The Legal Pad
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April Fool's Day Is Over. Let's Get Down to Facts.

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Karsjens & Gladden: The Waiting Game Drags On

Rumors of Deaths from Tedium & Protracted Suspense Investigated. [Grin]

NOT a day goes by without some discussion about the current status of the *Karsjens* case.

It is '*Karsjens* 101,' so to speak, that the case only has one remaining 'arrow in the quiver.' That 'arrow' is an attempt to interest the United States Supreme Court ("SCOTUS," in DC slang) in taking up that appeal. This is motivated by the hope that that highest court in the land will overturn the 3-judge-panel ruling of the Eighth Circuit Court of Appeals in that case, thereby restoring Judge Frank's Judgment in our favor.

Now let's talk difficulty. On *average*, SCOTUS gets about 20,000 applications each year to have it hear and decide cases. (Each is called a "petition for writ of certiorari.") From these it selects only about 100 cases to decide. So the *general* odds of getting one's case accepted are dismal.

Now let's review why *Karsjens* is not your average case, and why the issue it presents is far more likely than cases in general to catch the interest — indeed concern — of SCOTUS justices.

First, the decision by that 8th Circuit panel was based on a very limited view of the applicability of "substantive due process," a doctrine of the 14th Amendment that is fundamental to the existence of personal liberty under our federal Constitution. Thus, to limit applicability of substantive due process is to limit the availability of all rights to individuals.

In a nutshell, the panel applied earlier rulings that started out in prisoner rights cases, and concerned only matters of internal administration of prisons (as opposed to questions of one's right to be set free). Hence, the shift culminating in the *Karsjens* decision by that panel can be summed up by this graphic:

	Prisons	Sex Offender Commitment and?
Confinement Conditions	✓	✓
Right to Freedom	NO!	✓

Note: Prisoners challenging a conviction or sentence are never subjected to the "shocks the conscience" standard.

Those rulings concerned the standard for judges to apply when reviewing restrictions on prisoners' rights. As discussed fully in Issue No. 3, four alternative standards are available for such review, depending in part on the fundamental importance of the right at hand and the severity of the effect of its deprivation.

Those review standards are (in order of difficulty for the government to satisfy): "strict scrutiny"; "reasonable relationship"; "rational basis"; and "shocking [to] the conscience."

Strict scrutiny effectively requires government executives to show that the government interest is compelling; that no lesser method exists to serve that interest; and that the government went no further than the minimum required to achieve that compelling goal, with an eye to confining the impact of such action upon personal liberty.

At the other end, "shocking the conscience" of the court effectively adds an extra burden on the plaintiff(s), rather than the government: They must not only show that a constitutional right of theirs has been violated, but that the violation is so extreme that it invokes such shock in the judge's/judges' minds.

However, this is such a personal reaction that it invites an exercise in bias: If the judge favors a plaintiff, he can state that his conscience has been shocked. But if the plaintiff is regarded with disfavor, the judge can say that he is not shocked.

To deny someone their rights based on such personal reaction to their violation is to zero out all meaning to that right and to reduce constitutional law to a popularity contest among cases of plaintiffs.

Thus, even purely in a prison context, this "shocking" standard was simply a means to sharply curtail the rights of prisoners. Now the 8th Circuit has extended this curtailment to the rights of those not even subject to punishment at all — namely, sex offenders under commitment.

And now in Karsjens, they have chosen to endorse the notion that even the right of those committed to release (or at least to evaluative procedures such as Judge Frank ordered that can result in such release of right) are subject to this extra burden of "shock my conscience"/"satisfy my bias" that no prisoner under sentence has to satisfy.

The implication from passages in the opinion of that 3-judge panel seems clear that the panel's view is that committed sex offenders simply have no rights at all. No court has ever advanced such a proposition that any group of people have absolutely no rights. It is contrary to our entire constitutional system of government that anyone can be relegated to such a 'rightless' status. At the very least, it reduces substantive due process to a toothless, empty phrase. This novel and poisonous proposition will doubtless catch the attention of the Supreme Court.

A second reason why SCOTUS will probably view the 8th Circuit opinion with interest and concern is that it is equally clear that the 8th Circuit is not limiting this proposition to sex offenders. Instead, at the very least, it can be applied analogously to any group of individuals who get committed for other reasons, certainly any reasons having pubic safety as part of their rationale.

Perhaps other groups of prisoners, for instance, such as the 65-80% that can be said to have antisocial personality disorder, may be committed under laws yet to be enacted. Assuming the 8th Circuit holding stands, it would be valid precedent to support their potentially lifetime commitments as well, since the *Karsjens* opinion takes the position that defending public safety can never shock a court's conscience. *Karsjens* may thus forcefully bring SCOTUS around to realizing that sex offender commitment has become something other than what it had in mind in *Hendricks* 20 years ago.

Now to where we stand in this process: In a recent phone call, Attorney David Goodwin of Gustafson Gluek confirmed that that law firm is currently preparing a certiorari petition in *Karsjens*.

In an earlier conversation, Goodwin had stated that the firm hoped to file that

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petition well before the deadline for doing so. Now, however, the firm is resigned to needing to take right up to that deadline (later this month) to finish that petition and to edit it so that it contains the maximum persuasive force toward getting SCOTUS to accept the case.

Goodwin chose not to offer any estimate of the likelihood of acceptance by SCOTUS. However, he agreed that the case stands on strong legal grounds, and that the issue is one of preeminent constitutional importance (which always is the Supreme Court's first concern). We all wish the firm complete success on our behalf.

Is Misrepresenting a Debt *Ever* Treatment?

AT the close of the first treatment quarter of the year, many MSOP residents found unexpected documents in their mailboxes. This included a "notice" of restitution (an apparent bill) claimed to be owing from the resident to his county and an accompanying memo on Dept. of Human Services letterhead from "Clinical Supervisors" confirming the legitimacy of that restitution bill.

The memo urged billed residents to "repair[] harm through paying restitution" and to attend an Education Dept. class titled "Restitution and Budgeting" to "assist you in managing your funds to meet your restitution obligation."

In an attached "Ripple-Effect Chart Worksheet," the staff writers assert that "Paying the restitution you owe is a personal responsibility." Those participating in treatment were also instructed to present that ripple chart in their 2nd Quarter core group. Non-participants were told to present that, plus a "plan for repayment" to their primary therapist.

The memo closed with the statement, "Paying the monetary restitution fees will enhance your relationship with the community...".

This bill and memo caused considerable confusion among its recipients. Although some were certain that they did not owe any restitution to their counties of conviction, most lacked such certainty.

Some of the uncertain took extraordinary steps to contact either their criminal-case or commitment attorneys or court clerks in the pertinent county in an effort to either verify or disaffirm this fake bill.

