



# The Digest

Volume 8, Issue 8

August 2015

## The Path to Change

By Susan Walker

The path to change, or perhaps better stated, the paths to change, are convoluted, complex, precarious and usually long. There is no better example of a system in need of change than the one that treats, supervises and monitors persons who have committed and/or been convicted of, a sexual offense.

In the last ten years, a number of advocate groups have sprung up around the country for those who have committed sexual offenses. Support is also sometimes present for their families as they suffer through the excruciating pain of seeing their loved ones disintegrate into non-beings in the eyes of the rest of the world. Probation, prison, parole, treatment, registration, lack of housing and jobs, poor medical care, civil commitment, suicide, and generally being seen as society's "lepers" negatively affect the person who has offended or been convicted of an offense, his or her family members and friends, and ultimately all of society.

It recently became clear to the Sex Offender Management Board (SOMB) in Colorado, largely through the Outside Evaluators' Reports (mandated by the Joint Budget Committee of the Colorado Legislature), that Family Engagement was a Board Task Force or Ad Hoc Committee that needed to be formed. As that group met and eventually participated in panel discussions before the SOMB, family members of those who had sexually offended as well as those who had themselves offended were significantly humanized. The Board began to see that not only were family members victims/survivors themselves but also that they

had known the person with the offense background much longer than the system had known them. While being diagnosed as sociopaths, psychopaths, pedophiles and labeled incurable monsters, families in many cases knew that the person they had grown up with had other and more commendable characteristics than those with which the system labeled them. They as families and friends could do more in the healing process than hold the person accountable in a law enforcement kind of way – they could model prosocial behavior, assist the person in the system with return to society, and participate in the healing process with them.

Why is it so difficult for the various parties to get together

*Continued on p. 3*

### Calendar of Events

8/6 — Board meeting

8/12 — RSOL Review

8/25 — Advancing Advocacy

9/8 — Board meeting

9/9 — RSOL Review

9/22 — Advancing Advocacy

## How Can I Bring About Change?

By Sandy

The first thing I must do is look beyond myself. If I only want to change things that will make my life better, I will accomplish nothing of significance. All advocates must cast as wide a net as possible on behalf of those whom they support.

This is a lesson that one of RSOL's newest state representatives takes very much to heart. Philip is our new contact in West Virginia, and he is working on behalf of registrants in his state (see West Virginia report). However, when Philip became aware of something untoward going on in Tennessee, he looked for a way to help.

He read of Tennessee passing SB0679, a bill that, among other things, required registrants to divulge user names and other social media information as part of their registration. Philip was outraged. A United States District Court in Georgia had previously rendered a decision in *White v. Baker* that such a requirement chilled free speech and, in that court's jurisdiction, was in violation of our U.S. Constitution. And here were legislators in Tennessee passing legislation that did the same thing.

But what could he do? Philip isn't in Tennessee, and he knew that RSOL has no affiliated advocates there either, but taking no action wasn't an option for him. In his own words:

*Here is what I did and encourage you all to do the same. I visited the online site of the Tennessee ACLU and submitted an official complaint form (you can do the same here). In my complaint I said:*

*Continued on p. 3*

# More RSO's Mean Fewer Offenses In a Neighborhood?!

## Review of "Sex Offender Law and the Geography of Victimization" by Agan and Prescott

By Brenda

The report covered registrants who lived in Baltimore County both pre-notification (non-public registry) and post-notification (public registry). It gathered data on where registrants (RSOs) were all living at any given time, along with some demographics about the communities they were in. This was compared with data on reports of sex crimes which occurred in the same area during the same time periods. The object was to determine the accuracy of the widely-held assumption that the more RSOs are nearby, the greater the risk to others in a community.

The results are complicated due to the many different elements being tracked. For most offenses, such as adult offenses, peeping, porn, and prostitution, more community members began reporting possible offenses after public notification laws took effect. On the other hand, during that same post-notification period, the number of offenses showed a decrease in direct proportion to each additional RSO in a particular area.

In the case of rape and child sexual offenses occurring prior to public notification laws, there was a slightly higher incidence where there were more RSOs. Then after public notifications, the number of incidents based on the number of RSOs in an area was significantly less (6-8%).

