

"In a democracy, citizens bear the burden of self-protection from state tyranny."

-- Jennifer A. Brost, "The Metal Eye," (etc.), 55(1) California Western Law Rev. 1 (Fall 2018)

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WAR & NARSOL to Host Wash DC 3-Day Conference & Protest Event Against Abuses by All Forms of Oppressive Laws on ICSOs

(Eds.), "Calling All Advocates: We Are Bound for D.C.," the [NARSOL] Digest, Vol 16, No. 1 (Jan. 2022), p. 3
Text: "Women Against the Registry (W.A.R.) is planning a three-day conference, lobby day, and vigil and bringing together advocates from across the country for a special three day event March 5-7 in Washington DC. Entitled 'Teamwork Makes the Dream Work,' it seeks to bring all of us working against present sexual offense laws and policies together to meet each other, to learn, and to act. NARSOL board members David Garlock, and Paul Shannon will be participating in the event.



This Big? If Your People Come!

Sunday, March 5 is an all-day conference, a day filled with an impressive array of professionals and advocates presenting and facili-

tating break-out groups. The final speaker for the day will be NARSOL board member David Garlock.

Monday will start with a unified panel discussion with representatives from NARSOL, W.A.R., and other advocacy groups. NARSOL board member and chair emeritus Paul

Shannon will represent NARSOL. This will be followed by a Capitol Hill visit and training in preparation for visits to our members of Congress.

The main event during our time in D.C. after the conference is the vigil on March 7 near the U.S. Supreme Court to call attention to the 20th anniversary of the Smith v. Doe decision, which has significantly harmed and continues to harm registrants and their families. That decision was signed by one now-retired and one current justice.

Conference reservation information is available at womenagainstry.org/; ticket and hotel reservation information can be found at [womenagainstry.org/hotel.](http://womenagainstry.org/hotel/)

SOCC Detainee Duped into Surgical Castration

Tom Cullen, "Sex Offender Claims State Forced Castration: Goodwin Seeks \$2.25M in Lawsuit over Therapist Obsession," *Cherokee Chronicle Times* [Cherokee, IA], January 24, 2023 (chronicletimes.com/articles/featured-stories/sex-offender-claims-state-forced-castration/)

Text Excerpts:

"A patient at the Cherokee [IA] Civil Commitment Unit for Sex Offenders has demanded \$2.25 million from the state for damages including 'forced castration' that was inflicted after an improperly close relationship with a CCUSO psychologist.

Jeff Goodwin has requested \$1.5 million for 'pain and suffering' and an additional \$750,000 for punitive damages from the relationship, which has been described in court documents as an 'emotional affair' that included 'sexual discussions.' In a Jan. 12 filing in Cherokee County District Court, Goodwin's attorney, Brad Schroeder of Des Moines, said his client suffered from 'prolonged confinement and forced castration.'

"I'm going to let the filing speak for itself," Schroeder said when asked to specify how his client suffered from the relationship.

Alex Carrae, a spokesman for the Iowa Department of Human Services, did not respond to requests for comment on Goodwin's claims.

Goodwin sued the state in May 2021, alleging that Sanders committed therapist malpractice and CCUSO failed to take 'remedial action' as the relationship matured.

Goodwin allegedly became obsessed with Sanders and claims to have sent her notes in code and became enraged if he felt he or someone else dishonored her. They allegedly watched pornography together. And Sand-

ers allegedly encouraged Goodwin to fondle himself in her presence and write sexually motivated fantasies about her.

The state has denied those claims.

Sanders was terminated from her role at CCUSO in 2019 after a three-month investigation that stemmed from Goodwin's complaints that Sanders manipulated him.

Goodwin was left at CCUSO to sort out how he was manipulated. He opted for surgical castration, according to Guy Elgers, a former facility psychologist who treated Goodwin for three months.

Elgers said Goodwin was not under his care at the time he decided to pursue testicle removal, a relatively extreme and permanent form of castration compared to temporary methods involving chemical injections.

"It's something no (patient) to my knowledge has done in CCUSO," Elgers said. "What's weird is that it happened to him."

Elgers asserts that CCUSO administration intended to treat Goodwin in a way that would lead him to conclude physical castration was a viable option. He claims Goodwin voluntarily pursued the surgery with the consultation of a CCUSO therapist.

"(They) planted the idea in his head," said Elgers, one of 14 people who Schroeder listed as possible witnesses to the circumstances involving Goodwin. "He didn't think of it on his own."

What motivated the continued manipulation of Goodwin, Elgers said, was Goodwin complaining about Sanders manipulating him. Elgers resigned from CCUSO in March 2022 due to irreconcilable differences with administration, including Sanders. The Iowa Department of Administrative Services dismissed a Step 3 grievance Elgers lodged against CCUSO for a variety of administrative deci-

sions - including Sanders' hiring - because he resigned voluntarily.

In his lawsuit against the state filed last May, Goodwin alleged the relationship with Sanders significantly reduced or eliminated his chances of graduating from CCUSO's treatment program. Goodwin was actually close to completion, according to interviews with CCUSO patients who know him.

Austin Keck, a CCUSO patient who lived on the same floor as Goodwin when the relationship occurred, told the Cherokee Chronicle Times that Goodwin was nearing the fifth and final treatment phase required for transitional release, a program that allows patients to be employed off campus and eventually live in the community.

Goodwin's treatment progress vanished completely because he also violated CCUSO rules in fostering the relationship with Sanders, which led to him being demoted to phase one.

"When I first got there in 2018, (Sanders) told me, 'Austin, we're not here to have a relationship with you'" Keck said in an interview this month. "What struck me about her is that she went behind everybody's back and still had a relationship with one of the most violent sex offenders in CCUSO: Jeff Goodwin."

Both Keck and Goodwin were deemed by judges as sexually violent predators, which led to their placement at CCUSO. Goodwin has frequented prison and CCUSO since he was first convicted for a 1988 assault in Keokuk. The Iowa Supreme Court in 2004 upheld a jury's ruling that found Goodwin to be a violent predator who must be committed and treated for sexual sadism, exhibitionism, and antisocial personality disorder. A Wapell

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Coming Soon:

- ✓ Remorse Bias — What's THAT?
- ✓ A Little History Yields Deja Vu
- ✓ Othering and Resistance. Huh?
- ✓ Beware the Deepfake
- ✓ What Is E-Carceration? Why You Will Care
- ✓ RNR vs. Good Lives vs. Virtue Ethics vs. Desistance: Any bets?
- ✓ Lie-Detector Interrogation & Peter Meter Testing: Keeping You Down by False Hope, Fear, & Shame
- ✓ What Does Substantive Due Process Say about PPG Testing?
- ✓ Findings Change Everything.
- ✓ Bayes, Monahan, Chaos, Uncertainty — Oh My! Actuarial Prediction? Good Luck with That!
- ✓ Is 'Machine Bias' a Bias Machine?
- ✓ Anti-ICSO Vigilantism: No Time to Stick Your Head in the Sand!
- ✓ Health Disservices? People Are Dying. What Can Be Done?
- ✓ RNR vs. Good Lives vs. Virtue Ethics vs. Desistance: Tag Team?
- ✓ FAC Asks UN to Deem US ICSO Registry Violates UDHR. Quick! You Need More Alphabet Soup!
- ✓ A California Quiz?
- ✓ Eye Tracking: Sexual Desire, or Just Curiosity?
- ✓ Unreported? Or Just Fictional?

Feedback? News? Write!

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lo County District Court Judge committed Keck to CCUSO in 2018 because he suffered from a mental abnormality that makes him likely to commit sexual offenses.

The two were at different stages of treatment in Cherokee. It took Keck three years to reach phase three, which he claimed is a typical treatment schedule for a CCUSO patient. Goodwin reached level two of phase four. Schroeder confirmed Keck's assertion on his client's treatment progress.

By being demoted back to phase one after his involvement with Sanders, it basically added years of additional treatment at CCUSO for Goodwin.

'They brought him back down to phase one level one,' Keck explained.

Schroeder noted in the Jan. 12 court filing that a treatment program supervisor at CCUSO might know that Goodwin's treatment phases were taken without grounds and in retaliation for Sanders' situation.' He also claimed his client was denied medical treatment as an additional form of retaliation.

And Schroeder claimed several low-level psychiatric security specialists were either targeted by CCUSO administrators or harassed because they knew about the relationship between Sanders and Goodwin.

Schroeder declined to comment on the filing.

Stan Thompson, an assistant attorney general representing the state, did not respond to a request for comment on Monday.

ACSOL [eds.], "Action Alert: NM Lawmakers Propose House Bill 128 That Would Allow Chemical Castration of Sex Offenders for Parole," January 25, 2023 (<http://all4consolaws.org>)

Text Summary of article by same name written by Robert Nott for *The Santa Fe New Mexican*, printed & posted January 24, 2023:

Two New Mexico legislators, John Block and Stefani Lord, have introduced a bill that would provide judges the opportunity in sentencing a sex offender in crimes against children to condition parole for the offense on agreeing to accept chemical castration. This involves administration of chemicals to the parolee that reduce his testosterone levels, an effect that can lower a male's sex drive. (Obviously, this only works in males, a fact that shows the legislators' incorrect assumption that all sex crimes against children are committed by males.)

According to the bill, offenders otherwise eligible for parole must begin taking this regimen of chemical administration at least 30 days before their release date from prison. Except for indigents, parolees who agree to this must pay for this 'treatment.'

The treatment must continue until the sentencing judge says that it is "no longer necessary." Quitting not only nets a parole violation, it also is a felony crime. There is no standard for or even merely any definition of this phrase, leaving the issue of length of term of such drug administration entirely in the judge's discretion.

This is crucial, given that numerous side effects of chemical castration are severe and can inflict irreversible harms. This is also true of surgical castration but, for reasons unknown, such side effects are of more types, somewhat different, and usually more severe than those of surgical castration.

Chemical castration side effects are known to inflict more extreme harms the longer such 'treatment' proceeds. These harms can include Type II diabetes, liver malfunction, kidney malfunction, osteoporosis, hypertension, and pulmonary embolism, among others. For this reason, a course of administration of the chemical castration chemical is for a relatively short period, typically less than one year.