In the relatively few cases where restitution was actually owing, it soon became clear that the amount stated in that 'bill' had no relationship to the amount actually still due. Such claimed restitution amounts were simply utter fictions made up out of thin air by someone working here in MSOP.

In the eyes of the law, when someone makes a statement that he either knows or should know the statement's recipient will or likely will rely upon, and the one making the statement makes that statement knowing that the statement is false, or at least has no reason to believe that the statement is correct, the person has committed a common-law wrong known as a "tort" of "misrepresentation."

When the maker knows that his/her statement is false and intends such reliance to the detriment of the one relying upon it, the tort is known as fraud. If there is no such knowledge or intent, but the maker knows or should know that the statement has no certain basis in fact, a slightly different tort known as "negligent misrepresentation" is presented.

Compensatory damages are available for either of these kinds of misrepresentation where one's reliance caused some loss, expense, or investment of time and effort otherwise unnecessary. Damages for emotional distress caused by misrepresentations are also available. In the case of deliberate fraud where an intent to cause such damages is clear and the defendant acted maliciously, recklessly, or wantonly, additional "exemplary" damages can be sought.

Whenever a therapist or a supervisor or other superior to a therapist acts, or cause others to act tortiously to a client of the therapist, each person involved in that treatment relationship as to that client has acted in violation of applicable professional ethics (that is, whether the actor is a licensed psychologist, a licensed therapist of another kind, or simply a registered, but unlicensed mental therapist under the 'catchall' statute). A complaint may be filed (whether with or without the aforementioned civil lawsuit for the tort itself) for such an ethics violation with the appropriate board(s) governing such licensure/registration.

Now for the disclaimer: This is just a general discussion of the lay of the law. If you feel that you have been wronged by this action, you should contact some attorney who is a member of Minnesota's State Bar of attorneys. As I am not one, this is not legal advice, nor am I holding myself out to you as a possible representative as to any legal action you may wish to take.

Only in Their Candid Moments: Hebert Declares All Deviants Unsafe to Release – Ever

IN the *Karsjens* trial, Jannine Hébert testified for the defense, declaring: (a) "deviance" is the leading indicator of future sex-crime recidivism; and (b) no one in MSOP can safely be released unless/until he is no longer deviant. She complained that most MSOP detainees remain "invested" in their deviance and have not made significant progress toward change toward a non-deviant sexual attraction or at least toward extinguishing their deviance, making them still an unacceptable risk of re-offense if released.

This is so unscientific, indeed, anti-scientific, that I scarcely know where to start refuting it. Jannine Hébert is the Executive Clinical Director of MSOP. She would know better. She probably does, but chooses to misrepresent the scientific reality. If so, it seems quite clear that her motivation is to justify permanent preventive detention of all who are detained in MSOP.

In the first place, there are basically just two types of sex offenders here: rapists (typically of adult women), and pedosexuals. To review things you probably are aware of, "Deviance" is a term used by the "DSM-5" (current edition of the American Psychiatric Association's Diagnostic and Statistical Manual) to describe any sexual responses other than attractions to standard sexual activities with adult women or men. These atypical sexual attractions or interests are called "paraphilias" in the DSM-5.

By the numbers, by far the largest category of individuals in the overall paraphilia category are "pedophiles" (pedosexuals, claimed to suffer from a sexual "disorder" termed "pedophilia"). Almost all committed to MSOP whose rationales for commitment involved a claim of "paraphilia" are in fact pedosexuals. Only a handful of other paraphilias (such as window peepers or 'flashers') are represented in the population of detainees here.

In contrast, attempts over the years by various psychologists to declare a different sexual disorder comprised of an urge specifically to rape someone, claiming that the motivation is sexual pleasure derived from the imposition of terror and physical pain upon the victim, have been repeatedly rebuffed by the editors of the DSM, as it has evolved through its various editions. Their latest rejection of such a 'rape syndrome' as a sexual disorder was particularly emphatic and final.

Thus, rapists are not now regarded as suffering from a "paraphilia" (a/k/a "deviance"), but instead are simply deemed individuals who, either lacking in social skills with which to persuade women to engage in sex with them, or who simply just don't care to undertake such social persuasion, simply take sex by force.

In other words, they are regarded simply as sex criminals, rather than being "sexually disordered." In late October 2014, New York's highest court ruled, in In re Donald DD (N.Y. Court of Appeals, reported in the *Rochester Democrat & Chronicle*,

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quoted in CURE-SORT News, Vol. 24, No. 1, pp. 4-5 [Winter 2015]) that a multiple rapist could not remain committed on a sole diagnosis of Anti-Social Personality Disorder (ASPD), since that diagnosis conveys no problem in controlling one's behavior, and simply indicates a propensity to commit crimes.

Roughly two-thirds of all MSOP detainees were committed on the basis of sex crimes involving children. No doubt you are already aware that most of these crimes are motivated only by such pedosexual attractions, and do not involve rape or any aim to hurt or traumatize a child.

While some child rapes occur from time to time, they are usually perpetrated by 'sexual opportunists.' These are not really pedosexuals, but rather those who simply see a child as a rape 'target of opportunity.' While this is reprehensible, it is not pedosexuality. Hence, the misdeeds of such opportunists should not be blamed on pedosexuals.

Nonetheless, since Ms. Hébert's testimony did not discriminate between pedosexuals on one hand and rapists on the other, it seems clear that she incorrectly equates "deviance" with any record of sex crimes. That is the first unscientific point.

However, as to pedosexuality and indeed all other non-standard sexual attractions/interests, that is simply what they are. All sexual attractions are discovered by individuals at or shortly after puberty, or at the latest in young adulthood, as a general matter. However, whenever first experienced, they are in fact a permanent part of the psychological makeup of the individual.

No more than recent, failed attempts to beat homosexuality out of gay men, there is simply no way to ever 'erase' a pedophilic sexual orientation or to replace it with another orientation not previously existing in that individual.

Therefore, Ms. Hébert's assertions are merely a thinly disguised claim that pedosexuals represent an inherent, unacceptable threat of recidivism. This is false on at least three different levels.

First, research has studied the comparative rates of recidivism as between pedosexuals, on one hand, and rapists on the other. The results of these studies have invariably ascertained that those comparative rates are nearly identical, that is, within one or two percentage points at any specific offender age range. *Richard Wollert*'s research ("Low Base-Rates Limit Expert Certainty When Current Actuarials Are Used...," 12 *Psychology, Public Policy and Law* 56, at 61 et seq., 2006), tracking recidivism by age brackets, and comparing rates for rapists, on one hand and pedosexuals on the other, firmly establishes this, using R. Karl Hanson's own samples for the Static-99.

So the fact is that "deviance" does not pose any risk level of recidivism beyond that reflected by a past sex crime of any kind. In short, the notion of "deviance" as a factor predictive of more likely recidivism is just a false myth.

