The Legal Pad — Volume 7, Issue 4 — April 1, 2023

"The short answer to why Americans harbor so many misbegotten fears is that immense power and money await those who tap into our moral insecurities and supply us with symbolic substitutes." — *Barry Glassner, The Culture of Fear: Why Americans are Afraid of the Wrong Things* (2020 rev'n), p. xxviii.

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Feedback? News? Write!

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Issue Theme: The Levity and the Gravity

The Levity: "Holy Shiitake, Batman!"
Once Fallen Announces 2022 Shiitake Awards

Derek Logue, The 2022 Shiitake Awards, iamthefallen1@yahoo.com (Feb. 17, 2023)

"The 2022 Shiitake Awards

Welcome. The Shiitake Awards is an ongoing project by OnceFallen.com where we spotlight the dumbest or worst stories and people who exploit Predator Panic and the public 'sex offense' registry for personal gain. Throughout the year, OnceFallen collects nominees, and in January we allow people to vote for those you feel were the worst – those who went above and beyond to exploit fear and hatred of persons forced to register.

...This page was created to summarize the nominees. ...Here are [some of] the candidates:

2022 Dumbest Quote:

Dillon Awes, Pastor at Steadfast Baptist Church, Watauga, TX: Told his congregation that gay people are 'dangerous to society' and said that 'all homosexuals are pedophiles.' 'I'm not saying that every single homosexual that's alive right now has committed that act with a child already because it could be they haven't had the opportunity yet and they will at some point later in their life. This is why we need to put these people to death through the proper channels of the government. ...These people are not normal. They're not your average everyday sinners. ...They have no hope of salvation.'

Dumbest News Mutt:

Joni Auden Land and Dirk VanderHart, Oregon Public Broadcasting: Donald Surrett saved lives by interfering with a mass shooter. He was killed for his efforts and posthumously declared a hero. These two clowns dredged up Surrett's previous sex offense conviction to detract from his heroics.

2022 Everyday Zeroes Award:

Katie Weeks Wymard, Hampton, PA: Started an online petition to demand Pennsylvania institute a 2500-foot residency restriction law and told reporters it isn't IF they reoffend but WHEN.

Phil Godlewski, QAnon Influencer: While promoting the insane QAnon conspiracy and accusing others of 'grooming,' it was discovered that Phil had a sex offense against a minor in his own past.

Chase Johnston, Rochester, MN: The leader of the vigilante group 'Midwest Predator Catchers' has an extensive criminal history and has been accused of sexual assault.

2022 Holy Shiitakes Award:

New Mexico GOP combines Predator Panic with fears of White Replacement in campaign ad: An altered image of darkened hands cutting a white child's hair added, 'Do you want a sex offender cutting your child's hair?' The original stock image had shown white hands but the GOP colored it black.

Brevard County (FL) Commission admits they are out to cause harm to Registered Persons: Commissioners John Tobia, Kristine Zonka, and Rita Pritchett walked in goosestep ...er, 'lockstep' with each other in condemning anti-registry activists at a county commission meeting held on May 17, 2022.

Ron DeSantis' Press Secretary Christina Pushaw refers to opponents of 'Don't Say Gay' bill as 'pedophiles.'

2022 Keystone Kop of the Year:

Peter Bilardello, Cobb County GA Registry Officer: 'Former' officer now, because he committed a sex offense and must register himself.

Bill Leeper, Nassau County FL Sheriff: Still posting blatantly unconstitutional signs ahead of Halloween, even after the 11th Circuit struck down similar signs.

Sabrina Mellerson, Clarendon County (SC) Sheriff's Deputy: Arrested for misconduct in office and embezzlement; she embezzled money from Registrants who made cash payments to pay registry fees.

Jeff Dodd, Anaheim (CA) PD Sergeant, 'Retired': Altered registry data in an attempt to discredit a female co-worker, which could have led to a false arrest on failure to register (FTR).

2022 Dumbest/Worst Politician:

Hershel Walker, GA Congressional candidate: In a Hail Mary attempt to win election, Walker falsely claimed his political opponent was 'responsible' for sexually abusing kids' at a summer camp.

Ted Budd, U.S. Senator (R-NC): Successfully claimed his political opponent was 'soft' on Registered Persons and 'helped free child rapists.'

Dave Catalifamo, Republican NY Assemblyman Candidate: Pushed a petition to kick out of college a student forced to register. He went on TV claiming everyone on the Registry was 'dangerous.'

Tudor Dixon (R), Michigan Gubernatorial Candidate: Campaigned to reinstate residency restriction laws that were declared unconstitutional by federal courts.

Ron DeSantis (R), FL Governor: Misled Registrants into thinking they were allowed to vote only to have those who voted arrested for voter fraud.

Bob O'DeKirk, Joliet (IL) Mayor: Settled a lawsuit for bodyslamming a peaceful protester, then pushed to open a 'pocket park' to prevent the opening of a halfway house for Registered Persons.

Debra Jones, AL Supreme Court candidate: Ran an ad boasting that she sentenced a person convicted of child molestation to more than 1,000 years in prison. The spot shows her firing a handgun and saying the only reason she didn't put the person 'under the jail' was 'the liberals' wouldn't let her.

Kelly Lynn, Norman (OK) Ward 3 Councillor: Attacked an opening homeless shelter which would have served homeless Registered Persons, calling the homeless charity a 'radical' group. He also wanted the Sheriff to incarcerate all homeless Registrants & the homeless groups helping them. He also told anti-registry activists they deserve the 'death penalty.'

[Editor's Note: Among many additional dishonorable mentions are the following:

A Florida man who allegedly tried to murder a man by running him over because he (incorrectly) believed him to be a Registered Person. Bail: $10,000.

Kentucky gubernatorial candidate Eric Deters, who campaigned on advocacy for (apparently retroactively) executing everyone ever convicted of a sexual offense.

An Iowa legislative proposal (HF 77) would force all who are no longer required to register to again register – this time for life. The bill further creates a new (highest) recidivism risk "Tier 4" applicable to all who will be forced to register if this bill passes. All in this new Tier 4 will be subject to employment and residency restrictions, and first-time failure to comply is an aggravated misdemeanor, later failures are felonies.

In addition to other dubious awards listed above, Florida Gov. Ron DeSantis also wants legislation allowing the death penalty to be applied to sexual crimes against minors. In 2008, the U.S. Supreme Court ruled that the death penalty could only be applied to murders. However, DeSantis, urged passage of his proposal, arguing that state prosecutors should seek the death penalty in such non-death cases anyway. He said, " "We do not believe the Supreme Court, in its current iteration, would uphold [the 2008 ruling]...."

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The Gravity:
'Othering' of & Resistance by Sex Offenders

Mary Lay Schuster et al., "Medico-Legal Collaboration Regarding the Sex Offender: Othering and Resistance," 1 *Rhetoric Health & Med.* 90 (2018)

Text excerpts:

p. 90: "We examined medico-legal collaboration regarding dangerous sex offenders where state legislators have adopted statutes that determine the criteria for commitment to and discharge from civil commitment programs. ...We found that one result of this medico-legal collaboration is the marginalization or othering of sex offenders by essentializing, dividing, shaming, and impeaching them. We also found that this group attempted to resist othering by rhetorical strategies such as providing evidence of change of character, distinction within the othered group, and proof of internal controls over unacceptable impulses.

p. 93: We begin by exploring the catalyst for the creation of civil commitment programs as well as the problems in maintaining them, with a particular focus on perhaps the least successful of them all, the Minnesota Sex Offender Program (MSOP) (see, for example, *Sex*, 2017)...

pp. 93-4: ...Although all programs certainly rely on statutes to provide the legal criteria for civil commitment for an indeterminate period and eventual discharge and on current medical practices to evaluate and treat psychological abnormalities, the norm can still be a de-facto life sentence for the offender. Judge Audrey Fleissig, for example, ruled that Missouri's Sex Offender Rehabilitation and Treatment Services program 'suffers from systemic failures regarding risk assessment and release that have resulted in the continued confinement of individuals who no longer meet the criteria for commitment, in violation of the Due Process Clause' (*Van Orden v. Schafer*, 2015, p. 844). The Minnesota Sex Offender Program has also faced due process challenges asserting that civil confinement of sex offenders is unfair and arbitrary, and although civil commitment efforts might meet a specific government interest, those efforts are not applied in the narrowest way as required by the Constitution. Thus, for extensive periods, civilly committed sex offenders may be deprived of their liberty rights as guaranteed by the Fourteenth Amendment and the Due Process Clause.[3] In addition, MSOP currently has the highest per capita number of sex offenders civilly committed and the lowest number of offenders discharged back into the community.

p. 96: **The Case of Minnesota**

...The number of civilly committed sex offenders increased almost six-fold after the Rodriguez case (see *Bierschbock & Mannix*, 2015, n.p. [i.e., no paging]). Moreover, the state criteria for discharge from civil commitment became more difficult to meet than the criteria for initial commitment (see *Minnesota Commitment and Treatment Act*, 2016, § 253D.30; § 253B.18).

