the Legal Pad

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"All truth is simple. -- Is that not a compound lie?" – Frederick Nietszche

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— & New articles arrive like rain!

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'Keeping It 100':

MSOP's 100th Death in Confinement

by Cyrus Gladden

James Puffer, one of the confined in MSOP-Moose Lake, died of unknown cause(s) on July 18, 2023. We extend our consolations to his family and all who miss him. His was the most recent death of an MSOP confinee.

Due to the press of other matters and to some initial confusion about the count of previous deaths to date, it was only recently ascertained that his was the 100th death of an MSOP confinee since the inception of MSOP.

Our sadness is doubled by this disappointing fact. Roughly, this makes as many deaths of MSOP confinees to date as the number who, having been released at least to provisional discharge, remain living outside of confinement.

This comparative ratio has never favored the number of those released. Further, the number of those who have been granted "final discharge" from their Minnesota sex offender commitments still remains less than 20 out of the 950 committed in all the 30 years of MSOP operation — a blatant sign of abject failure of any treatment modality for sex offenders.

By comparison, the treatment program in place in prisons of the Minnesota Dept. of Corrections only takes about 2 to 3 years to complete, and very few fail to complete it. MSOP's comparatively very convoluted and complex treatment mode takes an average of 10 to 12 years for even the most astute participants to complete, and most instead fail to complete it or simply withdraw from treatment after many years in frustration at the lack of progress despite protracted effort.

Very few are declared by MSOP administrators to actually have "graduated" from the treatment program. Instead, the sole means of completion for almost all persistent participants is when the reviewing "CAP" court concludes that 'enough is enough' and elevates the participant to pre-release (CPS) or "provisional discharge" status over the objection of MSOP administrators.

However, even this process of judicial review of an ongoing commitment is creakingly sluggish, taking as much as five years to complete just one judicial round, win-or-lose. Bluntly, those who died simply ran out of time and means to convince these authorities of their lack of likely future recidivism.

Given that most who have died have been in or beyond their 70s, and the readily apparent lack of recidivism by past sex offenders who have reached such senior age, it is obvious as a scientific fact that MSOP is withholding release from even those who have zero statistical likelihood whatsoever of recidivism.

In part, this is politics, playing on the fears and revulsion of the public and setting the release bar too high in order to avoid flack if a releasee were to actually reoffend (a remote possibility no matter one's level of motivation in that direction, given the intense constant monitoring and supervision over MSOP releasees).

But also in part it is conscious and unconscious bias and outrageous residual retribution by MSOP administrators, assessors, and clinical staff, and even by those reviewing judges themselves for past sex crimes long since already paid for by long imprisonment before even reaching the entrance door to MSOP commitment.

This is not the function of a treatment program, but simply administration of a second sentence of life, with an open-ended parole board of many who simply seek to pounce on any excuse, no matter how trivial and anti-scientific, to deny a second *de facto* parole.

Of course, since there are no limits or constant standards, there will always be such excuses — and hence there will always be such deaths.

The fact that MSOP itself, and even the Minnesota Legislature has never acknowledged any ethical duty to clean up this surreptitious, outrageously vicious game of 'keep away' of a release long since earned by former prisoners and duly granted by corrections officials telegraphs unmistakably that the only reform that will ever work to end this official insanity is to simply end MSOP altogether.

There are many alternatives, as Prof. Eric Janus has outlined, to prevent sex crimes, including, but not limited to those by recidivists, that do not require such horrors as operation of shadow-prisons-without-release and that actually have been proven to be very effective at protecting the public and bringing real desistance from crime and rehabilitation to former sex offenders.

We ask that MSOP be ended, and that such alternatives replace it as rational, reasonable public policy. Thirty years of this horror and 100 deaths are not just enough to show that the state has been on the wrong track, they are too much to tolerate by a country dedicated to compassion and human rights.

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28 Years after Hendricks:

SOs STILL Endure Shadow Prisons.

Derek W. Logue, "25 Years After Court Ruling, Released Sex Offenders Endure 'Shadow Prisons,'" *The Crime Report*, June 22, 2022 (https://thecrimereport.org/2022/06/22/released-sex-offenders-condemned-to-shadow-prisons/). Text:

"On June 23, 1997, the U.S. Supreme Court, in *Kansas v. Hendricks*, upheld the practice of detaining people convicted of sexual offenses beyond prison sentences under the guise of treatment.

The landmark 5-4 ruling also concluded that the Kansas law governing the practice did not constitute double jeopardy since it merely authorized 'civil' rather than 'criminal' commitments.

Take together with *Kansas v. Crane*, a 7-2 ruling announced in 2002 that denied requiring a set legal standard for determining 'behavioral abnormality' in civil commitment proceedings, the High Court in effect created a purgatory for persons who have served their sentences but are subject to indefinite detention based on fears that they are a danger to the public.

At least 20 states have involuntary sex offense civil commitment program. So does the federal system.

A headline in Reason Magazine over a story by Jacob Sullum effectively summed up what such programs amount to: 'Civil Commitment of Sex Offenders Pretends Prisoners Are Patients' (https://reason.com/2021/02/10/civil-commitment-of-sex-offenders-pretends-prisoners-are-patients/)."

There's a good reason why critics refer to these programs as 'shadow prisons'. They resemble prisons in all but name.

In a 2015 OpEd for the Minnesota Star-Tribune, former State Senator Don Betzold said of the controversial Minnesota Sex Offender Program (MSOP):

'The sex offender treatment program is like a prison -- only worse, because there's no 'out' date. The Moose Lake building was designed as a maximum-security prison. The treatment program has been led by some state employees who came from corrections backgrounds.'

Many treatment programs are located within prison complexes and refer to those detained within as 'prisoners.' Some are run by private prison companies.

The civil commitment program in Littlefield, TX is run by Management and Training Corporation (MTC), a private prison company. The MTC calls those detained in the facility 'prisoners.' The Littlefield facility was once

(Continued on page 2)

used as a private prison, until it shut down after one prisoner committed suicide.

Some prisoners wear ankle monitors or are left in solitary confinement for months at a time.