The authors' summary of these findings includes a lot of guessing about why the rate of offenses went down in proportion to the number of RSOs in an area. They wonder about the distances an offender is willing to travel to

find a victim and whether a first-time offender (most new offenses, they stress, are not committed by the RSOs) is somehow plotting to go to an area with fewer RSOs when targeting a victim. I have a real problem with this particular guess, and here is why: Although the authors avoid using this term, their guesses seem to be based on the demonstrably false assumption that nearly all SO's have engaged and will engage in predatory behavior by seeking out victims in a calculated manner. The reality, however, is that most offenses are in the home or among family and friends and are crimes of opportunity.

So where does that leave us? This research indicates that we are safer if there are more RSO's along with some notification. I

would categorically reject, based on plenty of other research, that public notification is blocking predatory behavior in any measurable numbers. The study's authors themselves point out that being an RSO has been shown to increase risk of re-offense, for instance. However, the authors also suggest that at the point a community has been alerted to RSOs in

### We Were at NCSL!

*RSOL was present at the National Conference of State Legislatures (NCSL) Summit in Seattle on August 4-6. More than 5000 legislators and policymakers from the United States and abroad were there. At our exhibit were Brenda Jones, Janice Bellucci, Jason Murphy, and Kathleen Garner. This was our third experience attending a NCSL event, where we are forming relationships and getting our name and our issues before key policymakers. More next month!*

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*RSOL does not in any way condone sexual activity between adults and children, nor does it condone any sexual activity that would break laws in any state. We do not advocate lowering the age of consent, and we have no affiliation with any group that does condone such activities.*

the area, parents and others in the community may begin paying more attention to safety and prevention, teaching children and vulnerable adults how to be on the lookout for inappropriate behavior, and reporting concerns. In my opinion, this is a far more likely scenario. All that would be needed to derive this benefit would be a generic knowledge that there are a number of RSOs living nearby, and a neighborhood could pull together to build a safer environment for all.

### Important Notice to Our Readers

RSOL sends a limited number of free newsletters each month to individuals we believe may be interested in supporting our mission. We gather names through a variety of sources including referrals from existing subscribers and prison inmate databases. If you would like to recommend a person's name to us for a trial subscription, please include your name and provide the name and complete mailing address on the enclosed subscription form. The person will receive four free issues and we will extend your subscription for an equal number of issues.

Note: If your copy of The Digest is marked "Trial Subscription," you are receiving the publication without cost as an inducement to become a subscriber.

## Thank You, Writers!

By Sandy

Last month's conference edition of the Digest was very special and heartwarming. I want to express my appreciation to everyone whose contributions of their thoughts and feelings made it so great. I also want to express my appreciation to everyone who contributes regularly to our newsletter. Without you, there would be no Digest.

One of our most valued contributors is a group of incarcerated men who have banded together to support RSOL and our goals. They are the Insiders, and they bring a perspective to our advocacy that we must never lose. Last month they wrote about the Sentencing Commission's call for public input about their sentencing guidelines, and even though the confer-

ence special edition precluded that being printed in the main issue of the July Digest, it gave us early warning about this opportunity to make our voices heard.

We sent the announcement far and wide, and I heard back from many state representatives that they also sent it to all

of their mailing lists. Judging only from the responses that I had to the Action Item that I sent out about it, our advocates and readers definitely used the opportunity to express our beliefs about the sentencing guidelines for child pornography offenses. Some even wrote back asking if they could modify the sample letter to address other related offenses.

Thank you all who took this opportunity to speak out, and thank you, Insiders, for your valued contributions to us.

### Quote of the Month:

"Progress is impossible without change, and those who cannot change their minds cannot change anything."

