



Michigan Registry Declared Unconstitutional

By CURE-SORT Team

DETROIT – The American Civil Liberties Union of Michigan (ACLU) applauds the Feb. 14 decision by U.S. District Judge Robert Cleland to provide relief for registrants on the Michigan Sex Offenders Registration Act (SORA). In the ruling, Judge Cleland ordered that if the legislature does not bring the law into compliance with constitutional requirements, the state will no longer be able to enforce the law against pre-2011 registrants.

“Unless and until decisive action is taken by the Michigan legislature, no provisions of SORA may be enforced against [pre-2011 registrants] ex post facto subclasses,” Judge Cleland wrote.

The decision follows several prior rulings: two 2015 rulings by Judge Cleland which found many parts of SORA unconstitutional and a 2016 ruling by the U.S. Sixth Circuit Court of Appeals that it is unconstitutional to impose new severe restrictions on people who have past convictions. When the state continued to enforce the law despite the court rulings, the ACLU, with the University of Michigan Clinical Law Program and the Oliver Law Group, brought a class action lawsuit on behalf of Michigan’s registrants arguing that the state had to follow the earlier rulings.

“**This decision is a win** for the public safety of Michigan communities,” said Miriam Aukerman, senior staff attorney for the ACLU of Michigan.

“The registry is an ineffective and bloated system that makes Michigan communities less safe by making it more difficult for survivors to report abuse, sabotaging people’s efforts to reenter society, and wasting scarce police resources on hyper-technicalities. This decision means that lawmakers must finally do their jobs and pass evidence-based laws that better serve everyone. Michigan families deserve true reform that prioritizes public safety and prevention, not a failed registry.”

In May 2019, Judge Cleland ruled that significant portions of SORA cannot be applied to pre-2011 registrants, but deferred further relief to give the legislature time to bring SORA into compliance with the constitution. The Michigan legislature has not passed a new, constitutional SORA law.

Judge Cleland wrote: “Making these determinations invites pure speculation on the part of the court and could result in a system in which different versions of SORA apply to different classes of registrants, which would create an administrative nightmare for law enforcement and registrants alike.”

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From the Director's Desk

Wayne Bowers, CURE-SORT Director

Those incarcerated on our database may not be aware of other types of involvement we undertake in assisting people. Too many comments come in to publish but thank you to those with compliments and thanks to our work. And to those with criticism or correction, we also appreciate.

Within the past month, two phone calls sought assistance. One came from a Hispanic person in Pennsylvania seeking a therapy program offered in Spanish. Through some contacts I had, it was learned a program was available in the city where he resides in a halfway house and we got him the contact information. A registrant called from Boston needing support and someone to share some concerns. Again, some contacts in Boston gave me the contacts for a support group in that city and the man has now gotten in touch with them.

A very difficult request, and one we could not come up with a good response, was from a medical social worker in New York with a client registrant disabled and will be homeless unless a nursing home type facility will accept him. The hysteria of the registry has led to a near complete decline of any retirement facility to take someone on the registry. Some New York associates knew of a state lawmaker to contact and that man now knows about the situation. But I could not locate someone for the guy.

A letter from a Texas prison told of a potential example of restorative justice to be provided if all the details can be worked out. This man abused a daughter from his first marriage. He's been in considerable therapy. After 12 years in prison, he now has received word from family that his daughter would like to meet and talk. Of course, that made me think that there must be a mediator and to find out if the daughter has had counseling and is prepared for such a meeting. Through some contacts I've learned the Texas prison system does provide a process for interaction of the two parties. So, we'll get details to this man to implement.

For those who receive our Google Groups emails on line, there are countless articles about issues around our topics on line. Board member Mike Dell coordinates this program and thanks to all who contribute material to it. I've been involved in proofing an updated guide to use in the helpline at Stop It Now! This service by that organization has been a constant tool for people to call for assistance and many types of requests are received.

Restorative Justice Models Can Work in Sexually Motivated Crimes

Jim Prager, CURE-SORT Board Member

We seem to be living in an age where revenge is the norm. Accusations are made with impunity and the accused are often judged guilty. Those of us who are accused of sexual crimes are especially vulnerable to being judged harshly. I recently spoke with an 86-year-old mother whose son received a 25-year sentence. At the time of sentencing, he was called a monster. When Bill Cosby was sentenced, the chief editor of my local paper called Bill Cosby a monster. When we refer to anyone as a monster, we have made that person less than human. Then we don't have to worry about how we treat that "Monster." We justify the inhumanity we impose on those of us who are sexual offenders. The Sex Offender Registry reinforces the monster image.

