

Every Recidivism Piece Should Come With A Warning Label

Whenever we talk about recidivism, it's important to understand that the data itself is categorically flawed.

Framing aside, the recidivism data presented in the BJS report can offer helpful perspective on the risks posed by people after release. Whether measured as rearrest, reconviction, or return to prison, BJS found that people whose most serious commitment offense was rape or sexual assault were much less likely to reoffend after release than those who served time for other offense types. The BJS report shows that within 9 years after release:

- Less than 67% of those who served time for rape or sexual assault were rearrested for any offense, making rearrest 20% less likely for this group than all other offense categories combined (84%). Only those who served time for homicide had a lower rate of rearrest (60%).
- People who served sentences for sex offenses were much less likely to be rearrested for another sex offense (7.7%) than for a property (24%), drug (18.5%), or public order (59%) offense (a category which includes probation and parole violations).
- Only half of those who served sentences for rape or sexual assault had a new arrest that led to a conviction (for any offense), compared to 69% of everyone released in 2005 (in the 29 states with data).

While the data was more limited on returns to prison,¹ the study found that within 5 years after release, people who had served sentences for rape or sexual assault also had a lower return-to-prison rate (40%) compared to the overall rate for all offense types combined (55%). BJS notes that some of these returns to prison were likely for parole or probation violations, but because of data limitations, it is impossible to say how many were for new offenses, much less how many were for rape or sexual assault.

In sum, the BJS data show that people who served time for sex offenses had markedly lower recidivism rates than almost any other group. Yet the data continue to be framed in misleading ways that make it harder to rethink the various harmful and ineffective punishments imposed on people convicted of sex offenses.

The recidivism data suggest that current legal responses to people convicted of sex offenses are less about managing risk than maximizing punishment. The desire for retribution is understandable; unquestionably, rape and sexual assault inflict serious and lasting trauma. But our criminal justice system does a poor job of providing survivors of rape, sexual assault, and other violent crimes what they really want.

In a 2016 survey of crime survivors, the Alliance for Safety and Justice found that, “Survivors of violent crime — including victims of the most serious crimes such as rape or murder of a family member — widely support reducing incarceration to invest in prevention and rehabilitation and strongly believe that prison does more harm than good.” But more prison time is the default response: those released after serving sentences for rape and sexual assault served longer sentences, with a median sentence of 5 years (compared to 3 years for all others combined) and over a quarter serving 10 years or more before release.

And for many people convicted of sex offenses, confinement doesn't end when their prison sentence does. Twenty states continue to impose indefinite periods of involuntary confinement under civil commitment laws— after individuals have completed a sentence (or, in some cases, before they are even convicted). Proponents justify the practice as “treatment,” but conditions of civil commitment are punitive and prison-like, and this confinement is hard to justify with the recidivism data we have. The likelihood of post-release arrest for another rape or sexual assault for this group is less than 2% in the first year out of prison, and after 9 years, less than 8% have been rearrested for a similar offense. Those who are released at age 40 or older are even less likely to be rearrested for another sex offense, with re-arrest rates about half those of people who are released at age 24 or younger.

After prison, a number of other special restrictions make reentry especially challenging for those who have served sentences for sex offenses, including registration, public notification, and restrictions to residence and employment. A current proposal suggests banning them from using New York City mass transit. (Even before release, some restrictions make it difficult for some people to leave prison when they would otherwise be paroled.) But these restrictions tend to cause more problems than they solve. Residence restrictions in particular have contributed to homelessness and other problems in cities

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From the Director's Desk

By Wayne Bowers

Of all the different levels of collateral consequences and damages that surface for people who are on the sex offender registration list, one of the most disgusting is to be a subject of a scam with bogus threats of not being in compliant and orders to pay money immediately. This style of distortion is breaking out in various states. Personally I know of three people in Oklahoma who have been contacted and impacted. And I know it occurs in other states.

