NARSOL, NCRSOL Challenge Constitutionality of North Carolina’s Registration Scheme

Raleigh, NC, January 23, 2017 — The National Association for Rational Sexual Offense Laws (NARSOL) and its North Carolina affiliate, NCRSOL, have filed a federal civil rights action challenging the state’s amendments and enhancements to sex offender registration requirements going back more than a decade.

Emboldened by a recent decision of the Sixth Circuit Court of Appeals that set aside similar amendments and enhancements imposed by the state of Michigan, NARSOL and NCRSOL are joined by individual plaintiffs who seek to set aside legislative enactments since 2006 that have incrementally expanded the scope of restrictions imposed upon citizens required to register as sex offenders.

For more than a decade, the North Carolina Legislature has continued to add increasingly burdensome restrictions on its registrant population as evidenced by its recent passage of a revised premises statute (§ 14-208.18) even despite

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NARSOL Board Retreat Paves Path for Future Growth, Success

By Brenda Jones

National’s board of directors gathered in Houston, Texas, January 6-8, 2017, for its annual strategic planning session. During these yearly events the board maps out its advocacy priorities for the coming year, sets deadlines, and assigns tasks.

The retreat began with a review of visible actions considered most significant from over the past year, and as were reported in the pre-retreat work. These were:

- Legal actions (assisting RI ACLU, filing amicus brief in Packingham, and other state efforts)
- Yearly conference
- Working with states (regions, affiliates, training advocates, Fearless project)
- Stopping or amending bad legislation
- Publishing the Digest newsletter
- Increasing visibility in national, state, local and social media

From there, the board moved to creating a single defining sentence for the National Association for Rational Sexual Offense Laws (NARSOL). Discussion clarified that this would have the primary purpose of quickly answering the question “What do you DO?” while also setting the tone for the work the board sought to

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#TentInTheWoods

By Sandy

A situation has been playing out in the back-country of South Carolina this past month that defies all definitions of humanitarianism and common sense.

In brief, a South Carolina registrant, a month after being given permission to move into a modest home in Chester, SC, was told by the sheriff’s department that he could not stay there because it was slightly more than 100 feet inside a 1000 foot “safe zone” around a day care facility, and a neighbor had complained.

This registrant, Steve, is disabled with, among other conditions, Marfan Syndrome. He is medically required to receive 8 hours of oxygen each night and brief periods of oxygen and nebulizer treatments during the day. Nevertheless, he was told he must leave his home or be arrested. He left. Having no financial resources with which to move, he put up a tent in the woods with no access to the electricity that his equipment requires, and in the cold and rain of an approaching South Carolina winter, he moved into the tent.

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NARSOL Board, from p. 1

accomplish over the course of the weekend. The directors in attendance agreed that in real life, the sentence would shift a bit, but its shortest form should grab attention and invite further questions and discussion.

The definition is “Fighting to restore dignity and constitutional rights to millions (of registrants and their families).” The part in parentheses may change depending on the audience, but it was helpful for directors to keep in mind while moving forward.

Next, the board began the process of setting goals. We defined key categories for a 2017 annual report, to be distributed as a multi-page summary of NARSOL’s accomplishments for the year. The report will be made available to prospective members and especially larger donors upon request. A simpler 2-page version will be published for use at conferences, for new members, etc.

The primary categories for the 2017 report will be (in alphabetical order): Affiliates, Board Work, Communications, Conference, Finances, Legislation, Litigation, Marketing, Membership, and NARSOL Foundation.

The next step was to more closely define the concrete, measurable goals the directors wanted to accomplish for the coming year. Board members also added in some critical administrative, infrastructure-related tasks that need to be done, most of which directly impact the more visible goals that would show on the report. This took several sessions and also gave the directors an opportunity to clean up any confusing wording and consolidate redundant goals. The board then prioritized all of the goals (27 total) to better determine how to focus over the year.

Next, NARSOL’s board went through the prioritized list and individual directors signed up to take lead and assist with each goal. The last step was to walk through the list one more time and set some target dates. In the brief time remaining, there was considerable discussion about a few possible initiatives that had not made it onto this year’s priorities.

One of the highlights of the weekend was Mr. Paul Rigney of the Registrant Travel Action Group who joined us at an evening session to discuss International Megan’s Law issues. He drove from Dallas to Houston for the meeting, and the board expressed both its collective gratitude and appreciation for Paul’s dedication and input.

The board of directors’ retreat ended Sunday afternoon with NARSOL’s future goals firmly in the directors’ minds and their energy renewed for the tasks of the year ahead, stronger than ever in its resolve to never give up this fight.

It is important because every man, woman, and child for whom NARSOL fights is important. Our organizational goals and beliefs are important. Fighting for the dignity and constitutional rights of all is not only important; it is the most important thing this organization will ever do.

#TentInWoods, from p. 1


NARSOL appealed to the media in Chester County and surrounding counties, to the Marfan Society, and to the Chester County Adult Protective Services. No one responded or investigated. A NARSOL volunteer contacted a journalist in New York. He is interested in writing and publishing a story. He has already spoken with many of the principals in the case. He is having difficulty getting information from anyone at the state registration office or from the Chester County sheriff.

Steve’s physical condition has deteriorated, of course. He and his wife are both hanging on, waiting for a miracle.
No Validity for Keeping Registrants Out of State Parks

By Sandy

Shawna is a mother of three. She is on the public registry in Oklahoma for life for a one-time sexual encounter on her 19th birthday with a 14-year-old boy. Her court-ordered punishment was a jail sentence, which she served, and lifetime probation and sex offender treatment. She is also serving an additional life sentence on the public sex offender registry, one whose requirements can shift and change depending on the whims of legislators and new laws. Since it is not considered punishment, applying conditions retroactively is apparently not a problem.

Oklahoma, where Shawna, her husband, and their three children live, is one of only three states defining “parks” to include public state parks and with a state-wide law forbidding park usage, access, or loitering to some or all who are required to be on a sex offender registry. The other two are Louisiana and Illinois. A fourth, Tennessee, couches its language ambiguously, saying that such access is prohibited “…when the offender has reason to believe children under eighteen (18) years of age are present.”

