effectiveness is inadequate. As stated in a recent article: "[T]here is currently no convincing reason to believe that the drugs themselves have been responsible for reducing reoffending. Just as plausible is the hypothesis that men who remain in treatment that includes such unpleasant drugs are especially highly motivated so that participating in such treatment is a good predictor of success." Grant T. Harris et al., *Appraisal and Management of Risk in Sexual Aggressors: Implications for Criminal Justice Policy*, Psychology, Public Policy, and Law 73, 99 (1998).
- No research examines the effectiveness of hormonal treatments when ordered against the will of the offender.
- Any effect can wear off within two weeks if treatments are not continued.
- The effects can be reversed if the offender takes testosterone or other anabolic steroids.
- No existing hormonal treatment completely suppresses sexual appetite. A man's testosterone production is lowered, but his ability to become sexually aroused is not eliminated. (As an example, Joseph Frank Smith's wife became pregnant during the time he was taking weekly injections. This child later became one of her father's victims).
- Even if the offender's level of arousal is decreased, sex offender therapists recognize that many sex crimes are not sexually motivated. Drug therapy is even less likely to be effective with these offenders.

Hormonal therapies such as Depo-Provera, while possibly one tool available for a limited number of cases, do not represent a cure for sex offenders. The professional literature remains sparse in this area and does not support the proposition that hormonal treatments can ensure a lower risk of reoffense. Prosecutors should be aware of this literature before entering into sentencing or plea agreements. Likewise, criminal investigators and probation and parole officers need to be aware of the continuing risk posed by offenders receiving such treatments.

For a list of articles discussing the legal and psychological issues surrounding the use of drug treatments, contact the Children's Law Office at 803/777-1646.

Therapy Continues to Have a Role in Responding to Sex Offenders

Hormonal therapy is not the only sex offender treatment viewed skeptically by many within the criminal justice community; sex offender treatment as a whole is mistrusted, and existing research does little to alleviate that mistrust. However, extreme pessimism is unwarranted, and therapy remains a viable option in some cases. Current practice identifies three key components when treatment is an option.

Identifying Appropriate Candidates

The first challenge of the treatment community is to find offenders who are most likely to benefit from treatment. For example, father-daughter incest offenders with no other victims consistently show markedly lower recidivism rates than non-family member offenders who molest boys. These lower risk offenders appear to be the most amenable to treatment, and many professionals argue resources should be devoted to developing effective treatment and controls for this population.

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. . . Sex Offender Treatment, continued

While the process of identifying low risk offenders remains inexact, many therapists argue that concentrating their limited resources on this group is more worthwhile than attempting to treat every offender. Likewise, therapists recognize certain offenders are unlikely to ever respond to treatment (e.g., the fixated pedophile). The only way to ensure protection from such offenders is lengthy incarceration.

Identifying Appropriate Treatment

Currently, the most widely accepted treatment is cognitive behavior therapy, which recognizes that offenders are never "cured." The goal of this therapy is to help offenders identify thoughts and behaviors that precede offenses and then develop techniques for controlling those behaviors. These controls may include self-management or external controls such as family members and probation officers who monitor the offender's behavior.

An additional component regarded by many therapists as essential is group therapy. Offenders are less likely to deceive and manipulate their therapist when confronted by other sex offenders.

Providing Post-Release Supervision

The credible threat of immediate and significant sanctions is a final component to a treatment program for a convicted sex offender. Release into the community should be limited by specific conditions designed to prevent the offender from having access to victims. These conditions may include no contact with children, regular participation in therapy, and no computer or other tool with which to lure children.

Many jurisdictions around the country use specialized probation and parole officers to supervise sex offenders. These officers have a substantially reduced case load and special training on working with sex offenders. In addition, the offender's family members, friends, and close community often are a part of the group of people who continue monitoring the offender's behavior.

While the effectiveness of treatment alone remains controversial, a growing number of treatment providers and criminal justice professionals believe treatment in conjunction with intensive supervision presents a plausible alternative for some offenders.

A special issue of the journal Psychology, Public Policy, and Law *(Vol. 4, 1998) considers in detail many of the issues discussed in this article. Contact Charles Phipps at the Children's Law Office for sample conditions of probation.*

Child Abuse Issues Raised on Legislative Calendar

Several pre-filed bills could significantly affect child abuse investigators and prosecutors. For example, one bill would require the sheriff to notify the public upon the release of every registered sex offender. Following are summaries of selected bills pre-filed by mid-January.

S.B. 44 (Jackson, Elliott); H.B. 3241 (Lourie)

Places a limit of five dollars for criminal record searches conducted by SLED for a charitable organization.

S.B. 50 (Giese, Elliott)

Requires school officials to report and law enforcement officers to investigate allegations of crimes against children committed by a school employee on school property or during a school activity.

S.B. 126 (Passailaigue, Elliott)

Amends 16-3-740 to require the solicitor to obtain HIV and STD testing of a sex offender upon indictment, rather than upon conviction.

Senate Bill 185 (Holland)

Creates the offense of sexual enticement of a minor.

H.B. 3003 (Haskins)

Creates a criminal offense for looking at or videotaping an unclothed person without that person's consent.

H.B. 3020 (Kelley)

Creates an offense of disseminating or displaying indecent material to minors (and amends the obscenity statute).

H.B. 3066 (Hawkins)

Creates a criminal offense for a person convicted of a "serious child sex offense" to work or volunteer in a position that involves interaction with children under 16.

H.B. 3075 (Limehouse)

Amends the sex offender registration law to mandate notification by the sheriff to everyone within a four-block radius of the offender's residence. Notification applies to all registered sex offenders and must be made within 10 days of registration.

H.B. 3151 (Cobb-Hunter)

Amends the Children's Code to define "child" as a person under 18 who has been born (overruling *Whitner v. State*).

For more information . . .

The General Assembly's web page is indispensable in allowing professionals anywhere in the state to keep up on all legislation. This information can be found at <http://www.lpitr.state.sc.us/>.