Here is good advice for anyone – this comes from the website of OK-RSOL, one of Oklahoma's affiliates of the National Association for Rational Sexual Offense Laws:

How many times a day does your phone ring with an unknown number? Out of state, local number, even your own number, the many telemarketers, phone scams, and robocalls are on the rise these days, and everyone is getting them, but there is one in particular that is targeting registrants in Oklahoma, and we want you to be informed and prepared.

We may not know, as of yet, how these people are acquiring all the necessary information and connecting the dots, but we do know the Oklahoma registry is a free, ready-made victim list. It is their starting point, and we know they are prepared before they dial your number. They know your name. They know where you renew your registration or what law enforcement agency to impersonate. They know where you live, work, and what you drive. Let's face it. They are good at what they do. They will call and call until you answer your phone. They will sound just like what you would think law enforcement would sound like, but they are not, and they will be stern and forceful, determined to convince you that what is happening is real, but it is not.

There are many reasons, they may claim, for there being a warrant out for your arrest. They may say that you have failed to register in some way, that you are behind on paying fees, or that you failed to appear in court. No matter the reason they claim, the only real reason for calling you is to scam you out of your money. They will say you must post bond or pay fees in order to avoid arrest, and that you must submit payment to them while on the call. Do not comply with their demands. The best thing you can do is hang up the phone. You may receive a notice in the mail, but in most cases, they will knock on your door without notice.

There are several ways to know it is a scam and not real:

- Law enforcement departments will not call about a warrant. You may receive a notice in the mail, but in most cases, they will knock on your door without notice.
- Law enforcement departments will also not call and solicit money from you. Regardless, with any money owed, it will never be required that you pay using prepaid gift cards or Google Play funds, and if anyone requests your credit/debit card information over the phone, it should immediately raise red flags.

- If you really owe anything or can pay to avoid arrest, a court summons will be issued and mailed to you, or you will receive some other form of official notification that you can verify.

One of the most effective ways to prevent these calls is to not answer the phone. If you do not recognize the number or it comes up as unknown, private, or a blocked caller ID, do not answer the call, but if you are in a position that requires you to answer, such as a company line, then know what to look for. When you can have the confidence of knowing it is a scam, hang up the call and report it to the authorities. These people are preying on your fear and utilizing free public arrest and registry information to target you, and we do not want you to be their next victim.

Win for NARSOL and John Doe Plaintiffs in North Carolina

Jul 31, 2019 (Received from Robin Vander Wall, NARSOL website)

The National Association for Rational Sexual Offense Laws (NARSOL) and John Doe Plaintiffs got a victory on July 30 against the State of North Carolina, which sought to dismiss a lawsuit brought to challenge the constitutionality of the North Carolina Registry.

The state's motion to dismiss was denied. So now the hard work begins. The case moves into the discovery phase in preparation for trial.

"The Court concludes that Plaintiffs have alleged a plausible claim that the challenged provisions of the registry law are so punitive in effect to violate the Ex Post Facto clause of the Constitution. Because the Court concludes that Plaintiffs have stated a claim upon which relief may be granted, Defendants' motion to dismiss Plaintiff's Complaint for failure to state a claim must, therefore, be denied."

A copy of the order can be read at: [Does v Stein – NC – Order](#)

Class Action Participants Sought

People are being sought to develop a class action lawsuit who formerly were juveniles but adjudicated. Details of the potential suit cover a person who was adjudicated as a juvenile with potential to be designated a sexually violent person and is also on the sex offender registry.

If you fall under these specifics, contact the following to allow discussion if you wish to be part of a class action lawsuit: Damien M. Rudebush, 9100 N. 107th St., Milwaukee, WI 53224.

Giving Back

By Anthony C.

Sometimes it can be difficult to meet the challenge of finding ways to give back. In SAA, we are thoroughly blessed to have had the 12-steps written for us; having been given a blue print with which to order of lives.

It is no small wonder that the spirit of the Steps seeks to take us out of ourselves so that we place the focus on what we can do for others. This is the natural order of our spiritual awakening, but how do we accomplish this and where do we start?