Texas had once created an innovative 'outpatient civil commitment program,' but after scandals involving the judge of the dedicated civil commitment court and mismanagement of halfway houses by the state's Office for Violent Sex Offender Management (OVSOM), the Texas legislature created a series of 'reforms' that led to the creation of an 'inpatient' facility in 2015.

Shadow prisons posing as treatment are not limited to Texas.

Susan Keenan Nayda, Vice President of Operations at Liberty Behavioral Health Corporation, testified during a deposition her thoughts on the Florida Civil Commitment Center in Arcadia, Florida:

'There's a little bit of confusion ... What is this place? Is it a prison? Is it a mental health center? A residential treatment facility where people are clients? What is it? We ask that question sometimes too. We really don't have a lot of guidance around what it is the state wants the facility to be, and we would encourage the state to look at that.'

A lack of adequate treatment and a program designed to keep people detained as long as possible are common themes in civil commitment programs.

It is not uncommon for these programs to undo years of treatment 'progress' for minor violations. Between 1999 and 2015, Texas Health and Safety Code made minor program rules violations a felony offense.

In Minnesota, extremely high staff turnover rates often lead to detainees frequently starting [over] from scratch.

As a result, few indefinite detainees are ever released from these shadow prisons.

Minnesota has not released anyone until 2015 and [then] only due to a federal lawsuit. Since 2015, 15 people have been [unconditionally] released from the MSOP, while at least 88 [now: 100] have died. In Texas, TCCO claims they have released 13 prisoners and only three died, but protesters have countered by stating the number is closer to six releases and at least 29 deaths.

Civil commitment proponents know these programs do not work but will actively suppress studies that prove the programs are ineffective. California suppressed a study by Atascadero psychologist Jesus Padilla in 2006 which found those deemed 'high risk' and released from the state civil commitment program reoffended at the same rate as those released from prison but were not considered a high risk to reoffend.

Padilla's records were confiscated, his hard copies were shredded, and he was forbidden to talk about his work.

There is a profit motive for keeping this civil commitment scheme afloat. Shadow prisons are lucrative business.

A 2021 study estimated there were 4,321 'inmates with child victims in high security sex offender civil commitment facilities' with an annual average cost per inmates of $139,489. Civil commitment programs cost taxpayers roughly $538 million in 2021. The average cost of incarceration is far less.

As the U.S. economy is seeing inflation at levels not seen in decades and a looming recession, Americans should be looking to trim pork barrel spending. Sex offender civil commitment programs are costly and ineffective.

These programs are merely extensions of prison intended to make people feel safe but provide no actual benefit to society. As with other sex offense laws like the public registry, these laws only serve to extend punishment beyond a court sentence.

For all these reasons, civil commitment should be abolished.

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NCMEC: 2022 Figures Question Why It Exists.

[eds.], "Missing Children," *The Broadcast* newsletter, Vol. 11, No. 2 (Spring 2023), p. 4

Editor's opening note: The following figures are from the National Center for Missing and Exploited Children (NCMEC) reporting "children intake" by NCMEC in 2022. The chart below organizes these children by type and status. Further editorial commentary follows this brief piece.

Text excepts & chart:

"[As to the chart below,] [f]irst note that the horizontal scale is not linear. Despite this, you will see that of more than 27,000 children reported missing, more than 90% were runaways. Among actual abductions, 82% were abducted by family members. Finally, of the (only) [98] non-family abductions, another NCMEC report suggests that about 2/3 of abductors were family friends or significant others of the child's parent. NCMEC does not report whether ANY non-family abductions involved registered sex offenders."

Editor's Closing Commentary: First, below is the chart as provided.

Second, note that over 90% of all of NCMEC's intake are simply "endangered runaways." Since NCMEC's position is that merely being a runaway is inherently an "endangered" status, effectively, almost all of NCMEC's self-appointed role is keeping track of the status of runaways. This is not an investigative role; NCMEC leaves that to law enforcement. NCMEC is just a record-keeper and information clearinghouse.

In fairness, it appears to be a fairly prompt updater of its records. It reported that of 25,346 runaways it logged in 2022, all but 2,999 cases were "resolved" by year's end. These last unresolved cases were likely the runaways who simply hadn't either returned home or turned themselves in to social services staff, police, or non-governmental shelters as alternatives to returning home. Probably, a similar high percentage of these cases have already been resolved by this time in 2023.

Figures like these are very encouraging as to the country's determination to find and care for these troubled youths (mostly teens); the forces arrayed in this task are apparently doing a very good job. But NCMEC is not these indispensable 'boots on the ground.'

Finally, the only NCMEC category including (but not limited to) the very stereotype that gave rise to organizations like NCMEC (that is, predatory kidnappings by strangers) is blessedly small in number: The total in this category in 2022 was only 98.

While that is surely 98 too many, this figure itself is a deceptive exaggeration since, as reported above, about two-thirds of that number actually were simply family friends or significant others of the child's parent.

These cases very likely involved scenarios of children declining to return home after a 'visit' to a friend's home on claims of abusive treatment in their own home or choosing to leave with a non-marital domestic partner of their parent in a breakup of that relationship motivated by preference by that minor as to whom to live with (again, most of these cases are teens).

Of course, from a perspective of locating and recovering a minor said to be "abducted," these scenarios are good news and easily resolved.

Far better news is the fact that, of all 98 cases in this category in 2022 (including

