

# CURE-SORT NEWS



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## MORE RULES POSSIBLE FOR REGISTERED CITIZENS IN 22 JURISDICTIONS Part 2

by David W. McDaniel

*Continued from*

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The grant [Byrne/JAG ] is the primary provider of federal funding for criminal justice initiatives at the local and state levels, providing critical funding to support a wide range of law enforcement activities and may be used for technical assistance, strategic planning, research and evaluation including forensics, data collection and storage, training, personnel, equipment and supplies, information systems, K9 units, vehicles including aircraft, watercraft and drones, body cams, body armor, communication systems, DNA testing, and a host of other programs and equipment.

States determined by SMART to be non-compliant may apply to have their Byrne/JAG funding reinstated for the singular purpose of implementing SORNA. The following twenty-two jurisdictions have applied for reinstatement: AK, AZ, AR, CA, CT, HI, IA, AD, IL, IN, MA, MN, MT, NH, ND, OR, PR, RI, WA, WV, AND WI.

Because the reinstated funds can only be used for the implementation of SORNA requirements, even though they may not be codified in a given State's SOR laws, this means bad news for the Registered Citizens living in these jurisdictions - more rules, more regulations, more restrictions and vastly less freedom and personal liberty. These changes will need to be challenged in the Courts.

I urge every Registered Citizen and their families to write their State and Federal leaders demanding fair, just, and impartial sex offense laws based upon the enormity of factual evidence-based data. To stand silent is to condone and accept injustice.

David W. McDaniel is an incarcerated Registered Citizen and Founder of the non-profit Registered Citizen Advocacy Partnership (RECAP).

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**DoJ regulations threaten people with prosecution for failing to register even when their State no longer requires it.**

Jacob Sullum | 1.19.2023 3:45 PM

A rule that AG Merrick Garland issued in 2021 is being challenged in Federal court. It requires people that have been convicted of a sex offense, to register with their State, even when the State neither requires nor allows them to do so. They must also supply the State with all the information required by Federal law, even when the State does not collect that information.

<https://reason.com/2023/01/19/a-federal-judge-says-the-dojsex-offender-registration-rules-violate-due-process-by-requiring-the-impossible/>

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### "A Path to UK Prison Reform" Forum

Presented by Dr. Avon Hart-Johnson

By Jim Prager

(EDITOR's NOTE – In US prisons, visiting family members can have varied experiences. Some are cordial and welcoming, but so many are a bad experience and rude to near abusive treatment by staff occurs by the visitors. Our board member attended a session on Scottish prisons that gave a great example for the US and DOC and a positive experience for everyone.)

Recently, I attended a presentation on what are called Visitor Centers in Scottish prisons. Scotland has 15 prisons and 13 of them have Visitor Centers. These come under the heading PACT-meaning Prisoners, Families, Communities, a fresh start Together. Below is a description from their website. This information comes from the Pact website under the heading Family Visitation Centers.

Pact's Visitors' Centre Service provides specialist trained staff, voluntary workers and resources to ensure that the visitors' centre offers families, friends and official visitors a warm welcome, and the support needed to ensure that their visit is as positive an experience as it can possibly be. As in all our services, Pact offers an inclusive service, with staff who are culturally sensitive.

Our staff team also act as a vital support point for visitor's post- visit where the visit has not gone well or they have concerns about the prisoner. Our staff can then liaise with Safer Custody and other teams within the prison where concerns over prisoner safety are shared.

Pact works closely alongside the prison to provide staff and resources to ensure that visitors have access to all the information they need in accessible formats. We also provide toys and activities for children to make the

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visiting process less distressing for them and we can also organize family days and child-centered extended visits.

It was noted that families dealing with sexual offences face similar problems to those in the U.S. However, the level of support offered to families and children makes a difference in the lives of these individuals.

**Civil Commitment Newsletters**

The CURE-SORT website contains a section dealing with Civil Commitment. As part of this section (<http://www.cure-sort.org/civil-commitment.html>), we provide copies of the issues of several newsletters published by those incarcerated in civil commitment facilities.