Oklahoma extends the definition of “park” far beyond children’s playgrounds, parks, and areas whose primary use is intended to be by children, the definition adhered to by other states with presence restrictions and by all individual counties and cities with similar ordinances. In Oklahoma, Illinois, and Louisiana, a park is a park, and state parks are included. All accessible lakes, beaches, and waterways are state parks.

Oklahoma passed its law in 2014, twelve years after Shawna was ordered to register on the Megan’s Law Registry as a level 3 offender, an automatic designation when the victim, even a statutory one, is under 16.

The state of criminal justice reform as it applies to those required to register as sex offenders is very much in flux. While some jurisdictions and states recognize that no evidence supports residency and presence restriction as effective and either eschew or overturn such requirements, others are rushing to implement them.

One-fourth of states follow what research clearly shows as the most beneficial to public safety, making serious efforts to integrate law-abiding former sex offenders into their communities by placing no restrictions on where they may live, work, or go with their families. The majority of the other states range widely in the restrictions and requirements they place on their registered citizens.

Only three — Oklahoma, Illinois, and Louisiana — have taken steps to assure that children with a parent on the sex offender registry will not enjoy, as a family, the wonders and beauty that their state’s national parks offer to all citizens and the educational value of their state’s historical monuments — all, that is, except those who are punished beyond reason and with no safety justification all the days of their lives for crimes committed far in their pasts. Those like Shawna.

My Voice: Invest in Mental Health Issues in 2017

By Georgina Schaff

As we conclude another year, we find a lot of statistics, studies and reports as to the damage to the families of citizens required to register as sex offenders. But those studies and reports do nothing to protect the children who are harmed and traumatized by sexual abuse; not to mention the harm created to the “abuser” (our loved ones) or to their “families.” It appears as though something is “being done by the state to protect children,” if they continue to “study,” but children are being harmed and families destroyed.

This is a public health issue and has been deemed an epidemic by the Jolene Task Force Study. The Task Force on Community Justice and Mental Illness Early Intervention Final Report can be read by going to the South Dakota Government website. “The task force believes South Dakota can do better to address the needs of people with mental illness who come into contact with the criminal justice system and that this set of recommendations moves the state in that direction.”

We have a health issue that is treatable and manageable but there is not one sex specific therapist in the state of S.D. How can an epidemic be controlled without providing appropriate confidential treatment? There may be no known cure, but it is a treatable and manageable illness, just like diabetes, an eating disorder, an addiction. An addiction is a disease and a Public Health issue.

Read the remainder of the article here  http://argusne.ws/2kFaGme
From Our Insiders

We want to take this opportunity to express our gratitude to our Corrlinks readers for their many notes of appreciation and of holiday wishes extended to NARSOL over the past couple of months. Right back at you, guys; we appreciate your faithfulness as readers and your support of our organization. May 2017 bring blessings and hope to all of us.

A reminder that you are and will be receiving your Corrlinks e-Digests a little later in the month after the paid-for paper subscriptions have arrived. We encourage those of you who are able to subscribe to this edition; write to Digest, PO Box 36123, Albuquerque, NM 87176 and include $9 check or U.S 1st class stamps for payment for a year’s subscription – 6 editions. Corrlinks Digests will continue, of course. Requests should be made to newsletter1940-digest@yahoo.com.

We also encourage the writers among you to submit op-eds or commentary on issues that affect our advocacy. Submit them on Corrlinks with subject line “For Digest”; between 300 and 500 words, please.

This month we have a timely and informative article by Insider Chris Zoukis.

Sex Offender Treatment Programs in the Federal Bureau of Prisons

By Christopher Zoukis

The Federal Bureau of Prisons incarcerates over 14,500 sex offenders within its roughly 200 facilities. This equates to approximately eight percent of the federal prison population. Increasingly, those convicted of federal sexual offenses are being housed at Sex Offender Management Program (SOMP) facilities, which have a larger sex offender population and offer treatment programs to this unique population.

The Bureau of Prisons offers three varieties of treatment programs for sex offenders: residential, non-residential, and adjunct. These treatment programs are only offered at SOMP facilities, which include:
- USP Tucson, Arizona (high)
- USP Marion, Illinois (medium)
- FCI Marianna, Florida (medium)
- FCI Petersburg, Virginia (medium)
- FCI Elkton, Ohio (low)
- FCI Englewood, Colorado (low)
- FCI Seagoville, Texas (low)
- FMC Devens, Massachusetts (administrative)
- FMC Carswell, Texas (administrative)

The most intensive treatment program is the Residential Sex Offender Treatment Program (SOTP-R), which is currently available at FMC Devens to those deemed to be high risk. This unit-based program utilizes the cognitive behavioral therapy model, which is the same model used in the Bureau of Prisons’ Residential Drug Abuse Treatment Program (RDAP). SOTP-R lasts 12 to 18 months and requires participants to advance through several phases that collectively include 400 hours of programming delivered ten to twelve hours a week. According to FBOP Program Statement 5324.10, Sex Offender Treatment Programs, at section 3.1, the phases include the following elements:

Phase I: This is the assessment phase where inmates are assessed through the use of commercial tests (e.g., MMPI-II), intensive psychological assessments, and history recording.

Phase II: This is the core treatment phase where inmates participate in various process groups. This is the

meat of the Residential Sex Offender Treatment Program.

Phase III: This is the transition phase where inmates fulfill final staff objectives through specialized groups that focus on the specific needs of individual treatment participants.

The Non-Residential Sex Offender Treatment Program (SOTP-NR) is offered at most SOMP facilities. Only those designated low to moderate risk are allowed to participate in this treatment program. Generally speaking, the SOTP-NR utilizes the same phase approach as the residential program, though inmates are not housed in a specific treatment-focused housing unit. In Phase I, participants become acquainted with the program model and get used to the group setting and required disclosures. Phase II builds on Phase I and includes additional process groups. Phase III is the maintenance phase, which requires far fewer group sessions and generally lasts until the inmate is released from custody.

