

# CURE-SORT NEWS

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## Judge Rules Minnesota Program Unconstitutional

A much anticipated federal court decision ruled that the Minnesota Sex Offender Treatment Program (civil commitment) was unconstitutional. Action on the ruling was deferred to further study. Here is a report on the decision by a Minneapolis television staff.

**By John Croman and Jana Shortal, KARE 11, Minneapolis-St. Paul**

A federal judge has ruled that Minnesota's sex offender treatment program violates the constitutional rights of those committed by the courts to the program, because there's no clear path to ending treatment or being moved to less restrictive settings.

U.S. District Judge Donovan Frank, in an opinion issued June 17, said the state statutes and the way they are applied by the Minn. Dept. of Human Services is unconstitutional.

"The stark reality is that there is something very wrong with this state's method of dealing with sex offenders," Judge Frank wrote, noting that the State has never fully discharged anyone from the program since it began in 1994.

Eric Janus, President and Dean of the William Mitchell College of Law also points out what the Judge did not say. "What he says is the way the state has gone about this is unconstitutional. If the state went about it in the correct way I think there wouldn't be a problem from Judge Frank," Janus said.

More than 700 men, and one woman, were placed in the program through civil court orders after completing their prison sentences for sex crimes. Some were sent to the program as juveniles, without ever having served time in prison. Since then only three people have been provisionally released, no one has ever been granted full unconditional release.

They are housed in maximum security hospitals in Moose Lake and St. Peter, both operated by the Dept. of Human Services.

"You know you set it up as a treatment program, and you set it up to work in that way, it's essentially indefinite commitment, and that's what's not constitutional," Dan Gustafson, the lead attorney for the 14 residents who filed a case in 2011 that was later certified as a class action lawsuit.

"The judge is looking back in retrospect and saying the promises that you made, with respect to what you were going to do with treating and re-integrating these folks back into society haven't borne out to be true."

None of the residents will be released as a direct result of Judge Frank's ruling, but he intends to move ahead with the remedy phase of the case. Frank scheduled an Aug. 10 hearing on possible remedies and strongly urged Gov. Mark Dayton, House Speaker Kurt Daudt and Senate Majority Leader Tom Bakk to participate.

Dayton, however, signaled the day of the decision that the State will appeal Frank's ruling. "We continue to believe that both the Minnesota Sex Offender Program and the civil commitment statute are constitutional," Dayton wrote. "We will work with the Attorney General to defend Minnesota's law." Lawyers from the Minn. Attorney General's office represented the Dept. of Human Services and MSOP in the federal case.

The judge's suggested remedies include expedited psychological evaluations of patients to gauge whether they're ready to be moved to a less restrictive setting. The judge also urged the State to provide community based alternatives for those who are found to be at lower risk of committing new crimes

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**Judge Rules)**

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## From the Editor's Desk

By Wayne Bowers

We have featured the work and projects of our associate eAdvocate in the past. To gain information about all subjects pertaining to sex offender issues, I highly recommend you bookmark or tab his websites. There are handy links to each of them if you just mark his Community Room one, [www.eadvocate-community.blogspot.com](http://www.eadvocate-community.blogspot.com). One of his latest projects has been tackling all the information possible on civil commitment and he has formed a separate blog for this, [www.civil-commitment.blogspot.com](http://www.civil-commitment.blogspot.com). From listings of each of the states with facilities to attorneys who have participated in a civil hearing, there is extensive information.

**More and more interviews and stories** about the difficulties of the sex offender registry are occurring. Some mainstream media are picking up on the impact of the laws, the collateral damage to the person and families and are telling those stories. With so many years of seeing extensively harsh legislation made in states and nationally, it is encouraging to see the impact of these laws is being presented. In so doing, we want to remember there have been victims in cases and respect their concerns. But our long time advocacy, and that of all those with whom we affiliate, is based on the premise that those convicted have served their time, and that the best way for them to make a success of their lives in the future is to be given a fair opportunity without extensive burdens on housing and employment and enjoying a life without over-zealous scrutiny. Having to hunker down the way the laws force them to do comes dangerously close to developing an isolated life that resembled how they lived in the past and led to seriously poor decisions and eventual acting out and arrest. As our founder Loren Perry liked to point out, the laws at the extent they are made do not protect but perpetuate problems.

