the Legal Pad

November 1, 2025

"Refusal to believe until proof is given is a rational position; denial of all outside of our own limited experience is absurd." – Annie Besant

In This Issue:

1. NARSOL Conference Is On! 1
2. A Better Focus on NARSOL 1
3. SOLPRC Report Condemns Public SO Registry 1-3
4 Will MN Legislature Repeal SRB Statute in '26? 3
5. In MN, Anyone Can Lock You Up. 3-6
6. Will "Social Construction of Target Populations" Take Your Money, Force You to Work for Peanuts, Incarcerate You, or Just End Democracy and Freedom? 6-9
7. SOCC Frustrates. 9
8. Incriminating SOCC Sexual History Polygraph Testing Violates 5th Amendment, Says NARSOL. 9-10
9. Support Groups for Pedophiles Online Prevent Child Molestation. 10
10. SO Rehab Success Story Started with Open Minds. 10

Coming Soon:

- ✓ Are Effective Counsel/No Counsel Your Rights in SOCC Cases?
- ✓ What Does Barring Inter-SO Associations Actually Result in?
- ✓ Remorse Bias — What's THAT?
- ✓ RNR vs. Good Lives vs. Virtue Ethics vs. Desistance
- ✓ Levenson on Needs-Preferences of Clients of SO Treatment
- ✓ NIMBY: Not the Latest Toy Robot
- ✓ PPG Test Results – Inadmissible
- ✓ What IS Rehabilitation When It Is Said to Differ for Sex Offenders?
- ✓ Moral vs. Clinical Decisions
- ✓ Guessing the Number of Unreported Sex Crimes Is Not Science.
- ✓ Why the AI Black Box Doesn't Know Why It Condemns You; It Just Does.
- ✓ Are Internet Bans Sinking Like the Titanic?
- ✓ Static-99 Timeline Tells the Tale
- ✓ Open Minds = SO Rehab Success
- ✓ How Isx Some Event Decades Ago a "Current Presentation"?
- ✓ Guessing the Number of Unreported Crimes Is Just Guessing.
- ✓ Should the Confrontation Right Bar Testimony of Earlier Unconvicted Crimes by Experts as Hearsay Witnesses When a Judicial Finding of Them Will Result In Lifetime Confinement ?
- ✓ Categorical Internet Bans as Deprivation of Sight, Hearing & Amputation of Tongue and Fingers.
- ✓ 1st Amendment Nixes Blanket Ban on SOs on Parole-Probation from Social Networking Websites.
- ✓ Due Process Requires Courts to Examine Scientific Evidence Undermining SOCC Statutes
- — & Way, Way More on the Way!

Free Downloads of all *tLP* editions:

* http://www.cure-sorl.org/mn---the-legal-pad.html
* http://wapercyfoundation.org/

Feedback? News? Write!

tLP Editor Address
(Exactly & **Only** as Below):

Cyrus P. Gladden II
1111 Highway 73
Moose Lake, MN 55767-9452

NARSOL Annual Conference Rescheduled for October.

"Phillip", "We Continue This Struggle, Not Because It Is Easy But Because It Is Necessary," 18 (5) *the NARSOL Digest* 1 (Oct./Nov. 2025)

Text [p. 1:] "Back in July, we wrote about our disappointment when the NARSOL annual conference was cancelled due to pressure and prejudice. We spoke then about how 'Hate won the day' and how such setbacks reminded us that justice is neither guaranteed nor inevitable. We also emphasized that these moments are not times to retreat; they are calls to persist.

Today, we are proud to report that our persistence has paid off, and the NARSOL annual conference has been rescheduled and relocated. We will gather in Atlanta, Georgia this October 2025.

This outcome proves what we knew in our hearts back in July: Setbacks fueled by fear or hate do not mark the end of our journey; they mark the reason for it. When one venue closed its doors to us under pressure, we didn't abandon our mission. We regrouped, we adapted, and we found another path forward.

The successful rescheduling of this conference represents more than just logistics. It's a tangible demonstration that when we refuse to be silent about things that matter, when we refuse to stand down in the face of injustice, real change becomes possible. Every act of discrimination we faced strengthened our resolve. Every moment of regression renewed our commitment.

Our Atlanta conference will be a celebration not just of our cause but also of our resilience. It will remind us all that we continue this struggle, not because it is easy but because it is necessary – for the dignity of every person, for the soul of our communities, and for the future we still believe is possible.

The journey continues. We look forward to seeing as many of you as possible in Atlanta in October."

****

The *Real* NARSOL

"Brenda", "Exposing the Real NARSOL," 18(5) *the NARSOL Digest* 3 (Oct./Nov. 2025)

Text "NARSOL has been getting a lot of negative attention lately by haters on social media sites, including a site containing misinformation about us and our allies. We have created a special site intended to counter theirs: https://exposingnarsol.com. Please check it out! And use it whenever you happen to be on social media or really anywhere you hear the haters. It can be a stand-alone response or a part of a longer calm, polite response. https://exposingnarsol.com

It is important to be calm and polite. Why? Because 'they' are not, and exposing narsol.com is all about showing how different from them NARSOL is."

****

SOLPRC Tears Down Sex-Crime Registry - Part 1of 2

Sex Offense Litigation and Policy Resource Center (SOLPRC) at Mitchell Hamline School of Law, Ineffective, Costly, and Harmful: Debunking the Sex Offense Registry, [citation pending] (March 2025).

[p. 1:] "**Executive Summary**: The modern sex offense registry was borne out of the belief that a pubic registry listing people who had been convicted of a sex offense would make communities safer. That premise was wrong. We now have thirty years of data concluding that public registries do not work as intended – in fact, there is evidence that public registries actually increase registrant recidivism. Furthermore, there is no definitive evidence that these laws deter non-registrants from sexually offending. At the same time, sex offense registration and notification (SORN) laws contribute to the stigmatization of registrants, which makes securing employment and housing more challenging, and disrupt or preclude the maintenance of strong social ties. Registrants' families also experience significant hardships. SORN laws should be abandoned, and resources should instead be invested in evidence-based interventions to address sexual violence that are currently starved for resources.

Introduction

...It is estimated that almost one million people are subjected to registries,1 Yet, SORN laws do not reduce sexual offending by registrants. Not only are SORN laws ineffective, but these laws also come at a considerable cost to registrants, their family members, and taxpayers alike.

History, Purpose, and Operation of SORN Laws

[pp. 1-2:] By the late 1990s, all states and U.S. territories, as well as some tribal governments, adopted registration and notification laws, largely as a response to a handful of widely publicized brutal sex crimes....2 Generally, SORN laws require that people convicted of certain sex offenses provide sweeping information to law enforcement (the registration component), and that this information be made public to varying degrees (the notification component) ...By 2003, every state in the country had public internet registries5, though state statutes varied significantly, and many states do not comply with the federal standards.6. Operating under the belief that the network of state registries contained 'loopholes and deficiencies,' Congress enacted the Sex Offender Registration and Notification Act (SORNA) in 2006.7 SORNA magnified the reach of SORN laws by, among other things, modifying federal standards by increasing the number of people required to register and expanding the amount of information available to the public regarding registrants.8...

[p. 2:] Typically, registrants are publicly identified on official government websites as 'sex offenders.' In addition to listing a registrant's name and photo, these websites may contain a registrant's home address and place of employment. For those subjected to registration, complying with SORN laws can be a time-intensive, confusing, and expensive.11 Under federal law,12 and in many jurisdictions13 noncompliance is a felony.

States and other jurisdictions invest significant financial and human resources to implement SORN laws. Law enforcement agencies must receive registrant information and updates, verify registrant information, conduct community notifications, and maintain public websites.14 'Most large police departments have created internal SORN units to handle the ever-increasing number of registrants.'15 Yet no good estimate of the total cost of implementing SORN laws throughout the country exists (one estimate suggests that the cost is somewhere between $10 billion and $40 billion per year16). In addition to the direct costs required to implement SORN laws, these laws also produce other societal costs. For example, SORN laws that make it difficult for registrants to obtain remunerative employment cost the public in foregone taxes on their income, and registrants who are un- or underemployed may need to rely on public benefits, which results in more government spending. Due to misconceptions that living near a registrant increases the risk of sexual victimization17, studies have found a negative impact on property values for homes in close proximity to where registrants reside.18

Empirical Evidence Shows that SORN Laws Do Not Work as Intended

The Premises Underlying SORN Laws Are Not Supported by Facts

As outlined above, SORN laws were enacted in response to heinous crimes that shocked the public – crimes that were committed by people who were a stranger to their victim(s), and who had been previously convicted of a sex offense. But very little sexual offending resembles these sensationalized crimes.19 In fact, contrary to common belief, the vast majority of sex offenses are committed by persons familiar to their victims.20 Almost all sexual offending is committed by non-registrants – and very few people who have been convicted of a sex offense reoffend in the future.21 Nonetheless, the belief that sexual violence policy should focus on recidivism persists.

SORN Laws Do Not Reduce Recidivism

[pp. 2-3:] Many empirical studies have been conducted on the impact of SORN laws on recidivism since the inception of these laws. Researchers who study SORN laws have come to a consensus: SORN laws do not prevent recidivist sexual violence.22

Primary Scholarship Studying the Relationship Between SORN Laws and Recidivism

A chapter in Sex Offender Registration and Community Notification Laws: An Empirical Evaluation, titled Offenders and SORN Laws 'present[s] an overarching perspective and the

consensus views of the experts in the field.'23 In this chapter, authors Agan and Prescott summarize and examine the findings of dozens of empirical studies on SORN law, which vary in size and scope and utilize various data sources, including federal crime reports and criminal history data.

[Editor's summary: This source examines in detail two large studies performed in 2011. The first concluded that notification increased recidivism at the same rate that registration itself seemed to reduce recidivism, such that these two effects cancelled each other out, leaving no net recidivism-reducing effect for the public registration systems studied. The second study examined the criminal histories of two groups of prison releasees: those released in states that had not yet enacted sex offender registration, versus those released in states that did require sex offender registration. This study found 'no statistically significant difference between the two groups ...and, if anything the results hint at *higher* arrest and conviction rates for those subject to SORN laws.'29

Agan and Prescott also discuss other empirical studies that failed to detect any evidence that SORN laws reduce recidivism in a number of states,31-34, with only one exception in a state that had an atypically limited registration requirement35.]

