



CSOR

*Though I have fallen,
I will rise. - Micah 7:8*

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Lifetime Supervision Annual Report November 1, 2016 Summary (paraphrase)

This mandated yearly report from The Colorado Department of Corrections, the Colorado Department of Public Safety (SOMB), and the State Judicial Department (focus on probation) covers the time frame from July 1, 2015 through June 30, 2016. There should be a report available in your prison library. If there is not, please ask your facility librarian to order one if you would like to read the whole document. **(Susan)**

SOTMP

During 2016, there were 123 lifetime supervision persons sent to the DOC with 33 that were removed from lifetime supervision status. Reasons given for the removal of the 33 include: 16 who passed away; 2 were released from the lifetime supervision status by the courts to probation; 9 were in custody and their lifetime sentence was discharged; 4 people had a discharge of their sentence while they were on parole; 1 person had an early discharge from parole; and one stayed on parole but was discharged from his sentence.

Sixty-nine revocation hearings were held, with parole being revoked for 35 people. No-one completed their ten or twenty year lifetime parole tag this year, so there have also been no parole discharge hearings. The report's Figures 2 and 5 show that the Lifetime Supervision Act appears to be responsible for increasing the percentage of persons with a sexual offense in the prison and parole populations in our state.

In the 2016 Fiscal Year, 482 Lifetime Supervision persons with a sexual offense had some level of participation in the SOTMP (Sex Offender Treatment and Monitoring Program). The report states that the SOTMP was created to "utilize the most extensive resources with those inmates who have demonstrated a desire and motivation to change." As the Lifetime Legislation was not designed to keep people in prison past their bottom number, the CDOC has tried to create treatment formats providing those with an offense the ability to get into treatment and to progress in treatment, and hopefully be a candidate for parole within the time frame of their bottom number (minimum sentence).

PROBATION (Judicial)

There were approximately 1,374 persons with an offense under SOISP probation supervision as of June 30, 2016 (the end of the period of this legislative report). Sixty-one percent of these people (838) were under Lifetime Supervision. This is a 3% decrease in the number eligible for and sentenced under the indeterminate lifetime sentencing and consequently with SOISP supervision. New cases eligible for the lifetime probation status include 51 under SOISP, 261 under non-lifetime SOISP Probation, and 108 under regular probation.

During Fiscal year 2015-2016 there were 42 people who had their Lifetime Supervision sentences terminated: there was: 1 new felony, 1 person revoked for a new misdemeanor, 12 revocations for technical violations, 8 people were terminated via deportation, 1 person died, 6 were revoked because they absconded, and 13 were successfully terminated. Eighty-seven persons who were under Lifetime Supervision were able to complete SOISP post transfer to regular probation.

ASSESSMENTS

Costs for Sex Offender Offense Specific Evaluations, the Sexually Violent Predator Assessments, and the Child Contact Assessments increase each year. It has been necessary to utilize probation funds for these assessments to avoid delays to the courts in processing cases, as well as to enable persons not able to pay all associated costs to avoid revocation based on not being able to pay. Since revocations usually result in DOC sentences which are much more costly than probation, care is taken by Judicial to look at a variety of options to assist in keeping rising costs down.

After the Outside Evaluations, the CDOC worked very hard at making their program RNR (Risk, Need and Responsivity) and best-practice based; a major continuing challenge is getting and keeping therapists at facilities in all of the small prison towns. Likewise, being able to get and retain Spanish-speaking therapists is an even greater problem. Today, there are more routes available to meet individual treatment needs than were available before Outside Evaluations. As with all such programs, there is always room for continued improvement, and the CDOC continues to work on solutions to the problems raised by the Lifetime Act and the treatment of those convicted under it. (Susan)

Final quote from the report: “In summary, the number of sex offenders (persons with an offense) subject to Lifetime Supervision in prison and in the community is rising which has resulted in increased caseloads for those agencies responsible for the management of sex offenders. Additionally, sex offenders will continue to be identified in the future including those subject to Lifetime Supervision. In an effort to achieve community safety, accurate static and dynamic risk assessments must be an element of sex offense specific evaluations to ensure the proper placement of sex offenders in an appropriate level of supervision, thereby using available resources wisely. Accordingly, the Department of Corrections, the State Judicial Department, and the Department of Public Safety will continue to evaluate the impact of the Lifetime Supervision Act for sex offenders both in prison and in the community.”

SOMB Charge and Recommendations to the Best Practices Committee Regarding The Polygraph Section Re-Write of the Standards (Adapted from an SOMB Document dated June 10, 2016)

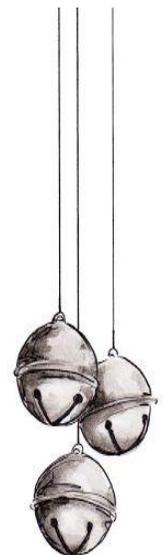
The Best Practices Committee of the SOMB was charged with:

1. summarizing polygraph research;
2. producing a synopsis of the committee’s conclusions; and
3. making recommendations in regards to how that may influence the new standards.