**There seem to be countless** research projects to study the impact of the registry on persons, on families, on juveniles and on adults. I would like to see one done on the economic impact of the severe legislation on sex offenses. No doubt the nation's lawmakers, besides finding a topic they can easily use to drum up voting support to show how they are "tough on crime" and that they are "protecting our children," but have found an area that hits at the core of what makes people afraid instead of what they are mad out. And the length of sentences eliminates those people from gaining employment, putting money back into the economy and paying taxes. Extensively long sentences usually send the remaining family into poverty and onto welfare rolls. Once released, the potential for good jobs and employment is very low and many end up homeless. This is a serious financial burden that should be explored.

**We are receiving a lot of material** from people housed in civil commitment centers across the nation. The material is helping educate us on your conditions. A quarterly newsletter does not give us space to print these rather lengthy explanations. Be assured we are making note of your concerns and are sharing the information with other concerned people and agencies and hopefully this very valuable information will lead to positive change.

**A concern is** the number of letters received about a sexual assault the person encountered in their facility. It is understandable this is awkward for a prisoner to report from many variables. Check to see if your facility has initiated the Prison Rape Elimination Act (PREA) program, and find how to make a report. Another option is to write Just Detention International, and make a report. Two addresses are: Just Detention International, East Coast Office, 1900 L St. NW, Suite 601, Washington, DC 20036; West Coast Office, 3325 Wilshire Blvd., Suite 340, Los Angeles, CA 90010.

**PLEASE NOTE:** Check the date on your mailing label to determine if your membership is due to expire. Also, please let us know if your address changes – especially inmates – because your mail will not be forwarded. Be sure to include your prison I.D. number to guarantee proper mailing.

# CURE Advocate Receives Soros Justice Fellowship

Our congratulations to Galen Baughman for his selection of a 2015 Soros Fellowship. Baughman, of Arlington, VA, had been the Communications Director for International CURE the past year and an advocate for sex offender issues for CURE-SORT and CURE.

The announcement was made in June by the Open Society Foundation and goes to 15 persons with a diverse set of life experiences and skills and include journalists, educators, social workers, lawyers, grassroots organizers, formerly incarcerated people, and survivors of crime.

Baughman will work to end the indefinite detention of young people in Virginia who are branded by the state as irredeemably dangerous “sexually violent predators.” Hosting his fellowship is the Human Rights Defense Center.

Baughman was imprisoned for nine years—a term beginning when he was just a teenager—and spent four and a half years in solitary confinement in Virginia. After winning his release in an historic civil commitment trial, he spent two years in his position with CURE, where he focused on policy analysis, direct advocacy, and messaging strategies.

A sought-after public speaker and widely respected campaign strategist on issues related to sex offense policy and public safety, Baughman has worked with advocates around the country to build movements against mass incarceration. He was selected for the inaugural cohort of JustLeadershipUSA’s Leading with Conviction Training, a national initiative that builds the capacity of formerly incarcerated people with proven leadership ability. Baughman also serves on the board of directors for the Center for Sexual Justice.

## States Coordinating Calls to Discuss Issues of Facilities

With many legal challenges surfacing to challenge both the constitutionality and the method and conditions of civil commitment facilities around the nation, some states’ advocates have begun having regular conference calls to discuss their efforts. Kansas’ advocates have been meeting for several years and continue to work toward challenging what is occurring in that state’s civil facility in Larned, KS.