Secondary Scholarship Studying the Relationship between SORN Laws and Recidivism

[pp. 3-4:] Two meta-analyses studying the relationship between SORN laws and recidivism further support the conclusion that SORN laws do not prevent recidivism.37-39

The second meta-analysis, which used an entirely different research methodology, is a peer-reviewed study published in 2023 titled 'Against All Odds: The Unexplained Sexual Recidivism Drop in the United States and Canada.'40. Authors Lussier, McCuish, and Jeglic conducted a systematic review and meta-analysis of 555 studies regarding sex offender recidivism, 369 of which were from the United States and 186 from Canada. Unlike the United States, Canada did not adopt a SORN regime. The comparison between the two countries thus provides a natural experiment. Analyzing the available recidivism studies in Canada and the United States, the authors found that recidivism fell in both countries during the 80-year period between 1940 and 2019. In the United States, the recidivism rate dropped by more than 40 percent, while in Canada, the drop was more than 60 percent. That the decline in recidivism was more robust in Canada strongly suggests, the authors conclude, that 'sex offender registration is not an effective crime prevention tool.'41

[p. 4:] The scientific consensus that SORN laws do not reduce registrant recidivism is reflected in the 2022 update of the Model Penal Code provisions on Sexual Assault and Related Offenses.42. ...More than half of the states have enacted modern criminal codes that draw heavily on the MPC [Model Penal Code], and courts throughout the country consider the MPC persuasive authority.43 In 2022, the ALI concluded a ten-year review of the MPC provisions on Sexual Assault and Related Offenses, which include provisions related to registration and notification. ...Dozens of expert advisors, including judges, prosecutors, defense attorneys, and scholars considered many of the same studies described above showing that public notification does not reduce registrant recidivism. The ALI also considered input from the Department of Justice, a group of state Attorneys General, and the National Center for Missing and Exploited Children, all of which forcefully pressed for public notification laws.45 The ALI ultimately determined that existing SORN policies are unjust and counterproductive.46 As a result, the MPC provisions on Sexual Assault and Related Offenses that were updated in 2022 substantially depart from existing SORN policies. Under the updated MPC provisions, registration is permitted in three circumstances under an obligation of confidentiality.47 Significantly, the MPC provisions prohibit public disclosure of registry content.48

While there is a vast body of primary and secondary scholarship conducted by experts that has determined that SORN law do not prevent recidivism, a 2022 report commissioned by the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking Office (SMART Office) – the federal agency tasked with implementing SORNA – asserted that the research on SORN's impact on recidivism was 'inconclusive.'49 The Report had no listed authors. The section of the report examining adult and juvenile recidivism cited only seven articles.50 Not one of these articles finds that a SORNA-compliant law is effective at reducing recidivism. Six of the articles are not based on empirical data, or address issues other than recidivism. The seventh article hoped to compare recidivism rates of juveniles who sexually offended before and after the law required their registration, but concluded that no statistically valid comparison was possible because recidivism was so uncommon in both groups.51 The 2022 SMART Office report fails to provide any evidence that SORN laws reduce recidivism – and fails to rebut the consensus described above that SORN laws do not prevent recidivism."

[Part 2 will appear in the next edition of tLP.]

Notes to Part 1:

1 *Kristen M. Zgoba & Meghan M. Mitchell*, "The Effectiveness of Sex Offender Registration and Notification: A Meta-Analysis of 25 Years of Findings," 19 *Journal of Experimental Criminology* 71, 71 (2023) (citing to the most recent estimate from the National Center for Missing and Exploited Children).

2 For a detailed history of the origins of these laws, see *Wayne A. Logan*, "Origins and Evolution," in *Sex Offender Registration and Community Notification Laws: An Empirical Evaluation* 5-13 (Wayne A. Logan & J.J. Prescott eds., 2021) [hereinafter "SORN Laws: An Empirical Evaluation"]. For a detailed discussion of tribal jurisdictions' SORN codes, see *Virginia Davis & Kevin Washburn*, "Sex Offender Registration in Indian Country," 6 *Ohio State Journal of Criminal Law* 3 (2008).

5 *Alissa R. Ackerman*, "Registries and Registrants: Research on the Composition of Registries," in *SORN Laws: An Empirical Evaluation* 35.

6 See generally *Andrew J. Harris & Scott M. Walfield*, "Variations in the Structure and Operation of SORN Systems," in *SORN Laws: An Empirical Evaluation*.

7 Sex Offender Registration and Notification Act, Pub. L. 109-248, title I, § 16901, 120 Stat. 590 (2006) (This is part of the Adam Walsh Child Protection and Safety Act of 2006, originally codified at 42 U.S.C. § 16901 and reclassified to 34 U.S.C. § 20901 *et seq.*) (repeating 42 U.S.C. § 14071).

8 See Current Law, *Office of Sex Offender Sentencing, Monitoring, Apprehension, Registering, and Tracking* [hereinafter "*SMART Office*"], https://smart.ojp.gov/sorna/current-law ; see also SORNA: Tribal Election, Delegation to the State and Right of Access. SMART Office, https://smart.ojp.gov/sorna/current-law/implementation-documents-tribal-election-delegation-state-and-right-access.

11 See *Kristen M. Zgoba & Richard Tewksbury*, "Law Enforcement and SORN," in *SORN Laws: An Empirical Evaluation* 50-51 (describing generally the registration and verification process); *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 128-129 (explaining that noncompliance is often unintentional and can be explained by the burdensome requirements of registration and the life circumstances of many registrants; see generally *Tanja C. Link, Melanie Holland & Joey Villernez*, "Crossing the Line: A Comprehensive Analysis of Jurisdictional Variations in SORNA Statutes," 30 *Psychology, Public Policy, and Law* 159 (2023) (describing the lack of uniformity and clarity in SORN statutes, which can jeopardize compliance efforts); and see generally *David A. Makin, Andreas M. Walker & Christopher C. Campbell*, "Paying to Be Punished: A Statutory Analysis of Sex Offender Registration Fees," 37 *Criminal Justice Ethics* 215 (2018) (reviewing statutory language in all fifty states and the District of Columbia to identify jurisdictions that impose registration costs onto registrants, and the amount and frequency that registrants must pay.

12 18 U.S.C. § 2250. Failure to register.

13 See. e.g., *Minn. Stat.* § 243.166.5 Registration of predatory offenders. Criminal penalty.

14 *Kristen M. Zgoba & Richard Tewksbury*, "Law Enforcement and SORN," in *SORN Laws: An Empirical Evaluation* 50-51

15 *Id.* at 51.

16 *California Sex Offender Management Board*, What You May Not Know About California's Sex Offender Registry 13 (2017), https://casomb.org/pdf/CASOMB_Education_Pamphlet.pdf.

17 *Kelly M. Socia*, "The Ancillary Consequences of SORN," in *SORN Laws: An Empirical Evaluation* 90 (citing to *Amanda Agan & J.J. Prescott*, "Sex Offender Law and the Geography of Victimization," 11 *Journal of Empirical Legal Studies* 786 (14).

18 *Kelly M. Socia*, ""The Ancillary Consequences of SORN," in *SORN Laws: An Empirical Evaluation* 89-90 (citing to *James E. Larsen, Kenneth J. Lowrey & Joseph W. Coleman*, "The Effect of Proximity to a Registered Sex Offender's Residence on Single-Family House Selling Price," 71 *Appraisal Journal* 253 (2003); *Leigh Linden & Jonah E. Rockoff*, "Estimates of the Impact of Crime Risk on Property Values from Megan's Law, 98 *American Economic Review* 1103 (2008); *Jaren C. Pope*, "Fear of Crime and Housing Prices: Household Reactions to Sex Offender Registries," 64 *Journal of Urban Economics* 601 (2008); *Steven B. Caudill, Ermanno Affuso & Ming Yang*, "Registered Sex Offenders and House Prices: An Hedonic Analysis," 52 *Urban Studies* 2425 (2015); *John C. Navarro & Cara Rabe-Hemp*, "The Financial Impact of Registered Sex Offenders on Home Sale Prices: A Case Study of McLean County, Illinois," 4 *International Journal of Rural Criminology* 87 (2018); but see *John C. Navarro & Matt Ruther*, "A Geospatial Analysis Between the Sale Prices of Single-Family Properties and the Presence of Sex Offenders in Jefferson County, Kentucky, *Urban Studies*, 1-15 (2018) (final version available at 57 *Urban Studies* 944 (2020) (finding no relationship between registrants and decreased property values)).

19 *Eric S. Janus*, "Preventing Sexual Violence: Alternatives to Worrying about Sexual Recidivism," 103 *Marquette Law Review* 819, 825-836 (2020).

20 See *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 138 (citing to *J.J. Prescott & Jonah E. Rockoff*, "Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?," 54 *Journal of Law and Economics*, 161 (2011)); and *Jill S. Levenson*, "Integrating the Etiology of Sexual Offending into Evidence-Based Policy and Practice," in *SORN Laws: An Empirical Evaluation* 151 (citing to *Bureau of Justice Statistics*, Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics (NCJ182990) (2000), www.bjs.gov/content/pub/pdf/saycrle.pdf; *Lucy Bertliner, Donna Schram, Lisa L. Miller, Cheryl Darling Milloy*, "A Sentencing Alternative for Sex Offenders: A Study of Decision Making and Recidivism," 10 *Journal of Interpersonal Violence* 487 (1995); *Bureau of Justice Statistics*, Criminal Victimization (NCJ 199994 (2002), www.ojp.usdoj.gov/bjs/cvictgen.htm; *Grant Duwe, William Donnay & Richard Tewksbury*, Does Residential Proximity Matter? A Geographical Analysis of Sex Offense Recidivism, 35 *Criminal Justice and Behavior* 484 (2008); *Paul A. Zandbergen, Jill S. Levenson & Timothy C. Hart*, "Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism," 37 *Criminal Justice and Behavior* 482 (2010); *Nicole Columbino, Cynthia Calkins Mercado, Jill S. Levenson & Elizabeth Jeglic*, "Preventing Sexual Violence: Can Examination of Offense Location Inform Sex Crime Policy?" 34 *International Journal of*

Psychiatry and Law 160 (2011); *Melanie Clark Mogavero & Leslie W. Kennedy*, "The Social and Geographic Patterns of Sexual Offending: Is Sex Offender Residence Restriction Legislation Practical?" 12 *Victims and Offenders* 401 (2017).

21 See *Eric S. Janus*, "Preventing Sexual Violence: Alternatives to Worrying about Recidivism," 103 *Marquette Law Review* 819, 832, 835 (2020) (citing to *Mariel Alper & Matthew R. Durose*, Bureau of Justice Statistics, U.S. Dept. of Justice, Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-14) 4 (2019), https://www.bjs.gov/content/pub/pdf/rsorsp9yfu514.pdf (finding that, of people who had been convicted of a sex offense and subsequently released from prison, 92.3% were not rearrested for a new sex offense in the nine-year follow-up period); *Kelly K. Bonnar-Kidd*, "Sexual Offender Laws and Prevention of Sexual Violence or Recidivism," 100 *Am. J. Pub. Health* 412, 414 (2010) (finding that 96% of all arrests for asexual crimes in N.Y. involved individuals without previous sex offense convictions); *Jeffrey C. Sandler, Naomi J. Freeman & Kelly Socia*, Does a Watched Pot Boil? A Time-Series Analysis of New York State's Sex Offender Registration and Notification Law, 14 *Psychology, Public Policy, and Law* 284, 295 (2008) (showing that 95% of arrests for sex offenses in N.Y. between 1986 and 2006 were of people who had not previously sexually offended); *Patrick A. Langan, Erica L. Schmitt & Matthew R. Durose*, Bureau of Justice Statistics, U.S. Dept. of Justice, Recidivism of Sex Offenders Released from Prison in 1994 11 (2003), https://www.bjs.gov/content/pub/pdf/rsorsp94.pdf (finding that, of people released from prison in 1994, 86% had no prior conviction for a sex offense); *Matthew R. Durose, Alexia D. Cooper, & Howard N. Snyder*, U.S. Dept. of Justice, Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010 10 (2014), https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf (finding that, of people released from prisons in 2005, 84% had no prior conviction for a sex offense); *Joshua Vaughn*, Failure-to-Comply Arrests Reveal Flaws in Sex Offender Registries, Appeal (Aug 1, 2018), https://theappeal.org/skyrocketing-charges-for-failing-to-comply-with-sexoffender-registries-reveal -their-flaws/ (observing that 96% of people charged with a sex offense in PA in 2016 had no criminal history of sexual violence); *Brian Collins*, Minn. Dept. of Corr., Presentation at the 2017 MnATSA Conference: Residency Restrictions: Sound Public Policy or Tinfoil Hats? (Apr. 21, 2017) (on file with author) finding that 93% of all sex offense convictions in MN had no prior conviction for criminal sexual conduct)); and *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 138 (citing to *Jeffrey C. Sandler, Naomi J. Freeman & Kelly Socia*, "Does a Watched Pot Boil? A Time-Series Analysis of New York State's Sex Offender Registration and Notification Law," 14 *Psychology, Public Policy, and Law* 284 (2008); and *Jill S. Levenson and Kristin M. Zgoba*, "Community Protection Policies and Repeat Sexual Offenders in Florida," 60 *International Journal of Offender Therapy and Comparative Criminology* 1140 (2016) (noting that individuals who have not previously been arrested for a sex offense necessarily have not been convicted of one).