Because parole periods for sex crimes usually stretch on for at least five years and often as much as 10 to 20 years, a judge, realizing that a sex crime by one of his parolees would very likely result in loss of his seat at his/her next reelection, would probably not grant a motion for approved cessation of a chemical castration regimen at any time short of expiration of that lengthy parole term.

The article points out that a total of nine states already condition sex offender parole on chemical castration, including California, Texas, and Alabama.

A "study" published in the "National Library of Medicine" website (which may not have been peer-reviewed) noted that compulsory surgical castration has been practiced for "thousands of years," as criminal punishment, among other purposes. That the "study" apparently advanced this as justification for doing so in the modern era casts a questionable light on its academic status.

Even more cause for questioning emerges from the study's assertion that only "2.5% to 7.5% of sex offenders who underwent surgical castration reoffended later, but claiming that recidivism for sex offenders who did not was allegedly "60% to 84%." All modern recidivism statistics show that the latter range is preposterously false. These modern, debunking statistics have been known since the Millennium, calling into question the credentials of those making such an extreme, false percentage. (In fact, the average recidivism rate for all sex offenders nationwide centers on 3%, ± 1.0%.) Since the percentage of sex offenders who undergo surgical castration is so infinitesimal (far less than 1%), the foregoing average figures of recidivism for those not castrated cannot be more than about one percent of that 3% figure (that

is, at most, an average of only 3.03%.) Clearly that claimed "study" is either junk science at its worst or just plain fraud.

It is known that the testosterone-reducing effect and its impact on libido of 'chemical castration' evaporates over a relatively short period after discontinuance of the administration of that chemical. Hence, it is far more doubtful than in the case of surgical castration that it can have any lasting impact at reducing libido.

In sum, chemical castration cannot reduce the incidence of sex crimes to any level of statistical significance. Its side effects make it a medical barbarity inconsistent with fundamental human rights; it is a doctrinal descendant of Dr. Mengele. It produces severe, lasting health harms. Legally, it is unspeakable that a parolee should find himself threatened with a felony if he refuses to have his body's hormonal balance and metabolism altered, potentially irretrievably, all to work no more than a statistically trivial difference in likelihood of later sexual reoffending by him. This cannot stand in our land of constitutionally reserved individual rights.

MN Supremes Rule That MSOP Duty to Follow CAP Transfer Orders Was Clear.

William Dobbs, The Dobbs Wire: "It's a Win in the Minnesota Supreme Court – a new ruling concerning the Minnesota Sex Offender civil commitment program (MSOP). The case is about the interminable delays by which the state consumes constitutional and human rights to liberty, and often the lives of those locked up in MSOP. Below [is] ...a summary of the ruling and a link to the court's decision. info@thedobbswire.com"

Minnesota Lawyer: Minnesota Supreme Court Digest – *McDeid v. Johnston*

"The Minnesota Commitment Appeals Panel (CAP) ordered two patients in the Minnesota Sex Offender Program (MSOP), respondents, to be transferred to Community Preparation Services (CPS) – a reduction in custody. Respondents claimed that the Commissioner of the Department of Human Services and the Executive Director of the MSOP violated their due process rights by delaying transfer of respondents to CPS for over two years following the CAP transfer orders and sought relief under 42 U.S.C. § 1983. The state officials sought to invoke qualified immunity against respondents' section 1983 claims. The District Court concluded respondents each sufficiently alleged a violation of their Fourteenth Amendment due process

rights to a transfer to CPS within a reasonable amount of time following a CAP transfer order. The District Court also determined, however, that qualified immunity shielded the state officials because the right to transfer to CPS within a reasonable time of the CPS transfer orders was not clearly established when the CAP transfer orders were issued. Consequently, the District Court granted the officials' motions to dismiss. In affirming the District Court, the Court of Appeals assumed, without deciding, that respondents had sufficiently alleged violations of their due process rights. But the Court of Appeals agreed with the District Court that the right to a transfer within a reasonable time of the CPS transfer orders was not clearly established. The Supreme Court held that respondent MSOP patients had a clearly established right to transfer to Community Preparation Services within a reasonable time following issuance of a Minnesota Commitment Appeals Panel transfer order. What amount of time is reasonable in any given set of circumstances is an issue of fact to be determined by the District Court. Reversed and remanded."

Link to the Supreme Court's decision in *McDeid v. Johnston*: <https://www.mncourts.gov/mncourts.gov/media/Appellate/Supreme%20Court/Standard%20Opinions/OPA210042-020123.pdf>.

by Cyrus Gladden

On Feb. 1, 2023, the Minnesota Supreme Court handed down its decision in the Section 1983 lawsuit appeal by Ricky McDeid and Shane Garry, two MSOP confinees.

In late 2017 and early 2018, respectively, McDeid and Garry had been granted a reduction in custody, specifically ordering transfers of each of them from MSOP's Moose Lake high security facility to the "Community Preparation Services" ("CPS") facility located outside of the high security perimeter of the MSOP facility at St. Peter, MN.

When those two transfers had not actually occurred by November 2019, McDeid and Garry filed Section 1983 lawsuits in state District Court claiming that the delay in carrying out those transfers violated their right to due process. McDeid was transferred to CPS a month after filing that suit. Garry was transferred to CPS eight months later.

In December 2019, the defendants, officials of MSOP and its administrative overlord, the state Department of Human Services, moved to dismiss those two cases, claiming that, even if wrongful, they had "qualified immunity" for that delay under Section 1983 law.

The District Court held that the plaintiffs had a protected due process interest in timely transfers to CPS after those transfers were ordered, that the defendant

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officials violated that right when they failed to transfer plaintiffs in a reasonable amount of time, and that plaintiffs had no "meaningful process or procedural protections ...to ensure timely or actual enforcement of the CAP transfer order."

However, the District Court went on to hold that the defendant officials were entitled to qualified immunity in the absence of some very specific precedent that would clearly establish the specific right as a due process violation. Based on lack of this requirement under Section 1983 law, the District Court dismissed the McDeid-Garry cases.

McDeid and Garry immediately appealed to the Minnesota Court of Appeals. That appellate court consolidated the two appeals and affirmed dismissal of that consolidated case on that same basis that plaintiffs-appellants had not shown that prompt transfer within a reasonable time after the order for it had previously been recognized as a "clearly established" right under due process.

The Minnesota Supreme Court accepted the case for further review. In that review, that high court started with the premise that a factually identical prior case precedent was not required; all that is required is that, under earlier precedent, the unlawfulness of defendants' actions in the current case is apparent.

Noting that under applicable court rules, a ruling by the CAP court became final if not appealed within 15 days, the Supreme Court observed that the defendant officials had not appealed the CAP order for either McDeid or Garry. Quoting a 1993 ruling by the federal 8th Circuit Court of Appeals in *Sloane v. Herman*, the Minnesota Supreme Court determined, "A reasonably competent official should know that it is not lawful to disobey a final and nonappealable court order." (983 F.2d at 110).

While defendants argued that they have discretion in both treatment and facility moves of various confinees, the Supreme Court opinion distinguished the two types of decisions from each other, pointing out that treatment decisions had plenary discretion, but that statutory custody-reduction decisions were bound by statutes and rules, including that 15-day finality rule. The Court summarized, "... [T]ransfer orders issued by the CAP are mandatory and the State Officials do not have the discretion to ignore CAP transfer orders."

In footnote 6, the Court added, "Although there may be some wiggle room as to what is a reasonable time - an issue that is not before us once that reasonable time has passed, the State Officials no longer have any discretion to ignore the CAP transfer order indefinitely (indeed, forever) if the Legislature fails to provide funding." Because CAP orders are mandatory and not merely abstract,

said the Supreme Court, officials are on clear notice of the illegality of their "extended delay" in obedience of those orders.

However, the Supreme Court remanded the case to the Court of Appeals for decision whether the failure to timely obey the CAP order amounted to a violation of due process. Given the observations by the Supreme Court, it would seem obvious which way they are suggesting to that lower court that the case should be decided.

ACSOL Tags Feds by Preliminary Injunction against SORNA.



by Cyrus Gladden

Janice Bellucci, Executive Director of ACSOL (Alliance for Constitutional Sex Offense Laws), announce on January 13, 2023 that ACSOL and a "John Doe" additional plaintiff have obtained a preliminary injunction against U.S. Attorney General Merrick Garland and the U.S. Dept. of Justice. That injunction bars enforcement of SORNA regulations pending the outcome of a case in the federal court for the Central District of California.

The First Amended Complaint in that case claims that SORNA, which imposes vast requirements and prohibitions upon sex offenders related to the general registration obligation under that federal law, violates due process, the First Amendment, and the separation of powers and non-delegation doctrines, all in the U.S. Constitution, as well as violation of the federal Administrative Procedures Act as being in excess of statutorily granted authority.

No further information about the case is available as of this writing.

DHS Insider Blocks Full GA for MSOP Confinee Workers; Appeal in Progress.

by Cyrus Gladden

In both the January and February editions of *The Legal Pad* (#s 7:1 & 7:2), I reported on an administrative appeal case seeking eligibility for the full monthly "General Assistance" benefit for at least

one MSOP confinee working on a part-time basis for MSOP.

In Minnesota, "General Assistance" ("GA") is the least type of welfare benefit, typically provided as cash to individuals who do not qualify for any larger monthly sums through any more specific welfare program. While most recipients of GA reside in the free world, a lesser amount of GA is available to those confined in civil commitment facilities.

This lesser sum (let's call it the "full GA" benefit for them) is typically made available without further deduction to those who derive a small amount of monthly income by working part-time for the facility in which they are confined.

However, in the case of civilly confined former sex offenders, a deduction from that same lesser GA monthly sum is taken from that benefit amount based on the amount of pay for such part-time labor provided by a given committed sex offender who works in the facility of his commitment.

This deduction, only applicable in sex-offender civil commitment (SOCC) facilities, was always discriminatory. As noted above, the particular SOCC confinee challenged that discriminatory deduction in an administrative appeal to the state headquarters of welfare benefits. The reporting in those two earlier *TLP* editions explained that he won the right to receive the full GA amount paid to those in other kinds of commitment facilities undeducted by work pay received.