The Adjunct Non-Residential Sex Offender Treatment Program, which is authorized by PS 5324.10 at section 3.4.5, is highly localized. Some SOMP facilities offer this program, while others do not. Program offerings differ significantly at every SOMP institution. Generally, this

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Important Litigation

The case just filed in North Carolina and explained in detail on page 1 is, of course, at the top of our list. There are also several cases in Florida being supported by our affiliate there, the Florida Action Committee. They are:

Internet Identifier Lawsuit

Case 4:16-cv-00501-RH-CAS Filed 08/09/16 The Florida Justice Institute, Inc. and the law firm of Weitzner & Jonas, P.A. filed a lawsuit in Federal Court to strike down the State of Florida’s requirement that registered citizen’s “Internet Identifiers” be reported. In 2016, a new law attempted to expand the reporting requirement, but the U.S. District Court for the Northern District of Florida issued a preliminary injunction preventing the language from going into effect on October 1, 2016, suggesting it was overbroad and vague.

Residency Restriction Lawsuit

Case No. 1:14-cv-23933-PCH filed 10/23/2014 - The ACLU filed a lawsuit on behalf of the Florida Action Committee and several John Does who were put into homelessness because of the Sex Offender Residency Restriction Ordinance in Miami-Dade. The court dismissed the suit in April 2015, finding the ordinance was not punitive in nature and advanced a legitimate governmental interest, and rejecting the ACLU’s procedural and substantive due process, ex post facto and vagueness claims.

A motion for reconsideration was denied in June 2015. The ACLU appealed and the 11th Circuit Court of Appeals reversed the Federal District Court’s dismissal of our residency restriction challenge in Miami-Dade. In Sep 2016, the ACLU filed a Notice of Supplemental Authority in our Miami-Dade Sex Offender Residency Restriction Challenge. The notice to the Court informs them of the recently decided 6th Circuit Case in which elements of the Michigan registry were declared to be punishment and unconstitutional if enforced.

Seminole County Proximity Ordinance Lawsuit

Case No. 6:15-cv-1525-Orl-40GJK filed 9/16/2015. Florida Institutional Legal Services Project of Florida Legal Services, a non-profit law firm, represented PAC in the lawsuit filed in Federal Court in the Middle District of Florida. The proximity ordinance prohibits certain registered sexual offenders from traveling through or being present within “exclusion zones” that encompass most of the County. The zones are so broad and so vague that law abiding registered citizens cannot comply with the ordinance. The lawsuit alleged the ordinance violated the First, Eighth and Fourteenth Amendments of the Constitution, as well as a citizen’s right to intrastate travel under the Florida Constitution. The lawsuit was voluntarily withdrawn in May 2016 when the Magistrate Judge ruled that the plaintiffs cannot proceed anonymously.

Retroactive Punishment

Does, et al v. Snyder et al, - 6th Circuit Court of Appeals: August 25, 2016, an appeal is pending to U.S. Supreme Court. The decision found the public registry was not just an administrative burden but constituted punishment; thus, the Constitutional prohibition against ex post facto laws (after the fact) would apply.

Social Media Bans

Packingham v. North Carolina, 2016: The U.S. Supreme Court has accepted the case for review. The issue is the extremely broad prohibition in the state statute that creates a new felony for anyone on the SOR to access social media and online newspapers. NARSL is not only watching this case, we have actively joined it on an amicus brief and are supporting it financially.

Residency Restrictions

Does v. (general law cities), 2016: Texas Voices through SOR plaintiffs have challenged residency restrictions imposed by the general law cities (under 5,000) though this is prohibited by statute. A demand letter was sent to 46 cities, some of which capitulated, and lawsuits have been filed in several cases that have not.

8th Circuit Upholds Civil Commitment as Constitutional

“A federal appeals court in St. Louis has declared that Minnesota’s sex offender treatment program is constitutional — handing a major victory to the state but potentially derailing long-awaited reforms to its system of indefinite detention for sex offenders.” This opening paragraph from the Star Tribune January 4 breaks the bad news at http://trib.mn/2Jq4Rc4

Noah Feldman, in The Bloomberg View, wrote an excellent response but, sadly, holds out no more hope. He maintains that the decision used the wrong legal standard, making it too easy for the state to lock people up indefinitely for future dangerousness. He fears that the U.S. Supreme Court might not review the decision because there is no clear disagreement among the circuit courts. http://bloom.bg/2iXPUPyC
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 was written by Larry.

Q: My conviction is for “Exploitation of Children,” a violation of section § 97-5-33 Criminal Code of Mississippi. I chatted with a cop posing as a minor in an adult chatroom and found myself in the same situation as so many others. I was released from prison only to find out that I must register every three months for the rest of my life. The sheriff told me that everyone in Mississippi is required to register for life and they treat us all the same. This is not fair and I believe that those with non-contact offenses should not have to register for life because there was no rape or crime of violence. Also, it is common sense that it would be cheaper to monitor the rapists more closely and low-risk offenders like me should be left alone. How can we get those clowns in Jackson to understand this?

A: This is a common question so I will endeavor to shed some light on the issue. I will begin by stating that Mississippi chose to go beyond the requirements of the Adam Walsh Act (AWA). The AWA does not require all offenders to register every ninety days for life. Your offense could have been classified as Tier II under AWA criteria which would mean registration every six months for 25 years.

NARSOL fully supports the goal of a risk-based registration system with registration information only available to law enforcement entities. Having said that, it is important to recognize that convincing the legislators in Jackson or any other state to move towards a risk-based system will be harder than it at first may seem, for several reasons.

States are generally moving away from risk-based models to an offense-based model to comply with the AWA which bases the tier levels on the offense. Several states including Nebraska, Wyoming, Oklahoma, and Vermont that previously utilized risk-based models have scrapped them since enactment of the AWA. Vermont did not totally scrap its risk-based model but changed its law so that those with victims under age 18 are posted on the Internet even if the person is determined to be at low-risk for re-offense. Also, it is important to note that Mississippi has never had a risk-based registration system so you would be beginning from scratch.

