

"First we stigmatize a group ... then we restrict that group's rights ... then we take their persons ... then we try to eliminate them through lack of care in hopes they die ... then we kill them all. That is the final step. That is the only step left for those accused ... of sex offenses. That is genocide." - Earl Yarrington, Ph.D. "Part 1: Civil Commitment and the Destruction of Human Rights" (December 2019)

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**Editor's Note:** Readers will notice a few differences in this TLP edition. These are only temporary, necessitated by the increase in news and other content needing coverage in this edition. Segments of the Report to Virginia will resume next time.

**Coming Soon:**

- ✓ Janice Bellucci & ACSOL Fight Oppressive SO Laws
- ✓ Banishment by a Thousand Laws
- ✓ Inaccurate Prediction of Future Offending
- ✓ Looking at the Good Lives Model.
- ✓ Packingham - Wayne Logan's Take
- ✓ Remorse Bias — What's THAT?
- ✓ SAPROF's Inaccuracy
- ✓ A Little History Yields Deja Vu
- ✓ Othering and Resistance. Huh?
- ✓ 'New' SORN Laws Are Punitive
- ✓ The Latest on Anti-SO Vigilantism
- ✓ Beware the Deepfake
- ✓ Janus Speaks Out on the Preventive State Threat
- ✓ COMPAS: Guessing at Risk
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- ✓ What Is E-Carceration?
- ✓ Male Chronophillias: EU: 1; US: 0

Feedback? News? Write!

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# MSOP Legislative Hearing Reveals Ugly Truths.

Daniel Wilson, "MSOP Update" Informational Hearing, Aug. 2, 2021," OCEAN, the-voicesofocan.net; Facebook.com/endsmsop  
OCEAN Written Testimony Excerpts:

"...African Americans and Gay men are twice as likely to get civilly committed in Minnesota. On average, there is a death every 40-60 days [in MSOP facilities]. The death rate is quickly increasing. There were more deaths in the last five years that there were in the first 20. Each individual [in MSOP confinement] is 6 times more likely to die than to be released...."

...James Berg, the MSOP Deputy Director, admitted that the 'program' cannot be completed. Almost 90 men have died trying. ...The harm to the residents and their families has been great. Many have been locked up in the MSOP since childhood while others are [in senior years, when not even the most hysterical could credibly claim them to be] a danger to society."

Excerpts from "Rough Notes Transcribed from the Hearing":

"[MSOP Executive Director] ...Nancy Johnston ...tried to absolve MSOP of any responsibility in relation to releases [more accurately, the lack of more than a tiny trickle]. However, [Prof. Eric] Janus later told the truth when he said that MSOP has 'never' supported a release.

Johnston said that there are 745 committed with 28 on Provisional Discharge. She said that there are 865 employees and that MSOP is the largest [agency] within the [MN Dept. of Human Services].

...Johnston explained that in 2020 [MSOP] received money to add 20 beds in [MSOP's St. Peter facility]. [Those beds] should be completed by the end of December. However, 53 men are on the waiting list for [entry into] CPS [the pre-release unit of MSOP, where releases of most have been stalled, often for years, and the current population of those still retained there is now 89 or more].

[Johnston] also said, "...no sexual offense has ever occurred while a client is on Provisional Discharge."

Janus ...explained the Karsjens case and said that the [MSOP] program was found to be unconstitutional because people are not getting out. A 6-week trial found that the program was not designed to allow anyone to get out and that Judge Frank ordered the program to be changed to let people out.

Janus said that many studies have been done on MSOP because it is very controversial, very expensive, and it pushes the boundaries of constitutionality because it locks people up before they have committed a crime.

Janus mentioned that the per capita [committed in MSOP, as compared to total state population] is 129 per million and that Wisconsin is about 40. MSOP is also 'close to the bottom' when it comes to the [number] of provisional discharges and that civil com-

mitment only causes a 0.5% reduction in recidivism and that research shows it does not stop re-offenses."



**Editor's Additions:**

Johnston's Presentation includes these additional facts: Despite 199 court orders for transfer of MSOP confinees to CPS, only 28 are currently on provisional discharge, only 15 have been fully discharged, and the 89 CPS beds are all full. The waiting list to be moved into CPS now has 53 names.

MSOP received legislative finding for 20 more CPS beds in 2020. Despite a 2021 rejecting of funding for yet another 30 CPS beds, Johnston's presentation states that a renewed request will soon be made for those same 30 beds. If granted, this would bring CPS occupancy up to 139.

What is disturbing about this is that these occupants obviously remain unreleased. Hence, this reflects an MSOP policy of retaining, rather than promptly releasing even those who have made the 'treatment journey' all the way to CPS (after many years). Thus, 'packing' CPS in this way is only a false appearance of an MSOP aim to increase releases beyond the current trickle per year.

The fact that CPS retention periods average 5 to 8 years before release to provisional discharge status, plus the further fact that MSOP has set forth a 5-phase plan for provisional discharge, with each phase expected to take a year (or in other words, in all, five further years before final discharge), altogether, reflects a clearly apparent 'foot-dragging' by MSOP toward final discharge of any of its former confinees.

Confirming this, Johnston's presentation emphasizes that post-release treatment is required during the whole term of provisional discharge. This conveys the MSOP orthodoxy that deems those committed to it, even after being treated while confined for typically more than 15 years, to pose a substantial recidivism risk.

Of course, this connotes that all that pre-release treatment has not worked a reliable reduction in such recidivistic tendency to an acceptably very low level, contrary to MSOP's advance claim of the effect of its "world-class" "state of the art" treatment.

Exposing this, the post-release treatment is administered — not by MSOP — but instead by independent sex offender treatment

providing entities. That treatment, complete within that 5-year provisional release term both by former MSOP confinees and by those never committed, but compelled into treatment by probation or parole requirements, belies MSOP's claim that only many years of intensive treatment while confined can prevent recidivism. It also hedges MSOP's 'bet' on those it releases, since by putting such later treatment on unrelated entities, any later recidivism can be blamed on such entities, rather than on MSOP itself.

However, as Johnston's presentation notes, less than 10 revocations of provisional discharge have occurred to date, and no sexual re-offenses have occurred since releases began in 2012. This suggests that the recidivism potential was overestimated for those when originally committed to MSOP. Since similar zero rates of re-offense have also been achieved by such independent treatment entities, this in turn poses the earliest question whether all of that commitment confinement was ever really needed in the first place?

Law Professor Eric Janus, a longtime foe of sex offender civil commitment (SOCC) and of Minnesota's law in particular, also made a presentation at this legislative meeting. Janus recounted the history of SOCC in Minnesota, noting pointedly that the Minnesota Supreme Court originally stated its expectation that the treatment to be provided in MSOP would only require 32 months to complete.

The inflation of this figure to its present average 15-year length reflects one of the following conclusions: (a) MSOP treatment has been a repeated, consistent failure; (b) the original estimate given to that court was fraudulent or grossly incompetent; or (c) the increase to current length was itself the fraudulent act, falsely claiming that treatment required ever more and more treatment, when in fact, this was all just about creating a 'permanent employment act' for MSOP treatment staff through prolonged confinement, even though its confinees could have been safely released years, even decades ago.

Janus questioned whether resources devoted to MSOP were in fact squandered. He first pointed out that only 7% of sex crimes in Minnesota are perpetrated by recidivists. More profoundly, since 1990 sex-crime recidivism rates have dropped from over 16% then to less than 3% as early as 2002. Moreover, many studies have shown that recidivism naturally drops with increased age. Hence, commitment of persons already in their 40s or beyond has nearly no impact on recidivism since people in those later age ranges are only remotely likely to reoffend.

The real problem with this legislative "informational meeting" was that no other submissions of information were permitted. Frankly, this telegraphs that the legislators

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responsible for this meeting chose not to be confronted by the larger picture of facts that speak volumes of condemnation of SOCC in Minnesota and of MSOP itself. If we are ever to obtain any relief via legislation, this willful 'self-blinding' must end. It is up to all of us to convince the legislature to finally grapple with this very ugly truth of its own creation so long ago.

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## The Courage of One's Convictions

### Jake's Protests

By Cyrus Gladden  
MSOP-ML, Aug. 10, 2021, 17:35; supplemented Aug. 16, 2021.

Jacob Flom, one of the confined in MSOP's Moose Lake facility, has made no secret to his opposition to the existence of MSOP. His experience teaches him that it is nothing more than a surreptitious means to a political end. That political end is detaining those committed to it for their respective natural lives.

Only the smallest trickle of token releases from MSOP confinement occur each year. Indeed, most of those only to a yo-yo status of strictly supervised parole of many hyper-technical rules. Failure at, or absolute inability to comply with any of these rules on any given occasion usually results in being yanked back into confinement, with many further years before any later consideration of release.

In his view and that of most of those confined by MSOP, even this mere trickle of yo-yo releases is only for the purpose of lending a false appearance of a legitimate treat-and-release mental health system. This faux appearance is used to distract attention from the harsh reality: roughly 750 surviving others are still retained by MSOP after years, in many cases more than a decade, of such confinement -- for most, with no end in sight.

Jake wanted to communicate his conviction about this to others here in MSOP and to convince them that his view reflects the reality of MSOP's existence and real mission. About ten days ago, he created a paper hat in the shape of a narrow pyramid, with verbiage and images matching his views printed on each of its four sides for all to see.

He donned this eye-catching headwear and walked to the dining hall during at least one meal (a breakfast), continuing to wear it as he walked around in the dining hall. After several minutes, he exited, and returned to his living unit. He later reported to this writer that at that point some staff person there told him to remove it. He complied, having made his point in a non-disruptive way.

