

The Big Lie About “Frightening and High”

Junk Science Pervades the Debate

The founding principle that justifies the establishment of sex offender registries is simply that sex offenders, unless stopped, will inevitably re-offend. And given the news we hear today, it’s not unconvincing. While thousands of Americans are caught in the net of over-zealous enforcement of sex-related laws, it is the big names that garner the media’s attention. And in just the past year, those big names have included such household names as Bill Cosby, Roger Ailes, Bill O’Reilly, Harvey Weinstein, and even our own president, Donald J. Trump. And the troubling thing about the allegations against them is that they each have so many victims, certainly in the dozens and perhaps more. So it appears not to be a hair-brained claim that re-offense rates are indeed frightening and high, given just these five men’s track records, if the allegations are all true, that is.

*In this issue, we are fortunate to be able to explore the origin and scientific basis, and lack thereof, of the phrase “frightening and high.” This essay appeared in **The New York Times** as an Op-Ed and we encourage you to watch a companion 8-minute video that interviews the principals in this very important discussion. That video can be found at <https://www.nytimes.com/video/opinion/100000005415081/a-frightening-myth-about-sex-offenders.htm>. Both the essay and the documentary were written by David Feige, a television writer and a former public defender in the Bronx, is the director of **Untouchable**, a feature documentary about sex offender residency restrictions in Florida.*

When Junk Science About Sex Offenders Infects the Supreme Court

By David Feige

This month (October) the Supreme Court will have a rare opportunity to correct a flawed doctrine that for the past two decades has relied on junk social science to justify punishing more than 800,000 Americans. Two cases that the court could review concern people on the sex offender registry and the kinds of government control that can constitutionally be imposed upon them. EDITOR’S NOTE: Neither case was taken up.

In Snyder v. Doe, the court could consider whether Michigan’s broad scheme of regulating sex offenders constitutes “punishment.” The other case, Karsjens v. Piper, examines the constitutionality of Minnesota’s policy of detaining sex offenders forever — not for what they’ve done, but for what they might do.

And while the idea of indefinite preventive detention might sound un-American or something out of the film “Minority Report,” the larger problem is that “civil commitment,” like hundreds of other regulations imposed on those required to register, has been justified by assertions about the recidivism of sex offenders. But those assertions turn out to be entirely belied by science.

For the past 24 years, Minnesota has detained sex offenders released from prison in a “therapeutic program” conveniently located on the grounds of a maximum-security prison in Moose Lake. The “patients” are kept in locked cells, transported outside the facility in handcuffs and leg irons, and subjected to a regimen that looks, sounds and smells just like that of the prison it is adjacent to.

But unlike prison, this “therapeutic” program, which aims to teach the patients to control their sexual impulses and was initially designed to last from two to four years, has no fixed end date. Rather, program administrators decide which patients are safe enough to release. In the 24 years it has existed, not a single “patient” has ever been fully released. There are now about 850 people in the Minnesota Sex Offender Program, some with no adult criminal record, and others who, despite having completed every single program ever offered at the facility, have remained civilly committed for over 20 years.

While civil commitment is perhaps the most extreme example of punishments imposed on people convicted of sex crimes, it is by no means the only one. Driven by a pervasive fear of sexual predators, and facing no discernible opposition, politicians have become ever more inventive in dreaming up ways to corral and marginalize those forced to register — a category which itself has expanded radically and come to include those convicted of “sexting,” having consensual sex with non-minor teenagers or even urinating in public.

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From the Editor's Desk

By Joseph Ajlouny

Our most hearty seasonal greetings to each of our members and readers and to their families, friends and supporters. We hope the holidays will bring you joy and the new year much hope. Let's promise to redouble our support efforts in 2018.

This issue of our newsletter begins the changes we described in the last issue (Summer 2017). Our goal is to increase and maximize our communications to our members. And we need to economize too. Our new approach accomplishes both goals. As described, those members with email addresses will be receiving all our communications via our newly established Google Groups site. All others will continue to receive hardcopies via the U.S. Post Office. Therefore, make sure we have your current email address and snail mail address so we can get it right.

As the baton is passed to a new editor, we must express our enduring thanks to Wayne Bowers for his past stewardship of the CURE-SORT NEWS and all things CURE-SORT. Wayne's steady hand and enthusiastic service to all of us is worth praise and thanks from each of us. And to that end, we are accepting modest donations in his honor. Please give if you can. Thanks Wayne!

Thanks are also in order to the member who gives our newsletter form and design. To that end, we thank Ed Gundersen for his patient and tireless work and are happy to note that he will remain at the helm of this aspect of our efforts. Thanks Ed!

