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(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ...
# PUBLIC HEARING - COMMITTEE RECORDS

## 2001-02
(session year)

## Assembly
(Assembly, Senate or Joint)

## Committee on ... Corrections and Courts (AC-CC)

## COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

## INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

# Assembly

## Record of Committee Proceedings

## Committee on Corrections and the Courts

**Assembly Bill 484**

Relating to: lie detector tests of sexual assault victims.

By Representatives Walker, Wasserman, Jeskewitz, Kedzie, Kestell, Ladwig, La Fave, Lippert, McCormick, Owens, Starzyk, Staskunas and Stone; cosponsored by Senators Burke, Hansen and Plache.

August 31, 2001 Referred to Committee on Corrections and the Courts.

September 5, 2001 **PUBLIC HEARING HELD**

Present: (8) Representatives Walker, Suder, Friske, Owens, Skindrud, Balow, Pocan and Colon.

Absent: (2) Representatives Underheim and Coggs.

Appearances for

- Rep. Scott Walker, author, 14th Assembly District
- Lisa Macaulay, WI Coalition Against Sexual Assault
- Michelle Hendrickson, Wausau
- Austin King, Men Opposing Sexual Assault
- Angela Bartucci, Promoting Awareness, Victim Empowerment

Appearances against

- None.

Appearances for Information Only

- None.

Registrations for

- None.

Registrations against

- None.

September 19, 2001 **EXECUTIVE SESSION**

Present: (9) Representatives Walker, Suder, Friske, Owens, Underheim, Balow, Coggs, Pocan and Colon.

Absent: (1) Representative Skindrud.

Moved by Representative Balow, seconded by Representative Pocan, that **Assembly Bill 484** be recommended for passage.

| | | |
|---|---|---|
| Ayes: | (8) | Representatives Walker, Suder, Friske, Owens, Underheim, Balow, Coggs and Pocan. |
| Noes: | (1) | Representative Colon. |
| Absent: | (1) | Representative Skindrud. |

PASSAGE RECOMMENDED, Ayes 8, Noes 1, Absent 1

Committee Clerk

# Vote Record

## Assembly - Committee on Corrections and the Courts

Date: 9/19/01
Moved by: Balow
Seconded by: Pocan
AB: 484
SB:
AJR:
SJR:
AR:
SR:
Clearinghouse Rule:
Appointment:
Other:

A/S Amdt:
A/S Amdt: to A/S Amdt:
A/S Sub Amdt:
A/S Amdt: to A/S Sub Amdt:
A/S Amdt: to A/S Amdt: to A/S Sub Amdt:

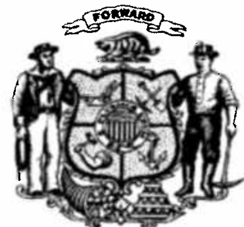
Be recommended for:

- [x] Passage
- [ ] Introduction
- [ ] Adoption
- [ ] Rejection
- [ ] Indefinite Postponement
- [ ] Tabling
- [ ] Concurrence
- [ ] Nonconcurrence
- [ ] Confirmation

| Committee Member | Aye | No | Absent | Not Voting |
|---|---|---|---|---|
| Rep. Scott Walker, Chair | X | | | |
| Rep. Scott Suder | X | | | |
| Rep. Donald Friske | X | | | |
| Rep. Carol Owens | X | | | |
| Rep. Rick Skindrud | | | X | |
| Rep. Gregg Underheim | X | | | |
| Rep. Larry Balow | X | | | |
| Rep. G. Spencer Coggs | X | | | |
| Rep. Mark Pocan | X | | | |
| Rep. Pedro Colon | | X | | |
| Totals: | 8 | 1 | 1 | |

- [x] Motion Carried
- [ ] Motion Failed

WISCONSIN STATE LEGISLATURE



AB 484 folder

**Cheri Dubiel**

**From:** Lyn Schollett <lscholl@icasa.org>
**To:** <NASACpublicpolicy@egroups.com>
**Sent:** Thursday, December 14, 2000 10:42 AM
**Subject:** [NASACpublicpolicy] Polygraph

Hello everyone --

I just joined this group and I think it is a great idea! And if there are any other coalition staff attorneys out there, please let me know where you are!

Illinois does have legislation that prohibits requiring a victim to take a polygraph test. The statute is below. If anyone would like to discuss it, feel free to contact me or our Executive Director, Polly Poskin.

Happy Holidays!

Lyn M. Schollett
Illinois Coalition Against Sexual Assault
100 N. 16th St.
Springfield, IL 62703
(217) 753-4117

Illinois Compiled Statutes
Criminal Procedure
Sex Offense Victim Polygraph Act
725 ILCS 200/

[ HOME ] [ CHAPTERS ] [ PUBLIC ACTS ] [ SEARCH ] [ BOTTOM ]

----------------------------------------------------------------------------
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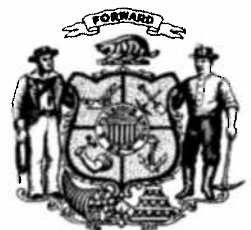
(725 ILCS 200/)

(725 ILCS 200/0.01)
Sec. 0.01. Short title. This Act may be cited as the Sex Offense Victim Polygraph Act.
(Source: P.A. 86-1324.)

(725 ILCS 200/1)
Sec. 1. Lie Detector Tests. (a) No law enforcement officer, State's

WISCONSIN STATE LEGISLATURE



**Cheri Dubiel**

**From:** Karen Lang <karenlang30@hotmail.com>
**To:** <NASACpublicpolicy@egroups.com>
**Sent:** Thursday, December 14, 2000 10:57 AM
**Subject:** Re: Fw: [NASACpublicpolicy] policies

AB 484 folder

Marigail - here is Michigan's polygraph leglislation. Karen Lang

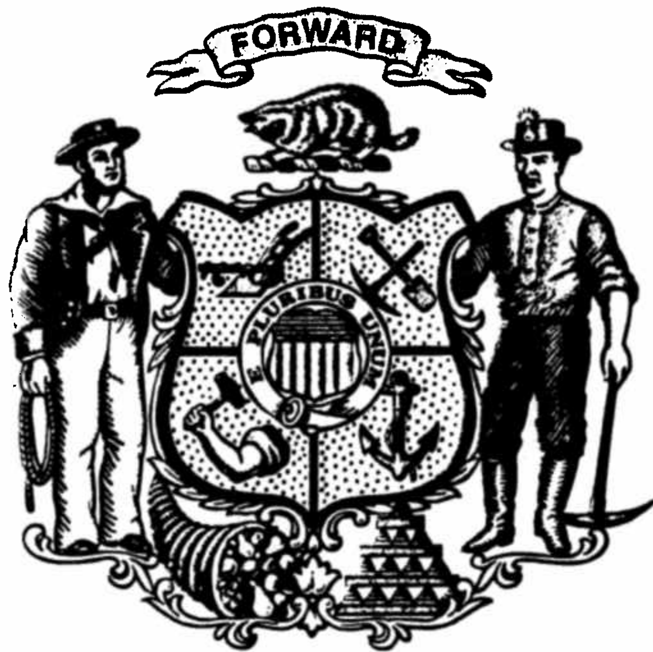
Polygraph Test
MCL § 776.21; MSA § 28.1274(2)

(1) As used in this section:
(a) "Law enforcement officer" means a police officer of a county, city, village, township, or this state; a college or university public safety officer; a prosecuting attorney, assistant prosecuting attorney, or an investigator for the office of prosecuting attorney; or any other person whose duty is to enforce the laws of this state.
(b) "Victim" means a person who is a victim of a crime under sections ~~520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.~~

940.225 (1), (2), etc.
948.02 (1), (2), etc.

(2) A law enforcement officer shall not request or order a victim to submit to a polygraph examination or lie detector test. A law enforcement officer shall not inform a victim of the option of taking a polygraph examination or lie detector test unless the victim inquires concerning such a test or as provided by subsection (3).
(3) A law enforcement officer shall inform the victim when the person accused of a crime specified in subsection (1)(b) has voluntarily submitted to a polygraphic examination or lie detector test and the test indicates that the person may not have committed the crime.
(4) Subsections (2) and (3) apply only to a polygraph examination or lie detector test which is requested, ordered, or given in regard to a person being a victim.
(5) A defendant who allegedly has committed a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, shall be given a polygraph examination or lie detector test if the defendant requests it.

>From: "Marigail Sexton" <msexton@vnet.vineco.com>
>Reply-To: NASACpublicpolicy@egroups.com
>To: <NASACpublicpolicy@egroups.com>
>Subject: Fw: [NASACpublicpolicy] policies
>Date: Thu, 14 Dec 2000 10:23:54 -0500
>
>
>
>
>
> > Karen, I would love a copy of your polygraph legislation. The polygraph


FORWARD
E PLURIBUS UNUM

**Gilbert, Melissa**

**From:** Shelton, Myra
**Sent:** Tuesday, July 31, 2001 4:59 PM
**To:** Gilbert, Melissa
**Subject:** RE: polygraph examiners

AB 484 folder

Hi Melissa,
You are absolutely on the mark-smile! The Department of Regulation and Licensing does not regulate polygraph examiners but I have provided for you below the hyperlink that will give you more information related to polygraph examiners. If the information is still unclear after reviewing, please give Leanna Ware, Bureau Director at the Equal Rights Divsion a call at 266-1997, for further assistance. Hope this helps you out some. Stay cool and enjoy your week. Myra

http://forward.state.wi.us:9000/query.html?col=badger&qt=polygraph+examiners&x=9&y=12

-----Original Message-----
**From:** Gilbert, Melissa
**Sent:** Tuesday, July 31, 2001 3:05 PM
**To:** Shelton, Myra
**Subject:** polygraph examiners

Hi Myra,

Is there any certification or licensure requirement for polygraph examiners in Wisconsin? I didn't see anything on DORL's web site.