At lunch, upon entering the dining hall and waiting in line for a meal tray, this writer saw Jake standing in front of the security desk in the dining hall, facing away toward those in line, holding a black-and-white printed sign about 2 feet horizontal by 3 feet vertical in front of himself. The sign contained a copy of a pointing Uncle Sam graphic once used for military recruitment. However, on this one, the caption stated instead, "I want you to end MSOP."

He remained at that position for the five minutes or so it took to move forward with the line close to Jake. At this point, one of the monitoring security officers motioned Jake to the side for a short conversation. Apparently the gist of that talk was to direct Jake to leave, since he immediately began walking toward the exit into the hall. As he did so, that officer picked up his telephone and began a conversation with some other unknown staff person. He continued to hold forth that sign as he did, smiling at the crowd, with a look that seemed to communicate, "Mission Accomplished." As he made this retreat, widespread light applause broke out and was sustained until he went through the out door.

About fifteen minutes later, having finished my meal, I also exited through that same door and noticed Jake, now in conversation with two other security officers. The sign was no longer visible at this time. I presumed that it was taken by those officers. Since then, I have learned that Jacob was slapped with a disciplinary citation for that protest display. Since there was nothing disruptive about this form of silent protest statement-by-display, the obvious purpose of this flexing disciplinary muscle by MSOP security staff was to inhibit all others who might seek to visibly protest that readily apparent real purpose of lifetime pseudo-imprisonment. (I guess they didn't check with superiors about the mass protest already cleared for the following Monday.)

Whatever one's feelings on the subject, one has to acknowledge Jake for having the courage of his convictions to communicate them (and in a peaceful, but pleasantly eye-catching way). This is the stuff of the First Amendment right of freedom of expression, especially on a subject of political concern and human-rights significance.

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## Six Days at MSOP-ML: Confinees Protest Their Captivity.

Memo, Aug. 21, 2021  
By Daniel A. Wilson, with additions by Cyrus Gladden  
"During one of the first meetings, we insisted that individuals focus on why

they are participating and offered the following questions:

- 1) How long have you been confined for what you *might* do?
- 2) How hard have you tried to gain your freedom?
- 3) What has MSOP taken from you over the years?
- 4) How has being confined affected your career?
- 5) How has being confined affected your family life?
- 6) How has being confined affected your sense of justice?
- 7) How has MSOP lied to and manipulated you?
- 8) How many of your comrades have you seen die in this Shadow Prison?
- 9) How has "Health Services" treated you?

We told everyone that we want these thoughts to motivate and energize them for the walk.

Friday, Aug. 13, 2021 marks the beginning of the OCEAN/End MSOP Movement. On that date, we made an announcement in the facility chow hall at lunch. We told the individuals present that our End MSOP meeting would be held at 4 p.m. that day.

When we made our first announcement there at 11:00, some diners scoffed and a few even cursed. However, most clapped and supported us. We focused on the supporters. At 11:45, because the chow hall had a new group eating by then, we made a second announcement to invite everyone to the meeting that afternoon.

Close to 120 men were counted as present at the 4:00 meeting that day (out of the facility population of 449, less those in medical, protected, and disciplinary units). This means that nearly one of every three confinees in the facility who could do so attended.

It was a highly emotional and intense experience. We are so proud of the individuals who stood up and spoke the truth about MSOP.

On Saturday, Aug. 14th, about 60 men gathered at 4:00 p.m. to cry out their individual desires for why we are trying to End MSOP. On Sunday, Aug. 15th at 2:00 p.m., at least 70 individuals met up to chant and to march.

On Monday, Aug. 16th, at 7:30 am, 60 individuals met to chant and walk. This event was repeated at 1:15-2:15 p.m. In these two events Monday, we did the following:



Building Solidarity

"Yellow Line" Exercise (lined up behind a 4-foot chain-link fence with yellow plastic topping separating the softball field from the walkway connecting the two facility buildings): This is a show of self-control and collective, synchronized action and is the most honest form of protest. In a straight line facing that fence, we chanted:

\* Leader: "What do we want?"

\* Crowd: "We want to go home!"

\* Leader: "How do we get there?"

\* Crowd: "End MSOP!"

Remember the 88: Upon request, each participant stepped back one pace from the fence. All bowed their heads in respect. The 88 names of those who have died while confined in MSOP were read aloud, with a pause for remembrance after each name, some recalled by all and all others recalled by at least some.

The Silent Walk: Participants faced right and, in single file, walked slowly and silently into the original ("Main") building of MSOP-Moose Lake, proceeding through its central, long corridor all the way up to the start of the limited access segment leading to the front gate and security desk.

At that end of confinee-accessible hallway, the procession made a wide U-turn, the front of the line proceeding back the way they had come, while passing those in the latter part of the line still headed to that turnaround point. It bears emphasis that each participant conducted himself with full self-control and politely to each staff person passed. At one point, a nurse needed to cross to the other side of the procession, and a pause spontaneously occurred to afford her such needed passage.

The procession exited through the same door they had entered, continuing by traversing the block-long walkway to the other ("Complex") building. The procession entered the Complex Building, still at the same slow pace and in single file, and once again resuming silence as they entered. The procession turned left once inside, proceeding down the long hall passing an internal warehouse, offices, the chow hall, group therapy rooms, the medication dispensing room, the mail distribution window, and up to (but not entering) the entrance to the "rotunda," from which the five large living units comprising the Complex radiate like spokes in half of a wheel.

Again, the procession did a wide U-turn in the hallway, returned to the same front door of that building, and exited. One more pass through the Main Building ensued, with return to the large central Yard.

This time, however, the procession took a left to circle around the ball field, once again resuming the chants stated above, only louder than initially. Additionally,

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while outside, participants loudly voiced this Marching Cadence chant:

\* Leader: "Listen up close, we've got something to say." (Crowd repeats.)

\* Leader: "We just want to go home today." (Crowd repeats.)

\* Leader: "We hold strong in unity." (Crowd repeats.)

\* Leader: "We will end MSOP." (Crowd repeats.)

Because the walk had taken longer to this point than anticipated, a plan for a second passage through the Complex Building had to be abandoned.

The procession returned to the Yellow-topped fence, where closing thoughts were shared. Overall, it was clear that this protest had greatly lifted the spirits of all in attendance and instilled a sense in all of both unity and collective power to resolutely express the shared resolve to continue to work to bring MSOP to an end, so all can return home and to the future they have so long been denied.

At 1:15 p.m. the same general protocol was followed for a second protest walk.

Then, at 4:00 p.m., another gathering was held, but without walking in light of the impending facility count at 4:30. This time participants in the activities over the last few days (as described above) verbally reflected and shared information with newcomers about those experiences.

On the following day (Tues., Aug. 17th) at 2:00 p.m. we handed out the OCEAN extensive conversation about the importance of diagnosis in relation to civil commitment.

The next day (Wednesday Aug. 18th), again at 2:00 p.m., about 30 men gathered (again in the main yard by the connecting walkway) to greet staff as they came to work. We practiced the "Yellow Line" Exercise again and chanted as before while a tour of new MSOP employees entered the yard from the Main Building. Seeing our unexpected presence, the MSOP guide took those new hires around the ball field on the long walkway, and then spent a whole hour in the Complex Building in order to avoid our gathering. We then did a silent walk through the Complex Building, through the Main Building, and back to the yard. Finally, the tour group re-emerged and we began to chant our Marching Cadence (above).

We project holding 7 meetings a week as follows: Monday, (the same three times as above); Tuesday - Thursday, at 2 p.m., and Friday at 4 p.m.

MSOP-Moose Lake is located in Carlton County, MN. We learned that MSOP has a recruiting booth at the Carlton County Fair to replace the many MSOP employees who have recently chosen to leave MSOP. End MSOP is planning to send

representatives to that county fair to state our case against working for MSOP. However, no further details are available on this at press time.

End MSOP also projects a 'honk-in' protest at MSOP-St. Peter, MN similar to the one held in mid-July at MSOP-ML. Further details will appear in the next TLP edition.

Daniel Wilson requests that any MSOP-ML confinee receiving a disciplinary citation or staff threat for wearing any protest apparel or sign report it to him or Russ Hatton with identity of staff person(s) involved, date and time, and summary of the event. This documentation will be sent to the investigating U.S. Dept. of Justice attorney.

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## A Reply to Hate-Drenched Ignorance



### An Open Reply Letter to the Rochester (MN) Post Bulletin

by Cyrus Gladden, Editor, *The Legal Pad*

This replies to your July 17, 2021 Editorial Board editorial, "Our View: Civil commitment program plays a valuable role." In that editorial, you contend that the Minnesota Sex Offender Program (MSOP) should continue "for the foreseeable future."

If you are sincere, you think that MSOP reduces sex crimes. On this you are completely wrong. Studies from around the country comparing states with and without similar commitment programs consistently show that states without such programs have sex crime rate as low as, and often lower than states having such commitment programs.

You and I are both media people. However, the difference between you and I is that you obviously have not done your homework.

The issue is whether to end MSOP -- at best an obviously failed program ostensibly aimed at treatment-and-release. Worse, MSOP has stubbornly refused to take even the most obvious steps at meaningful reform.

At every public revelation of the latest failure, MSOP has blamed its captive

"clients" for such failure. Specifically, MSOP repeatedly claimed resistance to treatment by its captives as an excuse to progressively lengthen their captivity. 'Just coincidentally,' the first of these claims was timed to thwart what would have been the projected release of the 'first wave' of those committed).

