



COALITION FOR SEXUAL OFFENSE RESTORATION

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

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Embracing of Meaningful Change by the Sex Offender Management Board: The Lifetime Act, The Containment Model, The Overuse and Abuse of the Polygraph, and the “Belief Systems” of Individual Practitioners

Susan Walker
Editorial

Since the Outside Evaluators’ Report on the Sex Offender Management Board (SOMB), the talk of change is in the air at SOMB monthly meetings, and in most board committees. While some progress is being made, truly meaningful change remains a challenge. Over the years, and since the Colorado Legislature created the SOMB in the 1990’s, practitioners of sexual offense supervision, treatment and assessment and evaluation have lived by a set of Standards and Guidelines that assume: 1) “no known cure” for sexual offending, thus the creation of the Lifetime Act; 2) that because those labeled “sex offenders” will repeatedly offend and are assumed to be sneaky and manipulative, they are in need of a Containment Model, which isolates them from the community, puts extreme limits on them including where they can reside, who they can be around including their own families, what kind of work they can do and if and where they can travel; and 3) persons so designated must be overseen by people who truly believe that they are forever tainted and will never be non-deceptive like the rest of “normal society”, thus a requirement of lifetime registration for many. Lifetime registration not only hurts the person with the offense; it causes extreme collateral consequences for their families. These beliefs are akin to those often seen in religious zealots who carry the banner of their beliefs too far.

Despite talk of change, and progress toward written change in the Standards and Guidelines, it is my fear that the meaty change so desperately needed may never be imbedded in the hearts and minds of some probation officers, parole officers, therapists, polygraphers and evaluators. This is partly because of their belief in the necessity of the Lifetime Act of 1998, an Act that severely limits the amount of real change that can happen. Even though instead of “no known cure” and “one size fits all”, some are embracing abundant literature showing that “one size does not fit all” and “offenders are capable of change”, the Lifetime Act still purports that, for the most part, treatment should be for the duration of ten and twenty-year probation and parole periods, in spite of the fact that research suggests too much treatment can promote recidivism in low risk offenders. Supervision, of course, is either for ten or twenty years, or for a lifetime, if not in the Department of Corrections, then on parole in the community. While people can ask to be removed from supervision after ten or twenty years, depending on their conviction, removal is not guaranteed. A ray of hope - the first person to reach ten years under the Lifetime Supervision Act was released by the Parole Board from supervision during the summer of 2015.

In order for the SOMB's present Containment Approach, or even its newly designed and recently considered replacement TEAMS Approach to work, buy-in is necessary from treatment, supervision, assessment and evaluation practitioners. This buy-in is complex, in that only treatment providers, evaluators, and polygraphers are actually under the purview of the SOMB and its Standards and Guidelines. Probation Officers are under a Chief Probation Officer and ultimately, a Judge in their particular court's jurisdiction. There are twenty-two jurisdictions in the State of Colorado. They are not bound by the Standards and Guidelines of the SOMB. Each jurisdiction has the potential to be run in a totally different way than another, depending on the individual leadership in that jurisdiction. The fact that Probation is so closely connected to the courts, D.A.'s, prosecutors and law enforcement appears to put an emphasis on extremes of supervision. Parole Officers report to The Colorado Department of Corrections, and while the goals of Corrections and at least some Parole Officers seem to be more closely aligned to the treatment, supervision, evaluation and assessment goals of today's SOMB, there is no official purview of the Standards and Guidelines over Parole Officers. Probation and Parole Officers however, are written into parts of the Standards and Guidelines, and their co-operation is hoped for as part of a team responsible for the supervision, treatment, evaluation and assessment of those who have been convicted of a sexual offense.

It is said by some involved with the Board that training makes a big difference in how those not under the purview of the SOMB step up to the plate to follow the spirit of the Standards and Guidelines, especially the ones that are now being written. Training works for some, but not for all. I like to give the example of a pianist who has a built-in ear, emotion and touch for playing the piano, versus one who has trained for years and years to play, but never captures the emotion and heart of pieces performed. Executive Director Rick Raemisch has stated a number of times at the Colorado Legislature in the past few years that Parole Officers should be 1/4th cop and 3/4th's social workers. He states that if they don't want to be part social worker, they should go be a cop. Some supervisory officers, whether Probation or Parole, just don't have the heart for the very special job of working successfully with those who have sexually offended, or with their families for that matter. Some do an extraordinarily good job!