22 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 109, 130; see also *Kristen M. Zgoba & Meghan M. Mitchell*, "The Effectiveness of Sex Offender Registration and Notification: A Meta-Analysis of 25 Years of Findings," 19 *Journal of Experimental Psychology* 71, 89, 92 (2023).

23 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 109.

29 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 115 (citing to *Amanda Y. Agan*, "Sex Offender Registries: Fear without Function?" 54 *Journal of Law and Economics*, 207 (2011)).

31 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 116-17 (citing to *Jeffrey C. Sandler, Naomi J. Freeman & Kelly Socia*, "Does a Watched Pot Boil? A Time-Series Analysis of New York State's Sex Offender Registration and Notification Law," 14 *Psychology, Public Policy, and Law* 284 (2008)).

32 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 117 (citing to *Elizabeth J. Letourneau, Jill S. Levenson, Dipankar Bandyopadhyay, Kevin Armstrong, & Debajyoti Sinha*, "Effects of South Carolina's Sex Offender Registration and Notification Policy on Deterrence of Adult Sex Crimes," 37 *Criminal Justice and Behavior* 435 (2010).

33 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 116 (citing to *Sean Maddan*, Sex Offenders as Outsiders: A Reexamination of the Labeling Perspective Utilizing Current Sex Offender Registration and Notification Policies (2005) (unpublished Ph.D. dissertation, University of Nebraska); *Sean Maddan, The Labeling of Sex Offenders: The Unintended Consequences of the Best Intentioned Policies* (2000); *Sean Maddan, J. Mitchell Miller, Jeffrey T. Walker & Ineke Haen Marshall*, "Utilizing Criminal History Information to Explore the Effect of Community Notification on Sex Offender Recidivism," 28 *Justice Quarterly* 303 (2011)).

34 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 109 (citing to *Jeff A. Bouffard & LaQuana N. Askew*, "Time-Series Analyses of the Impact of Sex Offender Registration and Notification Law Implementation and Subsequent Modifications on Rates of Sexual Offenses," *Crime & Delinquency* 1-30 (2019) (final version available at 65 *Crime & Delinquency* 1483 (2019).

35 *Amanda Agan & J.J. Prescott*, "Offenders and SORN Laws," in *SORN Laws: An Empirical Evaluation* 118-20 (citing to *Grant Duwe & William Donnay*, "The Impact of Megan's Law on Sex Offender Recidivism: The Minnesota Experience," 46 *Criminology* 411 (2008)).

37 *Kristen M. Zgoba & Meghan M. Mitchell*, "The Effectiveness of Sex Offender Registration and Notification: A Meta-Analysis of 25 Years of Findings," 19 *Journal of Experimental Psychology* 71 (2023) (originally available as an advance online publication in 2021).

38 *Id.* at 76.

39 *Id.* at 89.

40 *Patrick Lussier, Evan McCuish, and Elizabeth L. Jeglic*, "Against All Odds: The Unexplained Sexual Recidivism Drop in the United States and Canada," 52 *Crime and Justice* 125 (2023).

41 *Id.* at 126.

42 The discussion of the Model Penal Code and the 2022 SMART Office Report are extensively based on the work of Professor Ira Ellman. See Brief of Amici Curiae Scholars of Criminal Justice, Economics, Law, Psychology, Social Work, and Sociology in Support of Summary Judgment for Plaintiffs, at 21, 23-24. *Does v. Whitmer* (Does III), No. 22-cv-10209 (E.D. Mich. 2024).

43 *Sanford H. Kadish, Stephen J. Schulhofer & Rachel E. Barkow*, *Criminal Law and Its Processes: Cases and Materials* 189 (11th ed. 2022).

45 *Stephen J. Schulhofer*, Reporters' Memorandum to Model Penal Code: Sexual Assault and Related Offenses Tentative Draft No. 6 (2022), https://www.thealiadvisor.org/sexual-assault/reporters-memorandum-for-model-penal-code-sexual-assault-and-related-offenses-tentative-draft-no-6.

46 *Id.*

47 Model Penal Code: Sexual Assault and Related Offenses § 213.11H(1)-(2) (American Law Institute 2022).

48 *Id.*

49 *Federal Research Division, Library of Congress*, Sex Offender Registration and Notification Act – Summary and Assessment of Research 2 (2022).

50 *Id.* at 18-19.

51 *Elizabeth J. Letourneau & Kevin S. Armstrong*, "Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders," 20 *Sexual Abuse* 393 (2008).

****

Will the 2026 MN Legislature Finally Get Rid of the SRB?

A bill in the 2025 MN legislative session concerned the process of decision-making on petitions by those confined in MSOP seeking release or at least advancement from confinement within the secured perimeter of MSOP. To date, that process has comprised consideration by two entities in succession: the "Special Review Board" (SRB) and the "Commitment Appeal Panel" (CAP). This bill proposed elimination of the SRB. This proposal allowed petitions for release or the "reduction in custody" needed to be advanced to the "Community Preparation Services" subentity of MSOP to be addressed to the CAP, rather than initially only to the SRB. Sponsors of this bill pointed out that the SRB could only receive evidence in a preliminary proceeding that could accomplish no more than to make a recommendation to the CAP on the petition at hand.

Worse, by law, the CAP was not allowed to base its decision on that recommendation or any part of it and indeed, could not even consider that recommendation in making its decision. In other words, the SRB's recommendation has absolutely no legal effect. Nonetheless, as a practical matter, the CAP does consider some of the evidence presented to the SRB. It should be noted that the SRB receives assessments and selected patient records culled by MSOP to support its position on whether to advance the petitioner in this two-step proceeding. MSOP can choose whether or not to "support" the petition for advancement in any given case. MSOP declines to support most such petitions.

Effectively then, the SRB process allows MSOP a chance to fill the record with many assertions about the petitioner that will almost certainly be accepted as fact by the CAP with no significant chance for the petitioner to challenge those factual assertions. Essentially, this is like findings by a lower court adopted by a superior court without any due process opportunity for challenge, given how relatively perfunctory both the SRB and CAP proceedings are in fact. This is exacerbated by the fact that appointed attorneys are paid only nominal amounts for their representation in these types of cases (typically about $5,000 per SRB proceeding. This does not allow actual earnest, much less aggressive representation. SRB proceeding presentations by a petitioner are usually limited to 15 minutes, a fleeting moment not even allowing for any real cross-examination of any assessors of MSOP.

In sum, the SRB process invites creation of anti-confinee bias. It would be far better if this bill had passed. However, as Senator Abeler observed, it may be better to simply strive instead for complete abolition of MSOP, rather than merely adjusting its claimed release process. (See "Bookends" article, July 2025 *tLP* edition [9:7, p. 8].) Perhaps this issue may be revisited in next year's legislative session.

****

In MN, Anyone Can Lock Up Anyone.

Anyone can Incarcerate Anyone in Minnesota, by Daniel A. Wilson, April 1, 2022 [Abstract:]

"- A civilly committed man starts the process to civilly commit a former cop and lawmaker -

The most difficult part about writing this article was deciding when to use the term

(Continued on page 4)

'incarcerate' or the term 'committed.' So for our purposes, the terms are interchangeable. As I write this article, Mr. Wallace, a man incarcerated to the Minnesota Sex Offender Program, has begun the process to incarcerate former police officer and lawmaker, Anthony Joel Cornish. Mr. Cornish has never been charged or convicted of a crime. However, there is an 81% probability that once the Petition for Civil Commitment is filed, Mr. Cornish will be incarcerated for the rest of his life. Mr. Wallace is using a little known law called the Minnesota Civil Commitment and Treatment Act ('MCT Act' henceforth). The MCT Act allows any adult to incarcerate any innocent person to the Minnesota Sex Offender Program (MSOP). A Judge once compared the MCT Act, as applied, to the Russian gulag Archipelago and the Japanese internment camps of World War II.[1] Similarly, a law professor called it a 'Potemkin Village.'[2] Professionals have been speaking out against the MCT Act for decades. Unfortunately, it will take citizens – not judges and professors – to change the legislation that governs the institution. Minnesotans have a duty to be aware of laws enacted by their local legislators and demand abolishment of any that are unconstitutional. I hope this article encourages Minnesotans to call for the repeal of the MCT Act because with this law anyone can incarcerate anyone in Minnesota."

[Text:]

[Page 2:]

"My Background

In 2009, I got drunk and grabbed a 9-year-old girl's butt. She told the police four years later. In that four years, before I was convicted of 4th Degree Criminal Sexual Conduct, I got sober, married and we had a daughter. I served a two year prison sentence and was released in 2015. My daughter was four years old when I was released. She was beginning to ask about me. I began to mend the broken pieces of my family back together and thought I'd be with her soon. But only five months after my release, I found myself in a squad car on my way back to court.

Upon entering the courtroom, I realized that I was not in criminal Court; but civil court. I was not being charged with another crime and this court was not inquiring about a criminal history. Instead, it was trying to determine 'future behavior' for which there seemed to be no defense. This was a huge difference from my experience with the criminal Court.

I had a lot of respect for the criminal Court when I got into trouble as a juvenile. My parents taught me to dress nice and say yes ma'am and no ma'am to the Judge. The Court process was reasonably fair, and when I lost, I accepted the outcome because the court had proven my guilt beyond a reasonable doubt.

Conversely, everything sobering about the criminal Court was comical in the civil court. No matter how hard I tried, I could not conjure a rational argument that could defend future behavior. It was difficult to hide my apathy as the gravely obese County Attorney blustered on about what I might do in the future. Slouching in the docket, I answered his questions with a calm that was almost offensive. But as the judge nodded off, it became clear that I was not alone with my indifference.

It is impossible to produce evidence that would support a prediction of future behavior. Instead, the County Attorney had to rely on sensationalized rhetoric – not facts – to win his case. With his gaudy gestures and wide-mouthed surges, not only did he win, his theatrics created the illusion that incarcerating someone requires a skillful attorney. I was committed in April of 2017.

I met Mr. Wallace a few years ago so I know a little about his story. He was convicted of a crime of a sexual nature in 1985. After his conviction, he served a three year sentence. While in prison, he voluntarily completed sex offender treatment and never committed a sex offense again. When he got released, he got married, had children and started his own company. 30 years after he served his sentence, he got arrested for growing Marijuana and was subsequently incarcerated under the MCT Act.[3] If Mr. Wallace is serious about committing Mr. Cornish, and the court is objective to the case, there is a good chance that Mr. Cornish will be incarcerated for the rest of his life – despite his innocence.

[Page 3:]

What is the Minnesota Civil Commitment and Treatment Act?