Restorative justice principles seek to humanize those of us who commit sexual crimes. One way in which this happens is by identifying the victim. In our normal criminal cases the victim is the State. In Restorative Justice, the victim is a specific person or persons. We create the potential for healing, responsibility, and growth. These 2 or more people can learn how each of them has been affected and how each of them feels now. There is no growth and healing with monsters. The more we are able to bring humans together to share a common experience, the healthier and more responsive our world will become.

CURE National Lifers Strategy Meeting Report

by Thomas Chleboski, CURE-SORT Board Member

In Late 2019, CURE National, in conjunction with Nicole Porter of the Sentencing Project, held a conference in Detroit, Michigan entitled the CURE National Lifers Strategy Meeting.

Approximately 60 people representing 18 states attended the conference. While the overall theme was how best to address the use of life sentences and how that contributes to mass incarceration, part of the discussion centered around *The Meaning of Life: The Case for Abolishing Life Sentences* by Ashley Nellis and Marc Mauer of the Sentencing Project. The authors propose that we end all life sentences in the United States, with a 20-year sentence as the maximum for any crime. The authors also share the experiences of European countries whose incarceration rates and crime rates are a fraction of those of the US. They acknowledge that those who may not be able to be rehabilitated in the world of 20-year maximum sentences, and these individuals could be civilly committed to a mental health facility indefinitely.

Quite frankly, as a person whose day job is working in a criminal defense firm and as one who has worked on this issue as a member of CURE National and Maryland CURE, as well as the Maryland Alliance for Justice Reform, I am not sold on the idea of abolishing life sentences and replacing them with 20-year maximums with an option of civil commitment. Civil commitment is a *civil*, not a *criminal* process, so by its nature those who are subject to it do not enjoy the same rights nor must the state overcome the same level of proof as in criminal prosecutions. I also have a philosophical problem with civil commitment. The basis for civil commitment is that a person has a diagnosed mental abnormality that is so severe that the person is unable to control his or her impulses, and is therefore likely to commit a new crime. This person was considered sane enough to stand trial, but not sane enough to release. The state is getting the best of both worlds in this arrangement. Once found by a court to be a violent predator, the person is then placed in a facility for treatment and can remain there indefinitely until he or she is "cured".

In practice, the 20 states which have civil commitment laws for those convicted of sex offenses have routinely shopped for experts to testify that the person fits the criteria, convinced judges to exclude testimony to the contrary and, since it is a "civil" matter, in some cases not even allowed the defendant, who is usually indigent, counsel (or effective counsel). The person is then placed in a "treatment facility" which is nothing more than a prison disguised as a hospital, without the protections afforded prisoners. Civil commitment facilities hide what they do under the guise that HIPPA forbids them from disclosing anything about their "patients" or how they are treated. I think that the proposal of civil commitment would simply allow the state to continue the practice of life sentences with the added problem that after the 20th year of incarceration, individuals would be civilly committed to another kind of prison, without even the few rights that prisoners enjoy.

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Michigan Registry Ruling

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Under today's ruling, registrants whose offenses pre-date April 12, 2011 will be removed from the registry unless the legislature rewrites the law before judgment is entered in the case. The parties must provide a proposed judgment by March 13 and the judgment will include a 60-day period before entry.

"We urge the Michigan Legislature to focus on what actually works to reduce sexual offending," said Paul Reingold, law professor at the University of Michigan and co-counsel on the case. "The legislature will now need to overhaul the SORA law, and can do so in a way that is rooted in research and prioritizes prevention, support for survivors, and the successful re-entry of those who have already served time."

In addition to barring retroactive enforcement of the law against pre-2011 registrants, Judge Cleland's decision finds that SORA's exclusion zones, which bar registrants from living, working or spending time in areas around schools, are unconstitutionally vague for all registrants because they cannot determine where they can and cannot be. The decision also protects registrants from being prosecuted for accidentally violating SORA's complicated, technical requirements, and bars enforcement of certain unclear reporting requirements.

Judge Cleland wrote: "Without the 2011 amendments, SORA registrants and law enforcement officials have no guidance for who must register, what events must be reported, where registrants must report, how often registrants must report, or when registrants become eligible for removal from the registry. Michigan law makes clear that SORA cannot be enforced given such glaring omissions."