This is strongly buttressed by the observations on the point of pedophilic sexual attractions set forth in my *Report of Class Member Cyrus Gladden II in Reply to '706 Experts' Report* (on file with the author; reprint available). I reprint here an excerpt from pages 86-87 thereof pertinent to that point:

> "'...[S]everal studies have found that a significant percentage of members of the general public report sexual attraction to prepubescent children. *Briere & Runtz* (1989)[1] surveyed 200 university males and found that 21% reported some sexual attraction to small children, 9% experienced sexual fantasies involving children, 5% had masturbated to fantasies of children, and 7% said they might have sex with a child if not caught. In another sample with 100 male and 180 female undergraduate students, 22% of males and 3% of females reported feelings of sexual attraction to a child (*Smiljanich & Briere*, 1996).[2]
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> 'Second, *Green* pointed to five studies that measured penile arousal in men who were recruited from community samples. These studies found that 17-58% of the men had measured arousal when shown images of prepubescent girls.
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> 'For example, *Hall, Hirschman & Oliver* (1995)[3] found that, in a community sample of 80 men with no history of pedophilic behavior, 26.25% showed penile arousal when shown slides of prepubescent girls. These researchers reported that their findings replicated the findings of four other studies reported within the previous 6 years.' (*Thomas K. Zander*, "Civil Commitment Without Psychosis: The Law's Reliance on the Weakest Links in Psychodiagnosis," 1 *Jour. Of Sexual Offender Civil Commitment: Science and the Law* 17, at 37-38 [2005]).
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> "Generally on this point, see also these: *Claude Crepault & Marcel Couture*, "Men's Erotic Fantasies," 9 *Archives of Sexual Behavior* 565 (1980) (sampling ninety-four men, finding sixty-two percent reported fantasizing about sexually initiating with a young girl and three percent with a young boy); and *Terrell L. Templeman & Ray D. Stinnett*, "Patterns of Sexual Arousal and History in a 'Normal' Sample of Young Men," 20 *Archives of Sexual Behavior* 137 (1991) (surveying sixty college men where five percent expressed an interest in sex with a girl under twelve)."

Thus, were Ms. Hébert's claim scientifically correct, all of these members of the public would be sex-crime committing machines. Obviously, there is no such widespread epidemic of actual sex crimes with children. Clearly then, a pedophilic attraction ("deviance") simply does not present a propensity for such crimes.

In fact, even collection of, and masturbatory use of child porn materials do not prompt sex acts with children. ("The statistics establish no causal link between child porn materials and actual behavior." *United States v. C.R.*, 792 F. Supp. 2d 343, 376 [E.D. N.Y. 2011, quoting *Jenkins*, Beyond Tolerance at 173 (2001)]). See also especially: *Melissa Hamilton*, "The Child Pornography Crusade and Its Net-Widening Effect," 88 *Cardozo Law Rev.* 1679 (2012); *Carissa Byrne Hessick*, "Disentangling Child Pornography from Child Sexual Abuse," 88 *Washington Univ. Law Rev.* 853 (2011).

Obviously, pedosexuals (per Hébert: "deviants") are the collectors of such materials. Again, the lack of sex crimes with children on the part of such collectors belies the notion that their "deviance" creates an unacceptable risk, or indeed, any risk at all, of sex crimes.

At pp. 90-91of my *Report in Reply*, these further observations apply to this point:

> "Distinctly, '[n]or is a DSM diagnosis of pedophilia correlated with sexual recidivism. Actually, a study using a regression analysis method indicates that a DSM diagnosis of pedophilia is not even a significant predictor of sexual recidivism.' *Hamilton*, at 580, citing *Heather M. Moulden, et al.*, "Recidivism in Pedophiles: An Investigation Using Different Diagnostic Methods," 20 *J. Forensic Psychiatry & Psychol.* 680, 693 (2009) (finding no difference in violent, sexual, or general recidivism rates for extra-familial child molesters diagnosed with pedophilia or not, and in fact, finding a DSM pedophilia diagnosis was *negatively* correlated with recidivism). Accord: *Michael B. First & Allen Frances*, "Issues for DSM-V: Unintended Consequences of Small Changes: The Case of Paraphilias," 115 *Am. J. Psychiatry* 1240, 1240 (2008).
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> "See also: *Robin J. Wilson, et al.*, "Pedophilia: An Evaluation of Diagnostic and Risk Prediction Methods," 23 *Sexual Abuse* 260, 268, 270 (2011) ('Experts likewise note that multiple studies show such low statistics for the reliability and validity of DSM diagnoses of pedophilia that it should be seriously questioned and construed to be of limited utility for practitioners, and even more inappropriate for legal proceedings.' [citing *Moulden, supra*, at 698; *Drew A. Kingston, et al.*, "Comparing Indicators of Sexual Sadism as Predictors of Recidivism Among Adult Male Sexual Offenders," 78 *J. Consulting & Clinical Psychol.* 574, 575 (2010); *W.L. Marshall*, "Diagnostic Issues, Multiple Paraphilias, and Comorbid Disorders in Sexual Offenders: Their Incidence and Treatment," 12 *Aggression & Violent Behavior* 16, at 16 (2007)]). *Hamilton, id.*, at 580, concludes:
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> 'These results undermine the prevailing risk-based model presumption that a diagnosis of pedophilia is an appropriate proxy for

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risk assessment supporting legal decisions. Experts likewise note that multiple studies show such low statistics for the reliability and validity of DSM diagnoses of pedophilia that it should be seriously questioned and construed to hold limited utility for practitioners, and even more inappropriate for legal proceedings.'

"Therefore, the editors of the DSM -V have warned against assuming volitional impairment merely because of a pedophilia diagnosis. *First & Halon, supra*, at 450.

"Hence, a claimed diagnosis of pedophilia will have no causative or indicative relation to any claimed future probability of re-offense. For this reason, there is no 'inherent' 'inadequate control' of sexual behavior that can be inferred, and any such inference or presumption therefore violates Plaintiffs' right to due process."

Parenthetically, see also *Moulden, supra*, at 20 *J. Forensic Psychiatry & Psychol.* 693-96, indicating that, rather than pedophilia in general, only an interest in violent sex with children may be the important risk factor to recidivism among those with convictions of sex crimes with children. This categorizes the recidivism potential as a function of desires to rape, rather than attractions to children. Again, the issue is simply not one of deviance, but antisocial tendencies.

Second, recidivism statistics have drastically changed since the start of the 1990s. Probably mostly due to the far more severe sentences for sex crimes since then, coupled with unbelievably intense criminal investigation into even baseless suspicions of sex crime, the rate of sex crimes has dwindled to near non-existence currently. Even among those with sex-crimes records, the general rate of average recidivism (for one-time prison releasees) has dropped from roughly 17% back then for sex crimes to a mere 3%, as measured anytime since 2005.