The emotion and anger related to those who have been victimized also affects the ability of the SOMB to make meaningful changes. The attempt to get the words "Offenders are capable of change" into the newly written SOMB Guidelines is currently being thwarted by victim advocates who do not understand that indeed offenders are capable of change and that such change is good for those who have been victimized. To punish for life (i.e. Lifetime Act and lifetime registration) all who have offended and are currently in the system, does nothing to stop the vast majority of sexual offending in our communities by people who have never been caught and convicted, and who do not currently have to register. While it is more difficult to "go after" these people, they are the ones that must be reached, as treatment, whether short as in most states, or longer as here in Colorado, generally makes a big difference in the life of the person who has been convicted and spent time in treatment.

How do we change the belief systems and the hearts of those who fail to see the value in Risk, Need and Responsivity and other similar approaches with those who have sexually offended? For "no known cure" zealots, there will likely be no change. For those who don't have the heart for working with registered citizens, there will likely be no change. That is why my phone continues to ring, and letters still come across my desk in large numbers with stories of verbal abuse, financial abuse, false accusations and yes, even taunting by those who are charged with supervision, treatment, evaluation and assessment of those who have sexually abused. Probation and Parole Officers are given incredible discretion in the way they supervise; polygraphers, because no-one understands what they do, must be believed just because they belong to the APA, or they are "experts". Accountability must increase for these and other SOMB team members for the current "co-operative" system to be maintained.

Real change includes and demands legislative action regarding public registration and the Lifetime Act of 1998. Both public registration and the Lifetime Act should go away. They do not in any way advance the cause of reduction in victimization. While they make some people feel better, they are costly and of no benefit in protecting society. Any change short of this is like putting a mask over the face of a monster, perhaps relieving fear, but making no real difference in the reality of the situation!

Revisions to 4.200 in the SOMB Standards and Guidelines Regarding 7 Criteria that must be Completed by Those Sentenced Under the Lifetime Act Who are in Prison

Mr. Leonard Woodson presented suggested Lifetime Criteria changes to the Sex Offender Management Board (SOMB) in late 2015. The changes were voted on and accepted after some minor revisions during the SOMB Meeting in January of 2016. Note clarification regarding the use of the polygraph, an increase in options for support person, including support group(s), and the importance of “other clinical indicators”.

Here are the new criteria as accepted by the Board:

1. “Participates and actively engages in recommended level of sex offense specific treatment as evidenced by a measured reduction in dynamic risk.
2. Completes a disclosure of his or her offense related sexual history relevant to identified risk areas as verified through the sexual history polygraph process¹, or other clinical indicators².
3. Completes a comprehensive, written plan to manage ongoing risk areas and treatment needs. The plan must be approved by the SOTMP team.
4. Have an approved support person or system who has participated in SOTMP Family Support Education. The support person/system will receive an approved copy of the client’s written plan to manage on-going risk areas and treatment needs through their participation in an SOTMP therapist facilitated disclosure session.
5. Demonstrates management of identified risk areas as verified by clinical indicators³.
6. Must be compliant with any CDOC psychiatric recommendations for medication which may enhance his or her ability to benefit from sex offense specific treatment.
7. Demonstrates management of identified high risk factors. Client does not display attitudes, behaviors or risk factors that negatively impact his/her ability to be safely supervised in the community.

The SOTMP is not following the three formats anymore, as they no longer apply. The three formats do not necessarily correspond with risk, according to Mr. Woodson.

Following the January Board vote, there is a 30-day waiting period which allows the public to share their thoughts. That waiting period is in process. When it is over, and assuming there are no public comments that need to be considered, the newly crafted criteria will become part of the Standards under 4.210.

*...BUT THOSE WHO HOPE IN THE
LORD WILL RENEW THEIR
STRENGTH. THEY WILL SOAR ON
WINGS LIKE EAGLES; THEY WILL
RUN AND NOT GROW WEARY,
THEY WILL WALK AND NOT FAINT.
-ISAIAH 40:31*

¹ Polygraph examination results will not be used in isolation to exclude someone from meeting criteria without additional evidence that indicates high risk behaviors.

² Clinical indicators can be anything that provides information about a client’s overall clinical presentation, which may include but is not limited to interviews, quality of treatment participating, polygraph examination results, scores on dynamic risk assessments, psychological evaluation, behavioral observations, and collateral reports.