Was this just a cover story to disguise an original intent to never let anyone go, or perhaps a way to convert a temporary position for therapists into a permanent 'career plan' dependent on forcibly retaining their clients permanently? I say, let the readers decide after reading this article.

Maybe it might help them to make this decision to inform them that, on five occasions, MSOP has completely replaced its treatment program and forced all participating confinees to start over from scratch (an admission of failure at the least), again each time doing so when a significant number had completed or neared completion of the replaced program. This forced all treatment participants, including those graduates, to start all over again, after years of invested work.

Each replacement program has been longer in duration than the one replaced. The current one, in place for the last 13 years, discussed below, has no completion time.

It lasts so long and is based on such subjective, discretionary criteria for 'success' that, after about the last fifteen years of MSOP operation, MSOP has not oppose the release of anyone applying for release by saying that the applicant is "not ready" for release.

MSOP claims that each of these replacements was to account for "advances" in sex offender treatment elsewhere. I say, "bunk!" What kind of advance is it that causes treatment to be so interminable and often incomprehensible that no one can finish it to the satisfaction of its providers?

MSOP employs its own staff of "risk assessors." It is the foremost task of these assessors to supposedly determine whether an MSOP confinee has reduced their risk of later sexual re-offense sufficiently to be "safely" released. This, in reality, is part of the long-perpetuated myth of 'scary monsters' used to justify supplemental perpetual pseudo-incarceration. We'll also get to that in more depth below.

But for now, the point here is that, after all that treatment, these 'assessors' allow such endless confinement to continue as to any given applicant for release. They justify this by claiming that, after all that extra time incarcerated, after all that treatment, the person under review is "still too dangerous" to release"

This takes the heat off of the treatment program by blaming some theorized sex-mania in the release applicant. (There is no such thing in scientifically-based psychiatry.)

These faux assessors do this even when the release applicant is by then 70 years of age or older. This is posterously in defiance of common sense and all science. (Yes, we'll get to aging too).

Just the foregoing facts should enlighten you sufficiently to understand that: (a) MSOP never was what it was publicly billed as being; and (b) that for the 27 years of its existence to date, despite having its failings repeatedly brought to its attention, its leaders have repeatedly deflected responsibility for such failures, and have never taken substantial actions that might have stood a chance to lessen the damage from those successive failures.

Lack of actions speak louder than words. Had MSOP been intended to be a treatment-and-release program, such attempts at reparative action would have been taken.

The fact that this has not happened for over a quarter-century at this writing, with no end in sight to this never-ending deflection, shows beyond reasonable doubt that the real mission of MSOP, resolutely carried out from inception to the present, has purely been to find excuses to detain every confinee until death.

Only the massive litigation posed by the *Karsjens* case, with its attendant public-enough of a trickle of releases to fool press and public into the belief that reform was at last beginning.

But that trickle is still all there is. No real reform actually took place; the real policy of permanent detention of all confinees is still in place and governing every move MSOP officials and staff make beyond such 'trickle posturing.'

Now that the *Karsjens* case has been disemboweled by appellate reversal, there is no longer any spur toward casting such pretense. The trickle will never increase, and likely will slowly dry up.

In short, the last ten years since the *Karsjens* case was filed have shown with stark clarity that the 1994 legislation you hail has been a brazen, deliberate misuse of "civil commitment" to permanently deny freedom to those who were either convicted or accused of committing one or more sex crimes and who already had long been imprisoned before their commitments, almost all on the very eve of their release.

This isn't treatment; it's just pure supplemental incarceration as a political decision. As such, it is a shocking anathema to everything this land of guaranteed rights of the individual stands

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for. For that reason alone, MSOP must end and that law must go.

You choose to ignore that these 'civil prisoners' were all committed at the end of their typically decades long prison sentences or, as to those committed as juveniles, upon their attainment of adulthood. Illustratively, one of the latter group in MSOP has been locked up without conviction since age 15. He is now age 60.

You cavalierly brush aside the fact that fined after decades from the date of prison "release" and simultaneous "commitment." This is 6 times as many as have attained final discharge from MSOP.

In almost every one of these cases, death was either caused or greatly hastened by medical neglect by a "health services" system in MSOP facilities. Illustratively, the Health Services Dept. in MSOP-ML has no treating physician.

Instead, nurses, without medical school training and without access to modern diagnostic tools, attempt diagnosis typically based only on responses to some questions they pose. This too often results in failure to detect cancers and other life-threatening conditions until far too late to save the patient's life.



Also, you are silent about the crucial fact that so-called sex offender "treatment" here is based upon a "matrix" of 130 precepts — only 10 of which address sexuality.

This matrix is not recognized as a valid foundation of sex-offending treatment anywhere outside of MSOP.

Most of these "matrix" directives are not technical or even specific only to treatment. Instead, in any other context they would simply serve as suggestions to get along well with others (e.g., "Treat others discovered in fortune cookies: "Try new behaviors and activities"; "Make a commitment to life enrichment."

Regardless of their seemingly simple everyday appearance, these are used to deny people release for the slightest behavioral-attitudinal equivalent of an etiquette book — only with lifetime incarceration as the penalty for any infractions.

No one is perfect, and you yourselves would have no luck perfectly conforming your behavior every minute of every day to such precepts of politeness. In short, were you relegated to this facility, you would probably never get out either.

We also live under a rule structure (nearly 1,000, called "policies") that is designed to trip us up at every turn and to find any such excuse for not releasing us.

These claimed deficiencies in comportment with every matrix directive and each of those "policies" show us in high

In those administrative hearings, Special Review Board members (more police, prosecutors, and victim advocates than psychologists) harshly criticize us for every trivial shortcoming in such conformity.

Maybe they don't know of or care about the irrelevancy of these ipse dixit propositions to the only question really at hand: whether or not we would actually reoffend sexually if released. Or maybe they're just looking for an excuse not to recommend our release. They do this because in truth, there is no way of knowing whether anyone will commit a sexual crime in the future. (Just like any honest judge who regularly commits us to this dead-end black hole would surely admit in, say, a candid moment over cocktails among close friends.)

And, just like such judges, they know that their tenure also depends on such commitments, but in ensuring that they continue, rather than that they are initiated. The SRB members are simply looking for excuses to retain a person in confinement.

They cling to childish, singsong claims that "the past is the best predictor of the future," in spite of overwhelming and scientifically undisputed proof to the contrary. (If that simplistic claim were true, it would decree that all who had ever committed a sex offense — or any other crime — are destined to be 100% repeat reoffenders until death.)

But the real fact is that a Minnesota Dept. of Corrections study in 2007 found that average sex-crime recidivism is only 3.2% (as contrasted to 70% average recidivism for drug-addicted non-sexual update reduced that 3.2 figure to 2.8%. This is not the "substantial risk of re-offending" of which you wrote.

The only two studies performed to date from states committing past sex offenders found that people released from as sex offenders not even nominated for such commitment.

In other words: (a) the myth of highly likely recidivism by those selected for commitment is just that — a myth; and (b),

there is no practical difference among sex offenders when it comes to likelihood of later re-offense, whether selected for commitment or not.

It is inflammatory but highly fallacious to claim that there is a cadre of sex offenders who are "the worst of the worst" and hence supposedly in special need of commitment. A mere perusal of appellate reports in criminal sex cases reveals that many — perhaps half — of all sex offenders simply released to the streets in Minnesota at the end of their prison terms have worse records than those seized up to vilify as incarceration.

DOC staff who start this commitment process off by nominating any random unfortunate for commitment know this statistics-set full well, and proceed in disregard of it, just as does the county attorney or assistant attorney general assigned to the case, and so too does the committing judge — just as did the 1994 legislators who created this invitation to officially-carried-out vigilantism.

This law and all actions under its authority since then have been acts of pure politics — at the expense of those denied their freedom for the rest of their lives.

Your suggestion that any attempt to repeal that law would be political suicide for its proponents is smug and gleeful in its self-justification. Your assertion that there is no legal way to undo this massive injustice is appalling and reveals that you opinion is fueled only by your hate-filled wish for our endless suffering.

People driven by such raw hate should not be in the business of spreading such unreasoning hatred — or at least should be under a legal injunction forcing them to wear a sign around their neck proclaiming their obsession with all-consuming hatred.

The fact is that the legislators who enacted that law did so out of crass political motivations. The campaign for that bill included a carefully orchestrated propaganda splash across all media, including newspapers such as yours.

As you should recall, that media splash cast those who have committed a sex crime as monsters with no self-control. But this was sheer showmanship — for the purpose of casting themselves as some heroic posse riding to the rescue of all of "vins was just a...stern characterization that insults the intelligence of every voter — and every news editor and editorial board hornswoiggled by such obviously deliberate deception.

The only truth in your editorial is that es, further "acknowledging" that they may never be released. You add, "Does this mean that a 10-year sentence for a sex crime can become a life sentence? Yes."

But in this horrifically callous and unconstitutional acknowledgement, you miss the more fundamental truth: In our system of guaranteed individual rights, prosecutors do not get a 'second kick at the cat'. Commitment of former sex offenders after their prison terms have expired is exactly that.

Adding on such extra incarceration after a sentence ends is plainly imposition of "double jeopardy." It also denies "substantive due process" as that concept was applied to committing former sex offenders by the U.S. Supreme that case decreed: (1) a mental disorder; (2) highly likely future recidivism; and (3) an inability to control — or at the very least, a "serious difficulty" in controlling one's sexual actions, are typically completely ignored by a committing judge..