On this point, my *Report in Reply, supra*, at pp. 19-20, details this point thus:

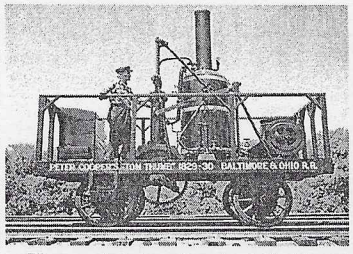
"...A 2002 study by the U.S. Dept. of Justice found that of sex offenders released in 1994 from prisons in 15 states, only 5.3% were rearrested for another sex crime within three years. Of the convicted child molesters in this group, only 3.3% were rearrested for another sex crime against a child.

"A 2007 Minnesota Dept. of Corrections study derived a mere 3.2% sex-crime recidivism base rate over an average 8.4-year post-prison-release period for all sex offenders. This is a virtual tie with murderers for lowest recidivism. That report attributed that low recidivism rate, in substantial part, to 'the longer and more intense post-release supervision of sex offenders.' (*Id.*, p. 3). It is equally important that this study's protocol excluded the impact of commitment from the low recidivism percentages reported. That is, those low rates would still exist in the absence of commitment. Similar low rates of sex-crime recidivism have been found in other states in the last ten years as well.

"A 2007 study by the Missouri Dept. Of Corrections found a 3% re-offense rate among sex offenders released in 2002. An Alaska Judicial Council report in 2007 matched this 3% figure. A 2008 study by California's Sex Offender Management Board of 4,204 sex offenders found 3.38% sex-crime recidivism after ten years of prisoner release. An Indiana corrections report on sex offenders released in 2005 found only 1.05% recidivism over three years. Simply put, high sex-crime recidivism is only a myth – anywhere."

Fanatics like Ms. Hébert are simply extremists who would deem any remote possibility of recidivism an "unacceptable risk."

Third, sex-crime recidivism rates have been studied as a specific function of increasing age. As noted above, the comparative rates of recidivism for rapists versus those for pedosexuals are nearly identical.



The real determinant of likelihood of recidivism is age itself. That is, it has been shown that the most likely recidivists are sex offenders in their early 20s upon prison release. Following age 30, the recidivism rate dwindles with each increasing year of age at current prison release.

This rate of recidivism is represented by a line on a graph with increasingly steep downward pitch as it passes age 40 and especially for any year over age 50. By the time one reaches age 60 -- even as measured back when the average rate was that 17%, the rate for 60-year-olds was a mere 3% (again with rapists and pedosexuals in a tie).

Once again, see my *Report in Reply*, pp. 43-46 on this point. Summing up, this excerpt (p. 46) is particularly apt:

"Indeed, *Wollert*'s study involved all original data used to construct the Static-99. This data set was culled from prison releases in the roughly 20-year span ending in the early 1990s – a period, as noted *supra*, of vastly higher sex-crime recidivism at all age tiers. Considering the massive reduction in base-rate recidivism (averaging all ages) since then from 17.6% to 3.2%, both in Minnesota and with roughly matching figures in other states, it is reasonable to conclude that current recidivism percentages for those ages 60-69 are now roughly one-half of 1%."

Compared with the current, short term rate for all prison-released sex offenders, this lower rate shows that, contrary to Ms. Hébert's contention, the strongest factor statistically indicating more likely recidivism is not deviance, but instead simply young age. Conversely, no matter how deviant one is, the odds of recidivism at or beyond age 60 are so miniscule as to defy accurate measurement.

Such a rare possibility does not reflect an unacceptable risk of recidivism and is certainly no excuse for refusing to release pedosexuals simply because they are pedosexuals. Yet Ms. Hebert insists that, even in such senior years, no one is safe enough to release, because MSOP has not conferred "graduation" from its treatment program, which requires the impossible: that one is no longer a deviant.

In Greek mythology, Sisyphus was tasked, as a condition of being released from slavery, to push a huge boulder to the top of a large hill. Try as he might, he could never get the boulder to the crest of the hill. It would always exhaust and overpower him, rolling all the way back to the foot of the hill. This repeatedly forced him to start all over again – endlessly, giving rising to the expression, "a Sisyphean task."

Ms. Hébert's insistence that all pedosexuals detained by MSOP must either replace that attraction with some 'standard' sexual attraction or at least extinguish or nearly extinguish it is to demand a Sisyphean impossibility. It is simply excuse-making for never releasing any pedosexual.

Endnotes:

1 *John Briere & Marsha Runtz*, "University Males' Sexual Interest in Children: Predicting Potential Indices of 'Pedophilia' in a Non-Forensic Sample," 13(1) *Child Abuse and Neglect* 65-75 (1989)

2 *K. Smiljanich & J. Briere*, "Self-Reported Sexual Interest in Children: Sex Differences and Psychosocial Correlates in a University Sample," 11 *Violence and Victims* 39-50 (1996)

3 *G.C.N. Hall, R. Hirschman, & L.L. Oliver*, "Sexual Arousal and Arousability to Pedophilic Stimuli in a Community Sample of Normal Men," 26 *Behavior Therapy* 681-694 (1995)

'Socially Constructed Reality' Is Just a Lie. —The Mythical Justifications for the *MCCTA of 1994*

WHAT follows continues an ongoing series of informational excerpts from the factual allegations in a draft of a Second Amended Complaint in the *Gladden* case.

This excerpt addresses the main claimed justifications advanced in support of passage of the *MCCTA of 1994* (the SPP/SDP law). Those justifications centered on the media 'icon' of the sex offender as a monster, beyond self-control and any forms of social control.

It was a time of birth of the term "sexual predator," in which compari-

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sons of sex offenders to maniacs and devils were common, and "moral panic" and lynch-mob rage ran high and unrestrained. The following segment of allegations will add detail and atmosphere to this snapshot in time.

"Facts Underlying and Prompting, and Manipulated to Provide Seeming Support for Enactment of the MCCTA Act Of 1994.

Selective Media Attention to Sex Crimes and Sex Offenders, Wildly Distorting the Actual Facts, Deliberately Created a 'Moral Panic' on the Part of the Populace of Minnesota, Suggesting That Only Permanent Confinement Could Prevent a 'Sex Crime Wave.'

Heather Ellis Cucolo & Michael L. Perlin, "'They're Planting Stories in the Press': The Impact of Media Distortions on Sex Offender Law and Policy," 3 *U. Denver Crim. L. Rev.* 185 (Spring 2013), points out that police have often made false and unsupportable assertions to the media concerning sex crimes and sex offenders.

Illustratively, *Cucolo & Perlin* (at p. 191) cite the case of Earl Shriner, an extremely unusual sex offender in Washington State whose violent sexual attacks included sexual mutilation of a small boy.