Thanks!
Missy
**Melissa Gilbert**
**Research Assistant**
**Office of Rep. Scott Walker**

FORWARD
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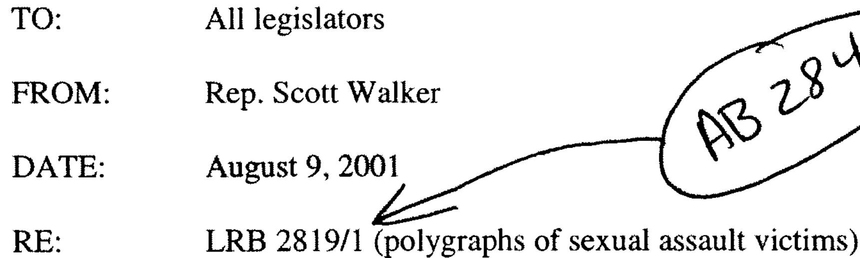
TO: All legislators

FROM: Rep. Scott Walker

DATE: August 9, 2001




RE: LRB 2819/1 (polygraphs of sexual assault victims)

According to the Office of Justice Assistance, about 6,000 sexual assaults -- including 1,100 forcible rapes -- are reported each year in Wisconsin. The victims of these crimes often suffer serious complications, including respiratory ailments, migraines, gastrointestinal problems, post-traumatic stress disorder, substance abuse, anxiety, depression and difficulty in relationships. Unfortunately, the agony is sometimes exacerbated by the very people these victims turn to for help -- police and prosecutors. This is especially true when law enforcement agencies require sexual assault victims to undergo lie detector tests before deciding whether to pursue charges.

Requiring victims to "prove" the legitimacy of their claims through polygraph exams undermines the justice system by discouraging persons from reporting sexual assaults and/or cooperating with investigators. Mandatory lie detector tests send the message that sexual assault victims cannot be trusted to tell the truth. In reality, the Department of Justice reports that about two percent of sexual assault allegations turn out to be false -- the same rate as for other reported violent crimes. A victim of a crime as degrading as sexual assault may find it easier to let the perpetrator go free than to endure the additional stress of fighting for justice in a skeptical environment.

The fallibility of polygraph tests also makes using the results of such exams a poor basis for deciding whether to investigate a reported sexual assault. Polygraphs measure an examinee's physiological responses to various questions by recording factors such as cardiovascular, respiratory and sweat gland activity. Factors that can skew the results include fear, anxiety, anger and guilt -- all responses common to survivors of sexual assault. Research shows that psychologists question the use of lie detector tests as the sole method to determine truthfulness. A study released in 1997 revealed that psychologists generally disapprove of the use of polygraph results as evidence in a courtroom setting; in fact, most participants expressed confidence that they could learn to "beat" the test.

Not surprisingly, most states (including Wisconsin) prohibit or restrict the use of lie detector tests in court. In addition, many states -- including Illinois, Iowa and Michigan -- bar mandatory polygraph exams for persons claiming to be victims of sexual assault. This legislation would add Wisconsin to the latter list by forbidding law enforcement officers and district attorneys from requiring, requesting or suggesting that an alleged sexual assault victim take a lie detector test; the bill also prohibits police and prosecutors from providing information on such tests unless requested to do so by the victim.

***If you wish to sign onto LRB 2819/1, please contact Missy in my office (6-9180) by Wednesday, Aug. 22, 2001.***

### *Analysis by the Legislative Reference Bureau*

Current law imposes several limitations on the use of lie detector tests, including polygraph tests and other types of honesty tests. It is a crime to require a person to submit to a lie detector test or to administer a lie detector test to a person, without obtaining the person's prior written and informed consent to the tests, except that the department of corrections and the department of health and family services may require sex offenders to submit to lie detector tests absent consent. In general, an employer may not require or suggest that an employee or prospective employee submit to a lie detector test, nor use any test results as grounds for negative action against an employee, though current law provides exceptions to the general rule for certain investigations of business theft and for certain businesses related to security or controlled substances.

This bill prohibits law enforcement officers and district attorneys from requiring, requesting, or suggesting that a person who alleges that he or she is the victim of a sexual assault submit to a lie detector test, regardless of whether the victim gives prior written and informed consent to the test. The bill also prohibits law enforcement officers and district attorneys from providing the victim information regarding lie detector tests unless the victim requests such information.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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**Helen Kelly**
08/31/2001 03:53 PM

To: Lisa Policy Specialist
cc:
Subject: Polygraph testing

AB 484 folder

From Helen Kelly RN Sexual Assault Nurse Examiner
Sexual Assault Treatmnet Center of Milwaukee WI
August 31, 2001

I recently saw a female in her 30's who when interviewed by the Milwaukee Police Department, Sensitive Crimes Unit, was told that her story was inconsistent and she better tell the truth because a lie detector test would be done. She told them she was telling the truth and would take any test. She reports they continued to say she was lying and she better come clean or they would have her take this test and she could get in trouble for false report. This female is very concerned about police reprisal and does not want to come forward. Our social worker, [redacted] has also talked with several women where they were also threatened to have to undergo a polygraph test to make sure they were telling the truth. Unfortunately due to fear of police reprisal none of these women will come forward so specifics can not be given.

As a Sexual Assault Nurse Examiner , I see many women and men who are afraid to come forward with a report of a sexual assault. After they get the courage to give a report and than have to face being threatened with polygraph test and basically told they were lying is another way these people get re-victimized and we need to stop this practice

FORWARD

Date?

# Wisconsin Coalition Against Sexual Assault, Inc.

Testimony on Assembly Bill 484

Good morning Chairman Walker and members of the Assembly Committee on Corrections and the Court. My name is Lisa Macaulay and I am the policy specialist for the Wisconsin Coalition Against Sexual Assault. I am here to speak in favor of Assembly Bill 484 regarding the use of lie detector tests on victims of sexual assault.

Our office has received chilling stories from sexual assault service providers from around the state of victims being coerced and threatened with the use of a polygraph test before the law enforcement agency will begin their investigation of the crime.

When a victim is forced to undergo a lie detector test, the trust that was originally there for the criminal justice system is destroyed. This lack of trust may result in a victim refusing to continue cooperating with law enforcement. It will likely prevent victims from reporting crimes. Since only 1/3 of all sexual assaults are ever reported to police, the results of this process may be that even fewer than that are reported and more perpetrators will go free.

The use of polygraph tests for victims of sexual assault reinforces the belief that victims make false accusations about sexual assault and further traumatizes the relatively small number of victims who are willing to come forward and report their crimes. The number of falsely reported sexual assaults is no more than the number of false reports of any other crime.

A part-time nurse in a large urban area reported to us that in the past 8 months during her shifts she was made aware of 5 adolescents and one adult who were threatened with the use of a lie detector. This nurse only works two nights a week and these were only the victims who were willing to continue with the process. Most victims who are threatened with a lie detector will refuse to go forward with their case. After all, why should they cooperate with a system that has just called them a liar?

In no other crime are victims placed under the type of scrutiny that is applied to survivors of sexual assault. Assembly Bill 484 will give those victims who are willing and able to report their assault protection from being re-victimized by the very system put in place to protect them. In fact it is that fear of the system retaliating which has kept them from coming forth and speaking here today.

I know that the members of this committee want to do whatever they can to insure that victims of sexual assaults receive the same treatment as victims of other crimes. When those victims are willing to come forth and report this crime they need to be treated with respect and dignity and AB484 is a good tool to help ensure this happens.

WCASA would like to commend Representative Walker for his work on this legislation. He has put a great deal of effort in to this bill, which will help victims of sexual assault. Thank you for the opportunity to speak to you today and I will be happy to answer any questions that the members may have.

FORWARD

AB 484 folder

date?

Thank you, Representative Walker and the other committee members for your time today. My name is Michelle Hendrickson and I reside in Wausau. I have been an advocate for the past four years at The Women's Community, which is a domestic abuse and sexual assault crisis center.

I have worked with several victims of sexual assault who have been given some form of honesty testing. In my experience, this has not been a good thing for them. One person, whom I have been working with for over a year, had an honesty test given to her by a district attorney. She did not "pass" therefore the case was dropped. This has been extremely detrimental to her. She broke down crying about this the other day and the actual incident took place almost two years ago. She regrets having said anything to anyone about what took place. The long-term effects of using any form of honesty testing on victims of sexual assault seem to be great. This form of testing appears to be re-victimizing the victim, in turn slowing down and sometimes halting their healing process, which is lengthy to begin with.

Legislation to prohibit law enforcement officers and district attorneys from requiring, requesting, or suggesting that a person who alleges to be a victim of sexual assault submit to a lie detector test is a step in the right direction. This is the most personal crime on the crime index. The things that are taken from a victim cannot be measured, cannot be seen. Victims lack self-confidence, and feel shame, fear, and no sense of control after a sexual assault. How does one measure these things? When someone has their wallet or purse stolen from them, it is apparent that something is missing. Why not give these victims polygraph tests? It is obvious that they are not lying because one can see what is missing. However, this is not the case with victims of sexual assault. One cannot always see what this type of victim is missing. Yet how can they not be believed? The statistics are that false reporting of sexual assaults is 2-4%, the same as any other crime on the crime index and yet victims of sexual assault are still being victimized by the system every time an honesty test is being used.

By passing this legislation, victims may feel safer to report knowing that everyone in the system is on their side. Imagine having your wallet or purse stolen and not having someone in a position of authority believe you. Yet you keep trying as hard as you can to get them to see that your wallet or purse is not there and they are still not hearing what you have to say. This is what victims of sexual assault go through every time they report. Many people I have worked with over the years chose not to report because they were terrified of not being believed. By supporting legislation prohibiting lie detector tests for victims of sexual assault, many victims may feel safer to report and in turn may start to heal more quickly by having the support of the entire system behind them.

