

"Whoever fights monsters should see to it that in the process he does not become a monster." -- Joelle Moreno

In This Issue:

1. SOCC Laws Are Shaming the Constitution." — A New Series of Excerpts Begins..	1-2
2. SOCC & SO Registration Pose the Larger Question: Is This Really How Everyone in Society Wants to Live?	2-3
3. Virginia Report, #18: ARAIs: Invalid & Biased — & That's Before "Clinical Adjustment!"	3-5
4. Let's Compare: SOCC vs. Registration Woes	5-7
5. Pedophilia as Age Orientation: Further Support for Seto's Conceptualization	7-8
6. Discriminatory Impact of Male Victims in Sentencing	8-9
7. Is VR the Answer in SO Treatment?	9-10
8. Do All So-Called Lie Detectors Lie?	10
9. Victims Agree with SOs on Legal Policy.	10
10. Meet Your Friendly Neighborhood Psychopath! Another False Stereotype Bites the Dust	10

Coming Soon:

- ✓ Banishment by a Thousand Laws
- ✓ Remorse Bias — What's THAT?
- ✓ A Little History Yields Deja Vu
- ✓ Othering and Resistance: Hun?
- ✓ The Latest on Anti-SO Vigilantism
- ✓ Beware the Deepfake
- ✓ What Is E-Carceration? Why You Will Care
- ✓ RNR vs. Good Lives vs. Virtue Ethics vs. Desistance: Any bets?
- ✓ Lie-Detector Interrogation & Peter Meter Testing: Keeping You Down by False Hope, Fear, & Shame
- ✓ Conscience Confrontation of Legislators (Real Psychopaths)
- ✓ What Does Substantive Due Process Say about PPG Testing?
- ✓ Findings Change Everything.
- ✓ Where Will VR Fit in the Clinical Picture? (More News on This)
- ✓ Legislators' Ignorance, Animus, and Response to Constituent Fear & Hate Drive SO Registry Laws
- ✓ Bayes, Monahan, Chaos, Uncertainty — Oh My!: Actuarial Prediction? Good Luck with That!
- ✓ What Is "Irregular Passion" and Who Has It?
- ✓ As If Bias Wasn't Enough: Now There's "Machine Bias"!
- ✓ Vigilantism: No Time to Stick Your Head in the Sand!
- ✓ Health Disservices? People Are Dying. What Can Be Done?
- And a ton of new excerpts are coming. Stay Tuned!

Feedback? News? Write!

TLP Editor Address (Exactly & Only as Below):

Cyrus P. Gladden II
1111 Highway 73
Moose Lake, MN 56767-9452

The Detrimental Results of Sexual Violent Predator Legislation:

A Seminal Book by Two Famous Law Professors Tells Us Why and How It Is "Shaming the Constitution"

Editor's Note: With this edition, TLP is commencing a new serialization of excerpts — this time of an articulate and sharply analytical book pulling the covers off of much of what is inherently wrong with sex offender civil commitment (SOCC) laws, or, as these authors call it "Sexual Violent Predator Legislation" ("SVP laws"). Brace for enlightenment — and anger.

Michael L. Perlin & Heather Ellis Cucolo, Shaming the Constitution: The Detrimental Results of Sexual Violent Predator Legislation (Philadelphia: Temple University Press, 2017)

Text Excerpts:

"Chapter 1: Introduction

p. 1: [The authors explain the term, "sexually violent predators" (SVPs) as individuals who, after conviction for a variety of sexually based offenses — some violent, some not — become eligible for long-term "civil" commitment under "sexual violent predators acts" (SVPAs) at the end of their prison terms. ...[T]his population 'has become the lightning rod for our fears, our hatreds, and our punitive urges.' (quoting M. Perlin, "There's No Success Like Failure/ and Failure's No Success at All: Exposing the Pretextuality of *Kansas v. Hendricks*," 92 *Nw U. L. Rev.* 1247, 1248 (1998)]. No other population is more vilified, more subject to media misrepresentation, and more likely to be denied basic human rights. [See *Heather Ellis Cucolo & Michael L. Perlin, "Preventing Sex Offender Recidivism Through Therapeutic Jurisprudence Approaches and Specialized Community Integration,"* 22 *Temple Pol. & Civ. Rts. L. Rev.* 1, 2(2012).] The endless emotionally charged debates that have ensued — seeking a strategy to best maintain safety by containing the 'sexual predator' — are often premised upon 'incorrect facts and spurious data that have been distorted and skewed to support political agendas that respond to — or perhaps in some cases, incite — community outcries for retribution' [citing, *inter alia*, *Michelle Meloy et al., "Sex Offender Laws in America: Can Panic-Driven Legislation Ever Create Safer Societies?,"* 20 *Crim. Just. Stud.* 423, 424-28 (2007)]. It is clear that sexual offender civil commitment and community containment laws were developed as reactionary responses to the widely feared but statistically rare, violent, child-directed, and stranger-perpetrated sex crime. [See *Kevin M. Carlsmith et al., "The Function of Punishment in the 'Civil' Commitment of Sexually Violent Predators,"* 25 *Behav. Sci. & Law* 437, 445-47 (2007).

pp. 1-2: In this book, we draw on law, behavioral sciences, and other disciplines to

show that society's 'solutions' to the issues before us are all wrong. Not only are they wrong; they are also counter-productive. Rather than making our communities safer, these 'solutions' make our communities more dangerous.

pp. 2-3: ...[W]e consider a broad range of controversial, contentious and complex questions, questions that are — and should be — of great interest to those who study this area and who are involved in legal representation (both of individuals and of state entities) in this area. These questions include (but are not limited to) the following:

- The unreliability of the science underlying the laws as they relate to the constitutionality of how we predict future risk
- The inadequacy of counsel (or, in some states, the complete lack of counsel) making it less likely that trials and hearings actually 'do justice,' a mandate that is all too often missing in the cases we discuss here, and an inadequacy that often ignores the 'special obligation' on the part of prosecutorial agencies 'to promote justice and the ascertainment of truth'
- The unconstitutional impact of these laws, with special focus on violations of the first and Fifth Amendments, privacy rights, and the ex post facto clause
- The inappropriate imposition of a presumption of dangerousness that distorts the entire fact-finding process
- The way that trial courts regularly misstate and misunderstand the empirical and statistical 'evidence' that is supposed to underpin individual decision making in this area, a topic inexorably related to the quality of research that is actually undertaken and the misuse of statistical information by some of those who do the research
- Issues related to treatment and institutional conditions in SVPA facilities and the 'effectiveness' of long-term community supervision
- An empirical assessment of state responses to U.S. Supreme Court decisions such as *Kansas v. Hendricks* [521 U.S. 346 (1997)] and *Seling v. Young* [531 U.S. 250 (2001)] and an assessment of the procedures established by states following those decisions, raising the question of whether it is necessary to revisit the assumptions about confinement and treatment of individuals subject to SVPA laws that underlie both of those opinions and asking the hard question of whether *Hendricks* must be

deemed 'bad law,' considering what has transpired in the intervening years (acknowledging the lack of any sort of treatment available at some SVPA facilities, the lack of effective treatment even where minimal treatment is provided, the reality of the low future risk and low recidivism rates of many institutionalized sexual offenders, and our inability to effectively predict positive risk), thus forcing society to reconsider the entire structure and implementation of sexual offender laws

- The conflicts between state and federal laws with regard to the enactment of the Adam Walsh Child Protection and Safety Act, specifically focusing on community notification, registration, and residency restrictions
- The implications of the inclusion of juveniles in many SVP laws following implementation of the Walsh Act and, as part of that Act, the concomitant creation of a Sex Offender Registration and Notification Act (SORNA), authorizing a national registry and inspiring litigation over questions related to restrictions on where sexual offenders may be housed in the community
- The need to consider international perspectives, with regard to comparative law (how these issues are dealt with in other nations), international human rights laws (focusing on such questions as whether international conventions [e.g., the U.N. Convention on the Rights of Persons with Disabilities and the UN Convention Against Torture] are applicable to this population), and how our SVPA system is viewed in other nations
- How therapeutic jurisprudence (TJ) can and should be used as a lens and a filter in the study of this issue and how TJ offers the best hope at coming to a positive resolution of the dilemmas we discuss in this work.

p. 4: ...Twenty individual states and the federal government have enacted laws confining individuals who have been adjudicated as 'sexually violent predators' to civil commitment facilities post-incarceration and/or post-conviction. Additionally, in many jurisdictions, offenders who are returned to the community are restricted and monitored under community notification, registration and residency limitations. Targeting, punishing, and ostracizing these individuals has become an obsession in society, clearly evidenced in the constant push to enact even more restrictive legislation that breaches the boundaries of

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constitutional protections.

pp. 4-5: We now know some important countervailing realities. Forensic psychologists have demonstrated – beyond doubt – that the actuarial instruments regularly used to determine who is such a ‘predator’ are fatally flawed. ...The strategies we have adopted to make our communities safer – including but not limited to sexual offender registries – have failed miserably in their intent and, in fact, have often had the opposite outcome [see, e.g., *Molly J. Walker Wilson*, “The Expansion of Criminal Registries and the Illusion of Control,” 73 *La. L. Rev.* 509 (2013)]. Laws such as Megan’s Law have been shown to have no significant ameliorative impact on the problems we face. Media hysteria exacerbates all of this and strangles any attempts at legislatively remediating the situation. And counsel appointed to represent this population – if, indeed, any counsel is appointed – is, in many jurisdictions, uniformly ineffective, to the degree that such lawyers are often, in the famous words of Judge David Bazelon, ‘walking violations of the Sixth Amendment.’

p. 5: We have written this book to focus on these issues, to show how our social and legislative policies are not simply ineffective but counter-productive, failing to add to public safety while ruining lives. This counter-productive failure, again, is abetted by the basest sort of media pandering and the slavish responses of state legislators, each seeking to outdo each other in promoting the most repressive (and useless) laws....

