

Advocates For Change

THE ADVOCATE



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AFC MISSION STATEMENT:

AFC supports those with a sex offense and their families by:

- Advocating for change in sex offense laws and policies, and for the adherence to constitutional rights;
- Educating the public, lawmakers, and the judiciary;
- Promoting the reintegration of those with an offense into the community.

YEA! FINALLY!!

DEPARTMENT OF CORRECTIONS CLASS ACTION LAWSUIT (DOCCA) HAS BEEN FILED

By G.L. Rosencrans

After nearly two years of hard work, the criminal defense team of John Pineau, Ingrid DeFranco and Alison Rutenburg has filed the Department of Corrections Class Action Lawsuit (DOCCA) in the U. S. District Court for the District of Colorado. Since the defense team is operating pro bono, Advocates for Change organized a fundraising campaign that contributed over \$40,000 to cover the costs of filing motions and subpoenaing witnesses.

When the defense team found a little time after a major case they had been working on was dismissed, they pulled the case together and put in their final remarks. It was filed on December 23rd, the last day before their offices went on holiday break. The electronic filings in federal court is slightly different than filings in other courts. There were extensive exhibits which created some issues with the actual e-filing procedure but they were able to work with the Court to get those fixed.

Anyone can find the complaint online on PACER. It has been assigned to Judge Brimmer's courtroom. The name will appear as Allen, et al v. DOC, Case No. 11 CV 03396. When you see it, you will notice that the team explained that they have filed but intend to do further investigation on DOC's apparent destruction of evidence, and then decide if they are going to further amend to add more charges, and then serve it on the defendants.

AFC members can track the progress of the lawsuit by logging on to the AFC website at www.advocates4change.org and clicking on DOCCA.

SUMMARY OF DOCCA: Claims for relief include honoring the rights of Plaintiffs to treatment and ultimate liberty; right of Plaintiffs to know in writing the meaningful reason for denial of rights and treatment and rights to due process for termination; and rights of Plaintiffs to counsel.

SAVE THE DATE: March 20, 2012 John Pineau and team will be guest speakers at the AFC General Meeting. Meeting starts at 7:00 pm at St. Paul's Lutheran Church, 1600 Grant Street, Denver, CO.

DISCLAIMER

AFC's newsletter is The Advocate. The So Ready For Change (SORFC) newsletter is written by inmates and others and is not affiliated with AFC.

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LET'S GET PERSONAL – Chair Ann's Commentary

As I write this, my thoughts go to the many of you caught in the legal web of sex offense laws. We have loved ones who are imprisoned and who see little hope for the future. Some of you have no support system at all. Many of you live in fear and isolation. There are families who have been hurt to the core and don't know which way to turn.

I want you to remember that we are fighting for you and we care. While so many of us were not paying attention, our country over demonized and over criminalized anything and anyone branded as a "sex offender." This has become the one offense that offers the offender no opportunity of redemption.

For many years the public and politicians have heard only one side of the story. AFC members have come together to be a voice of truth and to change the conversation about sex offenses so that unreasonable laws, indeterminate sentencing and harsh restrictions see daylight. There is a lot of false information out there. Just because a majority of people believe something to be true doesn't make it true.

Over 14,000 people in Colorado have been convicted of a sex crime. When you multiply that number by the many friends and family members affected by these unjust laws, we could fill Mile High Stadium. You are not alone and it is our mission to be your voice at the many meetings where your issues are discussed, speaking with our leaders and replying to the media about injustice.

We have many challenges ahead of us this year, but we are a very determined group. I wish that each of you could see how much work is being done by AFC behind the scenes. We do this because we believe in justice and we care about those who are affected by unreasonable and overly harsh laws.

Ann Harris

QUOTE

"It is certain, in any case, that ignorance, allied with power, is the most ferocious enemy justice can have."

James Baldwin

PEOPLE FIRST LANGUAGE

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 "a person with a sex offense." Similarly, AFC encourages the use of "sex offense laws" instead of "sex offender" laws.

AFC Highlights of 2011 in a Snapshot

By Chair, Ann Harris

The AFC Board did not stand still in 2011. So many things have been accomplished as we push forward in making changes to sex offense legislation and public perception of those with a sex offense. The AFC board and members have made a difference by participating in the process of working to turn the tide on an issue that has become negatively ingrained in our society over the last 30 years. Our three legged mission areas of legislation, education and re-entry were our focus in 2011.