Currently we have issues of 3 newsletters from Minnesota and 1 each from New York & Texas. If you have a newsletter dealing with civil commitment that you would like posted, please feel free to contact us at [info@cure-sort.org](mailto:info@cure-sort.org).

**Exposing how mass incarceration harms communities and our national welfare**

Prison Policy Initiative Update May 18, 2023  
by Emma Peyton Williams

**Part 1 of 2 parts**

*What is civil commitment? Recent report raises visibility of this shadowy form of incarceration.*

*Shadowy "civil commitment" facilities actually foster the traumatic and violent conditions that they are supposed to prevent.*

As if serving a prison sentence wasn't punishment enough, 20 states and the federal Bureau of Prisons detain over 6,000 people, mostly men, who have been convicted of sex offenses in prison-like "civil commitment" facilities beyond the terms of their criminal sentence. Around the turn of the millennium, 20 states, Washington D.C., and the federal government passed "Sexually Violent Persons" legislation that created a new way for these jurisdictions to keep people locked up — even indefinitely — who have already served a criminal sentence for a "sex offense." In some states, people are transferred directly from prison to a civil commitment facility at the end of their sentence. In Texas, formerly incarcerated people who had already come home from prison were rounded up in the middle of the night and relocated to civil commitment facilities without prior notice. This practice, though seldom reported on, made some news in 2017 when the U.S. Supreme Court declined to hear a case from Minnesota after a federal judge deemed the practice unconstitutional. The Prison Policy Initiative has included civil commitment in our Whole Pie reports on U.S. systems of confinement, but here we offer a deeper dive, including recently-published data from a survey of individuals confined in an Illinois facility under these laws.

**Two critiques of "civil commitment"**

Some advocates call civil commitment facilities "shadow prisons," in part because of how little news coverage they receive and how murky their practices are.

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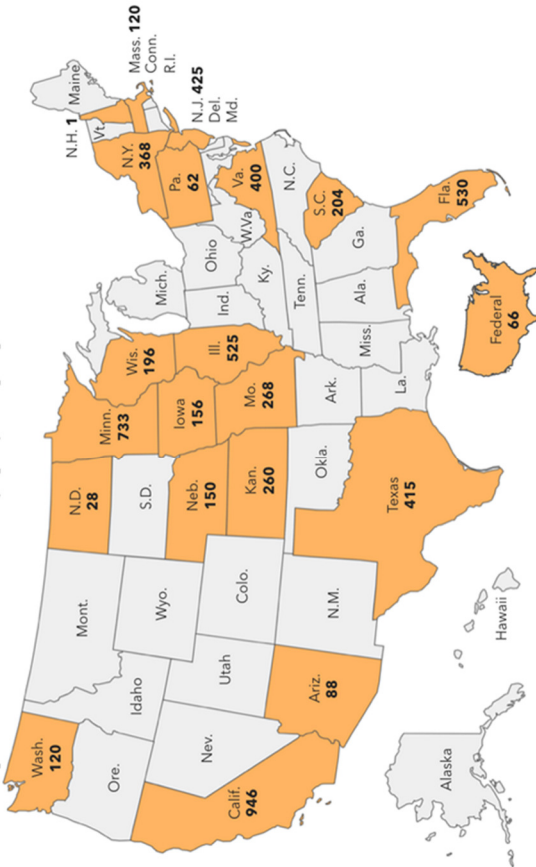
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**More than 6,000 people across 20 states were confined through punitive “civil commitment” systems in 2022**

These states and the federal government have laws allowing the confinement of people convicted of sexual offenses in prison-like “treatment” facilities after completing their criminal sentences — often indefinitely. This practice has been likened to “double jeopardy” or repeat punishment for the same crime.



Data source: Sex Offender Civil Commitment Programs Network Annual Survey, 2022. Four jurisdictions did not participate in the 2022 survey: Nebraska's count is from 2018, New Hampshire's from 2020, South Carolina's from 2021, and the Federal Bureau of Prisons' from 2017.