...[W]e discuss four factors – sanism, pretextuality, heuristic reasoning, and false ‘ordinary common sense’ (OCS) – that contaminate *all* of mental disability law, but *especially* sexual offender law....

pp. 5-6: ...Once the Supreme Court upheld Kansas’s civil commitment statute, many other states and the federal government began to enact their own forms of sexual offender civil commitment legislation, again, almost inevitably and inexorably, in response to high-profile sexual crimes.... As Professor Melissa Hamilton has noted, ‘Through repeated publication of their names and photographs, telegenic victims of sex crimes, particularly those young and cute, literally become the “poster children” for the moral panic and public demands for officials to do something to protect potential future victims.’

We also consider how, in response to the media’s depictions of offenders as high recidivists with a ‘child-snatching stranger’ profile, a general outcry arose for higher sanctions once an offender was released to the community. Pressures from the general public inspired political agendas that demanded further control over and monitoring of sexual offenders in the community through

residency restrictions and community notification. [collectively citing: Megan’s Law; the Jacob Wetterling Act, the Adam Walsh Child Protection and Safety Act; and SORNA. See also, e.g.: *Wayne A. Logan*, “Megan’s Laws as a Case Study in Political Stasis,” 61 *Syracuse L. Rev.* 371, 373-80 (2011); *Melissa Hamilton*, “Public Safety, Individual Liberty, and Suspect Science: Future Dangerousness Assessments and Sex Offender Laws,” 83 *Temple L. Rev.* 697, 701 (2011).]

p. 6: ...We [will] turn our attention to what we call ‘confounders’: how this entire process is shaped – a better word, perhaps, is *warped* – by the role of the media. It cannot be denied that moral panic is the progenitor of the resulting laws, and media panic was in almost all instances, the catalyst that spawned the political motivations leading to an outcry for stricter sexual offender laws and legislation. ...The media has played a significant role in shaping public perceptions and has contributed to the enactment of harsher sexual offender legislation. Media portrayals of the offender as a ‘monstrous evil ...unable to control’ sexual offending behavior have also had an impact on court decisions – from the state trial courts to the U.S. Supreme Court – and, additionally, have disproportionately influenced congressional opinion [citing *John Douard*, “Sex Offender as Scapegoat: The Monstrous Other Within,” 53 *N.Y.L. Sch. L. Rev.* 31, 31 (2008-09)].

[Next] we outline the specifics of the litigation under sexual offender laws – the significance of a series of trial process issues that have a direct impact on the adjudicatory process, including the right to counsel, the right to experts, and the application of evidentiary rules at trial, and the relationship between the assessment of risk and the science that allegedly underlies that assessment, including the complex and unique use of risk assessment tools in the determination of future dangerousness and how such use complicates the trial process.

pp. 6-7: On the question of trial process issues, we look at a broad array: matters involving ineffectiveness of counsel, the lack of independent mental health professional expertise generally made available to persons subject to SVPA commitments, the unreliability of so much of the underlying science that is relied upon in such cases (with a special focus on the myth that the actuarial tests often used are actually reliable), the application at trial of the rules of evidence (with special focus on the admissibility of evidence of prior bad acts, hearsay rules, and the admissibility of polygraph tests), the status of uncharged acts in this process, and issues related to jurors’ pre-existing attitudes. [collectively citing: *Tamara Rice Lave*, “Controlling Sexually Violent Predators: Continued Incarceration at What Cost?”, 41 *New Crim. L. Rev.* 213, 213 (2011); *Deirdre M. Smith*,

“Dangerous Diagnoses, Risky Assumptions, and the Failed Experiment of ‘Sexually Violent Predator’ Commitment,” 67 *Okl. L. Rev.* 619, 687 (2015).] In this section, we also examine a range of constitutional issues:

The defendant’s right not to participate in ‘talk’ treatment

The scope of the defendant’s privacy rights.

The right to remain silent at trial

The right to testify at trial

The right to self-representation

The applicability of the patient-therapist privilege

As we discuss in this chapter, the public perceptions of offenders and of the frequency of certain sorts of offenses, and the constancy of false beliefs in erroneously inflated high rates of recidivism, have contributed to a panoply of serious legal errors in the adjudication of sexual offender cases. Evidentiary rules are bent and compromised, ineffective counsel is accepted, unreliable statistical tools based on ‘junk science’ are admitted, and, overwhelmingly, courts rely on hearsay evidence that should be inadmissible. And this is all abetted by the Court’s majority opinion in *Hendricks*, which only encourages justification of the confinement of offenders without any substantive treatment or preparation for reintegration into society.

p. 8: ...[W]e consider the ‘real world’ significance of the Supreme Court decisions already referred to, with an eye to their actual empirical and measurable impact on the population and facilities in question. Here we evaluate and assess state responses to, especially, the *Hendricks* and *Crane* cases and seek to answer these difficult questions:

Is it necessary to revisit the assumptions about confinement, treatment, and the individuals subject to SVPA laws that underlie those opinions?

Should the decision in *Hendricks* be revisited, considering what has transpired in the two decades since the case was decided?

How do these decisions allow trial courts and state appellate courts to ignore the reality of the low future risk and low recidivism rates of many institutionalized sexual offenders? How can we meaningfully contextualize these decisions with the reality that we are still unable to effectively predict actual risk? And how important is the reality that courts will often disregard concerns about the validity and reliability of some of the statistical tools that are relied on in these cases, since paying attention to that reality might interfere with the legislative intent embodied in the SVPA laws?

What impact, if any, do these cases have on (1) our ability to assess the ‘effectiveness’ of community supervision, (2) the quality of research that is pro-

duced and published in this area and the attendant frequent misuse of statistical information, (3) the ways that courts continue to misstate/misunderstand empirical evidence, and (4) the reality that the registries that were created in response to these cases simply fail to provide community safety?”

NARSOL’s Paul Shannon

Asks *Everyone*:

Is This Really the Way We Want to Live?

Paul Shannon, “Is This Really the Way We Want to Live?”, Speech at NARSOL’s 2022 Conference Awards Banquet, transcribed and reported at *Titus House Newsletter*, August 2022, pp. 1, 3
Text excerpts:

“...We launched RSOL fifteen years ago with a manifesto I published in the *Counterpunch* online magazine. It began:

‘There is today in our country a growing threat to our legal system, to the rights of all of us, to the quality of life of children, and to common sense. This threat has been fanned by prosecutors, nurtured by the media, and ignored by those who usually speak out against such dangers.

In its most narrow sense, this threat can be defined as the particular approach to sexual deviance embodied in the ever-more-draconian laws against all behaviors labeled ‘sex offenses’ – including those committed by minors – and in the sex offender registries of every state and the federal government. In this approach to sex offenses, slander, hysteria, and demonization often replace reason, solid research, and proportionality.

But more broadly, the danger consists of an all-out assault on fairness, on the reputations of some of our most caring people, on necessary social relationships, and on our critical ability to confront the deepening social paranoia of 21st century America.

It went on with many specifics and then it closed:

‘The present crusade is spreading fear and loathing across our society. Our society does not need more fear and loathing. It needs trust and dignity and redemption. At present there is no telling how far this self-destructive approach to social problems related to sexuality can go – unless people capable of courage, compassion, and common sense stand up to stop it and turn our country’s attention to real solutions

(Continued on page 3)

(Continued from page 2)

to our problems.'

We were stunned by the widespread response from people of all walks of life across the country. 1500 people signed on (including Chrysanthi Leon, our first keynoter of this conference; Dr. Fred Berlin from Johns Hopkins; and historian Howard Zinn) leading to the formation of RSO.

Tonight, though, I'd like to briefly call your attention to something mentioned in this manifesto. Specifically, the notion of confronting the deepening social paranoia of 21st century America and turning our country's attention to real solutions to our problems.

For the impact of the insidious attitudes we are dealing with go far beyond our group here, go far beyond the registrant community.

Yes, we know that the registry, residency restrictions, job and housing discrimination, and civil commitment have terrible impacts on registered citizens and their families. But the reality is that there is no one out there whose life is not negatively affected by these ideas that poison our lives.

I offer you the idea that the feelings of fear and loathing directed toward those accused or convicted of a sex offense undermine the ability of every person in this country to live out their own lives, to tell their own story in this world, and to find the happiness that they and their children are capable of.

The mantra, of course, by those who presently oppose us is 'protect the children.' But this is really our call, to protect the children – and not just from sexual violence but from the fear of not being free, the fear that they are surrounded by demons on every side, the fear of mythical dangers – so they can both live their lives more fully and learn how to protect themselves from actual dangers.

And the harm spreads into many corners of American life. There is no one out there whose life is not negatively affected by these ideas.

How can anyone's life not be curtailed with the threat of false accusation or misunderstanding leading to shaming and social banishment hanging over our heads?

Lenore Skenezy, our banquet speaker several years ago, documents the tragic things we do to ourselves and our kids in daily life America in the name of protecting them.

A man helping a child in trouble is suspect instead of it being the most natural thing in the world;

Life is perilous for male coaches of female athletes;

Men avoid becoming teachers for elementary school kids for fear of parents' suspicions – even though their presence in the classroom would be most helpful to many of those kids.

Helping a lost little girl find her dad gets you beaten to a pulp;

In fact, it is well known that men refuse to help children out of fear of being suspected of being 'after kids.'

Is this really the way we want to live?.

So an important part of our work is to help our neighbors to see that their lives will be enhanced if they ditch the registry and allow themselves to be freed from the fear and hatred that gave birth to it.

So we engage in specific battles about the registry, residency and travel restrictions, and the curse of lifetime civil commitment and the beliefs that undergird them. But beyond this huge task, I would ask you to see these specific battles in the context of a broader struggle, a critical struggle, to call our country to its senses, to distinguish truth from falsehood and sanity from lunacy.

To value redemption over condemnation, justice over hysteria, respect over shaming, and our common brotherhood and sisterhood over all that is tearing us apart.

The problem is that, as a country, we have substituted the pursuit of demons in our midst for the pursuit of life, liberty, and happiness.

We are a country that lives in fear. Instead of addressing our many problems – including sexual violation – in ways that make sense, we seek to destroy the monsters that we believe infect our society and whose destruction we think will make us safe.