The investigating police sergeant took the occasion to claim to a reporter, "Sex Offenders always reoffend," (*Assoc.Press*, "Tacoma Sex Offender Faces Latest Charges in Mutilation of Boy," *The Spokesman-Review*, May 23, 1989 (available at http://news.google.com/newspapers?id=0mRWAAAAIBAJ&sjid=Wf1DAAAAIBAJ&pg=1133%2C1176933), an assertion diametrically opposed to the truth, as demonstrated in a later section [later issue].

In a study of media manipulation of this panic, *Marcus A. Galeste, Henry F. Fradella & Brenda Vogel*, "Sex Offender Myths in Print Media: Separating Fact from Fiction in U.S. Newspapers," 13 *Western Criminology Review* 4-24 (2012) (http://wcr.sonoma.edu/v13n2/Galeste.pdf), at pp. 4-5, explain:

> "...This exploratory study ... examin[es] the presentation of sex offender myths in newspaper articles. Employing content analysis, this study evaluated a sample of 334 articles published in 2009 in newspapers across the United States for the presence of sex offender myths. ...Myths were ... significantly associated with articles reporting on various types of sex offender policies, often in a manner which runs contrary to empirical research...."
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> "When a social problem is legitimated by the media, policy makers often respond with crime control strategies that address the socially constructed reality vis-à-vis the moral panic, rather than creating policies that are responsive to empirical data. (*Lisa L. Sample & Colleen Kadleck*, "Sex Offender Laws: Legislators' Accounts of the Need for Policy," 19 *Criminal Justice Policy Review* 40-62 [No.1, 2008]).
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> "*Timothy Griffin & Monica K. Miller*, "Child Abduction, AMBER Alert, and Crime Control Theater," 33 *Criminal Justice Review* 159-176 (2008), at 160, describe this process as crime control theater – a 'public response or set of responses to crime which generate the appearance, but not the fact, of crime control.' ...[A]s *Terry Thomas*, "The Sex Offender Register, Community Notification and Some Reflections on Privacy," in *Managing High-Risk Sex Offenders in the Community*, 61-80, ed. Karen Harrison (Cullompton, UK: Willan, 2010) pointed out: "Basing policy on high profile cases is a flawed approach."
>
> Less than two years after the passage of the *MCCTA of 1994* in Minnesota, as Congress deliberated nationalizing the sex offender registration requirement, "The media's coverage ...reported on statements from ...Rep. Charles Schumer, D-N.Y. – 'Sex offenders are different ... No matter what we do, the minute they get back on the street, many of them resume their hunt for victims, beginning a restless and unrelenting prowl for children, innocent children, to molest, abuse, and in the worst cases, to kill." (*Carolyn Skorneck*, "House Considers Tougher Version of 'Megan's Law,'" *Associated Press*, May 7, 1996; see also "Remembering Megan," *N.Y. Times*, Nov. 5, 1994 ["Children are more apt to be sexually abused in the home than outside it. Even so, the threat posed by an unknown predator terrifies American families the most."].)

This illustrates manipulation of language and lurid imagery to cast a deliberately inflammatory picture and to apply it to all sex offenders, again completely contrary to known statistical facts, in an effort to enlist the media to disseminate such hate- and fear-inciting propaganda.

Cucolo & Perlin (at p. 207-08) explain the impact of such news coverage and propaganda thus:

> "The media-driven panic over sex offenders has directly influenced judicial decisions – both at the trial and appellate levels – in this area of the law, especially in jurisdictions with elected judges....
>
> "Regularly reviled as 'monsters' by district attorneys in jury summations, by judges at sentencings, by elected representatives at legislative hearings (*Daniel M. Filler*, "Making the Case for Megan's: A Study in Legislative Rhetoric," 76 *Ind. L. J.* 315, 339 (2001) [quoting Sen. Hutchison]) and by the media (see, e.g., *John G. Winder*, "The Monster Next Door: The Plague of American Sex Offenders," *Cypress Times*, Nov. 20, 2010: "'There's no such thing as monsters.' We tell our kids that. The truth is that monsters are real.... These monsters are called 'Sex Offenders....'", available at http://www.thecypresstimes.com/article/News/Your_News/THE_MONSTER_NEXT_DOOR_THE_PLAGUE_OF_AMERICAN_SEX_OFFENDERS/25925).
>
> "The demonization of this population has helped create a 'moral panic' [see, e.g., *Filler, supra*, at 317-18; *Eric Fink*, "Liars and Terrorists and Judges, Oh My: Moral Panic and the Symbolic Politics of Appellate Review in Asylum Cases," 83 *Notre Dame L. Rev.* 2019, 2038-39 (2008); *Eamonn Carrabine*, "Media, Crime and Culture: Simulating Identities, Constructing Realities," in *The Routledge Handbook of International Crime and Justice Studies* (Bruce Arrigo & Heather Bersot, eds.) (2013) (in press) ("*International Crime*"). See generally, *Stanley Cohen*, *Folk Devils and Moral Panics* 1-2 (3d ed. 2002)], that has driven the passage of legislation, [on "legislative panic" in this context, see *Wayne Logan*, "Megan's Laws as a Case Study in Political Stasis," 61 *Syracuse L. Rev.* 371, 371 (2011); *Deborah W. Denno*, "Life Before the Modern Sex Offender Statutes," 92 *Nw. U. L. Rev.* 1317 (1998) at 1320], much of which has been found by valid and reliable research to be counterproductive and engendering a more dangerous set of conditions – and judicial decisions, at the trial, intermediate appellate and Supreme Court levels, all reflecting the 'anger and hostility the public feels' about this population.
>
> "The public is thus devoted to a 'predator icon' that drives all our law and policy in this area [see, e.g., *Ray Surette*, "Predator Criminals as Media Icons," in *Media, Process, and the Social Constriction of Crime*, 131, 140, 147 (Gregg Barak, ed.1995); see *id.* at 132 (discussing how the media has raised the specter of the predator criminal to that of an "ever-present image"); see also, *Ray Surette*, *Media, Crime and Criminal Justice: Images, Realities, and Policies* (1992), at 45.], a devotion that is augmented by the media's 'obsession' on criminal justice issues.
>
> "The term 'sexually violent predator' in itself is an emotionally charged one that conjures up many misleading or inaccurate images. [*Heather E. Cucolo & Michael L. Perlin*, "Preventing Sex-Offender Recidivism through Therapeutic Jurisprudence Approaches and Specialized Community Integration," 22 *Temp. Pol. & Civ. Rts. L. Rev.* 1 (2012), at 5-7.]
>
> "By way of example, correctional officers rate sexual offenders as more 'dangerous, harmful, violent, tense, bad, unpredictable, mysterious, unchangeable, aggressive, weak, irrational, afraid, immoral and mentally ill' than other prisoners. [*J.R. Weekes et al.*, "Correctional Officers: How Do They Perceive Sex Offenders?," 39 *Int'l. J. Offender Therapy & Comparative Criminology* 55 (1995)]."