I challenge you to look closely at the events that transpire around you and just ask yourself, "What would God have me do about this situation? Maybe you could sponsor a newcomer or show up for meetings 20 minutes early or leave 20 minutes late to help set up or clean up. Maybe you could shop a second hand store for an extra coffee pot or purchase some coffee to share at meetings. These types of service are always needed and welcome.

Although our primary focus is always on the needs of the fellowship, I discourage limiting the scope of your ability to serve. Now that we are no long living in or addictions, we all have time to be doing something else; so be creative in thinking outside the box! Perhaps you can volunteer your time at a soup kitchen, food pantry, or even your local library. Go visit the V.A. hospital or a senior care center in your area and just visit with someone. Surely that would bring unfathomable rewards, and you just might be surprised at who is benefitting who.

Being incarcerated in a maximum security prison with nothing 35 but square feet of space and a life without parole, it is easy for me to get wrapped up in myself. It has been my experience, and I hope you will agree, that "self" is the single most destructive force in our lives, so it is vitally important that we find a way to do service as part of a successful program. But where does some like me start?

We inmates may not be able to attend meetings or sponsor newcomers but there are two areas I have found in which to help others: **one**, I can write, so I write uplifting letters to people in hospitals and nursing homes I found on a prayer list, in hopes to just brighten the day for someone who might otherwise not have it. And **2**; I can pray. In fact, prayer is a service that is often overlooked and neglected. Sometimes prayer is all that can be done for someone or a situation and sometimes it is all that needs to be done. So whether you've exhausted your every effort or when nothing else will do, just pray! Doing so benefit your subject and improves our conscious contact with God.

I hope this inspires you to get active in doing service. There is a place in service just for you, the only thing you need to do is find it. Keep trying, and keep 12th stepping. I will be praying for your success.

MYTH – Sex offenses are increasing in the United States.
FACT – *Sexual crimes have decreased over time. The report of adult rape has declined 69% from 1993 through 2005. Substantiated sex crimes against children fell 40% between 1992 and 2000 (Human Rights Watch, 2007).*

CURE-SORT NEWS

CURE-SORT News is a publication of **CURE-SORT**, one of eight issue chapters of a national criminal justice reform organization known as Citizens United for the Rehabilitation of Errants (CURE). CURE's address is P.O. Box 2310, Washington, D.C. 20013; www.nationalcure.org. SORT stands for Sex Offenders Restored through Treatment.

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We often act as though comfort and luxury were the chief requirements of life, when what we really need to make us happy is something to be enthusiastic about.

Anon

Michigan Lawmakers Ordered to Revise the Registry

Aleanna Siacon, Detroit Free Press May 24, 2019

A U.S. district court judge is giving Michigan lawmakers 90 days to change the state's sex offender registry law, almost three years after it was first ruled unconstitutional by federal appeals court.

(EDITOR'S NOTE) -- Aug. 21 was the deadline that Judge Cleland gave the Michigan legislature and the litigants to negotiate a settlement on SORA reform. The parties held a status meeting before Judge Cleland. Progress is being made. The parties will now continue briefing the Does II case while negotiations for reform legislation continue. That is, they will be working on the law case at the same time as trying to find a legislative solution. The parties hope to have a bill to introduce when lawmakers come back from summer break in the next week.

U.S. District Judge Robert H. Cleland issued an order that the law must be changed on May 23.

The ruling stems from an August 2016 decision by the U.S. 6th Circuit Court of Appeals in Cincinnati which found that Michigan's Sex Offender Registry Act was unconstitutional.

Under Michigan's law:

- Offenders have been prohibited from living, working or even standing within 1,000 feet of a school.
- They must immediately register email address or vehicles, plus report to the police as often as four times a year.
- The rules currently apply to all offenders on the registry — **even if they've gone decades without committing any crimes.**

The appeals court found the law in violation of constitutional protections against increasing penalties for a crime after its commission and adjudication.