People in two eastern states have recently begun a monthly call and invite persons of interest to join them. Meeting on the first Wednesday of each month, New Jersey advocates hold a conference call from 9:30 to 10:30 am (EDT) and then New York advocates hold their call from 10:45 to 11:45 am (EDT).

“We welcome those from each of the two states to participate in his or her particular state,” said Charlie Sullivan, Director of International CURE who has coordinated the calls. “For more info, contact me at [cure@curenational.org](mailto:cure@curenational.org) or 202-789-2126.

## CURE-SORT NEWS

CURE-SORT News is a publication of CURE-SORT. SORT stands for Sex Offenders Restored through Treatment. CURE-SORT is one of eight issue chapters of a national criminal justice reform organization known as Citizens United for the Rehabilitation of Errants (CURE), located in Washington, D.C. CURE’s address is P.O. Box 2310, Washington, D.C. 20013. For more information on **CURE-SORT**, send letters to:

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## From Page 1 – Judge Rules

Most of the remedies will require more spending, which would have to be approved by the state legislature.

Gustafson said hundreds of those in the MSOP haven't had a thorough evaluation to determine their suitability for release, and there's a limited number of experts in the state qualified to perform those reviews.

In order to comply with the ruling, lawmakers would also need to create a "judicial bypass" for those in the treatment program, allowing them to petition courts for release from the program or to be moved to a less restrictive setting. Currently no such mechanism exists, and patients can only be released once MSOP staff deems they have completed treatment.

"Not all of these people will get out – let's not make any mistake. Maybe very few will get out. That is for the medical professionals to decide," Gustafson told reporters. "But for anybody being held I think the judge is saying this remedies phase is not going to take years and years and years, where we just wring our hands and say we can't come to a resolution."

Dayton requested money to build medium security community facilities for civilly committed sex offenders, but lawmakers did not include that in the bonding bill that passed during the June 12 special session. Human Services Commissioner Lucinda Jesson, who spent several days being deposed for the case and testified during the trial phase, said she was disappointed with Judge Frank's ruling.

"I understand there are improvements that can be made to our sex offender program, but I truly believe that we've made good progress and that the program is constitutional." Gustafson credited Commissioner Jesson and Gov. Dayton with making credible efforts to change the dynamic.

He cited the administration's attempt to move a group of 18 elderly and physically disabled sex offenders to a long-term care facility in Cambridge, MN in 2012. Dayton and Jesson withdrew the plan after community uproar and resistance from legislators.

"I'm not surprised that there hasn't been the political will. My clients are not a group of folks that generate political support. If anything they generate fear and loathing," Gustafson said.

The chronically faithful search less for the truth than for justification of a belief system that would be too painful to abandon.

In his 76-page ruling Wednesday, Judge Frank wrote, "politics or political pressures cannot trump the fundamental rights" of those in the program." Frank noted that the U.S. Constitution "protects individual rights even when they are unpopular." But it was a political process that led to the creation of the program in 1994.

That year lawmakers met in special session to pass the law setting up the MSOP, in large part as a reaction to a court order that allowed serial rapist Dennis Linehan to live in a regular home in Bayport Township under supervision and surveillance. People crowded into the Bayport City Council chambers demanding action, and Linehan eventually exhausted his court remedies and landed in the newly created sex offender treatment program.

Since then high profile crimes, such as the 2003 kidnapping and murder of college student Dru Sjodin, have led prosecutors to seek civil commitment of more sex offenders upon their release from the Minn. Dept. of Corrections. That case had a chilling effect. "I think for a lot of political leaders they didn't want to take any risk after that," Janus said.

Sjodin's killer, Alfonso Rodriguez Jr., had served time for multiple kidnappings and assaults in Minnesota and was on probation at the time he abducted her in the parking lot of a Grand Forks, ND mall.