Such reflexive commission of sex crimes, without any advance thought as to consequences or even merely as to the probability of being apprehended, means that one simply commits a sex crime at the instant the notion/urge strikes one.

Fortunately such people are extremely rare. Of all the 750 of those currently in MSOP (and I have spoken to most), I think at most there are only a handful who may have this grave problem.

This condition is quite easily dealt with through standard "mentally ill and dangerous" commitment, since those with a reflexive lack of control over their actions certainly present a threat of imminent infliction of sexual violence.

The fact that this standard commitment law was not 'good enough' for proponents of the vastly expansive sex offender commitment law shows that they were aware of how few would satisfy that 'traditional' commitment standard.

It also shows that their motivation was not toward preventing sexual assaults by the tiny number subject to such fits of irresistible impulse in the moment.

Instead, it was a spite motivation aimed at effectively imposing a second sentence of life without parole upon a symbolic group to whose further endless suffering they have, for all these years, been able to look with self-satisfaction in rhetorical extravagance, you should consider that 1994 commitment bill sponsor Rep. Bishop described with clear rage in his voice an episode from years before when he came to believe that a man who had become close to his he discovered that the man had broken no laws and could not be prosecuted for what at most would have been a mere 'thought crime' — if true. (Minnesota

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House/Senate Task Force on Sexual Predators, Hearing 8/16/94, Audio Transcript, Set 7, Disk 1, at 11:59.)

The crimes of all the rest here in MSOP were not impulsive. Instead, those crimes followed the almost invariable pattern among all others who have committed sex crimes. In almost every case, such crimes are closely deliberated and planned long in advance.

Shameful though this is to have to admit, these are not the actions of one who acts on the spur of the moment, impulsively, without reflection or self-control. On the contrary, it is criminal misconduct, imbued with just as much 'casing' and planning as any other crime, and often as well protracted 'grooming' of an intended victim.

This criminal pattern is fit and proper consideration for sentencing, not for commitment (as if for lack of responsibility for one's actions). Indeed, that very fact of such devious planning entered into the sentencing judge's calculus as to later MSOP confines back when they were sentenced. Not to admit that this is double jeopardy simply by another name is sheer sleight of tongue.

This was known by those 1994 legislators when they discussed adopting the bill that became the sex offender commitment law. They were enraged at the horrific criminal acts of the 'poster children' cases paraded before them and the public to build support for that bill. The statements of many of them and of the witnesses who testified in support in those pre-passage hearings are replete with such sentiments.

I have studied those transcripts; I know. Some overtly stated their wish that the law be used to prevent the release of any committed under it, regardless of any treatment received. One of the two co-sponsors of that bill overtly stated that, failing passage of the bill, there would be no other recourse but lethal vigilantism.

Since then, Minnesota's appellate courts have effectively washed out the U.S. Supreme Court's requirement of acts of uncontrollable sudden impulse, instead putting the burden on a commitment defendant to show that he has "adequate control" of a desire to commit sexual crimes. The only way to prove this, those courts say, is to prove that one has not committed sex crimes.

Of course, conversely, this means that anyone who has committed such crimes can be subjected to commitment, despite that his crime(s) was/were long deliberated and planned. Since any such crime indelibly remains on record for the offender's life, it also welds the exit door shut in his face, since that record will always supposedly demonstrate a lack of current self-control, according to the courts' screwy logic.

This defies the U.S. Supreme Court, and removes all limits to civil commit-



ment, changing it from a mechanism to treat those who need it to a supplemental detention system for criminals who were bad, not mad.

You concede that this is a matter of control of "criminals," who you believe (incorrectly) pose a high risk of re-offense. Such control is the business of corrections as to sentenced sex offenders.

It is no business of mental health therapists and forensic "risk assessors." The latter is an oxymoronic term for a field in which there simply are no 'tells' or even merely likely pointers to future recidivism. The best of checklists such assessors use have been measured and found to be no more accurate as to such later recidivism than a sheer-chance yes-no guess. Most are even worse than that.

In any event, meanwhile, in a case called *In re Ince* (2014), Minnesota's Supreme Court quietly did away with the requirement for sex offender commitment that a "more likely than not" likelihood of re-offense be shown, instead effectively reducing it to a standard of any substantial likelihood.

Next door in Wisconsin, the appellate courts upheld commitment under similar legislation of a 70-year-old man. In that case, all three testifying experts agreed that the old man had no higher than a 1% chance of re-offense. This was held sufficient to be a "substantial probability."

Thus, even the bedrock need for such commitment, i.e., the rationale that the person must have an exceptionally higher than average probability of recidivism – has now been washed away in Minnesota. Anyone can now be committed.

Earlier, in *In re Linehan* (1996), Minnesota's Supreme Court adopted six non-scientific factors of impressionistic prediction of violence. Those factors were suggested in a book by John Monahan (a criminologist, not a psychologist, the so-called "Monahan factors").

In that *Linehan* opinion, these Monahan factors were adopted for impressionistic sex-crime recidivism prediction in such commitment proceedings — despite the complete difference in motivation between crimes of violence and sex crimes. Those conjectural 'factors' included, for instance, one's "demographic background" – a blatant invitation to class-based discrimination.

In *Ince*, our Supreme Court renewed its unswerving allegiance to those inapplicable and totally vague factors, purely because they maximize the ability to commit, regardless how unjust. Laws allowing such vicious judicial manipula-

tion for such improper, unjust purposes should never be allowed to exist.

You acknowledge that there is a disconnect between what you (again, incorrectly) claim was the supposed "official" goals/processes (treatment and therapy that lead to eventual release) and the actual "experiences of detainees" with little hope of release ever. However, you credit those legislators far too much.

True: little was then known (compared to now) about sex offenders. However, enough was presented by that bill's opponents to put the legislature on notice that the proposal was not one aimed at treatment toward compassionately hoped-for release. To the contrary, it was an absolute lynch law aimed at accomplishing the closest thing they legally could to a mass lynching – natural life supplemental incarceration.

You argue for reform. So too did the state's Legislative Auditor, James Nobles, in his 2011 report on commitment of sex offenders and on MSOP. Yet to date, MSOP has resolutely resisted change, specifically defying and ignoring almost every edict toward reform set forth by Judge Donovan Frank in 2015 in the constitutional challenge before him in the *Karsjens v. Jesson* case. Even in its recent response to the hunger strikes by confines this year, the only change MSOP fully embraces is to consider changing its name (apparently to deflect the exponentially growing current criticism of it).

Comments made by MSOP head Nancy Johnston for a recent Duluth News Tribune article show only defenses for MSOP's longstanding pattern of wrong-headed failure and disinterest in meaningful change to the program.

All this makes clear that there is not the slightest official interest among MSOP leaders in the radical reconstruction of MSOP that, by accounts of even its mildest critics, would be necessary to substantially change that mission to one of release when it is clear that any given confinee does not meet standards required to keep one under commitment.

The forthcoming MSOP report that you proclaim with optimistic anticipation will be nothing more than a thinly disguised whitewash – the same approach MSOP has always taken in response to criticism and opposition. This is a system that has, by its every action, signaled that there is no 'reform' capable of such radical, required change. It is a system completely off the rails and it must simply be ended now.

Were there now any dire situation of rampant sex crimes by repetitive recidivists, I might add to the end of that last sentence that, having ended MSOP and the commitments that drive it, some legislative attention could then be devoted to completely different measures to avert such a threat to the public.

But in fact, there is no such massive threat. (Indeed, except for the few isolated, horrific cases then cited, there was no 'sex crime wave' in 1994 either.)

The rate of sex crimes has never been as low nationwide as now (identical levels incidentally, between states either with or without such commitment systems). No augmentation to standard sentencing and corrections practices (including mandatory treatment of all sex offenders) by faux invocation of the mental health arm of the social services system is needed.

Nevertheless, it has been accurately observed in many studies that the statistical lowering of such crime rates has been maximized in states with increased sex education and campaigns to heighten public awareness of patterns which often presage sex crimes.

In light of this discovery, it has been soundly proposed that the same amount of money now wasted on incarcerating-to-death old former sex offenders in the pseudo-prisons of MSOP could be put to a much larger and better organized program of such public education to effect a nearly complete end to all sex crimes in this state.

And this, of course, could be accomplished without having to trample the human rights of those who long ago completed their prison sentences and are now simply being detained until death out of hysteria and hatred.

If I had more time and space, I could explain all of the myriad additional reasons that commitment of those who committed one or more sex crimes in the distant past is needless and utterly contrary to actual science.

Should you wish to acquaint yourself with the overwhelming facts that call for an end to such fake mental-health commitments everywhere, I recommend reading the 213-page report I wrote to the Virginia State Crime Commission earlier this year on the occasion of its review of a bill to end a parallel commitment law in that state. That report can be downloaded in text format from: <https://ajustfuture.org/wp-content/uploads/2021/03/Cyrus-Gladden-Report-to-Virginia-State-Crime-Commission-21-03-15-OriginalScanNewOCR2.pdf>.

To interest you further in pursuit of such knowledge, allow me to stretch brevity to its limit by simply citing the following 25 appalling facts in support of repeal, here in Minnesota and in all other 19 states having roughly similar laws:

- 1) Concepts of sexual psychopathy, of rape, of "antisocial personality disorder," or of paraphilias as disorders causing sex crimes are documented junk science.
- 2) The assumption that "treatment" is necessary to prevent recidivism is demonstrably untrue, and the reality that desistance from sexual offending is a widely observed natural phenomenon is deliberately disregarded.

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3) All so-called actuarial risk assessment approaches fail to account for age of a prior criminal event as reducing the validity of its consideration in making a prediction of future recidivism.