The state appealed to the U.S. Supreme Court, which declined to hear the case — effectively upholding the 6th Circuit ruling.

But the state has kept the law in place. It argued that the rulings only applied to the specific plaintiffs who brought them — because the appeals court decision came in civil cases instead of class-action lawsuits.

In essence, whether or not offenders needed to completely comply with the act depended on if they'd been able to successfully plead for their individual case in court.

The ACLU, the University of Michigan Clinical Law Program and the Oliver Law Group filed a class-action lawsuit last June that asked that the appeals court to apply the ruling to all Michigan registrants.

Michigan's Sex Offender Registry is not just unconstitutional but it's also counterproductive and actually makes our communities less safe," Miriam Aukerman, ACLU senior staff attorney, said in a statement.

"We need and deserve effective public-safety measures that protect our kids and families, rather than a bloated and ineffective registration scheme that in fact puts

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where they leave little room for returning citizens. According to a 2015 U.S. Department of Justice brief, "residence restrictions may actually increase offender risk by undermining offender stability and the ability of the offender to obtain housing, work, and family support."

In another recent academic article, Hanson et al. agree that these additional restrictions are "justified on the grounds of public protection," even though the underlying assumptions may be wrong: "Individuals are targeted because policy-makers believe they are likely to do it again. This is a testable assumption, and, as it turns out, not entirely true." Their analysis shows that individual recidivism risk varies widely, can be low enough to be indistinguishable from that of people convicted of non-sex offenses, and drops predictably over time. The data published by BJS track with those findings.

Collectively, the research seems fairly clear: our responses to people convicted of sex offenses do not reflect the actual — generally low — risks they present. Instead of panicking about the small portion who reoffend after release, it's time we talk more rationally about responses that effectively support desistance from crime — and serve the actual needs of victims of violence.

Unconstitutional Decision on NC GPS Usage

Aug 16, 2019

The North Carolina Supreme Court has struck down lifetime GPS-monitoring for persons required to register as sex offenders who are not on parole or probation as unreasonable under the Fourth Amendment (Search and Seizure).

The importance of this case is that the court considered evidence of low recidivism among registrants generally, notwithstanding unsupported absence legislative findings to the contrary, and of evidence of efficacy in advancing the government's stated goals of solving and deterring sex crimes.

them at greater risk. Legislators should seize on this opportunity to protect the public by replacing Michigan's failed registry with policies and programs that have proven successful in preventing sexual offending."

In a news release, the ACLU of Michigan said research shows sexual violence and the harm it causes are effectively reduced by prevention programs.

"The Legislature now has both the opportunity and the obligation to use evidence-based research to get this right and provided truly effective tools that enable law enforcement to carry out their work," Shelli Weisberg.

Every man has a right to his opinion, but no man has a right to be wrong in his facts.

Bernard M. Baruch

10th Circuit Rules Internet Restriction is Excessive

Aug 16, 2019

The 10th Circuit Court of Appeals in US v. Blair, ruled that a special condition on the Defendant's Internet use that was "limited to those the defendant requests to use, and which the probation officer authorizes" involved a greater deprivation of liberty than is reasonably necessary for deterring criminal activity because it allows the probation office to completely ban the defendant's use of the Internet by failing to place any restraints on a probation officer's ability to restrict a defendant's Internet access Blair argued that this special condition was more restrictive "than is reasonably necessary" in violation of 18 U.S.C. § 3583(d)(2). The Court agreed.

While THE COURT STILL CAN BAN INTERNET USE, a special condition of release that *gives the probation office discretion* to ban completely a defendant's use doesn't fly because it allows the probation office the discretion to completely ban a means of communication that has become a necessary component of modern life, which is a greater deprivation than necessary.

A useful excerpt from this case is the following, "*...Four years later, the role that computers and the Internet play in our everyday lives has become even more pronounced, and we expect that trend to continue. Thus, what was a reasonable restriction on Internet-use in our earlier cases may be different from what is reasonable today. We must read our prior cases in light of the evolution of the Internet and the public's dependency on it.*"

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**NOTE:** The 10th Circuit covers Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming.