...[I]n 2016, the oldest offender in MSOP was 94, and several were over 70 (*Fritz, Brandham, & Oldham*, 2016, June 28). For this reason and others, we agree with Corey Yung (2013) who, in the *AMA Journal of Ethics: Virtual Mentor*, concludes that civil commitment represents 'a quintessential example of a poorly conceived scheme designed to unify concepts from the field of law and medicine' (p. 873). Specifically, Yung accuses legislators who have supported such programs as attempting to rely on the authority of mental health professionals to 'lend credence to legal regimes on shaky doctrinal ground. The result has been a set of programs that *fail from both a medical and legal standpoint*' (p. 873, emphasis added [by authors]).

p. 98: Minnesota's civil commitment laws and individual MSOP practitioners seem to err on the side of placing more, rather than fewer, offenders outside of open society's boundaries.

pp. 98-9: ...As Susan Bandes declares, quite simply and forcefully, 'Emotion pervades the law' (p. 1). Certainly fear drives civil commitment laws. As we see in the case of MSOP clients, however, attempts to shame the client and to evoke disgust for that client help reinforce this othering.[5] Shame often results from crippling guilt about certain acts. And as Martha Nussbaum (2004) relates about the emotion of othering, 'Societies ubiquitously select certain groups and individuals for shaming ...marking them off as "abnormal" and demanding that they blush at what and who they are' (p. 192). If the abnormal is expected to feel shame for certain actions, actions that confirm abnormality and inherent traits, the so-called normal population may feel disgust for the offender, an emotion that Nussbaum associates with fear of contamination. Thus, disgust as an emotion creates a dichotomy to distinguish the categories of the disgusting and the pure, which can limit the ability for the othered to resist othering. Finally, according to Mona Lynch (2002), the disgusting are 'subject to measures that seek to quarantine, separate, and even destroy them to defuse their powerfully contaminating forces' (p. 540). If these social boundaries are carefully drawn and maintained, those considered disgusting cannot cross them, and by accepting their own nature as so defined, the shamed offenders might not attempt to cross these boundaries.

p. 99: One aim of our analysis is to examine how a group of othered persons might resist containment rhetoric and marginalization as well as the disgust imposed upon them and shame expected of them. We choose this aim because until now the discussion of othering relating to the medico-legal collaboration surrounding civil commitment has not revealed specifically or in depth how these groups might resist othering. One exception is *Richard Tewksbury's* (2012) study, which found that marginalized individuals cast out of dominant society may manage their stigmatization by displacing 'the stigma onto others or simply rejecting the stigma,' by 'celebrating one's difference,' by seeking 'empowerment through overcoming the label,' or by distinguishing among group members (pp. 609-10).

pp. 101-2, [Footnote 6 excerpt: ...Judge Frank [in *Karsjens v. Jesson*] concluded that the Minnesota statutes governing civil commitment as well as MSOP in applying these statutes violated the due process constitutional rights of MSOP clients, particularly their fundamental liberty rights. Ultimately, the defense appealed Judge Frank's decision to the U.S. Court of Appeals for the Eighth Circuit, which found that Judge Frank had used the wrong standard of proof in determining his decision and that the ability of MSOP clients to petition for discharge met constitutional requirements. In response, the plaintiffs wrote a 'petition for writ of certiorari' to the U.S. Supreme Court, arguing not only for the appropriateness of the standard of proof that Judge Frank had used but also for a necessary constitutional remedy: annual risk assessment of every MSOP client to determine whether that client still met the legal and medical criteria for civil commitment. Janus (2006) and other scholars have concluded that civil commitment creates a 'reduced-rights zone' for sex offenders (p. 32). Within their [petition for] writ of certiorari to the U.S. Supreme Court, the plaintiffs echoed this concern that civil commitment creates

'constitutionally impermissible subclasses of rights holders – those who have a fundamental right to liberty and those who do not. This approach means that any group perceived as potentially dangerous to the public – the mentally ill, people with alien status, or those previously convicted of chronic criminal behavior, for example – could find themselves with diminished constitutional rights when facing civil commitment or detention.' (p. 4).

On October 17, 2017, however, the U.S. Supreme Court declined to hear the case, a decision that effectively upheld the appellate court's decision.]

p. 104: **Othering by Essentializing**

One rhetorical strategy to justify civilly committing sex offenders is to essentialize them with a medical diagnosis that meets the legal criteria for many sex offenders...

pp. 104-5: ...[A]s Robert Prentky et al. (2006) concluded, this diagnosis of paraphilia becomes 'one highly heterogeneous group' or 'wastebasket for sex offenders' (p. 367). Equally common is the diagnosis of antisocial disorder, generalized as 'a pervasive pattern of disregard for, and violation of, the rights of others that begins in childhood or early adolescence and continues into adulthood' (*American*, 2000, p. 645). ... Such diagnoses essentialize sex offenders rather than distinguishing them by their histories and behaviors in order to design appropriate and individualized treatment. And so, these diagnoses cast a broad net for civil commitment in treatment programs where medico-legal collaboration may also leave open and even shed doubt upon whether treatment works.

p. 106: ...[A]s displayed in the *Karsjens* trial, medico-legal collaboration regarding civil commitment often places demands on individual practitioners to apply legal criteria, demands about which they could have basic disagreement.

Moreover, it became clear during the disagreement between Drs. Powers-Sawyer and Pascucci and others that the legal criteria for discharge from civil commitment were often unclear and misunderstood. The legal criteria to be met by the MSOP medical staff when recommending or rejecting discharge from the program were as follows: 'The committed person's course of treatment and present mental status indicate there is no longer a need for treatment and supervision in the committed person's current treatment setting,' and the conditions of the provisional discharge plan must 'provide a reasonable degree of protection to the public and will enable the committed person to adjust successfully to the community.' These two criteria came under the required rubric that 'a person who is committed as a sexually dangerous person or a person with a sexual psychopathic personality shall not

(Continued on page 3)

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be provisionally discharged *unless the committed person is capable of making an acceptable adjustment to open society*' (emphasis added, *Minnesota Commitment and Treatment Act 2017*, § 253D.30, subd. 1). However, during the trial, the plaintiffs revealed that the Minnesota Supreme Court had ...questioned just how MSOP medical experts might predict with confidence that a person would adjust to open society. The court concluded that the primary discharge criteria should simply be: 'A person committed as a psychopathic personality must be discharged if no reasonable relation exists between the original reason for commitment and the continued confinement' (*Call v. Gomez*, 1995, n.p.). The question became whether MSOP practitioners such as Dr. Pascucci could continue to rely on their risk assessment tools to predict acceptable adjustment.

p. 107: **Othering by Dividing Sex Offenders from Normal Society**

...[I]n *In re Civil Commitment of Ince* (2014), the Supreme Court of Minnesota found that the term 'highly likely' to reoffend, as required in the state statutes governing civil commitment of SDPs and SPPs, cannot be defined by a numeric value (n.p.; see also *In re Civil Commitment of Spicer*, 2014; *Grossman, Martis, & Fichtner*, 1999; *Hanson et al.*, 2002; *Quinsey et al.* 1993) Once othered as abnormal, or a threat to the moral values within society, it was difficult for these young offenders to overcome their marginalization.

pp. 108-9: **Othering by Shaming and Impeaching Sex Offenders**

In cross-examination in the *Karsjens* trial, for example, the defense both shamed and impeached E.T. and C.B. to justify the continued need to separate them from society. Moreover, any approach to resisting their othered status was viewed as problematic, largely because it challenged the normalized values and discursive structures of medical prognosis, risk assessment, and compliance.

p. 109:Shaming in the courtroom is directly linked to impeachment. Questioning the truthfulness of a witness is usually based on, as Steven Lubet (1992) notes, exposing 'some inherent trait or particular characteristic of the witness' that renders 'testimony less credible' (p. 530; see also *Federal Rules of Evidence Rule 607*, 2011). The defense used the most common forms of character impeachment in the case of E.T., which include 'conviction of a crime, defect in memory or perception, and past untruthfulness' (*Lubet*, 1992, p. 530; see also *Mauet*, 2000). Thus, if a person is shamed about his or her untruthfulness about past offenses, that person loses credibility and ability to resist othering in the courtroom. Whereas E.T. and C.B. might not be guilty in the sense usually assigned to adult sex offenders, the defense insisted in open court that they reflect upon their criminal records and admit that their sexual impulses were basically and consistently abnormal.

To engage further in such impeachment strategies in cross-examination, for example, the defense asked the MSOP medical staff to reveal in detail E.T.'s treatment notes. Here again in this medico-legal collaboration, medical experts became important supports for maintaining the constitutionality of the Minnesota state statutes governing commitment within MSOP. E.T.'s treatment notes recorded that, among other behaviors, he had 'sexually acted out to get money and material things.' Dr. Elizabeth Barbo, a clinical psychologist and Director of MSOP's Community Preparation Services (CPS), testified that even when E.T. was finally moved to CPS, the last stage before discharge, he was still 'hostile and angry,' engaging in rule breaking, and spending money 'compulsively.' Dr. Barbo also stated that E.T. declined family therapy and the polygraph, steps necessary to prove he was facing up to his offenses and was ready to be discharged. Therefore, the defense proposed in their closing arguments that E.T 'still deflects responsibility for his behaviors and past offenses' (*Defendants' Closing Argument*, pp. 129-30). To justify E.T.'s confined commitment, the defense depended on othering him through impeachment and shame, a form of self-blaming, by exposing how he might have been less than truthful about his past offenses and his present cooperation in MSOP treatment. Here again, Nussbaum's (2004) warning seems appropriate: 'The shamed person feels a pervasive sense of inadequacy, and no clear steps suggest themselves to remove that inadequacy. The tendency may often be simply to retreat and shut down' (p. 209).

pp. 110-11: **Resistance by Internal Change**

...[B]oth E.T. and C.B. also asserted their distinction among othered sex offenders by claiming a fundamental character change from when they first offended....