## Wiggington Joins CURE-SORT Board

Dr. JoEllen Wiggington of Van Nuys, CA, has joined the CURE-SORT Board. Dr. Wiggington, a Licensed Marriage and Family Therapist, has over 25 years' experience working with survivors and perpetrators of sexual abuse. She is a board member of the Family Safety Foundation, active in California Reform Sex Offender Laws (CA RSOL) and a longtime member of the Association for the Treatment of Sexual Abusers (ATSA) and California Association of Marriage and Family Therapists (CAMFT.)

Her dissertation, **Monsters Among Us: The Psychology of the Formation of Public Perceptions about Sex Offenders** reflects her view that public policies in this area are driven by myths and education is a key element in fostering change.

She is the grandmother of six, and enjoys family activities, reading, fitness, and gardening.

# **Texas To Reform Sex Offender Civil Commitment Program**

*OpenMinds*--On June 17, Texas Gov. Greg Abbott signed legislation, Senate Bill (SB) 746, to reform the state's civil commitment program for sexually violent offenders. The legislation changes the name of the state entity that is responsible for providing supervision and treatment to civilly committed sex offenders and makes multiple changes to improve how the program functions. The Office of Violent Sex Offender Management (OVSOM) will be renamed the Texas Civil Commitment Office (TCCO). The TCCO is required to develop a tiered supervision and treatment program for civilly committed persons that provides a seamless transition from total confinement to less restrictive housing and eventual release from civil commitment.

Texas is one of more than 20 states that operates a civil commitment program for convicted sexually violent or predatory sex offenders who have served their sentences, but whom the state deems too dangerous to release into the community without supervision. Civilly committed sex offenders in the TCCO program (formerly OVSOM) have been released from prison but have been determined to have a behavioral abnormality which makes it likely that the person would engage in repeated, predatory acts of sexual violence.

Prior to SB 746's passage, the only state court that handled civilly committed sex offenders was located in Conroe, in Montgomery County. As of June 1, there were 367 civilly committed sex offenders. About half lived in the community and the rest were incarcerated. None have been released from the order of civil commitment by the court.

The provisions of SB 746 make the following changes to the state's civil commitment program for violent sex offenders:

1. TCCO will develop a tiered program that provides for a committed person to transition from a total confinement facility to less restrictive housing and supervision, and eventually to release from civil commitment, based on the person's behavior and progress in treatment. The program will not operate only on an outpatient model.
2. The Texas Health and Human Services Commission (HHSC) will coordinate with TCCO to provide psychiatric services, disability services, and housing for a committed person with an intellectual or developmental disability (IDD), mental

illness, or a physical disability that prevents participation in the sex offender treatment program administered by TCCO.

3. The Texas Department of Criminal Justice (TDCJ) will prioritize enrolling civilly committed sex offenders in its custody in a sex offender treatment program.
4. TDCJ and TCCO will adopt a memorandum of understanding establishing their respective responsibilities to institute a continuity of care for civilly committed offenders in a sex offender treatment program established by TDCJ.
5. Before releasing a civilly committed sex offender participating in the TCCO program, TDCJ will ensure that the Department of Public Safety issues the person an identification card, ensure that the person, if eligible, applies For Social Security benefits or veterans benefits.
6. Before commitment, a multidisciplinary team that includes a mental health professional will review records of inmates convicted of at least two violent sexual offenses to be targeted for civil commitment. More than one court will handle civil commitment trials.
7. TCCO will contract for a tracking service, supervised housing, and related services, including medical and mental health services and sex offender treatment. TCCO will establish the conditions and supervision of a civilly committed sex offender.
8. Sex offenders participating in the TCCO program who are released from housing operated by or under contract with TCCO will be released to the county in which the sex offender was most recently convicted of a sexually violent offense.
9. Non-indigent sex offenders participating in the TCCO program are responsible for the costs of housing and treatment provided by TCCO as well as the costs of the tracking service.