George Bernard Shaw

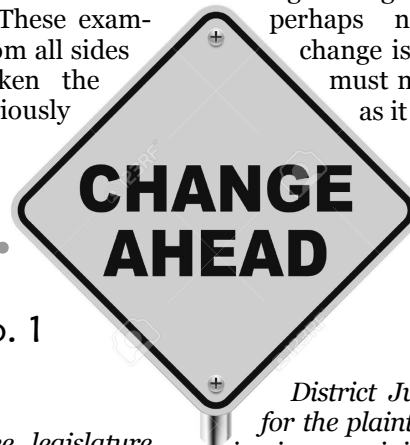
## Pathway, from p. 1

er? Why does it take so long to effect the needed change? Because people get stuck in a "belief system" that keeps them from seeing the points of view of others. I am meeting today with a young woman who was victimized and had a different experience than most people who go through the victim advocates' system. She learned that the man who had offended against her had committed suicide, and being a non-profit case manager herself, found that she wished she had told this man that she had forgiven him. She realized that he took his life because he did not feel that he could "recapture life" in any meaningful way. She wants to try to help change the current view of most victim/survivor advocates, the view that since some victims suffer for a lifetime, all who have offended must suffer for a lifetime as well. I am anxious to see how we can work together to continue to promote this much-needed change.

As RSOL looks with the state organizations at processes for change, whether they be committees, work groups, legislative efforts or litigation, it is important to keep in mind that change begins in the hearts of people and spreads from one person to another. If a system is failing, the individuals that

make up that system (or those systems) must come together to effect the necessary change. These examples show how those from all sides of the path have taken the change mandate seriously

and are beginning to begin to move things along! The road is long, perhaps never ending, but change is happening, and we must move forward with it as it does.



## Change, from p. 1

### Complaint Description

*In that the Tennessee legislature knew or should have known that SBO679 was unconstitutional as evidenced by White v. Baker, they introduced and passed into law via amendment to Tennessee Code Annotated, Section 4039211 that registered citizens be required to provide usernames and passwords to any social media accounts they have or intend to have.*

### What you would like the ACLU of Tennessee to do

*It is my hope that the ACLU of Tennessee would agree with Georgia's Honorable William S. Duffey, JR.,*

*District Judge, in his decision for the plaintiff in White v. Baker issuing an injunction and setting precedence regarding the specifics outlined above, and in doing so bring suit in court against the aforementioned legislative action as unconstitutional.*

Regards,

Philip Kaso

And we say, "Thank you, Philip!" Thank you for looking not just beyond yourself but beyond your own state. Thank you for being a shining example of what an RSOL advocate should be. Thank you for trying to bring about change for those who need it the most.

## The Legal Corner

*This is a reader contribution section that solicits legal questions from our readers. Each month a question will be chosen and answered in the newsletter by a member of our Legal Project. This section is intended for information only. It is by no means to be considered legal advice, and it should never substitute for seeking the services of an attorney.*

*Please note: We often get specific legal questions about someone's conviction or about state-specific registration obligations. Unfortunately, we can't answer them individually because: (1) no one here at RSOL is licensed to practice law; and (2) we do not have the staff or budget to answer the large volume of incoming mail.*

*Please send your legal questions to The Legal Corner, RSOL, PO Box 36123, Albuquerque, NM 87176. Your question should focus on only one issue, and it should be a question that has relevance to a wide number of registrants and not specific to just your individual case. **This month's answer is provided by Barry Porter, attorney, Albuquerque, New Mexico.***

**Question:** I am scheduled to see the parole board soon. My case manager has informed me that they do not grant parole to anyone that does not admit responsibility for their crime. I am not guilty so I cannot admit to something that I did not do. What can I do other than go along to get out?

**Answer:** Your question is a good one that has no easy answer. I will begin my answer by clarifying the definition of parole which is often confused with a period of mandatory post-prison supervision. I have included the following FAQ answer from the Texas Board of Pardons and Parole.

### What is Parole?

*Parole is the discretionary release of an offender, by a Board of Pardons and Paroles decision, to serve the remainder of a sentence in the community under supervision.*

*Parole is considered to be an earned privilege, not a right.*

### What is Mandatory Supervision?

*Mandatory Supervision is a legislatively mandated release of a prisoner to parole supervision when the combination of actual calendar time and good conduct time equal the sentence. Good conduct time is credited to an offender for participating in work and self-improvement programs.*

The short answer is that you don't have to admit your alleged conviction conduct, but unfortunately, the pa-



role board can hold it against you. There have been numerous challenges throughout the country from people denied parole or found to have violated their parole based upon their failure to admit to the sex offense for which they were convicted. Most often this results from failure to be admitted into or termination from a sex offender treatment program because the particular program requires that an offender admit the offending conduct. In other instances it involves the direct denial of parole because of failure to "fess up," so to speak.