In a sense, in presenting this testimony of E.T. and C.B., the plaintiffs were refuting for E.T. and C.B. what Ahmed (2000) would call stranger fetishism, a form of othering, that '*invests the figure of the stranger with a life of its own insofar as it cuts "the stranger" off from the histories of its determination*' (p. 5, emphasis in original). Once othered, it seems, moving into normal society could be exclusively the decision of the dominant group. However, according to Cindy Peternelj-Taylor (2004), 'those who might be labeled other at any given point in time is not a constant factor but is continually evolving' (p. 133; see also Göbbels, Ward, & Ellis, 2012). In claiming change in their core identities and testifying that they could safely move into the boundaries of normal society, E.T. and C.B. resisted their othering through 'refusing to be devalued' (Jensen, 2011, p. 66). In response to social alarm about sex offenders, the medico-legal collaboration creates a profile to fit the image of the abnormal and looks for key features in those marked as abnormal, making resistance to othering quite a challenge. Past behavior linked to a medical diagnosis and prognosis become part of that othering.

pp. 111-12: **The Sex Offender Diagnosed with Pedophilia**

...[A]s Brown, Deakin, and Spencer (2008) remind us, '[T]here is a dominant narrative of the child sex offender which is deeply imbedded and one that concludes that the sex offender is "irredeemable"' (p. 271). Thus, marginalization of the pedophile depends not only on the urgency to protect the most vulnerable of victims but also on the belief that treatment cannot cure the pedophile, supporting any medico-legal notions about curtailing the recidivism of this offender except by indefinite confinement.

After reviewing the psychological work on defining and treating the pedophile after World War II, Elise Chenier (2012) concluded that, 'Pedophilia, it seems, cannot be cured, yet we remain stubbornly committed to the notion that without treatment adults (principally men) who sexually desire people under a certain age cannot control their desire for sexual contact with children and youth and will repeatedly act upon it' (p. 174). This belief adheres to the pedophile and yet extends beyond this sex offender to many others.

...[T]reatment for a pedophile is often considered by the courts and the medical experts as 'problematic' and possibly ineffective, given a 'powerful attachment' to 'deviant interests and an unwillingness to change' (*In re Kindschy*, 2001, p. 728).

p. 116: **Resistance by Reinterpreting Criminal History and Medical Diagnosis and Prognosis**

William Marshall et al. (2001) found: '[T]here is no evidence available confirming the assumption that it is necessary to overcome denial in order for treatment to be engaged.' (p. 206).

p. 120: **Medico-Legal Collaboration: Conclusion**

We think it bears noting that medical practitioners seem to face a challenge in predicting risk for recidivism, particularly when the forensic tools upon which they depend might not be specifically designed for the MSOP setting or offender. Moreover, the interpretation given to the criteria for discharge from the program, as clarified in *Call v. Gomez* (1995), is that a MSOP client would be discharged from civil commitment when the original reason for commitment no longer exists. The state statutory criteria and the practices of MSOP, however, continue to demand a forensic risk assessment to support discharge as well as agreement by therapeutic teams. In our observations and analysis, we found that practitioners disagreed about the results of such assessment. Again, Dr. Powers-Sawyer and Dr. Pascucci took different stances on the potential discharge of E.T. Of course, Dr. Pascucci appeared for the defense, and Dr. Powers-Sawyer for the plaintiffs, but still their stances seemed affected by the different assessment procedures they used.

p. 121: *Elaine Scarry* (2002) argues that 'the human capacity to injure other people is very great precisely because our capacity to imagine other people is very small' (p. 103)."

Notes:

3 For an in-depth examination of how civil commitment programs may curtail the constitutional liberty and due process rights of sex offenders, see *Brandt and Prescott* (2015, Feb. 1); *Brandt and Prescott* (2015, Feb. 7); Brandt and Prescott (2015, June 21); Janus (2006); Janus and Brandt (2015).

5 Sex offenders civilly committed to MSOP are called clients, and so frequently we refer to them as such within this article.

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Minnesota News

Karsjens #3 Gains an Oral Argument Date

by Cyrus P. Gladden II

A notice to opposing counsel for the parties to the current appeal (#3) in *Karsjens v. Harpstead*, and posted on our Client Network reveals that this appeal will have oral argument on April 12, 2023 before a panel of judges of the Eighth Circuit Court of Appeals.

The oral argument will be held in St. Louis, MO before these three appellate judges: James B. Loken, Bobby E. Shepherd and Jane Kelly. Only Judge Shepherd sat in the panel which decided the first appeal of the case. However, Judge Shepherd did write the opinion in that case so adverse to the *Karsjens* Plaintiffs-Appellants.

Of the other judges in that first appeal, Judge Colloton apparently withdrew from the panel and Judge Murphy predeceased the second appeal. Judge Kelly joined the panel for the second appeal as did a Judge Benton.. Judge Loken joins the panel in place of Judge Benton for the first time in this appeal.

Judge Kelly has not had any Eighth Cicuit experience with a case concerning sex offender civil commitment (SOCC) other that the *Karsjens* case. Judge Loken has apparently never sat in any Eighth Circuit case involving a challenge to SOCC at all.. Cases in which Judge Loken ruled on issues involving individual sex offenders appear to have been decided fairly and very firmly strictly on legal grounds, rather than bias.

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A Requiem for Rage and Fear

by Cyrus P. Gladden II

"*Mistah Kurtz – he dead.*"

Disclosure: I once was a "sexual offender," decades ago. I use that term here only because it is familiar to you, now that the last 40 years have delivered propaganda using that term at least weekly, and sometimes more often than that. I hope you are able to set aside any bias this may arouse in you. To start you down the road toward realizing the morass of complexities that typically prevent such biased generalities from being fair, allow me to tell you just two facts about my personal criminal record:

(1) My most recent conviction arose from a completely false allegation. The motivations that created this false accusation are irrelevant to this article and thus are omitted here. What is significant here about this is that individuals previously convicted of a sexual offense are often targets of such later false accusations and that, in major part due to the very rage and fear that this article discusses, are often wrongfully convicted of such false accusations. In this particular instance, I have been a personal victim of this biased frame of mind on the part of others – specifically the jurors whose unconscious bias was manipulated to lead them incorrectly to a false verdict of guilt.

(2) My preceding set of convictions occurred all at once, not over many years. Further, they involved a pattern of sexual abuse involving the same four victims. Those charges were simultaneously prosecuted in two adjacent counties. This, plus a standard prosecutorial practice called "multiple billing" together made it falsely appear that more than twice that number of victims were involved. This is not to excuse or minimize the gravity of those actual crimes. It simply sets the record straight. This is necessary in this modern age of criminal record transparency. My experience has almost uniformly been that without this explanation, those who merely see the list of charges assume the worst. On previous occasions, this has resulted in incorrect dismissal by some of the message my writing has conveyed. The importance of the message you are about to receive requires that I take the extraordinary step of providing the explanatory preface you have just read.

If this article were about me, I would leave this matter of labeling where it has been and simply move on. However, such inflammatory labeling of persons is unfair and deliberately hurtful. From a media perspective, this has been pure pandering. It deliberately seeks to captivate both those in terrorized panic at visions of monsters at large and those who have fallen into a relentlessly cyclical, reflexive 'rage trap' simply by snap judgments triggered by such verbal labels. As a society, we all need to rise above that pandering and to condemn it as the crippler of free thought that it is.

To break free of these bonds, we all need to lay aside these 'words-as-weapons' labels. I ask that instead, we use a more descriptive and non-inflammatory term, "humans prosecuted for sex offenses," or "HPSO" for short. This is in keeping with "person-first" language, a precept of modern journalism. In the text that follows, I use the "HPSO" short form for this. I recommend that you pause a minute at this point, repeating the full phrase, "humans prosecuted for sex offenses," while you lock your gaze on "HPSO." This should help make this change of language easier for you to adjust to.

I will try to make this new usage consistent throughout this article. When reading the writing of others and encountering such buzz words/phrases that serves as such 'words-as-weapons' labels, we should ask ourselves <u>why</u> the writer chose such an inflammatory term. This is a start toward being able to courageously confront those who seek to distort our thinking and to implant their feelings as ours without our becoming aware that they are trying to do so -- all by putting 'word bombs' into our brains to manipulate us. After all, why would anyone let anyone do that?

What I tell you in this article may well surprise you; I hope it enlightens you. At age 71, I have no desire to offend, no attraction to deviant sex as when I was young. Indeed, like many my age, I have no libido remaining at all. Throughout all of my adult years, I have seen much concerning HPSOs and the reactions of the public and the law to sexual offending, and I have been able to draw conclusions that others probably have not. Permit me to share with you the following facts to draw a contrast and to make a point.

Because it is necessary to understand and to see the validity of points which follow, we must start by closely examining four horrific crimes and the persons who committed them. Please bear with these accounts because they will engender an accurate understanding. I am not trying to abuse your sensitivity, nor do these accounts imply any lack of empathy for victims of such crimes. Trust me; finding and writing the facts of these crimes was wrenching and painful for me. I will try to minimize your pain in reading it to the extent consistent with conveying the points that emerge from these crimes and criminals.

In 1988, David Anthony Thomas was released at the end of his previous prison term for rape. In that year, there was no special parole arrangement to carefully monitor sex offenders on parole. In accordance with a statute that required offenders to be released to parole on the very day upon which they reached two-thirds of the overall length of their sentence, Thomas was released from prison on a Friday afternoon, with the usual instruction to meet with his parole officer the following Monday. But Thomas was no ordinary releasee.

By Monday, he was instead committing the last in a string of multiple rapes and attempted rapes. One of these was a sexual assault and murder in the Honeywell Corporation parking ramp of a corporate vice-president, Mary Foley – that act instantly made infamous as the "Honeywell parking ramp murder." Cor-

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rectional authorities were by then already aware that some sex offenders released but temporarily without immediate parole supervision (as Thomas's case illustrates) presented a public risk of sexual recidivism.