Lawmakers enacted the MCT Act in In 1994. Under the MCT Act, A person can be incarcerated if he or she is found to be a 'Sexually Dangerous Person' (SDP) or have a 'Sexual Psychopathic Personality' (SPP), or both. 89% of the men and women committed in Minnesota have met the SDP criteria.[4] A person will be considered SDP if they have engaged in emotionally harmful conduct on at least two occasions and have a 'mental dysfunction' that makes them 'highly likely' to be emotionally harmful again in the future. The 'emotional conduct' does not have to be physical,[5] the term 'mental dysfunction' has no medical meaning, and the assessments used to determine 'highly likely' are inherently faulty.[6] In addition, there is no need to prove that the person has an inability to control his or her sexual impulses.[7] In fact, the language in the statute is so vague that the American Psychiatric Association stated that commitment should be, 'vigorously opposed.'[8]

Once a person is committed, they are held captive in a facility surrounded by three layers of razor-wire fencing.[9] The state maintains two facilities in Minnesota – one in Moose Lake and one in St. Peter. Collectively, these facilities are called the Minnesota Sex Offender Program.

The MCT Act is Minnesota's application of what is known as 'Sexually Violent Predator Civil Commitment' ('SVP Commitment' henceforth). 21 other jurisdictions in the United States operate their own version of SVP Commitment. However, Minnesota is one of the easiest to get captured by and one of the most difficult to be released from. Most states with SVP Commitment laws commit people who are so mentally ill that they are dangerous to themselves or others. They then release them once they are no longer a danger.[10] However, Minnesota lawmakers use the MCT Act to commit people who are not mentally ill.[11] Most states offer a program that if completed, will allow individuals to be released. Officers at the facilities also claim to provide such a program. However, over 90 detainees have died attempting to complete the program even though the Deputy Director of the facilities admitted that it cannot be done.[12] In fact, Minnesota Court of Appeals Judge, R. A. Randall, asserts that the allusions to treatment are a guise to justify the detention.[13]

[Page 4:]

Mr. Cornish need NOT be a "Sex Offender" to be Incarcerated to the *Minnesota Sex Offender Program.*

Daniel Larson has never been arrested or convicted of a crime, yet he has been incarcerated for over 44 years. If Larson is released, he will be on the sex offender registry alongside convicted sex offenders simply because of his former incarceration status. In addition, he will be required to register with the Bureau of Criminal Apprehension for the rest of his life even though he is not a convicted sex offender.[14] This shows just how powerful a misplaced label can be – especially one so sensationalized by the media.

Convicted sex offenders are labeled as sex offenders for the same reason murderers and thieves are labeled. These labels alter the social status of the person who committed the crime; announcing to the world that they have broken the law. Once the person has served their sentence, however, their rights are restored and hopefully so is their social status.

Sex crimes are horrific. They have a traumatic impact on victims and communities. The moment someone chooses to commit a sex crime, they make a choice to become a sex offender. The label is well deserved. The sex offender label should never be applied to innocent people. But that is precisely what Minnesota lawmakers are doing.

The name of the facility – Minnesota Sex Offender Program – implies that everyone committed is a sex offender. However, the Minnesota Department of Human Services (DHS) – the department charged with operating the facilities – does not even have the jurisdiction to sanction criminal activity. However, they are somehow allowed to run a facility with a name that uses a term that is unrelated to the scope of their authority.

The term 'sex offender' is used to describe someone who has committed a sex crime.[15] When it comes to the MCT Act, however, there is no sex offense involved. In fact, there is no crime involved.[16] The MCT Act never refers to respondents as 'sex offenders' because the MCT Act targets a broader demographic: Minnesotans.

STATE OF MINNESOTA — DISTRICT COURT

COUNTY OF BLUE EARTH — FIFTH JUDICIAL DISTRICT

Case Type: Civil Commitment

In the Matter of the Civil Commitment of

Court File No _____

ANTHONY JOEL CORNISH,

Respondent,

PETITION FOR CIVIL COMMITMENT

STATE OF MINNESOTA)
) ss.
COUNTY OF CARLTON)

I. PERSONAL BACKGROUND.

Petitioner, Mark .S. Wallace, is an interested person in this matter. To the best of his knowledge, information, and belief, Petitioner respectfully represents:

1. Respondent, Anthony Joel Cornish (Cornish) who was born on May 3, 1951. He is 70 years of age.
2. Cornish currently resides in Vernon Center or Goodthunder, Minnesota or for purposes of civil commitment.
3. Respondent's nearest relatives are:

Name	Relationship	Address
Mary Cornish	Ex-Wife	Unknown

I. LEGAL CLAIMS.

4. The observations of Cornish's behavior that provide a factual basis for believing that he is a "sexually dangerous person" as defined in Minn. Stat. § 253D.02, Subd. 12 and in need of hospitalization are set forth below in section III.
5. No suitable alternative to involuntary hospitalization exists for the reasons set forth below.

[Exemplar continues on next page.]

6. On April 1, 2022 this Petitioner submitted the facts of this case to the Blue Earth county attorney, Patrick R. McDermott, who did not find good cause to file a petition pursuant to Minn. Stat. § 253D.
7. On April 1, 2022 this Petitioner submitted the facts of this case to three (3) examiners who did not respond.[1] (Minn. Stat. § 253B.07, Subd. 2 (c))
8. On April 1, 2022 this Petitioner submitted the facts of this case to Blue Earth County Human Services who did not do a prepetition screening.[2] (Minn. Stat. § 253B.02 Subd. 5; 253B.07 Subd. 1 (a))
9. As an adult who has a specific interest in Cornish, Levi Hans Rajah is the Petitioner in this matter. (Minn. Stats. § 253B.07, Subd. 2 (a); 253B.02 Subd. 10 (1))

II. FACTUAL BACKGROUND

A. Cornish's History Of Harmful Sexual Conduct.

10. Anthony Joel Cornish was a police officer from 1975 to 1980. He served eight terms as a Republican member of the House of Representatives and wielded considerable influence at the state capitol.[3]
11. In 2017, Sarah C. Walker, a lobbyist at the capitol, reported that Cornish made inappropriate comments towards her.[4]
12. In 2017, Erin Maye Quade reported that Cornish sent inappropriate text messages to her.[5]
13. Cornish admitted that his behaviors made others feel, "uncomfortable, and disrespected."[6]
14. Cornish resigned on November 30, 2017 following sexual misconduct allegations.[7]
15. Pursuant to Minn. Stat § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed on this 14th Day in the Month of April, in the Year of Our Lord Jesus Christ, Two Thousand Twenty Two, in Carlton County, Minnesota.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this court commit the Respondent, Anthony Joel Cornish, as a sexually dangerous person to the Minnesota Sex Offender Program.

Dated: April 14, 2022 in the County of Carlton, Minnesota

s/ Mark S. Wallace

Mark S. Wallace, PRO SE PETITIONER
Electronically signed on 4/14/2022 3:33:33 PM

[1] Paul M. Reitman, 3230 Orchard Court, White Bear Lake, MN 55110; Mary Kenning, 5100 Eden Ave., Ste. 320, Edina, MN 55436; Rosemary Lindeman, 6052, Gulfport Blvd. S., Gulfport, FL 33707
[2] Blue Earth County Human Services, 410 S. 5th St., Mankato, MN 56002-3526
[3] "Sen. Dan Schoen, Rep. Tony Cornish to Resign Amid Sexual Harassment Allegations," by Dave Orrick, dorrick@pioneerpress.com, *Pioneer Press*, November 21, 2017, Updated: April 24, 2018.
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] "Lawmaker, lobbyist say Rep. Cornish sexually harassed them," by Brian Bakst, *MPR News*, November 10, 2017

The Act only uses the term 'sex offender' in two specific ways: when referring to the name of the facilities people are sent to once committed and when referring to 'sex offender treatment' in the Department of Corrections.[17] Innocent people receive the title of 'sex offender' upon entering the Minnesota Sex Offender Program, whether they have a sex offense conviction or not. Detainees are even forced to wear identification cards with 'Minnesota Sex Offender Program' printed in big bold letters.

Most of those committed under the MCT Act have a sex offense conviction. But a sex offense conviction is NOT a common denominator among the committed. In fact, 12% of those committed under the MCT Act have no criminal record at all.[18] Although 88% do have a criminal record, 0% are committed because of that record. They did not need a sex offense conviction to get incarcerated -- and neither does anyone else. However, assuring that the vast majority of those committed are convicted sex offenders creates the illusion that a sex offense conviction is required for commitment.

[Page 5:]

The practice of committing convicted sex offenders, coupled with associating the term "sex offender" with the facility where committees are housed, creates the illusion that a sex offense conviction is a prerequisite for commitment.

So What Does it Take to get Committed in Minnesota?

Most citizens in America are protected from incarceration by the Presumption of Innocence. Americans have the Constitutional right to be presumed innocent until the government proves every element of every allegation beyond a reasonable doubt. Despite this common sense approach to justice, Minnesota lawmakers have incarcerated nearly 850 citizens – not for a crime – but for speculation.[19]

Minnesota incarcerates more men and women per capita than any other state with SVP Civil Commitment.[20] In fact, for every 1 million people in Minnesota, 131 are living (and dying) under the MCT Act. This mass incarceration of innocent people is achieved by substituting the evidentiary standard of beyond a reasonable doubt with the clear and convincing standard.

The beyond a reasonable doubt standard guarantees a trial by jury for the accused. To establish guilt, that jury must weigh all evidence and testimony of the case until all doubt in the mind of each juror is removed. If even one juror believes the defendant may not have committed the crime the defendant would be found not guilty. That man or woman would then leave the Courtroom the same as he or she entered: innocent until proven guilty.

However, the clear and convincing standard – which is used for the MCT Act – is not so rigorous. The clear and convincing standard allows the respondent to be indeterminately incarcerated if the petitioner convinces the court that the proposed contention is 'highly probable.'[21] In addition, the respondent does not have a right to a jury trial.[22] Instead, the respondent will have a bench trial in front of a judge where hearsay testimony and hearsay evidence is admissible.[23]

Minnesota lawmakers are incarcerating citizens for baseless allegations, invented 'mental dysfunctions,' and inherently faulty assessments observed by the clear and convincing evidentiary standard. This unconstitutional practice has incarcerated of hundreds of innocent men and women and has put millions of others at risk of life long incarceration."

[Page 6:]

"Writing and Filing a Petition to Commit Someone

Since the start of 2017, the Associated Press has tallied at least 90 state lawmakers who have faced public allegations of sexual misconduct.[24] Not all of these allegations resulted in criminal charges or convictions. However, of the four Minnesota lawmakers on that list, three meet the standard for commitment according to the MCT Act: Dan Schoen, Tony Cornish, and Jim Knoblach.[25] News reports alone provide enough information to commit former cop and Republican member of the House of Representatives, Anthony Joel Cornish.