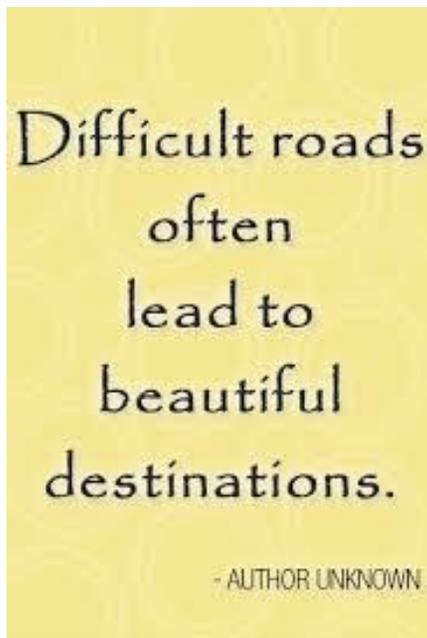
³ See Footnote 2 above.

The Polygraph: Recommended Areas for Review of the Adult Standards

An area of continued concern for all who have been convicted of a sexual offense is the appropriate or inappropriate utilization of the Polygraph as a “treatment tool” (or honestly, whether it should be utilized at all!). The Adult Standards Revisions Committee is recommending the following topics be reviewed based on relevant research, including the Principles of Risk, Need and Responsivity. The Best Practice Committee of the SOMB, on which numerous client advocates serve, has been charged by the SOMB with reviewing relevant literature that has been done according to respected research methods, and then making recommendations to the Rewrite Committee.

There is no plan on the part of the Sex Offender Management Board to completely do away with the polygraph, as much as many of us would like that to happen! There is a plan, however, to begin to address issues of abuse, misuse and overuse of the polygraph. Below are the areas that are being reviewed.

- 1) Prescribed frequency of or duration between polygraph exams (i.e. how often or time between polygraphs)
- 2) Prescribed requirements for progress (e.g. Lifetime Supervision Criteria) and outcomes/sanctions based specifically on polygraph results
- 3) Assumptions about the risk of the offender based specifically on polygraph results
- 4) Guidance on how to respond to specific polygraph results –i.e. appendices on sanctions and override grids
- 5) What role the polygraph examiner plays on the Community Supervision Team (e.g. core or adjunct member)
- 6) Guidance related to suitability and special considerations for polygraph testing
- 7) Requirements related to content of exams including sex history content areas
- 8) Appendix containing an updated version of the ATSA (Association for the Treatment of Sexual Abusers) ethical standards for polygraph exams



There is literature stating that treatment providers, parole and probation officers etc. “like” the polygraph. There is an element to this instrument that gives supervisory and treatment personnel a good feeling. While they will admit in one on one discussions that there are false positives and false negatives resulting from polygraphs, and that people are harmed by these (i.e. cost, people who are lying being blessed, and people who are telling the truth being sanctioned), it reeks of POWER, and gives them the sense that the public is safe when it is used. In reality, the harm done to the public due to false negatives could be massive.

Respected literature says that the only reason for utilizing the polygraph is if it does, indeed, reduce recidivism. There is no indication at this time that it does. It also states that continued regurgitation of names of those who have been victimized serves no helpful purpose in many treatment/supervision situations. The challenge now is convincing state legislatures and the public that it is a totally non-scientific instrument that does not keep the public safe, and convincing Community Supervision Teams and Polygraphers themselves that there are more honest and meaningful ways to make a living and contribute to Public Safety! For more information, read: Jeffrey Rosky: More Polygraph Futility: A comment on Jensen, Shafer, Roby, and Roby (2015). J. Interpers. Violence Feb 24, 2015.