AFC's efforts in legislation included meeting with legislators throughout the session addressing sex offense issues and concerns. HB11-1138, Reauthorization of the Sex Offender Management Board, was passed with AFC recommendations to remove "no known cure" language from statute. AFC also lobbied for treatment program accountability which was included but only when state funding is available. AFC also recommended changes to SOMB's Standards and Guidelines; attended the CCJJ Sex Offender Task Force (SOTF) registration and refinement working groups with the goal of possible legislation; and lobbied to bring attention to the problems and inadequacies of the parole board. We met with DOC on a variety of issues including recommending changes in AR 300-17, Reading Materials; urging resolution of conflicts with Administrative Regulations (ARs) that affect the release of the restricted population back into the general population; and contacted Governor Hickenlooper regarding concerns with the Parole Board. And finally, as 2011 came to an end, the Department of Corrections Class Action (DOCCA) lawsuit was filed.

In the education area, AFC published four issues of AFC's newsletter, The Advocate; produced a rack card for community distribution to educate the public about AFC; brought in guest speakers for the general meetings who spoke on the topics of parole, polygraph, treatment, community correction, etc.; published and distributed multiple fliers that educate the policy makers and legislators on sex offense issues; worked with a news reporter who published an article regarding indeterminate sentencing and the DOCCA lawsuit; continued development of the AFC website; and developed a liaison with Restorative Justice.

Re-entry is the third leg of our work effort. In 2011 AFC published and distributed two fliers on barriers to successful re-entry. Our members have been hands on in assisting several newly released people who have no support by picking them up at DRDC, driving them to their parole office, helping them register and driving them to treatment, supplying them with clothing, bus tokens and cell phones, and helping them find housing and employment. AFC has been active in attending revocation and sentencing hearings. Staying on top of DOC initiatives such as the Circles of Support and Accountability and the DOC re-entry symposium has been a top priority.

As we begin 2012, AFC continues to look for opportunities to make a difference in the lives of our loved ones. Our goals are being formed as we begin anew and we will be working hard to change the distorted paradigm of sex offenses that exists in our country today.

Rumor Mill

RUMOR: *That Restricted Privileges (orange pants) had been abolished.*

FACT: When AFC members attended the DOC/Citizen's Advocacy meeting, the question was posed to DOC representatives. Restricted Privileges still exists. Inmates may have confused RP with Ad Seg (Administrative Segregation). There was a recent review of Ad Seg by an outside source which recommended that Colorado's Ad Seg was used more heavily than the national average. As a result, more than 300 inmates were removed from Ad Seg.

Kudos to AFC and Glimmers of Hope from Laurie Kepros at December's General Meeting

By G.L. Rosencrans

At the December 7th General Meeting, AFC members celebrated their 2011 accomplishments with a holiday party. Laurie Kepros from the State Public Defender's Office acknowledged AFC's significant accomplishments by listing the following: in just over two years AFC now has over 400 members; an AFC information card was distributed to over 500 public defenders; AFC was successful in the removal of "no known cure" language from state statute and getting a new sunset review of SOMB in another five years instead of the proposed ten years.

Glimmers of hope: AFC and the Criminal Defense Bar and the Public Defender's Office has won the war of rhetoric regarding accountability. The SOMB has since 1992 to the present not had to monitor, collect data, or report results to anyone, including the legislature. The SOMB continues to ignore current research on treatment for those with a sex offense, ban any denier from treatment, and maintain their "sexual offending is a behavioral disorder which is incurable" as The Standards and Guidelines first guiding principle. However, legislators are starting to voice concerns that The Standards and Guidelines are not evidence-based and even some victim based representatives are saying, "we need to be looking at some of these numbers and outcomes."

Some other glimmers of hope from Laurie: J.J. Prescott and David Rockoff wrote a paper recently studying the effects of a public sex offender registry. This is the largest study ever done (15 states, including Colorado) and the longest follow-up ever (10 years). Their conclusion was that allowing public access to the sex offender registry actually INCREASES recidivism. This is because the stabilizing factors that make a person with a sex offense successful are more difficult to achieve; i.e., getting a job, finding a place to live, etc. They also concluded that Failure to Register does not predict recidivism.