The task of setting up the Google Group site and organizing our electronic communications has been led by Board Member Mike Dell of Colorado Springs, CO. As always, his good cheer and tireless work on behalf of our membership is appreciated. Thanks Mike!

*As always, we will do our best to provide our readers with important information about prevention and treatment of sexual assault. And there is a lot to report in this issue so we've done our best to summarize it all for you. Thanks to our contributors for their good work. We encourage all of our readers to share their thoughts and ideas with us to make our mission a reality. We want and need your input. While we prefer it be submitted via our website **Contact Us link**, snail mail is also welcome to our Norman, OK address. That's the same address where we receive donations and comments.*

In this issue we continue with our news articles, some opinion and another treatment essay from Board Member Dr. JoEllen Wiggington, a sexual assault and abuse treatment provider based in the LA area. Thanks JoEllen!

As a reminder, a great deal of time and effort was spent over the Spring and Summer updating and organizing our website. Please do check it out and spend some time clicking around. There is a lot to learn and we hope it proves helpful on many fronts. We are proud to have added a forum page moderated by the Disqus platform that hundreds of newspapers and magazines use to administer and manage their reader feedback. Our Disqus forum is moderated so we can assure control over its contents. Mike Dell and I are serving as the moderators.

Once again, thanks to each of you and let's make sure we all help each other by participating in our joint work so that we can be proud we stood up, spoke up and made a difference.

Important: Please read the box at the bottom of page 6 to learn about our new Google Group Forum.

Opioid Epidemic Activates Civil Commitment Laws

States have had civil commitment laws on their books for over a hundred years. It is only in the recent past that they have been used to detain sex offenders after their terms of incarceration have ended. These laws are not criminal statutes even though they are often used to detain respondents against their wills. Over the decades, of course, they were also used (and abused) to repress women, minorities, political dissidents, homosexuals and alcoholics.

With the onset of the opioid epidemic that is killing tens of thousands and scaring America's heartland, some states have resorted to such laws to force suspected addicts into treatment. Foremost among these is Massachusetts, which now has more than a thousand opioid addicts in court ordered residential treatment. And what makes critics' skin crawl is the active use and participation of corrections facilities to house the "patients." Oklahoma, Nebraska, Ohio and Texas have followed suit in this regard. But unlike more traditional petitions, in which the state of a county petition for commitment, Massachusetts law permits family members to initiate proceedings. Last year alone, more than 6,500 persons were civilly committed for drug treatment.

Due to the massive numbers of people affected by this crisis, treatment facilities are in short supply. Massachusetts has addressed this problem by opening five Alcohol and Substance Abuse Centers in low-level prisons that have been converted in whole or in part into treatment facilities. The maximum amount of time a court can order a person into such treatment is 90 days, but courts can renew its orders if family members and treatment professionals agree it is warranted. The state has not released statistics on how often treatment detention orders have been extended.

From the Director's Desk

By Wayne Bowers

Well, this is something new – coming from me as director, rather than editor. I feel positive about our move to name Joseph Ajlouny as our editor, who will be working with Edward Gundersen on the development of each issue from here on. We have been working to this end for quite a while, to remove this important duty for me so that I can go on to so many other aspects of our advocacy. Change at this time is occurring when we are seeing a major paradigm shift across the nation in regard to pointing out inappropriate sexual action. Challenges back in the 1980s by numerous groups brought the concerns of sexual assaults more to the public conscience. And now, over the past couple years, sexual harassment accusations are pointed toward many high-profile people. Bringing this topic around to how it impacts our work is the fact we are reaching a place where sexuality and wrong types of sexual activity is being discussed more and more. Sex has been a very awkward topic for this nation. Many blame it on the puritan phase of our society. And many are very uncomfortable with any topic about a person who happens to be different than they are. Let's hope it opens up a good national conversation and we'll do our part to help encourage such a dialogue. So, to answer any questions, no I am not disappearing. I'll be involved in much more aspects of advocacy.

Keeping the Faith in Dark Times

By Jim Prager

Triggered by at least two horrific incidents, Ohio is going through tumultuous times regarding violent and sex crimes. In July, 2015 a University of Toledo student was kidnapped and murdered. Then in November an Ohio State student was raped and murdered allegedly by paroled sex offender who wearing an ankle monitor. Both cases remain unresolved but a suspect in each has been charged. These tragedies are now shaping efforts by Ohio legislators, ever anxious to appear tough on crime. One proposal is to establish a Violent Offender Registry in the manner of the sex offender registry. The other proposal would end Ohio's Truth in Sentencing law and replace it with a parole board.