The reason for this victory was a recent piece of legislation that made it more explicit that no deductions were to be taken from sums received from "rehabilitative programs." The administrative judge ruled that the MSOP's "Vocational Program" was rehabilitative, barring that deduction.

Yet that MSOP confinee did not see any "full" GA checks arrive. Upon inquiry, he received a memo written by an employee of the state level office supervising General Assistance payments.

Apparently, this individual, who had no role in that appeal, found out about the MSOP confinee's victory, and took it upon himself to singlehandedly reverse that victory by a campaign of emailing every county office of GA in the state, advising them not to pay full GA to MSOP confinees who worked in that Vocational Program, purely on the contention that the failure of the underlying statute to use the word "rehabilitative" made the payment of undeducted GA benefits improper.

Yet surrounding statutes also dealing with the same subject matter, plus state administrative rules on topic, and the internal policies of MSOP itself all do use the word "rehabilitative" in the same connection and go to substantial lengths to explain why the Vocational Program is an important part of rehabilitation of

confined sex offenders, such that they can be fit to hold jobs after release, performing satisfactorily and behaving appropriately with all coworkers.

As it happens, your reporter also holds an assigned work position in MSOP for which I am paid. I learned of the new legislative act that made it clear that no deductions should be taken from GA, and for that reason, applied to receive GA, just as most here in MSOP do. I was approved by the county office in my case to receive GA, but only the former, reduced amount based on my Vocational Program pay.

I too immediately appealed this shortfall. That appeal remains pending at this writing. As a reporter, I have nothing to retract in this story. When those previous articles were printed, it very clearly appeared that all MSOP confinees who work would be entitled to undiminished GA benefits. Despite the interference of this interloper, that remains true; based on law that is readily apparent.

In my humble opinion, the only way that I might lose my appeal is if courts in Minnesota, as they have on past occasions, have seized upon clearly inapplicable points of unrelated law as supposed excuses to rule against sex offenders in virtually every instance in which any case involving a sex offender comes before a court.

Given my legal training and experience, I am well aware that a system claiming to be one of laws that nonetheless abandons the rule of law under such subterfuges in service of covert biased outcomes is no justice system at all. Whatever anyone's opinion of sex offenders in general or of me in particular may be, any self-proclaimed justice system that engages in such bias must not stand.

If it does, it could just as easily be any disliked or disfavored person/group next time. So the fight for justice goes on, even in such comparatively trivial matters. Respect for law depends on honest and impartial decision making based on clearly applicable, unassailable points of law, not overthrow of precedential decisions by either mob or individual interlopers telling governmental employees to disregard such case precedents.

Virginia Report, #23:

The End

t. ARA Use Is an Unscientific Attempt to Predict a Given Individual's Future.

By our very nature, humans are not only changeable, we are constantly changing, even when we don't want to and when we are unaware of such personal change. Even firm intent to recidivate can, and usually does melt away over time as individuals experience and

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witness numerous events, learn of myriad things, and have discourse with any number of other individuals. Life is full of advance repentance of such temptations to do evil deeds, whether petty or enormous. As surely as each one of us has experienced some such abandoned temptation, it is unfair to treat others as incapable of such abandonment of temptation. To commit someone to lifetime detention engages exactly that presumption, and then puts the seal of judicial condemnation, not upon the deed, but upon the man.

At bottom, it is simply not possible to know the future, particularly as to what any given individual will or will not do. The futures of all humanity, ex-cons to would-be saints, are subject to change, often by sheer happenstance or the stark fist of fate, but always affected by choices made each day. 'Risk prediction' of sex offenders fails to account for this at all.

In defense of their predictions, both CRA and ARA witnesses claim that the best predictor of future behavior is past behavior. But this flip epigram is untrue, at best only reflecting the reality that no reliable prediction of future conduct by any individual is possible. In any event, past behavior was already factored into the sentencing calculus for every sex offender who later finds himself before a latter-day tribunal whose purpose is to deprive him of the end of the prison term already served.

The underlying assumption of all sex offender risk prediction is that human beings do not change, but are programmed to act in the future in accordance with the manner in which they have, at their worst, acted in the past — an assumption which runs contrary to the basic principles of our legal and penal system, and contrary to the premises of clinical psychology and psychiatry, as evidenced by the ethical position papers of both the American Psychological Association and the American Psychiatric Association taking stands against such prediction of sex offender likelihoods of recidivism for this very reason.

In sum, John A. Fennel, J.D., Ph.D., in "Punishment by Another Name: The Inherent Overreaching in Sexually Dangerous Person Commitments," 35 *New England J. on Crim. & Civ. Confinement* 37, at 39 (Winter, 2009), flatly declares, "The science of sex offender research cannot accurately sort those offenders likely to recidivate from those who are not." Because of this basic scientific fact, sex offender commitment is inherently nothing more than sheer guesswork powered by anti-sex-offender bias alone.

Anne R. Izzi, "Constitutional Law — The Cage a Fetish Can Build: Proposed Legislative Reform for Civil Commitment Procedures in Sexually Violent Predator Laws," 39 *Western New England Law*

Rev. 141 (2017), at 154, bluntly concludes, "...[T]here are no reliable tests for determining the likelihood of recidivism." (citing *Fredrick E. Vars*, "Rethinking the Indefinite Detention of Sex Offenders," 44 *Conn. L. Rev.* 161, 193 (2011) ("The variation in sex offense characteristics and motivations causes uncertainty in assessing the level of risk for a particular offender."))

Extrapolation of ARA Recidivism Statistics to Longer Periods/Lifetime is Scientifically Invalid.

Extrapolation is the practice of extending the period of prediction of recidivism beyond the post-release period studied for construction of a given RAI. Prosecution experts will frequently extrapolate a predicted recidivism probability from the follow-up period covered by the RAI used to attempt to state a far higher life expectancy probability percentage. Most commonly (as by raters using the MnSOST 3.1, discussed *supra*), this is done by simply applying an arithmetic multiple (reflecting the ratio of the length of the increased period over that of the original study period) to the RAI's probability percentage listed for that studied post-release period. This, among other aspects, defies science by ignoring the fact that sex-crime recidivism reduces on an accelerating basis as age increases after age 30, to eventual complete extinction.

Doren, *supra* at 174, observes: "There are no data about actual lifetime sexual recidivism frequencies, only proxy measures to that effect." This practice has been determined to be scientifically baseless.

This higher reported figure involves two statistical oversights:

(a) It is contrary to the known decline in recidivism as sex offenders age; after age 30, sex-crime recidivism shrinks year-by-year, especially steeply from age 50 up. In the case of extra-familial pedophilic offenders, *R.K. Hanson*, *supra*, calls this increasing steeply annual reduction in recidivism likelihood "curvilinear."

(b) Sex-offense recidivism, from any release age, if it is to occur at all, almost invariably occurs within the first five years post-prison-release. (*Minn. Dept. of Corrections*, "Sex Offender Recidivism" 2007). This means, conversely, that if recidivism does not occur within that short timeframe (which is well within the follow-up period used by all current RAIs — and within the 8.4-year average follow-up period in that MN DOC study), later recidivism is highly unlikely. That study also derived the now-widely accepted sex-crime recidivism rate, 3.2% for that 8.4-year average post-release period. Balancing the 3.4-year excess of that period over that 'first-five-years' conclusion in that report seems to strongly suggest that all anticipatable sex-crime recidivism is accounted for in that 8.4-year period that report. In other words,

there is no excess anticipatable recidivism beyond that period that would need to be reckoned through any "extrapolation"; there is simply nothing left to extrapolate. Since ISR and Conditional Release ("CR") together exceed that five-year period, this equates a permanent extinction of recidivism. Therefore, reliance on this fallacious, extreme overstatement of predicted recidivism through scientifically baseless and anti-factual extrapolation in defiance of the true statistics is unfair to every SOCC respondent.

Despite such antiscientific baselessness, extrapolation is an extraordinarily common practice that sometimes (as in the case of the MnSOST-3.1) is actually invited by the RAI's creators. The majority opinion in *In re Ince*, 847 N.W.2d 13, 14 (Minn. Supr. 2014), states, concerning MnSOST-3.1 assessment, "...a 'rule of thumb' suggested by one of the test's developers," of extrapolation "in which the 5-year estimated rate of reoffending ... is doubled to establish a lifetime risk of reoffending..."

Parenthetically, this further confirms the extremely unscientific nature ("rule of thumb") of the MNSOST-3.1.

Thus, e.g., *United States v. C.R.*, 792 F. Supp. 2d 343, 2011 U.S. Dist. LEXIS 53497 (E.D. N.Y. 2011), ruled such extrapolation testimony inadmissible as unscientific:

"Extrapolating risk of recidivism for sexual offense for the defendant from the results of these tests is unacceptable as a matter of scientific principle. See, e.g., Rule 702 of *Fed. R. Evid.* (testimony of expert must be 'the product of reliable principles and methods and . . . the witness [must have] applied the principles and methods reliably to the facts of the case.')"

C. The Clear Over-Prediction of "Dangerousness" Through Sex Offender "Assessment" Completely Negates the Scientific and Legal Legitimacy of Sex Offender Commitment.

Alexander J. Belkingsopp, "Dangerousness and the Civil-Criminal Distinction: Another Reason to Rethink the Indefinite Detention of Sex Offenders," 45 *CONNtemplations* 9 (Nov. 2012), at p. 11, commented on *Fredrick E. Vars*, "Rethinking the Indefinite Detention of Sex Offenders," 44 *Conn. L. Rev.* 161 (2011), in which Prof. Vars intensively examined leading ARA techniques for sex offender assessment and found them to be grossly unscientific and to result in massive over-prediction of the probability of future sex offending by any given sex offender. As *Belkingsopp* summarizes, *Vars* "makes a convincing case that the predictions of future dangerousness used in sex offender civil commitment hearings are deeply flawed. ... *Vars*' findings weaken the justification for sex offender civil commitment in an additional way: by

undermining the 'civil' label that has been attached to the practice."

p. 12: "For decades, courts and government officials have been engaged in a legal labeling game. States adopt laws that allow government officials to abridge individuals' liberty. The states label those laws 'civil' rather than 'criminal,' so that they can face civil procedural safeguards, which are less stringent than criminal safeguards. The courts then defer to the legislature's label, depriving defendants of protections that could have preserved their liberty. The legal labeling game makes it easier for states to detain or otherwise limit individuals', and for courts to evade responsibility for keeping the states in check."

pp. 14-15: "*Hendricks* makes clear that the civil label is appropriate for the commitment of sex offenders because the measure is attempting to regulate future dangerousness. But one must question that conclusion when the attempt at regulation is manifestly flawed. The evidence provided by *Vars* and others was not available when *Hendricks* was decided, but it is now time to revisit the underlying assumption of sex offender commitment with an eye toward this new information. The SVP Act and similar laws are much more likely to appear punitive when the primary non-punitive justification turns out to be inaccurate."

pp. 15-16: "There seem to be two major sets of literature objecting to civil commitment of sex offenders. The first takes at face value the claim that civil commitment should seriously attempt to predict future dangerousness and that the state must redress shortcomings in those predictions. The second takes issue with the non-punitive label that has been applied to sex offender civil commitment."