News Tidbits

- HR515, recent Federal legislation, had an amendment added to it, which posits a “unique identifier” to the passports of registered citizens who want to travel abroad. The unique identifier is the words “sex offender.” RSOL (Reform Sex Offender Laws) has responded with a large amount of mail, e-mail and twitter to the legislature and to the desk of the President of the United States. The bill has passed the legislative chambers. President Obama’s words at a recent prayer breakfast include Biblical injunctions that value everyone as someone worth being loved, and each person as deserving of dignity. He says it the way it should be said and the way it should be lived out, but he signed it anyway. California RSOL has filed a lawsuit against HR515!
- The SOMB asked its Best Practice Committee to review recent polygraph literature, to try to ascertain what changes should be made to the Standards and Guidelines during the current re-write. The committee (which I am on) has reviewed a lot of literature, and believes that literature shows the polygraph to be an “adjunct” tool only. As one member of the committee stated, “there are thousands of assessment tools available to me.” My question, after that statement was made is: why, then, has the polygraph been elevated to such a place of honor over the years here in Colorado? It is only one tool amongst many. It appears that, as one polygraph article author states, that it makes users happy. Is that a good reason to utilize it? Does it contribute to reduced recidivism? It does not appear to! That would be the only reason to use it so exclusively.
- “Offenders are capable of change” continues to be debated in terms of whether it will be Guideline 4 in the new Standards and Guidelines. The “law enforcement” side of the SOMB, which is its majority (i.e. D.A.’s, judges, victims’ advocates), don’t like the words, and definitely don’t like the text under the proposed title of this guideline, which states that the therapeutic relationship between the therapist and the client is predictive of treatment success (paraphrase). These words come from the Outside Evaluators’ Report on the SOMB (programs outside of CDOC)!
- The Ryals Case in Englewood Colorado (**Ryals v. City of Englewood, 962 F. Supp. 2d 1236, 1249–51 (D. Colo. 2013)**) has had one question answered so far by a lower court. That question had to do with whether there is anything in Colorado Law that says Englewood can or can’t impose residency restrictions in its city. The lower court has now answered that question, and the answer is that Colorado Law does not state anything regarding whether municipalities within the state can or cannot impose these restrictions. Now the higher court will decide other questions raised during the presentation of the case against Englewood, including issues of Constitutionality. It isn’t over ‘til it’s over, folks!

Are We All Sex Offenders? | Galen Baughman | TEDxCUNY November 20, 2015

“The state wants you to believe that they can predict the future. That some people are just too dangerous to be released.

That they know who will and who will not reoffend.

Their theory goes like this;

If you’ve broken the law you must have a psychological problem.

The psychological problem means you must not be in control of your behavior and this lack of control makes you likely to commit future crimes.

This represents a frightening departure from the set of values of our legal system.

That we hold people accountable for what they have done and restore them to their communities after they have paid their debt to society.

The American Psychiatric Association has held for almost 20 years that laws allowing for the indefinite detention of people that are labeled as sex offenders represent a bastardization of a legitimate medical model of civil commitment and threaten the credibility of Psychiatry itself.”

MEETING NOTICE

The next Quarterly CSOR Meeting is Wednesday March 9, 2016 at 1532 Emerson. Parking is available for two hours on the street. As usual, lunch is served and enjoyed during the meeting. Time frame is 11:30 to 1:00 p.m.

Our presenters this time are Attorneys Laura Fontana and Sarah Morris. It was my pleasure to have lunch with these ladies after learning that we shared a mutual client. Laura and Sarah work with issues of disability and inequality that make it difficult for their clients to live their lives. They also participate in cases involving prison issues of inequity.

Please call 720 690-7125 to RSVP for this meeting. We welcome you to meet the families, registered citizens, and professionals who attend our meetings, and learn from these great presenters!

Future meetings this year are: Wednesday June 8, Wednesday September 14, and Wednesday December 14, 2016. Presenters will be announced soon!

Disclaimer:

The printing of a document or an article in the CSOR Newsletter does not necessarily mean that we are in total agreement with that article. While most pieces for the newsletter are written internally, we sometimes quote people or documents outside of the CSOR Organization. We try very hard to get the quotes right, but do not always agree with the authors' opinions.

In an attempt to be as accurate as possible with included materials and discussions, the newsletter is reviewed by outside sources who have first-hand knowledge of the subjects being discussed, and who comment, to the best of their ability, on anything that is not correct.



SEPTEMBER 11, 2007
No Easy Answers
Sex Offender Laws in the US

US Sex Offender Policies: Alone in the World

Sexual violence and abuse against children are, unfortunately, a worldwide problem. Yet the United States is the only country in the world that has such a panoply of measures governing the lives of former sex offenders. It is the only country Human Rights Watch knows of with blanket laws prohibiting people with prior convictions for sex crimes from living within designated areas. To our knowledge, six other countries (Australia, Canada, France, Ireland, Japan, and the United Kingdom) have sex offender registration laws, but the period required for registration is usually short and the information remains with the police. South Korea is the only country other than the United States that has community notification laws.

Officials in Australia, Ireland, and the United Kingdom have considered and in each case rejected the adoption of universal community notification laws (although in some cases, police are authorized to notify the public about the presence of a convicted sex offender in the neighborhood). After reviewing the experience of the United States, they concluded that there is little evidence that community notification protects the public from sex crimes, and that such laws are often accompanied by vigilante violence against registrants.