The main challenges to the "fess-up" requirements have been based upon the 5th Amendment right not to make incriminating statements, due process rights, and the 8th Amendment prohibition of cruel and unusual conduct. Unfortunately, in all of the cases I found in my survey of case law, these challenges have failed and program "fess-up" requirements have been held constitutional. Courts have held that since an offender was convicted, he no longer has a privilege against self-incrimination, and the

cruel and unusual argument has been found by some courts to be "utterly without merit."

It is also unfortunate that parole boards are allowed to draw inferences that refusal to acknowledge guilt amounts to deliberate obstinacy and indicates an unwillingness to be rehabilitated.

In this type of situation, one can certainly refuse to admit that he committed the offense; however, he most likely will not be granted an early discharge from prison. Only you can decide what is best for your individual circumstances.

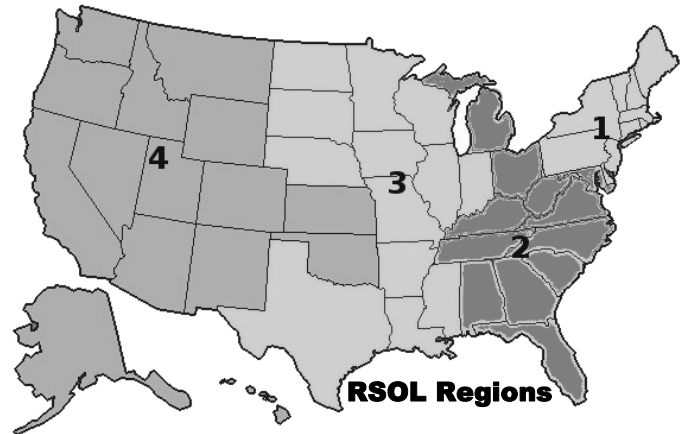
### RSOL Letter Policy

We appreciate the many letters we receive from you, and we do respond to as many of them as possible. We ask that you adhere to the following guidelines when writing to us.

- Keep your letter short and on point (extremely long letters with extensive background are difficult for volunteers to decipher in terms of what you are asking);
- Print or use a typewriter if one is available at your institution;
- Only write on one side of standard size paper so that we may scan the document;
- Make sure that your address is visible on the letter because we do not retain the envelopes;
- We cannot answer letters asking what the registration laws are in a particular state;
- We cannot answer letters asking which state is best for sex offenders to reside in;
- We cannot answer letters seeking legal advice or opinions because no one here at RSOL is licensed to practice law.

## From Our States

**From the editor:** From time to time we receive a letter or an email asking why there are no reports from a given state. The main reason is that we do not have a contact, advocate, or affiliate in every state. It might also be that our volunteers were too busy or had nothing newsworthy to report. If you want to see more "action," we encourage you to get involved, yourself! Without our volunteers, nothing will happen.

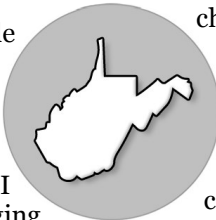


### West Virginia

I have discovered an article about a program focused on helping at-risk youth in West Virginia, and I am investigating how I may use the program in my advocacy. I am researching and cataloging all available West Virginia resources that may be of help in assisting me help those who need it.

I am also researching the registered citizen presence ordinance in Hurricane, WV, and the possibility of legal challenges to it.

Additionally, I have filed a petition with the Tennessee ACLU in an attempt to have them challenge a new law. As of yet, I have had no reply. My



challenge has to do with the passing of legislation there that is adversely affecting registered citizens and has been ruled unconstitutional elsewhere. I am hoping for a favorable outcome. (see "How Can I Bring About Change?" in this Digest).