"... *Vars* could highlight the Static-99's shoddy handling of age as yet another example of how insufficient safeguards in commitment proceedings lead to perverse outcomes.

"*Vars*' article is also anchored in quantification of proof standards and commitment standards. His calculations lead to the conclusion that 'an instrument as good as the Static-99 identified not one individual who qualified for commitment at the 50% or 75% threshold' of probable recidivism."

p. 17: "... It might be better to call into question the honesty of sex offender civil commitment. How is it that so many people have been detained without meeting the legal threshold? One should instead recognize that the legal labeling game provides a strong incentive to circumvent procedural safeguards. Tweaking those safeguards — especially if that entails lowering them, as *Vars* acknowledges is one way for

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ward – is unlikely to address the underlying incentives of the state to find a way to keep these individuals locked up. To fix the system, something more sweeping than alterations to the actuarial tool is needed.” (underlined emphases supplied)

At p. 9, discussing the *Hendricks* ruling, *Blenkinsopp* observes that the argument for it “would be significantly weakened if there was good reason – such as that provided by *Vars* – to believe that the detainee is either not dangerous or not as dangerous as the law requires.... Without the necessary ingredient of dangerousness, the parallel between sex offender commitment and conventional civil commitment collapses.” (*Id.*, at 13). “Clearly, an accurate determination of dangerousness is central to the Court’s conclusion that the law is civil, not criminal, in nature.” (p. 14)

The evidence provided by *Vars* and others was not available when *Hendricks* was decided, but it is now time to revisit the underlying assumption of sex offender commitment with an eye toward this new information. [Such] laws are much more likely to appear punitive when the primary non-punitive justification turns out to be inaccurate.” (*Id.*, p. 15). For instance, *Vars* (at p. 191) concluded that the *Static-99* (including *Static-99R*) “identified *not one* individual who qualified for commitment at the 50% or 75% threshold” of probable recidivism. (*Id.*, p. 16)

In this regard, *Cynthia Calkins, et al.*, in “Sexual Violence Legislation: A Review of Case Law and Empirical Research,” 20 *Psychol. Pub. Pol’y & L.* 443 (Nov. 2014), at p. 449, summarize pertinent research thus:

“...Despite judicial decisions consistently based on the stance that SVP commitment is not punishment, empirical research has found that decisions surrounding commitment are driven by the desire for retribution (i.e., motivations are punitive) rather than incapacitation and public protection (*K.M. Carlsmith, J. Monahan, & A. Evans, “The Function of Punishment in the ‘Civil’ Commitment of Sexually Violent Predators,” 25 Behavioral Sciences & the Law* 437-448. <http://dx.doi.org/10/1002/bsl.761> [2007])”

Daniel Kriegman, “New Salem Witch Trials: Evaluating Bias in Expert Witness Conclusions of ‘Sexual Dangerousness,’ Part 1,” *Sex Offender Law Report*, Vol. 15, No. 4 (June/July, 2014), at pp. 49-50, states that “preventative detention of the majority of men reviewed, committed and re-committed as sexually dangerous because of crimes they supposedly would commit if released is reckless and arbitrary with a level of validity ap-

proaching that found in witch trials....” [emphasis supplied]

[p. 53] “Researchers have shown that there is considerable bias and/or questionable validity in expert predictions of dangerousness. (*W.M. Grove, D.H. Zald, B.S. Lebow, B.E. Snitz & C. Nelson, ‘Clinical Versus Mechanical Prediction: A Meta-Analysis,’ 12(1) Psychol. Assessment* 19-30 (2000); *E.S. Janus & R.A. Prentky, ‘Forensic Use of Actuarial Risk Assessment with Sex Offenders: Accuracy, Admissibility, and Accountability,’ 40 Am. Crim. L. Rev.* 1143-489 (2003); *J. Monahan, Predicting Violent Behavior: An Assessment of Clinical Techniques* (1981); *G.G. Woodworth & J.B. Kadane, ‘Expert Testimony Supporting Post-Sentence Civil Incarceration of Violent Sexual Offenders,’ 3 L., Probability, & Risk* 221-41 (2004).

“...[W]hen it comes to predicting the likelihood of future sex offending, the bias becomes literally astronomical. Based on the actual patterns of experts opining “sexually dangerous,” it can be established beyond the possibility of doubt that the methodology used and conclusions reached by the Qualified Examiners employed by the Commonwealth of Massachusetts leads (or allows) them to grossly over-predict dangerousness....” [emphasis supplied]

At pp. 59-60, *Kriegman* describes a study he performed of Massachusetts sex-offender commitment proceedings, in which assessors testified that the minimum level of probability of recidivism for those they assessed was at least 50%. However, *Kriegman* examined the subsequent actual recidivism of those not committed despite such testimony. He found that the actual observed rate of recidivism over a five-year average period after release was only 2% (new charge; conviction unknown). Because of the vast disparity between 50% predicted recidivism and a maximum (if convicted) actual recidivism of 2% over five years post-release in the community, *Kriegman* concluded that bias has simply utterly replaced science in the conclusions by the assessors. (p.62).

Rather than look for a more lax commitment threshold, *Blenkinsopp*, at p. 17, concludes: “...[I]t might be better to call into question the honesty of sex offender civil commitment. How is it that so many people have been detained without meeting the legal threshold? One should instead recognize that the legal labeling game provides a strong incentive to circumvent procedural safeguards.”

Because no technique can distinguish those of true high likelihood of recidivism from those not, and because all existing techniques tend to greatly overstate such likelihood, commitment of sex offenders, inherently requiring

such likelihood, inherently deprives all those detained pursuant to such commitments elemental substantive due process in its most crucial application, the preservation of individual physical liberty.

More generally, almost all ARA recidivism statistics were derived from studies conducted more than a decade ago as to offenders released as much or more than 20 years before that. Thus, almost all RAIs fail to account for the huge drop in sex-crime recidivism that has occurred since then. In Minnesota, sex-crime recidivism was measured at 17% in a 1990 study, but by 2007, as found by a matching study, it fell to a mere 3%. Since this is nearly a six-fold decrease, and because all risk levels were affected by this drop, an offender previously concluded to have a 50% probability of re-offense under former statistics would now only be 8.8% likely to recidivate in the future – a fact not reckoned by existing RAIs. (*Lawyer X, supra*, at pp. 44-46.)

The situation can be aptly summed up thus:

Recalling that the only two ‘risk assessment’ techniques claimed to have any scientific basis as to sex offenders are CRA and ARA, and that the immediately foregoing allegations have shown that neither of those two techniques have any level of accuracy above mere chance, the truth in sum is that each sex offender subjected to a commitment proceeding pursuant to said Act is being tried and adjudged to meet said commitment criteria on an indispensable element of being ‘highly likely’ to sexually reoffend that is based on unscientific, anti-academic, and unprofessional sheer guesswork and inaccurate, mere-chance, unreliable predictions whose asserted percentages have no scientific validity or applicability to the sex offender at bar.

At bottom, it is simply not possible to know the future, particularly as to what any given individual will or will not do. The futures of all humanity, ex-cons to would-be saints, are subject to change, often by sheer happenstance or the stark fist of fate, but always affected by choices made each day. ‘Risk prediction’ of sex offenders fails to account for this at all.

In defense of their predictions, both CRA and ARA witnesses claim that the best predictor of future behavior is past behavior. But this flip epigram is untrue, at best only reflecting the reality that no reliable prediction of future conduct by an individual is possible. In any event, past behavior was already factored into the sentencing calculus for every sex offender who later finds himself before a latter-day tribunal whose purpose is to deprive him of the end of that prison term already served.

The underlying assumption of all such sex offender risk prediction is that human

beings do not change, but are programmed to act in the future in accordance with the manner in which they have, at their worst, acted in the past. But this assumption runs contrary to the basic principles of our legal and penal system, and contrary to the premises of clinical psychology and psychiatry, as evidenced by the ethical position papers of both the American Psychological Association and the American Psychiatric Association, taking stands against such prediction of sex offender likelihoods of recidivism for this very reason.

Finally and worst of all, as *Doren, supra* at 180, points out succinctly, “...[R]esearchers found substantial differences in perceived risk depending on alternative ways of ...communicating the same statistical degree of risk....” That is to say, rhetorical means are employed that frequently succeed in convincing a judge in a sex offender commitment case that the sex offender’s probability of re-offense is far higher, even though in fact it is not so. When such rhetorical tricks of persuasion trump elemental science, no justice can exist in such commitment attempts.

In light of these facts regarding the unscientific and unreliable nature of both CRA and ARA approaches to predicting recidivism likelihood, admission into evidence of and judicial reliance upon so-called ‘expert’ evidence and testimony derived from either such approach deprives Respondents of both substantive and procedural due process.

CONCLUSION

At the end, all of the foregoing, both specifically as to so-called ‘risk assessment’ and to all other arguments for SOCC, show clearly and beyond room for serious question that there is no science supporting any of it. To the contrary, every bit of these proclaimed justifications is the product of spite-filled bias and unreasoning, exaggerated, and manipulated fears, and the whole-cloth inventions and sophistry of those who seek to achieve or increase personal fame and/or riches. Today, they do this by subjecting others to probably lifetime pseudo-incarceration through lynch-mob motivated and press-exploitative proceedings. But the larger picture is that this strategy effectively holds all – who otherwise approach the issue of answers to the existence of some (albeit lessening rates of) sex crime – as helpless hostages forced to pay public lip service to a litany of unholy lies and extreme exaggerations that everyone knows do not square with everyday reality. Those of us from northerly climes in our land would call this a snowball that can unleash an avalanche.