4) Low base rates of recidivistic sex crimes in general make greater-than-chance predictions of high probability of future recidivism mathematically impossible.

5) Separately and compounding, the Bayes theorem in statistical analysis and calculation of odds (accepted for the last 300+ years) makes accurate prediction of by no actuarial risk assessment checklist accounts for even just half of the variance in later sexual offending, rendering all such predictions junk science.

7) "Clinical adjustment" of actuarially-derived recidivism probability estimates and "cherry-picking" of condemnatory "dynamic risk factors" -- both without scientific validation as supposed "criminogenic needs" (themselves just commitment.

8) Minnesota's 'home-grown' "MnSOST" recidivism predicting tool applied to sex offenders is so extremely shunned everywhere but Minnesota. Yet virtually every MSOP commitment relies in substantial part on its extreme claims of high recidivism probability, based on unheard-of claimed factors (for instance, disorderly conduct conviction) and on mathematical manipulation of the probability curve to artificially make a small fictional cadre of offenders falsely appear to present a high probability of re-offense.

9) Instructions for the ubiquitously used "Static-99R" actuarial-checklist method of recidivism prediction permit discretionary

choice by a given assessor as to which of three extremely divergent re-offense-risk tables provided with those instructions to apply to a given offender. This destroys any notion of consistency with scientific method. Worse, depending on how the assessor feels about the offender, this impressionistic choice can triple that offender's re-offense prediction percentage, probably dooming him to commitment simply on the assessor's whim.

10) MSOP commitment in Minnesota has been imposed on gays and on those of non-European ancestry at a far higher rate than on heterosexual Europeans, illustrating the complete failure of purported psychological power of heuristics was deliberately employed by propagandists to manipulate legislators and citizens to back passage of these commitment laws in willful ignorance of the true facts.

12) Similarly, invitation to use biased heuristics in prosecution briefs are frequently taken up by the presiding judge, concluding internally therefrom -- often on the ground of "common sense" but a rationale that sounds as if it is the product of scientifically legitimate analysis, but really arising only from such reactive system in Florida of the true recidivism rates of those released from commitment facilities have found no significant difference in rates of later sexual offending between cadres of those releasees and sex offenders released directly from prison without commitment, authoritatively debunking claims of any need for sex offender commitment.

14) In Minnesota, a failed attempt to commit under this law does not bar a successive (abusive) attempt (even the very next day) in a different county to

commit the same defendant on the same allegations.

15) In MSOP, each treatment participant, in order to seek release, must pass a polygraph exam confirming that he has no previously undisclosed sex crimes, and must "talk about" each offense, including those not yet prosecuted.

16) He must separately also pass a penile plethysmograph (PPG) test (in vernacular, a degrading 'peter meter' test) showing no significant sexual arousal to any deviant audiovisual stimuli.

17) These procedures force waiver of one's right against self-incrimination in order to "submit" to these tests -- are grossly inaccurate, and permit subjective interpretation of outputs.

19) Neither of these tests reduce later recidivism at all.

20) Separately, these tests completely miss the mark, since neither the number of past crimes nor existence of paraphilic attractions predict future sexual crimes.

In contrast, Minnesota appellate court to be present in around 10% of all adult males) inherently is an "irresistible impulse."

Were this contention true, nearly all aspect of extremist hysterical rhetoric has been proven contrary to the tiny percentage of children found to have actually been victimized.

21) Clinical Risk Assessment ("CRA"), whether by record review, interview of the commitment defendant, or both, is inherently based on subjective impression and is incorrect 9 times out of 10.

22) Reported probabilities of recidivism by the same sex offender vary drastically and inconsistently from any one risk assessment instrument (RAI) to any different RAI. This also smashes all claims of reliable science at work. Indeed, such varied outcomes allow partisan assessors to 'cherry-pick' the RAI that will cast the given offender in either the best or worst light, depending on who hired that assessor.

23) Since most former offenders petitioned for commitment are indigent, and therefore are assigned (at court expense) the cheapest hack 'experts' available, The prosecution's claims are almost invariably adopted by the judge. There is no science in this.

24) Commitment trials of sex offenders under Minnesota law are not subject to the "beyond a reasonable doubt" standard of criminal trials. This even applies to decisions on sub-issues of guilt or innocence of untried, often uncharged, and sometimes never-previously-made accusations of sex crimes.

Instead, such commitment is tried on a standard of "clear and convincing evi-

dence," a vague standard that offers the trying judge great discretion -- something that one's freedom, likely the permanent loss thereof, should never depend on.

25) Proven partisanship of testifying experts plus undisguised bias on the judges' part ensure commitment of a petitioned sex offender in over 95% of commitment petitions.

Lest you think that this is simply my rant, or the protest of those who recently held a public meeting at the steps to the State Capitol, I refer you to the venerable mental health watchdog group, *Mental Health America*, and in particular to its "Position Statement #55-confining-sexual-predators-mental-health-system#~:text=Position Statement 55%3A. That statement sums it all up thus:

"Repeal Sexual Predator Commitment Laws That Indefinitely Confine Sex Offenders at the End of Their Prison Terms because:

life-time commitment; (3) procedural protections are usually inadequate; (4) they divert resources from persons with treatable mental conditions; (5) they unattainable goal -- punishment -- is more appropriately served through changes to our criminal sentencing laws...."

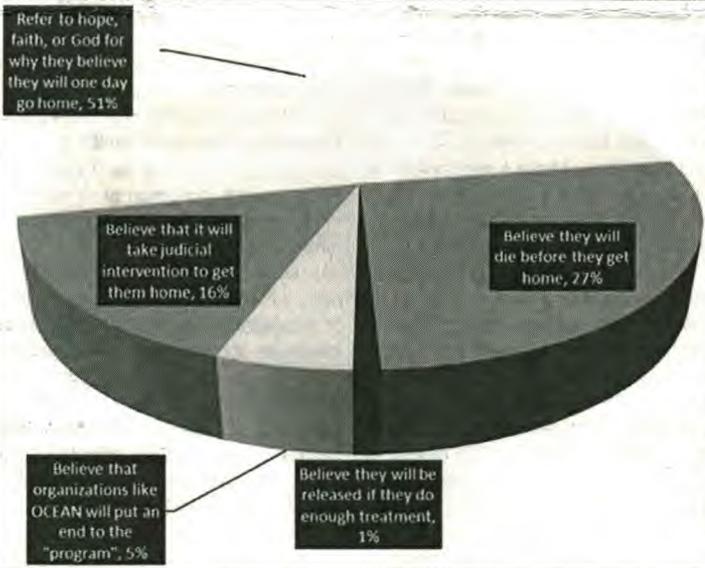
You should also consult the European Convention on Human Rights, which bars the indefinite detention of people in circumstances like commitment of sex offenders. It should strike you as odd that Europeans can see this clearly, but that Americans cannot. Their conviction on this is so strong that member states of the European Union refuse to honor extradition requests from the United States for those who will likely face such commitment if returned to the United States.

You should also consider that confinement pursuant to sex offender commitment is being quietly wound down in at least these other states: North Dakota, Washington, Massachusetts, New Hampshire, Wisconsin, and possibly now New York as well -- certainly a strong sign of official disillusionment about the claims made by 1994 legislators here in Minnesota.

And you should study the chart on this page based on responses by confinees in MSOP's Moose Lake facility to a recent survey conducted by members of OCEAN. Note the poignant contrast between the 51% and 1% beliefs. MSOP confinees know the reality and are desperate.

After all this, you should ask yourselves whether all of the indoctrination you have been swallowing all these years has

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simply been a pack of lies, either by those who themselves have been swept away by their emotional reaction against the very concept of sex crimes they have held in mind, or by those who have manipulated such reactions through further propaganda for personal elevation to positions of power or to avoid being unelected from such positions.

And you should ask yourselves if you have been duped by the foregoing, and should acknowledge that virtually, everything you think you 'know' about this subject is simply wrong.

Then you should ask yourself to examine whether it is moral to endorse such lies when lifetime deprivation of liberty and even human lives are at stake – all for the purpose of increasing newspaper sales and number of subscribers. I'm a former sex offender, but nothing could make me do something as immoral as that.

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## Hotel California Was Right.

Dwayne Daughtry\*, [https://ncrsol.org/2021/06/16/another-hotel-california/?subscribe=already#blog\\_subscription-6](https://ncrsol.org/2021/06/16/another-hotel-california/?subscribe=already#blog_subscription-6); <https://narsol.org/2021/06/civil-commitment-another-hotel-california/> (June 21, 2021)

### Excerpt:

"When I finally overheard the registry community speak about the term 'civil commitment,' I thought people were discussing gay marriage. However, I quickly realized that civil commitment was something much worse than the sexual offense registry and a 'ceremony' that nobody wants to attend.

As it relates to those who have been incarcerated, the textbook definition and justification of 'involuntary commitment,' 'civil commitment,' or 'involuntary hospitalization' is post-sentence institutional detention of an offender to prevent further offenses. Nearly all cases are sex-offense related. [Editor's note: In fact, the only specific crimes as to which such civil commitment statutes exist are sex crimes.] In addition, there are locations known as 'civil commitment' facilities [claimed to be] designed to help diagnose and treat sexual offense conditions. Thus, it is not considered a punishment but rather a means of protecting people.

– At least, that is what people who strongly advocate for civil commitment would say.