However, they had not yet asked the Minnesota legislature to amend the law to delay parole release for sex offenders until after an intervening weekend, so that they could be picked up at the prison's doorstep upon release on the following Monday (as they have been ever since the Thomas case). Nor had any legislator recognized this danger and proposed such an amendment beforehand.

Covering up this correctional and legislative neglect of a serious problem, some legislators instead immediately called for modernizing a disused commitment law from the 1930s specific to HPSOs for resumed use. That proposal was accepted and a multi-year study by legislators ultimately resulted in Minnesota passing its law of this type as second-in-line after Washington State passed one in 1990.

As further cases below will show, however, such post-sentence civil commitment is unnecessary to prevent recidivism by sex offenders and it cannot stop most individual sex crimes (typically perpetrated by previously unapprehended sex criminals rather than recidivists). In intervening years, prison terms levied for sex crimes have increased exponentially in Minnesota, even for first-time offenders. Second-timers face imprisonment for life without parole.

Even in 1988, David Thomas' crime spree upon prison release netted him natural life in prison. More crucially, just a little more attention to slamming this clearly apparent window of opportunity for such a weekend sex-crime spree would have prevented Thomas' last crimes, including that murder. All of this rightly calls into question whether there is any real need or use for civil commitment of HPSOs, which costs a minimum of four times as much per-inmate per-year to carry out as imprisonment, and about 15 times as much as intensive parole supervision of sex offenders to prevent such recidivistic crimes.

The very next year, another heinous crime of presumed sexual meaning occurred. Jacob Wetterling, age 10, lived with his parents in the quiet rural fringe of St. Joseph, MN. As part of Halloween festivities, he, his younger brother, and a friend left on bikes just past dark-fall on that moonless night to obtain a rental video to enjoy upon their return.

Before they had progressed very far down that country road, they were stopped by a man in a car who approached without lights, stopped, emerged, held a gun on them, asked each their ages, ordered the two youngest to abandon their bikes and walk back across a field away from the road, and abducted the eldest, Jacob, in his car. The perpetrator drove away without lights, preventing the younger boys from being able to see his license plates, or give a clear description of the car or of the man. In a tragedy beyond description, no one ever saw young Jacob alive again.

In the days following this crime, law enforcement throughout Minnesota and even elsewhere throughout the upper Midwest left no stone unturned in an effort to discover the perpetrator and hopefully to rescue young Jacob. The FBI was enlisted in this case, even quizzing as many sex offenders in the Stillwater, MN state prison as they could to see if any knew anything through grapevine connections about this crime. However, the result was negative. This was a uniquely desperate move, since such abductions of stranger-victims are typically perpetrated by 'lone wolf' criminals who never associate with any other sex criminals.

The empty hands which this dragnet came up with left a deep sense in the public's mind of collective vulnerability to such unspeakable crimes. In turn, this was transformed by biased media coverage into an unwarranted but strong suspicion that all known sex offenders were similar to the monster who had taken Jacob. This generalized rage increased as further time passed by with no sign of Jacob. The mostly unspoken conviction grew that he had by then probably been killed.

In due course, the Jacob Wetterling Foundation was created. It's initial aim focused on urging further measures that might lead, even belatedly, to Jacob's recovery alive – even going so far as to publish age-progressed pictures of what an older, even fully-grown Jacob would probably look like, but with no successful leads. More significantly, the Jacob Wetterling Foundation became the leader in advocating for far tougher post-prison restrictions and requirements upon released sex offenders. This included beefing up registration and community notification provisions and widening their applicability to all such past offenders. It also became an advocacy center for enactment of Minnesota's HPSO commitment law in late 1994, on the extremist argument that, if such a law could save even just one child from abduction, it would be well worth it. The problem with this argument, which no participant in the deliberations on that bill had the courage to state, is that no evidence existed, then or now, to support that claim that such commitment would prevent sexual abductions. In fact, since such perpetrators usually have no past arrest record for sex offenses, they would never face a commitment attempt against them before an abduction crime for which they had been convicted.

We leave this narrative about the Wetterling case here, but we will resume it at the appropriate chronological time, below.

According to the Star Tribune January 12, 2023 edition (page 1), Donald Blom died in prison from an undisclosed illness at the age of 73. Blom was the convicted kidnapper and killer of Katy Poirer, age 19. On May 26, 1999 -- the night of the abduction, she was working alone as a checkout clerk at a Moose Lake, MN gas station/convenience store. Moose Lake is located about 120 miles north by northeast of the Twin Cities in mostly rural Carlton County.

The disappearance that night of Katy Poirer from that gas station touched off a furor immediately, since security camera footage and other evidence indicated that she had been abducted. That footage showed a man with hands on her neck forcing her out of the front door of the gas station. It also showed the lower portion of Blom's pickup truck, but without showing its license plate.

The intense investigation, however, did not lead to discovery of either victim or abductor for months. Finally, acting on a tip and the match of the appearance of the part of that pickup in the video to a pickup registered to Blom, police converged with a search warrant on wooded countryside property owned by Donald Blom about ten miles east from that gas station.

Blom had placed a mobile home on the property. The search seemed to turn up nothing connected to Ms. Poirer. However, just when police were getting ready to leave, one of them noticed a burned area underneath the mobile home. It appeared to be a place previously used as a burn pit. Thinking it odd to place a mobile home over a former burn pit, police moved that mobile home and excavated the burn pit.

Careful sifting of the pit's contents revealed some burned human bone fragments and at least one fairly intact human tooth. The tooth had specialized dental work identified as Katy Poirer's. The investigation accelerated to a speedy completion, culminating in Donald Blom's arrest for her abduction and murder.

Blom gave a recorded confession in which he admitted kidnapping and strangling her. He later tried to take back that confession, but without success. Blom had several prior convictions for abducting teenage girls and was a registered HPSO at the time of this kidnapping and murder. However, he had several aliases and had legally changed his name shortly before this crime to match that of his wife.

After Blom's intervening trial and conviction on a federal felon-in-firearm-possession charge and after a change of venue, Blom was tried for this criminal episode in St. Louis County, just to the north (containing Duluth, MN). The trial commenced thirteen months after the crime. The kidnapping and murder trial took place in a packed courtroom and produced 350 exhibits, dozens of witnesses – and that confession. Blom was convicted of the crimes. The very next day in a Carlton County courtroom, he was sentenced for those crimes to life imprisonment without possibility of parole.

Due to peril in prison from his notoriety, Blom spent most of his prison time in Pennsylvania. However, he was returned to a prison medical unit in Oak Park Heights, MN after his grave illness was discovered.

Blom had only spent short terms in jail or prison for each of his earlier abduction crimes. His registered-HPSO status implied the sexual nature of those abductions. Nonetheless, he was never subject to any attempt to commit him under Minnesota's HPSO commitment law, despite its notoriously easy-to-meet standard for commitment.

Yet Blom's uniquely cold-blooded crime in 1999 became grist for countless vitriolic attacks on those already under commitment, and for calls for making such commitment even easier for prosecutors to use. Minnesota named its commitment facility system the Minnesota Sex Offender Program (or "MSOP"). By the time of Donald Blom's murder of Katy Poirer, MSOP already needed to expand sex-offender commitment space to house the many who were then being committed. The original (and continuing) facility is located in St. Peter, MN (100 miles southwest of the Twin Cities), but it was deemed too small to accommodate the expansion required. The new (and much larger) facility was erected in Moose Lake, partly to satisfy the still-smoldering rage of the town's residents prompted by that crime.

In 2003 a similar kidnapping of another young lady, Dru Sjodin, occurred in Grand Forks ND. She was murdered that same day not far from East Grand Forks, MN by her abductor, Alfonso Rodriguez. Rodriguez had been released not long beforehand from a long sentence for a prior sex crime.

Rodriguez seemed deeply dismayed about his upcoming prison release. He repeatedly declared to other inmates and to numerous prison staff alike that, upon release, he would rape and kill some teen girl or young woman. Rodriguez was assessed for commitment recommendation using an actuarial-based instrument of the Minnesota Department of Corrections' own creation, the Minnesota Sex Offender Screening Tool-Revised ("MnSOST-R"). However, based on his low predicted percentage of likelihood of sexual re-offense derived from that risk tool, he was not referred for commitment consideration and instead was released from prison to perpetrate that atrocity.

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Comparably, Jeffery Dahmer, who killed and cannibalized at least 17 victims of his in Milwaukee, Wisconsin, was not previously rated by RAI. However, had he been, using RRASOR (predecessor to the Static-99 risk assessment instrument), he would have been rated a low probability of re-offense, and thus would also have been released to commit those serial killings.

Justly, such so-called actuarial checklist-based tools have been criticized as making predictions of recidivism probability on the part of past HPSOs that are far too high, especially in hindsight studies that have consistently found that most predicted to be highly likely to sexually reoffend never actually did so. However, the Rodriguez and Dahmer cases point up the other failing of these actuarial predictions: they also often fail to identify those who later commit such recidivistic sex offenses. It is this simultaneous over- and under-inclusiveness of such predictions that most strongly condemns commitment of HPSOs as useless and arbitrarily inhuman.

Prison staff thus apparently disregarded Rodriguez's threats and let him go without the intensive supervised release monitoring, surveillance, and restrictions program now imposed on every sex offender leaving Minnesota prisons. Again, this was a correctional mistake, rather than an argument for civil commitment of HPSOs.

It actually took about three months after Rodriguez' release for him to decide to commit such a crime and then to plan it out in advance. He chose Dru Sjodin, a stranger to him, as his intended victim by nonchalantly observing a number of young female sales clerks in a Grand Forks enclosed shopping mall. He then ascertained the time of her end of shift. He waited in the parking lot, watching intently for her to emerge. From this, he learned that she typically left work alone when her shift ended. Then he was ready to strike.