### Colorado

The advocacy groups in Colorado (CSOR, AFC and Unaffiliated Advocates) continue to serve on Sex Offender Management Board Committees such as Continuity of Care, Family Engagement, Standards and Guidelines Rewrite Committee, Victims' Group and SVP/Registration. We are usually well rep-

resented, depending on the group and subject matter, by 3 – 10 advocates.

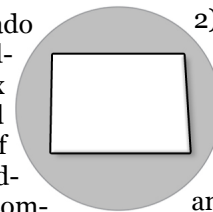
Among the ongoing issues with which we are involved are:

1) Providing input for the Department of Regulatory Agencies to do its Sunset Review of the Sex Offender Management Board during the 2016 legislative session (January to May).

2) Rewriting the Sex Offender Management Board Standards and Guidelines (a massive document here in Colorado that has purview over therapists, evaluators and polygraphers).

3) Reducing the redundancy that has been present in the system when people move from probation to prison and from prison to parole – in the past and continuing even today, those convicted of a sexual offense are often expected to start over at the beginning of treatment at the next juncture. This committee is trying to change that with some success (albeit slow).

4) Family Engagement issues include but are not limited to: the SOMB and supervision recognizing that: families are not going to use their family member as a whipping post no matter how dangerous the powers that be think they are; families are willing to hold their family members accountable, but will also show them the love and positive social support that everyone needs on a daily basis; the SOMB is working with family advocates to create a series of booklets or documents that will help



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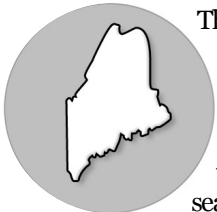
## States, from p. 5

families through each stage of the criminal justice proceedings; families are also victims/survivors in many cases.

5) The polygraphers have been notoriously unaccountable to anyone but themselves over the years, and discussions are underway to change that. The polygrapher on the SOMB has also agreed to allow 3 of us to attend currently "closed" polygrapher meetings, although we have not yet been allowed to attend for various reasons. We will keep the heat on!

We continue to point out, whenever the opportunity presents itself, the fallacies related to The Lifetime Act of 1998 and work with our attorney and other partners to fell this Act.

### Maine



The Maine legislative session has officially ended. However, as they are prone to call out-of-

season meetings, we will be watching closely for any legislation that might adversely affect our registrants.

Additionally, we are tentatively exploring the possibility of opening a business that would employ registrants. We will keep you updated as--and if--plans advance.

### Virginia

We have, after two years and some intensive effort and help for which we are very grateful, put together the most current list of Virginia registrants available. We plan to send a note to as many of the 20,000 registrants as we can, inviting them to join our effort, but the number will be limited due to financial constraints. The remainder of the list will be contacted as resources become available.



### Florida

The Florida Action Committee had continued throughout the summer to make contacts with legislators regarding changes in the registry laws. Input has been provided for four different pieces of legislation. President Gail Colletta is working closely with Palm Beach County as they attempt to create changes that are more empirically based for registrants.



The ACLU work continues. Local

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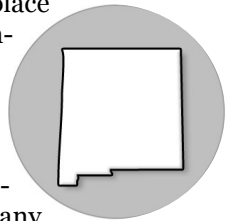
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groups are forming for meetings with an increased number of county coordinators. A Baker Re-Entry Center Job Fair featuring Speakers / Community Partnerships is planned for August 26. This is an opportunity to meet the residents and see exactly what they do vocational wise and to meet other community partners that help. Persons interested may contact Cindee Caldwell / Senior Community Service Coordinator in Region 2 at Unlimited Path @ Baker Re-Entry Center.

FAC will have at least two members attending the Oct. 14-17 ATSA conferences on Montreal.

### New Mexico

New Mexico's legislature is not in session again until late January 2016. There are some interim committee meetings taking place throughout the summer and fall that we plan to attend. One is the Courts, Corrections, and Justice (CCJ) Committee. The CCJ vets many legislative proposals prior to introduction which can give the legislation an advantage if the CCJ endorses it. Also,



Liberty and Justice Coalition (LJC) is working to rebuild our membership base which hopefully will increase our funding so that we can continue our work. Finally, we are preparing for the next election of our board of directors that will be held in the first quarter of 2016. Any New Mexican with interested in serving on the LJC board should contact Rick Dean at 505 832-4291. You must have a passion for reforming our laws and suitable skills that would be useful to our cause.

