



THE GARDNER CASE

'Containment' shown to work on offenders

But proven program not in Chelsea's Law

By [John Wilkens](#), UNION-TRIBUNE STAFF WRITER

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[Documents related to John Albert Gardner III](#)

A state board reviewing ways to better manage sex offenders when they get out of jail calls the “containment model” the most important thing California can do to reduce recidivism.

The program augments traditional supervision — house searches, job-site visits, surveillance — with lie-detector tests and targeted behavior-modification treatment.

But there’s no mention of it in Chelsea’s Law, the offender crackdown named for slain Poway teenager Chelsea King that cleared its first legislative hurdle Tuesday in Sacramento.

The bill’s author, Assemblyman Nathan Fletcher, R-San Diego, said he wants to keep the measure narrowly focused on the highest-risk criminals, although he’s open to introducing other improvements — including the containment model — in separate legislation.

Fletcher’s legislative district has set an example for the program. Seven years ago, San Diego County was among the first in California to use the model.

In one local case, a man convicted of indecent exposure who was on unsupervised probation went to a therapist who ordered a sexual-history polygraph. During the test, the man admitted he had been stalking young girls.

The man was brought into court and put on formal probation with GPS monitoring. He said he would rather just finish serving his sentence behind bars. So that’s where he went.

“It works that way on a regular basis,” said Phyllis Shess, a deputy district attorney involved in the program. “You have eyes on them from many different directions, all focused on keeping them from re-offending. They don’t fall off the radar.”

But that radar only covers those on probation from county jail — lower-level offenders — and not the generally more dangerous parolees from state prison. Parolees generally aren’t subjected to polygraphs and don’t receive treatment geared to their particular sex offense.

That leaves huge holes in the safety net, critics say — holes that John Albert Gardner III might have fallen through.

Gardner, 31, pleaded guilty Friday to killing Chelsea and Escondido teenager Amber Dubois — the latter just five months after his parole ended for molesting a 13-year-old neighbor in 2000. He spent five years in state prison for that earlier conviction and three years on parole.

Even though Gardner wasn’t being supervised at the time of the slayings, Susan Storm, a retired county Probation Department official, said she thinks the containment model might have made a difference.

Regular polygraphs during Gardner’s parole could have alerted authorities to illegal or risky behaviors and led to tighter scrutiny or even a return to prison, Storm said.

Treatment with a sex-offense specialist could have provided Gardner the resources and tools to get help or control his behavior when he got close to acting out, she added.

“It’s frustrating to see what happened, because we know from the model what works with sex

offenders,” Storm said. “The research has been done. The recommendations have been made. But the political bureaucracy at the state level keeps dropping the ball.”

Her concerns are echoed in a draft report from the California Sex Offender Management Board, which is examining issues raised by the Gardner case. It called the containment model “the most important thing California can do to reduce sexual recidivism.”

Experts in California have been touting the model for years, but it hasn’t gained much traction, partly for financial reasons, partly for logistics. The state has more sex offenders than any other, with about 70,000 living in communities. Of those, 6,700 are on parole and 10,000 are on probation.

Instead of a coordinated approach, according to the board, the state has a “piece by piece” assemblage of laws and administrative policies, many implemented in the heat of the moment after high-profile child murders.

“As a result, money and time have been wasted on policies and programs that do not make our communities safer, but are politically popular,” the board said in a draft report.

Colorado, by contrast, has had the containment model in place since the mid-1990s. Its provisions apply to supervised sex offenders regardless of where they did their time behind bars.

Christopher Lobanov-Rostovsky, a sex-offender program manager for Colorado’s Division of Criminal Justice, said the model there has three main components: supervision by specially trained probation and parole officers, the polygraph and treatment.

“We look at it like a triangle, with one side the supervision, one side the polygraph, one side the treatment. And the offender is in the middle,” he said.

Lobanov-Rostovsky said no model can hope to prevent every sex offender from committing new crimes, but a 2003 report on the Colorado program showed that it reduces recidivism there. Other jurisdictions have reported similar results.

San Diego County began moving toward the containment model in 1999, when it received a \$50,000 grant to document current practices here and research “promising” approaches elsewhere. Colorado was one of the programs studied.

Two years later, authorities received a second grant, for \$250,000, from the federal Office of Justice Programs to implement containment. They created a Sex Offender Management Council, which set evaluation, treatment and polygraph standards — standards for who could manage the offenders and how.

Storm, who helped create the San Diego County program, said collaboration among the various agencies — law enforcement, prosecutors, victims’ advocates, probation, defense attorneys, treatment and polygraph providers — is crucial to the model’s success.

“When everybody’s talking and sharing information, the offender doesn’t have as many avenues to be deceitful,” she said.

The polygraph, in particular, allowed for offenders’ stories to be double-checked.

“That really started to shed light on their behavior,” Storm said. “We were learning things that were huge.”

Polygraphs are controversial. A lack of scientific consensus about the reliability of the device generally bars test results from being used against someone in court. But judges have upheld the polygraph as a tool in monitoring sex offenders.

Mack Jenkins, the county’s chief probation officer, said about 400 polygraph tests were given by a private contractor to a like number of sex offenders last year. “It helps us pick up on things more quickly,” he said.

The offenders pay for the exams, with public subsidies for those who can’t afford them. They also pay for treatment.

Several studies have shown that intensive, offense-specific therapy reduces recidivism. Parolees usually get traditional mental-health care, not sex-offense therapy.

Treatment of any sort isn’t a politically popular approach.

“Any politician who got on our train is afraid they would be thought of as soft on crime,” said Dr. James Reavis, a San Diego psychologist and founding member of the Sex Offender Management Council.

Reavis said the containment model catches offenders in “a web of external controls.” Treatment is one of the strands. It offers offenders the opportunity to identify the factors that led them to commit their crimes and gives them tools to manage those factors, he said.

“When it’s working properly, the containment model is great,” Reavis said. He cited as an example a patient who acknowledged using pornography, which in the past had been part of a “slow slide back into an offense cycle.” Reavis told the man’s probation officer, who ordered a polygraph test.

“We want to intervene before it gets worse,” Reavis said. “And if it gets worse, we will lock him up.”

Storm said officials involved with the containment model in San Diego County traveled to Sacramento and tried without success to persuade authorities to adopt the program statewide. Money has been a concern, although in a recent report, the California Sex Offender Management Board suggested reallocating money away from GPS monitoring — \$60 million annually — to polygraphs.

GPS, the board said, tells you where someone is. Polygraphs tell you what they might do.

Staff writer Michael Gardner contributed to this report.

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