Advocates For Change

4th Issue
October 2010

THE ADVOCATE

INSIDE THIS ISSUE:

Our Vision 1
Parole Addresses AFC 1
Treatment Providers Address AFC 1
Quote of the Month 1
CCJJ to Address Sex Offense/Offender Issues 2
SOMB Update 2
We Need Your Stories 2
CCJJ Task Force 3
Alphabet Soup 3
Calendar of Events 3
People First Language 3
Hepatitis C 4
AFC Editorial Policy 4
AFC Board Members 4
RJ Symposium 4
Insiders and Outsiders 5
Membership Application 6
Membership Report 6

WE DID IT!!!! NICE JOB EVERYONE!!!

$40,000 IS IN THE DOCCA TRUST FUND AND THE ATTORNEYS ARE GEARING UP FOR THE LAWSUIT!!!

Now the hard work begins. There is much to be done by the team of attorneys that will represent the class in the lawsuit before they can file the suit in court. They have begun working immediately to finalize the details of the lawsuit in an effort to get this issue before the court before year's end.

PAROLE ADDRESSES AFC MEMBERS

By GL Rosencrans

This is a brief review of the presentation of a panel of parole officers. The parole officers that were present were Tim Hand, Deputy Director of Parole; Jeff Geist, Director of Adult Parole; and Dave Briley, a parole officer. They stated that the parole officers operate on a continuum from social work to law enforcement. Tim Hand stated that the parole division is moving towards adopting evidence based practices, practices that help parolees succeed.

Some parolees will be on an Intensive Supervision Program which means GPS electronic monitoring (ankle bracelets), more frequent UA's, and more frequent home and work visits. This is all based on parole board recommendations and is generally recommended for 180 days after parole but is up to the discretion of the parole officer. Normally the offender can be removed from ISP status sooner if they show compliance.

A parolee will have a treatment team that will consist of the parole officer, parole officer's supervisor, therapists and polygraphers. The team will make the decision about whether or not to allow computer use and if they allow it, what restrictions will be placed on the usage. Home computers need monitoring devices and computer passwords must be protected from the offender. There are also restrictions on work computers and, depending on circumstances, the parolee may not be allowed to use a computer at work or may be very limited.

Special points of interest:

AFC will be assertive in our advocacy work.

AFC supports the class action lawsuit against the DOC.

The challenges our loved ones face are monumental as is the task of **AFC** in defending and protecting them.

AFC will hold those charged with the treatment of our loved ones accountable to the letter of the law.

Get Involved: Come to the meetings; join a committee, if you can not be at the meetings, there are many other opportunities for you to help.

RUMOR MILL

RUMOR: It has been rumored that the SOTMP is going to stop providing Phase I and Phase II classes.

FACT OR FICTION

FICTION: Straight from the source, Peggy Heil.

"I do not know where this started but DOC has no plans to discontinue SOTMP."

WATCH FOR OUR NEW LOGO – COMING SOON!!

QUOTE OF THE MONTH

"When families are involved, the client is more successful in treatment."

Missy Gursky, RSA

Colorado Commission on Criminal & Juvenile Justice to Address Sex Offense/Offender Issues

A commission convened by Governor Ritter to review all issues related to criminal and juvenile justice has decided to look primarily at sex offenses/ offender issues this year with an eye towards submitting bills to address problem areas within sentencing and registration.

The mini-group summary report on registration suggested looking at who has to register, de-registration and failure to register regulations. The report also stated that the SVP designation is of dubious value.

The mini-group summary report on sex offense/ offender issues included that SOMB guidelines on conditions of supervision are not followed and that there is inconsistent probation/parole response to technical violations. Under parole release, it was noted that parole decisions are inadequately documented and there are no guidelines for release of determinate sentence offenders.

The mini-group on sentencing identified as issues the inconsistent definition of "sex offender" in state statute and sentencing structure anomalies in statute (range consistency). CCJJ made it clear it was not considering doing away with indeterminate sentencing but rather looking at restructuring the entire sentencing process, a longer more comprehensive project.

It is encouraging that this group of heavy hitters and power brokers are taking on the challenge of improving the laws and policies that govern the lives of those who have a sex offense conviction.