The next time he came to the mall he waited in stealth in his car in the parking lot. When she emerged as expected, he quickly approached her, pressed a knife to her torso, and ordered her to walk at knifepoint to his car and get in. None of this was spur-of-the-moment impulse. It was all a cunningly planned-out operation, almost military in its style. Rodriguez was not out of self-control; he acted with exceeding self-control and decision-making as to his every move. He drove her across the state line into Minnesota. He sexually assaulted and killed her in the countryside and covered her body with snow.

Like Blom, it took quite a while to find Dru Sjodin's remains, during which time public opinion became convinced that the crime was a near copycat of Blom's crime. The media went into frenzy overdrive, and the temperature of the public rose to fevered rage. In the end, Rodriguez was nabbed. Because his was an interstate kidnapping with killing, Rodriguez faced federal charges. He was convicted and sentenced to death under federal law.

After the East Grand Forks murder, then-Governor Tim Pawlenty made many inflammatory public statements, and vowed never to allow any committed HPSO to be released on his watch. In fact, he also spurred prosecutors statewide into action. Commitment petitions were filed by the hundreds on former HPSOs within the next three years in response to his urging.

The vast majority were committed without serious examination of the basis for commitment. Many of these newly committed individuals had actually completed their paroles without incident. A large percentage of these had successful employment or businesses, and many had in fact married and even had children in the intervening years before their commitments.

None of this mattered in this commitment craze – all due most immediately to Blom and Rodriguez, two men who were never committed, and who found themselves on the street due to officials' decisions (by judges in Blom's earlier criminal cases, and by correctional officials in Rodriguez' case) having nothing to do with release from sex-offender commitment. And we have already seen the correctional negligence that led to David Thomas' deadly weekend crime spree upon prison release.

Only a few of the 750 individuals currently locked away or of the 97 additional individuals who have died to date in MSOP, Minnesota's "shadow prison" ("SP") system, ever killed anyone, revealing the additional argument that such murders mandate commitment for all of these to be pure hysteria.

Since then, the Minnesota Department of Corrections has utterly revolutionized its handling of released HPSOs. It established a universally applicable "intensive supervised release" program. In this program, multiple parole agents act in 'tag team' to monitor, surveil, and strictly supervise everything a released HPSO does and where he is permitted to be every hour of every day – weekends included. This has made it possible to prevent any further 'David Thomas episodes' by any other HPSO since then. This became a model program for all other states.

But the fact remains that these three horrendous crimes were made possible by mistakes of the criminal justice and correctional system. It is merely stupid excuse-making for officials to later declare that others should have civilly committed all three of these miscreants. That kind of thinking only shows ignorance of the inability to ever predict with accuracy who is going to commit such a crime (even with a past record of sexual crimes).

It also is a disingenuous play to the common myth that HPSOs are sex maniacs who cannot control their actions. Neither Thomas, Blom, nor Rodriguez could have ever fulfilled the *Kansas v. Hendricks* requirement by the U.S. Supreme Court of inability to control their sexual actions. They all planned-out their actions in advance and made calculated decisions about it beforehand, most especially as to the likelihood of their identification and apprehension.

This all begins to make sense when you realize that almost all HPSOs commit their crimes only after extensive deliberation, planning and preparation. The notion of a sex-crazed maniac acting on the spur of the moment with no ability to control his actions is so rare that it is yet another myth. People like Thomas are the rarest of the rare. Even diabolical villains like Blom, Rodriguez, and Thomas plan their crimes in advance. They do not have a mental illness; they are simply evil-hearted by their criminal approach to their lust and their willingness to abandon all thought for those they victimize and kill.

In the still ongoing modern fad of 'psychologizing' everything, it is currently popular to suggest without any scientific basis that evil motivations are a type of madness. However, were that accepted as a principle of American law, every criminal would evade criminal responsibility and have to be civilly committed. The reason that does not happen is that madness includes a component of inability to control one's actions. This refers to the ability to decide whether or not to commit a crime. As long as one has that power to decide, the criminal is dealt with by the criminal law.

Only those who have no power to make that decision, who instead act reflexively in a moment of impulse without any self-control ability, are true subjects for civil commitment instead of prosecution. In the entire history of American criminal law, this has amounted to only the tiniest number diverted to civil commitment, reflecting the rarity of those who truly lack such ability to make decisions. Others, who make bad decisions to commit crimes, go to prison.

But inflicting SP additional incarceration on those already selected by the criminal justice system for imprisonment because of their decision-making ability, violates that principle of American law by then baselessly pretending that these criminals lack the power to choose whether to commit crimes or not. The term "shadow prisons" is apt since the main function of these facilities is not to provide treatment to sex offenders to make them "safe to release," but rather, to impose supplemental incarceration without limit, on the false but widespread belief that sex offenders are incorrigible and will always repeat sexual crimes if released.

While the thought of sex criminals plotting-out crimes with cunning is repulsive, it points to a profound truth of great use: HPSOs can be deterred from committing sexual crimes by the kind of criminal awareness and surveillance that has now arisen in law enforcement and in the minds of the public. If there ever was a need in an earlier time of naiveté about sexual crimes to have a device like SP supplemental incarceration for purely preventive detention, that need no longer exists.

The elegance of the criminal law is that it can spotlight the evil of individual defendants' deeds and make intelligent decisions on the appropriate sentence. (Most critically here, this includes the question of need for incapacitation by means of long-term imprisonment for any given offender.) This obviously includes HPSOs relatively freshly accosted.

Now, in its proper chronological order, we return to the Wetterling case to draw its unexpected lesson with regard to HPSO commitment.

By 2016, Daniel Heinrichs, a seemingly unremarkable man had lived most of his life with his father in Paynesville, MN. Paynesville was an equally unremarkable town in mid-state, about 30 miles southwest as the crow flies from St. Joseph. It isn't even particularly remarkable these days that Heinrichs had just then surfaced to the light of local public notoriety for having been discovered collecting child pornography from the internet.

But what was not just remarkable but shocking was that, in the course of plea negotiations to that comparatively pedestrian charge, Heinrichs suddenly threw a figurative stun grenade into that dialog: He revealed that he was Jacob Wetterling's abductor, that he had sexually abused Jacob and then killed him. In exchange for a promise not to be prosecuted for that crime, he would plead to the child pornography charge and take the maximum sentence possible under state law for that offense (20 years, serve at least 2/3 of that in prison, with parole to follow for the remainder).

Heinrichs had sexually attacked other boys of Jacob's age in the three years before Jacob's abduction right in Paynesville. Although at least two of these crimes were reported to local police, they failed to seriously investigate these allegations even though the finger of suspicion in those cases so heavily then already pointed at their own resident Daniel Heinrich. Further, state expert investigators available for just such cases were not summoned, with the result that the opportunity for a timely search and especially to collect and analyze latent prints and DNA from

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Heinrich's car (in which those earlier sexual assaults also took place), allowed Heinrich's crime spree to culminate in Jacob's death.

It is unknown whether Heinrichs' motivation for seeking to enlarge those plea negotiations was simply fear that in further investigation, that crime might be discovered without his confession, or whether it was 27 years of mentally reliving that event repetitively, with each cranial replaying imbued with more self-honesty about the horror of his acts. In his subsequent detailed confession, Heinrichs insisted that he never sexually abused another child after his murder of Jacob. Follow-up investigation never produced any statements or evidence to controvert that claim.

We do know the prosecutor's rationale for accepting that proposed plea bargain, however. He reasoned that, even though the State was giving up its ability to criminally charge Heinrichs for young Jacob's killing, it could always have him committed under Minnesota's SP supplemental incarceration law. This is an important point, for it betrays a prosecutorial intent to use what on its surface has repetitively been claimed to be a law for mental health treatment instead for the retributive, purpose of the criminal law – a substitute method of arriving at just incarceration for an unforgivable crime. I have no quarrel with a prosecutor's stratagem to arrive at a means to that end. My quarrel is purely with a system that has deceived the courts and the legislature with a claim that a law used to add extra incarceration as a means to inflict extra punishment has instead been fraudulently billed as part of a larger judicial trend toward "therapeutic justice." Tell that to the almost 100 individuals who have died in confinement in MSOP to date while waiting for release that never came.

But just how in the deific knowledge of our Creator does anyone ever find themselves in a headspace in which murder of a ten-year-old child is an acceptable possible act anyway? Maybe the awfulness of what Heinrichs had done gradually seeped into his awareness over all those intervening 27 years. Maybe it progressively destroyed his ability to enjoy life.

Or maybe he simply could no longer hide from that moral monstrosity in his soul – the amorality that permitted him to conceive of, and then to carry out that gunpoint kidnapping – that permitted him to perpetrate traumatic sexual abuse of a badly frightened child -- and finally, that permitted him to decide to murder his victim solely to avoid comeuppance for his crimes up to that moment. And doubtless he sealed-off his conscience as he blasted three quick bullets through the thin defenseless frame of that young boy – not even fleetingly beholding the perverse, posterity-twisting nature of that irrevocable act, that forever-taking of all of his bright promise from the company of all who otherwise would ever meet him, work with him, love and laugh with him, bear and raise children with him, and grow old with him.

I'd like to think that something in Heinrich's stunted persona finally grew up – at least enough to finally behold all this, and be struck down by the guilt and grief of his crimes. This would make it easier to understand why the prosecutor agreed to this plea of stunningly easy terms for a child murderer. But I know that in what perhaps is just as much pathos as the horrible murder itself, when the Wetterlings learned that Heinrichs claimed to know where the remains of their beloved boy were located, they understandably practically demanded that the plea deal be done, so that at least his remains could be returned to the family. I wonder whether in his emotional deficiency Danny Heinrichs, a man with a residually juvenile name, saw, just for that one moment, the familial loss and love for young Jacob, a sense of attachment that Danny apparently had never achieved or even understood. Maybe Heinrich's murderous act, viewed in that context, had something of an unconscious Chronos-like aspect to it: depriving a child of a life that Heinrichs himself had never had. Probably no one will ever know the answer to that deep question, nor does it really matter.