There is no ‘fix’ for ‘sex offender civil commitment,’ for that is not really what it is at all. It is simply the accosting of

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convenient victims to subject to a modern-day version of witch-hunting. Repeal of SOCC laws, including that on the books in Virginia, is the only answer.

Repeal is necessary to save liberty, both of the individual and of all, collectively. No one can breathe free and fearless while totalitarianism surreptitiously and silently slithers along serpentine among us, looking for the next victim to take.

Repeal is necessary to free our political process from the snares and fetters in an ever-deepening morass of 'political correctness' - a kidnapping of our very language and an extortion of all of us to adopt that misuse of it to bestow an imprimatur of permanent truth, either unwittingly or knowingly but against our will and our better judgment, to extremists. And these extremists, beyond most of that ilk, seek nothing less than the conversion of our entire nation to a land of the lock-up of everyone they hate or fear, or, at its most extreme, everyone not like them. - The inevitable, fear-some result of that is an eventual two-class social hierarchy of, first, the self-proclaimed 'safe' 'right-thinkers,' who will be the only ones permitted to govern - and, then, all others, who will be the new untermenschen, with no rights and no prospects of rising from their permanently marked 'unclean' caste.

Most of all, repeal is necessary to restore the social health of our society, so that we need not live in nightmare fear of maniacal villainy, driven by such hysteria into the clutches of those who promise safety through imposition of totalitarian control over all - but only at the irrevocable surrender of freedom of action, freedom of discourse, even freedom of thought. I may not be a Virginian, but I know when I have heard something evil before. And I know what Patrick Henry would say to that: Surrender of liberty is never worth it and will always be regretted.



Virginian Patrick Henry

Please repeal the SOCC law in Virginia, so that, by taking this stand, Virginia can stand as a bellwether of change and inspiration for SOCC repeal to other states burdened by such ill-advised legislation and thereby, to turn away from the creeping totalitarianism that has been afoot in this bizarre, asymmetrical initial way.

Shaming the Constitution, Part 6:

SORNA & Restricted Residence

Michael L. Perlin & Heather Ellis Cucolo, *Shaming the Constitution: The Detrimental Results of Sexual Violent Predator Legislation* (Philadelphia: Temple Univ. Press, 2017), Chapter 3: "History of Sexual Offender Laws," cont'd.

Editor's Note: This is the sixth in a series of excerpts from *Shaming the Constitution*, a watershed book dispelling the fraud of sex offender civil commitment (SOCC) and calling for its immediate repeal everywhere. This portion addresses sex offender registration and notification requirements and related laws, including residence restrictions as scientifically baseless and spitefully crippling to a former offender's ability to live in peace, emotional comfort, and social harmony with other community members and to prosper in his labors and to earn dignity and respect through lawful conduct.

Text excerpts:
p. 45: **Federal Registration and Notification Laws**

As amended in 2011, SORNA now categorizes registrants into three tiers that determine the length of time individuals must register and the frequency with which they must report. SORNA relies solely on the offense of conviction to determine whether a former sex offender is a threat to public safety and does not incorporate risk assessments of a sexual offender's likelihood to reoffend. In addition, it does so without any apparent increase in effectiveness, because '[t]he recidivism rate of those on the registry is not lower than that of individuals not on the registry.' Tier classifications are based solely on a registrant's offense and do not factor in an individual's determination of risk.

p. 46: Scholars have sharply criticized these laws as being immoral, cruel and inhumane, and detrimental to the goal of reducing sexual offending. The efficacy of these laws has been hotly debated, with many questions raised surrounding the legality and morality of ostracizing offenders after release as well as weighing the likely expense generated by these laws with the degree to which they protect the community....

pp. 46-7: If criminals have paid their debt to society, what right do we have to tell them where to live? How have these laws passed constitutional muster and overcome *ex post facto* and double jeopardy challenges? Under the law, general criminals (those with non-sexual offense conviction) are often branded with the after-effects of a criminal conviction when seeking employment or interacting with federal and state agencies.

But nothing else amounts to the public display of distrust and alienation directed toward individuals who have committed sexual offenses. The present system of registering offenders does not distinguish between the dangerous and the formerly dangerous....

pp. 56-7: **Residency Restrictions**

Concerns about sexual predators have led communities in thirty U.S. states to adopt laws limiting where registered sexual offenders can live, typically keeping them away from schools, parks, or other places where children congregate. Residency restrictions prevent individuals who have committed sexual offenses from living within specific proximities to these places. These ordinances are aimed at prohibiting offenders from residing within particular areas and inevitably within particular cities.

Residency restrictions range anywhere from 100 feet to 2,500 feet from any designated area in which minors congregate... [A]s of yet, there is not one peer-reviewed study that shows that residency restrictions prevent re-offense. p. 57: After 2006, there was a shift in the courts, and a handful of successful challenges on both constitutional and preemption grounds began to emerge. Despite this change, local governments continue to enact these laws, absent specific state legislation, in response to public pressure.

In 2009, Indiana's residency restrictions were successfully challenged on the basis of *ex post facto* violations. Indiana's supreme court held that the residency restriction 'violates the prohibition on *Ex Post Facto* laws ...because it imposes burdens that have the effect of adding punishment beyond that which could have been imposed [at the time the] crime was committed.' Primarily, the asserted interest in objections to residency restrictions is not considered a fundamental interest and thus must be reviewed under a rational basis standard.

In 2007, the Georgia appellate court determined that an unconstitutional taking had occurred in *Mann v. Georgia Dept. of Corrections*. The court held that Georgia's residency restriction 'is unconstitutional to the extent that it permits the regulatory taking of [Mann's] property without just and adequate compensation. In rendering its decision, the court considered the economic hardship that occurred as a result of the taking as well as the interference with an individual's reasonable investment-backed expectation when purchasing property for a private residence. The court additionally assessed the statute and found that it 'effectively empowered private third parties with the state's police power.'

p. 58: Recent litigation over municipal sexual offender residency restrictions has produced Mixed results. Residency restrictions, banishing undesirable individuals from our communities, are sup-

ported by the fear and the belief that individuals will undoubtedly reoffend. This belief is so overwhelming that counties have attempted to enact local ordinances on top of state residency restrictions already in place. States have invalidated such ordinances on the grounds of preemption, but despite the many court challenges, municipalities have often declined to repeal sexual offender residency restrictions even in the face of state court rulings voiding similar ordinances. Thus, confusion about whether collateral consequences may apply in a given situation occurs when municipalities split between repealing and leaving such ordinances on the books.

The California Supreme Court has struck down the blanket application of 'Jessica's Law' in *In re Taylor*, ruling that 'blanket enforcement of Jessica's Law's mandatory residency restrictions against registered sex offenders on parole in San Diego County impedes those basic, albeit limited, constitutional rights. Furthermore, section 3003.5(b), as applied and enforced in that county, cannot survive rational basis scrutiny because it has hampered efforts to monitor, supervise, and rehabilitate such parolees in the interests of public safety, and as such, bears no rational relationship to advancing the state's legitimate goal of protecting children from sexual predators.'

Taylor, although not the first case to address the issue of substantive due process, is the first case to support plaintiff's claim.

pp.58-9: Residency restrictions have faced scholarly condemnation and increasing judicial scrutiny. Residency restrictions are, in fact, counter-productive in their strict application and can result in homelessness and isolation; they have the opposite effect of promoting safe communities by actually heightening the risk of re-offense. Remarkably, the most recent and best empirical studies teach us that reported sexual offense victimization is generally lower in neighborhoods where more registered sex offenders live. Such strict applications of these laws - combined with their effects of isolation and humiliation - can provoke feelings of hopelessness and unworthiness and can cause both lack of dignity and feelings of being 'less than human' among sexual offenders. Hardships placed on individuals in the community serve to break down protective measures and increase stressors, two of the major catalysts claimed by experts to fuel relapse. The psychological stress from 'isolation, disempowerment, shame, depression, anxiety [and] lack of social supports ...can trigger some sex offenders to relapse.' Clearly, the end result of our efforts serves no benefit to the offender or the community.

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p. 59: Community notification and residency restriction laws have been criticized as immoral, cruel, and inhumane, and detrimental to the goal of reducing sexual offending. The efficacy of these laws has been sharply debated, raising questions about the legality and morality of ostracizing offenders post-release and the expense generated by these laws, as contrasted with the degree to which they actually protect the community. If criminals have paid their debt to society by concluding their sentences, how can society limit where they chose to upon release? How have these laws passed constitutional muster and overcome challenges of ex post facto and double jeopardy? The present system of registering offenders does not distinguish between the future dangerous and the formerly dangerous.

pp. 59-60: Residency restrictions should be completely dismantled due to their anti-therapeutic effect and unfounded ability to have any impact on diminishing re-offense and making communities safer.

p. 60: ...We should encourage and reward efforts by former offenders to engage in community service and acknowledge their genuine attempts to live offense-free and contribute to society; '[m]odern-day sex offenders should also be offered the possibility of redemption.' 'Feel-good' legislation should be repealed because it serves no other purpose but to humiliate, label, and dehumanize the individual.

p. 60: **Conclusion**

The irony, of course, as pointed out by Dr. Paul Appelbaum, is that it is precisely what sex offenders cannot access – housing, jobs, and friends – that are 'just the kind of supports that can anchor a released offender in a community and reduce recidivism.' As we noted earlier, coupled with their isolating and humiliating impact, these laws can cause feelings of being 'less than human' among sexual offenders. This shaming behavior – based again on false 'ordinary common sense' mocks constitutional requirements of dignity and is of no benefit to the offender or the community.