Look at what we have done in pursuit of these demons at home and abroad. We have become like Ahab, chasing the great white whale, hoping to destroy it, to his own peril and the peril of his entire crew.

Who will free our country from such madness? Who will carry the torch of common sense, fairness, justice, and even forgiveness?

Who, if not those who themselves are victims of such demonization and madness and who stand at the epicenter of the hysteria from which this emotional plague spreads out to all the other parts of the body politic as we address more and more of our complex problems within the framework of panic and hysteria?

For this lunacy infects the minds and hearts of every one of us, making it impossible for us to address our social problems – such as sexual violation – in ways that could solve them and even begin to bring healing.

We throw billions away trying to destroy monsters of all kinds instead of supporting the lives of real people who carry heavy burdens on their shoulders as they deal with heartbreak and illness and loneliness and economic pressures and homelessness.

Is this really the way we want to live?.

This is the question we need to address to our neighbors and fellow citizens, whether they live in the red world or the

blue world: Is this really the way we want to live? – squandering our opportunity to make our country into a place where we all find the respect and support and connection that all of us need?

'Friends,' we need to figure out how to tell them, 'can't you see that banishing people accused or guilty of a sex offense – as well as other monsters you seek to slay – is undermining your own lives and the lives of your children?'

'That you are causing our country irreparable harm at a time when we most need to come together to effectively address our problems – whether they be sexual offending, the drug epidemic, pandemics, our mental health crisis, climate catastrophe, crippling social polarization, or war and peace?'

It is time to come to our senses, to base our lives on reality, so we can make our country into what we really want it to be.

As we struggle for justice for ourselves, and for the registrant and civily committed community, I hope we will all take up this broader challenge on behalf of all of us, so that in fighting for our own dignity, we are also fighting for the dignity, respect and justice that we all deserve.'

Virginia Report, #18: Invalidity & Bias of ARAs & 'Clinical Adjustment'

o. RAs Score Only Condemnatory Factors and Ignore "Protective Factors."

ARAs do not factor in any "protective factors," only condemnatory ones. Thus, for instance, it is beyond dispute that increasing age, especially from age 50 on, has a drastic reduction effect on sex-crime recidivism. This decline is so precipitous and accelerating that no instances of recidivism could be found at age 70 or above from which to derive a recidivism percentage. Recidivism in the age bracket of 60-69 hovered at around 3% (using those decades-old elevated recidivism statistics now outmoded).

Because this 'aging effect' is so marked, it disproportionately impacts those otherwise thought to have a higher risk of recidivism, such as prior recidivists and those with several RAI 'risk factors.' From age 60 on, even those have only that same, greatly reduced percentage as do non-prior recidivists and those with only up to two RAI risk factors. Yet no RAI accounts for this with any meaningful degree of accuracy at all. Nonetheless, courts have committed numerous sex offenders who were over age 60 at the time. MSOP currently detains several of these now in their 80s and 90s. Over one-quarter of the MSOP detainee population is currently age 60 or above.

More generally, all RAIs treat all risk

factors as "static," that is, as immutable for the life of the sex offender in question. However, many of those factors are subject to change. More crucially, all other so-called protective factors are dynamic, and are ignored by RAIs. This is exemplified by Minnesota's Department of Corrections (which 'rides close herd' on all sex offenders and most especially on prior recidivists and others deemed a high [Level 3] risk of re-offense, employing 24-hour monitoring and daily surveillance), which can rightly boast of such a drastic reduction in recidivism (as a "protective factor"). Yet commitment respondents can find all of this ignored, as if it did not exist, according to any RAI. Other ignored protective factors include, e.g., post-release sex offender treatment, formation of intimate relationship with an appropriated partner, abstaining from drugs and alcohol, support from families, friends, etc., and even adverse events, such as development of a debilitating illness, among countless others.

Note, more recently, dynamic factors have begun to ascend in attributed significance, such that they are often mentioned in sex-offender commitment proceedings. However, far more often as in the case of MSOP, they are employed as post-commitment excuses not to release a committed sex offender on the contention that one of more such dynamic factors purportedly indicate continued – or even heightened current probability of re-offense. Again, the virtually exclusive use is as risk aggravators; any "protective" factors are largely discounted or utterly ignored. This is discussed in connection with MSOP assessment of those committed to it, infra. However, that discussion applies equally to commitment use of such dynamic factors, and hence is incorporated here as well by this reference.

Since ARA factors are static, once one is committed based thereon, nothing one does can alter that score. Regardless of participation in and success at years of treatment, and the natural effect of aging described supra, no sex offender can ever reduce his assigned actuarial risk of re-offense. Hence, once in commitment, one is doomed to remain detained for life.

Those using RAIs typically exercise great subjectivity as to whether to assign a given offender a point/points for a given factor in it and, in the case of a factor with multiple points, whether to assign one, both, or all of such multiple points. RAI "coding rules" often are vague and lacking in specific sample applications, allowing this subjective interpretation/application.

p. "Clinical Adjustment" of ARA-Derived Recidivism Probability Estimates and Misuse of 'Cherry-Picked' 'Dynamic Risk Factors' as Supposed

(Continued on page 4)

(Continued from page 3)

"Criminogenic Needs" to Rationalize Never-Ending Commitment.

Some evaluators of sex offender recidivism have striven to "adjust" (almost invariably upward) scores derived from a given RAI on "clinical" considerations. This is just an attempt to resurrect the "CRA" approach despite its extreme inaccuracy. To justify this, such clinical evaluators will cite certain facts that they claim are beyond the factors examined by the RAI that such evaluators claim need to be reckoned into the probability of the subject sex offender's likelihood of future re-offense. There are two problems with this argument from the standpoint of science. Doren, supra, p. 158, explains the first problem:

"For something truly to be beyond the actuarial scheme, it needs to be beyond the set of information incorporated into the development of the instrument and beyond the common attributes of the research samples, not simply beyond what we feel is tolerable. Quite typically, instrument developers have included data concerning number of victims, degree of force, degree of injury to victims, and many other factors in the research underlying the instrument's development. If those factors were not ultimately included on the instrument, then the reason was typically that those data did not add anything to the instrument's effectiveness as compared to the included items. Hence, if a subject used a significant degree of force to subdue his victims, this consideration, although emotionally upsetting to read in its details, should not typically be viewed as beyond the actuarial scheme.

Likewise, if a twice-convicted subject has stated during sex offender treatment that he really has 20 victims, this should not be thought of as a reason for adjusting his risk upward. (Such treatment disclosures may actually be signs of treatment involvement, a sign of potential lowered risk). Statistically, his apparently high number of victims was essentially accounted for in the other factors included on most risk-assessment inventories, most particularly by his two convictions. This is not to say that two convictions should be directly translated to mean that such offenders have 20 victims, only that the number of acknowledged victims does not regularly add information increasing our accuracy in assessing risk beyond the type of data already included in the instruments. A subject would need to have a very large number of victims to be considered beyond the actuarial scheme, and not simply a number that seems emotionally quite disturbing. Although prosecutors can attempt to make the individual seem worse than Jack the Ripper by emphasizing how many victims the person has acknowledged, evaluators should avoid as-

sessing additional risk where it is empirically known that no extra risk exists." (emphasis in original).

(pp. 167-68): [Among factors outside of actuarial instruments that Doren cites as claimed factors for "clinical adjustment" of RAI probability outcomes are these:]

"Inappropriate/procriminal social behaviors (i.e., consisting of the total sum from the following 18 items: impulsivity; insulting, teasing, and obnoxious verbal behaviors; lack of consideration of others; unconventional attitudes; criminal attitudes; shallow affect, superficiality; tension; medication noncompliance; problems with housekeeping or cooking; poor self-care and personal hygiene; substance abuse; physical self-abuse; suggestible and easily led; problems with money management; ...firestarting; criminal associates; inappropriate dependency)

"Mood problems (i.e., consisting of the following 7 items: excitement, anxiety, mania, anger, blunted affect, depression, guilt feelings), social withdrawal (i.e., consisting of the following 9 items: poor use of leisure time, unpopular, social withdrawal, inactivity, excessive shyness, refusal to participate in nonmedical therapy, ...poor assertion, lack of family support)....

"From the Wong, Olver, et al. (2000) study, the 20 dynamic factors found useful in a pre- and post-treatment fashion included the following:

"Violent/criminal lifestyle variables (i.e., Violent Lifestyle, Criminal Personality, Criminal Peers, Interpersonal Aggression, Violence During Institutionalization, Weapon Use, Substance Abuse, Violence Cycle)

"Cognitive variables (i.e., Criminal Attitudes, Work Ethic, Insight into the Cause of Violence, Mental Disorder, Cognitive Distortion)"

The first conclusion that can be deduced from this is that, at a minimum, most (if not all, perhaps) so-called "dynamic" risk factors were studied in the course of construction of one or more actuarial measures and were then rejected as adding nothing significant to risk of re-offense. Therefore, it is exceptionally intellectually dishonest to resurrect these matters and proclaim them as factors of such risk, merely by the rhetorical device of then claiming that they represent a difference from the earlier actuarial examination of risk.

The second ramification from this consideration of various matters as potential risk factors for re-offense arises in other part from the fact that various actuarial instruments find different factors to be of significance in assigning claimed probabilities of risk to a given sex offender. And of course, as a matter of logic, all other factors considered by the creators of one actuarial instrument, but rejected as having no incremental significance as to such risk of re-offense, were rejected

by the creators of that instrument for that very reason.

Yet because different actuarial instruments were created from differing lists of nominee' potential risk factors, and because the factors that 'made the cut' as to one actuarial instrument are different than those in another such instrument, so-called expert witnesses in any given sex-offender commitment case can and do select the particular actuarial instrument to use that either casts the subject in a horrible light of claimed high-probability of re-offense or casts the subject as being unlikely to reoffend, depending entirely on who retained that expert and what point the experts favors making for whatever ulterior reason. In short, purely by the process of selection of one actuarial instrument over another, virtually any claim as to probability of re-offense can be made in any sex offender commitment case.