The reality is that post-incarceration 'civil commitment' is a cleverly created, feel-good scheme intended to make the general public feel like there is an easy solution to the more critical sexual offense issues. It is a system designed to

give a look and feel of a hospital or treatment facility setting. Let's be crystal clear that civil commitment facilities are identical to prisons. There are guards, fences, barriers, ...where every facet of daily routine is monitored. The only difference between prison and civil commitment is that at least with prison, one knows when he/she will be released. [Hence the term "shadow prison," used by critics of such systems.]

...Some ...civil commitment residents have said that civil commitment 'is like hospice where people go to die'...

Civil commitment doesn't accept or participate in health insurance plans. Instead, it bills patients at inconceivably astronomical rates. For example, the state of New York recently billed a patient 1.8 million dollars or over \$380,000 annually. [Patients will never be able to pay such astronomical fees. In fact, since almost all of those committed have already served very long sentences in prison, they are broke, and almost no payments result from these billings.] But that leaves taxpayers on the hook for potentially hundreds of millions of taxpayer dollars for 'treatment' that almost never 'works' – because the 'patients' are almost never released – and certainly isn't cost-effective. Unfortunately, taxpayers are quite possibly unaware of such 'involuntary commitment' programs in their states. But with the recent pandemic impacting state budgets, now may be the time when scrutiny needs to be focused on the lavish spending by 'involuntary commitment' programs.

Many mental health professionals advocate for cognitive-based therapy (CBT)... "Sex Offender Therapy: A Battle on Multiple Fronts" [and "The Intensity and Timing of Sex Offender Treatment" are two of the scholarly articles that put forth] evidence-based recommendations that set a maximum cap of two years for sex offense treatment with CBT methodologies.... Yet, we continue to witness lawmakers and partisan policy advocates ...propose ill-conceived indeterminate proposals.

'Civil involuntary commitment' is somewhat similar to the lyrics of the song Hotel California: "Relax, said the night man, We are programmed to receive. You can check out any time you like, But you can never leave!" Essentially, sex offense 'civil commitment' facilities and treatment programs are nothing more than hospitals or clinics by-name-only where punishment is the prescription.... A 'civil commitment' that targets and warehouses sexual offenses is a hazardous and extravagant concept that quickly needs to be euthanized. 'Civil commitment' programs are somewhat similar to the detention cells at Guantanamo Bay. They are costly, unethical, political, harmful, have no practical benefit, and sidestep fundamental human rights."



Many more civil detention prisons must be built for all newly vilified groups.

\*: Dwayne Daughtry is Executive Director of "NCRSOL," the North Carolina Chapter of the national Reform Sex Offender Laws (RSOL) organization, and is also a Board member of national RSOL.

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## NARSOL Officially Endorses End-MSOP Protests & Urges Support for Demand to End SOCC in MN.

Paul Shannon, "NARSOL Chair" Urges, 'Support Moose Lake Protesters and Civil Commitment Protest' (July 22, 2021)

"How can NARSOL support the courageous men on hunger strike at the draconian Moose Lake civil commitment facility in Minnesota? How can we show solidarity with their 70 supporters who did a car caravan around the facility several weeks ago – and who on July 18 held an amazing public rally at the state capitol?"

They spoke to the indignities and hardships of the 737 men who have served their sentences but were thrown into civil commitment on the basis that they might commit a new crime in the future. Some of them have been re-imprisoned for many decades.

We heard of the grandfather who will likely die at Moose Lake before he will ever get to see his grandchild, who is not allowed to visit him because he is a minor. We heard of the men who are too old to walk or who have to use wheelchairs. We learned of the absurd restrictions on contact with lawyers and on making telephone calls. We learned that there is basically no treatment available because it is assumed almost all the men will die there. According to one participant, a common reaction among the guards when a man dies in these facilities is,

'Another one completed treatment.'

And this is the most painful part of this nightmare experience: There is virtually no way out, no matter what you do. There is no hope of ever being released. For most, the only way out of this

'preventive detention' is death.

During the rally Mr. Daniel Larson was spliced into the rally by phone from inside Moose Lake. He told the story of being originally incarcerated when he was 15 and being civilly committed ever since – even though he was never convicted of any crime but was judged 'likely to offend.'

It was announced at the July 18<sup>th</sup> rally that the 40 men on hunger strike were urged to end it before they suffered irreparable harm. But two continued fasting anyways, causing great concern among supporters.

NARSOL joins with these incarcerated men and their courageous grassroots supporters in their demand to end civil commitment in Minnesota. We will follow the situation as it develops. For now, we urge all NARSOL member, no matter what state you live in, to consider contacting the governor of Minnesota and implore that he issue an executive order to shutdown preventive detention in Minnesota.

You can contact Governor Tim Walz using this email form: <https://mn.gov/governor/contact/>

Or you can call the governor's office at 651.201.3400.

Better yet you can write to Governor Walz and Lt. Governor Peggy Flanagan at this address:

130 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

You can also view the video of the July 18<sup>th</sup> rally at [https://www.youtube.com/watch?v=\\_EGjcg9piHg](https://www.youtube.com/watch?v=_EGjcg9piHg)

\*: Paul Shannon is Chairperson of the venerable National Association to Reform Sex Offender Laws ("NARSOL").

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## WAR Joins End MSOP in Effort to Terminate MSOP.

Email from WAR (Women Against Registry) to Eldon Dillingham, [adm@womenagainstry.org](mailto:adm@womenagainstry.org) or [eldondillingham@gmail.com](mailto:eldondillingham@gmail.com) (July 25, 2021)

Excerpts (as reported and summarized in [www.thevoicesofocan.net](http://www.thevoicesofocan.net):

"...On Sunday, July 18, 2021, Women Against Registry joined anti-registry activists and anti-civil commitment activists representing five Midwestern states in an outdoor community rally at the Minnesota State Capitol Building in St. Paul. The event was compiled by the Voices of OCEAN, a coalition of family members and loved ones of those indefinitely detained at the Minnesota Pre-Crime Preventative Detention Facility (Also known

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as MSOP). About 75 persons were in attendance, including a brief visit from a Minnesota legislator and a speech from Minnesota Supreme Court candidate Michelle MacDonald.

The #EndMSOP campaign has increased in intensity and visibility in recent months, including two hunger strikes (the latter ending just before the rally) and a 'honk-in' event outside the Moose Lake facility of the MSOP program as a show of solidarity. This outdoor conference was an invitation to start a dialogue with the media and legislators with the ultimate goal of closing down the controversial MSOP.

The morning before the event, three members of the OCEAN group attended the Pride March, a weeklong event for the LGBTQ+ community, in hopes of drawing attendees to support the #EndMSOP rally. According to one of the OCEAN members, they had signed up about 200 people to their email list for future events....

Derek Logue from OnceFallen.com gave a brief summary of the problems with the MSOP. Even though 20 states have civil commitment laws, Minnesota stands out as the worst in the nation. There are currently about 740 civil detainees, second only to California, and first by far if counting per capita. Between 1993 and 2012, no one had been released from the MSOP. After a class action was filed, the MSOP finally began offering conditional releases to a select few detainees. As of 2021, only 14 detainees remain. The high turnover rate leads to constant treatment disruptions, ensuring few detainees ever complete the program. The MSOP is both costly ...and ineffective. As with other issues in criminal justice, racial and sexual minorities are overly represented in the MSOP population. Because of the high turnover rate and apathy from MSOP staff, those in the program rarely, if ever, have a chance to graduate from the program.

To show that those in civil commitment centers across America stand in unison with the End MSOP campaign and to offer hope for release, Vicki Henry used her speaking time to share a message from Robert Turner, a former civil detainee in California, who said, 'What got me out was the fact that I was assigned to get new evaluations at all - and that was the result of a court decision in favor of an entirely different compatriot, someone who challenged the prevailing application of our 'sexually violent predator' in state court....'

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## SOCC: Gateway to Detention of Anyone.

[Text excerpted and edited (as marked) from untitled, editors' OpEd in "Ripple Effect" newsletter, OCEAN, Vol. 3, Issue 2 (June 2021)]

"In America, we value Freedom, Justice, and Equality and we all deserve the protection granted by the Presumption of Innocence. All complacent government officials must be held accountable for their choice to indefinitely incarcerate [countless] men and women without Due Process. We must stand up for the rights of others if we are to protect our own.

Most Americans accused of a crime are presumed innocent until proven guilty. The government has the burden of proving every element of every offense beyond a reasonable doubt, before anyone is punished for an alleged crime.<sup>2</sup> However, Governor Tim Walz maintains a state government that indefinitely incarcerates men and women based on what they might do. This is called preventive detention and it allows a person to be locked up -- until they are dead -- without first convicting them of a crime.

The system is the Minnesota Sex Offender Program (MSOP) and it maintains two maximum security facilities in Minnesota -- one in Moose Lake and one in St. Peter. The name of the institution is intentionally misleading to the public. An 'offender' is someone who has been criminally convicted of a sexual offense.<sup>3</sup>

However, as [Court of Appeals] Judge R.A. Randall put it, '...there is no crime involved....'<sup>4</sup> Twelve percent (12%) of the population at these facilities have clean records. For those who do have criminal records, the individuals have done their [typically very long] time in prison and have by far the lowest rate (a mere 3%) of same-crime recidivism any other category of offender.<sup>5</sup> They are now being [re-incarcerated] for life after they served their time in prison.

Anyone can get indefinitely detained in Minnesota without committing a crime.



The Monolith Crumbles....

[In Minnesota, any judge may be strongly biased (indeed, nothing stops the biased ones from 'volunteering' to consistently preside over such preventive detention cases). But even the unbiased judges will face a re-election contest by a challenger who will surely make inflammatory campaign fodder out of any refusal by the challenged judge to commit anyone brought before him or her for such detention. Thus, the deck is heavily stacked against any preventive-detention defendant.]