Number three includes identifying standards not consistent with RNR/research findings, and how their current deficits need to be addressed.

The committee felt that our current standards do not individualize as is supported by RNR. We also thought that there was a large amount of prescriptive language that was contraindicated by RNR’s individualized approach. Following is a *summary* of the committee’s observations and recommendations:

Prescribed frequency of or duration between polygraph exams – get away from prescribed time frames. Frequency should be determined by risks and needs. Focus on individualized approach via RNR. Create guidelines for CST/MDT to utilize when determining frequency. For instance, what information is the polygraph seeking? How will that information impact treatment and supervision? What other methods might be used to gain this information? What risk factors are concerning and how are they affected by examination frequency? What is important in ensuring that the polygraph exam is consistent with best practices that provide the highest possible validity and accuracy? Consider adding appropriateness criteria similar to what is in the juvenile standards. Check standards against each other to make sure they consistently identify an approach that is individualized and is based on RNR, and that there are not pre-set requirements for a polygraph to be administered or sanctions based on polygraph results.



Prescribed requirements for progress and outcomes/sanctions based specifically on poly results. Make language strong and clear regarding that decisions/changes/responses shouldn't be based solely on machine generated polygraph results. Treatment/supervision changes should be made based on risk and need as is determined by all kinds of clinical indicators, including information from clinical sessions, dynamic risk assessment, pre and post-test interviews, information provided by families etc. It may not be appropriate that a follow up exam should be ordered solely based on machine generated results of deception or inconclusive findings. Make it clear that the MDT/CST (or in prison compliment) can decide to change polygraph examiners.



Assumptions about offender risk based only on polygraph results. Make sure it is understood how a polygraph can and cannot be used. The Association for the Treatment of Sexual Abusers (ATSA) Adult Guidelines Polygraph Appendix may be assistive in describing how the polygraph can and can't be used and its limitations. Adjustments to treatment/supervision are always based on risk and need and on all types of collateral information, not just on the polygraph. Make the purpose of the polygraph clear – explore using “polygraph assisted” risk assessment (Gannon, et al. 2008) – language should be used to “inform” risk. Ask if it is being used for treatment and supervision, or for one or the other. It is an ADJUNCT tool (i.e. to be used alongside of).

Provide guidance on how to respond to specific results of the poly

Decide what role the polygraph examiner has on the MDT/CST. Is he or she a core or adjunct member of the team?

Guidance relating to appropriateness and special considerations for polygraph testing. Appropriateness or suitability criteria should be updated. Review American Polygraph Assn's criteria. Talk about the impacts medication (including medical marijuana), trauma, age and cognitive functioning can have.

Make clear that suitability, exclusionary and appropriateness criteria should be looked at before each exam and on-going. The final suitability determination is to be made by the polygraph examiner instead of by other team members.

Requirements related to exam content which include sex history content. Content areas should be based on risk and need. Clarify. Team can supply content and concern areas, but the polygrapher should do the actual question framing. Consider adding language from the juvenile standards in this regard. Should there be a discussion point re: testing on a content area when it is already known to be a risk area (i.e. asking e: number of times someone engaged in frottage when it is already known to be an area of concern)? Twenty-five times versus twenty times does not alter treatment/supervision. Again, provide direction in whether it is being used as a treatment or a supervision tool.

Appendix currently has outdated version of ATSA Ethical Guidelines. Appendix should be updated with APA Guidelines, ATSA Guidelines, and other general ethical principles related to polygraph testing.

NOTE: The Polygraph Re-Write Committee has now been meeting for a couple of months. The Executive Committee of the SOMB chose Jeff Jenks, with whom you are all familiar, to be the Chair of this Committee. For many of us, this feels like a conflict of interest. Chris Lobanov-Rostovsky, head staff to the Board, is also on this committee and covers for Jeff when he is not present. Chris has a son who has worked in the polygraph arena as well.

We were also told while still working in the setting of the Best Practice Committee that the “polygraph is not going away”. Some of the people with the strongest influence on the committee were not overly interested in hearing about what was happening in other states; rather, bias toward the continued use of the polygraph won out with extremely limited discussion. Tom Leversee, Chair of the Best Practice Committee and member of the ATSA Board of Directors, told us that the ATSA Board had split evenly in terms of whether the polygraph should be utilized at all for juveniles. There is a lot more literature now than there used to be, and changes are hopefully coming soon in terms of how and in some cases, if the polygraph is used.

Do Residency Restrictions Protect Sexual Offense Victims or Anyone Else?