Further, conversely, again purely by selecting one actuarial instrument and avoiding others, a so-called expert can effectively preserve his/her ability to make an alternative argument that such "dynamic" factors as he/she may select in the case as claimed to be present on the basis of inductive inference from any fact or claimed fact (no matter how flimsy and/or ambiguous the evidence for such fact may be) simply by consciously avoiding the actuarial instrument that themselves did not consider and reject such dynamic variables in the course of design of that instrument.

None of this is actual scientific procedure. Instead, it is a crass fraudulent imitation of science intended to cast a false appearance of scientific legitimacy in place of rank pick-and-choose stratagems either made-to-order or to appear to support any preconceived bias held by the so-called expert.

Gregory DeClue, "Years of Predicting Dangerously" 5 S. Cal. Interdisc. L.J. 179 (Winter, 2016), examined the practice of such "clinical adjustment" or RAI predictive probabilities of re-offense, concluding in the article's Abstract: "...[T]he data thus far show that clinical adjustments or overrides reduce the accuracy of actuarial-based risk prediction." The findings on which this conclusion is based are as follow:

(pp. 20-1): 2009

"...Three studies examined the difference between actuarial scores and adjusted actuarial risk ratings (Gore 2007; Hanson, 2007; Vrana, Sroga & Guzzo, 2008). In these studies, evaluators were required to complete an actuarial risk tool and then were allowed to adjust the final risk rating on the basis of factors external to the actuarial tool. All three studies were prospective, and evaluators completed the ratings as part of their routine procedures. In two studies, the raters were probation officers (Hanson, 2007;

Vrana et al. 2008), and in the other study, the raters were either psychologists or correctional staff (Gore, 2007). For all three measures, for all types of raters, and for all outcomes, the adjusted scores showed lower predictive accuracy than did the unadjusted actuarial scores."

(pp. 21-2): 2010

"How do adjustments or overrides to actuarial risk assessments dilute accuracy? One example is found in Gore's (2007) dissertation. She found that clinical overrides that increased predicted risk resulted in 4 more true positives (people rated high risk, who actually sexually recidivated) but at the cost of 75 fewer true negatives (people rated as low risk, who actually did not sexually recidivate).⁸

2011

"Montaldi (2011) mentioned, 'Given decreased base-rates over the past 20 years, the most accurate method now may be to just use the overall (low) re-conviction base-rate and predict non-reconviction for every offender. We would have false negative errors but perhaps fewer errors overall.'⁹

2012

"Two more studies have addressed the accuracy of pure-actuarial risk assessment versus adjusted-actuarial risk assessment for sexual recidivism. In one study, Storey, Watt, Jackson, and Hart (2012) found that clinical adjustments or overrides of the Static-99 decreased the accuracy of risk prediction: 'In 30 cases, clinicians used discretion to 'override' or adjust the Static-99 ratings when making final risk judgments, but the predictive validity of the clinical adjusted ratings was worse than that of the original Static-99 ratings made by clinicians' (p.1). 'The clinical override scores were less predictive of sexual recidivism than the scores without overrides.... Examinations of the Hazard Ratios for the two sets of ratings indicated that the ratings with overrides predicted recidivism in the wrong direction - that is, clinical overrides of increased risk were actually associated with lower recidivism rates and vice versa.' (p. 8)

"...[O]ther studies have also found that clinical overrides made to actuarial scores decrease predictive validity (Gore, 2007; Hanson, 2007; Vrana, Sroga, & Guzzo, 2008)' (p. 9). See also Hanson, Harris, Scott, & Helmus (2007)."

(p. 23): "...In spite of Hanson and Thornton's guidelines (be prudent, make only minor adjustments or none at all, only make adjustments in the face of special features such as debilitating disease or stated intentions to offend), clinicians have sometimes chosen not to rely on the results of the actuarial instrument, even in the absence of special circumstances. The result has been a decrease in accuracy. Available re-

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search does not support the use of professional judgment to adjust or override actuarial-based risk assessment of sexual recidivism.

What Then Must We Do?

"In their 1989 Science article, Dawes, Faust, and Meehl noted that, in spite of an increasingly massive and consistent body of evidence, few practitioners seemed to have changed their practice habits (see also Grove, 2005). My experience in SVP cases over the past 14 years is similar. In their reports and testimony, SVP evaluators routinely use an actuarial instrument (typically the Static-99R these days) and then use their judgment to consider additional factors before offering a 'professional opinion' regarding the person's likelihood to sexually reoffend. In doing so, evaluators typically fail to mention that they are using an approach to risk assessment that has been shown to decrease the accuracy of risk predictions, has no known reliability, and fails to produce a probability of re-offense with an associated confidence interval (making it impossible to know the certainty of the risk prediction)."

References:

Dawes, R.M., D. Faust, and P.E. Meehl, "Clinical Versus Actuarial Judgment," 243 Science 1668-1774 (1989)

Gore, K.S., "Adjusted Actuarial Assessment of Sex Offenders: The Impact of Clinical Overrides on Predictive Overrides on Predictive Accuracy," Dissertation Abstracts International, 68(07), 4824B. (UMI No. 3274898) (2007)

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Hanson, R.K., "The Development of a Brief Actuarial Risk Scale for Sexual Offense Recidivism" (User Report 97-04), Ottawa: Dept. of Solicitor General of Canada (2007)

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Storey, J.E., Watt, K.A., Jackson, K.J., and Hart, S.D., "Utilization and Implications of the Static-99 in Practice," Sexual Abuse: A Jour. Of Research and Treatment, <http://sax.sagepub.com/content/early/2012/02/16.1079063211423943> (pub'd online Feb. 17, 2012)

Vrana, G.C., Sroga, M., & Guzzo, L., "Predictive Validity of the LSI-OR among a Sample of Adult Male Sexual Assaulters," Unpub. Manuscript, Nipissing University, North Bay, Ont., Canada (2008)

Secondly, the range of such supposedly extraneous matters proposed by clinically oriented evaluators as further factors, upon which to justify inflating the RAI-

derived recidivism probability is endless. Doren, at 167-68, cites these, for instance, as among such matters lacking in scientific confirmation:

"insulting, teasing, and obnoxious verbal behaviors; lack of consideration of others; unconventional attitudes; criminal attitudes; shallow affect, superficiality; tension; medication noncompliance; problems with housekeeping or cooking; poor self-care and personal hygiene; substance abuse; physical self-abuse; suggestible and easily led; problems with money management; ...fire-starting; criminal associates; inappropriate dependency)... "excitement, anxiety, mania, anger, ...depression, guilt feelings...poor use of leisure time, unpopular, social withdrawal, inactivity, excessive shyness, ...poor assertion, lack of family support)... "violent lifestyle, criminal personality, ...weapon use, substance abuse..."

Lawyer X, "Deviant Justice: The American Gulag, (In Depth Media, 2014, avail.: www.amazon.com), at pp. 83-84, adds these further "dynamic factors": "poor social support, antisocial peers, antisocial/impulsive lifestyles, ...hostility, ... anxiety, poor coping mechanisms, substance abuse, intimacy deficits, ... unemployment, ...poor grooming." Many of these are "acute," that is, varying greatly from one period to the next (e.g., daily, weekly, or monthly variation). All of these matters are amorphous and subject to extremely subjective judgment. Moreover, none of them has a clearly demonstrated causal or indicative relationship to sex crime commission.

Lawyer X, supra, at 90-91, cites Prentky, Janus, et al., "Sexually Violent Predators....", supra, at 12 Psychol., Pub. Pol'y & Law 378 as explaining that use of these claimed factors is done in an adverse, 'cherry-picking' manner, seeking to confirm an a priori opinion that the offender remains dangerous. In other words, merely any criticism whatsoever that can be laid against a given sex offender, regardless how far removed from sex offending, can be claimed, with no scientific accountability, to justify increasing the asserted level of sex-crime recidivism probability. This is the end of science.

Worse, more than half of those using an RAI will 'adjust' the percentage of likelihood of recidivism based on either personal impression of inaccuracy of certain aspects of the RAI in question or subjective impressions of the offender scrutinized. Such 'adjustments,' typically not divulged to the court, convert the ARA process to a CRA process, with its even lower accuracy.

RAIs judge a sex offender under scrutiny for the seeming resemblance of a certain, single factor to that of the factor in question, said by the RAI's originators to be present as to other individuals. Yet the RAI "rater" (i.e., the "examiner" or

other expert witness in a given commitment case) has no access to those individual records of the offenders in that supposedly representative sample; he/she must simply take the RAI originator at his/her word, and trust the subjective views of that originator. This is compounded by the fact that, in all RAIs, numerous factors on the 'checklist' are typically found present as to any given sex offender under scrutiny, when the rater is told that the individual rated per the RAI is facing a commitment petition. The end result is that all sex offenders thus rated are scored with far greater predictions of likelihood of re-offense — even when the actual pool of sex offenders thus rated is not a commitment subset, but merely an average sampling of all sex offenders then in a given corrections setting. This implies that such RAIs, as actually employed, predict everyone in an average sampling as having far above-average likelihood of re-offense, an impossible scientific self-contradiction in terms.

In this context especially, it is neither accurate nor fair to confine someone for decades or for natural life merely because some RAI rater thought he resembled certain factors ascribed to others, or even more uncertainly, just because he was assigned the same total RAI scores as some others. This only illustrates that all prediction of sexual re-offense is ultimately based on group 'membership.' But an average outcome over that group cannot be a valid prediction of outcome of any individual in that group who simply does not conform to that average.

In one case of an unsuccessful federal attempted sex offender commitment, the court rejected that certification and released the defendant (United States v. Abregana, 547 F. Supp. 2d 1145 [D. Hawaii 2008]). Of note, prosecution psychologists applied three different RAIs (Static-99, RRASOR, and MnSOST-R) to arrive at frightening predictions from each of those RAIs of highly probably future sexual recidivism by the defendant. Yet defense experts, using those same tests, came up with radically lower scores (and lesser signified percentages of such probability of future recidivism). Noting this, that judge sniped at mere "impressions" and "subjective analysis" inherently involved in the process.

q. Current Infrequency of Sex Crime Recidivism Renders Recidivism Prediction Wildly Inaccurate and Meaningless.