Cucolo & Perlin, pp. 209-10, ex-

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plain the effect of such propaganda:

"...Popular law and order images are attributable largely to the influences of the mass media. Media and the law most regularly intersect at the point of reporting of crime. The resulting over-reporting of crime itself may cause the populace to believe crime runs rampant [see *George A. Weiss*, "Prosecutorial Accountability after *Connick v. Thompson*," 60 *Drake L. Rev.* 199, 230 (2011), discussing *Angela J. Davis*, *Arbitrary Justice: The Power of the American Prosecutor* 6 (2007).

"Attentiveness to television correlates strongly with fear of crime. *Sasson* at 3 (citing *George Gerbner et al.*, "The 'Mainstreaming' of America: Violence Profile No. 11," 30 *J. Comm.* 10 (1980)); see generally, *Sarah Escholtz*, "The Media and Fear of Crime: A Survey of the Research," 9 *U. Fla. J. L. Pub. Pol'y* 37 (1997), resulting in calls for 'more punitive responses to crime' [*Kenneth Dowler*, "Media Consumption and Public Attitudes Toward Crime and Justice: The Relationship Between Fear of Crime, Punitive Attitudes, and Perceived Police Effectiveness," 10 *J. Crim. Just. & Popular Culture* 109 (2003). at 111] notwithstanding the reality that crime rates have declined. [*Catherine Carpenter*, "Legislative Epidemics: A Cautionary Tale of Criminal Laws That Have Swept the Country, 58 *Buff. L. Rev.* 1, 37 (2010); *Sara Sun Beale*, "The News Media's Influence on Criminal Justice Policy: How Market-Driven News Promotes Punitiveness, 48 *Wm. & Mary L. Rev.* 397 (2006), at 409.

"The trends in crime news have been going up as actual crime has declined." *W. Lance Bennet*, "The Twilight of Mass Media News: Markets, Citizenship, Technology, and the Future of Journalism," in *Freeing the Presses: The First Amendment in Action* 111, 118 (Timothy Cook ed. 2005), quoting *Richard Morin*, "An Airwave of Crime: While TV Coverage of Murders Has Soared – Feeding Public Fears – Crime Is Actually Down," *Wash. Post* (national weekly ed'n), Aug. 18, 1997, at 34.

"This may, to some significant measure, be because people can 'experience crime and criminal justice via the media and come away with the sensation of actual experience.' *Ray Surette & Rebecca Gardiner-Bess*, "Media Entertainment and Crime: Prospects and Concerns," in *International Crime*, note 202 *supra* (emphasis added).]. The crimes least likely to occur in real life are the ones most likely to be emphasized by the media. [*Surette, supra*, at 34.]

"Crime reporting is not only superficial, it is also prosecution-biased. [*William R. Montross, Jr. & Patrick Mulvaney*, "Virtue and Vice: Who Will Report on the Failings of the American Criminal Justice System?", 61 *Stan. L. Rev.* 1429, 1447 (2009) (attributing this bias, in large part, to changes in the American publishing business); see also *Herbert L. Gans*, *Democracy and the News* 21-55 (2003) (on how market forces distort the news), as discussed in *Andrew E. Taslitz*, "Fortune-Telling and the Fourth Amendment: Of Terrorism, Slippery Slopes, and Predicting the Future," 58 *Rutgers L. Rev.* 195, 231 n. 218 (2005).

"On how and why the entertainment media's portrayal of crime and justice is 'pro crime control,' see *Surrett, supra*, at 39. On the impact of the media and election-year politics on the passage of crack sentencing provisions, see *David Angeli*, "A 'Second Look' at Crack Cocaine Sentencing Policies: One More Try for Federal Equal Protection," 34 *Am. Crim. L. Rev.* 1211, 1223-28 (1997).]

"By way of example, Michael Tonry places the inspiration for much of the sexual predator legislation on the 'national media, especially television, [that] permeate nearly every pore of American life in vivid, repetitive, often hysterical colors. And [on] conservative American politicians [who] have for nearly two decades been playing the crime card and exacerbating public fears and then proposing or enacting repressive legislation in order to allay them.' [*Michael Tonry*, "Rethinking Unthinkable Punishment Policies in America," 46 *UCLA L. Rev.* 1751, 1786 (1999).] Crime reporting is, also, factually, often simply wrong....

"This call for more punitive responses is especially so in the area of sex-related crimes with juvenile victims; the media knows that stories of the most vulnerable amongst us caught up in narratives of sex and violence will capture viewers and readers. [On the presentation of sex crime stories on television news in general, see *Kenneth Dowler*, Sex, Lies and Videotape: The Presentation of Sex Crime in Local Television News," 34 *J. Crim. Just.* 383 (2006).]

"The media coverage that focuses disproportionately on violent crime, distorts perceptions of actual criminal offending in multiple ways, [*Alice Ristroph*, "Criminal Law in the Shadow of Violence," 62 *Ala. L. Rev.* 571, 572 n. 4 (2011), discussing *Rachel Barkow*, "Administering Crime," 52 *UCLA L. Rev.* 715, 749 (2005)]'portrays criminal defendants as less than human,....'[*Lynne Henderson*, "Revisiting Victim's Rights," 1999 *Utah L. Rev.* 383, 395].

Discussing the impact of this in generating public pressure for legislation, *Cucolo & Perlin* continue at pp. 210-12:

"The media's obsessive preoccupation with the fear of violence leads inexorably to public pressure on legislators to enact more repressive legislation and on judges to interpret such laws in ways that ensure lengthier periods of incarceration for offenders. The mass media 'has played a pivotal role in framing the sex-offender crackdown as a domestic "war."' [*Corey Rayburn Yung*, "The Ticking Sex Offender Bomb," 15 *J. Gender Race & Just.* 81, 87 (2012).]....

"...'[T]he sensational headlines about a notorious sex offender will continue to instill fear in the American public regarding sexual abuse, [leaving] people with a sense of hopelessness and helplessness in addressing the problem.' [*Robert Freeman-Longo*, "Reducing Sexual Abuse in America: Legislating Tougher Laws or Public Education and Prevention," 23 *New England J. on Crim. & Civ. Confinement* 303, 308 (1997).] They then turn to the tool of political pressure. [See, e.g., *Roxanne Lieb et al.*, "Sexual Predators and Social Policy," 23 *Crime & Just.* 43 (1998); *Eric S. Janus*, "Closing Pandora's Box: Sexual Predators and the Politics of Sexual Violence," 34 *Seton Hall L. Rev.* 1233, 1233-50 (2004) (discussing how the effect of politics and public outcry fuels the expansion of sexually violent predator programs).]