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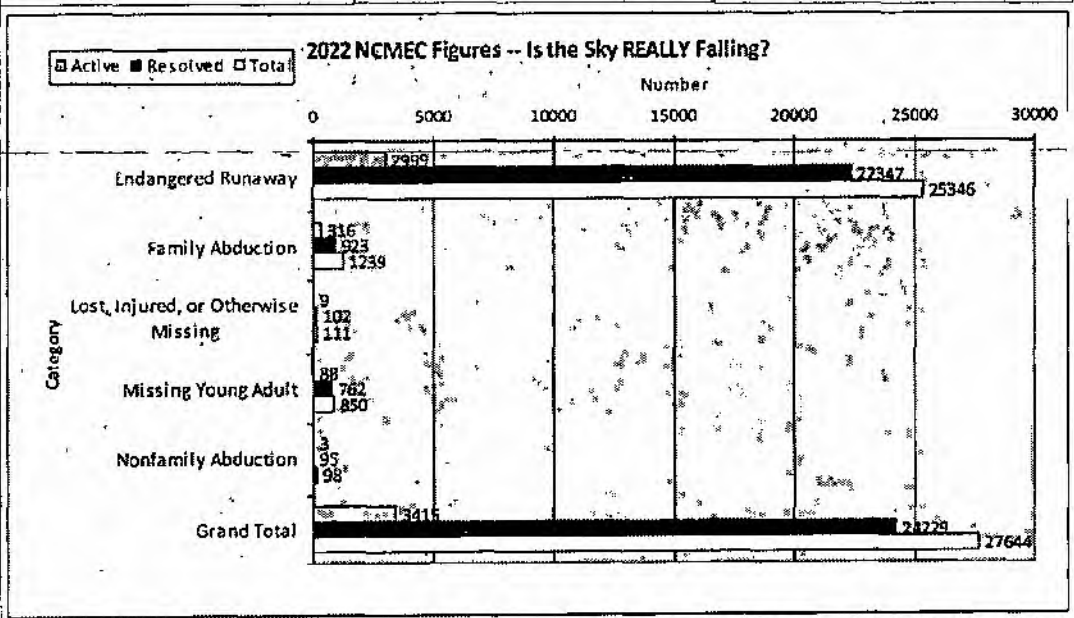

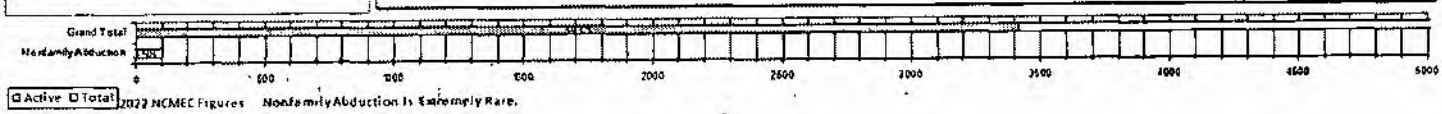

the other one-third, that may have been true stranger-abductions), only 3 cases remained unresolved at year's end (and again, even these may already have been resolved in the first part of 2023).

In sum, this signifies that only the tiniest number of minors, or perhaps even none in 2022 or any given year, were actually abducted by strangers.

To emphatically clarify how little this infinitesimal number actually plays into NCMEC's recordkeeping on everyday teen runaways, I attach below one more chart, at the foot of pages 2-7, contrasting that tiny number against NCMEC's total figure of all minors and young adults who disappear for some period(s) in 2022, as a typical year.

So: to answer the question posed at the outset above, it appears that the way NCMEC portrays the numbers it presents is intended to falsely scare everyone into incorrectly believing that armies of predators are simply waiting to pounce on any teen who leaves home for a while. Because NCMEC's other mission is to decry sexual exploitation of children and teens, it would seem that this is to suggest that such exploitation is happening constantly. But these numbers say otherwise

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The Carceral Illogic of Civil Commitment of Those Released from Prison after Long Sentences.

Toshio Meronek & Erica R. Meiners, "Beyond the Carceral Logic of Civil Commitment," *The Next System Project* (https://thenextsystem.org/learn/stories/beyond-carceral-logic-civil-commitment) (2017).

Abstract Excerpt:

"...In this essay for The Next System Project, Erica Meiners and Toshio Meronek ...challeng[e] the way our current system, behind the walls of 'civil commitment' facilities, perpetuates the carceral logic of harm in its response to the sexual abuse of children, and ask us to imagine what principles would truly underlie a system in which 'there are no more victims.' As they write, 'While perhaps not intuitive, asking the hardest questions first – like what to do with society's so-called "worst of the worst" -- might be the best place to start building structures that achieve real justice rather than continue to inflict administrative violence.' –The Next System Project

Text Excerpts:

p. 3: "Just as body cameras haven't eliminated police brutality, the increasingly complex web of post-conviction punishments for those convicted of sex offenses have neither reduced nor deterred child sexual violence. A deep, thoughtful look at society's handling of those convicted for harming children, who have been 'assessed' as persistent risks to themselves and people living outside prison walls, might generate positive ways of dealing with forms of harm considered as 'less severe.'

Perhaps the least well-known – and most problematic – carceral response to addressing people marked as the worst of the worst is the post-prison system for people with sex offense convictions called 'civil commitment.' Those confined in civil commitment are often in limbo for years, sometimes decades, with indefinite sentences in which state officials decide, often arbitrarily and inconsistently, the point at which someone is no longer a danger to the public.

p. 4: What does society do with the population considered the least human after they've been punished? As criticisms of the prison industrial complex grow, our definitions for 'treatment' and 'rehabilitation' within the complex demand investigations. 'The most unpopular civil rights issue of our time,' as a therapist who has worked with both civilly committed men and their victims called it, could be the catalyst to explode one of the least visible cornerstones of the US justice system.

p. 5: At almost quadruple the cost of incarcerating a person in a state prison, civil commitment is supposed to ensure access to treatment and prepare people for release. And yet, in the 26 years since its inception, there is no evidence to show that civil commitment 'works.' Statistics do not point to a reduction in the number of sex offenses, or lower 'recidivism rates,' which measure the chances that someone will end up back in the system, for people in Washington [State] and the 19 other states that use civil commitment, as compared to the 30 states where there are no commitment laws.

If, like universities, the success of civil commitment centers were based on their graduation rate, the privately owned Liberty Healthcare Corporation deserves immediate de-accreditation for its operation of Illinois' Rushville Treatment and Detention Center (TDC). As of May 2016, only 83 people have been released from the state's civil commitment program out of hundreds, according to Marianne Manko, a spokesperson for the Illinois Department of Human Services, although these numbers are disputed by a local advocacy organization that is organizing to raise the visibility of civil commitment in Illinois.

p. 6: Formerly a prison for juveniles, the Rushville TDC was renovated and expanded and opened in 2006; as of 2015, it held 545 of Illinois's designated SVPs....

...Steve, age 56, ...was convicted of criminal sexual assault and aggravated criminal sexual abuse. After spending ten years in what he described as an effective treatment program for people convicted of sex offenses at Big Muddy Prion in Illinois, Steve had his pre-release evaluation, which is mandatory according to the Illinois Department of Corrections.