Again, thank you all for your time today.

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AB 484 folder

**Statement Of Senator Patrick Leahy,**
**Ranking Member, Senate Judiciary Committee**
**Hearing On "Issues Surrounding The Use Of Polygraphs"**

April 25, 2001

Today, the Committee will conduct a hearing on "Issues Surrounding the Use of Polygraphs." No doubt this a worthwhile subject for a hearing. This is, however, but one of the important issues that is raised by the arrest last February of FBI Special Agent Robert Phillip Hanssen on espionage charges. This Committee has oversight jurisdiction over the Department of Justice and the FBI and has both the duty and the responsibility to examine how the FBI exercises its critical national security and counter-intelligence missions. Yet instead of scheduling a comprehensive hearing to review the actions that the FBI has undertaken to protect our national security, Members of this Committee may read in press reports about interviews given by "senior bureau officials . . . to discuss their actions," and about notes reflecting high-level meetings with the FBI Director "which were provided by the bureau" to the press. [See New York Times, April 22, 2001.]

The Hanssen case may be the most serious case of espionage in this nation's history. According to allegations in a 100-page affidavit filed in federal district court in the Eastern District of Virginia, for more than 15 years Hanssen used his position in the FBI's elite counter-intelligence unit to sell highly sensitive, classified information to the KGB. It is alleged that, over the years, Hanssen gave the KGB computer disks, volumes of documents and information about our government's efforts to collect intelligence on the Soviet Union and the Russian Federation. Worst of all, information Hanssen allegedly provided to the KGB led to the execution of two of undercover agents who were working for the United States. The full extent of the damage done to this country's security is not yet known and may never be known.

I appreciate that the allegations against Hanssen are the subject of a pending criminal investigation. Obviously, we must not do anything to interfere with the work of the grand jury or to prejudice the constitutional rights of Mr. Hanssen, who has not been convicted of, or as yet formally indicted for, any crime. Moreover, we should not do anything to distract the prosecutors and government agents responsible for investigating and prosecuting this matter from their duties in the case. Finally, any oversight examination done by the Committee must be exercised cautiously and with due concern to avoid any appearance of undue political pressure and without the slightest implication that any Senator seeks to influence the outcome of a pending criminal matter or the discretion of a prosecutor or a judge.

That being said, there remains much about the Hanssen case that cries out for public oversight hearings by this Committee. It is simply astounding that a security breach of the magnitude described in the affidavit in the Hanssen case could have been allowed to go on unnoticed under the very nose of one of this nation's most elite law enforcement agencies for such an extended period of time. Further, according to press reports, a senior FBI investigator specifically warned that there could be a mole in the bureau's own ranks over two years ago, but his views were rejected. The Hanssen case therefore raises serious questions about the FBI's internal controls and security procedures and more generally about the FBI's ability to objectively and accurately assess allegations of

misconduct by its own agents.

This is not the first time that these concerns have been raised about the FBI. The debacles at Waco and Ruby Ridge, the allegations of former FBI chemist Frederick Whitehurst about the mishandling of evidence at the FBI crime laboratory and allegations that FBI agents illegally leaked confidential law enforcement information to informants, who were members of organized crime, are all still fresh in the public memory. After hearings on Ruby Ridge in 1995, the Subcommittee on Terrorism, Technology and Government Information, ably led by Chairman Arlen Specter, noted the tendency of the FBI, when investigating itself, to accord its own agents "undue deference" and to accept their stories at face value without a probing inquiry. (p. 1131). I cannot help but wonder whether a similar explanation accounts for the failure of the FBI to detect Hanssen's alleged espionage for nearly 15 years, not to mention its rejection of the specific warnings of one of its own investigators about a mole within its ranks.

Questions of this sort, particularly when they arise repeatedly, tend to erode public confidence in the competence and integrity of law enforcement agencies and government institutions. In the end, the loss of the trust of the American people is a far greater threat to the FBI, and to our government generally, than the betrayal of a single agent.

I am aware that, in the wake of Hanssen's arrest, FBI Director Freeh has asked for a review of the FBI's security programs to be conducted by Judge Webster, who was the FBI Director during part of the time that Hanssen allegedly conducted his espionage activities. While I have great respect for Judge Webster, his prior position may cause some to question any conclusions and recommendations he may reach. I wrote to Judge Webster in February asking that he keep me advised of the progress of his examination, its expected completion date and his final conclusions and recommendations, if any, but to date have received no response.

Although an internal FBI review is appropriate, it is clearly no substitute for oversight hearings before this Committee, particularly given the FBI's dismal record in investigating itself. In its report on Ruby Ridge, the Subcommittee on Terrorism, Technology and Government Information noted that "adequate and independent oversight of the FBI is crucial to avoid, at a minimum, the appearance of institutional bias within the FBI." By definition, the responsibility of exercising adequate and independent oversight falls upon this Committee, not the FBI. I therefore do not believe that this Committee should defer fulfilling its oversight responsibilities until the FBI review is completed, whenever that may be.

Although, unfortunately, we will not be directly focusing on the Hanssen case today, we will be hearing testimony from some experts about the reliability of polygraph testing. Attorney General Ashcroft and others have expressed skepticism about any over-reliance on polygraph tests. I share their concerns. Historically, courts have almost always excluded polygraph evidence as unreliable. And, with a few exceptions, that has generally remained true even after the Supreme Court's decision in Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993), which gave federal trial courts greater discretion to admit scientifically novel evidence. In fact, in 1998, the Supreme Court upheld the constitutionality of a military rule of evidence that categorically excludes all polygraph evidence in court martial proceedings. See United States v. Scheffer, 523 U.S. 303 (1998). According to Justice Thomas, writing for the Court, "there is simply no way to know in a particular case whether a polygraph examiner's conclusion is accurate, because certain doubts and uncertainties plague even the best polygraph exams." Id. at 312.

The routine use of polygraph testing in government employment situations raises even

more troubling issues. For example, let us assume that polygraph tests are accurate 90 percent of the time, as some experts claim. If the police are investigating a crime, and a suspect agrees to take a polygraph, the results of that test may be of some value to the investigation even if there is a ten percent chance that they may be wrong. However, if you polygraph thousands of employees of a government agency on a routine basis, the ten percent error rate will mean that dozens or even hundreds of innocent employees will generate results indicating -- falsely -- that they are giving deceptive answers. While I am not saying that all use of polygraphs should be prohibited, particularly in the sensitive area of national security, I am very concerned that the rights of these innocent employees be carefully protected. In particular, denying a person a government job solely on the basis on a polygraph and without any corroborating evidence of deception or other unsuitability for employment may result in wrongly excluding many qualified people from government service.

The FBI itself has apparently shared these doubts about polygraphs because, unlike other national security agencies, it has not routinely polygraphed its own agents and employees who have access to classified information. Nevertheless, according to recent press reports, the FBI has now undertaken to polygraph 500 of its own agents in reaction to the Hanssen arrest. I would like to know more about the FBI's recent about-face on polygraphs. I would also like to know whether the FBI plans to continue using polygraphs, as well as what other steps the FBI has taken or is considering taking as the result of the Hanssen case.

Those are questions that will have to wait until another day and another hearing. Consequently, the record of this hearing will necessarily be incomplete. Moreover, until we begin meaningful and comprehensive hearings into the Hanssen case, the oversight responsibilities of this Committee will remain unfulfilled.

####

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FORWARD

## THE VALIDITY AND RELIABILITY OF POLYGRAPH TESTING

The American Polygraph Association believes that scientific evidence supports the high validity of polygraph examinations. Thus, such examinations have great probative value and utility for various uses in the criminal justice system. However, a valid examination requires a combination of a properly trained examiner, a polygraph instrument that records as a minimum cardiovascular, respiratory, and electrodermal activity, and the proper administration of an accepted testing procedure and scoring system.

The American Polygraph Association has a compendium of research studies available on the validity and reliability of polygraph testing. The 80 research projects listed, published since 1980, involved 6,380 polygraph examinations or sets of charts from examinations. Researchers conducted 12 studies of the validity of field examinations, following 2, 174 field examinations, providing an average accuracy of 98%. Researchers conducted 11 studies involving the reliability of independent analyses of 1,609 sets of charts from field examinations confirmed by independent evidence, providing an average accuracy of 92%. Researchers conducted 41 studies involving the accuracy of 1,787 laboratory simulations of polygraph examinations, producing an average accuracy of 80%. Researchers conducted 16 studies involving the reliability of independent analyses of 810 sets of charts from laboratory simulations producing an average accuracy of 81%. Tables list the authors and years of the research projects, which are identified fully in the References Cited. Surveys and novel methods of testing are also mentioned.

Spiral-bound copies of this article may be purchased for $25.00 postpaid from the American Polygraph Association National Office, 951 Eastgate Loop, Suite 800, Chattanooga, Tennessee 37411-5608. (423)892-3992 or 1-800-272-8037.

## POLYGRAPH ISSUES AND ANSWERS -

The American Polygraph Association welcomes the opportunity to present in this brief document a few essential facts about polygraph testing. We hope you will find the information to be of interest and will be pleased to supply you with additional materials and information you may need.

### What is a Polygraph?

The term "polygraph" literally means "many writings." The name refers to the manner in which selected physiological activities are simultaneously recorded. Polygraph examiners may use conventional instruments, sometimes referred to as analog instruments, or computerized polygraph instruments.

It is important to understand what a polygraph examination entails. A polygraph instrument will collect physiological data from at least three systems in the human body. Convoluted rubber tubes that are placed over the examinee's chest and abdominal area will record respiratory activity. Two small metal plates, attached to the fingers, will record sweat gland activity, and a blood pressure cuff, or similar device will record cardiovascular activity.