## **Resources**

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

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

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

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

**No More Victims – One Man's Journey Into Sexual Offending and Recovery**, By S. Sands (Ed G.). \$13.95. (Includes shipping) Request by e-mail to: [gunder788@verizon.net](mailto:gunder788@verizon.net)

**SUPPORT GROUP:** Families & friends for those in civil confinement, contact Andrew Extein, MSW. Interested persons please e-mail: [CCN@curenational.org](mailto:CCN@curenational.org)

# RSOL's 7<sup>th</sup> Conference Is Biggest and Best Ever

Almost 200 people attended or viewed live for a portion of the seventh annual Reform Sex Offender Laws (RSOL) conference in June in Dallas. The figure is nearly two-thirds more than the 2014 attendance and far exceeds any previous conference numbers, according to Brenda Jones, executive director.

Larger attendance was credited to the large support of Texas Voices for Reason and Justice's frequent announcements and a National mailing to registrants in the Dallas area. Also new state advocates and affiliate leaders attended for the first time. Also credited was the conference planning committee that put together an excellent roster of speakers. "Our presenters across the board were engaging, inspiring, and taught us so much!" Jones said.

"Mostly out of sight but very exciting was our live stream option: for the first time, people who were unable to travel to attend were able to participate remotely *in real time!* We announced it rather late, but still we managed to have a respectable number of folks who connected to listen live. The recordings have been uploaded and are now available as pay-per-view. So if you missed the conference live, you still have the opportunity to watch and listen."

Plans for 2016 have not been finalized and will be announced in the future.

"If the contest to pass saner sex offender laws in America is a marathon and not a sprint, then this year's largest-ever Reform Sex Offender Laws conference was a significant mile marker. Attorneys, researchers, family members, and registered citizens spent 2½ days sharing statistics and research results, telling stories, and brainstorming and debating strategies for upending our country's cruel and ineffective sex crime policies," said author Steve Yoder about the event.

"The stakes are as high as ever. As board chair Paul Shannon put it in opening remarks, 'This war [on registered citizens] is undermining the possibility of community and redemption in our country. It's not only our lives that are at stake--it's the future of our country and the kind of society we want to live in.'

Some of the highlights of the conference were: Attorney Jeffrey Gamso, assistant public defender for Ohio's Cuyahoga County, walked listeners through significant court decisions in that state, including an important 2005 ruling that for the first time acknowledged that

registration is punishment, not simply a neutral regulatory scheme;. Shannon led a brainstorming session about a national project designed to end public registries; Emily Horowitz, a professor at St. Francis College and author of a brand-new book addressing the context for current sex offender policies, presented stories, research, and statistics challenging the effectiveness of sex offender laws, and Janice Bellucci discussed her successful campaign to virtually rid California of residence restrictions.

"She concluded the conference with her version of Dr. King's 'I Have a Dream' speech. 'I have a dream,' Bellucci read, 'that one day in America, registered citizens will live in a nation where they will not be judged by a mistake they made decades ago but by the content of their current character and actions.... How do we get there? By showing up, standing up, and speaking up.'

"It was a spirited charge to a reform movement that's up against laws every bit as vicious as those legalizing Jim Crow and court rulings that are the equal of the cold-blooded 1896 Plessy v. Ferguson decision that upheld the separation of the races. But today the movement has left the Birmingham jail and is confronting the infrastructure of injustice in state capitals, courtrooms, and the streets," Yoder concluded.

## Famous American Fibs

- The check is in the mail.
- I'll start my diet tomorrow.
- We service what we sell.
- Give me your number and the doctor will call you right back.
- Money cheerfully refunded.
- One size fits all.
- This offer limited to the first 100 people who call in.
- Your luggage isn't lost, it's only misplaced.
- Leave your resume and we'll keep it on file.
- This hurts me more than it hurts you.
- I just need five minutes of your time.
- Your table will be ready in a few minutes.
- Open wide, it won't hurt a bit.
- Let's have lunch sometime.
- I's not the money, it's the principle.

From **Bits & Pieces, Dec. 1984**