The only thing protecting Mr. Cornish from being incarcerated for life is the arduous process required to file a Petition for Civil Commitment. But if Mr. Wallace is willing to take the proper steps to secure the commitment, there is an 81% chance that he will be successful.[26] While Mr. Cornish awaits his court hearing, law enforcement can house him with us even before the commitment is final.[27]

[Page 7:]

Although cases are usually investigated by an agency selected by the county board prior to a petition being filed – they do not have to be.[28] Any person who is interested in committing someone would first submit the facts of the case to the local county human services agency. If the agency does not find cause to investigate the case, the facts of the case would be submitted to the County Attorney.[29] Doing so gives local authorities 'dibs' on the case. If neither of these departments investigate or file the petition, the interested person can file the petition with the information they have.[30] According to the MCT Act, any adult with a specific interest in the respondent and has knowledge of the facts can file a petition.[31]

According to the MCT Act, the petition must include the name and address of the proposed respondent and the name and

(Continued on page 6)

address of the proposed respondent's nearest relatives. The petition must contain "factual" descriptions of the proposed respondent's recent behavior, where it occurred, and the time period over which it occurred. (Remember, only the clear and convincing standard must be met so it is not necessary to "prove" claims) Each allegation must be supported by observations of witnesses named in the petition. (Remember, hearsay is admissible) Petitions must be stated in behavioral terms and must not contain judgmental or conclusory statements.[32] The petition must be accompanied by a written statement from an examiner stating that the proposed respondent should be incarcerated.[33] If the petitioner is unable to secure the written statement, they only need to include documentation that a "reasonable effort" was made to secure the statement.[34] The statement must be from an examination that took place within the 15 days preceding the filing of the petition. If the proposed respondent is in prison, the petition can be filed in the district court in the county where the conviction was finalized. If they are not in prison, the petition can be filed in the district court of the county where the respondent is present.[35]

[Page 8:]

Conclusion

Our children do not deserve to grow up in fear that they could experience the same fate that I did. Minnesotans should call for the repeal of the MCT Act – not just to protect Mr. Cornish – but to protect their own Constitutional rights and the Constitutional rights of their children. My daughter is now 10 years old. She no longer asks about me; but, that is my fault. I committed a sex offense and deserve the abhorrent label of "sex offender." However, I served my prison sentence and was released. I had not committed another crime and was incarcerated for 'future behavior.' It is too late for me but if this article leads to the repeal of the MCT Act, I have done something for my daughter.

U.S. Supreme Court Justice, Antonin Scalia warned us after thousands of Japanese-Americans were confined to preventive detention following the attack on Pearl Harbor by stating, 'You are kidding yourself if you think the same thing will not happen again...' He was right, and if we fail to repeal the MCT Act, the reader is fairly warned to beware because if someone has you, or someone you love, in their crosshairs – remember: anyone can incarcerate anyone in Minnesota."

Footnotes:

1 Minnesota Court of Appeals Judge, R. A. Randall, *In re Mattson*, 1995 Minn. App. LEXIS 805, Randall, J., concurring

2 University of Wisconsin law professor Gregory J. Van Rybroek, Ph.D., J.D. in *Karsjens v Jesson* , 11 cv 03659 (DWF/JJK), "Reply Expert Report of Gregory J. Van Rybroek, Ph.D., J.D.," p. 8

3 The MCT Act is now codified at Minn. Stat. § 253D. (Notice: All references to Minn. Stat. § 253B henceforth are updated per Minn. Stat. § 253D.07 Subd. 2).

4 "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor (2011), p. 25.

5 Minn. Stat. § 253D.02, Subd. 7a.

6 *Melissa Hamilton*, Adjudicating Sex Crimes as Mental Disease, 33 *Pace L. Rev.* 536 (2013), p. 542.

7 Minn. Stat. § 253D.02, Subd. 12 (b), and "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor (2011), pp. 24, 25, (2011).

8 "SVP Civil Commitment of People Convicted of S.O.s in the United States," *Trevor Hoppe, et. al.*, UCLA: Williams Institute, (2020), p. 2 quoting "Dangerous S.O.s: A Task Force Report of the American Psychiatric Association," American Psychiatric Association (1999), p. 173 (1999), p. 173.

9 Minn. Stat. § 253D.07, Subd. 4

10 *Kansas v Hendricks*, 521 U.S. 346, 368 -69

11 Variance Request Application for Rule 9515.3030, Subp. 2. Psychiatric evaluation.

12 *Karsjens v Jesson*, 11--cv--03659 (DWF/JJK), Trial Transcripts, Vol. XX, p.4633, v.3—88.

13 *In re Linehan*, 544 N.W.2d 308, 326, Randall, J., dissenting: "...over 90 detainees have died attempting to complete the program even though the Deputy Director of the facilities admitted that it cannot be done."

14 Minn. Stat. § 243.166, Subds. 1b(c); 6 (d)(4).

15 *Black's Law Dictionary*, 11th ed. (2019), p. 1299.

16 *In re Mattson*, 1995 Minn. App. LEXIS 805, Randall, J., concurring.

17 Minn. Stat. § 253D.10, Subd. 2 (6).

18 "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor, (2011), p. 7: "Daniel Larson has never been arrested or convicted of a crime, yet he has been committed for over 44 years."

19 In re Linehan, 544 N.W.2d 308, 326, Randall, J., dissenting

20 "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor , (2011), p. x

21 The *respondent* is the person who the petitioner is trying to "commit." The *petitioner* is the one trying to "commit" the respondent.

22 "SVP Civil Commitment of People Convicted of S.O.s in the United States," Trevor Hoppe, et. al, UCLA: Williams Institute , (2020), p. 8

23 "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor , (2011), p. 26

24 "90 State Lawmakers Accused of Sexual Misconduct since 2017," The Associated Press, (2019).

25 Senator Schoen resigned on 12/15/17, following allegations of sexual assault. Cornish resigned 11/30/17, following allegations of sexual harassment. Rep. Knoblach's adult daughter alleged that he inappropriately touched her.

26 "SVP Civil Commitment of S.O.s" by James Nobles, Office of the Legislative Auditor (2011), p. 37, (2011).

27 Ophilia May Blackheart, a transgender woman, arrived at the commitment facility in December 2020. She was not committed yet. She was being held pursuant to Minn. Stat. § 253B.07, Subd. 2b, awaiting trial. Not deemed to be a Sexually Dangerous Person (SDP) or a Sexual Psychopathic Personality (SPP), she was forced to live with those who the civil court did deem SDP, SPP, or both.

28 On November 19, 2021, I called an experienced SVP Commitment attorney to ask him if I could, hypothetically, file a petition to commit my neighbor. He responded, "There is nothing in the law that prohibits it. I have received calls from people asking if they can commit a loved one. I tell them they can, but they contact the proper local agencies to investigate the case. If the agencies do not find good cause to take the case, the family member can file a petition in the district court." See Minn. Stat. § 253B.02, Subd. 5; § 253B.07, Subd. 1 (a).

29 Minn. Stat. § 253D.07, Subds. 1, 2; § 253B.07, .08.

30 Minn. Stat. § 253B.07, Subd. 2 (a).

31 Minn. Stat. § 253B.02, Subd. 10 (1); § 253D.07, Subd. 1.

32 Minn. Stat. § 253B.07, Subd. 2 (b).

33 Here are three "examiners": Paul M. Reitman, 3230 Orchard Court, White Bear Lake, MN 55110, ph. (612) 508--9309; Mary Kenning, 5100 Eden Ave., Ste. 320, Edina, MN 55436, ph. (612) 239--9835; Rosemary Linderman, 6052 Gulfport Blvd. S., Gulfport, FL 33707, ph. (727) 409-9014

34 Minn. Stat. § 253B.07, Subd. 2 (c).

35 Minn. Stat. § 253D.07, Subd. 1.

Acknowledgments

"Indeterminate incarceration could happen to anyone in Minnesota. If we do not stand up for other's given rights, we're in jeopardy of losing our own."

– Merry Schoon, OCEAN Director of Research

"This issue of not needing a sex offense history to be committed in Minnesota is only one of many ignored, glaring concerns with Minnesota's Civil Commitment system."

– Eric Janus, past President and Dean of the Mitchell | Hamline School of Law.

"Minnesota is exceptional in this regard: you don't need a sex offense conviction to get incarcerated. The low bar in Minnesota is unusual compared to other states."

– Trevor Hoppe, Assistant Professor of Sociology, University of North Carolina Greensboro

"The points made in this article would have fallen on deaf ears seven or eight years ago, but now I think people are listening."

– William Lubov, Attorney at Law

"The two biggest lies are that we're here for a sex crime and that we're here for a severe mental illness. Neither are true. Those who have a criminal history served their sentence. If we do suffer severe mental illnesses, where's the current evidence? For those who do have a sex offense conviction, this is double jeopardy. For those who do not, this is preventive detention."

– Russell John Hatton, Raj, OCEAN co-founder

The reader is encouraged to contact their local legislators to demand the repeal of the MCT Act (codified at Minnesota Statute 253D).

****

"Social Construction of Target Populations" – a Corruption of Democracy and an End to the Land of the Free

Anne L. Schneider, Helen Ingram & Peter Deleon, "Chapter 4: Democratic Policy Design: Social Construction of Target Populations," in: *P.A. Sabather & C.M. Weibkle* (Eds.), *Theories of the Policy Process* (pp. 105-149). (Westview Press, 2014)

"The social construction of target groups has become a central concept in the study of public policy. Policies typically carve out certain populations to receive benefits or burdens and often embed positive or negative social constructions of the targeted groups. These constructions serve to justify the allocation of rewards and penalties within the policy and are critical to an understanding of the way democracy functions. Social constructions are powerful images or stereotypes that help explain why public policy, which can have such a positive effect on society, sometimes – and often deliberately – fails in its nominal purposes – fails to solve important public problems, perpetuates injustice, fails to support democratic institutions, and produces unequal citizenship. Understanding the positive and negative social constructions of target groups helps explain why it is that while every citizen is presumably equal before the law, policy designs tend to distribute mainly benefits to some people while almost always punishing others.

[pp. 105-06:] Social constructions of target groups are important political attributes that are used in political arguments and rationales and not only impact the material welfare of target groups but also influence their social reputations, political attitudes, and participation patterns. The emotional and value-laden image of some targets, and not others, as deserving and entitled is different from the usual notion of political power related to economic and political resources....

Through the focus on social constructions, this chapter addresses a number of the enduring issues of a democratic polity, including political participation, policy implementation, and effectiveness. We first offer some of the perspectives and literature on which the Social Construction Framework draws, including its processes. We then propose five propositions and, in particular, discuss the advantages the framework brings to the study of policymaking. Finally, we suggest a number of areas in which the framework provides insights that contribute to a theory of public policy that is complementary to several other theories.

The Intellectual Roots of the Framework

[p. 106] Decades ago, Some public policy scholars recognized that much of the political world is socially constructed, drawing on emotional and value-laden images and symbols rather than objective representations of 'reality' (Edelman 1964, 1988; Luke

(Continued on page 7)

1989). Problems are constructed socially rather than just presenting themselves (Best, 1989; Specter and Kitsuse 1987). Which issues are addressed depends not on their demonstrated seriousness but on social processes like framing (Snow and Benford 1988) and agenda setting (Kingdon 1984; Rochefort and Cobb 1994). Policy debates and discourses are contingent on interpretation and the assignment of values to people, processes, and events (Stone 1997; Fischer 2003). Emotions are an integral part of judgments, images, and stereotypes. Likes and dislikes are the product not of individual or collective reason and deliberation but mainly of emotion and heuristics (Kahneman, Slovic, and Tversky 1982; Kahneman 2011; Lewis 2013). Haidt (2012) contends that judgments begin with emotional reactions that evolution has favored through a group selection process, and reason is used mainly to justify initial emotional responses.

In a series of articles beginning in a1988, Schneider and Ingram introduced the idea that target groups in public policy are chosen not just for their instrumental ability to serve policy purposes and not just because of their political power, but also because of the value-laden, emotional, and powerful positive and negative social constructions with which they are associated (Schneider and Ingram 1988, 1993; Ingram and Schneider 1990, 1991). Political leaders, Schneider and Ingram pointed out, like to do 'good' things for 'good' people, and they also like to be 'tough' on 'bad' people. In this way, political leaders gain considerable political capital, which they use to help ensure their continued election.