We all do know that Heinrich's monstrous crime was an act of unmitigatable pure evil. He deliberately chose to perpetrate it and plotted and planned its every detail. He traveled far from his home that night, solely to commit an unspeakable crime with the best possible chance of never being detected as its perpetrator. Callous and cowardly, he loaded his gun with bullets brought along for that exact purpose, and he snuffed out the precious life of one so young and good – all to evade answering for his crimes that night up to that point.

This is a man who locked away his morals and conscience in a sound-proof box so that he could not hear their screams, any more than he could hear the cries of angels as he pulled that trigger, and again, and yet again, to fell Jacob. I -- We here in MSOP share with Jacob's family and with all in our society that peculiar mix of frustrated, helpless rage at the act and bottomless, speechless sorrow for its tragic result. Heinrichs deserves to suffer the ultimate punishment for that murder. I think, by the belated but endlessly tormenting epiphany of the awful nature of his final criminal act, he will.

The problem with the view that Heinrich suffered from a mental disorder suitable for commitment is that even as viciously violent as Heinrich was, he did not actually suffer from what psychology calls "volitional impairment," that is, that he was never driven to criminal action by "irresistible impulse" in the moment (as opposed to having an evil "motivation" to commit a sex crime). Indeed, each of Heinrich's sexual assault crimes against Paynesville boys in the 1980s appears to have been fully planned in advance – the very opposite of sudden impulse.

We who are confined in MSOP disavow and condemn Heinrich's actions and seek to point up our myriad distinctions from his evil motivations and deeds.

However, nearly all of us here share this same lack of "volitional impairment." With only rare exception, any sex crimes committed by anyone here – just like sex crimes by anyone anywhere else -- were deliberated and planned in advance.

Obviously, this does not lessen the crime, but it shows that, even back when our respective crime(s) was/were committed, they were not uncontrollable impulsive deeds. Hence, a "not guilty by reason of mental illness" defense could not have succeeded then.

But just as surely, it is oxymoronic to now say that, even though we were sane at the time of the crime, yet, solely because of that crime, we are now too insane to release. This is just a subterfuge for extended incarceration under cloak of commitment, really just for further punishment of the crime(s). This is a dishonest misuse of mental illness law, yet it is disregarded by judges as a political act.

Almost without exception, our commitments were based, not on volitional impairment, but only on impressions of criminal motivation. This amounts to a fallacious claim that "He did it before, so he will do it again."

In the first place, such claims of possible future recidivism are the province of the sentencing judge in a criminal case. In the criminal cases of almost all of us, we did not receive the maximum sentence; the lesser sentence imposed was judiciously declared adequate to ensure against any recidivistic tendency.

Yet suddenly at the end of our prison terms, it is claimed that our propensity for recidivism – again due only to our past crime(s) – has leapt to astronomical likelihood – another oxymoron.

A Minnesota statute requires committed sex offenders to first complete that prison sentence before transfer to the MSOP commitment facility. This is contrary to civil commitments for mental illness suffered by Minnesota prisoners with prison time remaining. Commitments of the latter type result in immediate transfer to the mental illness treatment facility at St. Peter, MN, regardless of the amount of prison time remaining in the prisoner's current sentence. This again shows the true intent behind Minnesota's sex-offender commitment law: maximizing incarceration.

The vague and boundless statutory "elements" required to commit a sex offender have nothing to do with what science exists as to sexual offending. They are merely political categorizations that attempt to assure the constituency that measures are being taken to ensure that sex offenders are being kept confined.

The host of "factors" invented by judicial opinions in sex offender commitment cases have contorted the applicability of those "elements" to unrecognizability and have made them equally applicable to any sex offender who is singled out at random.

Even if one is "found" to fulfill those boundless and vague "elements," no science supports the view that one is more likely than anyone else, much less "highly likely," to sexually reoffend in the future.

Methods ostensibly used by psychologists to determine the level of likelihood that any given sex offender will reoffend later are unscientific, indeed, sometimes anti-scientific. Even statistical methods of such attempted measurement of probability are as grossly inaccurate to the point of worthlessness as simply flipping a coin to make a guess.

At the core of things, there is simply no way to predict human behavior in the future. Even those – like Daniel Heinrich – whose earlier criminal actions appeal to an intuitive belief that they are almost certain to reoffend with similar violence often surprise everyone later by spontaneously desisting from sex crimes (whatever their motivation for doing so).

Moreover, almost all attempts at such estimates of recidivism likelihood still remain grounded in antiquated sex-crime statistics. However, over the 47-year period since 1976, the incidence of all sex crimes, and especially of such crimes by those already convicted of a prior sex crime has plunged to a small fraction of previous numbers. Thus currently, recidivism rates for all sex offenders released from prison, both here in Minnesota and throughout the country, are about 2.8%.

This reduction is due to: (1) forensic and other investigational advancements that make the likelihood of getting caught for such a recidivistic sex crime a near certainty; and (2) upwardly spiraling penalties that ensure that a sexual recidivist will serve a term until death or old age. In other words, this reduction shows that criminal law deterrence works to prevent sex crimes. This, of course, is exceedingly good news.

However, as to sex offender commitment, it also greatly adds to the body of evidence inexorably leading to the conclusion that such commitment is unnecessary, is as scientifically unreliable as witch-finding, and is pointlessly barbaric 'piling on' of an extra round of incarceration in lynch-mob fashion.

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While this may feel good to victims of sex crimes and those empathizing with them, the real and critical issue is what such corruption of the criminal process does to our concept of individual rights. The singling out of disfavored groups to be subjected to actions inconsistent with our collective notion of the rights of all may well ultimately serve as the end of egalitarianism and as a rationale for creeping totalitarianism. In sum, we must all be very careful of what we wish for.

Moreover, excluding the 97 who have died here to date, about half of the surviving 750 detainees in MSOP are at least 60 years old. This is a travesty in light of all recidivism data for sex offenders above age 50.

Such data shows beyond question that, even as to prior repeat-offenders, sexual reoffending rates after age-60 are statistically almost nil. Richard Wollert, a leading expert on this point, found that sexual re-offense rates for those ages 60-69 are only one-fifth the average for all ages combined. This would place the current likelihood of recidivism in this age cohort at roughly 0.6%.

Thus, for instance, imagine 1,000 sex offenders of this age group seated in a large auditorium. A group of psychologists holding themselves out as self-proclaimed 'experts' in assessing such recidivism probability files onto the stage, surveys this group, and is correctly told that, by statistics, six among this thousand offenders will sexually reoffend. Then each of these 'experts' is asked to identify those six. This, of course, is an impossible task.

In the context of real-life, this means that all 1,000 offenders in this example may be subjected to incarceration in commitment in an effort to be sure that the feared-but-unknown six do not reoffend.

This "round up the usual suspects" approach makes a mockery of the presumption of innocence, and converts America into a "pre-crime" nightmare eclipsing the movie "Minority Report" in its vastly over-inclusive predictive error.

Even recidivism rates for previous recidivists are, if nothing else, overwhelmed by the impact of simply attaining middle-age and ultimately, senior-citizen status. Statisticians studying that data could not find any instances of sex-crime recidivism past age 69, even when recidivism rates were generally higher decades ago.

A 2015 study by the director of Florida's sex offender commitment facility failed to find any recidivism at all in a group of offenders at or above age 60 who were released within the immediately preceding several years despite dire predictions by forensic psychologists of supposedly high probability of sexual re-offense.

The implications of commitment as pure additional retribution for past crimes is clear and undeniable from this particular aspect.

By our very nature, all humans are not only changeable, we are constantly changing, even when we don't want to and when we are unaware of such personal change.

Even a firm intent to recidivate can, and usually does melt away over time as individuals experience and witness numerous events, learn of myriad things, and have discourse with any number of other individuals.

Life is full of advance repentance of contemplated evil deeds, whether petty or enormous. As surely as each person alive has experienced some such abandoned temptation, it is unfair to treat others as incapable of such abandonment of temptation.

To commit someone to lifetime detention engages exactly that presumption, and then puts the seal of judicial condemnation, not upon the deed, but upon the man.

Functionally, since the claimed, larger goal of such commitment statutes is to prevent sex crimes, those laws are an utter failure. Three experts studying sex-crime patterns in New York State found that 96% of all arrests for sex crimes were of those without previous sex-crimes convictions. Thus, nearly all sex crimes are now committed by those who have not yet been charged or convicted.

Sex crimes by this overwhelming percentage of first-timers remain common, as countless news items attest. None of them can be prevented by commitment laws. Unsolved rapes by unknown strangers still occur, and molestations by every category of individuals, from parents to teachers, to priests, to athletic coaches, etc., continue.

Meanwhile, untold tens of millions of dollars are spent in Minnesota alone to commit each committed person and to keep him committed. The unavoidable fact is that sex offender commitment programs divert scarce funds from other, potentially more effective, sexual-violence prevention strategies. By reason of such huge costs, that much less can be spent on sex-crime prevention programs and even on detection and apprehension of offenders.

Effectively, this is rather like closely monitoring the back door of a large public venue while leaving the front door open and unattended. Sex offender commitment legislation fails to achieve the goal of sex-crime prevention by unwise misallocation of monetary resources.