The history of sexual offender law is a history of shame and humiliation. The ongoing characterization of this population as 'monsters' – characterizations that are sanctioned by the judiciary – makes a mockery of the notion that the judicial process is a fair and objective one. The courts' continuing rejection of challenges to sex offender laws, launched under the substantive due process, equal protection, double jeopardy, and ex post facto clauses and the privilege against self-incrimination, further shame the Constitution. Our 'blind fury' – in the light of a series of horrific and heavily publicized sexual crimes against young children – has led us to enact a series of purported-

ly prophylactic laws that are based in large part on facts not in evidence about (1) the incidence of sexually violent crime, (2) the relationships between offenders and victims, (3) the treatability of victims, and (4) the role of mental disorders on the commission of sexual offenses. This fury further shames the Constitution.

pp. 63-4: Supreme Court decisions such as *Kansas v. Hendricks* – by transforming psychiatric treatment facilities into *de facto* prisons and using mental health treatment as a form of social control – underscore the pretextuality of the entire sexual offender legal apparatus. As one of us (MLP) has previously written with another colleague, 'There may be no area of mental disability law that is more pretextual than that governing the incapacitation of sex offenders.' Every time Detective Benson or Stabler – on NBC's popular *Law and Order: SVU* program – says, 'There's no cure. And they all do it again,' that speaks to society's 'ordinary common sense' about this topic. Every newspaper article reporting that a sexual offender was released into the community expresses the public misconception that there are reliable and valid ways to assess recidivism risk. Judicial 'shortcuts' that are used to manipulate the complexities of mental health law and social science in this area reflect the worst of both heuristic reasoning and 'ordinary common sense.' Our willful blindness to studies on treatment effect, future risk assessment ability, recidivism, and prevention strategies reflect legislatures' and courts' blind acquiescence to the vividness heuristic. Consider what Professor John Douard has said in this context"

'Sanism is as virulent as, but more rarely noticed than, racism and sexism, discrimination against [sex] offenders is virtually invisible, because their criminal conduct creates a pretext to isolate them as sources of contamination. And we are especially sanist when it comes to questions that relate to questions of the sexuality of persons with mental disabilities.

In short, the history of sexual offender law is a history of shaming behavior that reflects the worst of sanism and pretextuality, abetted by heuristic reasoning and false 'ordinary common sense.'

CURE – National Civil Commitment Extinction Project

Notice from Eldon Dillingham, Coordinator, CURE National Civil Commitment Text:

"December 2022: Please do your best to stay involved in efforts to address civil commitment matters. Share information you have with other detainees as well as

family and friends. Encourage family/friends to become involved in the monthly CURE Civil Commitment calls. We need everyone to be involved in whatever capacity they can be. We must work together to advocate for change.

Recently, several states have made considerable strides in advocating for changes to civil commitment. New York, Minnesota, Texas, Kansas continue to maintain contact with state leadership (governor's office, elected representatives, etc.) and are hearing back from some elected officials. These entities need to be made aware of what civil commitment stands for and what it has evolved into: continued incarceration with a huge expense to taxpayers.

Everyone needs to request statistical information and report that to elected officials, i.e., cost, no one is moving out of the program, conditions worse than prisons, etc... Request elected officials to call for 'independent' evaluations of the program by professionals in the field, certainly universities and others. Our group believes we are getting the attention of a limited number of elected officials, many independent psychologists, some judges and others. But they only know what they are told and that involves everyone to get involved.

With the exception of legal holidays, monthly CURE Civil Commitment conference calls are held the first Saturday of each month, beginning at 9:00 AM Central Standard Time. The calls are informal and a great opportunity for friends, family, advocates and other interested individuals to share information, ideas to advocate for change, and just to meet one another. To obtain call information (toll free) for the monthly calls, send an email to eldondillingham@gmail.com. The number and code will be provided via email.

If you have concerns/questions/issues or comments regarding legal or forensic matters as to sex offender civil commitment ('SOCC') or challenges which may free you from it, Cyrus Gladden, whose address is at the bottom-left of the front page of each edition of *The Legal Pad* ('TLP') monthly newsletter, has dialogued with many in the 20 states having SOCC laws. He does not provide legal advice, but can oftentimes steer an inquiring correspondent in a direction that may prove helpful. However, Mr. Gladden asks those who have any outside support person(s) to first have him/her/them check the archive of past editions of TLP appearing at http://www.cure-sort.org/thelegal_pad.html for any obvious answers to your question(s). The complete table of contents to all TLP editions to date that can be found there is searchable by word or phrase for that purpose. TLP editions are downloadable for free from this web page.

Separately, regular writers of articles appearing in TLP are always interested in

hearing from people regarding activities, concerns, etc. concerning SOCC and anything related to it. Inquiries/comments will be forwarded on to any specific writer upon request.

We must work as a group, those incarcerated and those not. Also, if you no longer wish to receive mailings from us, please advise. Thank you.

Sex Panic Language as Self-Labeling

by Russ Hatton, Contributing Commentator

"Strong minds discuss ideas, average minds discuss events, weak minds discuss people." – Socrates

I would like to ask you a few questions: Why do you own the label "sex offender"? Why do you call others a "sex offender"? Are you proud of the label "sex offender"? Do you think you make yourself look better by calling others a "sex offender" or a "sexual predator"? Who are you really? Who controls the narrative of who you are?

This article dives deeper into the world of sex panic to analyze its heart – the mythical narrative, or story that fuels the public to target those who have committed sex offenses. Imagine hyperbolic and inflammatory language embedded in false assumptions about a group of people, painting a vivid, but erroneous picture of the group as being set on destabilizing the safety and security of the community.

I use the phrase "those who committed sex offenses" intentionally rather than the ubiquitously used, but extremely misleading and damaging term "sex offender." The longer phrase is cumbersome, but it is important person-first language that rejects the use of labels which reduce a person to a single act or condition. Other authors have grappled with this issue.

If messaging matters, then inflammatory language plays a starring role in the operation of a panic. Indeed, "framing" of a moral panic will usually involve provocative language to describe the deviance or its impacts. The sex panic in particular, has given license to politicians, clinicians, psychologists, and judges to employ language rarely seen or reserved for others who have committed crime. Language like "pond scum predators," "monsters," "animals," and "sick predators" fill congressional and state records.

And where provocative language is used to vilify a targeted group, labels do the heavy lifting. Generally, labels serve a valuable purpose in how we navigate our daily lives and how we converse with others. A label is, after all, effective and

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efficient: a quick soundbite to distill a more complex set of heterogeneous (mixed) elements (fundamentals). It is also, as one scholar notes, the "primary and perhaps indispensable" means by which people create, comprehend, and express social boundaries. (Now say/think: "I am not a sex offender.")

In the world of the sex panic, however, labels take on added significance. It has become commonplace to use generalized labels for those who have committed sex crimes, and it has seeped into the lexicon without sufficient attention. But only in sex crimes is there a "shift from being persons convicted of certain acts to becoming permanent carriers of an inherently degraded status."

The shift in labeling is not accidental. People may drive drunk, or they may steal, but those who commit sex offenses are themselves permanently marked by the label. Harmful labels like "sex offender," "sexual predator," and "sexually violent predator" stick like crazy glue – their adhesion permanent, *no matter the illegitimacy of the label.* (Repeat - "I am not a sex offender.")

Implicit in the label is the judgment of deviancy on the person, not a comment on the offender's act. Pause for a moment on the inappropriateness of the term "sex offender" and its application to the following cases. Consider the label affixed to a fourteen-year-old girl who had voluntary sexual intercourse with her soon-to-be thirteen-year-old boyfriend; or two fourteen-year-old boys who engaged in a sexual battery (or prank, depending on one's viewpoint) of two twelve-year-old boys and who now must register for life in the incessant hot spotlight of public presumption of the worst of their motives and of the incident; or the suitability of that description for those who commit non-sexual offenses, or who committed a single sex offense decades ago, never to sexually reoffend since. (Again, repeat: "I am not a sex offender.")

Indeed, a label has the effect of reducing all who commit an offense to a singular description. *Ideal Victims and Monstrous Offenders*, for example, which traced the public conversation around sex offenses in the *LA Times* from 1990-2015, found that the term "sexual predator" was used "to describe all sexual offenses, whether they were violent or not, and whether predatory or not."

This is the central concern of scholars Harris and Socia: the term "sex offender," or in this case, "sexual predator," implies a homogeneity (similarity, uniformity) that is neither appropriate nor applicable. In their article on the deleterious (harmful) effect of the term "sex offender," Harris and Socia wrote: "[A]lthough it is intended to be a 'value-neutral' descriptor, the term [sex offend-

er] is laden with connotations and beliefs promulgated and reinforced through media and public policy narratives."

It is the inability to engage in nuanced language and reasoning that offends the rule of law. Even the United States Supreme Court, in the landmark decision of *Smith v. Doe* made sweeping generalizations when it stated, "The legislature's findings are consistent with grave concerns over the high rate of recidivism among convicted sex offenders and their dangerousness as a class. The risk of recidivism posed by sex offenders is 'frightening and high'" (accepting blindly a baseless lie asserted in a newsstand magazine a decade and a half previously written by a massage therapist with no actual knowledge in the criminological study of those whom he wildly accused categorically of such massive recidivism (see, *Mark Ellman & Tara Ellman, "Frightening and High: The Supreme Court's Crucial Mistake About Sex Crime Statistics," 30 Constitutional Commentary 495, 496 [2015]*) ("Embarrassingly, the 'frightening and high' risk of recidivism has been totally eviscerated subsequent to *McKune and Smith*. The source of the statement was run into the ground by scholars Tara and Ira Mark Ellman.")

Inherent in the use of the words "as a class" is what has been characterized as the "myth of homogeneity" (regularity), its damage consequential and far-reaching. The roughly drawn grouping of all who commit sex offenses into one category invites criticism that the civil commitment and registration regime is over-inclusive – a one-size-fits-all approach that is not rationally connected to its legislative goals.

Painting all who committed sex offenses as dangerous, no matter their crime, circumstances, or age also leads to policies that bar registrants from the opportunity to reintegrate successfully or be afforded the same opportunities as other felons, or in our case – ex-felons. I've examined the blanket exclusions from all criminal justice reform efforts that we as shadow prison detainees suffer – the benefits and opportunities we have been denied because of a presumed status. The impact is real, and it is harmful.