The Colorado Commission on Criminal & Juvenile Justice (CCJJ) has looked at residency restrictions. These restrictions become viral once one community approves them; the neighboring communities then do the same. Kansas state statutes do not allow residency restrictions. A lawsuit in New Jersey forced the ruling prohibiting residency restrictions. CCJJ will not ask Colorado legislature to repeal all residency restrictions this year, but "we will not let it die".

The Association for Treatment of Sexual Abusers, (ATSA) is changing its attitude toward treatment, focusing on a client's goals. ATSA is becoming progressive, stating that "treatment" needs to be about helping people. Its program is Sex Offenders Restored Through Treatment and is an issue chapter of CURE. Their September newsletter was devoted entirely to the ethics of the polygraph, (used in Colorado), the ethics of actuarial assessments, (used in Colorado) and the ethics of treatment. Laurie attended a hearing in Colorado Springs where indeterminate probations for two offenders were terminated within two minutes.

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 for publication and/or comments on the newsletter to: Advocates for Change, Newsletter Editor, PO Box 351032, Westminster, CO 80035-1032.

Kevin Ford's Data Disputes Value of Colorado's Residency Restrictions

By B.J. Russell

At January's AFC general meeting, Kevin Ford, Statistical Analyst from the Division of Criminal Justice's Office of Research and Statistics, shared his findings and analysis from his study of Colorado's residency restrictions. First, he made a distinction between residency and zoning restrictions. **Residency restrictions** concern where those with a sex offense may live, in other words, location. Municipalities may enact a variety of conditions for residency restrictions from no offenders able to reside in their town, city or county e.g., Lone Tree, Greenwood Village, Greeley, and Commerce City, to conditions such as Castle Rock's ban on SVPs living in their town. **Zoning restrictions** concern the number of those with a sex offense who are permitted to live in the same residence. Some municipalities have both types; others have only one or none. Mr. Ford's study included both residency and zoning restrictions. Secondly, Mr. Ford showed that there has been a dramatic, domino effect of municipalities enacting ordinances restricting the housing of those with a sex offense. In fact, since 2004, where 16 municipalities had such ordinances, in 2011 the number doubled to 32.

To fight the common fear of the general public regarding "stranger danger" with facts, the study looked at the typical characteristics of the sex offender who we would attempt to affect by introducing residency restrictions and zoning : 1) a registered sex offender 2) who lives near a park or school 3) who targets a stranger, typically a child.

The dramatic results of the study indicate that only 1.5% of the above offenders (victims were strangers and the contact was made 1 mile or less from the offender's residence) would be impacted by residency restrictions. The unintended consequences for the remaining 98.5% of offenders include destabilization and disruption of offenders' housing, employment, finances, family and social support, registration and supervision. Such destabilization increases recidivism and decreases public safety.

Cathy Rodriguez, staff member of the Sex Offender Management Board (SOMB), supplemented Mr. Ford's presentation with her experiences working with different municipalities who were considering residency restrictions; her knowledge of their variations in ordinances; and her work in writing the SOMB's white paper on Housing which is available on the SOMB's web site.

Quote:

"Some jurisdictions have opted for "child safety zones". Rather than restricting where sex offenders reside such initiatives prohibit them from hanging around in places where they can easily cultivate relationships with children."

Jill Levenson, Associate Professor of Psychology, Lynn Univ.

INSIDERS/OUTSIDERS OPINIONS

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

The Advocate is interested in inmates' anecdotes of the adverse impact of those in the system on their loved ones/family members beyond the fact of incarceration, treatment, parole, or probation. Short anecdotes are preferred due to space limitations.

An example of an anecdote we're looking for: *"I was in county jail for eight months awaiting trial. My mother was 67 and blind. The jail administrators would not deviate from its video visitation policy to allow my mother to have a contact visit with me, her only child. Imagine a video visit for one who is blind. She died while I was in jail. Punish me, not my mother."*

If enough anecdotes are received this will be an ongoing column in the newsletter or be published in a pamphlet. In order to maintain credibility, please refrain from embellishment. Truth is compelling enough. You may choose to use your name or a partial name or an alias.

THE BOOKSHELF

(A new column that will provide readers with a review of current books from the AFC library)

Reviewer: Mark Walker

Blackstone, Ken. *Polygraph, Sex Offenders, and the Court: What Professionals Should Know About Polygraph... and a Lot More*. Concord: Emerson, 2011.