After several months attending Englewood City Council Meetings, Town Halls and a Study Session, as well as presentation of over fifty research articles to these groups stating unequivocally that residency restrictions don't protect victims or anyone else, there are still Council members in doubt. As of Monday evening the 7th of November, Councilwoman Linda Olson and Mayor Pro Tem Rick Gillit still opined regarding their belief that the people of Englewood had not had a chance to understand and comment on this issue, and that in particular, the "voices of victims deserved to be heard."

All citizens of Englewood are welcome at City Council Meetings, and council members are assumed to be holding Town Hall Meetings with their District's constituents on a regular basis. Study sessions offer another opportunity for constituents to be involved in this issue and many others. It is not clear that all council members are reaching out to inform their particular district about this issue. If they were, and if people were upset that Ordinance 34 (residency restrictions in 90% of Englewood) might be going away due to years and abundance of research saying they cause more harm than good, one would think that they would be showing up at meetings and expressing themselves. At the very least, people who have been victimized and might not want to speak publicly, would share with their councilperson that they are very upset about the possibility that this ordinance might not continue.

If there was one shred of evidence that keeping those who have committed a sexual offense out of Englewood and/or the rest of the world would protect all of us or any of us, we might be in favor of having a similar ordinance in every city in Colorado. In reality, only six municipalities have a form of residency restrictions out of many cities and towns.

Council men and women who assure their residents that they can keep them safe, whether they have been victimized or not, do a disservice to them, as no-one can guarantee anyone's safety. The vast majority of offenses are committed by people who are well known to us, doctors, pastors, teachers, government employees, police officers, coaches, uncles, brothers, even moms sometimes. Children and young people do not want to see people they admire and/or love go away to jail or prison, and so they do not say anything about what has been happening. These offenses can go on for years and sometimes forever. Stranger danger is rare; dirty old men are not hanging around parks, schools and cities like Englewood waiting to jump out from behind bushes and molest people, except in very rare cases.

Research and best practice show that those who have offended sexually do best when: 1) they have supervision and sex-offense specific treatment; 2) they have a home; 3) they have family and neighbors that love them and provide pro-social support and example; and 4) they have a job or another means of supporting themselves. When these things are present, re-offending sexually is incredibly rare. When these things are absent, and people are forced out of their homes to the streets and away from those who care for them, and kept from getting a decent job, any kind of misdemeanor or felony is likely to happen because people are moved from living into trying to survive.



"It comes every year and will go on forever. And along with Christmas belong the keepsakes and the customs. Those humble, everyday things a mother clings to, and ponders, like Mary in the secret spaces of her heart."

-Marjorie Holmes

A REPORT ON: CIVIL ACTION NO. 13-cv-02406-RPM

David Millard, Eugene Knight, Arturo Vega, Plaintiffs

v.

Director of the Colorado Bureau of Investigation, Defendant

Monday November 14, 2016 and Tuesday November 15, I attended the above trial at the Bryon White District Courthouse in downtown Denver. Attorney Alison Ruttenberg got an order denying defendant's motion for summary judgment in this case filed 7-7-16. The case presented November 14 and 15 (and continued to at least one more day on December 20, 2016) includes: the plaintiffs answering questions regarding how the registry has impacted their lives, but on the defendant's side, the District Attorney of Jefferson County, Colorado, a city councilman from Englewood, Colorado called as a hostile witness and an employee of the CBI who enters sexual offense registration information into the computer for their website, explained the policies and procedures (or lack thereof in some situations) around the information entered on the CBI website and how petitions to be removed from the registry are handled.

Pete Weir, Jefferson County elected District Attorney, was questioned regarding any safeguards that might be in place in terms of reviewing people to get off the registry. He answered that he "trusted" his assistant district attorneys to do the right thing". A number of other people negatively impacted by registration and its requirements also told their stories. One wife told the story of her loss of a teaching job at a Catholic School when a parent saw her husband's name, picture and information on the internet. She broke down in tears on the stand. One of the plaintiffs who has worked at an area grocery store for 14 years told that in the last couple of years, a customer who had been reviewing the internet listings saw his picture and then spotted him at the store. Being a highly trusted and valued employee, the store gave him a transfer to another store, but told him that if it happened again, they would have to let him go.

Judge Matsch, who also presided over the Oklahoma City Bombing Case, is the Judge. In all but a couple of instances, each cry of objection from the defendant's attorneys was met with a solid "overruled" by Judge Matsch. There are one or two witnesses that were not available during these two days, and December 20, 2016 has been set as the day when their testimony will be heard.

The purpose for this case is explained in words from the introductory paragraph of the Order Denying Defendant's Motion for Summary Judgment: "In this civil action they seek declaratory and injunctive relief, claiming that continuing compliance with the requirements of that Act impacts their lives in ways that extends their punishment beyond the sentences they have served for criminal conduct they committed years ago."