The first tragedy has resulted in the introduction of a bill to establish a Violent Offender Registry, which would be an additional registry separate from the Ohio SOR. Citizen action and has prompted some revisions to the proposed law. As currently written the VOR will only be available to law enforcement and it will allow the registered to petition to be removed after ten years. We can and must advocate for a similar provision to be added to the sex offender registries everywhere. Ohio continues to designate some sex offenders as sexual predators

The second tragedy has provoked a bill to end Truth in Sentencing, a measure many states adopted in the war on crime movement of the 1980's. Currently when an offender enters an Ohio prison, he or she knows exactly when they will return to society. If the bill is made into law, a parole board empowered to grant or deny release. This can be a blessing and a curse. Many of us have interacted with people who have not made the changes needed for living in our crazy world. On the other hand, I have often observed parole boards are extremely risk-averse, ignoring the wider costs of keeping people in prison, while paying short-shrift to rehabilitation programming, relapse prevention planning and continued disruption of family ties, not to mention the moral decay mass incarceration spreads on our entire society.

Parole boards present Ohioans a challenge. We must make parole boards accountable not only for those they release but also those who are denied their freedom. Parole boards need to be professional, not employed by the Department of Corrections, and fully empowered to use the best available information to make sound decisions. This includes housing, employment, family support, mental health treatment, and substance abuse treatment provided by our prisons. The Board must also require our prisons to be accountable for providing this treatment and not allow the lack of resources to continue prison terms with the excuse that programming waiting lists are too long.

The challenge and indeed, the responsibility, are on all of us to advocates for policies that make clear that people can and do change, and oppose policies that paint all offenders with the same broad brush of discrimination. Concerted action by like-minded and motivated individuals with a purpose works, even when the task before us is Herculean.

CURE-SORT NEWS

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Sex Offender Specific Treatment

By Dr. JoEllen Wiggington
Pacific Professional Associates
Member of CURE-SORT Board

EDITOR'S NOTE: *As our mission is to promote the importance of counseling for the recovery of those who have sexually offended, when appropriate, a discussion will be held in our issue along this topic. This is the ninth article in this series. As said, this is a program of Dr. Wiggington and is not available by correspondence.*

This is part 9 of an ongoing series dealing with outpatient sex offender specific treatment, with references and workbooks used in my treatment program at Pacific Professional Associates in Los Angeles CA.

The focus of this column is general empathy and victim harm. Empathy is an important aspect of communication in healthy relationships, which are helpful in avoiding re-offense. The initial work for this treatment target involves a reading in *The Road to Freedom* (Morin and Levenson, 2002) that explains how reflective listening enhances empathy. The first step is to be able to express your own feelings without blaming, accusing, demanding or defending. Next, you listen to the other person's feelings, trying your best to understand them, and then you repeat what that person said to demonstrate your understanding. That's it! While this is a simple technique, when we are angry or upset, we often spend the time when we could be listening and understanding instead rehearsing our own positions. Effective listening takes practice.

A related reading explores how change is supported by accepting others the way they are. This is certainly counter-intuitive, but it is very true. As Morin and Levenson put it "When people feel unacceptable to themselves and to others, they continue to defend themselves and make excuses for not changing. When they feel acceptable to themselves and loved by others, they no longer need to defend themselves. Only then are they free to take risks, such as making changes." An exercise is then completed to illustrate these ideas and techniques.

The second part of this treatment target, victim harm, takes a different approach. A number of stories in *The Road to Freedom* depict the circumstances of various types of sexual abuse, and exercises are completed identifying how the abuse impacts victims at various stages and what the victims might have felt like. Clients are then asked to describe to their group how sexual assault impacted their own victim.

I take a slightly different approach with clients who have possessed child pornography. They often see their offense as a "victimless" crime, so I read to them a genuine victim impact statement, published as an excerpt from the book *Big Porn Inc: Exposing the Harms of the Global Porn Industry* (Spinifex Press, 2011.) In this statement 'Amy' talks about the profound limitations she suffers and explains (in just one paragraph out of 4 pages):

When they first discovered what my uncle did, I went to therapy and thought I was getting over this. I was very wrong. My full understanding of what happened to me has only gotten clearer as I have gotten older. My life and my feelings are worse now because the crime has never really stopped and will never really stop. It is hard to describe what it feels like to know that at any moment, anywhere, someone is looking at pictures of me as a little girl being abused by my uncle and is getting some kind of sick enjoyment from it. It's like I am being abused over and over again.