"And politicians gladly oblige by 'inflaming the rhetoric ...building upon a social fear of sex offenders.' [*Yung, supra*, at 86.] Politicians are, of course, 'experts at directing how the public thinks.' [*Jeffrey Rachlinski*, "Selling Heuristics," 64 *Ala. L. Rev.* 389, 413 (2012)]. This is all further exacerbated by the way that society (1) engages the stereotype that persons with mental illness are evil, and (2) accepts the stereotype that all sex offenders are mentally ill [See, e.g., *Fred Cohen*, "The Limits of the Judicial Reform of Prisons: What Works, What Does Not," 40 *Crim. L. Bull.* Art. 1 (No. 5, 2004) ("It is erroneous to view all sex offenders as mentally ill or disordered and in need of treatment.")], a conflation sanctioned by the Supreme Court's decision in *Kansas v. Hendricks*. [See *Michael L. Perlin*, "There's No Success Like Failure, and Failure's No Success at All: Exposing the Pretextuality of *Kansas v. Hendricks*," 92 *Nw. U. L. Rev.* 1247 (1998), at 1271]

"Much of the 'crackdown' on sex offenders 'is motivated by a general public hatred of them as a group, which is fueled in great part by sensational media coverage.' [See *Rachel Rodriguez*, "The Sex Offender under the Bridge: Has Megan's Law Run Amok?," 62 *Rutgers L. Rev.* 1023, 1057 (2010).]

"And this is not new. According to Professor Deborah Denno, earlier sex crime panics – from 1937 to 1940 and from 1949 to 1955 – were similarly fueled by 'a vast change in media reports of sex crimes that were independent of the rise or fall of the actual number of reports of

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sex crimes.' [*Deborah W. Denno*, "Life Before the Modern Sex Offender Statutes," 92 *Nw. U. L. Rev.* 1317, 1344-45, 1346 n. 138 (1998) (discussing role of sensationalistic media reports in the 1930s and citing then-contemporaneous sources).]"

The foregoing has shown how media, interplaying with conservative political forces, have deliberately manipulated the public into a frenzy of hysteria over possible sex crimes.

But this is not the only technique for creating malicious bias against sex offenders. Next time: How the science of bias ("heuristics") was used by "social entrepreneurs" to turn such fears and hatreds into biases in the minds of legislators and judges in passing the MCCTA of 1994 and expanding its coverage by judicial construction into the monstrosity it is today. This includes the coercive effect bias has on re-election of legislators and judges.

Incommunicado: MSOP Media/Text Censorship & Denial of Internet Access

As everyone in MSOP knows, MSOP's restrictions on books and other printed media and videos are extreme — and extremely pointless. As we all know, all R-rated and unrated movies are banned unless they are on the permitted list or are specifically approved after review.

Reviews of videos are limited to one a month. This forces movies that could be received upon review to be sent out simply because they exceed that limit. Because it is often difficult or impossible to determine with certainty whether a video ordered has a rating and if so, what it is, this often results in unfair surprise.

Further, movies that depict violence against women or minors are regularly banned under the rule against sexual violence even though there is nothing sexual about the violence. The subtext of this seems to be that staff knows that such an outright ban on violence against women and children would never fly in court, so they just lie when declining the movie.

Apparently, they are just creeped out by the thought of any of us possessing a movie of such violence, on the presumptive suspicion that we would find such violence somehow sexual. This is baseless and insulting, and again would not fly in court.

Rules that bar media with various attributes only when in conjunction, including the attribute of nudity, are barred in practical effect if they actually only have nudity, with reviewing staff baselessly claiming that the nudity was included for the purpose of sexual arousal and that it also promotes either sexual violence, molestation, or incest.

All of the foregoing is way over-the-top in contrast to *Waterman v. Verniero*, 12 F. Supp. 2d 364 (D. N.J. 1998), which held that committed sex offenders in New Jersey were entitled under the First Amendment to buy and possess sexually explicit materials in all formats.

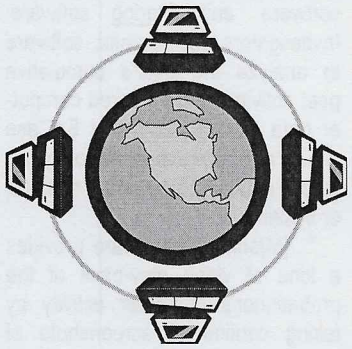
Local newspapers are also banned, even though many of us have the right to vote and otherwise to participate in local politics. This ban bars the informed exercise of these political and voting rights.

Additionally, clinical staff also frequently get into the act, imposing a 'second layer' of rule-less censorship based only on the claim that some image is similar to materials which a clinical staff member assumes that a given MSOP detainee previously used for sexual purposes. This in effect imposes a 'personal censorship' above and beyond the censorship applicable to all MSOP detainees.

Separately, we still are forced to use a 'traditional prison-style' phone system costing about $3.00 for each hour of connection to any phone, even for local calls. Meanwhile, right next door in MCF-Moose Lake, prison inmates can use tablet computers to call outsiders with Skype service and hold video visits with them, and they can exchange two-way emails.

More generally, we are denied all means of access to the Internet. This effectively muzzles us from communicating our views and the truths we alone seem interested in putting before the public, both of which are contrary to incessant false assertions of our fanatical captors. This is a block on the 'inconvenient truth' we alone represent.

Imagine, for instance, the magnified impact, particularly on the media and public at large, if this very newsletter could be positioned on the Internet as a blog. I'm sure we can all see the need for the public to be exposed to the truth of what has been going on, both as to SPP/SDP commitment, and as to internal matters in MSOP itself, as well as exposing the junk science that is often



fraudulently held high as supposed excuses for both.

On a personal note, I have a (non-incarcerated) German pen pal. We do our best to try to dialog on topics of concern to sex offenders and to those with sexual-minority orientations. However, he does not know English, and I do not know German. He must rely on a human translator who is only available for short sessions and only infrequently.

Without access to the Internet, I have no means to access the modern automatic translation software that is now available through Google and other communications services. If I had such access, we could communicate faultlessly at the speed of email. All of us in MSOP are being denied such Internet communication — not as prisoners, but only because we are former sex offenders.

Also, legal and psychological research by us (so essential to our chances for release) is almost completely foreclosed to us without access to the Internet. In contrast, on the Internet, such materials are ubiquitous, and mostly free.

Moreover, being barred from the Internet bars us from being able to make purchases far more rapidly and cheaply via ecommerce, and also to conduct banking as others do in the real world, through the Internet — instantly, not at the snail's-pace of MSOP's high-handed banking department.

Space does not permit continuing to enumerate the myriad communicative options of the Internet. However, two of the most salient are: (1) freedom of access to instant news from any website whose focus and opinions one may trust over others; and (2) engaging in dialog through the blogs of others and/or topical discussion websites on key issues of the day with those in the free world.

Simply put: in sum, there is no substitute for the Internet in 2017. No alternative channels of communication exist that can provide what it provides, or can serve even as a pale substitute.

To be totally blocked from Internet access is to be relegated to living sometime in the distant past. It is the modern equivalent of being held incommunicado.