To create a risk-based registration system, you will need to overcome several barriers, the most significant of which is the financial cost. A new governmental apparatus would need to be created in Mississippi to perform the evaluation of each offender. Costs would include (1) a professional staff to gather the necessary background on each offender and (2) competent personnel to make an objective determination of the person’s risk to commit new sexual offenses. Once the apparatus is created it would need recurring funding because new people are added to the registry daily and others are constantly being released from custody.

Another hurdle will be how to handle those that do not agree with their risk assessment. No system is perfect, which means you will need a robust review/appeal process. Those with non-contact offenses cannot assume that they will be deemed “low-risk” because that is not at all what happens in states currently using risk assessments.

To be successful in convincing legislators that a risk-based system is more desirable, you will want to research and prepare answers for these important questions.

• How exactly would you want the state’s registration scheme modified based on risk assessments?
• Are you recommending that low-risk persons not be listed on the website, or do you want to reduce registration periods and in-person reporting requirements based on the outcome of the risk assessment?

What would be the approximate cost to create the entity that would determine the person’s risk? That entity will need professional staff to conduct the individualized evaluations. Otherwise the Static 99 will become the only option.

What would the process of appeal look like if a registrant disagreed with his/her risk assessment?
• Would that appeal process be administrative or judicial?
• In the appeal process, who would represent the state, as they would certainly want to have a say in the individual’s risk determination?

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A Name Change ... but Why?

By Robin

By now, many of you should have noticed (and a great many of you have been told), that RSOL is now NARSOL. But what exactly does that mean?

First, everything RSOL is doing – or has already done – will continue along as usual. Nothing is going to happen to RSOL’s vision or mission (nationalrsol.org/about-us/vision-mission-and-goals/). And nothing will change about our stated goals or assertions. The ONLY thing that has changed is the name.

For years, RSOL’s board of directors struggled over the fact that the words “sex offender” were included in our corporate name. Like many of you, we are sensitive about using the term and preferred a more appropriate nomenclature. Registrants or registered citizens are standard usage now unless it’s absolutely necessary to revert to “sex offenders” to ensure the broader public understands the reference.

In early Fall of 2016, RSOL’s board of directors decided to move the corporation out of California. This was strictly a business decision having mostly to do with the burdensome regulatory requirements of being a California corporation. However, this move presented a convenient oppor-

unity to change the corporate name. The board seized the opportunity and began deliberating on a new name.

We felt that whatever name we arrived at should retain the familiar letters R-S-O-L, but we also wanted to jettison the words “sex offender.” So began the process of arriving at a new name that would represent the full scope of all the areas of advocacy in which we are involved as an organization.

After several proposals were circulated and discussed, National Association for Rational Sexual Offense Laws (or NARSOL, for short) was the prevailing choice. It’s a longer name than what it replaces, but we’re growing more comfortable with it each and every day. We hope you’ll do the same. As time goes by, here’s hoping that it will eventually be as common and comfortable to say NAR-SOL as it has been to say R-S-O-L.

Until the new name rolls off your tongue as easily and conveniently as the old, don’t worry. We’ll continue to respond to RSOL. But you’ll pardon us, we hope, if we politely remind you to “please call us NARSOL.”

We Lose One of Our Own

It is with sadness that we report the death of Beverly Bruce after her valiant fight against cancer. Beverly was a co-advocate with Georgina in the Dakotas. We all feel her loss, but Georgina feels it most keenly.

As a tribute to this woman who worked with all of NARSOL against the sex offender registry and for policies of healing and restoration, we offer this column “My Voice: Reform the criminal justice system” written by her that was printed in the Argus Leader in March of 2016. Beverly, we all miss you.

http://argusne.ws/2kEVOAe

Legal Corner, from p 6

- What would the burden of proof be? Clear and convincing evidence or preponderance of evidence?
- Which party will be required to carry the burden of proof by whichever standard prevails?
- How would indigent registrants be represented in this process?
- How would an indigent’s psychologist or other experts be compensated so that the process would be fair?
- How often could a registrant petition to have his/her risk reevaluated?

From the above, you can see that convincing states with offense-based registration to switch to a risk-based model would be difficult and, if accomplished, would require a lot of work to be successful. Although NARSOL supports risk assessments conceptually, this is why we generally choose to focus on constitutional and civil rights arguments.
Putting IML in perspective

By Sandy

International Megan’s Law is without a doubt a waste of time and money and will cause harm in lives. Just as with regular Megan’s Law, research shows that its ability to offer any actual protection to children at risk of sexual harm is a few fractions of a percent above zero. The concerns are real, and attempts to address those concerns are legitimate, but all available evidence suggests that IML leaves the vast majority of the problem ignored, misdirected, and unaddressed. Furthermore, the threatened presence of a “unique identifier” placed on passports is an abomination, one never before seen in America to this extent.

In spite of that, the major outcry against IML is puzzling and disturbing when compared to other horrendous, burdensome, life destroying restrictions placed on citizens on a sex offender registry.

Residency and presence restrictions are by far more pervasive and destructive to the ability of registrants to establish stable life styles, support themselves and their families, and promote their safety and well-being.

Statewide laws are in place in 39 of our 50 states – and also enacted by their counties and municipalities – that restrict to varying degrees where those on a registry may live, work, drive, and be. Some of these are written so that just being in the wrong place, even for an innocent or legitimate reason, may trigger a new sex crime charge and/or may send a registrant to prison.

Some restrictions are so onerous that, for all practical purposes, entire cities are off-limits. In worse-case scenarios, huge homeless populations form their own towns, creating groups of registrants living in the woods, in parking lots, and under bridges. [http://bit.ly/2k8E4GE4](http://bit.ly/2k8E4GE4)

Laws that allow a seriously ill registered citizen to be kicked out of the home that had just been approved because of a neighbor’s complaint and banishes him to a tent in the woods without the oxygen he critically needs are more urgent than not being able to go to France.