During his interview, Steve admitted that he had come to terms with being gay, which had been a lifelong struggle in part because his religion, Christianity, espouses anti-gay views. Steve told the interviewer that because of this, he would not act on his 'gay desires.' The evaluator concluded that this made Steve potentially more dangerous to the public, since he would have no outlet for his sexual desires if his religion wouldn't 'allow' him to have sex with other men.

With an initial diagnosis of 'hebephilia,' or an attraction to early adolescents, Steve was recommended for a civil commitment hearing. Steve's lawyer challenged the diagnosis, which is a controversial category that as of yet is not included in the Diagnostic and Statistical Manual of Mental Disorders (DSM) – the gold standard for classifying psychiatric disorders. (The term seems especially contestable given what constitutes 'normal' in our society: where youths are most often sexually abused by family members who will never face consequences; there's a preponderance of 'Barely Legal' pornography; and the many websites, ostensibly created by and for adults, with clocks that count down the seconds till underage celebrities turn 18.)

pp. 6-7: When it came time for a 'Frye Hearing,' one that explores the scientific validity of a diagnosis, the state shifted and said Steve did not suffer from hebephilia, but rather from anti-social personality disorder. Additionally, an Illinois court diagnosed him with another disorder that basically says he's turned on by 'non-consensual force,' a diagnosis only used in the SVP community that was recently successfully challenged in New York state court. Although the state concluded he didn't force his victims into sex, the fact that they were underage meant they couldn't consent. That was enough to keep him a ward of the state.

When Steve arrived at Rushville, he was told that his previous decade in treatment at Big Muddy Correctional Center didn't count. Worse, according to Steve: The first step in the new treatment program at Rushville would be an 'Aversion Test.' Steve would be shown 'deviant porn.' If he attempted to use any mental intervention tricks to fight arousal, he would automatically fail. As Steve explained, he'd spent ten years at Big Muddy learning to intervene in his deviant thoughts, and he would not allow that to be undone for the sake of Rushville's test. That would be, he analogized, like 'forcing an alcoholic in recovery to drink.'

On principle, Steve is not opposed to treatment. ...He just doesn't want to have to start over from the beginning. And given the outcome of his earlier pre-release evaluation, he worries that if he consents to participate in treatment at Rushville, any disclosures he makes during treatment, or even the fact he even consents to treatment, could be used against him in a future hearing.

Approaching seven years in Rushville, Steve's next civil commitment hearing may happen ...with representation by a public defender. Given the massive caseloads of most public defenders and the difficulty in finding lawyers who have specialized knowledge of the law around cases like Steve's, along with the state's dismal record of treating and releasing people, he may remain in Rushville for years to come.

p. 8 **Weird Science**

Among the most invasive and scientifically contentious tests widely used to determine whether or not a registrant is ready to re-enter society is also one of the most infamous: the *penile plethysmograph* (PPG for short), also known as *phallometry*. The test was originally developed in the 1950s to combat the scourge of homosexuality, by a Czech scientist tasked by his government to determine the sexual orientation of suspected homosexuals.

A typical PPG test goes like this: you're shown images, sometimes videos, of things that are not supposed to turn you on, such as kiddie porn. An instrument placed on your penis measures the size of your member during the show. Get a hard-on, the test's logic goes, and you might just be a menace to society.

The test's reliability is flimsy – to the point that in the US judges aren't allowed to use it to assess guilt in criminal cases. Floridian Douglas Carlin, upon release from civil commitment, told the *New York Times* his strategy for beating the test: 'I just stared at a shelf of cleaning products and read the labels.'

Other critics view it as something that ought to be relegated to science fiction. A California court likened the test to something out of George Orwell's *1984*; writer and trans activist Andrea James compares its use in predicting sex offense recidivism to 'future crime' described by Philip K. Dick in *Minority Report*.

As early as the 1980s, Dr. Robert M. Stein, then Director of the Psychophysio-

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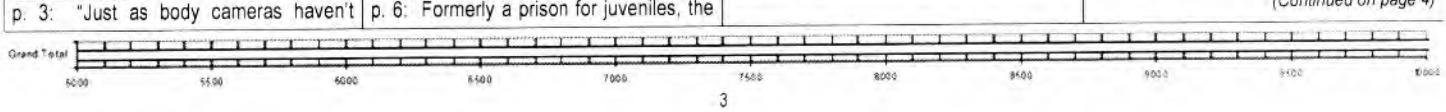

logical lab at the Sexual Behavior Clinic in New York City has assessed the test as only useful to measure penile impotence. 'Plethysmograph data is totally useless for determining guilt or innocence regarding deviant sexual acts,' he wrote. 'It would be like using a personality test to convict someone of burglary.'

In 2006, a California court ruled that the so-called 'peter meter' didn't improve public safety, and went even further, calling it 'an unreasonable and unnecessary deprivation of liberty,' after a man convicted of child porn possession sued against having to undergo it as part of his probation.

pp. 8-9: Why, then, it is still used within civil commitment? In large part because civil commitment is governmentally classed as a 'therapeutic,' not criminal justice domain. Only in this case, therapy apparently translates into a 'pay-it-forward' system of harm that has not impacted the original harms it is supposedly set up to end. From this lens, it is hard to see civil commitment as anything other than a barely cloaked extension of the carceral state – an extralegal 'prison' in which people classified as dangerous are exposed to administrative violence, with this violence then justified as a way to supposedly prevent future harms.

p. 9: Even more widely used – and accepted by court systems as valid – are psychological tests such as Static-99R (introduced in 1999 as the Static-99). 'The most widely used sex offender risk assessment instrument in the world,' its creators claim, is based on ten mostly yes-or-no questions, which are supposed to determine whether someone is a low, moderate-low, moderate-high, or high risk for committing violence.