## Federal Judge Finds Illinois Rules on Sex Offenders Unconstitutional

By WBEZ91.5.org, Chicago

A federal judge in Chicago has found the Illinois Department of Corrections is violating the constitutional rights of prisoners convicted of certain sex crimes by making the restrictions on where they can live so stringent that inmates are often locked up long beyond their sentences.

In a ruling issued March 31, Judge Virginia Kendall wrote that hundreds of offenders in the state's prison system successfully complete their entire court-ordered sentences yet remain behind bars indefinitely. Kendall found the corrections department is depriving them of fundamental rights, and if they had money and support, they'd be able to leave and begin serving out what's called "mandatory supervised release."

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Regarding International Megan's Law (IML), I learned that the Angels Watch program resides with the Dept. of Homeland Security but the 21-day rule international travel notices required by the AWA are processed and distributed by the FBI's INTERPOL office. Thus two separate notices are sent, one to immigration officials and one to law enforcement. I learned that both these programs predate the IML Act but were formalized by it. I also learned that the overwhelming majority of SOR inquiries are not by neighbors of registrants, but by employers, landlords, background checkers, researchers, etc. And interestingly, SMART's hiring of the Library of Congress' FRD to conduct reviews of recidivism and on state challenges to implementing SORNA were inconclusive and indeterminate, respectively. Thus there is a new belief that new research is warranted because of the SMART Office's declared dedication to scientific-based policy initiatives and solutions.

The SMART Office promised to publish all the presentation and slides from all the presentations. They are up but some are missing. Most interesting are the pie-charts on IML stats. Here is the link to the online material: <https://www.smart.gov/symposium.htm>

I just checked it and it is still lacking most of the material. I will send an email to Ms. Doran reminding her of her pledge to post everything. But the agenda is up and most importantly, the names and contact info on the two dozen presenters.

*If you are driving on a road with beautiful scenery, unobstructed by signs and billboards, chances are you're on the wrong road.* Anon

## "Unconstitutional" Continued

"A plaintiff of mine called me to say it's the talk of the prison," he said. "There are ways to protect public safety but holding people in prison long after their sentences are over isn't the proper way to do it."

In 2017, WBEZ visited and spoke with J.D. Lindenmeier, one of the plaintiffs in the case. At that time, Lindenmeier had been behind bars six years past his court-ordered release date. But he's still in prison today, a total of eight years beyond his sentence because he can't find a place to live that complies with the state's requirements.

Prisoners call the time they serve beyond their sentences — often many years — "dead time."

**MYTH** - Men who molest boys are homosexuals or bisexual.

**FACT**- According to the October 5, 2006 issue of *Pediatrics, the Journal of the American Academy of Pediatrics*, 98% of molested males and 99.6% of molested girls are victims of heterosexuals.

## A review of SMART's Procedures

By Joseph Ajlouny

I attended the National Symposium on Sex Offender Management, Administration, Registration and Tracking (SMART) in Chicago in July. It was held at the Palmer House Hilton, a very nice historic downtown hotel in the heart of the Loop. It was well attended too; I'm guessing about 800 strong. As this event was organized for law enforcement and registry management personnel, it was devoid of any discussion of reform or the deleterious impact on registrants and their families. But it was clear to me from the range of sessions I attended that these professionals are fully aware of the common concerns and complaints we who advocate for reform are primarily concerned with.

My first impression was that SMART Office is well-organized and fully decimated to enforcing the Adam Walsh Act (AWA) by coordinating with the states, including those that are not compliant with its provisions. They do this by dedicating considerable resources to research and technology. At some points it seemed to me they are intent on using some of the techniques and lessons learned from investigating and monitoring suspected terrorists to the field of registrant management. I raised this issue with the acting head of the SMART Office, Dawn Doran, and she said there was no such policy on this and that she has never connected the two subjects.