As might be expected, this graphic description of child sexual abuse has a powerful effect on those listening to it. It has helped to change many clients' views about this phenomenon.

My next column will focus on thinking, feeling and behaving.

My definition of success is this: the power with which to acquire whatever one demands of life *without violating the rights of others.*

Andrew Carnegie

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 Stephen's articles from previous newsletters) (\$4.00 for the set of 9 articles)

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

SUPPORT GROUP: Families & friends for those in civil confinement, contact Andrew Extein, MSW. Interested persons please e-mail: ccn@curenational.org

"No More Victims—One Man's Journey Into Sexual Offending and Recovery", by S. Sands (Ed G), \$13.75 does not include shipping. Order on line at: createspace.com or amazon.com.

The following article was submitted by an inmate in Arkansas:

Keeping Secrets

By Anthony C.

Everyone has an internal instinct to protect themselves from danger and an intuition that tells to keep or hold onto truths that may damage us in some way. When I meditate on the world “Protection,” the idea of camouflage, cover or shield comes to mind, and this idea lends itself to keep secrets.

This instinct in itself isn't bad; it keeps us safe from truly dangerous situations, but the truth about our secret behavior and resentments need to be told to a trusted person, who can give us insight into the what, how and why to overcome these issues. This person would ideally be a 12-Step sponsor, but other good candidates would be a priest, pastor, counselor, doctor, or friend. Whomever we choose, we must be honest and candid about every resentment and abusive behavior if we are to ever be free of them. In a 12-Step program of recovery, there are those of us in our 4th and 5th Steps.

Omitting anything from these inventories means we have decided to hold onto them. Maybe we are afraid to let go because the behavior or resentment has given us a way to cope. Maybe it has given us a channel with which to deal with unwanted emotions, or maybe we're hold on because we selfishly want to. Don't cave in to these temptations!

For myself, I wanted to (and almost did) omit my deviant sexual fantasies, behavior and masturbation from my own inventories because they are embarrassing to admit but mostly because of the truth—they were a comfortable, familiar source of pleasure. Since I've realized that I am incapable of normalcy with these behaviors, I know by telling these truths bring them into the light where I am humbled and ashamed. Our commitment to complete honesty in our inventories gives our trusted listeners a clear perspective and insight into the erroneous belief system and character defects we have developed from experience, I can assure that if they have your best interest at heart, you will not like what they have to say! Our listener should be firm and to the point, never mincing words to make them easier to swallow. The more repulsive the defect, the more motivated you'll be to change. If any of this rings true for you, there's good news; change is now within your grasp and spiritual growth becomes our goal. Maybe it's a sex addiction you want to hide—I hear you! But if we truly want to be free from our destructive behaviors, we must embrace humility; be ashamed. It is in this red-faced, humbled state we come to realize the many, many people we had harmed with our selfishness.

Good luck, there's more word to be. With hands firmly clasped together, down on our knees, we pray to be freed of our character defects and for the minimization of impact we've had on those we have harmed.

In solidarity, Anthony C.

Words To Live By

What makes a truly successful executive is not intelligence, education, lifestyle, or background. The principal factor that determines an executive's success is his or her ability to deal with *people*.

Important Information for Prospective Out of Country Travelers

With implementation of International Megan's Law looming, many registrants and their family members are understandably concerned about the passport identifier and Angle Watch. You deserve answers but I have not been able to get much direct information from the State Department or Immigration, Customs and Enforcement (ICE). So I encourage all to contact the offices below and demand answers. Feel free to contact RTAG with information you receive.

US Dept of State, Office of Law Enforcement Liaison Division 202-485-6400/6500

Angel Watch office under Child Exploitation Unit, ICE Cyber Crimes Unit Center 703-293-8005 press 3

dhsintermeganslaw@ice.dhs.gov

<http://registranttag.org/uncategorized/contact-ice-angel-watch-right-complain>

Paul Rigney, Registrant Travel Action Group, Inc. (RTAG) 214-624-2552

In future issues you will find articles on:

- **Is sexual harassment sexual assault?**
- **A review of SOR organizations**
- **A look at collateral consequences**
- **The use of scientific research to justify and condemn SOR laws**
- **Civil commitment**
- **Newspaper Editorial surprises**
- **Other related and updated articles**

If you happen to run into an article that you feel may be of interest to our readers, please send it to:

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From Page 1 **Junk Science**

These sanctions include being forced to wear (and pay for) GPS monitoring and being banned from parks, and draconian residency restrictions that sometimes lead to homelessness. In addition, punishments can include, on pain of re-incarceration, undergoing interrogations using a penile plethysmograph, a device used to measure sexual arousal. They have also included requirements that those on the registry refrain from being alone with children (often including their own) and barred from holding certain jobs, like being a volunteer firefighter or driving an ice cream truck.