Static-99's final question, #10, asks whether an individual had 'any male victims.' Having 'male victims is correlated with measures of sexual deviance and is seen as an indication of increased sexual deviance,' according to a 1998 paper co-authored by Canadian researchers R. Karl Hanson and M.T. Bussiere, who surveyed research on people with sex offenses and recidivism rates to conclude that people who have male victims (children or adult) recidivate at a higher rate than those with female victims. Given that nearly all of the people who are serving time for crimes of a sexual nature are men, question ten is unabashedly anti-homosexual. If your answer is yes, you are considered a higher risk than registrants whose alleged victims are female.

p. 10: Polygraphs are not admissible in court and no one – a plaintiff, defendant or a witness – can be legally forced to take a polygraph. Yet in the post-conviction world of people designated as sexually violent, these devices, and others with worse scientific provenance and credibility, proliferate. The American Psychological Association does not endorse the use of polygraphs and states 'the most practical advice is to remain skeptical about any conclusion wrung from a polygraph.' A body of research also specifically flags that polygraphs are particularly ineffective for people convicted of sex offenses.

'When it comes to sex offenders, to what extent is "treatment," at least within the US, rooted in the evidence? Unfortunately, not much,' writes Grant Duwe, a clinician who works with civilly committed individuals in Minnesota.

Polygraphs, phallometry, the Static-99R – these and other tools are widely implemented across all 20 states with civil commitment programs. Countless resources fuel research, reformulations, and reinventions in a decades-long quest for 'a more perfect instrument.' Yet a technologically optimized peter meter, or better and cheaper risk assessment tools for people in civil commitment, shouldn't be our goal. This is exactly the 'tinkering around the edges' that does nothing to overhaul a system that apparently does more to harm than help. We can't quantify the number of sexual assaults that might have been avoided had those resources gone to harm reduction strategies, or minimizing the harmful consequences of a civil commitment system by replacing it with, for example, accessible mental health services; anti-poverty measures such as more employment opportunities; and sex education programs – just a few successful violence reduction strategies documented by the World Health Organization. What, on the other hand, do we know for sure? That the 'corrections and rehabilitation' approaches used in the US are failing to end sexual violence.

pp. 13-14: A state with a bill recently under consideration that would recommend people convicted of sex offenses pay to be castrated after they have competed their prison sentence, Kansas enacted civil commitment for SVPs in 1994. Most SVPs are housed in Larned State Hospital, which currently holds 260 people and has only released a handful since the program started.

56-year-old Mark Sherfey ...diagnosed with 'anti-social personality disorder' and 'pedophilia,' believes material he disclosed during the 18-month long Sex Offender Treatment Program he participated in while in Hutchinson Correctional Center (1997-99) was used against him during his hearing. In particular, Mark thinks that the administrators of Hutchinson's SOTP didn't believe that he only had one victim. To retain access to his privileges, such as the ability to have books in his cell, he believed he had to disclose multiple victims. He argues that this was used against him in the hearing and assessment phases.

The Larned treatment program, according to Mark, is primarily based on activities and classes, and 'if you don't get 100% attendance you can't go to the next phase.' Not everything in the program is bad; his most useful class is 'Dialectic Behavioral Training,' but he thinks that almost everything they teach could be taught in a year. Most of hospital staff, the 'privates,' are 'all cool,' he reports, but he identifies that the 'higher-ups' who are running the program seem to act as though 'their job is to ensure that none of us get out.'...

Mark knows that few people leave Larned, even when h counts the 8 to 10 people who have died since he arrived in 2011. 'There are people in wheelchairs and in diapers that can't take care of themselves. They can't walk and they are still in this program. It is ridiculous.' The staff want to keep their jobs, Mark says, and therefore have a vested interest in keeping people at Larned, but he also suggests that the structure of the system is a fault.

p. 15: 'No one body in the world can be as perfect as this place is trying to get us to be,' says Mark. 'The bar is set so high that Christ could not make it.' The treatment and staff and administrators, he states, 'could not live up to this program. Not even the judges that are sending us here could live up to this program. That is what is frustrating.'

p. 19: One-size-fits-all risk assessments with questionable efficacy; high staff turnover; treatment that many experts conclude includes outdated and illegitimate practices and tools; the over-representation of certain populations; treatment programs from which only a miniscule number graduate; the lucrative state contracts that incentivize keeping facilities open; multiple reasons point to a system so broken it can't be fixed."

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Shaming the Constitution, Part 11: Ch. 7 Excerpts, Part 2 of 2

Michael L. Perlin & Heather Ellis Cucolo, *Shaming the Constitution: The Detrimental Results of Sexual Violent Predator Legislation* (Philadelphia: Temple Univ. Press, 2017), Chapter 7: "International Perspectives" (Part 2 of 2)

Editor's Note: This is the eleventh 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. In this segment, topics discussed include comparative law and an international version of Megan's Law.

Text excerpts:

Comparative Law

Australia[173]

p. 155: Offenders in Australian states traditionally do not forfeit their human rights upon commission of a crime. Not coincidentally, the three Australian states that have opted to employ preventive detention (New South Wales, Queensland, and Western Australia) have not implemented any statutory protection of human rights.[181]...

The most important Australian case is *Attorney General [Queensland] v. Fardon*.[183] ...The Australian High Court upheld the DPSOA and permitted post-sentence commitment of offenders perceived to be dangerous.[185] In the course of their opinions, the six justices in the majority made points very similar to those found in *Kansas v. Hendricks*[186] about the "non-punitive" nature of the Act.[187]...

In 2007, Fardon and an individual detained under the New South Wales equivalent legislation[189] submitted communications to the UN Human Rights Committee (UNHRC)[190] under the Optional Protocol to the International Covenant on Civil and Political Rights. The UNHRC concluded that post-sentence confinement was 'penal in character' and thus, under Article 9, paragraph 1, of the Covenenant,[191] was 'not permissible in the absence of [another] conviction for which imprisonment is a sentence prescribed by law.[192] We agree with the conclusions of Professors Bernadette McSherry and Patrick Keyser that the Queensland law 'challenges long established and widely accepted human rights principles.'[193]

p. 156: Canada[194]

In 2004, the Canadian Parliament passed the Sex Offender Information Registration Act (SOIRA).[195] Canada's registry is not available to the public but requires that sexual offender information be contained in a national database 'to help police services investigate crimes of a sexual nature.'[196]

p. 157: An International Megan's Law

In recent years, there have been some political discussions and limited academic commentary on the enactment of an *international* sexual offender registry.[215] International tracking of sexual offenders is difficult because of privacy law differences between foreign nations and the United States, making it complicated to share criminal records and other personal information about convicted persons.[216] In 2009, a New Jersey Congressman introduced a bill, the 'International Megan's Law,'[217] mandating reporting requirements to officials abroad when convicted sexual offenders plan to travel internationally.[218] It would require registered sexual offenders to notify appropri-