Laws that define all state parks and waterways as off-limits and prohibit registered parents from taking their children camping or to lakes and beaches or to visit their state’s historical sites are more serious than those that interfere with a vacation in Mexico.

Laws that create hordes of desperate people living on the streets and then allow shelters to refuse them entry in frigid weather need addressing before those that prevent a trip to England.

Today’s sex offender industry has created little to nothing good. But laws that deny basic rights and constitutional protection to hundreds of thousands of citizens and their families living in America should be given priority over laws that affect the limited number who are able to travel abroad.

BOP Treatment, from p. 4

program allows inmates with a significant amount of time remaining on their sentences to engage in sex offender treatment while they wait for SOTP-NR or SOTP-R eligibility. Also, inmates who are deemed to be too high risk for the SOTP-NR, but who are not interested in the SOTP-R, can take this program at their SOMP facility.

Participating in sex offender treatment programs in the Bureau of Prisons can be a good idea for those incarcerated for a sexual offense. The key, though, is to be very careful of what is disclosed to treatment staff and fellow inmates alike. The programs exist to help sex offenders get the help that they need, but they also provide an opportunity for Psychology Department staff to better evaluate participants for potential civil commitment. While this is not the programs’ intended purpose, it is an ancillary effect. As such, participants should be careful about what they disclose in both the groups and individual treatment settings. Note, however, that if an inmate is already deemed a high risk by Bureau of Prisons staff, then participating in and completing a sex offender treatment program could actually lower the risk of civil commitment significantly.

Christopher Zoukis is the author of the upcoming Federal Prison Handbook (Middle Street Publishing, 2017) from which portions of this article were excerpted. His Prison Law Blog was recently named an American Bar Association Top 100 Blawg for lawyers. He can be found online at PrisonerResource.com. Federal inmates can subscribe to his free BOP news service by adding news@prisonlawblog.com to their contact list.
On the Air with ICBY

John S. continues to have ICBY – It Could Be You – welcome various reform and help groups, local and outside of Arkansas, some for the first time. A few groups generally unwilling to be interviewed by others have gladly and willingly let John S. talk with them about their work and goals. ICBY remains a key factor in developing alliances between criminal justice and social justice reformers and in renewing and strengthening alliances with others.

Word of mouth has spread news about this program, at times bringing unexpected results. A recent talk with supporters of abolishing the death penalty elicited a lengthy phone call from actor-activist Mike Farrell (M*A*S*H), who thanked KABF for having this program and the courage and support to air it and praised everyone connected with it.

John just got the “green light” to share some ICBY interviews with other media outlets on a trial basis. If anyone within NARSOL wants copies of earlier programs, please get in touch with ATAT at RSOL@arkansastimeaftertime.org. We can also provide lists of upcoming scheduled programs on request. John asks that readers put him in contact with other independent broadcast radio stations, especially low-powered outlets. A long-range hope is not only to syndicate ICBY but to create a “pool” of media outlets to guarantee reform and help groups a stronger voice in calling for genuine, positive change.

John thanks all concerned for the responses and leads he has gotten, and he asks everyone to keep at this task. When asked about the rise of “alternative facts,” “fake news,” and the like – something everyone involved in advocacy work repeatedly encounters – famed newscaster Dan Rather early in January offered several definitions of what news should be: “... news is information that the powerful don’t want you to know.” ICBY will continue to make such information available and as accurately as possible – including sex offender issues!

NC Challenge, from p. 1

significant push back from the federal courts. http://wapo.st/2ke1OFf

Such restrictions include prohibitions on where registrants may live and work, go to school, dine, recreate, attend sporting events, or even worship. Registered sex offenders are forbidden to change their names, access a wide variety of social media websites, and are generally restricted from being within 300 feet of any location where children frequently congregate including libraries, shopping malls, and many restaurants.

“The time has come to confront these laws more aggressively. They don’t protect the public. The research is clear that laws such as North Carolina’s actually increase the danger to the public by preventing people from effectively reintegrating into society. At the same time, too many people are being denied basic constitutional rights under the guise of public safety. Nobody disputes the state’s compelling interest in protecting children and adults from sexual abuse. But no American citizen should have to give up fundamental, guaranteed, First Amendment freedoms in the name of a policy that simply doesn’t work,” said Robin Vanderwall, president of NCRSOL.

NARSOL’s executive director, Brenda V. Jones, had this to say: “Nothing is more important than the prevention of sexual abuse. But, study after study has shown that registration laws like those enacted in North Carolina are doing absolutely nothing to prevent such abuse. What’s worse is that adding so many restrictions violates the Constitution’s strict prohibition against retroactively punishing a person once his court-ordered sentence is complete. He has already paid his price!”

Paul Dubbeling, a Chapel Hill attorney who was successful in a previous challenge to the state’s defunct premises statute, filed the new complaint in federal district court on Monday. When asked about the new challenge, Dubbeling stated: “This is ultimately about public safety. The North Carolina registry law simply fails to actually protect the public while at the same time unnecessarily denying basic constitutional rights to tens of thousands of citizens. To protect both the public and the Constitution, we need to return the power to decide who is dangerous and who isn’t to those best able to judge – the judges themselves.”

IF YOU’RE GOING THROUGH HELL, KEEP GOING.
WINSTON CHURCHILL
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.

Region I

Connecticut has had quite a month or two underscored. On January 25, CTOSJ participated in a public hearing held by the CT Sentencing Commission and the Special Committee on Sex Offenders, the latter being the group chartered over a two year period to look at the registration system including sentencing and appeals to get off the registry, risk assessment and management, and community and victims’ resources. The final report is due to the Sentencing Commission on December 15, 2017.

We hoped to see rational proposed legislation based on the data, but a meeting two days later with the Committee on Victims and Community Resources was not favorable. This committee includes representatives of victim advocates’ organizations and members of law enforcement, probation, and parole. Nothing we heard gave us hope. We had all heard the same presentations, but the state’s thinking has not moved. It is still the narrow-minded, myopic mindset which supports feel good laws instead of effective policy and reform.