And when these restrictions have been challenged in court, judge after judge has justified them based on a Supreme Court doctrine that allows such restrictions, thanks to the “frightening and high” recidivism rate ascribed to sex offenders — a rate the court has pegged “as high as 80 percent.” The problem is this: The 80 percent recidivism rate is an entirely invented number.

A few years ago, Ira Ellman, a professor of law at the University of California, Berkeley, and Tara Ellman set out to find the source of that 80 percent figure, and what he found shocked him. As it turns out, the court found that number in a brief signed by Solicitor General Ted Olson. The brief cited a Department of Justice manual, which in turn offered only one source for the 80 percent assertion: a Psychology Today article published in 1986.

That article was written not by a scientist but by a treatment provider who claimed to be able to essentially cure sex offenders through innovative “aversive therapies” including electric shocks and pumping ammonia into offenders’ noses via nasal cannulas. The article offered no backup data, no scientific control group and no real way to fact-check any of the assertions made to promote the author’s program.

Nonetheless, because that 80 percent figure suited the government lawyers’ aim of cracking down on sex offenders, Solicitor General Olson cited it, and Justice Anthony Kennedy, seemingly without fact-checking it, adopted the figure in a 2002 opinion that Justices William Rehnquist, Antonin Scalia and Clarence Thomas joined. (Justice Sandra Day O’Connor concurred.) Their decision blew open the doors to the glut of sex offender restrictions that followed.

But in the 30 years since that Psychology Today article was published, there have been hundreds of evidence-based, scientific studies on the question of the recidivism rate for sex offenders. The results of those studies are astonishingly consistent: Convicted sex offenders have among the lowest rates of same-crime recidivism of any category of offender restrictions

Nearly every study — including those by states as diverse as Alaska, Nebraska, Maine, New York and California — as well as an extremely broad one by the federal government that followed every offender released in the United States for three years, has put the three-year recidivism rate for convicted sex offenders in the low single digits, with the bulk of the results clustering around 3.5 percent. Needless to say, there is a tremendous difference between claiming that 80 percent of offenders will re-offend and that more than 95 percent of them won’t. And it is in that basic difference that the Supreme Court’s doctrine has done its most lasting damage.

This profound misrepresentation of social science has led to extraordinary real-world harms. For example, while the public almost universally embraces the strict residency restrictions the Supreme Court and lower courts have ratified, study after study has shown that rather than reduce sexual violence, these residency restrictions actually increase recidivism.

The merciless enforcement of the conditions routinely placed on those on the registry has resulted in the constant re-incarceration of offenders — not because they have committed new crimes but for technical violations of the conditions themselves, like failure to maintain a driving log, being late for curfew or failing to pay polygraph fees.

Indeed, a study by the California Department of Corrections concluded that 91 percent of sex offenders returned to California prisons were returned for these technical violations, while only 1.8 percent were returned as a result of having committed a new sex crime. In short, the entire scheme of registration and restriction that the Supreme Court condoned 15 years ago in *McKune v. Lile* has done enormous violence to a huge number of Americans now branded forever as sex offenders.

Now more than ever, Americans should be able to look to our highest court and expect decisions that are based on reason and grounded in science rather than fear. The court must rule wisely and bravely, including being willing to acknowledge its mistake and finally correct the record. More than 800,000 Americans have needlessly suffered humiliation, ostracism, banishment re-incarceration and civil commitment thanks to a judicial opinion grounded in an unsourced, unscientific study. Simple decency and perhaps more important, intellectual honesty demands better.

Facts on Our New Google Group Forum

As described in From the Editor’s Desk, CURE-SORT has established a Google Group which can be found and joined at: <https://groups.google.com/forum/#!forum/cure-sort>. It is free and easy to use but you must join and sign-in to use it. This is a moderated Group so only members and approved postings will appear; and you must be a member of the Group before you can post. You do not need a Google/gmail e-mail address to join the Group but it does help in making it easier to use and it offers you more options. We encourage our members and friends to join the Group and take advantage of all it has to offer us in increasing and improving the quality and quantity of communications which are relevant to our worthy mission. If you have any questions or comments about our Group, you can post it on the Group page or send an email to info@cure-sort.org.