A typical polygraph examination will include a period referred to as a pre-test, a chart collection phase and a test data analysis phase. In the pre-test, the polygraph examiner will complete required paperwork and talk with the examinee about the test. During this period, the examiner will discuss the questions to be asked and familiarize the examinee with the testing procedure. During the chart collection phase, the examiner will administer and collect a number of polygraph charts. Following this, the examiner will analyze the charts and render an opinion as to the truthfulness of the person taking the test. The examiner, when appropriate, will offer the examinee an opportunity to explain physiological responses in relation to one or more questions asked during the test. It is important to

note that a polygraph does not include the analysis of physiology associated with the voice. Instruments that claim to record voice stress are not polygraphs and have not been shown to have scientific support.

**Who uses Polygraph Examinations?**

The three segments of society that use the polygraph include law enforcement agencies, the legal community, and the private sector. They are further described as follows:

Law Enforcement Agencies - Federal Law Enforcement Agencies, State Law Enforcement Agencies, and Local Law Enforcement Agencies such as Police and Sheriff's Departments.

Legal Community - U.S. Attorney Offices, District Attorney Offices, Public Defender Offices, Defense Attorneys, Parole & Probation Departments.

Private Sector - Companies and Corporations under the restrictions and limitations of the Employee Polygraph Protection Act of 1988 (EPPA).

Private citizens in matters not involving the legal or criminal justice system.

Attorneys in civil litigation.

**Why Critics Figures Vary -**

One of the problems in discussing accuracy figures and the differences between the statistics quoted by proponents and opponents of the polygraph technique is the way that the figures are calculated. At the risk of over simplification, critics, who often don't understand polygraph testing, classify inconclusive test results as errors. In the real life setting an inconclusive result simply means that the examiner is unable to render a definite diagnosis. In such cases a second examination is usually conducted at a later date. To illustrate how the inclusion of inconclusive test results can distort accuracy figures, consider the following example: If 10 polygraph examinations are administered and the examiner is correct in 7 decisions, wrong in 1 and has 2 inconclusive test results, we calculate the accuracy rate as 87.5% (8 definitive results, 7 of which were correct.) Critics of the polygraph technique would calculate the accuracy rate in this example as 70%, (10 examinations with 7 correct decisions.) Since those who use polygraph testing do not consider inconclusive test results as negative, and do not hold them against the examinee, to consider them as errors is clearly misleading and certainly skews the figures.

**Preemployment Test Accuracy -**

To date, there has been only a limited number of research projects on the accuracy of polygraph testing in the pre-employment context, primarily because of the difficulty in establishing ground truth. However, since the same physiological measures are recorded and the same basic psychological principles may apply in both the specific issue and pre-employment examinations, there in no reason to believe that there is a substantial decrease in the accuracy rate for the preemployment circumstance. The few studies that have been conducted on pre-employment testing support this contention.

While the polygraph technique is not infallible, research clearly indicates that when administered by a competent examiner, the polygraph test is one of the most accurate means available to determine truth and deception.

For an excellent review of the research involving validity and reliability, including preemployment screening, see: ***The Accuracy and Utility; of Polygraph Testing.*** (1984) Washington, DC: U.S.

Department of Defense, 1984. Complete reprints may be purchased from the **APA** National Office.

**Polygraph Screening in Police Agencies -**

The Employee Polygraph Protection Act of 1988 (EPPA) prohibits most private employers from using polygraph testing to screen applicants for employment. It does not affect public employers such as police agencies or other governmental institutions. In the testimony regarding EPPA it became clear that there were no current and reliable data on a variety of important issues about police applicant screening, although polygraph testing had reportedly been used for that purpose since at least the early 1950's. In recognition of this gap, the**APA** Research Center at Michigan State University embarked on a survey of police executives in the U.S. to determine the extent of, and conditions in which, polygraph testing is being used for pre-employment screening The survey population included 699 of the largest police agencies in the United States, excluding federal agencies, and produced usable returns from 626 agencies, a response rate of 90%. The major results of the survey showed the following:

Among the respondents, 62% had an active polygraph screening program, 31% did not and 7% had discontinued polygraph screening, usually because of prohibitive legislation. These results make it clear that a great majority of our largest police agencies do have a polygraph screening program in effect. These agencies employ, on average, 447 officers and service a population averaging 522,000 citizens. They primarily use the polygraph to screen applicants for sworn positions, although 54% also screen persons interested in non-sworn positions. Approximately 25% of the persons tested are disqualified from police employment based on the information developed during polygraph testing which, by the way, is used both to verify information provided in an application form and to develop information that cannot be gotten by other means. Only a very small proportion (2%) of agencies use polygraph testing as a substitute for a background investigation. A rank ordered listing of topics covered during polygraph testing revealed that investigation of illegal drug usage, employment related dishonesty, and involvement in felonies are the most important.

When asked to indicate what their reasons were for using polygraph screening, the great majority of the agencies indicated that it reveals information that cannot be obtained by other selection methods. Closely following this item in order, was that polygraph testing makes it easier to establish background information, that it deters undesirable applicants, and that it is faster than other methods of selection. The three leading benefits of polygraph screening were that applications were more honestly completed; that higher quality employees were hired; and that there were fewer undesirable employees. Over 90% of these agencies expressed either moderate or high confidence in their polygraph screening program and 80% of them reported that in their experience the accuracy of the testing ranged between 86%-100%. The only procedure that was considered to be as useful as polygraph screening was a background investigation; all others, including written psychological tests, psychological or psychiatric interviews, personal interviews, and interviews by a selection board were judged to be less useful. Finally, this survey also showed that polygraph screening revealed applicant's involvement in serious, undetected criminality. For example, 9% of the agencies said that polygraph screening detected involvement by some applicants in unsolved homicides; 34% indicated some applicant involvement in forcible rape; and 38% showed some applicant participation in armed robberies. Other serious, unsolved crimes, such as burglary, arson and drug offenses were also revealed by polygraph screening.

## Errors in Polygraph Examinations

### False positive, False negative -

While the polygraph technique is highly accurate, it is not infallible and errors do occur. Polygraph errors may be caused by the examiner's failure to properly prepare the examinee for the examination,

or by a misreading of the physiological data on the polygraph charts. Errors are usually referred to as either false positives or false negatives. A false positive occurs when a truthful examinee is reported as being deceptive; a false negative when a deceptive examinee is reported as truthful. Some research indicates that false negatives occur more frequently than false positives, other research studies show the opposite conclusion. **Since it is recognized that any error is damaging, examiners utilize a variety of procedures to identify the presence of factors which may cause false responses, and to insure an unbiased review of the polygraph records; these include:**

**Protective Procedures**

*an assessment of the examinee's emotional state

*medical information about the examinee's physical condition

*specialized tests to identify the overly responsive examinee and to calm the overly nervous

control questions to evaluate the examinee's response capabilities

factual analysis of the case information

*a pre-test interview and detailed review of the questions

*quality control reviews

**Examinee's Remedies -**

If a polygraph examinee believes that an error has been made, there are several actions that may be taken including the following:

*request a second examination

*retain an independent examiner for a second opinion

*file a complaint with a state licensing board

*file a complaint with the Department of Labor under EPPA

*file a request for the assistance of the **American Polygraph Association**

**Scope of Test Questions and Dissemination of Test Results**

**Prohibitive Inquiries -**

Personal and intrusive questions have no place In a properly conducted polygraph examination. Many state licensing laws, the Employee Polygraph Protection Act, as well as the **American Polygraph Association**, has so stated in language similar to the following:

**NO EXAMINER SHOULD INQUIRE INTO ANY OF THE FOLLOWING AREAS DURING PRE-EMPLOYMENT OR PERIODIC EMPLOYMENT EXAMINATIONS:**

**religious beliefs or affiliations**
**beliefs or opinions regarding racial matters**
**political beliefs or affiliations**
**beliefs, affiliations or lawful activities regarding unions or labor organizations**

**sexual preferences or activities**

In a law enforcement preemployment polygraph examination, the questions focus on such job related inquiries as the theft of money or merchandise from previous employers, falsification of information on the job applications, the use of illegal drugs during working hours and criminal activities. The test questions are limited in the time span they cover, and all are reviewed and discussed with the examinee during a pre-test interview before any polygraph testing is done. There are no surprise or trick questions.

In a specific issue polygraph examination the relevant questions focus on the particular act under investigation.

**Who Gets Results -**

According to the various state licensing laws and the **American Polygraph Association's Standards and Principles of Practice**, polygraph results can be released only to authorized persons. Generally those individuals who can receive test results are the examinee, and anyone specifically designated in writing by the examinee, the person, firm, corporation or governmental agency which requested the examination, and others as may be required by due process of law.

**The Employee Polygraph Protection Act of 1988 (EPPA) -**

What is EPPA?

On December 27, 1988, the Employee Polygraph Protection Act (EPPA) became law. This federal law established guidelines for polygraph testing and imposed restriction on most private employers. The following is a brief summary of the essential elements of the law.

Who is affected by EPPA?

This legislation only affects commercial businesses. Local, State and Federal governmental agencies (such as police departments) are not affected by the law, nor are public agencies, such as a school system or correctional institution. In addition, there are exemptions in EPPA for some commercial businesses. These are:

1. Businesses under contract with the Federal Government involving specified activities (e.g., counterintelligence work). 2. Businesses whose primary purpose consists of providing armored car personnel, personnel involved in the design, or security personnel in facilities which have a significant impact on the health or safety of any state. Examples of these facilities would be a nuclear or electric power plant, public water works, or toxic waste disposal. 3. Companies which manufacturer, distribute or dispense controlled substances.

How does EPPA affect businesses which are not exempt?

In general, businesses cannot request, suggest or require any job applicant to take a pre-employment polygraph examination. Secondly, businesses can request a current employee to take a polygraph examination or suggest to such a person that a polygraph examination be taken, only when specific conditions have been satisfied. However, the employer cannot require current employees to take and examination, and if an employee refuses a request or suggestion, the employer cannot discipline or discharge the employee based on the refusal to submit to the examination.