For those of us who listened to Don Thurber of South Carolina on the Advancing Advocacy teleconference this past Tuesday, I couldn’t agree more. We cannot sit back and have the next person do it for us. It is time for registered citizens and family members to jump into the fray. Everyone has to do his part. This is not a moment in time but a movement. Join us now.

Vermont’s legislature is taking up some serious issues around registrant laws, two favorable and one not.

H.27 - proposes to eliminate the statute of limitations on prosecutions for sexual assault and extend the statute of limitations for violations of 13 V.S.A. chapter 64, sexual exploitation of children.

S.7 - proposes to clarify that the name of a sex offender whose sentence is deferred is not placed on the sex offender registry unless the offender violates the terms of the deferred sentence agreement and is sentenced on the conviction.

S.35 - proposes to establish new misdemeanor crime of non-consensual sexual conduct. While this may look like a step backward, it’s actually a positive step as it addresses a problem created by a recent Vermont Supreme Court decision. The bill would allow prosecutors to charge a misdemeanor in cases whereas previously they had only the option of charging a felony.

Here in Vermont we have had meetings with both the Lieutenant Governor’s office and the Attorney General’s office regarding the implementation of a Law Enforcement Only Registry. We’ve had a positive reception, and at the very least movement is being made.

Region II

Our biggest need in Region Two is NARSOL representation (state contacts and advocates) in the following states/areas: TN, AL, WI, and DC. Interested parties should contact philipkaso@gmail.com the NARSOL Region Two coordinator. We held our regional bi-monthly check-in call on Monday, January 9, 2017, with various state/affiliate updates and a vibrant discussion on the ramifications of the Static 99/99R.

More from state highlights: Georgia – legal challenge to excluding registrant probationers from going to non-reporting status after two years. Attending Georgia Justice Day at the capital. Maryland – working on new Fearless group in collaboration with a local social justice group. North Carolina – legal challenge on premise statute and new challenge on ex-post-facto basis. Florida – legal challenge with ACLU on residency restrictions and internet identifiers. In Virginia a new Fearless group is starting up; planning advocacy on upcoming debate regarding how/when felons’ civil rights can be restored. Indiana – membership campaign including surveying registrants on issues that are important to them. Illinois – legal challenge on vagueness, residency restrictions, and constitutionality of 3yrs to life mandatory supervised release; focusing on ongoing Registry Task Force.

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From Our States, from page 10

The Florida Action Committee kicked off the New Year with its scheduled bi-monthly Board meetings, Membership calls (each month a general meeting on the first Thursday and new member orientation on the second Thursday), and a widespread mail-out help to raise awareness of FAC. Our membership has grown by 25% in 2016; eight Regional Coordinators have been assigned, and an increasing number of County Coordinators have stepped up; FAC is making progress towards our goal of statewide representation. These Coordinators monitor local issues, locate resources in their area, follow the media and local government, and organize meetings to keep the communication lines open to our members.

The Legal fund continues to grow as we pursue new challenges in 2017. Three filed legal challenges from 2014-2016 continue, with no new rulings at this time.

President Gail Colletta has begun trips to the state's capital, meeting one-on-one with legislators. She is also organizing public speaking events around the Legislative session dates. One initiative for 2017 is a tour of the “Untouchable” documentary throughout the state. Each showing will be followed by a panel discussion to educate the public, media and community leaders on the effects of the registry and overdue need to reform the laws based on fact, evidence, and best practices.

Members are also preparing to attend the 2017 NARSOL conference June 2-4 in Atlanta for another opportunity to exchange information, and strengthen our organizations.

The State of Michigan has asked the US Supreme Court to overturn the 6th Circuit Court ruling on the SOR. The court will reply within the time frame set by law.

The Michigan Supreme Court took final arguments on a portion of the Michigan SOR law that calls for persons who are adjudicated under what in Michigan is called the Holmes Youthful Training Act (HYTA). Michigan SOR laws call for some of these people to still register. Even though they have not been convicted of a sex offense, they must complete a number of court ordered items, and upon completion of that, the case is dismissed with no criminal conviction. We are hopeful that the court will find that these people can be removed from the registry. While the decision will only apply to the person who is named in the case, it should offer relief for others in HYTA status.

Michigan Support groups continue meeting as does the Professional Advisory Board to the Coalition for a Useful Registry. They are working with State Lawmakers to rework the Registry, which has been ordered by the lower court ruling.

While the Michigan ACLU is aware that many registrants want to see the Snyder VS Doe court case move along at a fast rate, this process is going to take some time. While the State of Michigan has asked the US Supreme Court to take up the case, there is no certainty that they will; we are getting ready in case they do. We encourage everyone to follow the law as it is now written on the books. Please do not start a court case on your own as this will muddy the waters for the Snyder VS Doe case that at some point may help many registrants.

We are aware that postcards have been mailed to many registrants advising them that they have a limited time to file to get off the SOR. The information on this postcard is incorrect and is being mailed by a person who is not a lawyer. It also asks you to pay for some items that you can get for free on your own. Please do not respond to the postcard and understand it is not coming from the ACLU. We also understand that the fact that this person used a postcard to do his mailings is very offensive to many registrants. It exposes your information to anyone who reads the postcard. We have put this person on notice, but he has not responded to the request to discontinue his mailings.

If you are interested in testifying before the Michigan legislature at sometime in the next year or so, please contact Tim at the following email address: Intern@ACLUMich.org.

In West Virginia the legislative session has begun; however, new bills have yet to be introduced; we will be reviewing and planning advocacy on any bills with registrant effect. We continue to explore the formation of a Fearless group in the state. Addi-

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From Our States, from page 11

tionally, we are actively recruiting for additional core NARSOL WV representatives. Interested parties should contact philipkaso@gmail.com our WV state contact and advocate.

Region III

In Arkansas over the last weeks of the year we kept busy trying to help registrants with questions concerning housing and employment needs and alerting other registrants and curious members of the public that we exist and that ATAT is anxious to create truly safe communities, based on solid, accessible research.