CURE Lifer's Meeting report

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During the conference, we discussed two things that I think are at the root of the problem. One is the number of crimes that carry a life sentence in most states. While almost every state has a life sentence as a possible sentence for the crime of murder or rape, many have added this as a possibility for other crimes, particularly as enhancements to "repeat offenders". Enhanced sentences and mandatory minimums sound good to ambitious politicians and frightened voters, but they do nothing to reduce any crime, apart from disabling that particular person from committing new crimes in society during the period of incarceration. These laws fail to address the underlying problems of crime, including poverty, addiction, lack of education and opportunity, and the lack of any kind of real rehabilitation in overcrowded prisons which serve as punitive warehouses and little else. These punitive warehouses continue to be more overcrowded as prosecutors and courts send more and more people in, while parole boards and governors let fewer and fewer people out. The second problem, which was noted in the conference, is that there is a presumption of a denial of parole when a prisoner becomes parole eligible, particularly one who committed a crime against a person. There is also a presumption of a lack of rehabilitation, and that presumption is often well-founded because so-called correctional facilities provide little to no tools for a person to help himself or herself to become rehabilitated.

The better solution would be to change the parole process so that there is a presumption of parole unless the state can prove otherwise. There should be a program for rehabilitation in place the minute any person steps into a state correctional facility. This should be the policy across the board, with no "carve-outs" for specific types of crimes or for those who have been in the system more than once. Certainly, the state could make the case for a denial of parole, but that denial should be based on a person's refusal to engage in programming and behaving badly during incarceration. Too often parole denials are based on "the serious nature of the crime", which is something no prisoner can ever change and which was already taken into consideration by the sentencing judge. This should never be a criterion in parole considerations. The reduction of the use of life sentences to only the most serious offense, first degree murder, and the reformation of the parole process would be a better answer to the problem of mass incarceration and the issue of public safety.

Total Sexual Abstinence Can be Freeing

Anthony Craigg, CURE-SORT Member

Being a sex addict is the single most difficult thing I have ever had to deal with. There are just so many nuances to consider. We sex addicts have thinking errors, prejudices and outright character defects to unravel, so we set ourselves to the task of understanding those “errors” in the name of all that is right.

Like any other form of addiction, we, in Sex Addicts Anonymous (SAA), get to define exactly what comprises a relapse. For example, drug addicts will generally relapse when they once again ingest illegal or even some legal drugs. They are generally not waved under their nose every minute of the day. Whereas, with sex addicts’, sexual behaviors or the entertainment of sexual thoughts can be considered a relapse (a trigger). We find ourselves struggling to maintain healthy boundaries what with all the public emphasis on sex (movies, TV shows, magazines, ads). The old saying “sex sells” makes it difficult to avoid those inappropriate thoughts, feelings, and behaviors that can set us off in the wrong direction—relapse!

Having also become a sex offender through my addiction, I understand that there must be a different set of rules and a heightened awareness of those rules than for non-sex offender addicts. These rules must be adhered to at all costs! Our awareness of those rules must also be foremost on our minds. Consider that we are talking about the safety and security of other people here. Looking back at my offense I can clearly perceive the cost I have caused to others. I consider myself fortunate to have that perspective as I have met others who really have no problem with their offending! God forbid that should be any of us today.

Having said all that, I still find myself trying to redefine my sexual boundaries depending on the mood I am in. I don’t have to tell you that this is a very slippery slope! For months I vacillated back and forth over things I had once considered off limits to me and found myself right back on square one. What started as me trying to maintain a certain level of acceptable (non-deviant) sexual behavior led me into deeper inappropriate thought. I think I understand now exactly why that is. I am simply incapable of maintaining a healthy sexuality.

These days I find it imperative to me that I abstain from all sexual behaviors. My sobriety is a program of total abstinence. We deal in facts in the real world, and the fact is I have too much baggage from my sordid past for me to be able to maintain anything like a normal sexuality.

I lament the loss but I must confess that I find freedom in abstinence! I have chosen a path that is truly important and I hope many others will join me on this course. Let us who have been deemed “offenders” now take the moral high road and never look back! I am praying for all of us in 2020. Be well, be blessed, and find sobriety my friends.

CURE-SORT Member Passes Away

It has come to our attention through mail notification that Patrick Sterns, who was on our database, has passed away. Sterns was housed at the Washington Special Commitment Center in Steilacoom, WA. Our thoughts to the family and close friends of him.