We are not here for punishment at all, and we cannot be deprived of all such communicative access without violating our First Amendment rights.

Areana Deskins, writing in a law review article, "Internet Use and Sex-Crimes Convicts: Preserving the First Amendment Rights of Sexual Offenders through the Framework of *United States v. Albertson*," 91 *U. Detroit Mercy L. Rev.* 29 (Winter 2014), observes that restrictions on sex offenders' First Amendment rights of freedom of speech and freedom of association, such as by bars on Internet use, become less judicially tolerable when extending over many years (as they do here in MSOP). This is especially true now that "technology and Internet communication are the normal, and often preferred, way of communicating in various aspects of life." (*Id.*, p. 29).

Noting that an Internet ban inherently restricts one's ability to exchange views with others, *Deskins* notes that Justice Kennedy has declared that such "viewpoint" restrictions are the very worst First Amendment violations. Thus *Deskins* cites numerous cases in which federal judges have struck down Internet bans on sex offenders. See, *United States v. Sofsky*, 287 F.3d 122, 127 (2d Cir. 2002); *United States v. Albertson*, 645 F.3d 191, 193 (3d Cir. 2011); and in the 8th Circuit, *United States v. Crume*, 422 F.3d 728, 730 (8th Cir. 2005).

These cases concerned restrictions imposed by parole officers

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on sex offenders on supervised release. Each of those offenders had child pornography convictions, a crime almost exclusively carried out through Internet access. Moreover, those bans were imposed only on specific individuals after review of their specific cases of criminal use of the Internet.

Finally, these bans were struck down under the deferential standard of a mere need for a "reasonable relationship" between the goal to be served by such bans and the ban itself. This deferential standard, originating in the *Turner v. Saffley* case, applies only to prisoners. For all others, including us, the far more demanding standard of "strict scrutiny" applies. (Note also that the 8th Circuit use of a minimal "shocks the conscience" standard in place of strict scrutiny applies only to claims based on substantive due process, not to First Amendment violations.)

None of this applies to MSOP residents. We are not here for punishment. Very few of us even have any past convictions of obtaining child pornography via the Internet. The ban imposed by MSOP on Internet access is categorical, applying to all of us. Therefore, our ban is even less defensible than the bans struck down in those cases.

In *United States v. Holm*, 326 F.3d 872, 877-78 (7th Cir. 2003), the court observed,

"Such a ban renders modern life – in which, for example, the government strongly encourages taxpayers to file their returns electronically, where more and more commerce is conducted online, and where vast amounts of government information are communicated via website – exceptionally difficult."

Deskins, at p. 47, adds this broader survey:

"The Internet is indispensable to the daily functioning of the typical adult citizen. It is how we read the news, how we seek employment, how we communicate with employers and clients, how we search for cooking recipes, how we keep in touch with our loved ones, how we further our education, how we purchase consumer goods, and more. The Internet is how we communicate and share information for any number of reasons. Computers are even capable of making phone calls through applications like Ring Me or Skype, and sending text messages through iMessage."

Deskins explains that numerous tool exist to detect, and even to prevent any activities on the Internet by sex offenders:

"There are several kinds of software available to monitor the Internet use of a sexual offender, including forensic software, monitoring software, and filtering software. Investigators use forensic software to analyze the user's cumulative past activity through stored computer data. ...[A] tool called EnCase allows an individual to remotely log onto a network to access a computer system.

"...[M]onitoring software provides a kind of video play-back of the probationer's computer activity by taking continuous screenshots of the computer system. One kind of monitoring software, called Spector Pro, automatically records screenshots, keystrokes typed, websites visited, emails sent and received, chat activity, Facebook and social networks, online searches, and programs used.

"Filtering software ...'can filter or block information on the offender's local computer or function through an ISP to block user access to predetermined websites.... [F]iltering software prevents the probationer from viewing certain material or conducting certain activities before they occur.'" (*Id.* pp. 48-9)

Even if the price of allowing Internet access to us would be that someone might try to obtain child pornography or some other contraband from the Internet, the preceding discussion of monitoring and forensic software shows that they would certainly be detected and immediately prosecuted. Thus, garnering a federal sentence in the 20 to 40 year range, it is clear that that price would fall on the head of the defendant.

Moreover, the claim that exposure to child pornography causes sex crimes against children at some future point has been soundly debunked (and a fraudulent study advancing that claim exposed) by scientists in recent years. See, e.g., *M. Hamilton*, "The Child Pornography Crusade and Its Net-Widening Effect," 88 *Cardozo Law Rev.* 1679 (2012); *Carissa Byrne Hessick*, Disentangling Child Pornography from Child Sex Abuse, 88 *Wash. U. L. Rev.* 4, 853 (2011).

The other objection to sex offender Internet access is the claim that attempts will be made to lure minors into sexual encounters with offenders. Of course, this is physically impossible here. Nonetheless, carrying this further to a suggestion that minors might be recruited into providing self-pornography over an Internet connection, this too is forbidden by those same federal laws with extreme sentences.

More crucially, judges have ruled that this fear, of itself, is not a valid justification for a total ban on all Internet access, or even a total ban only on 'social networking' websites such as Facebook, etc. See, for instance: *Doe v. Jindal*, 853 F.Supp.2d 596 at 604-05 (M.D. La. 2012); *Doe v. Prosecutor, Marion County*, 705 F.3d 694, 695 (7th Cir. 2013); *Doe v. Nebraska*, 734 F. Supp.2d 882 at 910-11 (D. Neb. 2010); See also the excellent discussion in *Douglas B. Mckechnie*, "Facebook Is Off-Limits? Criminalizing Bidirectional Communication via the Internet Is Prior Restraint," 46 *Ind. L. Rev.* 643 (2013).

The bottom line from all of the preceding is twofold:

(1) No facts exist that require, as a practical matter, the current MSOP total ban on all access to the Internet for us.

(2) Because we are not prisoners, this total ban will surely not survive a First Amendment challenge in a civil rights lawsuit in federal court.

It is time to stop pussyfooting around with MSOP staff in their endless quibbles with this movie or that book. We need to cut to the chase, making the claim that we truly need to make to extract ourselves from the Black Hole that MSOP has relegated us to. We must demand Internet access now, and pursue civil rights litigation in federal court to get it.

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Lost (for quite some time): 1 large manila envelope, hand-titled on exterior front: "Our Tenets." Contains 150+ sheets of paper of handwritten book manuscript (incomplete) and notes, plus some typed pages. $20 Reward for return, no questions asked. Contact Cyrus Gladden in person or by green mail: 1A, #118B.

T-Shirt Slogans?

I think, therefore I'm dangerous.

Respect existence
or expect resistance.

Hatred is NOT a family value.

"The good thing about science is that It's true whether or not you believe it."
Neil deGrasse Tyson