Ironically, the drastic reduction in sex-crime recidivism over the last twenty years has also inherently reduced the predictive accuracy and certainty of ARA (this last reflected in "confidence intervals" so wide as to render any probability percentage derived through any given "risk assessment instrument" ["RAI"] utterly meaningless). The current base rate for sex offense recidivism in Minne-

sota is 3.2%. Doren, supra, at pp. 151-52, explains this:

"Statistically, the more rare an event is, the more difficult it is to predict those situations in which it will occur without also including many cases in the same prediction where the event would not actually occur. Put in terms of sexual recidivism predictions, the rarer is the sexual recidivism being predicted, the more likely the predictions will include nonrecidivists in the predicted recidivist category. Predictions trying to distinguish the occurrence of rare events from the far more common are notoriously high in their inaccurate inclusion of the common events in the set where the rare one is predicted, an error that is largely statistically determined..."

"...Knowing a reasonable approximation of the underlying sexual recidivism base rate, therefore, tells evaluators something about the statistical limitations of the predictive accuracy of the methods being employed..."

Thus, the lower the base rate, the greater the inherent inaccuracy and uncertainty of all RAIs. At a minuscule base rate of 3.2%, conversely, the inaccuracy and uncertainty of all RAIs is enormous — perhaps in the range of 97% inaccurate.

Prentky, Janus, et al., "Sexually Violent Predators in the Courtroom (etc.)", supra, at p. 374, notes: "The problems inherent in low base-rate prediction of dangerousness have been addressed numerous times (e.g., Grove & Meehl, 1996; Monahan & Steadman, 1994; Swets, Dawes, & Monahan, 2000; Wollert, 2006).

Such inaccuracy defies science and deprives Respondents of due process.

r. No Method of Combining Actuarial Risk Scales Provides Any Increase in Predictive Accuracy over the Most Accurate Actuarial Scale in the Combination.

Michael C. Seto, "Is More Better? Combining Actuarial Risk Scales to Predict Recidivism Among Adult Sex Offenders," 17 Psychological Assessment 156-167 (Issue 2, June 2005), reports evaluating the accuracy achieved through multiple methods of combining four commonly used actuarial risk scales when applied to a sample of 215 adult male sex offenders. Seto found that no Combination method provided any statistically significant or consistent advantage over the predictive accuracy of the single best actuarial scale in the combination. Therefore, such combination does not alleviate the inaccuracies of individual actuarial scales.

Registration Woes Compared to SOCC

(Continued on page 6)

(Continued from page 5)

Ira Mark Ellmen, "When Animus Matters and Sex Offense Underreporting Does Not: The Sex Offender Registry Regime," 7(1) *Univ. Of Pa. J. of L. & Public Affairs* ____ (Jan. 2022; accepted July 2, 2021)

Text excerpts:

Slip, pp. 5-7: "Registration, or conviction for a registrable offense triggers a host of additional consequences. Most registrants are publicly identified as 'sex offenders' on official state websites, which are in turn linked to a national system maintained by the federal government intended to allow national searches by anyone. These public listings may include the registrants' address and place of employment. State and local laws often restrict where registrants may live, frequently resulting in their becoming homeless and even causing their forced eviction from nursing homes or hospices. In some states registrants who have completed their sentences may nonetheless be kept in prison because they cannot find a place to live that complies with the state's residency restrictions. They may be forced to move on 30 days' notice, requiring their children to change schools mid-year, because a new park or child care facility opened that is closer to their home than the minimum distance specified by statute. Separate presence restrictions limit where they can go, with the result that a registrant may be unable to enter a public school to meet his child's teacher or watch his child's performance in a play or athletic event. Indeed, in some states a registrant can commit a crime by entering a public park to fetch his own child. State laws bar registrants from a broad range of occupations, including haircutting, plumbing, selling hearing aids, land surveying, and working in a dialysis facility. Federal law bars registrants from housing programs permanently. Their access to computers or smartphones are limited or barred altogether for years after their release, and sometimes indefinitely, which further burdens their ability to find employment or maintain social connections.

When a registrant in one state travels to another state, he must register in that state – within a time period that varies from state to state and is often short enough that weekend visits can trigger the registration obligation. Simple vacation trips, or even commutes across state lines, can thus become traps for the unwary who inadvertently commit registration offenses that carry potential for significant prison sentences. Some states routinely require registrants to wear ankle bracelets enabling round-the-clock location monitoring, sometimes for life. Others require the driver's license of registrants to contain a stamp identifying them as sex offenders. The passport of any registrant convicted of an offense involving a minor (including non-contact

offenses such as viewing explicit pictures of anyone under 18) must contain a notation identifying him as a sex offender, part of a broader federal program to restrict the international travel of all registrants. Because registrants are denied the right given other citizens to obtain permanent residency status for their family members, their spouse and children who are foreign nationals cannot remain in the United States. One common result is forced separation when registrants cannot follow their evicted family to their foreign home because of the other laws restricting registrants' international travel.

Slip, pp. 8-9: These examples of burdens imposed by law are predictably supplemented by private actions triggered by the identification of registrants on publicized websites as 'sex offenders.' As noted by the Alaska Supreme Court, "[i]nternet publication of sex offender registration information potentially inflicts grievous harms of sex offenders ranging from public scorn and ostracism to harassment, to difficulty in finding and maintaining employment, to threats of violence and actual violence." Their spouses and children are often ostracized. Their families are more likely to disintegrate, denying them the support important to rehabilitation. Those who try to help them may become targets themselves. Indeed, programs to help released offenders re-integrate into society often exclude them....

The package of burdens imposed by these laws, and the private actions they encourage, is extraordinary in at least two ways. First, no other category of individuals who have completed their criminal sentence, including any term of parole or supervised release, is subject to anything remotely similar. Those once convicted of murder or drug dealing need not usually worry about their registration obligations in every state they enter, or locational bars on where they may go or live, or a stamp on their driver's license or passport. And this disparity gets worse as recent criminal justice reforms intended to soften the much smaller group of collateral consequences routinely imposed on former felons typically exclude registrants from their grace. ...[T]he American registry regime is an international outlier. Even though many countries maintain sex-offense registries in some form, available to law enforcement personnel, virtually none 'permits the prevalent U.S. practice of proactive notification of sex offense registry information to unlimited community organizations and the general public.' After reviewing these practices of other countries, as well as the social science evidence, the Council of the American Law Institute has approved a revision to the Model Penal Code, to be reviewed by the membership in June of 2021, that would eliminate entirely all publicly accessible websites

listing 'sex offenders,' as well as any other forms of general public notification concerning them, and prohibits or limits other collateral consequence currently applied to them alone."

Slip, pp. 16-19: The history of these [registration] laws is also suggestive. ... Many of the new laws, both federal and state, were named after a victim in one or another well-publicized case, typically involving a particularly disturbing fact pattern.... Though such cases are atypical (just two percent of reported sexual offenses against children under twelve are committed by strangers, much less strangers who abduct a child) they nevertheless became the understood context in any discussion of them. So strangers committing sexual assaults on children became the image of the laws' intended target even though hardly anyone affected by these laws had ever committed such a crime. ...The mayor of one city explained it had adopted residency restrictions for registrants that went beyond any imposed by state law in order to do anything we could to make sex offenders uncomfortable." The popular belief, adopted by legislators, is that all those reached by the registry are threats to commit the horrific stranger attacks against children memorialized by the laws' names, even if some had not yet been caught at it.

What's important here is that registrants were no longer considered as individuals but as members of a despised group all damned by fundamental and probably permanent character flaws that made them likely to engage in evil conduct. The very label 'sex offender' applied to registrants encourages that understanding. People may be disinclined to support treatment for those convicted of sex crimes in the belief that it won't work because they cannot be reformed. There's some reason to think that educating people about the facts – that sexual offenders are not all doomed to offend again, that they can reform – might lead to less punitive attitudes. But providing accurate information is not necessarily enough to eliminate animus. For example, one study found potential jurors were twice as likely to commit a felon labeled 'sexually violent predator' to an indefinite term of confinement, as compared to others with the identical criminal records and risk assessment reports who were not so labeled. It was not that the jurors refused to believe the risk assessment reports, because they agreed the labeled offenders were no more dangerous or likely to reoffend than the unlabeled ones. Nor did demographic variables predict these differing judgments about whether to commit or parole. What was different is that for the labeled offenders, jurors reported a greater desire to 'get revenge' and to 'make the offender pay.'

What such studies suggest is that the

public cares less about the practical usefulness or efficacy of sexual offender crime control measures because it believes these laws' burdens fall only on evil people. So even if they are not effective, they are still deserved. The official sex offender label is easily seen as certifying their evil status, thus justifying their attitudes. So it's not at all surprising that surveys find most people support imposing measures like websites publicizing 'sexual offender' status, restrictions on where registrants can live or go, and even their castration, without regard to whether there is any evidence such policies reduce sexual offending.

But of course, the label 'sex offender' is not a psychological diagnosis. It is a legal classification triggered by a single conviction for any crime on a long list that ranges in both nature and seriousness. The evidence that animus toward registrants lies behind the laws that burden them should require scrutiny of whether the burdens in fact further the valid policy purpose offered to explain them. That scrutiny requires a look behind the 'sex offender' label, to ask both if most so labeled in fact present a special risk of harm to others, and whether the burdens selectively imposed on them actually suppress sexual offending. Nor, as Carpenter points out, can that inquiry ignore advances in our understanding of the burdened group. The forced expulsion of lepers to separate colonies was once thought necessary to protect the public from a disfiguring disease that evoked fear and disgust, but today that explanation would not work. Given what we now know about the disease's transmission and treatment with antibiotics, exiling lepers from civil society could today be explained only by 'irrational prejudice' – animus.