Resources

We are pleased to offer the following resources. Donations accepted to cover cost of postage and printing. Mail donations to the CURE-SORT, PO Box 1022, Norman, OK 73070-1022.

One Breath At A Time by Ila Davis (\$17.50)

Understanding Offending Behavior by Stephen Price. (A collection of 9 of Stephen’s articles from previous newsletters) (\$4.00 for the set of 9 articles)

When Someone on the Registry Moves into My Neighborhood (Member Price \$5; Non-Member \$10)

No More Victims – One Man’s Journey Into Sexual Offending and Recovery, By S. Sands (Ed G), \$13.95 (does not include shipping). Send all Requests to: PO Box 1022, Broadalbin, NY 12025, or gunder788@verizon.net or [amazon.com](https://www.amazon.com).

Failed Texas Prison Houses

Texas Civil Detainees

by Matt Clarke, Published in Prison Legal News, Sept., 2018

In 2015, Texas converted its outpatient program for civilly committed sex offenders into a “tiered” treatment program, in which participants start out in a “total confinement facility” at twice the cost of the original program. The state awarded Correct Care Solutions a \$24 million contract to provide housing and treatment at the Texas Civil Commitment Center (TCCC) in Littlefield, formerly a failed private prison known as the Bill Clayton Detention Facility.

Correct Care had just acquired GEO Care, a subsidiary of the GEO Group – a for-profit prison firm whose 2009 abandonment of the Littlefield facility had almost forced the city into default on its bonds. [See: PLN, Oct. 2013, p.45]. GEO Care had a poor reputation, having been sued multiple times for providing inadequate health care. The company was known for having cooked alive a Florida psychiatric hospital patient who was left in a scalding hot bath, and for providing such abysmal care at a Texas immigration detention center that it sparked a riot.

The state’s contract with Correct Care required it to hire about 100 employees to provide treatment and housing for 277 civilly committed sex offenders at TCCC, which it rented from Littlefield. The contract was extended in 2017.

The intersection of the Texas Civil Commitment Office (a state agency not known for respecting offenders’ civil rights), a private prison spinoff with a questionable history, and a desperate small Texas city with a huge debt load and an empty prison is an example of one development in what has been called the “treatment industrial complex” – when for-profit companies take over correctional treatment programs.

As part of that trend, Correct Care is making a play for the civil commitment market. In addition to TCCC, it runs a civil commitment center in Florida and has a contract to build a new \$36.4 million, 268-bed facility in South Carolina. (EDITOR’S NOTE: The South Carolina facility now is in operation in 2020.)

Since it opened, over 139 TCCC employees, including eight clinical therapists, have left their positions. Most resigned. One licensed vocational nurse, hired as a “therapeutic security technician,” quit after 18 months because she was appalled at the conditions at the civil commitment facility – especially the lack of medical care. “A lot of these guys were really old,” she said. “The clinic was always running out of medications or never had the right ones. It was all very unorganized.”

The staff turnover at TCCC has had a detrimental effect on the offenders housed there. Therapy is required for offenders to advance through the four-tiered program and eventually be released on GPS-monitoring as outpatients. If a therapist resigns, offenders receiving treatment from that therapist must start over at the beginning of their tier. Thus, some are faced with the prospect of having to repeat the same tier over and over.

In its 19-year history, no one has ever been fully released from Texas’ civil commitment program. Only five have been released from confinement since TCCC opened – four to go to hospices before they died. Roughly half the offenders in the program were returned to prison for minor violations of their civil commitment conditions. “To be constitutional, it has to be a therapeutic program,” said Conroe attorney Scott Pawgan, who represents one of the offenders held at TCCC. “It’s got to be the worst therapeutic program in the history of sex offender treatment, far and away.”

Meanwhile, civilly committed sex offenders are required to wear GPS monitors while imprisoned at TCCC. They are told to call their living quarters “rooms,” not cells, and informed the facility is not a “prison” – though the conditions of their confinement, which may include placement in segregation, are similar to those in prison. Participants are called “residents,” not inmates. Texas law allows TCCC to take one-third of any money offenders receive to defray the cost of their treatment and housing. Yet none know when, or if, they will ever be released. It seems like a prison by any other name is still a prison – or something even worse in this case.

Sources: www.texasobserver.org,
www.lubbockonline.com