Moral panics need oxygen to thrive. Mythical narratives, such as believing and labeling yourself and others as "sex offenders," supply that much-needed oxygen. A narrative may be compelling, but that does not make it accurate. Endemic to all mythical narratives is the painting of stereotypic, but inaccurate attributes of the person. Designed with one purpose in mind, the mythical narrative pushes lawmakers and policymakers to advance ever-escalated and reactionary responses to the alleged threat, the claimed threat to public safety that relies on the contention that you and others are

dangerous. It paves the way for the panicked legislation that ensues. And ultimately, it sustains our indefinite, perhaps endless detention. History has proven this is death – because "provisional release" does not mean freedom.

So why do we go around here calling one another this damaging and dehumanizing label? Is it to make the person sticking the label on another appear as "better than"? – When in truth we are all equals, suffering the same isolation, ostracism, and punishment. Or is it the occurrences where one will call himself a sexual offender in reference to "us" as if to share his shame and guilt by projecting it onto another? What's even more thoughtless and collectively harmful is when we make such comments to one staff person about someone else and most staff persons' distorted perception of us all is the same.

So, what is the goal going forward? Take control of the narrative – you, me – we are valued and worthy to our family, to our friends, and to our community, and overall – to humanity. It is through such lessons and experiences that make us who we are. First and foremost, find forgiveness in who you were.

In the Ojibwe culture, our most sacred value is Zaagi (Zha-gee) – love. We do this unconditionally, and this kind of love is not judgmental, shaming, belittling, dismissive, hurtful or harmful. It is inviting, humble, kind, caring, welcoming, uplifting, and enriching. We have forgotten that each and every one of us are human. This has come about after years to decades of indoctrination that we must live in guilt and shame day after day after day. We are told and expected to talk about the poor choices we made in the past, long ago, as if we are that same person – in this moment. When on the surface and deep down inside, we know and firmly believe that we are not. We see this on a daily basis in and with one another on how we conduct ourselves.

We have taken accountability and responsibility for our lives and our choices. We are maturing with dignity and integrity and we are learning to lift one another up so that when we return to our families and loved ones, when we return to our communities, we will be self-sufficient, confident, healthy individuals.

What are your values and positive attributes? Are they values and skills such as: Setting Goals, Encouraging, Cultivating, Analyzing & Assessing, Tolerating, Designing, Multi-Tasking, Attaining, Creating, Implementing, Training, Decision-Making, Leading, Performing, Identifying Problems, Teaching, Advising, Coaching, Understanding, Conceptualizing, Improving, Managing Time, Consulting, Updating, Self-Understanding, Planning, Motivating, Interpreting, Innovating, Defending, Diligent, Patient, Innovative, Persis-

tent, Tactful, Loyal, Successful, Versatile, Enthusiastic, and Flexible? What interpersonal skills do you see in others?

I encourage you to acknowledge your growth and maturity and I dare you to do the same for others on a daily basis. Or you can continue with the rhetoric of placing yourself in a false light as 'better than' when the truth is we're all in the same boat. Again, change your perception to think better of others instead of less than. Identify in others the positive attributes you identify in yourself and build upon these. We control the narrative. Any time you hear the false, stigmatizing, and dehumanizing labels, I encourage you to see our human qualities, positive characteristics, interpersonal skills, and courageous and enduring confidence.

What is Courage but an Opportunity to C-Our-Age!

Note:

See e.g., *Alexa Sardina & Alissa R. Ackerman, "Restorative Justice in Cases of Sexual Harm," 25 CUNY L. Rev. 1, n.2 (2022)* (describing the author's use of person-first language in their article on sexual harm). For another way to address these actors, see *Kelly M. Socia, Jason Rydberg & Christopher P. Dum, "Punitive Attitudes Toward Individuals Convicted of Sex Offenses: A Vignette Study," 38 Just. Q. 1262, 1263 (2021)* using the acronym ICSSO throughout the article to refer to "individuals convicted of sex offenses").

Kansas SOCC Victims Speak Out

"Dear Elected Official,

This letter is to bring to your attention the atrocities being perpetrated on people civilly committed under the Kansas Sexual Predator Act who have been unjustly declared a threat to the safety of the public.

Currently there are approximately 300 individuals being held as 'predators' in the Sexual Predator Treatment Program (SPTP) over which the Kansas Department of Aging and Disabilities Services (KDADS) has absolute control with no oversight. Though deliberate manipulation of our State Legislature, that Department has taken away the safeguards in *Kansas v. Hendricks* (1997) that the U.S. Supreme Court found made civil commitment constitutional.

Currently, the law (K.S.A. 59-29a08) now requires a person to 'complete' a never-ending program. Neither the courts nor treatment providers have the authority to release anyone from the program [regardless of lack of need for any treatment/further treatment]. Additions and amendments to K.S.A. 59-29a01 since *Kansas v. Hendricks* have [converted] sex

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offender civil commitment (SOCC) into nothing more than legalized imprisonment. Kansas is not 'civilly' confining its sex offenders for treatment but inflicting criminal punishment and confining offenders to a psychiatric hospital prison resulting in severe mental stress on those they are supposed to be treating.

Further, the Kansas Legislature is pumping millions of dollars annually into a program that is unable to provide adequate staffing or treatment for the needs of those imprisoned here. An example of this is one civilly committed resident here who has been held in solitary confinement for several years due to behaviors that this facility is neither prepared nor equipped to treat. The LSH administration now deals with all disciplinary problems with 'lock 'em up' policies where there is no appeal or due process.

We understand the desire to protect the public from dangerous mentally ill criminals, but 95% of all sex offenses are committed by someone not on the sex offender registry list. As a deterrent, Kansas sentencing laws allow courts to impose life sentences on any sex offender and call for mandatory minimums of 25 years for first-time offenders and 40 years for second-timers, and for life without parole for third-timers. K.S.A. 21-6627. Most of the men in this program are over the age of 50, a time in life when sex-crime recidivism probability permanently falls from near-rarity to nonexistent as age increases.

Federal and state statistical data shows all convicted sex offenders (average over all ages) have the lowest recidivism rate (3.5 to 4.0%). Trial and appellate courts are ignoring the reality of the low future risk of institutionalized sexual offenders. Claims that those with prior sexual offenses are far more likely to commit another sex crime if released are simply false propaganda debunked by all modern studies. In fact, starting at age 30, the rate of average sexual recidivism falls with each year of greater age, and falls more precipitously by the year as one enters middle age. Many studies have found that no offenders over age 60 engaged in any sexual recidivism — and by age 70, no studies have found any sexual recidivists at all (zero percent). In *Kansas v. Hendricks*, the Supreme Court was given false claims about 'frightening and high' sex-crime recidivism rates. This was an appalling, unchallenged lie.

Civil commitment proponents know that these commitment programs are unneeded and have no impact on sex-crime recidivism rates, which are already as low as deterrence and other forces can make them. Yet such proponents actively suppress studies proving the futile ineffectiveness of commitment programs at suppressing sex crimes further. For example, California suppressed and tried

to destroy all records from a study by psychologist Dr. Jesus Padilla in 2006 that found that those claimed to be 'high risk', yet released from that state's civil commitment program reoffended only at the same rate as sex offenders released directly from prison after being deemed not at high risk of sexual re-offense.

This brings us to the reason for this letter. A letter from Guantanamo Bay detainees, held by the United States for fear that they might commit murderous crimes of terrorism against Americans, has caught the attention of the United Nations. Just like us detainees at Larned State Hospital, Guantanamo detainees are being held for possible 'future crimes.' SOCC regimes smash through the legal boundaries applicable to all other kinds of civil commitment and steamroll over constitutional limitations on criminal incarceration (most notably, imposing what is undeniably double jeopardy upon all such detainees, notwithstanding the Supreme Court's glaringly apparent double-speak in *Hendricks*). The American Psychiatric Association has been opposed to SOCC from the beginning. 'We were concerned psychiatry was being used to preventively detain a class of people for whom confinement rather than treatment was the real goal. This struck many as a misuse of psychiatry.' (Paul Applebaum, Chair of the APA's Task Force on Sexually Dangerous Offenders).

The *Kansas v. Hendricks* decision must be revisited. SOCC commitments should be impermissible in the absence of a serious mental illness. Only a rare few committed sex offenders have any such illness. Commitment should not be based on overly-broad, vague words such as 'personality disorder' or non-clinical words such as 'abnormality.'

Confinement should never be imposed on any individuals who are able to make choices and are able to decide whether to respond to deterrent sanctions. It is the function of criminal law, not commitment, to handle those who choose to commit crimes.

SOCC is nothing more than imprisonment, but not for crimes committed, but for fears by others of possible future crimes. America does not lock up its citizens for such pure fearful future predictions. There must be no exceptions if

this guarantee will continue to have any force.

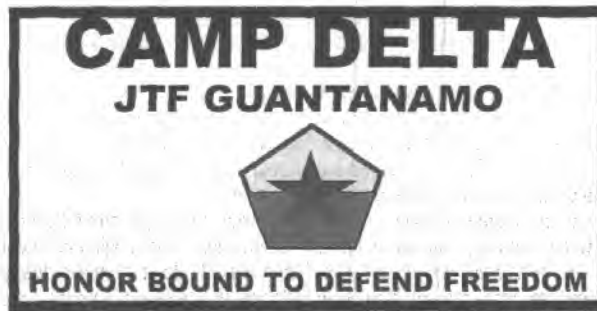
Anyone committed under Kansas' SVP Act is far more likely to die in confinement than ever to be released.

Programs like SOCC invite expansion to any other kind of crime or antisocial misconduct anyone might seek to vilify by nightmarish predictions of unrestrained criminality. The real fear is that the longer SOCC remains on the books, the higher the likelihood of its spread to many other concerns. This is how limitless governmental tyranny starts.

We, the detained in Larned State Hospital's SPTP program, ask you and our Kansas legislators to end this failed, draconian, and totalitarian program and consider alternatives to this lifetime secondary incarceration.