(Continued on page 5)

At the border

ate jurisdictions of their intentions to travel, no later than 21 days before departure from or arrival in the United States. Once a jurisdiction receives notice of an offender's intent to travel, the jurisdiction must inform the U.S. Immigration and Customs Enforcement Special Agent in Charge (ICE SAC).[219] Registered offenders would be required to submit a travel itinerary, the purpose of the trip, names of travel companions, and contact information prior to departure and during travel, along with details of their criminal conviction.[220] Foreign countries willing to comply with the bill are obligated to track, maintain, and report information on offenders who have left the United States to reside either permanently or temporarily overseas.[221]

pp. 157-58: In *United States v. Murphy*, the Tenth Circuit had held that when a sexual offender 'leaves a residence in a state, and then leaves the state entirely, that state remains a jurisdiction involved' under § 16913 of SORNA.[224] The Tenth Circuit reaffirmed its holding in *United States v Nichols*,[225] a case in which a registered sexual offender moved from Kansas to the Philippines without updating his registration and was charged with violating SORNA.

In a unanimous decision, the Supreme Court reversed the judgment of the Tenth Circuit and held that SORNA did not require Nichols to update his registration in Kansas once he departed the state.[226] The Court read SORNA as requiring registration only so long as the sexual offender resides , is an employee, or is a student in a 'jurisdiction' – a term that does not include foreign countries.[227] The Court recognized the 'loopholes and deficiencies'[228] of SORNA but was confident that future *Nichols*-type situations would be cured by Congress's recent enactment of an International Megan's Law (IML).[229]

Congress has recently criminalized the 'knowing failure to provide information required by [SORNA] relating to intended travel in foreign commerce.'[230] This law authorized the Department of Homeland Security 's Angel Watch Center and the Department of Justice's National Sex Offender Targeting Center to send and receive notifications to or from foreign countries regarding international travel by registered sexual offenders, and required the Department of State to include unique identifiers on passports issued to registered sexual offenders.[231] In the first litigation over this act, a federal court in California denied a preliminary injunction seeking to halt the enforcement of §§ 4 (e), 5, 6, and 8 of the IML, specifically challenging the portion that would allow the government to mark the passports of certain convicted sexual offenders.[232]

Conclusion

A consideration of international and comparative law reveals two truths: First, the current state of affairs in the United States[238] violates all relevant international human rights laws and conventions, ongoing violations that appear to be 'off the radar' for virtually all policy makers in this nation.[239] Second, although there are some laws in other nations that are as draconian as U.S. domestic law,[240] it is clear that the complexity and depth of these issues are strongly considered before any legislation is enacted and that laws in other nations that are generated from an immediate, 'knee-jerk' emotional response[241] still remain minimal when compared to the vast number – discussed throughout these chapters – in American jurisdictions, past and present. Our lack of thoughtful analysis of the implications of the laws we enact more shames the Constitution.

Notes:

173 See generally *Michael L. Perlin & Heather Ellis Cucolo*, Mental Disability Law: Civil and Criminal §§ 5-8.1to 5-8.1.1, at 5-350 to 5-353.

181 One scholarly analysis has concluded that the Australian legislation appropriately balances the public safety interest and the basic human rights of sexual offenders. See *Jasmin Moran*, "The Public Safety (Public Protection Orders) Bill 2012: Is Post-Sentence Detention of Sex Offenders Consistent with Human Rights?", 45 *Vict. U. Wellington L. Rev.* 133, 159 (2014).

183 [2003] QSC 200 (Unreported, Muir J, July 9, 2003). *Fardon* was brought pursuant to a Queensland statute; although at that time no other state in Australia had parallel legislation, the attorneys general of other states, including Victoria and New South Wales, intervened to the High Court on behalf of Queensland. See *Cynthia Calkins Mercado & James R.P. Ogloff*, "Risk and the Preventive Detention of Sex Offenders in Australia and the United States," 30 *Int'l J. L. & Psychiatry* 49, 52 (2007). For a consideration of all Australian state sexual offender laws, see *James Vess et al.*, "A Comparative Analysis of Australian Sex Offender Legislation for Sex Offender Registries," 44 *Aust. & NZ J. Criminology* 404 (2011).

185 *Fardon v. Attorney General* [2004] HCA 46 ¶1 (Gleeson CJ, McHugh, Gummow, Hayne, Callinan, and Heydon JJ., Kirby J. dissenting).

186 521 U.S. 346 (1997). See *supra*, Chapter 3, at "Supreme Court Decisions Delineating the Elements of Civil Commitment, *Kansas v. Hendricks*."

187 *Fardon*, at ¶ 34 (McHugh J). See also ¶ 216 (Callinan J and Heydon J) ("Several features of the Act indicate that the detention in question is to protect the community and not to punish."). Alternatively, the dissenting justice called the post-sentence detention under the statute "double punishment" both because the disposition took place in a prison and because treatment "takes a distant second place (if any place at all) to the true purpose of the legislation, which is to provide for 'the continued detention in custody ...of a particular class of prisoner.'" *Id.* at ¶¶ 148, 156, 173 (Kirby J).

189 Crimes (Serious Sex Offenders) Act 2006 (NSW).

190 United Nations Human Rights Committee, *Fardon v. Australia* Communications No. 1629/2007 UN Doc CCPR/C/98/D/1629/2007 (2010) [hereinafter Fardon Communication].