There were four plenary sessions and seven Concurrent Breakout Sessions. All were well-attended. The speakers who presented were the cream of the crop in this field, representing the following agencies: SMART, Department of Justice's office of Child Exploitation and Human Trafficking office, FBI, INTERPOL, the US Marshalls Service and a number of state registries and victim impact bureaus. A number of academic researchers also presented including the Library of Congress Federal Research Division (FRD), the FBI's Criminal Justice Information Service Division, the National Criminal Information Service (a law enforcement database), University of Massachusetts Lowell School of Criminology and Justice Studies and the National Center for Missing and Exploited Children, including Katrina Mitchell, the head of its registrant Tracking Team.

There was a small contingent of reform advocates in attendance too, including Vicky Henry of WAR (Women Against the Registry), Alexander Gittinger of ACSOL (Alliance for Constitutional Sex Offense Laws) and Derek Logue of Once Fallen. A number of them wore a red t-shirt that has the following imprinted on the back: "Registries Do Not Protect Children." I heard that NARSOL (National Association for Rational Sexual Offense Laws) decided to skip (or boycott) the event, but I am not informed on the basis of that decision.

The presentations were heavy on tacking non-compliants. Additionally, many of the coordination efforts of registrants who move from state to state or out of the country were discussed. Remember, the average attendee is charged with these responsibilities. A big effort is being made on both information sharing and cleaning up registries. I believe there is general agreement that registries are bloated and that this makes their work more difficult as well as drains resources.

See SMART Page 5

## Sex Offender Specific Treatment

By Dr. JoEllen Wiggington  
Pacific Professional Associates  
Member of CURE-SORT Board

**EDITOR'S NOTE:** *As our mission is to promote the importance of counseling for the recovery of those who have sexually offended, when appropriate, a discussion will be held in our issue along this topic. This is the 15th article in this series. As said, this is a program of Dr. Wiggington and is not available by correspondence, but does use references and workbooks used in her treatment program.*

This is an ongoing series dealing with outpatient treatment for individuals accused or convicted of sexual assault, with references and workbooks used in my treatment program at Pacific Professional Associates in Los Angeles CA. The focus in this issue is the identification of various offense styles.

In Morin and Levenson's (2002) workbook, *The Road to Freedom*, they outline four styles of offending. Two of these styles are "avoidant" (the goal is not to offend) while the other two categories are for those whose goal is to offend. The importance of identifying one's offense style is to craft strategies at each decision point that can help change offending behavior. Clients are given reading assignments from the workbook then asked to identify their own style or combination of styles through comparisons to the thoughts, feelings and behaviors typical of each style.

The first "avoidant" style is **passive-avoidant**. This group is comprised of those who want to avoid offending but do little or nothing to actually prevent an offense. They may convince themselves that they will never re-offend, or deny deviant arousal, thus they do not discover and implement prevention strategies.

The **active-avoidant** individual, in contrast, makes efforts to stop offenses but the strategies are ineffective and may inadvertently increase the chances of offending. Masturbating to deviant stimuli, for example, may be used as a substitution for a sexual assault, but it then feeds the compulsion to act out.

The **indulgent** individual just goes with his urges, he does not think. According to Morin and Levenson (2002), he is out of control in many areas of his life and has poor impulse control. The **preferential** offender's life is focused on deviant sexual activity. He spends the most time identifying and grooming victims, and has no desire to change his behavior.

Each of these styles involve different lifestyle risk factors, triggers, etc. and after an offense different evaluative outcomes. Those with avoidant styles who reoffend often feel guilt, shame, a sense of failure and self-anger. The indulgent and preferential offenders are typically lacking any feelings of remorse. Those individuals whose goal is to offend will obviously not benefit from treatment, but they can change their goals and adopt a pro-social lifestyle whenever they choose to do so.

Avoidance strategies, or so-called relapse prevention, will be covered in our next column.

*Happiness is not a state to arrive at, but a manner of traveling.*