In such proceedings, only a [so-called, watery and impressionistic] 'clear and convincing' standard is used by the judge to 'civilly commit' men and women [on any convenient, untested claim, often second-hand hearsay reported as if accepted fact, 'snuck into' court in the reports of so-called 'expert witnesses.'

[Legal commentators have widely lamented that] the tests used to determine who gets committed are '...inherently faulty ...subjective and unreliable.'<sup>6</sup> [In fact, the very best of such actuarial risk assessment questionnaires have been consistently found to be no more accurate than sheer-chance guessing. See TLP's Report to the Virginia State Crime Commission on So-Called "Sex Offender Civil Commitment," Related to Senate Bill 1244 (Session 2021) Proposing Repeal of Virginia Statutes Authorizing Same, Section IV.H.3., available at [www.curesort.org](http://www.curesort.org) and [www.ajustfuture.org](http://www.ajustfuture.org), and secondary web postings per Google search.]

Now in Minnesota alone, about 750 are committed.<sup>7</sup> A person being considered for 'commitment' in this state does not have a right to a jury trial. [Despite a Supreme Court ruling (in *Kansas v. Crane*, 534 U.S. 407 [2002]), it is not necessary [under Minnesota law] to prove that the person lacks self-control, or that they are physically violent. As little as two allegations of sexual harassment is enough, and hearsay is admissible.<sup>8</sup>

Minnesota judges will even indefinitely detain someone based [solely] of alleged conduct displayed as a child. For example, September 2020 marked Dan Larsen's 43rd year [in this pseudo-incarceration]. He was 15 years old when the Governor locked him up [on such mere allegations]. Larsen has no criminal record. He remains confined today. There are so many others like him that must be released and returned to their families.

Sensationalized media coverage in 1994 of a tragic but incredibly rare case [that had occurred decades before] motivated passage of the preventive detention law in Minnesota. [Examination of the history of similar laws in the minority of other states that have them reveals a

consistent pattern of such misuse of media to whip up a frenzy of public fear and hatred as a manipulated excuse for such legislative enactment of such laws. Far from being a groundswell of support for such measures, the facts show that legislators used this terrorizing tactic, followed by acting as self-styled legislative 'heroes,' as a means to ensure the longevity of their political careers.] Seemingly overwhelmed by moral panic, it took lawmakers in this state only 93 minutes of speeches vacillating between hysteria and venom to do what had been planned all along: pass a law that completely ignores our U.S. Constitution's protections of rights of every individual.

On rare occasions, analogous systems have previously existed briefly in this country. In the longest of these (apart from fears about sex crimes), thousands of Japanese-Americans were incarcerated for nearly 3 1/2 years following the attack by the Japanese Empire on Pearl Harbor that commenced U.S. involvement in World War II. More recently, Americans were warned by the Highest Court when the late Justice Antonin Scalia said, referring to that episode, 'You are kidding yourself if you think the same thing will not happen again....'<sup>9</sup> Justice Scalia's prediction has become a reality in the state of Minnesota. The result is a state empowered to imprison citizens prospectively for what they might do in the future. Far beyond that troubling but shorter pseudo-incarceration in World War II; this is the 27th year of operation of MSOP, whose officials con- and always should be.

...The current conditions are ripe for mass incarceration. If you allow a de facto Constitution-free zone to exist that others may be summarily thrown into, that same exceptional approach can be applied to anyone." [As Winston Smith asked in the book 1984 when, bewildered, he found himself relegated to preventive detention for "thought-crime," "Who denounced you?" When and who will it be for you?]

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## Statement from Former Coalinga Confinee Robert Turner to Those Confined by MSOP

"To our brothers at Moose Lake, I bring greetings from Coalinga State Hospital in California, where those still trapped in the civil commitment process refer to them-

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selves as 'hosprisoners.'

I was a hosprisoner myself for twelve long years after finishing my term in the California prison system. I spent those years in treatment – going to groups, taking their tests, completing their assignments. Ironically, once I was released the hospital staff of psychologists changed the treatment protocol, switching from the risk management model that I had slowly, methodically mastered, to the newly popular 'good life' model. Had I been left to stay past 2012, I would have essentially had to start all over again with treatment using the new protocol. Such are the contradictions in this method of dealing with former prisoners who once committed sex crimes. The minders hired by the state to control and manage us don't even know what is the best model for treatment, or if it works at all....

The songwriter and activist Woody Guthrie said that progressive movements sometimes advance like a growing pile of sand on the end of a teeter-totter.. For a long time, the pile slowly gets bigger and bigger, until one day the critical mass is finally reached, and all at once the seesaw flips down on the other side. It may seem like no progress is being made, but the time will come, and it may come unexpectedly. So don't give up hope. We will win everyone's eventual freedom when we stand and fight together as one – as we are doing – growing our ranks as we continue to educate the public and the courts. Keep fighting, We stand with you.

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## Appeal for Help Against Abusive Practices in So. Carolina Gulag.

Letter by confinee in South Carolina SOCC Gulag, July, 2021

Excerpt:

"I am writing you all together because of the nature of what I am writing about. My name is Mark Lott. I am writing from the sexually violent predator treatment program in South Carolina which is privately run by Wellpath Recovery Solutions but overseen by the Department of Mental Health.

We are supposed to be treated as residents and given humane and civil conditions for living, yet the environment here is more punitive and strict than a prison is. We are afforded no rights.

We do not get adequate treatment so therefore the release rate is low. We are given no kind of privacy. We don't get

mail on time and at times we don't get it at all.

We live in unsafe and unhealthy living conditions everyday as our living units are not up to quality standards and are falling apart after only 2½ years in this building. Some rooms back flow into each other.

and shamed, bullied and made fun of by staff and peers. There is strict policies in place about being out as one trying to live as one.

There is a strict policy for complaining 'cause it never leaves [the facility]. We do communication forms and many grievances to no end as nothing is done.

We try to reach out to people on the outside, like South Carolina Law Enforcement Division (SLED) for patient abuse to no avail. We get retaliated against and treated worse. We are told this is a privately run facility overseen at a distance. So they can do what they want to no avail of getting help from the outside.

Recently, myself and 19 other people wrote many places, including the OMH director who in turn sent our letters to this facility to investigate. It therefore will probably go nowhere, 'cause the people we complained about now have our letters.

So, on behalf of me and my peers [here], I am writing to you all for help. If you all can't help, at least please refer us to someone who can and will, 'cause we have no voice unless it's on the outside.

So please respond to me and whatever is needed will be provided by me and my peers.

Our lives are on the line here with no help. Thanks!

Mark Lott 2762  
4546 Broad River Road  
Columbia, SC 29210

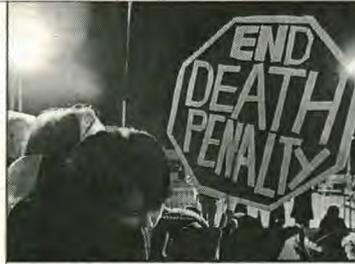
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## Texas SOCC System Fails Deliberately, Leaving Confinees to Die

Eric Dexheimer, Austin Bureau, "Left to Die: Therapists Say Texas Sex Offender Treatment Program Too Often Fails on Purpose," 84 Houston Chronicle, Feb. 11, 2021, <https://www.houstonchronicle.com/politics/texas/article/Left-to-die-Therapists-say-Texas-sex-offender-15942936.php>.

Text:

"Texas's civil commitment program for sexually violent offenders has earned a reputation as an unforgiving place. Much of that is by design.



Natural-Life 'Civil' Incarceration Is Just a Death Penalty in Slow-Motion.

Each of the 378 men in it has already served his full prison term, some 20 years or longer. After their sentences were up, Texas evaluated them as too likely to reoffend, however, so they were ordered kept locked up indefinitely until ready to rejoin the free world. Their average age is nearing 60.

The program's sole facility, a collection of low buildings and temporary trailers, sits amid fields on the outskirts of the rural panhandle community of Littlefield surrounded by two razor-wire-topped fences. Buildings are locked and outfitted with security cameras. Even so, many residents must also wear GPS ankle monitors.

The Texas Civil Commitment Office is tasked with striking a difficult balance, protecting the public while providing the men a clear path to rejoin society. But five years after lawmakers overhauled the program, a chorus of critics contends the state still hasn't gotten it right.

Post-prison commitment, which applies only to sex offenders, is constitutional because it is considered treatment, not additional punishment. Yet former staff therapists say Littlefield's version of therapy too often fails on purpose.

Even men who have completed their treatment continue to be held, they say. Counselors say their recommendations for advancement were regularly disregarded.

'Every time we as therapists felt someone was ready to go, to move into the community, the administrative side came back with more requirements, to hold them longer,' said one. (The therapist asked not to be named because of ongoing work for the state.)

Of the 552 men who've entered the program, 10 have been sprung – the same number who have died in secured nursing homes before they were released. Two of the 10 were let out only after winning court battles on their own.

Over the past year, the cost of commitment has been especially acute. Seven Littlefield residents have died of Covid-related complications – a rate 10 times higher than Texas prisoners.

Two months ago, an Austin attorney filed a class-action lawsuit contending residents were being kept locked up with

no clear way out. The program is little more than 'a therapeutic hamster wheel,' where patients are forced to retrain the same ground and therapeutic modalities for years without hope of actual progress,' it stated.

Residents, their families and attorneys say they have puzzled over why the some administrators, say advocates, the reason may be too personal.

'Nobody progresses?'