191 *Id.*

192 *Fardon v. Australia* at ¶ 7.4(1). The statute, as applied, amounted to an ex post facto law, violating Article 15 of the Covenant proscribing any penalty heavier than the one that existed at the time of the original sentence. *Id.* at ¶ 7.4 (2); ICCPR art. 15. See *Christopher Slobogin*, "Preventive Detention in Europe, the United States, and Australia," in Preventive Detention: Asking the Fundamental Questions 12 (Patrick Keyzer, ed., 2013). ("An HRC opinion is not binding on Australia, although the HRC can request that any party to the International Covenant provide a response as to how it plans to give effect to the Committee's view. To date, Queensland and the federal government of Australia have not seen fit to appreciably change the statute in question."); see *Janus*, *supra* note 57, at 539-40, discussing the analysis of these cases in *Patrick Keyzer*, "The International Human Rights Parameters for the Preventive Detention of Serious Sex Offenders," in Dangerous People: Policy, Prediction, and Practice 25 (Bernadette McSherry & Patrick Keyzer, , eds., 2011). For a searing critique of *Fardon*, see *Patrick Keyzer, Cathy Pereira & Stephen Southwood*, "Pre-Emptive Imprisonment for Dangerousness in Queensland under the Dangerous Prisoners (Sexual Offenders) Act 2003; The Constitutional Issues." 11 *Psychiatry, Psychology, & L.* 244, 251 (2004) ("In our opinion, the uncertainty and oppressiveness of this imprisonment regime amount to a significant undermining of our criminal justice system.") On the important question of the ethical obligations of psychiatrists and psychologists in such cases, see *Ian Freckelton & Patrick Keyzer*, "Indefinite Detention of Sex Offenders and Human Rights: The Intervention of the Human Rights Committee of the United Nations," 17 *Psychiatry, Psychology & L.* 345, 353 (2010).

193 McSherry & Keyzer, *supra* note 67, at 67.

194 See generally Perlin & Cucolo, *supra* note 173, §5-8.2 at 5-356. Seer also, e.g., *Julie Blais & James Bonta*, Tracking and Managing High Risk Offenders, 39 *Law & Human Behav.* 253 (2015).

195 In *R. v. Lyons*, 2 S.C.R. 309 (1987),the Canadian Supreme Court held that indeterminate sentences (based on dangerousness) in lieu of a normal sentence) do not violate the Canadian charter provision prohibiting cruel and unusual punishment unless the sentence becomes "grossly disproportionate." In *R. v. L.M.*, 2 SCR 163 (2008), the Court sanctioned a ten-year term of community supervision appended to the end of a sentence under a "long-term offender" statute, on the ground the supervision was not punishment.

196 Id. At § 2(1) SOIRA acknowledges "the privacy interests of sex offenders and the public interest in their rehabilitation and reintegration into the community" and thus does not provide the Canadian public with access to the registry.§ 2(2)(c). On Canada's Dangerous Offender legislation in general, see *Jessica Morak*, "Resident Evil: A Reformation of U.S. Civil Confinement Law," 22 *Cardozo J. Int'l & Comp. L.* 665, 688-90 (2014); *Julie Blais*, "Preventive Detention Decisions: Reliance on Expert Assessments and Evidence of Partisan Allegiance Within the Canadian Context," 33 *Behav., Sci. & L.* 74 (2015). On the impact of actuarial risk assessment evaluations in Canada in cases involving mentally disordered offenders, see *N. Zoe Hilton & Janet L. Simmons*, "The Influence of Actuarial Risk Assessment in Clinical Judgments and Tribunal Decisions About Mentally Disordered Offenders in Maximum Security," 25 *L. & Hum. Behav.* 393 (2001). For a therapeutic jurisprudence-based investigation (see *infra* Ch. 8) of sexual offenders in Canada see *Jason E. Peebles*, "Therapeutic Jurisprudence and the Sentencing of Sexual Offenders in Canada," 43 *Int'l J. Offender Therapy & Comp. Criminology* 275 (1999).

215 See, e.g., *Karne Newburn*, "The Prospect of an International Sex Offender Registry: Why an International System Modeled after United States Sex Offender Laws Is Not an Effective Solution to Stop Child Sexual Abuse," 28 *Wis. Int'l. L. J.* 5437, 549 (2010); *Karen D. Breckenridge*, "Justice Beyond Borders: A Comparison of Australia and U.S. Child Sex Tourism Laws," 13 *Pac. Rim L. & Pol'y J.* 405, 413 (2004); *Nicole J.*

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Smith, "Protecting the Children of the World: A Proposal for Tracking Convicted Sex Offenders Internationally," 13 *San Diego Int'l L.J.* 623, 631 (2012) (U.S. focuses on providing public access to sexual offenders' information as an important prophylactic measure while the EU tends to restrict such information); *Autumn Long*, "Sex Offender Laws of the United Kingdom and the United States: Flawed Systems and Needed Reforms," 18 *Transnational L. & Contemp. Probs.* 145, 155 (2009); *Shelby A. Boxenbaum*, "South Africa's Sex Offender Registry: A Legislative, Public Policy and Constitutional Overview," 14 *Gonz. J. Int'l L.* 1 (2010-11) (South Africa and Canada use their registries for narrowly defined purposes: United States enacted its registration scheme for more broad and undefined reasons); *Christopher King*, "Sex Offender Registration and Notification Laws at Home and Abroad: Is an International Megan's Law Good Policy?", 15 CUNY L. Rev. 117 (2011); *Basyle J. Tchividjian*, "Catching American Sex Offenders Overseas: A Proposal for a Federal International Mandated Reporting Law," 83 *UMKC L. Rev.* 687 (2015). For a thoughtful criticism, see *Danielle Viera*, "Try as They Might, Just Can't Get It Right: Shortcomings of the International Megan's Law of 2010," 25 *Emory Intl L. J.* 1517, 1559 (2011) (criticizing law for failing to consider the "overall lack of scientific evidence supporting the effectiveness of its namesake federal law in the United States").

216 *Smith, supra*, note 215, at 639. See *Bob Sullivan*, "'La Difference' Is Stark in EU, U.S. Privacy Laws," *MSNBC* (Oct. 19, 2006), http://nbcnews.com/id/15221111/ns/technolog_and_science-privacy_lost/t/la-difference-stark-eu-us-privacy-laws/. See *U.S.C.* 2423(c) (2014) (federal crime for an American citizen to sexually abuse a child in a foreign jurisdiction).