Editor's Note: Simultaneously to receipt of the foregoing, I received a letter from one of those detained in the SPTP program in Larned. He decries many abuses including the following:

- * Commitment in disregard of successful completion of prison-based sex offender treatment;
- * The never-ending treatment is based merely on a short booklet handed to newly committed individuals, yet fulfillment of everything stated in that booklet will never qualify anyone for release;
- * Required elaborate "Relapse Plans" are often lost or deleted by staff from the computer network upon which they must be deposited by treatment participants (even though password-protected), forcing the participant to start the mountain of work to satisfactorily prepare that plan to start all over again;
- * Detainees are punished for claimed failure to pass a mandatory polygraph about violations of minor rule violations;
- * Books, magazines, music, etc. are arbitrarily censored merely for any picture of a child (including postage stamps with a nativity picture of Jesus);
- * Forced administration of tranquilizers (in at least one instance, to a man who was sleeping when thus injected) with



'Notice anything ironic about this sign?'

no due process;

- * Staff-perpetrated theft of all of a detainee's property;
- * Confiscation and destruction of family albums on the excuse that the detainee could not prove he was a child depicted in any photo in the album;
- * Deprivation of any significant amount of 'yard time,' to the point where Vitamin D tablets were required due to conditions of nonstop indoor confinement; and
- * Deprivation of any meaningfully protective medical care, such that needless deaths have occurred for lack of apt diagnosis or treatment (in at least one case, the complaining sufferer was simply confined to his room for a week, while nearby detainees heard his incessant cries for help, until he was found dead by staff).

Anniversary of an Injustice

By Antony - Shane : Martin
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"Here in South Carolina 2023 will be the 25th anniversary of another of the most horrific holocausts of the Americas. It is buried in myths and lies. It falls under the name, the Sexually Violent Predator Act. This Act set in motion a pattern of falsifications of history in an ongoing political platform. Under the auspices of this political manifesto, a powerless minority of disenfranchised individuals have been hauled off in chains on the fallacious claim that this must be done 'before they commit a crime.' These carefully selected victims are stripped of their state-law and Constitutional rights and inflammatorily labeled as 'dangerous,' 'without self-control,' and a host of other vicious lies intended to evoke hysterical fears and mindless rage in the hearts of the populace.

By this manipulation the creators and perpetrators of this monstrous pretense at civil commitment law have declared to society that it is 'Open Season' against these defenseless unfortunates — reinvented as 'personae non grata' in their native state and country and banished, not by exile, but by deliberately perpetual incarceration until death. This senseless and inhuman war upon individuals continues today especially in these states: California, South Carolina, New York, Minnesota, Florida, Kansas, and fourteen others, as well, as the federal prison system — wherever a series of diabolically manufactured stereotypes and myths took hold and where the misguided sociological, geopolitical dialect of the *a priori*

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heuristic, 'I think this is bad or sick, so it must be' was accepted as convincing without any proof whatsoever.

Many books and reports were produced in haste to justify this vile, ugly history on nothing more than bald assertion, false or exaggerated isolated anecdotes, and ipse dixitism. Today, some companies, lawyers, psychologists, psychiatrists, politicians and others seek to continue this falsification for profit and gains, despite its utter hypocrisy as based only on aspersions of shame and infamy.

New books and reports, written by a new generation of professors and authors of higher ethics and loyal to truth, have set forth the true facts, under science. But the old guard – the originators of the vile propaganda of hysteria and hate, continue to do everything in their power to prevent wide publication and dissemination of these truths.

These authors, even professors of renown and highest scientific respect, find themselves suddenly threatened, denied tenure, terminated, blacklisted, banned from publication rights and speaking privileges, and ostracized – all just for speaking truth to power. Those who inflict this bald retaliation for such impolitic revelations of truth threaten similar mistreatment on all who even merely question such anti-academic terroristic tactics. And then they move on to the next victim of this modern repeat of academic Inquisition, intimidating all modern Galileos and Copernicuses not to question the political, neo-papal authority of the junk-science false view of our real universe.

During the last twenty-five years, laws have been hastily enacted and used as instruments of totalitarian tyranny in the hands of penny-ante oppressors – true 'men behind the curtain' of Oz. These tyrants, who rule solely by manipulation of heuristics and other tricks of hateful rhetoric, have used these hysterically originated laws to oppress the powerless, the voiceless, the poor whom they select to hold high as examples of their unchallenged raw power to dominate, regardless of the evil they do and the lives they gradually snuff out in durance vile. We have seen all this before in modern history, but not without jackboots and weapons. Now it is all done purely by manipulating the uninformed emotions of the easily alarmed populace. These oppressors act as Gestápo enforcers of biased rules, grinding human and constitutional rights into the dust beneath their feet – all to keep those they declare to be second-class citizens in threatened subservience.

I ask that this year we – as a whole – stand up, step up, speak out against this mass injustice and this corruption of the freedom and honesty our country used to stand for – not in politeness and etiquette, as if a request, but stridently and insistently, and loudly, as a demand for

attention to this evil that must be ended – now.

Make our voices heard! Make them heard in the darkness of the abyss into which all victims of this monstrous corruption of science and governance have been cast. Make them heard in the highest towers of power in our nation. Make them heard in the empty, echoing recesses of this wheezing and shaking infernal machine of destruction of lives and the very essence of what it means to be American.

And carry the light of undeniable truth, of honesty and rule by ethics and science, of freedom, and of liberation of minds as well as of bodies, so that all can see the justice of our cause and take courage in the inevitable triumph of right over might that has always guided our civilization.

And shout with one voice, "I AM HERE; I AM NOT A FORGOTTEN ONE."

B4U-ACT Fact Sheet

- Russell Dick, MSW, is co-founder & current Chairperson. He's not MAP, but his co-founder is. Dick had a career in social work.
 - B4U-ACT, Inc. is a 501(c)(3) organization organized in 2003. No paid staff, all volunteers.
 - "B4U-ACT is a collaborative effort of mental health professionals, researchers, and people who are attracted to children or adolescents to accomplish the following purposes:
 - To publicly promote services and resources for self-identified individuals (adults and adolescents) who have feelings of attraction and affection to minors and seek such assistance;
 - To educate mental health providers regarding the approaches helpful for such individuals;
 - To develop a pool of providers who agree to serve these individuals and abide by B4U-ACT's Principles and Perspectives of Practice;
 - To educate the public regarding issues faced by these individuals.
- B4U-ACT holds workshops for mental health professionals and students, gives presentations at professional conferences, provides speakers for university classes, collaborates with researchers, communicates with professional organizations and journalists about the needs and rights of people who are attracted to children or adolescents, and runs support groups for both them and their friends and family members. We have promoted the term 'minor-attracted persons' (MAPs) that includes attraction to

children and under-age adolescents and is much less stigmatizing and filled with false assumptions than other terms used to describe this population. We publish an online newsletter and a quarterly online review of recent research regarding the actual life experiences of persons who are attracted to minors and their need for therapy focused on their needs and well-being. We also advocate for any treatment program for persons who have broken the laws to be similarly focused on the unique needs and well-being of each person and not just a cookie cutter program, that is only focused on preventing the person from breaking the law again.

B4U-ACT promotes competent and effective professional services and resources for individuals (adults and adolescents) who feel attraction and/or affection toward children and adolescents through education, outreach, communication, creativity, and initiative. B4U-ACT is a leader in the development of competent and specialized services and resources that will be sought by individuals (adults and adolescents) who have feelings of attraction and affection for minors. We promote the recognition that people with such feelings did not choose to have these feelings, just as adults attracted to other adults did not choose to have those feelings – it is just who they are. Persons with attraction to minors shouldn't be ashamed or villainized, but rather supported with services and resources to promote their well-being, while avoiding breaking the laws.

Our Values Statement states: Individuals who are sexually attracted to children are the focus of everything that we do. Compassionate assistance in dealing with the difficulties of living in society with an attraction to minors is essential to our success. Integrity is never compromised. Diversity is recognized and respected.

...During the last year, we've consulted and provide input from minor-attracted people to researchers on 16 new and ongoing studies. These studies were on a broad range of topics pertaining to MAPs and have involved 25 different researchers representing 15 academic institutions in Canada, the United Kingdom, Finland, New Zealand, the Netherlands, Belgium, Cyprus, Indonesia, and the United States. When the research sufficiently addresses issues that B4U-ACT supports and involves surveys of MAPs that do not contain false assumptions or stigmatizing perceptions, we announce them on our website and within our Peer Support Group so that MAPs might volunteer to participate in the studies. We are also in the early stages of collaboration with five other studies.

Our monthly Dialog on Therapy Group, held online, includes MAPs, therapists, graduate students, and researchers in the fields of mental health and sexuality. The topics covered are wide ranging and have

included the use of Compassion Focused Therapy and Narrative Therapy with MAPs, the knowledge base therapists need to work with MAPs, the development of an educational program for therapists, similarities and differences between therapy for Maps who've acted sexually with minors and therapy for those who haven't, parenting experiences and/or desires among MAPs, and sexual health for MAPs.

We do not provide legal consultation or advocacy services....

We do not provide pen pals. We do not provide therapy services for MAPs. We do have a small group of therapists scattered around the United States and a few other countries that have agreed to abide by our Principles of Practice and our Therapy Guidelines for working with MAPs. Minor attracted persons living in the community who contact us seeking a therapist are referred to a therapist on the list of Signatory providers.

B4U-ACT is unique in that persons who are minor-attracted are involved in planning and conducting all that we do. They are members of the Board, they co-plan and co-lead our workshops, they make presentations at university sexuality classes, they lead the online Peer Support Group, they compile and publish the online Newsletter, they are among the reviewers who compile the Quarterly Research Review Journal, they assist researchers in designing research that doesn't contain false assumptions about MAPs, and they volunteer to participate in research that we think will seek non-stigmatizing and factual information regarding persons who are attracted to minors. At our workshops, we provide sign-in sheets and name tags with only first and last names, so that there are no 'authority' or 'expert' designations (such as 'Ph.D.', 'M.D.', or 'psychologist') for the participants.

B4U-ACT is very much aware of the civil commitment laws in a number of states, but with our small number of volunteers, have not yet focused upon that issue. There are already a few organizations that are focusing on this issue, so we are ambivalent about spreading our resources too thin. However, the Board has recently been discussing how we might find the volunteer resources to begin addressing the issue.

We are currently adding to our official 'perspectives' on issues impacting MAPs, and the issue of the criminal legal system unjustly and immorally penalizing MAPs for their thoughts and feelings and prolonging their sentences with as you have called it, 'pre-crime preventive detention,' is among the issues we are drafting in the B4U-ACT's 'perspectives' statement. If we do add the civil commitment laws to our organization's priorities, we will be contacting you."