What are the conditions that an employer must meet in order to ask a current employee to take a polygraph? The American Polygraph Association is furnishing the following information,

which it believes is in good faith, and conforms with the Department of Labor's Regulations relating to polygraph tests for employees. This information is considered only as a guideline to assist in complying with the Act and Regulations, and the American Polygraph Association is disclaiming any liability in connection therewith. Employers should develop their own forms, using their own company name, and should also review their final forms through their own legal counsel.

I. Checklist for the Employer

1. The incident must be an ongoing, specific investigation. 2. It must be an identifiable economic loss to the employer. 3. Obtain a copy of the Employer Polygraph Protection Act of 1988. 4. Provide the employee with a written statement that includes: a. identification of the company and location of employee b. description of the loss or activity under investigation c. location of the loss d. specific amount of the loss e. type of economic loss f. how the employee had access to the loss Note: access alone is not sufficient grounds for polygraph testing g. what kind of reasonable suspicion there is to suspect the employee of being involved in the loss 5. The Statement provided to employee MUST be signed by someone other than the polygraph examiner, who is authorized to legally bind the employee, and MUST be retained by the employer for at least 3 years. 6. Read the Notice to Examinee to the employee, which should be signed, timed, dated and witnessed. 7. Provide the employee with 48 hours advanced notice (not counting weekends or holidays) to the date and time of the scheduled polygraph test. 8. Provide employee with written notice of the date, time and location of the polygraph test, including written directions if the test is to be conducted at a location other than at the place of employment. 9. Maintain a statement of adverse actions taken against the employee following a polygraph test. 10. Conduct an additional interview of employee prior to any adverse action following a polygraph test. 11. Maintain records of ALL of the above for a minimum of 3 years. 12. Employees may not waive their rights. 13. Police and investigators are not exempt and must comply if they are conducting an employment related polygraph test, i.e., when conducting a polygraph test on an internal theft for a missing deposit. Information about a polygraph provided to the employer by a police officer or investigator is prohibited under the Act, since employers are not allowed to use, accept or inquire about the results. 14. There is a $10,000 penalty for EACH violation of the law. 15. Check out the credentials of the polygraph examiner that you use and verify that the examiner meets EPPA requirements. Never hesitate to ask for written proof of licensing, liability insurance, etc. 16. Use your company letterhead on all forms you provide to the employee. Have your corporate attorney review your actions to assure your compliance of EPPA.

II. Checklist for the Polygraph Examiner:

1. Provide the employer with a copy of EPPA guidelines. Do not just try to explain what has to be done during a phone conversation with the employer. 2. The examiner should not get involved in assisting the employer to determine who should or should not be tested, or who does or does not have access or reasonable suspicion. 3. Obtain a copy of the signed statement of advance notice provided to the employee, along with a copy of the explanation of their rights and written directions/appointment PRIOR to the Interview. Obtain a photo I.D. of the employee. RULE OF THUMB: No form, no test! No identification, no test! 4. Provide the employee with a written explanation of the polygraph test and procedures. Have it signed by the employee and be sure to include the date and time it was provided. 5. Read and explain the rights to the employee. Have it signed, dated and timed. 6. Advised the employee of any taping and/or one-way mirrors. 7. Carry a minimum of $50,000 or equivalent professional liability coverage. 8. Conduct no more than 5 polygraph tests during one calendar day, even if only 1 test is under EPPA. This includes ALL tests for all employers and/or lawyers you conducted during the day! 9. Administer no test that is less than 90 minutes in duration. 10. Provide the employee with the polygraph test questions in writing. Have the employee write out their answers and sign the question sheet for verification of review. 11. Have an appropriate license,

if so required, in the state where the test is to be conducted. 12. Keep a log of company name, employee name, date and times for all polygraph tests during the course of a day when 1 test is given under EPPA. 13. Inform the employee of the results of the test and allow him/her an opportunity to explain any reactions. 14. Provide any opinion of deception or non-deception in writing. 15. Results must only be based on the polygraph test results, and should NOT be based on behavior. 16. Do not include any information not relevant to the original purpose of the test to the employer. 17. Keep a copy of ALL reports, notes and records for a minimum of 3 years. 18. Provide a copy of charts, questions and reports to the employee upon request. 19. Provide a copy of charts, questions and reports to the employer when results are deceptive. 20. Provide the Department of Labor with copies of the same, within 72 hours, upon request of the Secretary of DOL, or other authorized person of DOL.

III. Preemployment Testing under EPPA

For preemployment testing under EPPA, refer to the Act for exemptions. Even though an employer may be exempt and able to use preemployment polygraph testing, the guidelines under EPPA still apply. Follow the Checklist for both the employer and examiner use, omitting the step for preparation of the employer's statement with respect to an ongoing investigation, which would apply for specific testing only. ALL OTHER GUIDELINES WILL APPLY.

**Legislation**

**Licensing -** Currently there are 29 states and 3 counties which have laws requiring licensure or certification for polygraph examiners. Most laws require formal instruction, an internship training period and successful completion of a licensing examination. For example, the following are basic requirements for licensure in one state:

A person is qualified to receive a license as an examiner:

(a) who establishes that he or she is a person of good moral character; and,
(b) who has passed an examination conducted by the Licensing Committee, or under its supervision. to determine his or her competency to obtain a license to practice as an examiner and
(c) who has conferred upon him or her an academic degree, at the baccalaureate level, from an accredited collect or university; and,
(d) who has satisfactorily completed 6 months of study in the detection of deception, as prescribed by rule....

**Prohibitive Legislation -** In addition to the Employee Polygraph Protection Act, to date there are 20 states and the District of Columbia which have enacted legislation designed to regulate an employer's use of the polygraph. No state prohibits polygraph testing in all settings. A typical statute states:

No employer may require a prospective or current employee to take a polygraph examination as a condition of employment or continued employment.

Most of these states make exceptions for testing of certain occupational groups. Commonly exempted are law enforcement agencies and companies that manufacture, distribute or dispense drugs and controlled substances.

The **American Polygraph Association** has consistently supported licensing efforts throughout the country. The **APA** encourages efforts to establish proper qualifications for polygraph examiners and criteria for testing procedures.

The Employee Polygraph Protection Act of 1988 prohibits much, but not all pre-employment

polygraph testing. Testing of employees is permitted to solve an employer's "economic loss." There are exemptions for guards, armored car personnel and those who handle drugs and narcotics. EPPA does not affect testing for attorneys or local, state or federal agencies. See: PL 199 437. Final Rules in the ***Federal Register***, 56 (42). Monday, March 4 1991,29 CRF Part 801.

**Admissibility** - Polygraph results (or psychophysiological detection of deception examinations) are admissible in some federal circuits and some states. More often, such evidence is admissible where the parties have agreed to their admissibility before the examination is given, under terms of a stipulation. Some jurisdictions have absolute bans on admissibility of polygraph results as evidence and even the suggestion that a polygraph examination is involved is sufficient to cause a retrial. The United States Supreme Court has yet to rule on the issue of admissibility, so the rules in federal circuits vary considerably. The Supreme Court has said, in passing, that polygraph examinations raise the issue of Fifth Amendment protection, [***Schmerber v. California***, 86 S. Ct. 1826 (1966).] The Supreme Court has also held that a Miranda warning before a polygraph examination is sufficient to allow admissibility of a confession that follows an examination, [***Wyrick v. Fields***, 103 S. Ct. 394 (1982).] In 1993, the Supreme Court removed the restrictive requirements of the 1923 Frye decision on scientific evidence and said Rule 702 requirements were sufficient, [***Daubert v. Mettell Dow Pharmaceutcals***, 113 S.ct. 2786.]***Daubert*** did not involve lie detection, per se, as an issue, as ***Frye*** did, but it had a profound effect on admissibility of polygraph results as evidence, when proffered by the defendants under the principles embodied in the Federal Rules of Evidence expressed in ***Daubert***, see [***United States v. Posado*** (5th Cir. 1995) WL 368417.] Some circuits already have specific rules for admissibility, such as the 11th Circuit which specifies what must be done for polygraph results to be admitted over objection, or under stipulation, [***United States v. Piccinonna*** 885 F.2d 1529 (11th Cir. 1989).] Other circuits have left the decision to the discretion of the trial judge. The rules that states and federal circuits generally follow in stipulated admissibility were established in [***State v. Valdez***, 371 P.2d 894 (Arizona, 1962).] The rules followed when polygraph results are admitted over objection of opposing counsel usually cite [***State v. Dorsey***, 539 P.2d 204 (New Mexico, 1975).] Primarily because of ***Daubert***, as well as the impact the other cited cases have had, polygraph examination admissibility is changing in many states. Many appeals, based on the exclusion of polygraph evidence at trial are now under review by appellate courts.

**Representative case citations are provided for reference:**

**Alabama:**

***Clements v. State***, 474 So.2d 695 (1984).
***Green v. Am. Cast Iron***, 464 so.2d 294 (1984).

**Arizona:**

***State v. Valdez,*** 91 Ariz.. 274, 371, P.2d 894 (1962).
***State v. Molina***, 117 Ariz. 4541 573 P.2d 528 (App.1977).