So if the aim of sex offender commitment legislation is seen as more than sheer preventive detention of certain categories of sex offenders, individually, it fails at that larger goal of sex-crime prevention by inaccurate, unwise misallocation of monetary resources

This inaccurate, unwise allocation of irreplaceable monetary resources confirms that the true function of SP incarceration serves no such larger purpose; its true function is pure preventive detention of comparatively few, mostly old men.

Thus, sex offender commitment does not actually prevent any significant number of future sex crimes. Instead, it obstructs sound efforts at such prevention by consuming vastly more than $100 million each year in Minnesota alone of taxpayer funds that could be used for such far sounder efforts. Therefore, even ignoring its unfair and anti-scientific nature, it simply must go – now.

We ask that you join us in urging repeal of this ill-conceived and pointless cruelty on those who have finished their rightful incarceration. Not to do so is to endorse incarceration as an act of hatred. That cannot ever become what this republic is about, or far more will be lost than the war on sex crimes.

A recent survey discovered that one out of every eight individuals committed to MSOP's shadow prisons never committed a sex crime. Many others were wrongly convicted on the strength of utterly false accusations or at least greatly exaggerated claims. Figures from other SP-system states are probably roughly equivalent, due to the 'dragnet' coverage of all SP supplemental incarceration laws.

Ignoring this, SP supplemental incarceration trials, in contrast, turn on testimony based on highly questionable statistics gleaned from past facts (the "static" approach) from groups of former HPSOs. "Risk assessment" for SP supplemental incarceration trial use then attempts even more questionably to apply those statistics now to a given individual who may or may not share the particulars of "factors" of that categorized group and who may in fact have an opposing constellation of facts. These contradictory facts can include factors that clearly are protective from future recidivism, but which are commonly ignored in such statistical approaches.

Further, SP trial testimony often additionally centers on claimed "dynamic factors" (almost always adverse to the individual on commitment trial), virtually all of which were simply devised from preconception. Recently, all of these claimed dynamic factors said to apply specifically to the individual have been debunked by scientific research. This should be no surprise: Such circumstantial factors are extremely subject to mistaken perception on the part of assessors. This misperception is more certain, given that such factors are specifically sought and are extracted at best only from short interviews touching only the surface of any individual's experience. Often instead assessors' reports and testimony are based on nothing more than documents merely from one's criminal record. Such techniques are a recipe guaranteed to produce misperceptions and completely incorrect "clinical impressions" (now known to be wrong nine times out of ten).

In short, SP supplemental incarceration: (1) fails abysmally at ranking "relative evil" of an individual's past crimes or of his overall criminal record; (2) proceeds as if all of one's crimes had just happened (rather than when they actually occurred many years/decades ago); and (3) disregards the intervening most-recent prison term (which itself often continued for more than two decades). It "homogenizes" all sexual criminal records of everyone committed as in-effect a group condemnation, rather than a judgment of personal accountability.

Because of this, it's aim is merely scattershot with no accuracy as to potential future recidivism. It is no more helpful at getting at the controlling truth than was Colonel Strasser's directive in Casablanca to "round up the usual suspects." It has no means at all to prevent the horrendous deeds of persons bent on doing evil (for example, the David Thomases, the Donald Bloms, the Alfonzo Rodriguezes, and the Daniel Heinrichses of the real world).

And there is something else just as important to know: Scientific researchers have found that SP supplemental incarceration laws have had no noticeable effect on the rate of sexual-assault killings, forcible rape, or child sexual abuse. The rate of all of these crimes dropped like a collective stone throughout the country between 1990 and now. However, only 20 states use SP systems. Yet in the other 30 states that had no SP supplemental incarceration laws the rate of drop in sexual offenses was exactly identical to the rate in the 20 states that did. So the answer to the question posed above is not only that there is no need for SP supplemental incarceration, but beyond that, it is just a complete waste of money, effort, and political focus. This is especially true in the comparative infrequency now of sexual offenses – again, particularly in the inability to accurately predict who will commit a sex crime.

Professor Eric S. Janus performed a comparative cost-benefit analysis between the huge cost of SP systems, on one hand, and the relatively minor costs, on the other hand, of "primary prevention" programs that educate the public to be aware of signs that an individual may be preparing to commit a rape or child sexual abuse. This research found that the latter programs are very effective at sex-crime prevention, in contrast to the lack of any impact on sex-crime incidence from use of SP systems.

Further, he found that the only reason why such primary prevention programs haven't wiped out sexual offending altogether is the sheer fact that such programs are woefully underfunded. Effec-

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tively, Prof. Janus soundly concluded, by consuming tax dollars that could instead be shifted to fully fund primary prevention programs, the existence of SP systems has substantially contributed to the continued perpetration of sex crimes.

A "heuristic" is a flawed attempt at a 'thinking shortcut,' especially when one is overcome by fear or anger. In the last three decades, heuristics have been studied intensely by academics. But more to the point, they have been taught to an entire generation of Communications majors in college, who then have added heuristics to their armamentarium of non-cognitive techniques of persuasion. The result has been the now-ubiquitous use of heuristics in media everywhere, to the lasting detriment of the ability by all in our society to use reasoning to solve societal problems.

Instead of truth fairly wielded and justly accepted by law, the campaign to justify SP laws and their continued practice was only an amazing campaign of propaganda. That propaganda was carefully designed to manipulate every known heuristic to further enrage the populace. This propaganda campaign was all for political gains by political parties and special interest groups. These politicos and advocacy groups shrewdly realized that they could gain political headway through whipping up a frenzy over the mythical (but utterly unreal) notion that very bad men were lurking around every corner and behind every bush with unspeakable sexual criminal intent. None of that extreme hysteria had ever been remotely close to truth.

But because we so easily and often permanently remember even the details of extremely horrific sex crimes we have heard or read about, the "availability heuristic" will convince us that we must have heard of such atrocities frequently -- even though we did not. Such is the stuff of "moral panic," as sociologists have come to call it. Chicken Little would proclaim with confidence that the sky is falling, bringing down with it a cloudburst of monstrous sex offenders.

The foregoing should convince you that there is no need for, and no actual utility in shadow-prison commitment. It also turns out that SP treatment as it is presently practiced has no known effect at stopping recidivism, above and beyond the known effect of deterrence, desistance (see below), and other concurrent facts known to substantially reduce recidivism chances. So the claim that SP supplemental incarceration is necessary to provide treatment is without meaningful use in the fight against sex crimes.

MSOP, just like SP systems elsewhere in the country, is in reality the overseer of a system of vengeful supplemental incarceration in shadow prisons as retribution and as "object lesson" deterrence. As such, despite the lack of need for SP supplemental incarceration, MSOP continues to hold aged HPSOs with crimes from the dim and distant past until their deaths, like the 97 of its confinees who have already perished. Many more above age 70 have been placed on "set 'em and forget 'em" status in the high-security, prison-like MSOP-Moose Lake facility to await their own eventual deaths.

This is done even though this aged cohort of past HPSOs has been studied intensively throughout the country, and despite that such case studies and statistics have failed to find virtually anyone at or above age 70 who has ever committed a recidivistic sex crime. Attempts to ascertain a statistic of recidivism by the age 70+ cohort have failed to find any number of aged recidivists sufficient to compose a statistic that can be differentiated from absolute zero (to emphatically clarify: nothing above 0.00%).

This is due to a natural phenomenon called "desistance," well-known to criminologists. In the haze of hatred of HPSOs that perfused earlier decades, it was widely assumed that HPSOs did not desist from sexual offending. However, more recent research has discovered that in fact, HPSOs desist more certainly and more completely (all at once, and permanently, never looking back) than other classes of criminals. Furthermore, the resolve to desist usually forms during imprisonment, rather than having to await release. Thus, HPSO recidivism is rapidly becoming a rarity.

Of the more than 7,000 confined in shadow prisons in the 20 states that have had such laws over an average of more than 20 years, only about one in ten has been released. Of these releases, perhaps about half occurred when the committing judge changed his mind about the commitment, or when an appellate court overruled the decision to commit. In other words, these men had no treatment in commitment by that time. A study in Florida of such men found that those in this cohort who were below age 60 recidivated at about 3%. However, of those age 60 and up, none sexually reoffended.

HPSOs who have never been committed but instead were simply released directly from prison also now recidivate at rates at or less than 3% nationwide. Hence, the Florida results simultaneously confirmed: (1) that aged HPSOs (even those deemed "bad enough" to commit) do not recidivate; and (2) that younger committed individuals -- even if released without any treatment -- do not recidivate with any greater certainty or frequency than those passed over for commitment. This last conclusion points up two fundamental truths at once: first, that treatment of HPSOs (at least as currently conceived of) is worthless, with no impact on recidivism; and second, that commitment criteria and claimed scientific evidence of alleged probabilities are junk science without any real ability to pinpoint future recidivists.

Further, almost all who actually ever did reoffend sexually after prison release did so almost immediately following release. A huge study of thousands of prison-released former HPSOs in California showed a first-year rate of re-offense of 2.2%, but that rate fell each ensuing year by two-thirds to three-quarters or even more from the immediately preceding year (example: 0.75% in Year 2). Thus, in Year Four, out of thousands released, only a tiny number reoffended (0.05% -- or one out of 2,000). Over ten years' time, the total recidivism for all former HPSOs in that huge study was only 3.38%. (This, by the way, was about 20 years ago, based on releases ten years before that – a time when sex-offense recidivism was much higher than now.)

I realize that the public will feel that even just 3% is too much. However, the reality is that science cannot predict with any level of accuracy, much less certainty, who will ever recidivate. Human behavior itself is just not that certain. The point here is that locking up 100 guys because you know that 3 of them will reoffend is the same as locking up the other 97 guys that you know will not reoffend. This is inhuman and vastly wasteful of public resources – and it is exactly what SP supplemental incarceration amounts to, because the three who will reoffend can never be known until they do so.