Slip, pp. 19-21: II. Studies Show That Most Registrants Are Unlikely to Reoffend, and That the Registry Regime Contributes Little or Nothing to Reducing Re-Offense Risk Anyway.

...[S]tudies find these measures contribute little or nothing to reducing the prevalence of sexual offending. Their findings do not depend on any assumptions concerning the rate at which registrants commit a new sexual offense after release. Most show simply that the offense rate, whatever it is, is no different with these laws than without them. One study, by the Minnesota Department of Corrections, adopted a different methodology. Minnesota had no statewide law imposing locational residency restrictions on registrants; the study's purpose was to assess whether it should. It reviewed the records for every one of the 224 individuals convicted of sex offense who was released from a Minnesota prison between 1990 and 2002 and then incarcerated again by 2006 for a new sex offense. It examined the facts of each of

(Continued on page 7)

(Continued from page 6)

the 224 re-offenses to determine how many might have been prevented had Minnesota barred registrants from living with a mile of a school, park, playground, daycare center, or 'other location where children are known to congregate.' The conclusion: there was not even a single case in which such locational restrictions would have prevented the perpetrator's contact with a juvenile victim.

...95% or more of all those arrested for actual offenses are first offenders... The registry regime's apparent premise – that a large share of sexual offenses are committed by a small group who offend again after completing a sentence for an earlier sexual conviction – is thus mistaken. One can't have much impact on the overall incidence of sexual offenses by concentrating efforts on a group that accounts for less than five percent of them. The law's focus on registrants recalls the classic story of the fellow who tries to help a drunk searching for his keys under a streetlamp. After a while he asks the drunk if he's sure this is where he lost them. 'Oh, no,' is the reply. 'I lost them in the park. But this is where the light is.' If we want to make a real dent in sexual offending rates, we must bring light to the park. Searching harder under the streetlamp won't help. And that is true no matter the overall rate of sexual offending if most offenses are in the park.*

Notes:

¹ American Law Institute, Model Penal Code: Sexual Assault and Related Offenses, Tentative Draft No. 5, 505-513 (2021)

² The documentary film *Untouchable*, available for streaming on Amazon Prime Movies, includes interviews with the figure behind Florida's very harsh registry regime laws, who also suggests his goal was to make life for Florida registrants so difficult that they would leave.

[Other notes deliberately omitted.]

Pedophilia as Age Orientation: Further Support for Seto's Conceptualization

Crystal Mundy, "Pedophilia as Age Sexual Orientation: Supporting Seto's (2012) Conceptualization," (preprint submitted for peer review) (Nov. 2020)

Abstract Excerpt:

...Expected patterns with relation to age of onset, expressions of both sexual and romantic attractions, and stability of such attraction over time were found. As noted by Seto, there are clear clinical, and potential legal, implications associat-

ed with the shift in the conceptualization of sexual attraction to children and adolescents. Such attempts to shift have been met with hostility thus far, despite this hostility, the findings indicate that age sexual orientation closely mirrors the developmental trajectory of gender sexual orientation, as outlined by Seto."

Text Excerpts:

"Contemporary research has indicated that sexual attraction to children and adolescents may be more reflective of a sexual orientation than a mental health disorder or paraphilic interest. Seto (2012) proposed that pedophilia should be conceptualized as a sexual orientation rooted in biology, rather than a deviation that is triggered through environmental processes or trauma. According to Seto, sexual attraction to children is characterized by the primary features indicative of gender sexual orientations. These features include the following: (a) primary age of attraction beginning in adolescence, often recognized as puberty commences; (b) sexual attraction that coincides with other aspects of attraction, such as romantic feelings and subjective notions of love; and (c) stability of attraction over time. This conceptualization was expanded upon in Seto's (2017) article outlining sexual orientation from a multidimensional framework incorporating gender, as well as age and/or pubertal development.

Relevance of Etiology to Assessment and Treatment

...Sexual attraction to children has typically been approached therapeutically in terms of removal and/or reduction of the attractions, due to its conflation with child sexual abuse. However, movement towards an orientation perspective of sexual attraction to children would question the efficacy of such approaches. Instead, acceptance- and strengths-based practices may prove more beneficial, as is the case with many other issues related to sexuality (e.g., DeBord et al., 2017) while continuing to acknowledge the inappropriateness of acting on such attractions...

Some research has claimed to show that pedophilic interests can be modified and reduced (e.g., Federoff et al., 2015); however, the findings have been challenged due to methodological and statistical issues suggesting that no such changes occurred (e.g., Bailey, 2015; Cantor, 2015; Mokros & Habermeyer, 2016). Thus far, treatment models aiming to reduce or eliminate the attraction have showed no treatment gains for minor-attracted men (Beier et al., 2015). Cantor and McPhail (2016) have stated that if sexual attraction to children is unchangeable, then treatment needs to focus on behavioral change and how to enhance well-being. If sexual attraction to children is conceptualized as a sexual orientation, clinical strategies should focus on accepting, but refraining from

acting on the attraction, rather than attempting to remove it completely....

As treatment for minor-attracted persons develops, focusing on the management of sexual attraction to children in everyday life will likely be crucial. This includes addressing issues such as sexual pre-occupation, sexual drive, and managing sexual arousal (Cantor & McPhail, 2016). Further, addressing correlated factors, such as internalized and perceived stigma, stigma-related stress, social distance, hopelessness, and loneliness may enhance treatment outcomes (Cantor, 2014; Cantor & McPhail, 2016; Hatzenbuehler, 2009; Jahnke et al., 2015). Reducing the stigma that an individual has towards themselves may also play an important role in treatment. Without such treatment, minor-attracted persons may be more likely to experience stigma-associated stress, leading to issues such as anxiety, depression, and alcohol use; such treatment issues have also been identified among other sexual minorities (Hatzenbuehler, 2009; Pascoalido & Martin, 2015). Treatment aimed at reducing such stigma-associated stress may lead to improved psychological well-being and living a meaningful life.

...[A] recurrent theme in the emerging research on sexual attraction to children was therapists' perceived inability to focus on mental health concerns outside of their clients' sexual attractions (Levenson & Grady, 2019). This was noted to be a particularly problematic barrier. Such individuals were often seeking treatment to increase their well-being, but they felt shamed and were unable to establish effective treatment planning with their providers, so they disengaged from treatment (Levenson et al. 2019)....

Characteristic 2: Sexual vs. Romantic/Emotional Attraction. Although primarily attracted to minors who they do not engage with, most participants identified sexuality as an important part of their life.

When asked whether they have ever been 'in love with a child,' 59 (64.1%) identified that they had, whereas only 33 (35.9%) identified that they had not. ... This indicated that neither preferred body morphology nor gender orientation differentiated between those minor-attracted persons who identified falling in love with a child versus those who did not. Nearly all (n = 36; 98.8%) participants identified that they 'love children' and many reported that they find children 'very attractive.'

Characteristic 3: Stability Across Time. Stability across time was assessed using demographic information. A one-way ANOVA was conducted to determine whether the development of attraction to prepubescent girls differed depending on the individuals' preferred Tanner Stage. The results were insignificant, indicating that when attractions to prepubescent girls developed, it did not differ depend-

ing on what preferred Tanner Stage (body morphology) was preferred. Further, the effect size was negligible; the effect size was calculated using bootstrapping methods (n = 1000). The results of the ANOVA for sexual attraction to prepubescent boys was similarly nonsignificant, indicating that when the attractions to prepubescent boys developed, they also did not differ depending on what preferred Tanner Stage (body morphology) was endorsed. Further, the effect size was negligible; this was again calculated using bootstrapping methods (n = 1000). Relatedly, regardless of when attractions developed, the age range of participants was 18 through 65 years old for all groups; this indicated long-term attraction given most reported the attractions beginning in childhood or adolescence.

Qualitative Analysis and Results

Sexual Development During Adolescence and Puberty. All interviewees discussed sexual attraction to children from a sexual orientation perspective, of which several subthemes could be identified. The first related to the development of sexual attraction to children during adolescence. All but one interviewee reported identifying and recognizing their sexual interests prior to the age of 18. Most often, this occurred during early adolescence and puberty for the participants. Many participants described two clear, distinctive stages with respect to their sexual orientation. The first stage often involved a vague recognition of sexual interests, often in minors younger than themselves, even in adolescence. The second stage occurred as the interviewees began to realize their sexual attractions were not 'growing with them' and they remained sexually interested in minors. As part of this stage, these attractions also began to be self-identified as problematic, and the labels of 'pervert' or 'pedophile' often became stigmatizing and distressing for the individuals.

P2. I was around the age of 13 when I first realized that I was drawn to younger children. I remember having a crush on my best friend's 4-year-old brother when I was 13.

P5. Alright, this is a complex question. This is the one that I answer differently depending on how it's asked because when did I first start experiencing that? I suppose I can think of instances when I was 11 or 12 years old, and obviously I didn't understand, I didn't realize what it was at the time. My first, I guess what you could call a crush, that I can remember at least, the kid was 5, I was I believe 11 at that point. That's when it was specifically like – I don't remember any sexual components to it, and in general the emotional, romantic, that side of attraction is stronger for me generally. The first time it started really

(Continued on page 8)

(Continued from page 7)

bothering me that I can remember, around 16. But I didn't actually admit it. I was pretty much still in denial until I was 18.

P18. Yeah, I think it's probably pretty common as well, it's as I was getting older and going through puberty, I started becoming attracted to other kids my age and a little bit earlier, so I thought that was pretty normal and as I got older then they sort of didn't, and I still wasn't really concerned about it until I noticed that all my friends are talking about the girls and I'm like maybe. So, yeah, right around puberty and as getting into my mid-teens, the younger kids were more attractive than the older kids.

Differing Attraction Components. During the process of recognizing their sexual interests, many interviewees identified differing components to their attraction to minors. This resulted in a second sub-theme related to differentiating emotional, romantic, and sexual attraction among the interviewees. Several individuals noted attraction to the overall nature or children, including their innocence, ability to engage in the world completely, and to be spontaneous. Further, some noted that the naiveté of children, specifically the fact that they have not been exposed to negative aspects of the world, was attractive. These factors could be more of an emotional congruence with children, rather than romantic attraction. Regardless, many participants also noted a romantic attraction to minors, engaging in fantasies related to long-term relationships with minors rather than exclusively sexual relationships...