Since the start of 2017, ATAT has been busy on several fronts. Certainly a major focus is the new regular legislative session. So far a few legislators have filed only a very few bills that will have any impact on Arkansas registrants. Several bills appear relatively “harmless” in that they either clarify language in earlier legislation or are wrapped in the usual appropriations requests for the Department of Corrections (ADC).

However, some other bills are getting our attention. Our Republican Governor had asked for a special task force to look into lowering Arkansas’s prison population and better preparing inmates for their return to society—goals ATAT admires and supports. While one bill incorporates virtually all the task force recommendations, registrants appear to be largely bypassed. ADC knows they can free up at least several hundred spaces for inmates if Arkansas registrants had acceptable places to go when released, but so far nothing is being done to solve this situation.

Another bill calls for higher-risk registrants to have a police escort if they go to certain functions on public school campuses—and registrants may have to pay for the escorts. The most alarming bill so far calls for all persons convicted of rape in which force was used to register for life—or re-register for life! This includes all persons who successfully and completely served their time in and after prison. The bill’s sponsors include “Retroactive” in its title. If this bill passes, it pushes open the door for future, similar bills to further hound Arkansas registrants.

ATAT plans to fight this and other bills that will do more harm than good.

Some registrants in other parts of Arkansas have learned of our successful trips to the northeastern part of the state and have asked ATAT to visit other areas. We are getting ready to travel to southeast Arkansas in the near future and considering a trip to the northeastern part if enough people commit to meeting ATAT. These trips at the very least raise awareness about us and help registrants feel less isolated and uncertain about their futures.

ATAT was front and center at a recent City of Little Rock-sponsored event, “Rights After Wrongs,” set up to help convicted, returning citizens deal with hurdles involving work, housing, support, and other needs. Unofficial counts of attendees range from 500 to 700, and more than a few stopped at our table to get more information.

Several ATAT manned the table for the half-day event. A few visitors were so surprised about ATAT that they went home and brought back registrant family members. These individuals, a number of whom were still in the early stages of dealing with life on the Arkansas registry, stayed to ask many questions, and walked away feeling better and not so alone.

Media-related developments also continue. One local TV news outlet interviewed current CEO Carla Swanson about opposing the school campus bill. It Could Be You (ICBY) still going full-strength (see separate ICBY report).

Dakota RSOL Family Solutions had an article printed in January. See “My Voice,” page 3. Emails have been sent to all South Dakota legislators to encourage a study group on sex offense issues.

The 2017 session of the New Mexico Legislature has concluded its first two weeks of a sixty-day session that kicked off January 17.

This new session brought several changes to the landscape in the state capitol. Longtime Senator Michael Sanchez was defeated in the general election, which led to the election of Peter Wirth as Senate Majority Leader. The Democratic Party reclaimed majority status in the House of Representatives, which led to the election of Brian Egolf as Speaker of the House of Representatives. It is important to understand that the majority party has significant influence because the party with majority status determines who chairs committees and controls the calendar and ultimately the flow of legislation to the floor.

We are not surprised that the law enforcement apparatus has facilitated the return of several horrible bills that were introduced in previous years. Thus, we will collaborate with our allies to counteract the enormous clout of law enforcement and victims’ advocates whose primary response to criminal conduct is to send more people to prison for longer periods of time. They are advocating: (1) a three-strikes proposal; (2) harsher penalties for several crimes including DWI; (3) new criminal offenses; (4) reinstatement of the death penalty; (5) weakening the statute of limitations for several crimes; and (6) termination of parental rights for those convicted of certain sexual offenses.

At this point, no SORNA (AWA-compliant) bill has been introduced; however, we are confident one will be forthcoming. Our supporters can rest assured that the LJC has a plan to deal with that situation at the appropriate time.

Texas Voices for Reason and Justice has jumped into their legislative session with both feet and hit the ground running! A bill that they wrote with the help of the legislator who filed it was filed on January 18.

Currently, a parolee serving a sentence for a sex offense is prohibited from traveling on a public street if the driven route is within 500 feet of a child safe zone. Some parole offices

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include bus routes as well. Specifically, the parolee shall not drive past a school, park, playground, or any other area deemed to be a child safe zone. Reintegration and resources are severely hampered for parolees by the current wording in Texas law. In many areas of Texas, it is almost impossible to plan a route which does not require the parolee to drive or ride public transportation past a child safe zone. Additionally, home plans are denied on the basis that a route cannot be established for travel purposes.

Inmates who have been granted parole remain incarcerated while they wait for transitional housing. Texas cannot afford to deny home plans based on the restricted travel routes alone. Parole offices spend valuable time driving and checking routes to ensure that parolees do not drive past a child safe zone while research does not support the theory that public safety is enhanced by this restriction.

This bill would exempt the registrant from being in violation while he/she is en route from point A to point B if point B is a location where he has a legitimate reason to go. If we are truly serious about reentry and reintegration, we must adopt common sense laws and policies that allow former offenders to succeed.

**Virginia** is proud to be holding its first FEARLESS meeting in Northern Virginia on February 7. Legislatively, we continue opposing the expansion of a plethora of restrictive laws negative to those on the registry. These include proximity, loitering, residency, and voting rights.

**Region IV**

In **Arizona**, from five core people planning a Phoenix Fearless Meeting in a living room, we have grown to nineteen meeting in a local public library. Those who attended traveled from as far as Tucson; one attendee was just released from prison six days before the meeting and was filled with enthusiasm to help those left behind, and there was a couple who opened their home to sex offenders through their Eagles Nest organization. Our speaker for the meeting reviewed proposed legislative changes to the Arizona Sex Offender statutes and gave instructions on how to sign up so those who wished could speak at legislature hearings on proposed bills. The attendees confirmed the value of Fearless by their thankfulness for having such a group.

We attended a multi-organization rally against hate which was held on the opening day of the Arizona legislature where we spoke and networked with 3 Arizona representatives and Will Gaona, the Policy Director/Legislature Lobbyist for the ACLU of Arizona.