In 2014, the Houston Chronicle published a series of articles exposing how dysfunctional the Texas sexually violent predator program had become. Although it was billed as treatment, no offender had successfully exited it. Many had mental illnesses leading them to violate rules they couldn't grasp, sending almost half back to prison.

Legislators overhauled it the following year, renaming it and adding more treatment and legal protections. Today, among the 20 states with sexually violent predator civil commitment programs, Texas has relatively few participants compared to its population, according to the Sex Offender Civil Commitment Program Network.

Officials say that's because the selection process identifies only truly dangerous offenders. Prior to his scheduled release from prison, an offender convicted of repeat violent sex offenses is evaluated by a seven-member panel for a 'behavioral abnormality' that makes him likely to reoffend. Prosecutors must then convince a jury. About 30 men are committed every year.

...While at Littlefield, the men work to advance through a five-tier treatment program. Tier 5s are considered safe enough to live in the community.

During the surge of coronavirus cases in the fall and early winter, however, 'Everything stopped,' said Jennifer Williams, whose son was committed in 2018. 'They can't use the phone or microwave, no therapy.'

It was the latest blow to a program seemingly designed to hinder advancement, four former therapists said in interviews. All described instances in which their clinical judgments were discarded by administrators seemingly intent on keeping residents locked up as long as possible.

Shane Bowyer, who quit in frustration in 2019, estimated his recommendation a resident advance or move to community living had been overridden 20 times. 'The majority of our therapy was how to cope with how irrationally they were being treated,' he said.

'It seems that some of these people are completing the therapy and they're still not getting out,' said Bruce Anton, a Dallas attorney. In 2017, he said he was

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contacted by the family of a Tier 4 resident who had earned an evaluation concluding he no longer posed a risk.

But the agency 'still found reason to reject his release,' Anton said. The man was freed in 2019 after the family hired another doctor who agreed with the no-risk assessment.

U.S. District Judge Sam Sparks pressed a Littlefield official about the program's low release rate. 'So are y'all just doing a terrible job, or nobody progresses?'

The program manager explained that, with the stakes of a re-offense so high, treatment was considered long-term. Recommendations for residents to move into the community were made by a team of therapists and case managers, she said, with the final decision belonging to Executive Director Marsha McLane.

'Marsha is where the buck stops,' added William Marshall, a Houston attorney who has represented several residents. 'If she doesn't want a resident released, it doesn't matter what the treatment provider recommends.'

Her desire to keep the men at Littlefield, Bowyer added, 'seems to be largely personal bias.'

'Seems like a conflict of interest'

Bias is difficult to prove, but at least two people in positions of authority in the civil commitment program have personal backgrounds that advocates said raise questions about their ability to make objective judgments.

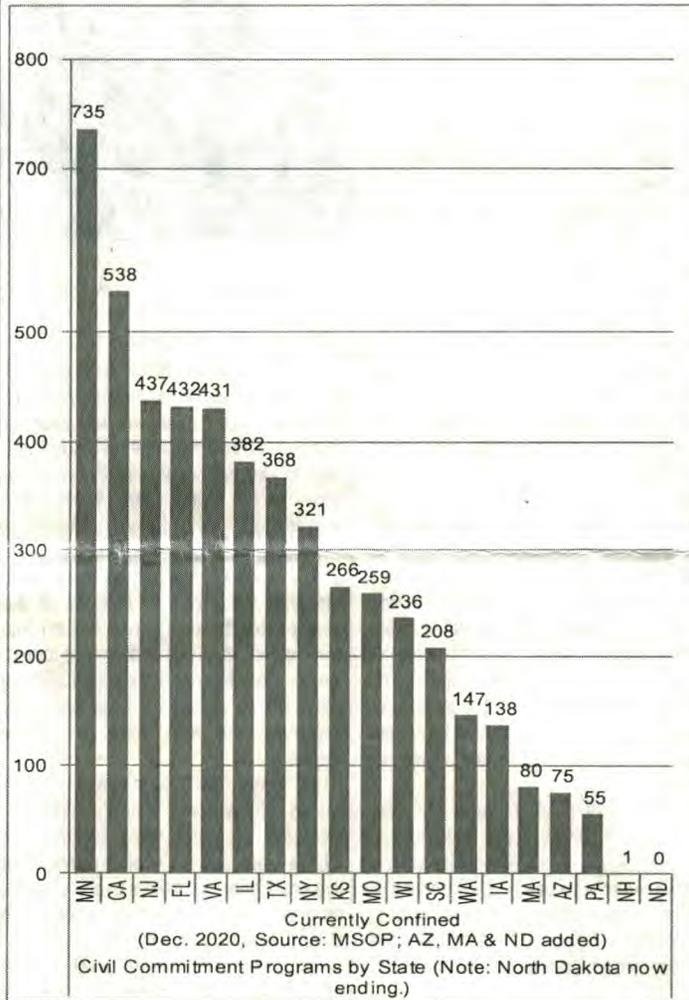
McLane was married to a sex offender. According to Williamson County court records, her husband was charged with indecency with a child in 1996. He was sentenced to 10 years of deferred adjudication and ordered to attend treatment. But after allegedly exposing himself to two children in 2004, he was sentenced to six years in prison.

McLane stopped living with him in 1996, records show. Their divorce was finalized in 2004 after 20 years of marriage and two children.

'I think it's very relevant,' said Mary Sue Molnar, director of Texas Voices for Reason and Justice, which supports people on the sex offender registry. 'It seems odd that she had a bad relationship with someone on the registry and now is in charge of whether a person remains in civil commitment.' McLane at least should have disclosed her history before taking the position, she said.

Marshall agreed. 'I would have liked to have had the chance to ask her about it' in depositions for his lawsuits against the agency, he said.

McLane said her ex-husband's behavior had no influence on her work. 'His actions, having occurred almost 25 years ago, have no bearing on my duties or



decision making today,' she wrote in an email.

TCCO's deputy director, Jessica Marsh, added that while McLane has the final say of who is released from Littlefield, she relies on recommendations from a team that performs a comprehensive evaluation. McLane has not rejected any final recommendation that had gone through the full review process, Marsh said.

It's unclear who knew of McLane's personal history when she was hired to lead the agency. But Sen. John Whitmire, D-Houston, who led the effort to overhaul the program, said he considered it irrelevant.

'He believes Marsha does a good job and does not believe that something that happened 30 years ago impacts her ability to do her job,' spokeswoman Lara Wendler said in an email. Whitmire was confident the program is operating as intended, balancing 'public safety with treating the client to prepare for successful reintroduction into the community,' she added.

McLane also has the support of her bosses. The Texas Civil Commitment

Office board recently voted to raise her salary to \$207,000.

Yet advocates, attorneys and former treatment providers noted the panel has its own apparent learnings. Even though Littlefield is considered a therapeutic facility, none of the five governor-appointed positions is occupied by a treatment expert. Three are current or former prosecutors; one is a police chief.

The sole civilian is victim's advocate Rona Stratton Gouyton, whose sister was murdered in 1981. After serving his sentence, the killer, Wesley Miller, was committed as a sexually violent predator when Gouyton lobbied lawmakers to expand the law to include offenders whose crimes may not have been prosecuted as sexual offenses but had sexual intent.

Now 58, Miller remains in Littlefield, the facility overseen by his victim's sister. 'It just seems the cards are stacked,' Molnar said.

Gouyton said her family's tragedy, as well as her work advocating for victims of sexual assault, brought important and necessary perspective to the civil commitment agency. 'I take my role as a board member very seriously and would not

allow my personal history to impact my decision-making,' she said in a written statement.

Confining rather than curing

The civil commitment program has been sued often, with the vast majority of challenges being turned away. But a series of connected lawsuits already has had unusual early successes.

Jeremiah, was sentenced to ten years in prison for molesting a child at a Central Texas monastery. A decade later, he was placed in the Sexually Violent Predator program.

At the time, Texas's version included intensively supervised outpatient programs. Hitt thrived, according to legal filings. He moved to a halfway house near Austin and worked at a downtown restaurant. By 2014, he had enough money to buy property and a trailer.

When the SVP program was overhauled, Hitt was told that he could remain an outpatient, according to court filings. But in late 2015 he had started a relationship with a woman.

It wasn't forbidden – she was a consenting adult – but Hitt's supervisors accused him of not keeping them informed. After failing a polygraph, he was surrounded by police and taken to jail. Days later, he was moved 400 miles away to Littlefield.

Still, Hitt remained confident he'd be out soon. He was labeled Tier 4, the final stage before community living. A therapist recommended he return to Austin, according to court documents.

Yet with no sign administrators would release him, in 2017 he sued, claiming that by summarily re-locking him up, TCCO had effectively revoked his years of treatment gains. Despite the long odds, -- Hitt filed his federal lawsuit without an attorney – in April 2019 a judge agreed he had been wrongly denied a hearing. The case is pending.

Hitt has since filed a second lawsuit. Despite being a Tier 4 on the verge of re-entering the community, it alleges McLane later personally ordered him demoted to a Tier 2 in retaliation for his first lawsuit, guaranteeing additional years at Littlefield. In court filings, McLane has denied it. But Hitt remains there today, five years after arriving.

Now represented by Austin Attorney David Gonzalez, Hitt recently asked the lawsuit be converted to a class action, to include other Littlefield residents languishing in the program for no therapeutic reason. 'TCCO is treating to confine, rather than treating to cure,' it said.

'If Hitt has not – and cannot – make it out [of the program] no one ever will. Rather, Hitt and the other Plaintiff Patients have been left to die.'

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