Propositions Related to the Social Construction of Target Groups

[p. 109:] The propositions explored here begin by examining how social constructions of target populations interact with political power resources to create a typology of target populations and how policymakers respond to these different 'types' of target populations in their allocation of benefits and burdens.

Proposition 1: Allocation

The allocation of benefits and burdens to target groups by public policy depends on the extent of their political power as well as their positive or negative social construction. ...The political power of a target group refers to the extent of its political resources, such as whether it is large, united, easy to mobilize, wealthy, skilled, well positioned, focused on issues of concern to it, accustomed to voting and contacting public officials, and so on. Political scientist have long used this facet to examine the strength of interest groups and social movements, as well as their ability to obtain positive benefits and fend off the costs of policy in the policy process.

[p. 110:] ...Social construction of target groups refers to the valence of the positive or negative social construction of the group as worthy and deserving and contributing to the general welfare or as less worthy and undeserving and being a burden on the general welfare of society. In public policy rhetoric, positive constructions includes such language as worthy, contributing to society good, smart, hardworking, loyal, disciplined, generous, caring about others, respectful, and creative. These people or groups are admired. Negative labels convey the polar opposite: these people or groups are greedy, disrespectful, disloyal, immoral, disgusting, dangerous, and lazy, and they expect others to take care of them. They garner scorn or are treated as less than human.

Figure 4.2 portrays a matrix of how a hypothetical person or political official might perceive the political power (vertical axis) and the degree of deservedness (horizontal axis). Although a group might be classified at any point in the space portrayed in Figure 4.2, it is useful to provide labels for the groups that fall into the four distinct cells that emerge from the matrix. The actual placement of groups is simply a heuristic device, and in any given research project, the actual array of target populations would be determined empirically.

The *advantaged* have high levels of political power resources and enjoy positive social construction as deserving people important in the political and social hierarchy in general and, more specifically, in social welfare as broadly construed. Such groups probably include, among many others, small business owners, homeowners, soldiers, job creators, primary care physicians, the elderly, and middle-class taxpayers. Advantaged groups are likely to receive benefits in public policy (e.g., tax deductions or credits) and to be treated with respect....

[p. 111:] *Contenders* have substantial political resources but are negatively regarded by many in the [population as relatively selfish, untrustworthy, and morally suspect. Contender groups have long included major labor unions, although organized labor is losing its once unquestioned political power. Others at this time include insurance companies, firearm industries, radical activists, big banks and lenders, Wall Street brokers, superrich political donors, and recipients of congressional earmarks. Contender groups are likely to receive public benefits because of their political power, but these benefits are often *sub rosa* –that is, buried in the details of legislation and difficult to identify....

[p. 112:] *Dependents* are positively constructed as deserving at least in terms of sympathy and pity. Mothers, children, and most students, as well as the hungry, the homeless, the mentally handicapped, victims of disasters, families in poverty, and other categories of unfortunates, fall into this construction. Lack of political power sharply curtails their receipt of benefits, which tend to be inadequate and limited by rules such as means testing, by funding shortfalls or by receipt of student loans instead of scholarships. Because they do not have a strong role in the creation of national wealth, dependents are considered 'good' people, but considerably less deserving of actual investments than advantaged groups....

Deviants lack both political power and positive social constructions and tend to receive a disproportionate share of burdens and sanctions. The number of such groups and their significance as targets of policy is growing. Deviants include criminals, terrorists, sex offenders, welfare cheats, deadbeat dads, young male minority dropouts, illegal immigrants, and drug dealers. As others have written, ...deviants make up a kind of permanent underclass in the United States and are blamed for many of the ills of society that might more accurately be attributed to the broader social and economic system.... Policymakers stand to gain considerable political capital from punishing those who do not have the power or wherewithal to fight back and whom the broader public believes are undeserving of anything better. Deviants have few if any advocacy groups willing to speak on their behalf.

[p. 116:] Studies of crime document that the more negative the social construction of the criminal, the more punitive the punishment even for victimless crimes like drug use.

In summary, although much empirical remains to be done, the allocation of benefits to the advantaged, burdens to deviants, hidden benefits and empty burdens to contenders, and inadequate and demeaning help to dependents is a pattern found across many policy arenas.

[pp. 116-17:] **Proposition 2: Feedback (or 'Feed Forward')**

Policy designs have both material and symbolic (reputational or interpretive) effects on target populations that impact their attitudes and political participation. These effects occur through structuring of opportunities that shape life experiences and subtle messages about how government works and how they are likely to be treated. ...[M]ost scholars now recognize that policy itself could be conceptualized as a starting point with significant impacts on subsequent attitudes, participation, and policy designs. Campbell and others use the term 'feedback', whereas we use the term 'feed forward', but both refer to the effects of policy designs on people's orientations toward government and participation patterns.

[pp. 117-18:]

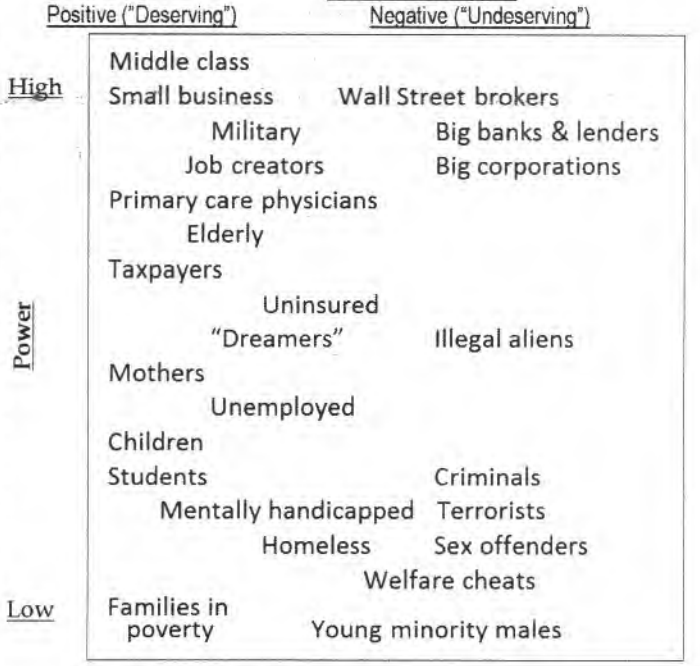
Currently there are more than 2 million people behind bars and another 4 million under some kind of correctional supervision. The political and economic consequences of such mass incarceration and subsequent disenfranchisement are hard to exaggerate or ignore (Uggen and Manza 2002l; Guetzkow and Western 2007).

Proposition 3: Origins

[p. 121:] ***Social constructions emerge from emotional and intuitive reactions and then are justified with selective attention to evidence. Policymakers, especially elected politicians, respond to (and exploit) these emotional and intuitive judgments in their rationales and selection of policy elements.*** Among the fundamental issues related to the social construction of target populations is where these constructions come from and how they become widely accepted. In the last two decades, theory and evidence of how intuitive, emotional reactions to certain images, symbols, and value-laden words drive opinion and decisions have reinforced Schneider and Ingram's thesis. What some psychologists have termed "fast thinking" (Kahneman 2011) is connected to the emotional and affective centers of the brain and draws on subconscious scripts and heuristics. For instance, the "availability" heuristic is a decisionmaking shortcut in which judgments are made on the basis of things that more easily come to mind or are more easily imagined (Lewis 2013; Lakoff 2009; Kahneman, Slovic and Tversky 1982).

[p. 122:] Social constructions, Haidt (2020) says, are moral intuitions strengthened through selective cognitive biases. Haidt's review of anthropological and social

FIGURE 4.2 Social Construction and Power Typology



psychological research leads him to conclude that six fundamental moral intuitions occur across all cultures, albeit in different weights in each one. These are intuitive, emotional, and a fundamental part of human societies. ...These are care versus harm or neglect; fairness versus greediness or cheating; liberty versus subjugation; authority and discipline versus chaos; loyalty versus betrayal, and sanctity (sacredness) versus degradation. ...[T]here is little debate that bias, labeling, stigma, and stereotyping exist in the way humans think and interact, and public policies are only one of many mechanisms that reflect and reinforce them.

[p.124:] 'Moral entrepreneurs' have been identified as critical causal links between social constructions of deviant groups and policy design (Nicholson-Crotty and Kenneth Maier (2005). Moral entrepreneurs translate broad-based social anxieties and negative perceptions of marginal groups into legislative crusades that convince others that particular deviants are not being sufficiently punished.. Sean Nicholson-Crotty and Kenneth Maier (2005) note that such entrepreneurs are often associated with dominant institutions in society, such as churches or government. They build on widespread but unfocused negative perceptions of groups.

Proposition 4: Changing Social Constructions

Social constructions of target groups can change, and public policy design is an important, though certainly not singular, force for change. The seeds for altering social constructions can often be found in the unanticipated or unintended consequences of previous policy designs.

[p. 126:] Changes in social constructions ...do occur. Gay, lesbian, bisexual, and transgender (GLBT) people have experienced a rapid change toward a more positive social construction. More than a dozen states have voted in favor of same-sex marriage. The speed of this change may be partially due to the higher income and education status of GLBT individuals, enabling them to mobilize. Also, GLBT people are not ghettoized and over time have become far more visible , which enables almost everyone to know someone who is GLBT and to reject negative stereotypes based on personal experience.

[p. 129:] **Proposition 5: Policy Change**

Types and patterns of policy change vary depending on the social construction and power of target groups.

...The Social Construction Framework postulates that path dependency (and increasing returns) will characterize two sections of the policy space: the conferral of benefits to advantaged groups and the delegation of punishments to deviants. Each successive policy step that confers more benefits on powerful, positively viewed groups generally will result in increased support from the target group and little or no opposition from others. Similarly, each successive increase in punishment for deviant groups produces public approval. Both of these processes may eventually come to an end (i.e., Baumgartner and Jones's [1993] punctuated equilibrium), but only long after the policy has ceased to produce effective results.

[p. 131:] **Implications of the Social Construction Framework: Looking Forward**

Over twenty years have passed since Schneider and Ingram first advanced the social construction of target populations in policy design. During that time the propositions related to the framework have been verified and elaborated by a great deal of empirical research.... The social and psychological underpinnings of human tendencies to construct the 'other' in value-laden, emotional, and symbolic terms have become stronger and better understood. ... The framework has correctly predicted that there are strong tendencies for legislators to design public policy so that policies allocate benefits to advantaged populations and punishment to deviants far beyond that necessary to serve any public purpose. Studies have shown that rules, tools, rationales, and implementation structures inspired by social constructions send dysfunctional messages, and poor choices may hamper the effectiveness of policy.

The implications of the propositions explored in this chapter for democracy are serious because there are no obvious self-correcting mechanisms. It is not clear whether or how these degenerative processes can reverse direction in their tendency to provide ever more benefits to some and heap punishments on others. Do advantaged populations eventually gain so much through policy that they are reconstructed as greedy? Are the deceptive policies toward contenders that hide benefits and only pretend to allocate costs eventually exposed? The past several decades have witnessed income inequality and wealth accumulations at the top that rivals that of the 1920s. Deviants are punished to the extent that the U.S. leads all countries of the world in its rate of imprisonment.

[p. 132:] ...What roles do citizens, the media, social networks, interest and non-profit groups, events, civic education religion, and economic pressures play? How do narratives that emphasize empathy and fairness gain traction? How does cooperation emerge among people who want to reconstruct target groups?"