**Arkansas:**

***Hays v. State***, 767 S.W.2d 525 (1989).

**California:**

***People v. Houser***, 85 Cal.App.2d 686, 193 P.2d 937 (1948)
***Robinson v. Wilson***, 44 Cal.App.3d 92, 118 Cal.Rptr. 569 (1974).
***Witherspoon v. Superior Court***, 133 Cal.App.3rd 24 (1982)

**Delaware:**

***Williams v. State***, 378 A.2nd 117 (1977).

**Georgia:**

***State v. Chambers***, 240 Ga. 76, 239 SE.2d 324 (1977).
***Miller v. State***, 380 S.E.2d 690 (1989).

**Idaho:**

***State v. Fain***, 774 P.2d 252 (1989).

**Indiana:**

***Barnes v. State***, 537 N.E.2d 489 (1989).
***Davidson v. State***, 558 N.E.2d 1077 (1990).

**Iowa:**

***State v. McNamara***, 104 N.W.2d 568 (1960).
***Haldeman v. Total Petroleum***, 376 N.W.2d 98 (1985).

**Kansas:**

***State v. Roach***, 570P.2d 1082 (1978).

**Nevada:**

***Corbett v. State***, 584 P.2d 704 (1978).

**New Jersey:**

***State v. McDavitt***, 297 A.2d 849 (1972).
***State v. McMahon*** 524 A.2d 1348 (1986).

**New Mexico:**

***State v. Dorsey***, 539 P.2ed 204 (1975).

**North Dakota:**

***State v. Newman***, 409 N.W.2d 79 (1987).

**Ohio:**

***Moss v. Nationwide***, 493 N.E.2d 969 (1985).
***State v. Souel***, 372 N.E.2d 1318 (1978).

**Utah:**

***State v. Jenkins***, 523 P.2d 1232 (1974).
***State v. Rebetevano***, 681 P.2d 1265 (1984).

**Washington:**

*State v. Grigsby*, 647 P.2d 6 (1982).

**Wyoming:**

*Cullin v. State*, 565 P.2d 445 (1977).

**What about The Americans With Disabilities Act of 1990 and the Polygraph?** (This page is currently under construction by the APA Secretary Vickie Murphy)

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The Wisconsin Coalition Against Sexual Assault

## *2001-2002 Legislative Agenda*

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Wisconsin Coalition Against Sexual Assault

# 2001-2002 State Legislative Agenda

***The Mission of the Wisconsin Coalition Against Sexual Assault:***
"The Wisconsin Coalition Against Sexual Assault (WCASA) promotes the social change needed to end sexual violence in Wisconsin. Our mission is to support a statewide network of concerned individuals and organizations as they work toward this goal. WCASA was formed as a statewide coalition in 1985 and currently has over 200 individual, affiliate and sexual assault service provider members."

In our efforts to develop victim-focused, proactive public policy, WCASA's Social Action Committee determined that it was important to develop a list of criteria by which we prioritize our legislative efforts. In order for WCASA to advocate for legislation the initiatives must accomplish one of three goals:

- **Improve system response to victims and survivors of sexual assault**
- **Increase legal remedies for victims of sexual assault**
- **Increase sexual assault prevention efforts**

The Legislative Agenda for WCASA is a work in progress. In addition to the specific proactive legislative initiatives included in this document, WCASA will continue to monitor and work on other legislation related to sexual assault. We encourage legislators to contact us with other legislative ideas throughout the next session.

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**WCASA presents the following Legislative Agenda for the 2001-2002 State Legislative Session. Supporting documents are available.**

*Tier One—Lead Priority:*

- Payment of forensic rape exams for victims of sexual assault
- Prohibit the practice of requiring sexual assault victims to take polygraph tests as a prerequisite for determining whether or not to pursue an investigation into her or his assault
- Increase the civil statutes of limitations for child victims of sexual assault
- Create privileged communications between sexual assault victims and their advocates

*Tier Two—Active Priority:*

- Extension of criminal statutes of limitations in sexual assault cases when DNA evidence is available
- Coordinate with the Wisconsin Coalition Against Domestic Violence to implement a Family Violence Option in Wisconsin's W-2 program, which is inclusive of victims of sexual assault

*Tier Three—Collaboration Efforts:*

- Coordinate with the Wisconsin Coalition Against Domestic Violence to seek funding for child visitation centers which facilitate supervised visitation and the safe transfer of children who are victims of sexual assault in families with shared custody as well as the safety of parents who are victims of violence
- Coordinate with WEAC to support their legislation requiring curriculum on bullying in human development coursework in public schools
- Mental health parity in insurance plans—require insurance companies to provide coverage for mental health care

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# The Payment of Forensic Rape Exams

**WCASA Position:**
*WCASA is in strong support of the continued growth of the Sexual Assault Nurse Examiner (SANE) model of forensic nursing and sexual assault crisis intervention. The services of trained, experienced SANE practitioners help to preserve the sexual assault victim's dignity, enhance medical evidence collection for better prosecution, and promote community involvement and concern with crime victims and their families.*

*Even though our state is required to ensure that sexual assault victims are not paying for their rape exams as a condition of our eligibility to receive funding from the Violence Against Women Act, it is a common practice for sexual assault victims to be billed for their rape exams in Wisconsin.*

*WCASA is opposed to requiring victims to pay for their own forensic evidence collection, and is seeking a legislative solution to this injustice.*

**What is the SANE Model?**
Many victims of sexual assault access medical attention through their local emergency room. A developing field of nursing and sexual assault crisis intervention is the Sexual Assault Nurse Examiner (SANE) model of forensic evidence collection. The SANE model focuses on the collaboration of the criminal justice, health care, and victim advocacy sectors. SANE nurses provide emergency medical treatment to sexual assault victims, along with collecting forensic evidence for law enforcement.

**How Are Sexual Assault Victims Falling Through the Cracks?**
• Because there is no source of funding for SANE exams, there is no standard protocol for how hospitals seek payment for SANE exams.
• In most communities, patients are billed, either to their insurance, or if they do not have insurance, are billed directly.
• Victims can be reimbursed through Crime Victim Compensation, but there are some problems with this method of payment:

*1) The victim must report the crime to law enforcement to be eligible for crime victim compensation.*

--For a number of reasons, sexual assault victims do not always want to report their assault to law enforcement.

--Sexual assault is a crime that is cloaked in denial, shame, and fear; in part because most victims of sexual assault are assaulted by somebody known to them (71%, according to the *1999 National Crime Victimization Survey (NCVS).* U.S. Department of Justice, Bureau of Statistics. 2000.).

--Therefore, it is estimated that only 1/3 of all sexual assaults are ever reported to police (ibid).

--Sexual assault victims are often met with hostility and disbelief by the public in general, and by law enforcement, decreasing the likelihood of them reporting the crime.

*2) In order to qualify for Crime Victim Compensation, victims must first make a claim through their personal insurance, if they have it.*
--For minors, this may be a hindrance if they do not want their parents to know about the assault.
--Some victims who have insurance through their workplace, may be afraid of their employers finding out about the assault.

*3) Victims have only 5 days in which to make a report to law enforcement in order to qualify for crime victim compensation.* This may not be a reasonable amount of time for victims to make a decision about whether or not they want to report the crime.

**Other Points to Consider:**

- No other type of crime victim is required to pay for evidence collection.
- This practice is contrary to our state's public commitment to victims of crime.
- Forcing victims to deal with the payment of forensic evidence collection re-traumatizes them and may discourage them from continuing to cooperate with law enforcement or discourage other victims from coming forward to report their crimes or seek medical attention.

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# *Prohibiting the Use of Polygraph Exams on Victims of Sexual Assault*

***WCASA Position:***
*Compared to other victims of crime, sexual assault victims face an extraordinary amount of scrutiny and judgement from law enforcement and the public in general.*

*It is an all too common practice for law enforcement officials and prosecutors to subject victims who have come forward to report a sexual assault to a polygraph (or lie detector) test. The use of polygraph tests for victims of sexual assault reinforces the belief that victims make false accusations about sexual assault and also serves to traumatize further the relatively small number of victims who are brave enough to come forward and report their crimes. These practices are seldom, if ever used against other victims of crime.*

*WCASA is strongly opposed to law enforcement's use of polygraph tests on sexual assault victims as a requirement to determine whether or not to pursue an investigation into her or his assault investigation and proposes legislation to prohibit this practice.*

***False reporting of sexual assault incidents is a myth.***
There is a misperception in the public that sexual assault victims make a disproportionately high number of false reports to law enforcement, when in fact, false reports in sexual assault cases are no more common than in any other crime.

According to the Office for Victims of Crime in the U.S. Department of Justice, 2% of all accusations of sexual assault reported to law enforcement turn out to be false, the same rate as other types of violent crime. (Reno, J., Marcus, D., Leary, M., Turman, K., First Response to Victims of Crime. Office for Victims of Crime, U.S. Department of Justice. May, 2000.)

***Because of the practice of forcing victims to undergo lie detector tests, perpetrators are going free.***
When a victim is forced to undergo a lie detector test, his or her trust in the criminal justice system is destroyed. This break in trust may result in a victim refusing to continue to cooperate with law enforcement, or prevent other sexual assault victims from reporting their own crimes. According to the 1999 National Crime Victimization Survey published by the U.S. Department of Justice, Bureau of Statistics, only 1/3 of all sexual assaults are ever reported to police. As a consequence of this practice, even fewer reports may be made to law enforcement, and more perpetrators will go free.

***Polygraph tests are not reliable, and their results are not admissible in most courtrooms.***
At this point in Wisconsin, polygraphs are inadmissible in court, except in rare cases, due to their questionable reliability. Since our court system does not trust the reliability of lie detector tests, it does not make sense to rely on them to determine the validity of a victim's claim of sexual assault.

***Subjecting sexual assault victims to lie detector tests reflects a deep-seated cultural and legal bias against them.***
Our state has made a commitment to victims of crime with the Victim Rights Amendment passed in 1997. The practice of forcing victims of sexual assault to undergo lie detector tests is in direct contrast to the message the state is trying to send to victims of crime. Instead, victims are receiving the message that they will not be believed, and their dignity will be assailed a second time.