WE NEED YOUR STORIES

We will be working on a lot of issues for next year and would like your stories. All stories are welcome. Do you have a history of issues with polygraphs, parole, treatment, etc.? Please use only the facts – dates, times, places and names if you are comfortable using the names. Your name will be kept confidential. We will use this information to build our fight for next year. Please help out if you can. Send your story to: AFC, 10343 Federal Blvd., PMB #444, Westminster, CO 80260. Thank you.

SOMB UPDATE

August 20, 2010:

SLA's: Kathy Rodriguez reported that the majority of SLA's are in Denver, posing problems for those released on parole in other parts of the state. SOMB is working with other communities to permit SLA's in their communities.

Lifetime Supervision Criteria: Peggy Heil distributed the latest version of the criteria. There was a discussion from Board members on how many could meet these criteria in order to get a recommendation from their therapists for parole.

No Known Cure White Paper: Peggy Heil is chairing this committee which is crafting an opinion paper that explains what NKC means and what NKC does not mean. About twelve AFC members attended this committee meeting armed with research but the committee wasn't interested in the research AFC provided for this paper.

TREATMENT PROVIDERS ADDRESS AFC MEMBERS

A panel of treatment providers addressed the AFC membership on September 21, 2010. Missy Gursky from RSA and Merv Davies from Davies & Associates, both of whom sit on the Sex Offender Management Board, gave their backgrounds and answered questions about their programs. One question posed to both was their stance on the "no known cure" language. Missy answered that RSA has taken the NKC language out of a lot of their work. Merv Davies said that for him it was semantics – that for some managing their offense cycle is a lifelong commitment. Both argued for the value of the polygraph as a treatment tool. Both affirmed that it is the discretion of parole / probation what treatment provider a client is assigned to.

Labeling v. People - First Language
by SS

AFC believes that each person is multi-faceted and cannot be defined solely by just one aspect or experience in life. Similarly, a person cannot be defined solely by any labeling that may be applied, regardless of any official or professional origin.

Thus, AFC discourages the use of labels and encapsulating professional and official terminology when refering to a person and his or her issue(s).

Instead, AFC promotes and encourages the use of what has been referred to as "people-first" language in which a person being referred to is acknowledged by their personhood first, and any issue or other aspect of that person second. For example, instead of referring to someone as a "sex offender," AFC encourages the use of "person with a sex offense." Similarly, AFC encourages the use of "sex offense laws" instead of "sex offender" laws.

Alphabet Soup:

AFC – Advocates for Change, action group addressing issues related to those who have been charged with or convicted of a sex offense
BAG – Breakfast Action Group
CCJJ – Commission on Criminal and Juvenile Justice
CCJRC – Colorado Criminal Justice Reform Coalition
DOCCA- Department of Corrections Class Action Lawsuit
CURE – Citizens United for the Rehabilitation of Errants
LSA – Lifetime Supervision Act
MRD – Mandatory Release Date
PED – Parole Eligibility Date
SLA – Shared Living Arrangements
SMART – Sex Offender Sentencing, Monitoring, Apprehending, Registration & Tracking
SOMB – Sex Offender Management Board
SORFC – SO Ready For Change
SOTMP – Sex Offender Treatment and Monitoring Program

Just FYI:

If you signed up for the newsletter and gave us an email address, you will ONLY receive your newsletter by email. However, please feel free to print it out and mail it to a friend or family member if you like.

CALENDAR OF EVENTS

OCTOBER

10-19-10 Tue 7-9pm AFC General Meeting St Paul's Lutheran Church, 16th & Grant St, Denver. This month we will be addressed by probation.

10-20-10 Weds 1:30 – 4:30 pm **CCJJ Sex Offender/Sex Offense Task Force,** 150 E. 10th Avenue, Denver

NOVEMBER:.

11-1-10 Mon. 7:00 – 8:00am – **Senator Linda Newell's First Monday in Centennial,** at So. Metro Chamber of Commerce at University & Arapahoe.

11-2-10 Tues. - ELECTION DAY. DON'T FORGET TO VOTE.