Ken Blackstone is an expert on polygraphs who has conducted more than 15,000 examinations over the past 30 years. He has written extensively about the polygraph and has frequently testified about it as an expert witness. His specialty is sex offenses and accused sex offenders, and in particular the use of polygraph testing in the context of civil commitment. AFC became aware of Mr. Blackstone when he filed an *amicus* brief, in support of a man convicted of a sex offense, in an Arizona Supreme Court case dealing with polygraphs and the right not to incriminate oneself under the Fifth Amendment (*Jacobsen v. Arizona*, No. CV-10-0309-PR).

Blackstone is hardly the sort of person one would normally expect to take a stand against the use of the polygraph in sex offense treatment and management...which is what makes his book so fascinating. While much of the book is focused on civil commitment issues (clearly his primary interest), there is still a great deal of material that is generally applicable.

Blackstone starts off by recognizing and debunking the most popular myth about people convicted of sex offenses - that they have a high rate of re-offense - by citing studies showing low recidivism rates. After a brief discussion of the prevalence of polygraph use in sex offense treatment and management, he goes on to give a detailed outline of how the polygraph is intended to function. His enlightening treatment includes the background theory behind the polygraph, different types of tests and techniques along with methods used and the supposed accuracy of each, how polygraph charts are interpreted and analyzed, and how test questions are properly formulated.

The most significant distinction Blackstone draws is between "forensic" and "utility" testing. A forensic test is a very narrow test focused on a specific incident, and Blackstone argues for the validity of this type of polygraph. Utility tests (which Blackstone also calls "fishing expeditions" (p. 51) and says "belong in a trash can" p. 154) are typically the sort of tests used in sex offense treatment and management. He argues that this type of test is prone to error and has little validity. Blackstone is very critical of multiple-issue tests, which are common in sex offense "maintenance" testing, and he argues that while a multiple-issue test can have a valid "non-deceptive" result it can never have a valid "deceptive" result.

Blackstone's credentials and his conclusions about the validity of the "forensic" polygraph test show that he is a believer in the polygraph itself (when rightly conducted). This fact lends additional credibility to his criticism of the types of polygraph test typically used in sex offense treatment and management.

INDEPENDENT MONITOR MAY BE HIRED

By Susan Walker, Legislative Liaison

AFC is always looking for ways to move forward legislatively on behalf of our members and friends affected by the criminal justice system. Besides studying the polygraph, due process, and other difficult issues, we recently gained attention for our cause by rebutting a paper required by the legislature from the SOMB. The SOMB was mandated to prepare a paper by December 1, 2011 that reviewed current research on best practices in treatment, as well as the containment model, the polygraph, the “no known cure” and any other areas, such as registration, the efficacy of restricted housing zones in municipalities that are being debated in today’s criminal justice literature as it pertains to our AFC membership.

Four AFC board members prepared a thorough rebuttal which looked at the flaws in the SOMB’s response to the legislative mandate to evaluate the effectiveness of the SOMB’s Standards and Guidelines. Five AFC board members then delivered this rebuttal and testified to both house and senate judicial committees during the public comment section after reports from the Department of Public Safety (oversees the SOMB). Here are some of the key points in the rebuttal:

- 1) There were flaws in the review of relevant research.
- 2) There were flaws in the direct evaluation research design.
- 3) There were flaws in the SOMB Position Paper defining “no known cure”.
- 4) There were flaws in the containment model (based on “no known cure”, which has been removed from statute, and rooted in Colorado-originated “research” which is very old and has not been replicated).
- 5) “No known cure” continues to be the 1st guiding principle of the SOMB Standards and Guidelines, even though it was left out of the statute by the legislature

The house and senate judicial committees were positively responsive to our testimony, and many on the committees appeared to agree strongly with us that the SOMB did not do what they had asked them to do in their report. When the Department of Corrections/Department of Public Safety submitted their monetary request to the Joint Budget Committee, it was suggested by one representative that \$300,000 of the total DOC/DPS request be used to research the current treatment/containment/polygraph/no known cure approach. One of AFC’s lawyer “friends” is working closely with the JBC to try to get them to hire an Independent Monitor (similar to what was done to review ad-seg last year), who will in an unbiased way, research the efficacy of Colorado’s model, in light of current research and best practice. Two senators on the judicial committee were excited about the possibility of Dr. William Marshall coming to Colorado to share his treatment research and subsequent model of treatment. Once a recommendation is made by the JBC, the matter will then move to the house and senate for their review, discussion and amendments.