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# Extension of Civil Statutes of Limitations In Childhood Sexual Abuse Cases

***WCASA Position:***
*The civil justice system offers victims of crime another opportunity to secure justice. Child victims of sexual assault may resist reporting their crime because they are afraid of angering the offender, blame themselves for the abuse, or feel guilty and ashamed. In addition, child victims may suffer memory repression or severe psychological trauma from the nature of the offense. They may even be unaware of the fact that a crime has been committed against them.*

*Due to these reasons, WCASA is strongly supporting legislation introduced by Sen. Burke and Rep. Berceau that would extend the civil statute of limitations in child sexual abuse cases in s. 893.587 to five years after discovery, and would encourage additional amendments to increase the civil statute of limitations in child sexual assault cases in s. 893.16 as well.*

### Why sexual assault victims choose civil court

The civil justice system offers victims of crime another opportunity to secure what they seek most--justice. Regardless of whether there was a successful criminal prosecution--or any prosecution at all--victims can bring their claims before the court and ask to have the responsible parties held accountable. In the civil justice system, offenders are held accountable, not to the state, but rather to the victims who suffered the direct impact of the crime.

### Current Law

Civil actions have much shorter statutes of limitation than do criminal actions. In Wisconsin, child victims of sexual assault have two years after the age of majority to bring civil charges against their perpetrator. In cases of incest, the time limit is based on the issue of repressed memories. A victim has two years from the point of "discovery," or from the point that he or she begins to remember the assault, to bring a civil action.

According to WI s. 893.16(1), if a person entitled to bring an action is, at the time the cause of action accrues, either under the age of 18 years, except for actions against health care providers; or mentally ill, the action may be commenced within 2 years after the disability ceases, except that when the disability is due to mental illness, the period of limitation prescribed in this chapter may not be extended for more than 5 years.

According to s.893.587, an action to recover damages for injury caused by incest shall be commenced within 2 years after the plaintiff discovers the fact and the probable cause, or with the exercise of reasonable diligence should have discovered the fact and the probable cause of the injury--whichever occurs first.

### Justification for extensions of statutes of limitation in child sexual abuse cases

In recent years, many states have adopted extensions to their criminal and civil statutes of limitation for cases of child sexual abuse and in certain other sexual assault cases. Those states have recognized the power imbalance between child victims and the adult perpetrators, who are often family members. Child victims are more easily intimidated by offenders. The position of authority occupied by the perpetrator also enables the offender to confuse the child, by both assuring the child that the sexual conduct is not wrongful, and/or threatening the child with terrible consequences if he or she discloses the activity. This makes reporting of offenses very unlikely.

States also recognize that child victims may suffer memory repression or severe psychological trauma from the nature of the offense. They may even be unaware of the fact that a crime has been committed against them. For all of these reasons, most legislatures have extended the limitations period for pursuing civil action.

**Most information on this fact sheet taken from:**
"Extensions of the Criminal & Civil Statutes of Limitations in Child Sexual Abuse Cases," National Center for Victims of Crime, 1998
*INFOLINK©:* A Program of the National Center for Victims of Crime.

# Privileged Communications Between Victims and their Advocates/Counselors

***WCASA's Position:***
*Advocates working in Wisconsin's sexual assault service providers and domestic violence shelters provide a vital role in crisis intervention. Victim advocates are well-trained in medical advocacy, legal advocacy, short term and long term support, prevention and community education. The role of an advocate is to act independently from other systems. Their role is to act as the advocate for the victim or survivor, who is their client.*

*Because they have such a direct relationship with victims, victim advocates are being summoned and forced to share client records with courts around the state. This ultimately compromises the intent of the relationship between the advocate and the victim/survivor.*

*WCASA is in strong support of legislation that would give sexual assault and domestic violence victims privileged communication with their victim advocates. This legislation would protect the professional relationship between a victim and her or his advocate and increase the therapeutic benefit of their relationship.*

***What is privileged communication?***
Privileged communication is a legal term barring patient or client information under certain circumstances from being introduced into courtroom proceedings. Privileged communication is not the same as confidentiality, a broader term pertaining to all information gathered during the course of a therapeutic relationship.

***Why were privileged communication laws written?***
Privileged communication laws were written to encourage and protect certain professional activities.
For example, it is believed that the benefits of the stronger therapeutic alliance resulting from the psychologist/patient privilege outweighs the harm caused by withholding some information from being introduced into courtroom proceedings.

The above information taken from "Questions & Answers About Privileged Communications" By Samuel Knapp, Ed.D., Allan M. Tepper, J.D., Psy.D., and Leon VandeCreek, Ph.D.

***Which professional relationships have privileged communication in Wisconsin?***
According to Wisconsin chapter 905, privilege is given to the following relationships: attorney-client, physician-patient, registered nurse-patient, chiropractor-patient, psychologist-patient, social worker-patient, marriage and family therapist-patient and professional counselor-patient privilege.

***General rule of privilege, s. 905.04(2)***
A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated for purposes of diagnosis or treatment of the patient's physical, mental or emotional condition, among the patient, the patient's physician, the patient's registered nurse, the patient's chiropractor, the patient's psychologist, the patient's social worker, the patient's marriage and family therapist, the patient's professional counselor or persons, including members of the patient's family, who are participating in the diagnosis or treatment under the direction of the physician, registered nurse, chiropractor, psychologist, social worker, marriage and family therapist or professional counselor.

***Who may claim the privilege?***
The privilege may be claimed by the patient, by the patient's guardian or conservator, or by the personal representative of a deceased patient. The person who was the physician, registered nurse, chiropractor, psychologist, social worker, marriage and family therapist or professional counselor may claim the privilege but only on behalf of the patient. The authority to do so is presumed in the absence of evidence to the contrary.

***Why is it important to create privileged communications between sexual assault and domestic violence victims and their advocates?***
When victims do not have privileged communication with their victim advocate, it can hinder the development of an open and trusting relationship. If an advocate is compelled to disclose information while providing services to her or his client, the confidentiality and trust necessary in that relationship is damaged, reducing the advocate's ability to help the victim heal from her or his trauma.

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# Extension of Criminal Statutes of Limitation with the use of DNA Evidence

***WCASA Position:***
*WCASA supports legislation that increases prosecutorial options for sexual assault victims.*

*With the improved technology of deoxyribonucleic acid (DNA), the use of DNA testing has become more widespread. As DNA databanks grow, more perpetrators will be identified for prior sexual assaults many years after the crime was reported.*

*State law relating to statutes of limitation must stay updated to match the technology available to identify perpetrators.*

*WCASA strongly supports legislation offered in this session by Rep. Walker that extends the statutes of limitation in sexual assault cases.*

The statute of limitations is the legal amount of time in which a victim/survivor of a crime has to bring criminal charges or a civil suit against a perpetrator.

***What is current law in Wisconsin?***
Current law in Wisconsin requires the state to prosecute first and second degree sexual assault within 6 years of the date of the crime. The state must prosecute first and second degree sexual assault of a child, as well as repeated acts of sexual assault of the same child, before the victim reaches the age of 31.

***What are the proposed changes?***
The changes proposed in Rep. Walker's legislation would create an exception to the time limits for prosecuting crimes of sexual assault, sexual assault of a child, and repeated acts of sexual assault of the same child in certain circumstances if the state has DNA evidence related to the crime.

If the state collects DNA evidence related to the crime before the statute of limitations expires and does not link the DNA evidence to an identified person until after the statute of limitations expires, the state may initiate prosecution for the crime within one year of making the match.

***Other changes proposed in this legislation:***
This bill also increases options available to convicts who claim to have been falsely convicted. This legislation provides an additional avenue to challenge a conviction by the use of DNA testing if 1) the evidence is relevant to the conviction, 2) the evidence is in the possession of the government agency or court, and 3) the evidence was not previously subjected to DNA testing or was tested with a less advanced method than is currently available.

The bill requires courts to order DNA testing of evidence if 1) the person making the motion for DNA testing claims innocence of the crime for which he or she was convicted, 2) the evidence has not been tampered with or testing will reveal whether tampering has occurred, and 3) testing may produce evidence relevant to the person's assertion of innocence.

***Why doesn't WCASA see a contradiction in supporting a bill that can overturn convictions?***
WCASA supports this use of DNA technology because we believe in the accuracy of the science. When those who are falsely convicted of a crime are behind bars, the true perpetrator may be out on the streets. Overturning a false conviction may lead to the prosecution of the true offender.

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# Family Violence Option

**WCASA Position:**

*The evidence is clear that sexual violence has a lasting impact on the lives of victims. Sexual abuse, particularly at early ages, has been linked to subsequent problems, such as impairments to psychological well-being and mental health, alcohol and other drug abuse, elevated odds of unintended pregnancy, involvement in prostitution, and suicide. Researchers are now making the link between sexual victimization and poverty.*

*Therefore, WCASA believes it is necessary for our state W2 program to acknowledge this link and provide alternative programming to welfare recipients who have a history of sexual and physical abuse. WCASA is working collaboratively with the Wisconsin Coalition Against Domestic Violence to pass legislation implementing a "Family Violence Option."*

***Sexual abuse and poverty—making the link***

Sexual abuse is an experience that affects a survivor's life in many ways. The following is only a partial list of possible aftereffects survivors may experience for years into their adult life:

- Low self-esteem
- Self-blame, guilt
- Vulnerability toward revictimization
- Depression
- Difficulty sustaining relationships and building trust
- Alcohol or drug problems
- Anxiety, the need for control in relationships
- Post-traumatic stress reactions
- Eating disorders
- Dissociative reactions
- Sexual dysfunctions
- Flashbacks and bad memories

From one-third to 50% of all rape victims will develop Rape-related Posttraumatic Stress Disorder (RR-PTSD) sometime in their lifetimes. (John Hopkins School of Public Health, 2000 and National Center for Victims of Crime and Crime Victims Research and Treatment Center, 1992.)