11-4-10 Thurs. - 7:30 – 9:00 am **Senator Hudak's Coffee Panera Bread,** 7739 Wadsworth Blvd, Arvada (1st Thursdays, represents District 19)

11-5-10 Fri. 7:00 am - **Senator Suzanne Williams First Friday Forum** at Panera Bread, Iliff & Peoria, first Friday of every Month

11-12-10 Fri. 12:30 – 4:30 pm – **Colorado Commision on Criminal and Juvenile Justice**,US DOT Office, 12300 W. Dakota Ave.

11-13-10 Sat 9:00 am - **Senator Linda Newell's 2nd Saturday in Littleton,** Blueberry's Cafe in Woodlawn Center, Littleton Blvd. & Windermere

11-17-10 Weds 1:30 – 4:30 pm **CCJJ Sex Offender/Sex Offense Task Force,** 150 E. 10th Avenue, Denver

11-20-10 Sat. 10:30 – Noon, **Senator Hudak's Town Hall Meeting,** Standley Lake Library, 8485 Kipling Street

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Pikes Peak Restorative Justice Symposium

Several AFC members attended the Pikes Peak Restorative Justice Symposium that was held on Thursday, September 23rd and Friday, September 24th. The keynote speaker was Howard Zehr, Center for Justice and Peacebuilding, an internationally recognized pioneer of Restorative Justice.

Some of the most impressive aspects of this event were the victims that were brought in to tell their side of the story. These victims stated that they not only felt victimized by the offenders in their stories but also by the justice system itself. They did not feel they were given consideration in any of the proceedings and, in fact, felt like they were shunned by them. As long as the justice system "got their man" that's all they were interested in. They felt they had been victimized twice. Only after they were introduced to Restorative Justice did they feel they were actually given consideration and respect.

The speakers agreed that as far as they know RJ is currently only being used in the juvenile setting. There were some people interested in figuring out how they could start introducing it into the adult system as well. Talks are underway – STAY TUNED!!!

Hepatitis C

Hepatitis is an inflammation of the liver of which there are several varieties. Hepatitis C is most common, affecting over 4 million Americans, often becomes chronic, causing lasting liver disease. Hepatitis C is difficult to treat because it is caused by a virus and can lead to cirrhosis and cancer.

Hepatitis C is transmitted by blood and other bodily fluids from one person to another. Health care workers exposed to infected blood were at high risk before 1992. Then, blood began to be tested and the use of gloves an a universal precaution came into being.

Other high risk situations can occur every day: by sharing personal items such as razors, nail clippers, toothbrushes, etc. Tattooing and body piercings raise the risk of transmission and particularly in prisons where sterilization of needles probably doesn't occur. Injection of illicit drugs and multiple sex partners add to the risk.

By Jan Hunsaker, RN

SIDE NOTE:

WE JUST LEARNED THAT FREE FLU SHOTS FOR INMATES SHOULD START NEXT WEEK.

AFC

EDITORIAL POLICY

The Advocate newsletter is published by Advocates for Change, providing information on efforts of this group to affect change in legislation, treatment, and re-integration into the community, primarily for those who have been convicted of a sex offense.

Submissions from inmates/offenders and parolees are encouraged. Articles should be no longer than 300 words. Content should be about a single issue, be original, and accurate, citing sources if appropriate. Contributors will be identified by first name only if requested.

Readers should know that AFC makes no representation as to the accuracy of any submission and does not necessarily endorse the opinions of any author. Nothing offered by AFC is intended to be legal advice, and any information provided should never be a substitute for obtaining counsel and/or conducting your own research.

The editor reserves the right to publish all, part or none of the contributions submitted. Send contributions to Advocates for Change, PO Box 441656, Aurora, CO 80044. Please also send any articles for publication and comments on the newsletter to: AFC Newsletter, 10343 Federal Blvd., PMB #444, Westminster, CO 80260.