In Illinois, for example, the Department of Corrections (DOC) facilities are overseen by the John Howard Association, an independent prison watchdog organization. But, Rushville Treatment and Detention Facility, which opened after Illinois enacted its own Sexually Violent Persons Commitment Act in 1998, is not subject to the same kind of oversight because it is housed under the Department of Human Services and is not technically classified as a prison, unlike the state's other civil commitment program that is housed under the DOC. This is true of many states that have "Sexually Violent Persons" laws on their books, and consequently, horrific medical neglect and abuse proliferate in these shadowy facilities. For instance, a New Jersey civil commitment facility was one of the deadliest facilities at the beginning of the COVID-19 pandemic.

Similarly, Rushville is not held to the same reporting requirements as DOC facilities, so gathering data about people's movement in and out of the facility is only possible by filing an open records request. Reportedly, the Bureau of Justice Statistics intends to begin collecting data about indefinite post-sentence 'civil' confinements in June of 2023. Until that happens, it's only possible to get aggregated counts of how many people are civilly committed — nothing like the individual-level information prison systems are expected to provide in the service of transparency and accountability. This is true across the U.S., as civil commitment facilities are housed under different agencies from state to state, which makes it

exceedingly difficult to measure the full scope of these systems on a national level. As a result, estimates about how many people are currently civilly committed vary from 5,000 to over 10,000 people. Increased accountability and oversight must be chief among efforts to address this broken turn-of-the-millennium policy trend.

A second critique of this system is reflected in another term advocates use to describe it: "pre-crime preventative detention." Civil commitment (unlike other involuntary commitment practices, such as for the treatment of serious mental illness) can be seen as "double jeopardy" repeat punishment for an initial crime, or preventative detention for a theoretical future crime that has not occurred. Advocates rightly critique the fact that one of the primary justifications for civil commitment is the predicted risk that detained individuals will "re-offend," even though people who have been convicted of sex offenses are less likely to be re-arrested than other people reentering society after incarceration.

Regardless, in many states, people who have been convicted of sex offenses are transferred from DOC facilities to civil commitment facilities at the end of their sentence and held pretrial, then re-sentenced by the civil courts. The length of these sentences is often indeterminate, as release depends on progress through mandated "treatment." But neither "risk assessment" nor "progress through treatment" are objective measures. In fact, advocates and people who have experienced these systems argue that risk assessment tools are used to rationalize the indefinite confinement of identity-specific groups, and that assessing progress through treatment is a highly subjective process determined by a rotating cast of "therapeutic" staff.

**New data: A survey of individuals held in a “civil commitment” facility**

A recent report from Illinois (which I co-authored) goes beyond the numbers and reports that for many, civil commitment seems like a life sentence. This 2022 report, based on a 2019 study of residents at Rushville Treatment and Detention Facility (one of Illinois' two civil commitment facilities), exposed demographic disparities, discrimination and abuses inside, and flaws with the broader framework of civil commitment. Like the broader carceral system, civil commitment disproportionately impacts Black and Brown people. In particular, the Illinois report noted an overrepresentation of Black, Indigenous, and multiracial people at Rushville. This is in line with the findings of the Williams Institute's 2020 report, which found that, on average, Black people were detained in civil commitment facilities at twice the rate of white people in the states studied.

**Biased admission criteria lead to disproportionate consequences for select groups**

Further, the overrepresentation of LGBTQ+ and disabled people in these facilities reflects obvious biases

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that are “baked into” the civil commitment decision-making process. Many states use risk assessment evaluations to assess whether or not one should be civilly committed. These actuarial tools use outcome data from previously incarcerated people and conclude that, because past studies found groups with specific characteristics more likely to re-offend, individuals that match those criteria must be continually confined. Risk assessment tools are generally problematic and frequently make incorrect predictions. Chicago attorney Daniel Coyne says that in sex offense cases, risk assessment tools are 58% accurate, or “not much better than a coin toss.”