Women exposed to childhood abuse also have elevated odds of unintended pregnancies because of the effects of childhood abuse and household dysfunction on women's sexual behavior. Teens who had been either sexually or physically abused were approximately twice as likely to have been pregnant, and those who had experienced both sexual and physical abuse were about four times as likely to have had a pregnancy. Since early pregnancy increases the likelihood of entry into public assistance, the link between sexual violence and entry into W2 is very real.

--"Women Exposed to Childhood Abuse Have Elevated Odds of Unintended First Pregnancy as Adults," Family Planning Perspectives, Volume 32, No. 1, January/February 2000
--"Adolescent Pregnancy and Sexual Risk-Taking Among Sexually Abused Girls," Family Planning Perspectives, Volume 29, No. 4, August/September 1997

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Information taken from a fact sheet from the NOW Legal Defense and Education Fund called "The Family Violence Option."

**An Overview of the Family Violence Option**

The Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (PRWORA) eliminated the federal entitlement to welfare and replaced it with a block grant called the Temporary Assistance for Needy Families (TANF). It also imposed numerous new requirements for recipients, including a 60 month lifetime limit and a strict work mandate. The law contains a critically important provision called the Family Violence Option (FVO).

**What is the Family Violence Option and why is it important?**

The Family Violence Option (FVO)[1] is a provision which gives states the option of waiving requirements and increasing services to families suffering from violence without being penalized financially. States which choose the option can screen applicants for domestic violence and sexual abuse while maintaining confidentiality, make referrals to counseling and other supportive services, and provide "good-cause waivers" from TANF program requirements.

The FVO is important because inflexible time limits may make it more difficult for victims to escape the abuse and to establish economic independence. The temporary waivers under the FVO are intended to allow victims the time needed for a successful transition off of welfare by allowing flexibility in complying with work and job training requirements.

The FVO also allows states to waive child support cooperation requirements for domestic violence victims. Without these waivers, a recipient has to identify the father of her children and supply other information required by the state in order to qualify for TANF benefits. This can be dangerous for a battered woman since violence may increase when a legal action is taken against an abuser.

**Endnotes:** 1 The Family Violence Option is contained in Sec. 402(a)(7) of P.L. No. 104-193

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# Child Visitation Centers

**WCASA Position:**
*When a child is sexually assaulted by a parent or caregiver, the child not only has to deal with the traumatic aspects of the sexual assault, but also the impact of the assault on the family.*

*For a variety of reasons, it may be found that it is in the best interest of the child to continue having contact with the abusive parent, while at the same time, needing to be sure that the child is safe. Child visitation centers, staffed by highly trained individuals, can provide a safe, supervised location for such visits.*

*Child visitation centers can also serve as a safe transfer location between two parents when there are allegations about spousal abuse, including marital rape.*

*WCASA will work collaboratively with the Wisconsin Coalition Against Domestic Violence on the passage of legislation which would allocate funding toward child visitation centers.*

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[Information taken from "The Co-occurrence of Intimate Partner Violence Against Mothers and Abuse of Children"
--National Center for Injury Prevention and Control]

**What are Child Visitation Centers?**
The primary goal of child visitation centers is to prevent the dangers associated with unsupervised visitation and the transfer of children between custodial parents. Possible dangers include domestic violence, kidnapping, substance abuse, and child abuse, including child sexual abuse.

Supervised Visitation Centers assist families that have experienced threats of violence, domestic violence, child abuse, instances or threats of parental abduction, drug abuse, or charges of any of these. The supervised visitation centers are designed to maintain the contact between the accused parent and the children while the court tries to determine what exactly should be done. Supervised visitation centers also function as places where parents can visit children who have become wards of the state.

Violence against mothers by their intimate partners is a serious risk factor for child abuse.[1] Conversely, mothers of abused children are at higher risk of being abused than mothers of non-abused children.[2]

Child visitation centers are widely accepted by communities and the courts for their role in maintaining family relationships and reducing family violence. Therefore, WCASA strongly supports making additional funding available to encourage further development of child visitation centers around the state.

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4. Peled E. The battered women's movement response to children of battered women: a critical analysis. *Violence Against Women* 1997;3:424-446.

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# Anti-Bullying and Peer Mediation Curriculum

**WCASA Position:**
*WCASA believes in the importance of preventing sexual violence. Whereas a wide variety of research is available indicating the relationship between bullying behavior in children and sexually violent and inappropriate behavior in later life, WCASA will work collaboratively with WEAC, the Wisconsin Educatioal Association Council, in the passage of their legislative initiative to require school boards that provide instruction in human sexuality and related subjects to provide instruction in anti-bullying behavior and peer mediation.*

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**[Information taken from "Bullying and Sexual Harassment in Schools" by Lisa Walls, Committee for Children]**

Research indicates that bullying is a serious form of aggression, which if left unchecked, can have long-lasting consequences. Whether they are participants or bystanders, all students feel the effects of bullying.

Short-term effects on bullied children include peer rejection, further bullying, emotional distress, and academic problems. Children who experience prolonged bullying can become chronically fearful and anxious. Other long-term consequences can include significant erosion of a child's self-esteem and self-confidence. In extreme cases, a severely bullied child may be at an increased risk for suicide or for acting out violently.

Witnesses to bullying, or bystanders, feel powerless, frightened, upset, and uncomfortable when they see other children victimized.

**The Link Between Bullying and Sexual Harassment**
Researchers call sexual harassment the "older cousin to bullying" (Stein & Sjostrom, 1994, p. 106). In fact, the lines between bullying and sexual harassment continue to blur. The 1999 Supreme Court decision Monroe vs. Davis, in which the Supreme Court said that schools could be responsible for student-to-student sexual harassment, began with two students who were only in the fifth grade.

According *to Quit It!—A Teacher's Guide on Teasing and Bullying*, by Merle Froschl, Barbara Sprung, and Nancy Mullin-Rindler, "We do not think that sexual harassment is an appropriate term to use with young students. But behavior such as sexual harassment does not spring up abruptly in adolescence or adulthood. The antecedents of peer-to-peer sexual harassment in schools may very well be found in teasing and bullying in the early grades."

The American Association of University Women (AAUW) conducted a landmark survey of 1,632 students in grades 8-11. An astonishing 85% of girls, and 76% of boys reported experiencing some kind of harassment. The milder forms included looks, jokes, graffiti on bathroom walls, and comments about body parts. The more severe forms were physically intrusive: being grabbed or brushed up against in a sexual way. Thirty-one percent of girls experienced harassment "often," compared to only 18% of boys. Thirteen percent of girls and 9% of boys reported being "forced to do something sexual at school other than kissing" (AAUW, 1993, p. 10).

The inappropriate behavior had a more significant impact on the girls. A greater percentage of female students described feeling less confident, more self-conscious, shamed, and embarrassed. Young women can be so affected by harassment that their grades drop. In the AAUW survey, one in four girls said they stayed home from school or cut class because of sexual harassment (AAUW, 1993, p. 15).

As with bullying, schools are ultimately responsible for creating an environment free of sexual harassment. If school administrators fail to deal directly with bullying and sexual harassment and punishing those responsible, they can find themselves in the midst of a lawsuit.

**Working to Prevent Sexually Violent Behavior**
Empirical evidence supports the effectiveness of school-based programs that combine adult training, skill practice for children, schoolwide rules pertaining specifically to bullying, and increasing parental awareness of the problem. Teaching assertiveness, empathy, and emotion management to children promotes their social & emotional development.

**References**
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# Mental Health Parity

***WCASA Position***
*Sexual assault victims experience a great deal of physical and emotional trauma as the result of their victimization. While every person reacts differently to a sexual assault, it is very common for sexual assault victims to require crisis intervention and/or short term or long term counseling.*

*WCASA supports legislation that would equalize mental health insurance coverage with physical health insurance coverage because it would increase the options available to sexual assault victims in their healing process.*

**Information below is taken directly from "Rape Related Post Traumatic Stress Disorder," and "Trauma of Victimization," published by the National Center for Victims of Crime**

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***Overview***
The trauma of victimization is a direct reaction to the aftermath of crime. Crime victims suffer a tremendous amount of physical and psychological trauma. The primary injuries victims suffer can be grouped into three distinct categories: physical, financial and emotional.

There are certain common underlying reactions that a victim will undergo either in the immediate hours or days after the sexual assault. Frequent responses to a sexual assault include, but are not limited to shock, numbness, denial, disbelief, anger, and, finally, recovery.

Every victim's experience is different, and the recovery process can be extremely difficult. It can take a few months or years -- or an entire lifetime -- depending upon the variables involved. This is why crisis intervention and supportive counseling play a significant role in helping victims recover.

***Rape related post traumatic stress disorder***
The U.S. Census Bureau estimates that there are approximately 96.3 million adult women in the United States age 18 or older. In a recent study entitled "*Rape in America: A Report to the Nation,*" by the National Center for Victims of Crime and the Medical University of South Carolina Crime Victims Center, 13 percent of American women surveyed had been raped and 31 percent of these rape victims developed RR-PTSD. The study showed that with 683,000 women raped each year in this country, approximately 211,000 will develop RR-PTSD each year.

In their attempts to cope with RR-PTSD symptoms, many victims may develop major depression. The above mentioned report indicates that rape victims are three times more likely than non-victims of crime to have a major depression episode. Rape victims are 4.1 times more likely than non-crime victims to contemplate suicide. In fact, 13 percent of all rape victims actually attempt suicide, which confirms the devastating and potentially life threatening mental health impact of rape.

In attempting to cope with the above symptoms, drug and alcohol consumption are likely to be used in the victim's attempt to gain relief from these symptoms. Compared to non-victims of crime, rape victims in the report mentioned above are 13.4 times more likely to have two or more major alcohol problems; and twenty-six times more likely to have two or more major serious drug abuse problems.

As sexual assault victims work to deal with the trauma of their victimization, it is becoming more and more important to have options available in their healing. Mental health parity in insurance coverage would partially achieve this goal.

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