### Arkansas

A month after the National Conference, Arkansas Time After Time

is using important information learned about the best ways to fight public and legislative hysteria and misinformation. One member recently reported about the talk he had with his local police force's SO "contact person." That officer confirmed and emphasized what we've known for a long time: residency restrictions DO NOT WORK—nor do most other current laws concerning registrants. But what was more surprising was this officer's criticism of lawmakers for causing more trouble



**Continued on p. 3**

## States, from p. 6

and work for everyone. This person openly called the majority of our lawmakers "cowards" for not taking a more realistic look at Arkansas SO laws; the majority of the legislators, according to this officer, just want to be re-elected, so they "pander to the fears of their voters, and in the long run nothing good gets passed." I know this is a familiar sound to all RSOLs, but the level and intensity of this officer's frustration are noteworthy. This officer also strongly implied that ATAT has helped make various police departments' work a little easier.

The most positive news concerns our radio program, "It Could Be You." John S talked with several conference attendees about some planned and very hopeful developments to take ICBY to a wider audience. While still very much in the planning stage, station KABF has begun looking into obtaining grant money which will upgrade the station's equipment and allow for the hiring of a professional engineer to give "ICBY" a better and higher quality. Plans include making future programs available shortly after their initial airings by means of podcasts and providing easier access to ICBY's archived programs. As of yet there is no fixed timetable for these plans to become reality, but we'll keep everyone updated as we get information. When that time comes, we will appreciate everyone's support for the program and for the station as well as suggestions for topics and guests.

### California

California RSOL has stopped 3 of 4 bills it opposed this summer and required the remaining bill to be significantly modified. If the 3 bills had been passed, cities and counties would be able to pass new laws to prohibit registered citi-

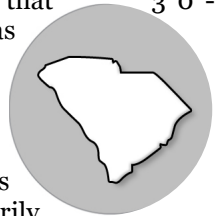
zens from being present in both public and private places as well as to prevent registered citizens from obtaining "stays of enforcement" that provide relief from residency restrictions.



Residency restrictions are now being challenged in California with the first lawsuit filed in Grover Beach, home of Frank Lindsay. Lawsuits have also been filed in Elk Grove (Sacramento County) and Arcadia (Los Angeles County). In addition to litigation and legislation, California RSOL continues to educate registered citizens and family members in monthly meetings held throughout the state. The most recent meeting was held on July 25 in Los Angeles, and the next meeting will be held in Berkely on August 29.

### South Carolina

Activity in South Carolina has slowed now as the legislature has adjourned for the rest of the year. So our efforts have turned to an investigation of the tier classification system used by the sheriffs' departments. While the general expectation under the Adam Walsh Act is that 30 - 40% of registrants would be classified as Tier III, the Tier III registrants in South Carolina comprise over 60% of the registry. With approximately 15,000 people on the registry now, that means there could easily be 3000 or more registrants who have been incorrectly and unnecessarily classified too high.



There are several problems with bloating the registry with Tier III classifications. First, it dilutes any potential value of the registry as a whole. The registry is supposed to be a tool for providing the public with helpful information about offenders in their area. But providing incorrect information about 20% of the registrants, specifically the nature of their crimes, leaves the registry with a real integrity problem. But more importantly, 3000 people are being forced to register (in person) four times a year instead of two. Not only does that cause hardship on the registrants, who often have to miss half a day's work to make these appointments, but also it causes sheriffs' departments to conduct these 6000 extra meetings a year, at 30 minutes or more per visit. That's a lot of wasted money.

State law stipulates that the registry tiers be assigned according to the AWA. But it is becoming increasingly clear that the law is not being followed. Sheriffs' departments are assigning classifications according to a set of guidelines coming from the State Law Enforcement Division (SLED) and the Attorney General's office. We are currently attempting to obtain these guidelines under a FOIA request. When they are received, they will be reviewed and challenged where appropriate. The goal is to get a large number of registrants reclassified as Tier II.

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