P16. There's an emotional attraction to ...kind of wanting to be them or like a little jealous of wanting and wishing I was them and wishing I was a boy again. It's a was of kind of affirming that like connecting on that level of like you know uh yearning for that. And there's some like mild fetishes. Just like emotionally charged objects around it. Which is, a lot of them are kind of boy like. Like, you know, a backwards baseball cap, skateboard, scuffy sneakers, stuff like that, that I'll find attractive. But it's weird, like socially, I don't particularly appreciate interacting with boys that much. They're just not complex enough, like socially, to really achieve what I want, you know? I mean, I'd like to have a deeper conversation with someone on a more complex level that adults would have, and boys don't....

...When describing physical characteristics that were attractive, aspects such as small frame, larger eyes, and lack of body hair were identified. These aspects varied depending on their gender and age orientation...

Developmental Characteristics and

Trajectory of Sexual Attraction to Children

Research examining sexual orientations has established criteria regarding the developmental process of sexual orientation (Seto, 2012); these criteria were used when examining whether sexual attraction to children displayed similar characteristics to that of sexual orientation with respect to gender. According to Seto, the features that arise in relation to the developmental process of sexual orientation include the following characteristics: (a) primary age of sexual attraction beginning in adolescence, often recognized as puberty commences; (b) sexual attraction that coincides with other aspects of attraction, such as romantic feelings and subjective notions of love; and (c) stability of attractions over time. The developmental process of the minor-attracted persons within this research program paralleled the theoretical expectations articulated within this framework. (Seto, 2012, 2017).

From those interviewed, 22 of 23 minor-attracted persons reported identifying and recognizing their sexual interests prior to the age of 18. This often occurred in early adolescence, at times as early as 11 or 12. Most participants described a two-stage developmental process leading to recognition of their sexual attraction to children. They often reported initially recognizing having sexual interest in minors during the first stage, and then later labeled these interests as 'problematic' in the second stage. This supports the first feature of a sexual orientation, with most minor-attracted persons recognizing their attraction before, or during, puberty. The third feature is also supported through the two-stage process, as most minor-attracted persons acknowledged a similar age orientation across their lifespan thus far. The second feature, involving the inclusion of romantic feelings and subjective feelings of love, was also supported by the research program, and will be further discussed later. No participants experienced a cessation of their attractions across time, clearly meeting the requirement of sustained attractions. Therefore, according to Seto's (2012, 2017) developmental framework of sexual orientation, attraction to children likely meets the criteria of sexual orientation within this sample....

...Further, emerging research has suggested that exclusivity may increase experiences of romantic feelings and falling in love with minors among minor-attracted persons (Martijn et al., 2020).

Delineating Romantic and Sexual Attraction

...Rather than acknowledging uncomplicated sexual interest in minors, most individuals deconstructed their attractions into various components that would be associated with romantic relationships.

These components may include sexual, romantic, and/or emotional attraction. Martijn and colleagues' (2020) research found that nearly three quarters of their sample of minor-attracted persons identified falling in love with a child during their lifetime. Many individuals identified experiencing infatuation towards minors; however, most also identified experiencing emotional attachments to minors. The authors noted that an attachment was suggestive of the long-term nature of the attraction being reflective of falling in love, rather than simply sexual attraction (i.e., more related to infatuation). These findings, in conjunction with the present study, clearly indicate that there is more to minor attraction than simply sexual attraction.

Outside of the use of child sexual exploitation material, fantasies involving children often involved long-term relationships with minors rather than exclusively sexual relationships. Within the fantasies, the participants often described the relationship as reciprocal, in which the minor could fully engage with them on a physical and intellectual level. Notably, most minor-attracted persons recognized that such fantasized reciprocal relationships are not reflective of the intellectual capacity of a minor, however, those capacities are included as a piece of the fantasy. Further, minor-attracted persons reported an attraction to the overall nature of children, including their naiveté, mindfulness, and spontaneous nature. Although these factors arose in the context of romantic and emotional attraction, these characteristics may be more reflective of emotional congruence with children, rather than romantic attractions. Future research, building on the recent work of Martijn and colleagues (2020), should investigate whether the subjective experiences of romantic attraction and love are comparable to similar subjective experiences among non-minor-attracted persons....

Conclusion

...[S]ome ...individuals many not be concerned with their attraction at all and feel there is nothing to 'manage.' ...

Regardless of their sexual attractions, minor-attracted persons need to receive compassion and be encouraged to build a satisfying and fulfilling life. This focus will provide enhanced well-being, thereby inherently engaging in risk prevention without the stigmatizing nature of risk preventive methods. Necessary for this focus is the recognition that age sexual orientation very closely mirrors the developmental trajectory of gender sexual orientation."

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Discriminatory Impact of Male Victims in Sentencing

[eds.], "How Does Crime Type Affect
(Continued on page 9)

(Continued from page 8)

Sentencing?," William A. Percy *Foundation Update*, Winter 2021, p. 13

Text excerpts

p. 13: "... For [sex] offenders, about half the convictions were based on contact sex (48%), followed by child pornography offenses (43%), and then enticement (9%). Sex of victim was girls-only in 41% of cases, boys-only in 30% of cases, and both girls and boys in another 29%.

p. 14: "An additional consideration in discriminatory maximum sentencing in contact sex with minors is the age of the victim. Did it make any difference if the victim was an adolescent or child? For this analysis, adolescence was considered ages 14 to 17 and childhood all ages under 14. It was for adolescent victims that the discriminatory sentencing was most apparent, bringing extreme sentences in 28% of cases for boy victims but only 7% for girl victims. Conversely, adolescent girls brought only low-to-medium sentences much more often than adolescent boys did (62% vs. 22%). For child victims, discriminatory sentencing was likewise apparent for the extreme sentencing category (33% for boy victims vs. 17% for girl victims). Only a small difference, however, occurred for the low-to-medium categories (27% for boys; 34% for girls). In short, for teenagers in particular, despite the reasonable argument for their greater agency, sentencing in the case of adolescent boys compared to girls was highly lopsided.

pp. 14-5: "In order of predictive power and focusing on the level associated with heavier sentencing, going to trial was most impactful in increasing sentencing terms, followed by contact sex, then boy victims, victim age being under 12, having two or more victims, and lastly, not having private [legal] representation. Extreme sentencing was most likely with chances being 69%, when the victim was a boy under age 12 having contact sex, with multiple boy victims, and where the defendant did not have private representation and went to trial. When all these factors were in place except the victims were girls instead, chances of extreme sentencing dropped to 52%. Conversely, the best-case scenario (i.e., in terms of low sentencing) was when the victim was a girl, multiple victims did not occur, the girl was aged 15-17, the sexual event was non-contact, the defendant had private representation, and he plea-bargained. Here, the chances of low sentencing were 69% (if all factors stayed the same, but the victim was a boy, the chances dropped to 52%). Finally, if we restrict cases to contact sex, the best scenario for girl victims (i.e., getting low sentences) was when only one was involved, she was aged 12 to 17, private representation was had, and the defendant plea-bargained. Here, there was a 44% chance of getting a low sentence

With all these factors the same, but substituting a boy for girl victim, the chances of getting a low sentence dropped to 27%.

p. 15: **Harsh penalties, anti-gay bias**

In summary, sex offences against minors were often harshly punished (relative to most other crimes in the survey), especially when the victim was a boy. The evidence in the analyses points to discriminatory sentencing here, which needs clarification by referring to the literature on how boy versus girl victims actually react in the short term and respond in the long term to such sexual events, as well as to the literature on our culture's current and historical attitudes toward homosexual behavior. Such a review is beyond the scope of this short paper, but in brief it consistently points to substantially more negative response by girl victims, but it shows a special prejudice towards male homosexual behavior that persists to the present day, both of which suggest the sentencing disparities reported here are discriminatory rather than just."

Can VR Shorten SO Treatment?

Bobbie Ticknor, "Using Virtual Reality to Treat Offenders: An Examination," 13(2) International Journal of Criminal Justice Sciences 316-325 (July-Dec. 2018).

Abstract

"Clinicians have used virtual reality (VR) for learning, practice and treatment for decades, but few efforts have been made to incorporate this strategy into correctional rehabilitation. Advances in hardware and software, reductions in price and the wide availability of VR systems now make this more viable. This article introduces readers to this innovative technology and explains how VR can be used to current rehabilitative efforts. Potential pitfalls for implementing this type of program are also discussed.

Text excerpts:

pp. 316-17: **1. What is Virtual Reality?**

The term *virtual reality* refers to any computer-generated environment that uses three-dimensional visualization software and special transmission devices, such as a head-mounted display (HMD) or controllers, to provide user input within the virtual world (Ticknor & Tillinghast, 2011). The goal of the simulation is for the user to experience the virtual world as a realistic representation of the real world. The human visual and auditory systems respond to computer-generated stimuli while in the simulation in an effort to achieve full *immersion* and *presence*. Immersion refers to the awareness the user has of the state in which a participant accepts, interacts, and is physically, socially and emotionally engaged in the virtual world' (p. 8).

p. 319: When combined with traditional cognitive behavior therapy (CBT), VR-CBT has been used to treat individuals with ADHD and conduct problems (Ceranoglu, 2010). During these sessions, clinicians focus on social skills training, coping strategies, and other techniques in order to reduce maladaptive behaviors (Anton, Opris, Dobrea, David & Rizzo, 2009). VR with cue-exposure therapy (VR-CET) has combined with VR-CBT to treat individuals with alcohol and/or drug dependence (Bordnick et al., 2009). The virtual simulation places the patient in high-risk situations they might find in the real world. Participants learn about their triggers and acquire coping skills to avoid a relapse. These programs have led to statistically significant decreases in substance abuse (Lee, Kwon, Choi & Yang, 2007; Lee et al., 2009).