References

Best, Joel (1989). Social Problems. New York: Norton.

Edelman, Murray J. (1964). The Symbolic Uses of Politics. Urbana: University of Illinois Press.

Fischer, Frank (2003). Reframing Policy Analysis. Oxford: Oxford University Press.

Guetzkow, Joshua & Bruce Western (2007). "The Political Consequences of Mass Imprisonment." In Joe Soss, Jacob Hacker, & Suzanne Mettler, Eds., Remaking America: Democracy and Public Policy in an Age of Inequality, 228-242. New York: Russell Sage Foundation.

Haidt, Jonathan (2012). The Righteous Mind: Why Good People Are Divided by Politics and Religion. New York: Pantheon.

Ingram, Helen & Anne L. Schneider (1990). "Improving Implementation Through Framing Smarter Statutes," 10(1) *Journal of Public Policy* 66-87.

Ingram, Helen & Anne L. Schneider (1991). "The Choice of Target :Populations," 23 *Administration and Society* 333-356 (Nov.)

Kahneman, Daniel (2011). Thinking Fast and Slow. New York: Farrar, Straus & Giroux.

Kahneman, Daniel, Paul Slovic, and Amos Tversky , eds. (1982). Judgment under Uncertainty: Heuristics and Biases. New York: Cambridge University Press.

Kingdon, John W. (1984). Agendas, Alternatives and Public Policies. Boston: Little, Brown.

Lakoff, George (2009). The Rational Mind. New York: Praeger.

Lewis, Paul (2013). "Policy Thinking, Fast and Slow: A Social Intuitionist Perspective on Public Policy Processes," Paper, American Political Science Association, 2013 Annual Meeting, August 29-Sept. 1, http://ssrn.com/abstrsct=2300479.

Luke, Timothy (1989). Screens of Power: Ideology, Domination and Resistance in Informational Society. Urbana: University of Illinois Press.

Nicholson-Crotty, Jill and Kenneth Maier (2005). "From Perception to Public Policy: Translating Social Constructions into Policy Design." In *Ingram, Helen & Anne L. Schneider*, Eds., Deserving and Entitled: Social Coinstruction of Public Policy 223-242. Albany: State University of New York Press.

Rochefort, David A. & Cobb, Roger W., Eds. (1994). The Politics of Problem Definition: Shaping the Policy Agenda. Lawrence: University Press of Kansas.

Schneider, Anne L. and Helen Ingram (1988). "Systematically Pinching Idea: A Comparative Approach to Policy Design". 8 (1) *Journal of Public Policy* 61=-80.

Schneider, Anne L. and Helen Ingram (1993). "The Social Construction of Target Populations," 867(2) *American Political Science Review* 334-346

Snow, David A. & Robert D. Benford (1988). "Ideology, Frame Resonance, and Participant Mobilization," 1 *International Social Movement Research* 197-217.

Specter, Malcolm and John Kitsuse (1987). Constructing Social Problems. Menlo Park, CA: Benjamin Cummings.

Stone, Deborah (1997). Policy Paradox. New York: W.W. Norton.

Uggen, Christopher & Jeff Manza (2002). "Democratic Construction? The Political Consequences of Felony Disenfranchisement in the United States," 65(4) *American Sociological Review* 529-546.

Editor's Closing Commentary:

America was supposed to be the land of equality and freedom. Whatever the biases or sentiments of individuals or groups, at least the law was the final protector of both equality and freedom. When discrimination of any kind was permitted, it was only on the basis of rational and reasonable distinctions, and in some instances, only upon a showing of compelling governmental needs examined under strict scrutiny.

The notion that laws could be created or modified to provide more benefits to some than others and/or to inflict punishments or hardships on others based merely on whether certain politically "powerful" groups liked or disliked or suspiciously distrusted other groups was foreign and repulsive as Nazism and other arbitrary, totalitarian forms of government.

Now, according to this article, on the basis of "policy" (apparently thought by the authors to somehow not be an integral part of law), it has somehow allegedly become a common matter of course in politics to award benefits to the powerful and to deny benefits to the powerless (maybe even helpless). When did American politics become this selfish?

Further, much of the article discusses inflicting punishments — not as part of sentences for actual crimes , but simply for being what some persons or groups, or even a majority of the populace at large suspects are simply the "type" that *might* someday commit crimes of one kind or another.

Often, these accusations are popularized when the propaganda recipients simply have no knowledge about another group, or, through distrust, simply fill in the gaps in their knowledge with presumed evils. Taking advantage of such ignorance and such distrust has always been a chief tactic of absolute dictators.

So you're a Roman emperor and you have to come up with a believable patsy for a secretly official act of urban renewal by fire? No problem; just slaughter a bunch of the newest kids in town — Christians — in the Coliseum. Be sure to distribute snacks and liquid refreshments so that the audience gets the festive occasion of getting rid of some no-goods, who, after all, aren't really civilized human beings at all.

Are you a certain 20th century dictator in a central European country with personal obsessions about fictional ethnic supremacy and a need to blame someone for the loss of World War I? Just select an ethnicity that has typically kept unto itself and quiet to accuse of cheating in business, scientific fraud, and ghastly abuse and even sacrifice of children of the majority ethnicity (all diametrically false), and inflict genocidal violence upon that minority ethnicity before they can even be heard to deny any of such wildly baseless charges.

Today in this country, we cast ridiculous accusations against those who only came to the U.S.A. in search of a livable life in freedom and personal dignity.

We label the poor as lazy, the unemployed as habitually seeking a living solely on handouts, the homeless as psychopathic drifters, alienated and angry minority youth as antisocial, amoral exploiters of mainstream citizens, those with past convictions as permanent members of an imagined criminal class conspiring against honest folk to steal from, extort, abuse, rape, injure and kill without compunction, and anyone with exceptional political views as a terrorist not yet unexposed — and the list goes on *ad infinitum*.

(Continued on page 9)

When we pass by a stranger on the street, do we see a person who might be interesting to talk to, or do we simply see a walking label? If we see a label, do we ever even ask ourselves whether the source of this knee-jerk reaction is what some paid "moral entrepreneur" told us to think for his own ulterior, undisclosed purposes — and we just bought that pile, hook, line, and sinker?

Is this the new America? When did so many people in our country abandon their ability to learn and to think, abandon their presumption that someone new probably wants nothing more than your open-hearted acceptance of his humanity, abandon their willingness to consider that someone who succumbed to a temptation to commit a crime many years ago is nearly certainly no longer that same person?

Instead, was this when we started to become swept away by our factually incorrect misperceptions and by extremist propaganda and by our mob-reactions of shared frightened-disgusted emotions, untethered by any connection to reality -- all because someone on TV or the internet has told us that the streets have become lawless (e.g., Portland? — Lawless? — Really??) and that everyone who does not immediately remind us of ourselves has evil in mind?

We have become sheep, easily led by those with political aims that probably are not in our interest, but who must work to weaken potential opposition by getting everyone to fight each other for no reason. We are running from one baseless panic to the next, without thought that the next stampede could take everyone right over that cliff dead ahead. Just how stupid are we?

The division between the tiny minority who have almost all the wealth, and the rest of us, who have only some varying nano-shares of the small remainder, could not be more obvious and well-published.

Yet we ignore the fact that fat cats are (as this is written) dismantling the government, which has been the regulator that always prevented such runaway excesses of unrestrained capitalism, so that they can divert the government's resources to their personal pocketbooks while they make outlandish excuses of governmental ineptitude and ineffectiveness (that their handpicked legislators created by burdening government with boondoggles and deliberate inefficiencies that ought to be legislative crimes of the highest order).

And we accept all this without the slightest probing of their own unstated motivations and their even-more-secret aims.

We have abandoned learning and replaced it with "fast thinking" that amounts to nothing more than a list of unjustified 'instant conclusions' that we then never even re-examine — all while in reality, everything from technology to world problems are getting more complex and in need of truly expert inquiry using real scientific knowledge that is counter to our every bias.

And even though most of us are smart enough to know when we have been handed a steaming stereotype, we tend to accept it as a valid generalization of an entire group of people, thus defining them as some icon (usually evil or at least trouble-making), ignoring the enormous set of intellectual and emotional facts that make up every person on the planet, simply as a trade allowing us to choose to believe that we have learned the only factoid we think significant about every member of that 'out-group.'

In this, we have played right into the hands of the moral entrepreneurs who have disseminated such propaganda, changing our social and political stand on an issue of some (undisclosed) importance to the sponsor of that moral entrepreneur, without ever realizing that we were 'played' in this way to get 'in-line' with attitudes that sponsor wants to force us to adopt because of our own refusal to use our noggins even just a little to find out for ourselves what (if any) truth exists in what we have been told.

Now that we know about the real 'man behind the curtain', who has been herding us around like fools for decades, why is it that we still fail to see how serious and terrible this will become in time, given the research that tells us that getting our heads back out of the sand will surely be at least a lot harder than sticking them into it, if possible at all?

Why is it that we simplistically seek, like small children, to trust what the ultra-rich and even the 'contenders' assert without any question whatsoever, when we know that the interests of those classes of people are almost always not the interests of the rest of us, and often are actually very contrary to our welfare, both personally and as an aggregate class?

And most importantly, why should we think, — even for one minute — that a rationale to excuse a pattern of decision-making by the politically powerful is a morally acceptable way to have government conducted — a government that will always be in position, even with the best of motives, to rule virtually every aspect of our lives?

We have already seen for decades now that the tools of the Social Construction Framework have been deliberately used to divide us, rather than to unite us as a people — the people of the United States. We have become so distracted by the panics and fears and the hysterical hatreds and disgusts that have been 'sold' to us through careful manipulative rhetoric, but which have almost no validity and only serve to cause us to forget the fights that we should be fighting to improve our status, so that we are not helpless, and can effectively demand and gain concessions that are important to our lifetime welfare.

Why have we become obsessed with the monsters portrayed on CSI-Special Victims Unit (but that are rare in real life), and fail to raise even a peep against the planned termination of Social Security benefits that most of us will depend on in our retirement years and if we ever become disabled. This, and Medicare, Medicaid, unemployment benefits, food assistance and low-income housing are all on the chopping block next year. Why are you doing nothing to fight to preserve and even fortify these crucial forms of assistance?

And most critically, why do you sit still while income inequality continues to be driven down further still by robber barons who, having directed the destruction of trade unions, now pay less and less per hour each passing year and have already long since done away with any meaningful employment benefits except what's left of the Affordable Care Act, (which these corporate robbers now conspire to repeal altogether, with no replacement?

Does it not occur to you that you have already been forced by these actions of those with massive bargaining power to spend down, perhaps even exhaust your savings, and that, at your current pay rate, you will not be able to save up to pay the prices exacted by those who will sell you private health insurance and will take your deposits to build up a replacement for your 401K retirement fund?

You have been duped, and again and again for many years. But your fixation on all the non-issues involving crime, immigration, potential terrorists, the supposedly evil homeless, and countless other fictions, has had you looking the wrong way rather than discovering and dealing with your real problems.

A president tells you outright that he plans to have at least a third term, implying disobedience to the Constitution, now takes actions consistent with the appearance of a plan for a coup, and you see that as somehow insignificant. Worthy of note, Elon Musk sharply said of his former boss: "It's fine if you've got Marcus Aurelius as the emperor, but not so good if you have Caligula." – The trouble is, in an empire, there's never any certainty who comes after Marcus Aurelius.