It was my honor to meet the plaintiffs and some of their family members. Also, I met and talked with a number of men in the audience I had never met before who are also under the scourge of SORA (the Colorado Sex Offender Registration Act).

News Tidbits

1. I have received a number of letters from men at CMRC, asking me to intervene on their behalf. While things had improved there since the inception of the program involving our men, there seemed to be some challenges developing again. As requested, I sent a letter from one of the men to Mr. Leonard Woodson who set a response in action as quickly as he could. I also talked with Warden Steve Hartley after his return from vacation. Both men were more than willing to discuss the issues and try to make changes that would result in improvement. Mr. Woodson has now met with the men at CMRC. By now, the newly hired therapist should be solidly on board. Mr. Woodson spent a good part of a day a few weeks ago at CMRC, talking with the men and with the Warden. Thanks to all those who were brave enough to speak up, and thanks to Mr. Woodson and Warden Hartley for attempting to make changes.
2. Beyond Containment and WGA (Where Grace Abounds), where CSOR was meeting for its quarterly lunch and presentation, has moved out of downtown Denver to the South. We are most grateful for the years they have allowed us to meet in their "upper room". However, our commitment to including professionals who work with our men in a variety of different organizations and many of whom are housed downtown, led us to choose a new place to meet. We are meeting a few blocks from Mary's place at 1600 Grant, St. Paul's Lutheran Church. The first meeting at this new location is scheduled for Wednesday December 7. Presenting is Laurie Rose Kepros, who will talk about the Lifetime Act, and the fact that it does not work with Risk Need and Responsivity (RNR). Do we replace it? Do we amend it? What is the real possibility of getting either of these things done, especially in a somewhat unknown political climate?

3. I receive a “ton” of letters. While I love hearing from all of you, it is definitely challenging to read long letters (more than a couple of pages) and answer multiples of questions, or do research for you on certain issues. The issues I am perhaps most equipped to assist you with are things like: identifying where you are on the list for treatment; helping you get medical attention if you do not feel your medical needs are being met; assisting you in finding a support person or a Circle of Support; educating your family and friends about various issues within the Department of Corrections, such as the Lifetime Act, determinate sentencing, parole hearings, support letters etc. March, June, September and December are the months when you receive your newsletters, usually at the end of the previous month or at the beginning of the months listed. During the months when I am putting the newsletter together with the wonderful assistance of my friend David S., I am not able to keep up with the volume of mail that comes my way. Once in a while I bury a stack of letters somehow, so please don't ever think I don't care!
4. Mark Walker was the 1st person sentenced under the Lifetime Act to get out of treatment two years before he can ask to get off parole. This happened early in September 2016. RSA and CPO Jennifer Duncan are responsible for this great decision! New parole directives for persons let out of treatment early but still on lifetime parole are being developed. I was informed yesterday at the SOMB Meeting by Missy Gursky, Clinical Director at RSA, that two more people have now been released from treatment early. If everyone does well, we can expect to see a lot more of this in coming months.

TIPS FOR SUCCESS ON PAROLE

By Mark Walker

(This is the last segment of this series.)

- Purpose

Seeking purpose involves building value into your life through commitment to a higher calling. You will be far more likely to succeed on parole if you are working for something bigger than yourself. Your higher calling might include a healthy fight to make things better for yourself, your friends, and your family. After I was released I spent some time working with nonprofits which are trying to improve the prison and criminal justice systems, or to provide services for parolees. It can involve serving at your church; I was able to get involved with the worship music ministry at my home church, which gives me an arena in which I can serve others and help the church pursue its ministry vision. It can involve preparation for your vision of the future. I went back to school when I got out, and I have been able to stay committed over the years in part because I am preparing to do the best work I can for those I serve in prison ministry. You can find a sense of greater purpose in many ways.

The important thing is that you commit to something bigger than yourself, which is important to you and in which you can invest your time and energy.

- Faith

I trust that this point has been running throughout all my other points, since it is really foundational to my own experience. Strong faith can enable you to calmly cope with a system that is bigger and more powerful than you. I know a lot of my suggestions to this point might seem weak and ineffectual in the face of the massive obstacles confronting you when you are released. And of course, they are – there is a lot more to success than a few practical tips and tricks. In spite of all my planning and work, in spite of all the positive things that have happened which helped me, I would have given up a long time ago if I didn't believe there was Someone who loved me and was in control of everything that was happening to me. It's really to Him that I owe everything. If you've read all of this and are still thinking you can't do it, I encourage you to place your future in the hands of God. He can overcome any obstacle you face, and when you belong to Him He promises to never leave you on your own, no matter what.

I pray that these thoughts have been helpful to you! Succeeding on parole will be challenging, but be encouraged that you can accomplish it with supportive relationships in multiple contexts, careful thought and planning, and hope for the future arising from your goals, transcendent purpose, and faith.

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