3. Using VR for Correctional Rehabilitation

Current correctional treatment efforts often focus on changing behavior and addressing cognitive distortions commonly associated with antisocial attitudes and beliefs. Offenders engage in cognitive distortions that allow them to reinforce deviant behaviors (Van Voorhis, Braswell, and Lester, 2007). CBT attempts to correct these thinking errors by incorporating techniques, such as modeling, role-play and reinforcement, to change thinking errors and ultimately, behavior.

Individuals are taught a variety of skills to help them deal with problematic thoughts and situations. A trained facilitator teaches new skills and asks participants to apply them to their lives so they can see the value of what they are being taught. Each skill is broken down into steps so it can be replicated. The facilitator will then model the skill so participants can see exactly how to use it. Participants role-play a scenario where they can use the skill. The facilitator will briefly review the scenario with each participant to ensure it captures the desired intention and will result in prosocial execution of the skill. After the role-play, the facilitator provide immediate feedback to each participant and any co-actors that joined the scenario. Homework is assigned at the end of the group so participants can practice what they learned. This treatment is often delivered in groups and can be used for offenders who are institutionalized or under community sanctions. ...These programs could be enhanced by incorporating VR into the curriculum.

pp. 319-20: **4. Implementation**

VR can improve on traditional CBT by offering a safe, controlled and realistic environment for offenders to learn and practice new skills. Group facilitators can use the virtual environment to model each skill. This provides participants the ability to actually see how the skill can be used rather than imagining it. Additional

features, such as embedded videos, music and other software, can be used to enhance the skill training portion of the group.

Once trained, participants can then practice their new skill by role-playing scenarios they might experience in the real world. This might include a street scene, classroom, or nightclub, to name a few. Different scenarios can be created depending on the needs of each participant to the group. This allows facilitators to tailor content to focus on specific problems. Additionally, new environments or experiences can be used to facilitate graduated practice sessions.

Other features often available with VR could also be useful. Anything that occurs in the virtual environment can be recorded. This allows group facilitators the ability to provide feedback after the role play. This can be used to correct behavior and resolve any misunderstandings. The recordings can also be used for opportunities to provide reinforcement for adaptive behavior.

VR-CBT is also a good solution for those who cannot physically come to group or who do not have access to quality services. While traditional groups require all participants to be in one location, VR allows participants who are physically anywhere in the world to share a single virtual environment with other group members. This could be invaluable in addressing responsivity issues, such as a lack of transportation or child care arrangements, or for those who do not have these types of services available in their local communities.

pp. 320-21: **Recent Exploration**

There have only been a handful of studies that have specifically explored how VR can be used to complement current criminal offender rehabilitation efforts (see Ticknor, 2014; Ticknor & Tillinghast, 2011). Those presently exploring VR for offender treatment commonly focus on how VR can be used for substance abuse treatment rather than behavior modification. As previously suggested, programs that incorporate VR have been strongly supported in the psychology literature for both substance abuse and conduct disorders. There have been two studies that have looked at how to incorporate the technology into assessment and traditional offender behavior treatment.

Massil Benbouriche and colleagues at the University of Montreal used a combination of Penile Plethysmography (PPG) and gaze time to assess sex offenders in 2014. They used a VR cave to display sexually explicit material and recorded the participant's physiological responses. They measured gaze time and eye movements using HMD. They also measured the participant's responses through the PPG. This tool measures the blood flow to the penis and is commonly used as a

(Continued on page 10)

(Continued from page 9)

measure of sexual arousal. They concluded that using VR and these devices provided similar results to other methods more commonly used to evaluate deviant sexual responses making it a viable method to assess sex offenders (Seidman, 2014).

Another study evaluating how VR can be used in correctional rehabilitation was conducted by the present author (see Ticknor, 2017 for more details). The pilot, nicknamed the Virtual Environment for the Treatment of Offenders (VETO), took place in June of 2013 at a juvenile residential facility in Ohio. This pilot represented a feasibility study to evaluate if VR could be used to enhance traditional CBT for offenders. Participants met with a CBT Master Trainer for one-hour sessions, three days a week for ten weeks. A pre- and post-survey were given to each participant. There were several strengths and weaknesses noted in this pilot study.

All of the juveniles who participated in the pilot study had been in traditional group treatment previously. When asked to compare their experiences, participants responded that learning new skills and role-playing in a virtual environment was much more engaging than their previous groups. They also felt more open to discuss their experiences and ask questions....

...While the facilitator was able to successfully use the virtual environment for training, role-playing and feedback, other features in the software were not used that may have increased the effectiveness of the treatment.

pp. 321-22: **Additional Considerations**

...Virtual Rehab, with offices in New York, California and Quebec, has taken an innovative approach to solving the cost issue. The company develops curriculum for vocational job training. Substance abuse and psychological treatment. Their program is based on cognitive behavior and exposure therapy and is customizable. Each scenario includes a mix of both soft and hard skills; thus, elevating the offender's self-awareness and social, professional and behavioral skills. All actions and reactions are also tracked and saved for further analysis....

pp. 322-23: **4 Conclusion**

Using VR for correctional rehabilitation offers several advantages over traditional offender treatment. First, VR can be used to demonstrate, role-play and model skills in a more realistic environment. Offenders can see how the skill can be used in scenarios that mimic what they might actually encounter in their everyday lives. Second, the software inherent in the virtual environment can assist facilitators in providing feedback, correcting behavior and use reinforcement when the targeted behavior is achieved....

The lack of resources and ever-shrinking

budgets makes it difficult for many criminal justice agencies to provide access to effective treatment for their clients. This technology has the potential to address many of these issues and to revolutionize correctional rehabilitation as we know it.

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ODDS & ENDS Dept.

Do All Lie Detectors Lie?

Anthony Accurso, "New Lie Detectors Are on the Way, But Are They Better Than the Old One?", 3(4) *Criminal Legal News* 43 (Apr. 2020)

Text Excerpts:

"New 'Lie Detectors' are being marketed as viable replacements for the aging, debunked polygraph....

...Several studies have shown that the 'sensitivity' of the [polygraph] test is around 76 percent – meaning that of 100 liars, only about 76 will be detected. If that wasn't alarming enough, the 'specificity' of the device is around 52 percent – meaning that of 100 people telling the truth, only 52 will be identified as having done so while 48 will be branded as liars. That's a whole lot of false positives.

Two companies are now touting products that they claim are more accurate. Converus is marketing 'EyeDetect, which measures subtle changes in pupil size and eye movement. Discern Science is marketing 'Avatar,' a device that has a microphone, and infrared eye-tracking camera, and an Xbox Kinect sensor to measure body movement....

...[S]uch physiological variations are only partially correlated with deception, and people respond differently under pressure. It's also difficult to establish an accurate baseline for deception in a testing environment where the emotional states aren't so high. The tech industry has long used the phrase 'Garbage In, Garbage Out' to denote the faulty results achieved from faulty inputs....

According to sociologist Andy Balmer, such technologies pop up at 'pressure-cooker points' in politics, where governments lower their requirements for scientific rigor and seek certainty in 'scientism.' Historian Ken Alder cautions that these devices are almost always deployed against the most politically vulnerable, such as dissidents and homosexuals in the 1960s and asylum seekers and migrants today [as well as those being tried for SOCC and those already confined under such commitments].

Guess Who Sides with SOs on Legal Policy?

Socia, Kelly M. et al., "How Background Relates to Perceptions of Child Sexual Abuse Prevention and Policies Related to Individuals Convicted of Sex Crimes," 31 *Criminal Justice Policy Rev.* 1059-1094 (Issue 7, Aug. 2020)

Abstract: "Although research has examined perceptions of child sexual abuse (CSA) prevention and the efficacy of sex offender policies (SOPs), less research compares these perceptions between different backgrounds. We explore these perceptions among North Carolina stakeholders with backgrounds related to (a) victims of CSA, (b) individuals convicted of sex crimes (ICSCs), and/or (c) law enforcement and policymakers. Specifically, we examine how these backgrounds differ in the perceived efficacy of (a) the ability to prevent CSA, (b) containment-based SOPs, and (c) assistance-

based SOPs. We find that the victim-focused background was the most optimistic that CSA prevention is possible, and the law and policy background was the most pessimistic. Furthermore, the ICSC-focused background was the least likely to believe in the effectiveness of containment-based strategies and the most likely to believe in the effectiveness of assistance-based strategies. An overlapping victim-and-ICSC background consistently fell in between the views of victim-only and ICSC-only backgrounds." **Editor's Note:** Thus, this study essentially finds that the beliefs of both former sex-crime child victims and those who sexually abused children in the past are in agreement that there is an ability to prevent sexual abuse of children and that assistance-based sex offender policies are the likely effective way to achieve such prevention. In contrast, the authors find that law enforcers and SO policy makers believe that sex-crime prevention is impossible by any other means than confinement of sex offenders or other liberty-restricting measures to achieve total containment of sex offenders away from open society. This contrast, aligning views of sex abuse victims with those who have committed sex crimes against children – together all of those who have direct experience with such crimes – suggests that law enforcers and SO policy makers, whose experience with such crimes is only secondary (through accounts only) at best, have formed their views through conjectures and fear-based imaginings and the emotional reactions of disgust, horror, and anger such imaginal experience produced.

Meet Your Friendly Neighborhood Psychopath!

Rasmus Rosenberg Larsen, Jarkko Jalava, Stephanie Griffiths, "Are Psychopathy Checklist (PCL) Psychopaths Dangerous, Untreatable, and Without Conscience? A Systematic Review of the Empirical Evidence," 26 *Psychol. Pub. Pol'y & L.* 297 (August, 2020)

Excerpt:

"...Specific findings suggest that PCL-R psychopaths demonstrate similar therapeutic progress to non-psychopaths (Sewall & Oliver, 2019), respond in a predictably positive way to therapeutic allegiance (Polaschek & Ross, 2010), and show reduced sexual and violent recidivism risk as well as less serious reoffending after completing a treatment program (in a high-risk PCL-R sample; Wong, Gordon, Gu, Lewis, & Oliver, 2012).