You have become so punch-drunk, you are now numb to the next blow, whatever it may be.

Well, you had better wake up and take defensive action and demand political change that will actually improve your life, while you still have a chance. No country ever gets the chance to try on a totalitarian dictatorship like a set of clothes and then return them to the store for a refund.

So if you don't act now, when you later find yourself head-first falling down the well-pipe of never-ending economic and social slavery and despair, don't say you weren't warned. The foregoing article excerpts certainly should have done at least that much for you.

Two Minutes to Midnight....

****

SOCC Frustration

David -- Bridgeview, New York, "The Frustration of Civil Commitment," 18(5) *the NARSOL Digest* 8 (Oct./Nov. 2025)

Text: "I am civilly confined in New York state. There are two facilities in the state that serve this purpose, one called Oakview, which is in Marcy, NY, and the second is Bridgeview, which is in Ogdensburg, NY. I am currently in the Bridgeview campus.

These two structures are no longer called civil commitment facilities; they are called Secured Treatment and Rehabilitation Centers, or STARC. I find it strange that there is no outside supervision of these two facilities, so they are free to do what they want. We operate under the Office of Mental Health (OMH). While we operate under OMH, there is little oversight.

When I explained this to the Mental Hygiene Legal Services (MHLS), the organization that is supposed to protect our rights, I was told to be more concerned about getting out of here. MHLS explained that the New York State advocacy group, the Justice Center, no longer has the ability to look into these facilities.

STARC is part of OMH, but it isn't a 'hospital.' I didn't want to believe that the New York Justice Center didn't want to have anything to do with STARC. However, when I called them, they explained that they do not cover STARC. I explained that there was a way to enable the state capital of New York to get involved, and it is called Objection to Care and Treatment. The facilitator of the group, who happens to be the principal psychologist now, explained that Objection to Care and Treatment was an option, but that was all she said about it. She went on to explain that Quality Management was easier and more effective than letting Albany know about what is going on here. 'Quality Management' is the internal system to resolve issues that the 'residents' bring up.

I continue trying to get New York State to look at the policies here at Bridgeview. I get the same responses: 'There is nothing that can be done about it; you should be thinking treatment.' (That seems to be their go-to answer), and I am 'Grievance Thinking.' But if I put the thought to the treatment team, then to my groups, then I am 'learning to communicate.' When I get feedback from the group, then I am "getting assertive.'

This is very frustrating."

****

Incriminating Sexual History Polygraph Testing Violates the Fifth Amendment, Says NARSOL.

"Larry", "Legal Corner," 18(5) *the NARSOL Digest* 5 (Oct./Nov. 2025)

Text **"Question:** I am in civil commitment in the state of Illinois. As of our 'treatment' we are required to take polygraph tests. They inquire about all aspects of our sexual history with emphasis on any illegal conduct, whether or not we were charged. My question is what should we do? If we refuse to answer the question, they respond

that we are not cooperating with treatment. I specifically asked about immunity. They say there is no immunity for breaking the law available.

Answer: The Fifth Amendment of the United States Constitution really protects all individuals from compelled self-incrimination. The U.S. Supreme Court's decision in *Minnesota v. Murphy*, 465 U.S. 420, (1984), recognized the Fifth Amendment right of a person on parole, supervised release or community supervision to refuse to answer any question that could lead to criminal charges independent of those which resulted in his or her parole, supervised release, or community supervision. No person may be penalized for validly invoking the constitutional right, under the Fifth Amendment, not to give testimony against himself. It is NARSOL's opinion that any adverse action taken against you based on your valid assertion of that right would constitute an unconstitutional penalty for invoking the Fifth Amendment right.

The most significant case showing this is *United States v. Von Behren*, No. 15-1033 (10th Cir. 2016). Brian Von Behren was serving a three year term of supervised released as a result of a 2005 conviction for distribution of illegal images. One of the conditions of his release was that he successfully complete a sex offender treatment program, including a sexual history polygraph requiring him to answer questions regarding whether he had committed sexual crimes for which he was never charged. Von Behren contended that the polygraph condition violated his Fifth Amendment privilege against self-incrimination and refused to answer those questions. The district court disagreed and held that the polygraph exam questions did not pose a danger of incrimination in the constitutional sense. The treatment provider expelled him from the program, subjecting him to revocation of his supervised release. The Tenth Circuit reversed the district court on the Fifth Amendment issue. Von Behren contended that the polygraph condition violates his Fifth Amendment privilege against self-incrimination because he feared potential prosecution. The Fifth Amendment to the United States Constitution states that no person '...shall be compelled in any criminal case to be a witness against himself.' U.S. Const. Amendment V. The Fifth Amendment's privilege against self-incrimination applies not only to persons who refuse to testify against themselves at a criminal trial in which they are the defendant, '...but also 'privileges [them] not to answer official questions put to [them] in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate [them] in future criminal proceedings.' *Minnesota v. Murphy*, 465 U.S. 420, 426 (1984) (quoting *Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973)).

NARSOL believes that this specific issue is ripe for future litigation since you are in a catch 22 situation. This is an issue that we would seriously consider supporting with our legal resources."

****

Support Groups for Pedophiles Online Prevent Molestation.

Artur Debat, "Online Support Groups Can Keep Pedophiles from Offending but They Keep Getting Shut Down," GettyImages-578691729.jpg.

Text Excerpts: "Ender was 14 when he realized something was up.

He'd known he liked boys from a young age. This was in the '80s, before homosexuality was widely accepted in society, and Ender grew up in a Catholic family. The prospect of being gay was dangerous enough. But the problem wasn't just that Ender was gay, it was that as he got older, the boys he found himself attracted to stayed the same age.

Ender is a prominent member of the online 'virtuous pedophile' community (or, as Dan Savage has called them, 'gold star pedophiles'), a network of both adults and youth who are attracted to children but are committed to never, ever acting on those attractions. They are pedophiles, but they aren't child molesters. While his attractions have made his life difficult in plenty of ways (society doesn't generally look well upon pedophiles, whether they have ever touched a child or not), contrary to the popular belief that pedophiles have uncontrollable urges, Ender says that's not actually true in his case. And it's not true for many other virtuous pedophiles either.

...But not acting on the attractions doesn't mean they go away, and there are few outlets for Ender and other non-offending pedophiles to find support. In the U.S., therapists are obligated to report their clients to authorities if they think there is a chance the client will abuse a child. But even if there's no chance that a child is in harm's way, just disclosing the attraction can be a risk: 'Therapists are human beings and are affected by social stigma as much as the general population,' Ender told me. 'Some believe we're monsters that are going to inevitably abuse a child.'

In 2014, the public radio show This American Life aired an episode about Adam, a teenage pedophile who, after much struggle with his attraction, sought out a therapist. After Adam disclosed his attraction, the therapist reacted how you might expect: She was appalled and immediately told the boy's mother.

Adam got lucky. His mother, though upset, didn't disavow her son or kick him out of the house, and, like Ender, Adam found solace and support online, one of the few places pedophiles can anonymously discuss their problems. These forums aren't places to trade kiddie porn or solicit sex (there are strict rules against this); they are places where pedophiles can talk honestly about how to deal with their attractions and exist in a society that views them as subhuman. But these online communities don't always last. Message boards and forums have been targeted and shut down by hackers, and this week, an online community run by Ender with over 400 members was shut down by Discord, the company that hosted their server.

...[M]uch of society may assume that pedophilia is the result of childhood trauma or a moral failing. ...While acting on an attraction to children may be a choice, the attraction itself is no more a choice than being straight or gay.

...[S]ociety hasn't exactly embraced pedophiles as victims themselves. A well-rounded fear of what would happen if they were ever found out keeps pedophiles in the closet, and before Ender found online support groups, he thought he'd take his secret to his grave. Through talking with other pedophiles, however, he came to see that some people are able to successfully come out to loved ones. And so, after ten years of marriage, he wrote a letter to his wife, telling someone he loved, for the first time, the truth.

She was shocked, understandably, but also understood that her husband had never and would never harm a child (including their own children). She accepted him for who he is. (Ender says that while his sexual attraction is exclusively toward boys between the ages of 8 and 12, he loves his wife and they have a companionate marriage.) Later, he came out to both his priest and a therapist, both of whom have been supportive as well, but it's the peer support group on which he leans the hardest. And support groups aren't only god for pedophiles themselves. They also help protect children – both sex researchers and pedophiles say that the pedophile with no support is more likely to become a child molester than the one who can talk about his or her feelings.

After Ender appealed to Discord, the company responded, and it wasn't what he wanted to hear: The community was still banned, and banned permanently. They will rebuild (they've found a temporary server on another service), but, still, Ender worries for fellow pedophiles. He's known several community members who have attempted suicide, and when an active member of the community disappears, he always wonders if they've take their own lives.

'It's important for people to realize that literally anyone can be a pedophile and that there are literally children every day discovering that they have these kinds of feelings,' Ender says. 'When these kids start discovering this about themselves, they go out on the internet to learn about what's happening to them, and are terrified to discover that everyone thinks they're worthless, scum, subhuman, and that they deserve to die a terrible death or be physically castrated and dismembered in a public square.'

But pedophiles aren't monsters. They're people – people with an affliction no one would choose. 'I'm a grown man with a thick skin but young boys and girls are incredibly vulnerable to these societal messages and often fall into deep bouts of depression, have suicidal feelings and very often actually attempt (and often succeed) to kill themselves,' Ender says. He wants to prevent these unnecessary deaths and the harm that radiates out from them. But every time their support groups get shut down, saving virtuous pedophiles gets harder and less likely to happen."

****

SO Rehab Success Story Started with Open Minds.

Kyle, "College Leads the Way," 18(2) *the NARSOL Digest* 1 (Apr./May 2025).

Text Excerpts: [p. 1:] "KEZI.com (ABC Channel 9, Oregon) reported on Feb. 17, 2025 that Southwestern Oregon Community College in Coos Bay, Oregon, defends its hiring in 2010 of a convicted sex offender (person required to register). The person was convicted of a sex offense in 2007, served two years in prison, and was on probation for five years when the school hired him.

https://tinyurl.com/35fp4asa

SWOCC's statement says the college believes in the power of second chances and the potential for personal growth and rehabilitation. In the statement, president Patty Scott says the college conducted a thorough background check and worked with Buell's probation officer throughout the hiring process. The statement also says Buell has worked without incident since he was hired, and has received several accolades from state and federal partners for his work....

Criminologists tell us that some of the primary factors in reoffending are lack of adequate housing, employment, and stable relationships. The myriad laws and regulations for those on registries make these goals nearly unattainable.

{p. 18:] [Yet] sexual reoffending remains exceedingly low. This is likely due to natural desistance as described by Dr. R. Karl Hanson in his extensive work on the subject. His research informs us that low-risk offenders will reach desistance (a risk roughly the same as the general population) after being five years offense-free in the community. The more successfully someone is reintegrated into society, the better chance they will have of reaching desistance and remaining offense-free.

https://tinyurl.com/kyxu8nf7

... Social ostraciz[ing] ...is counterproductive. While making people 'feel' safer, it actually makes society less safe....

The ideas that people should not be defined by the worst thing they have ever done and that rehabilitated [people should be given another chance ought to be ingrained in society. ...This success story illustrates that people on registries still have much in the way of productive service to offer society...."

****

the Legal Pad

Editor: Cyrus P. Gladden II

Editorial Advisory Board:

Peter Lonergan *Ray Semler*

Rodger Robb *Michael Benson*