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INSIDERS AND OUTSIDERS OPINIONS

Opinions from those who have been convicted of an offense and their families

MAKING BAD LAW – KNOWING WHEN NOT TO START

Et Alia Paralegal Services, Diane McDaniel

In March, 2010, the United States District Court for the District of Colorado issued two rulings that may prove critically important to persons incarcerated under the Colorado Sex Offender Lifetime Supervision Act of 1998. In Scott v. Firth, No. 09-cv-00224-MSK-MJW, slip op. (D.Colo. March 8, 2010), the federal court held that prisoners incarcerated under the Lifetime Supervision Act do not have a liberty interest in a treatment program that can be completed by their parole eligibility date, while in Conkleton v. Zavaras, No. 08-cv-02612-WYD-MEH, slip op. (D.Colo. March 15, 2010), the federal court held that therapists are not presently subject to claims for damages when they deny prisoners access to statutorily mandated treatment under the Lifetime Supervision Act. Both of these cases involved "issues of first impression," meaning that the court had never decided those specific legal issues before and would therefore be "making new law" when it decided them for the first time. While the court's rulings are unsettling and arguably constitute what is commonly referred to as "bad law," the more unsettling aspect of these cases is that they were litigated by prisoners pro se. In other words, both of the prisoners involved in these cases decided to pursue a federal lawsuit on these issues without the assistance of counsel, despite the fact that the issues they were raising had never been decided by the court before. As a result, all prisoners incarcerated under the Lifetime Supervision Act are now possibly "stuck" with the bad law that these cases produced. This unfortunate fact raises the question, Is it sometimes wiser not to file a federal lawsuit?"

Constitutional issues of first impression are notoriously difficult to litigate, primarily because federal judges are reluctant to expand the Constitution's protections to newly asserted rights. In Washington v. Glucksberg, 521 U.S. 702, 117 S.Ct. 2258 (1997), for instance, the United States Supreme Court explained that federal courts have "always been reluctant to expand the concept of substantive due process" because "extending constitutional protection to an asserted right or liberty interest [. . .] place[s] the matter outside the arena of public debate and legislative action." Id. at 720, 117 S.Ct. at 2267-68. The Firth case, for example, involved an issue of substantive due process rights, because the court was being asked to recognize a new constitutional right to treatment; the pro se prisoner in Firth was therefore faced not only with the complexities of arguing an issue of first impression, but also with the complexities of substantive due process.

As someone who has worked with attorneys specializing in constitutional law, I can personally attest to the tremendous amount of research and preparation required to prepare a federal lawsuit that raises an issue of first impression. Litigating a case of first impression is a daunting, if not impossible, task for a pro se prisoner who is untrained in law and who lacks the legal resources available to an attorney.

I fully understand the frustration and outrage that occurs when the SOTMP arbitrarily denies someone treatment under the Lifetime Supervision Act, and I also understand the desire to vindicate one's rights by filing a federal lawsuit against SOTMP therapists. Unfortunately, most people don't have the financial resources it takes to hire an attorney to sue the SOTMP in federal court, so there's a strong urge to proceed pro se in such a lawsuit. The majority of pro se federal lawsuits, however, end in either dismissal or in negative rulings that potentially harm all the other prisoners incarcerated under the Lifetime Supervision Act. The United States District Court in Colorado, for instance, has not expanded a prisoner's constitutional right to treatment under the Lifetime Supervision Act since its final judgment in Beebe v. Stommel, No. 02-cv-01993-WYD-BNB, slip op. (D.Colo. Nov. 13, 2006).

Basic legal research can reveal whether a potential legal claim against the SOTMP involves settled law or an issue of first impression. Certain issues such as procedural due process violations during a SOTMP Termination Review involve issues of law that are well settled, and therefore would involve straight-forward legal claims that may be within the ability of a pro se prisoner to litigate in federal court. Other issues, such as termination from treatment due to the exercise of the Fifth Amendment privilege against self-incrimination or the prolonged denial of treatment due to the SOTMP's lack of resources, in contrast, involve complex issues of first impression that are likely beyond the ability of a pro se prisoner to litigate. Given the very real potential for the federal court to issue a negative ruling such as the one in Firth or Conkleton that could negatively affect other people incarcerated under the Lifetime Supervision Act, any pro se prisoner should carefully consider such possibilities before filing any federal lawsuit that involves an issue of first impression.

ADVOCATES FOR CHANGE

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We're on the Web!
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Membership Report

Out of State:	7
Family Members:	74
Affected Ones in System:	173
TOTAL	**254**

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Membership Fee $20 for those on the outside and 8 stamps for those on the inside.

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Call Annie Wallen at 303-333-7023 if you have any questions or comments.

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