Illinois and many other states use the Static-99/99R, which predicts individuals' risk using data about groups that come from overwhelmingly unpublished studies. This risk assessment tool is notably homophobic, as it assigns a point (and thus, a higher risk value) to those who have a “same-sex victim.” The Williams Institute writes:

In addition to normalizing violence against women, this a priori assigns gay, bisexual, and MSM [men who have sex with men], who are more likely to have a male victim, a higher score, marking them as more dangerous than men who have female victims regardless of any other characteristics of the offense.

The evaluation also considers those who have never lived with a romantic partner to be at higher risk of reoffending, which means that LGBTQ+ people who may not be able to safely live with a partner in a homophobic area and young people who may not have had the opportunity to live with a partner yet would receive higher scores. Accordingly, representation of LGBTQ+ people in Rushville was drastically higher than in the general public:

Criteria for detention usually include diagnosis with a “mental abnormality,” in particular, a personality disorder or a “paraphilic” disorder that indicates “atypical sexual interests.” “Paraphilic” is a problematic category that relies heavily on scrutinizing and pathologizing human sexuality. Further, the act of civilly committing people to a “treatment” facility implies that there is a mental health issue or “nonnormative” sexual behavior to be treated and/or cured. This is especially alarming given that the American Psychiatric Association completely disavows the practice, saying, “Sexual predator commitment laws represent a serious assault on the integrity of psychiatry. The American Psychiatric Association completely disavows the practice, saying, “Sexual predator commitment laws represent a serious assault on the integrity of psychiatry.”

**To be continued next issue**

### From the Director's Desk

By Wayne Bowers

Recently I participated in a WAR meeting to hear about a 25-year meta-analysis study on the registry by Meghan M. Mitchell Ph. D. Assistant Professor, Department of Criminal Justice at University of North

Dakota. She and Kristen M. Zgoba, Assistant Professor of Criminology and Criminal Justice at Florida International University, performed the study.

The power point study gave findings providing comprehensive evidence that SORN policies have no effect on sexual and non-sexual crime commission over their period of existence, thereby failing to deliver on the intention of increasing public safety. Given the vast support that exists for the laws, their lack of efficacy will likely create a false sense of security for the public and may ultimately create more harm than benefit.

An interesting comment made afterward in a question was about the need to get law enforcement and the justice system to review these good reports and the positive results and use them in their work rather than the decades-old reports that are wrong and outdated.

The study was published in September 2021 in the Journal of Experimental Criminology under the title **The effectiveness of Sex Offender Registration and Notification: A meta-analysis of 25 years of findings.**

A copy of this study is found on the CURE-SORT website at <http://www.cure-sort.org/research-and-reports.html>

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Rev. John Meengs -- I learned recently of the passing of Rev. John Meengs in Holland, MI. John was the Episcopal pastor of the Saugatuck, MI parish. He was a strong advocate for criminal justice reform. He sat on the CURE-SORT Board in 2007 for several years. When I had some business to the west side of Michigan, I would always try to schedule a luncheon visit with John in Saugatuck at one of our favorite eateries in the resort town. Our talks went everywhere, and we covered many topics and it was just a good time. I can't confirm it but I believe I learned of John through the late Eleanor Miller whom I met through Michigan CURE meetings with Kay Perry and at times a lunch in her kitchen in her home at Paw Paw, MI, west of Kalamazoo. John is a great example of the quality of people I have met through my 34 years in criminal justice advocacy.

### Available Resources from CURE-SORT

We are pleased to offer the following resources. Donations accepted to cover cost of postage and printing. Mail donations to the CURE-SORT, address on Page 3.

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

Non-prisoner only due to facility restrictions

**Understanding Offending Behavior** by Stephen Price.

(A collection of 9 of Stephens 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.

(Includes postage). Send requests to CURE-SORT or email to [egunder@mysecuremailcv67.com](mailto:egunder@mysecuremailcv67.com) or on amazon.com

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