Be proactive: Write to: Senators Morgan Carroll, Kevin Lundberg, Bill Cadman and Keith King, as well as Representatives Pete Lee, Daniel Kagan and Su Ryden at: Colorado Legislature, 200 E. Colfax Avenue, Denver, Co. 80203 on behalf of a decision which would approve the use of an Independent Monitor, and the presence of Dr. William Marshall in Colorado to speak to and educate the legislature on current methods of treatment!

Quote:

“That’s barbaric!”...uttered by a male Senator when a testifier described how a plethysmograph is used on offenders to determine arousal.

Q & A:

Q: *How is probation different from parole?*

A: A major distinction is the authority of each. Probation is under the Judicial Branch, in other words, is under the court system, assigned by the courts often as an alternative to a prison sentence. Probation officers monitor the offender and if probation is revoked, offender often gets a prison sentence. It does happen infrequently that an offender may have both probation and parole when he leaves prison. Each judicial jurisdiction has its own probation office and officers which means there may be discrepancies among the jurisdictions on implementing probation; there is no accountability for probation officers; but there are specific probation officers assigned to those with a sex offense.

Parole, on the other hand, is under the Department of Corrections, is a condition of the sentencing, and parole officers across the state fall under the CDOC's parole office. There is more accountability for parole officers. When an offender's parole is revoked, he is returned to prison to finish his sentence. There are specific parole officers assigned to those with a sex offense.

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
- PHD** – Parole Hearing Date
- SLA** – Shared Living Arrangements
- SMART** – Sex Offender Sentencing, Monitoring, Apprehending, Registration & Tracking
- SOMB** – Sex Offender Management Board
- SORFC** – SO Ready For Change
- SOTF** – Sex Offender Task Force
- SOTMP** – Sex Offender Treatment and Monitoring Program

MEMBERSHIP REPORT	
As of February 2, 2012	
by Rose Graf, Membership Chair	
Family Members.....	148
Affected Members	272
Out of State	<u>14</u>
Total Membership	434

REPORT on the ADAM WALSH ACT

By Yvonne P.

On July 27 2006, the Adam Walsh Child Safety and Protection (AWA) was signed into law by then President George Bush. The purpose of the Act was to provide uniformity and consistency between state sex offender registry and notification systems. States were given 3 years, with the possibility of 2 one-year extensions, to implement the provisions of the AWA or risk being subject to a 10% penalty for Byrne Grant funding. On April 27 2010, Colorado submitted a formal substantial implementation packet to the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office within the United States Department of Justice. In the packet, it was contended that Colorado met the requirements for substantial implementation based upon existing state law and practices. In December 2010, Colorado received a formal response from SMART Office outlining areas that needed to be addressed prior to Colorado receiving substantial implementation status. Colorado subsequently addressed these areas of concern through statutory clarification and administrative policy change. On July 27, 2011, Colorado received notification that but for Colorado's failure to display employer information on its public registry website, Colorado would have been deemed to have substantially implemented the Adam Walsh Act. In December 2011, Colorado submitted a request to have the 10% Byrne/JAG 2012 grant funds to be reallocated back to Colorado to serve the purpose of substantial implementation of the Adam Walsh Act.

Calendar Information

Because this is a quarterly newsletter only the AFC meeting dates that occur on a regular basis will be posted. Other dates will be available by email (make sure AFC has your current email address) and on the AFC website.

Calendar for AFC Meetings:

Denver area general meetings are the 3rd Tuesday of the month from 7pm to 9pm at St. Paul's Lutheran Church, 16th and Grant St., Denver, CO.

Colorado Springs General Meetings are on the 2nd Tuesday of the month from 7:00 pm to 9:00 pm. This meeting is held at 3615 Roberts Road (ComCor Buidling-next to the power plant). This meetings are a cooperative effort between the Southern Chapter of CURE and AFC

COMING IN FEBRUARY: AFC will also begin meetings in Fort Collins on Monday, February 20. Check the website or contact us for more details.

JOIN US

Membership Fee is \$20 per year for family membership, \$5 per year for a parolee on the outside and 8 stamps for those on the inside. Any additional donations are gratefully accepted.

Today's Date: _____

Name: _____ Phone: _____

Address: _____

Email Address: _____

**Call 720-690-7125 if you have any questions or comments.
Please feel free to share an application with a friend or a family member.**