We subsequently met with Mr. Gaona to discuss the ACLU’s activities concerning sex offender laws. He was thankful we met with him because he now knows who to contact for support in addressing sex offender legislation. He also informed us that bill SB1162 had just been proposed which would require people on the registry to register and install monitoring software (capable of continuous, automatic surveillance of e-mail and internet access) on electronic devices (smart phone, tablet, computer, television, etc.). He stated that the bill is unconstitutional and asked us to meet with members in the Arizona Senate on the Judiciary and Public Safety committees and other representatives.

The Pima County Public Defender’s Office plans to file a *Writ of Certiorari* to the US Supreme Court for the Holle case concerning the Arizona child molestation statute which states a person who touches children (even in normal behaviors like changing diapers) has committed a felony and if charged they must prove beyond a reasonable doubt that they had no sexual intent.

In **Colorado**, Laurie Rose Kepros, Director of Sexual Litigation for the Public Defenders’ Office, has written a bill that would allow judges discretion in sentencing regarding those who would normally get an indeterminate (lifetime) sentence. It would allow judges to make a discretionary decision to sentence someone who committed an offense that would normally be in the lifetime category to a determinate sentence instead. This will increase their chances of getting out of prison in a more reasonable amount of time.

Under the Lifetime Act, clients must have sex offense specific treatment before they can get a positive recommendation from therapists when they go to the Parole Board. The back-up in CDOC due to not enough therapists to handle the numbers is incredible. The CDOC is doing all it can to change SOMB Standards and Guidelines and their own Administrative Regulations (AR’s) to speed up the process.

I believe Ms. Kepros and perhaps Maureen Cain (liaison to the Legislation from the Colorado Criminal Defense Bar) are also working on another “step at a time” bill that would affect the Lifetime Act. We continued on page 14
know the D.A.’s and victims’ advocates would never allow it to go away all at once. We’ll keep you updated.

Additionally, some dedicated people have been working hard on residency restriction issues in one of the only six municipalities in Colorado that have residency restrictions.

**Idaho** is moving forward via the creation of a logo and a mission statement. A website is in preparation. The new logo is shown here. Our name is now: ISOAR – Idaho Sex Offense Awareness and Reform.

In **Oklahoma**, aside from our normal everyday business of answering calls, questions and providing information to those in need, we continue efforts cultivating relationships with DOC, law enforcement, and treatment providers. These entities are aware of the need for resources for not only registrants but also family members. We are also getting more probation officers’ approvals for those on supervision to attend our support groups acknowledging the importance of support for all affected by the registry.

We are currently watching bills coming forward in the Legislature and have nothing affecting our population at this point but still have a couple of weeks of monitoring to do. We have been trying to get the ACLU involved in what appears to be targeted crimes at registrants through use of the state’s public registry and impersonation of officers to rob them.

We have had a positive response from the inmates who have received our Christmas card mail out. Volunteers did this through donations of cards and postage and even the actual mailing. Inmates have been sharing with family and others inside DOC, which is increasing the general awareness of our organization. I just received a call from a pastor in a city offering their church as a meeting place, a third location. One step at a time!

In recent months, the **Oregon** Voices board has been revisiting its goals and trying to clarify its commitments to align our activities more fully and efficiently with those goals. The exercise has been useful, and one thing that came out of the process is a badly needed update of our website, although the process of reworking the site is still on-going.

We have also set goals of trying to do more to inform and assist people on the registry who are in reentry after incarceration. Oregon enacted a bill in 2013 that would place registrants on one of three levels of risk and give a path off the registry. Part of what we hope to do will be to develop informational material and presentations about what Oregon’s move to a risk-based registry will mean to them.

We have a seat at the table on the committee that works with our parole board on its implementation process, and that committee just had a meeting. The information was grim. After a year’s worth of work, the board has only completed 1000 cases, and during that time approximately 1200 persons were added to the registry. At this rate, it would take decades to complete this process, and the board has no plan in place to change this beyond a hope that more efficiency will speed up the process a little bit.

Unless something dramatic happens to change this pattern, Oregon’s move to a risk-based registry will be rendered essentially meaningless. One major priority for us right now then, is to make some decisions about what we can do to bring pressure on the system to make dramatic changes, and we hope to work with some of our allies in that effort.

As is the case in most states, our legislature is also gearing up for the 2017 session. At this early stage we have identified 21 bills of interest to us, and we expect that number to grow as we get into the early days of the session early in February. We expect to be very busy this spring.
Can anyone answer?

Those of us who maintain our website are privileged to see into the hearts of our supporters through the comments that they post on the blogs. This one was in response to a blog about the perceived risk of registrants to re-offend. He wrote:

Commit another sex crime? Absolutely not!

I took advantage of the break I received from the justice system and turned my life around. I raised well behaved, career oriented, college educated, civic-minded children. But then came the destruction of SORNA. Anything that I had done that was good, right, or proper had become irrelevant. In fact, I just read the other day that I won’t be able to be buried in a National Cemetery because my Registered Sex Offender status has canceled out my Vietnam War Military Service.

My question is this. If after my conviction, it was okay for me to live where I wanted and go where I wanted, then why can’t I do some of those things now... such as attend my granddaughter’s school function and not have her be embarrassed because I need to be escorted?

Why is it illegal to go to a family reunion just because of playground equipment in the park?

Why did I have to report to the CLEO and have my mother’s home address listed on an on-line sex offender registry because I was in her home for more than 3 nights in one year while she was in hospice care?

Why is it that I can bob for apples at a Halloween party with my grandchildren on Oct. 30th or Nov. 1st, but I will be arrested and sent to jail if I do that on Oct 31st between 5 pm and 8 pm?

If anyone can give me a answer to these questions, I would appreciate it very much.

Mark your calendars now for our next national conference in Atlanta, Georgia!

This hands-on event will be focusing on building stronger advocates for our Movement. We are busily lining up speakers and workshop presenters, so watch for updates on our conference website.

We will launch with a meet and greet on Thursday, June 1, and run through noon on Sunday June 4. There will be loads of opportunities to learn, and extra opportunities to network and meet other advocates from around the country.

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