Reading the Names of the Dead

The best news from the California study above is that a close supervision program for parolees over that same initial four years post-release can almost totally extinguish any recidivism tendency in any given parolee – even previous recidivists, making recidivism by HPSOs so rare as to be nearly unheard of. As my earlier comments about desistance and the helpfulness of programs that foster desistance show, such programs can greatly contribute to ending recidivistic tendencies in the life of any former HPSO. – And ending recidivism can be accomplished far more cheaply and effectively than almost anyone knew. Lastly -- and certainly not least significantly, this can be done without the societal emotional furor that has ensnared so many and which has caused incessant spinning of a sacrilegious wheel of revenge to preoccupy all. Why in the many names for our Creator would anyone not want that??

So then, since the publicly proclaimed grounds of commitment have nothing to do with future recidivism likelihood, how are individuals actually selected by correctional authorities for recommendation for commitment? While there are no studies that have gotten to the bottom of this, countless stories by those committed share in common that correctional authorities saw them as either chronic rules violators and troublemakers on one hand, or as having a "bad attitude" about sexual offending or "deviant" orientations such as pedophilia, on the other hand. Yet it turns out that research has soundly concluded that none of these matters of rule-breaking or opinions about deviance have anything to do with probability of later sexual reoffending.

The truth of this is simply that correctional administrators have biases just like everyone else. – Except that in this case, giving the nod to a prosecutor to commence a commitment proceeding of a former HPSO almost always dooms that individual to indefinite and probably permanent incarceration in a shadow prison claiming to "treat and release."

Again by agreement of countless narratives by those committed, the other chief cause of commitment is political pressure brought to bear on prosecutors by former victims, their families and friends, and by "activists" against sex crimes. None of these advocates act on any scientific evidence either. Among these, the hatred is plainly visible. To them, commitment is just another form of revenge or self-appointed advocacy for never-ending retribution. Any of them would simply say, "It's what he deserves!"

It is always bad enough to see prosecutors and judges bending to political pressure, but again, even worse when the future of individuals not under current prosecution are impacted by political decisions to civilly commit to such a secondary lifetime term of additional incarceration. This realpolitik of SP supplemental incarceration is the most extreme condemnation of that practice.

The con-job perpetrated upon the U.S. Supreme Court in 1997 in *Kansas v. Hendricks* to the effect that HPSO recidivism was "at least" 80% (echoed indirectly by Justice Kennedy's concurring opinion in that case as supposedly being "frightening and high") has thus been proven over the succeeding 25 years as just a monstrous fraud. It has caused the waste of remaining decades of the lives of thousands of former HPSOs who had long since reformed, but were deprived by commitment of their only opportunity

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to prove it.

It is time for the Supreme Court to come to terms with the fact that in those earlier hysterical times, the Court – along with most of the populace of the country – were all hoodwinked by those who willfully spewed out such baseless high guesses of probability masquerading as scientific findings. HPSO policy has been badly crippled over that intervening period by such falsehoods and outlandish exaggerations.

For all who have committed monstrous acts; for all who have died while being punished for their crimes – in prison or in commitment; for all who, having aged-out of any interest in sexual offending and lacking rescue from such add-on incarceration, wait to die; for all such misbegotten, stealthy systems of additional incarceration; for all those burdened by their burning rage and endless-nightmare fears; and as enlightenment for everyone to the reality of the closing years of perpetrators of crimes long in the dim past, let us share the following elegy:

"Between the idea
And the reality,
Between the motion
And the act
Falls the Shadow.

For Thine is the Kingdom.

Between the conception
And the creation,
Between the emotion
And the response
Falls the Shadow.

Life is very long.

Between the desire
And the spasm,
Between the potency
And the existence,
Between the essence
And the descent
Falls the Shadow.

For Thine is the Kingdom.

For Thine is --

Life is --

For Thine is the --

This is the way the world ends,
This is the way the world ends,
This is the way the world ends,
Not with a bang but with a whimper."

Now let us bury and forget the iconic deceased bad men we have fixated upon, more exactly, the monstrous deeds they perpetrated. More important, let us bury our fears, misconceptions, and resulting extreme rage with them, confining in their caskets our hatred of those individuals and the grave evils they perpetrated. As we walk away in a freshening breeze from those gravesites -- freed of those nightmarish fears that can be seen in broad daylight to have been excessive and crippling, we can at last build policy that deals with sexual offending as it really is, and HPSOs as they truly are.

Almost all who have ever committed a sexual crime are simply people who, like all other criminals, took wrong turns and allowed strong motivations to cloud their thinking and overrule judgment and their allegiance to the rights of others. After all the time in life that has intervened, those desires and temptations simply no longer carry their formerly propulsive power. Science declares this, and the many personal accounts of HPSOs confirm this beyond serious doubt. Once long ago, I was an HPSO, and I know this. As a society, we all need to acknowledge this reality, and act in accordance with it. Shadow Prison supplemental incarceration must now be brought to a close, as the wrong-headed chapter of American history it has been.

All italicized excerpts are quotes from T.S. Eliot, "The Hollow Men" (1925)

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An MSOP Death

by Cyrus Gladden

On March 16, 2023, William (Bill) Busick passed from this mortal form. Born in 1948, he had only recently turned age 75 at the time of his death. He passed while at the Forensic Nursing Home on the campus of the St. Peter Regional Treatment Center. He had chronically suffered from C.O.P.D. for a long time, and it is believed that he died from lung function failure.

He was a U.S. Army veteran who served in Viet Nam, among other places. He was kown to be quite attached to his "Dale Earnhart car." He is said to have been a man of strong religious faith

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HUNGER for Freedom & Home is a Life or Death Matter.

by Cyrus Gladden

This article is compiled from two phone calls on March 15, 2023. One of these was to James Hydrick, peer-respected confinee in the Coalinga State Hospital, repository for California's civilly committed sex offenders and those detained pending completion of their commitment cases.

The reason for the call was that I had learned of a planned hunger strike to be held there, probably commencing in mid-April. James confirmed this plan. Very few have ever been released from the Coalinga facility to community freedom anywhere. The planned hunger strike is to demand that releases begin in earnest.

By raw numbers, the Coalinga facility is the most populous of commitment and detention facilities for those having past sexual offenses for which they have served their prison sentences. The population capacity of the place is mindboggling: 28 units, each capable of holding 152 inmates each. Different estimates of the current number of sex offenders vary at the Coalinga facility, since it resembles a rather disorganized enclosed shopping mall. The best current guess seems to be about 1,200 under sex-crime based commitments are housed there, plus some other inmates who are there simply for general mental illness or unrelated disorders.

As it happens, Hydrick's personal commitment case has an approaching court date at just about that same moment. Because he is afraid that he could be pulled out right in the middle of that event to be transported cross-state to attend a multi-day trial, Jim has named two peers at Coalinga to continue to carry on administration of the hunger strike in his absence. These are: Danny Davis and Michael Orey. Contact with Hydrick or Davis can be had at 559-934-0179, while Orey can be reached at 559-935.1842 or .8923.

It is unclear how many inmates will participate, although Hydrick suggests a probable bare minimum should be about 40. However, a fuller tally based on reasonable estimates per unit on average could easily rise as high as 80.

The total number of hunger strike participants is especially difficult to estimate in advance in this case in light of a problem recently with old-style lockers which inmates are forced to use. These have a sharp protrusion that often causes serious head cuts of inmates requiring many stitches to close. Many of the injured remain in doubtful condition to join right from the beginning.

This hunger strike will be on the 'Ghandi plan,' which involves periods of fasting, interrupted when life or long-term health become jeopardized, with strikers then cycling from one to the next. Later, the first, if he feels motivated and up to it, may rejoin the hunger strike for a further period, and the second may temporarily 'cycle-out' of totally refraining froim food. In this way, a hunger strike may continue indefinitely.

California law requires that those intending to start or join a hunger strike in a mental health facility must notify designated authorities. The need to comply with this requirement may slow getting the hunger strike into truly full action. However, each of these 'temporary dropouts' and restarts must be recorded by state employees, posing a heavy and confusing burden for them.

In a podcast with Twin Cities podcast host Joshua Berglan (the "World's Mayor"), one commentator explained that the purpose of this action is to demand that HPSO civil confinement officials everywhere in the country create a "clear path out" of confinement for all HPSO confinees that is unequivocal and not subject to withdrawal or reneging by commitment system officials once the striking ends.

That commentator calls the California plan for the strike "perpetual striking," stating that it makes it possible for such a strike to go on as long as needed to gain its demand.

Hydrick hopes that a significant number of confinees at each of the other confinement facilities housing those living with long past sexual offenses will join in this hunger strike. In this way, both the message that such long-term supplemental incarceration is intolerable in a freedom-loving nation and that its victims should not — cannot be expected to simply wait to die of natural causes as they age, instead of ever gaining release.

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Broadcast Email from Charlie Sullivan, Sat. Jan. 28, 2023; Charlie@curenational.org

Text excerpt:

"Dear friends:

I read the Resistance Manifesto and was very inspired by the history of human rights movements in it. This is a very good background to begin NOW to have MSOP declared a total violation of the human rights documents ...that the U.S. has ratified...."

[later added comments:]

"Likely, in one of the upcoming Legal Pad newsletters, the editors will write about the 'Resistance Manifesto' that Minnesota detainees prepared sometime in January, 2023. It is 66 pages in length. It was sent via email to those on the CURE Civil Commitment monthly call group. Possibly, a family member or friend can print and mail it, if you would like to read it. The Manifesto received very favorable responses including from Eric Janus, law professor, Minnesota, the CURE National Executive Director and many others."

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CURE Approves Resistance Manifesto.