217 H.R. 1623, 111th Cong. (2009). Rep. Chris Smith introduced H.R. 1623, the "International Megan's Law," in March 2009. If passed, the bill would alert officials abroad when U.S. sexual offenders intend to travel and would encourage other countries to keep sexual offender lists and notify American officials about offenders' U.S. travel plans. U.S. law can grab American predators overseas. See *Deena Guzder*, "A Move to Register Offenders Globally," *Time* (Sept. 7, 2009).

218 Cooperation between the United States and foreign countries is crucial in identifying child sexual offenders traveling abroad and those who were convicted in other countries and who wish to enter the United States. H.R. 1623 at § 2 (16).

219 *Id.* at § 4(1). E.g., *Smith, supra* note 215, at649.

220 H.R. 1623 at § 4(2)(b)(2).

221 *Id.* at § 5(a).

224 *United States v. Murphy*, 664 F.3d 798 (10th Cir. 2011). In adhering to *Murphy*, the Tenth Circuit broadened a split that had been created by the Eighth Circuit decision in *United States v. Lunsford*, 725 F.3d 859 (9th Cir. 2013). *Lunsford* held that the defendant had no obligation to update his registration in Missouri because a sexual offender is required "to 'keep the registration current' in the jurisdiction where he 'resides,' not a jurisdiction where he 'resided.'" 725 F.3d at 861.

225 775 F.3d 1225 (19t Cir. 2014).

226 *Nichols v. United States*, 136 S. Ct. 1113 (2016).

227 *Id.* at 1119 (citing 42 U.S.C. § 16911(10).

228 *Id.*

229 *Id.* See *Perlin & Cucolo, supra* note 173, § 5-8.3.

230 International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders, Pub. L. 114-119, § 6(b)(2), 130 Stat. 22, to be codified at 18 U.S.C. § 16914(a)(7). Such information includes "anticipated dates and places of departure, arrival, or return[;] carrier and flight numbers for air travel[;] destination country and address or other contact information therein." § 6 (a)(1)(B), 130 Stat. 22, to be codified at 42 U.S.C. § 16914(a)(7).

231 See: The White House, Statement by the Press Secretary on H.R. 515, H.R. 4188, S.2152 (Feb. 8, 20916), https://www.whitehous.gov/the-press-office/2016/02/08/statement-press-secretary-hr-515-hr-4188-s-2152-0. The text of the enrolled bill that was presented to the President on Feb. 4, 2016 is available at https://www.congress.gov/114/bills/hr515/BILLS-114hr515enr.pdf.

232 *Doe v. Kerry*, 2016 WL 1446772 (N.D. Cal. 2016).

238 See *supra*, Chapters 3 and 4.

239 Other than articles dealing with the narrow issue of castration (see *Laura T. Kessler*, "'A Sordid Case': *Stump v. Sparkmen*, Judicial Immunity, and the Other Side of Reproductive Rights," 74 *MD. L. Rev.* 833, 912 n. 469 (2015), the only scholarship that we have found by U.S.-based law scholars are *Janus, supra* note 57, and *Birgden & Cucolo, supra*, note 91. There is plentiful scholarship from other nations. See, e.g., *McSherry & Keyzer, supra* note 67; *Keyzer & McSherry, supra* note 67; *Moran, supra* note 191; *Keyzer, supra* note 67; *Patrick Keyzer & Sam Blay*, "Double Punishment Preventive Detention Schemes under Australian Legislation and Their Consistency with International Law: The *Fardon* Communication," 7 *Melb. J. Int'l L.* 407, 412 (2006).

240 See *Perlin & Cucolo, supra* note 173, § 5-8.2 et seq.

241 See generally *Wayne A. Logan*, "Prospects for the International Migration of U.S. Sex Offender Registration and Community Notification Laws," 34 *Int'l J. L. & Psychiatry* 233 (2011); see *Newburn, supra* note 215, at 582 ("The EU offers a more comprehensive, well thought-out solution to stop child sex abuse.").

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Eldon Dillingham Addresses 'the Troops.'

Eldon Dillingham, "CURE National Civil Commitment" (Open-letter memo, May-June 2023)

Text Excerpts:

"Please do your best to ...advocate or support those who are advocating, addressing all matters concerning sex offender civil commitment ('SOCC'). SHARE [all] information you have available with others as well as with family/friends. We need everyone to be involved in whatever capacity they can be. We must work together to advocate for abolition and for profound change.

...[S]everal states that we are aware of continue to work with elected officials by asking for changes to SOCC. Those we are aware of (New York, Minnesota, Texas, California, Kansas) continue to maintain contact with state leadership (governor's office, elected representatives, etc.), and are hearing back from a few elected officials. If anyone knows of other states that are communicating with state officials, or maybe have, or know of, a successful legal decision, please let either me or Cyrus Gladden know. Cyrus's address is on the front page, bottom-left-hand side of *the Legal Pad*. If you are not allowed to write to Cyrus, send correspondence to me.

All state elected officials who voted for and/or support SOCC statutes need to hear (the truth) from everyone about the conditions, indefinite detention, abusive treatment (lack of independent oversight) (no rules to follow), etc. Most of the current elected officials had no part in creating involuntary SOCC statutes and almost ALL are not aware of what SOCC is, let alone ever heard of it. Most elected officials are kept in the dark, intentionally. Everyone needs to request statistical in formation and report that to elected officials, (for instance, cost, no one is moving out of the program, conditions worse than prison, etc.). Request elected officials to call for 'independent' evaluations of the program by professionals in the field.

All states should be asked to create a Legislative Oversight Committee on Civil Commitment. Communicate with elected officials (generally appropriations and judiciary committees) and explain why they should have a legislative committee [titled that way or words to that effect]. Examples of communications with elected officials could include, 'No treatment,' 'huge cost to taxpayers,' 'practically no one ever gets released,' 'low rates of recidivism,' (Canada research report says no difference in recidivism between those committed to a treatment center and those not), 'therapists leave employment once they learn what SOCC really is,' 'reasons for constant lawsuits being filed is because of the abuse of residents (restrictions, searches, mistreatment, medical care, etc.),' 'Justice Kennedy admitted he made a mistake when he supported involuntarily detaining individuals because he read the article published in a magazine that contained highly inaccurate rates of recidivism.' [All of these are true, and much support for each of these statements can be found in *tLP* editions; see below on accessing these.] There are a host of many other items you may want to use in communicating with elected officials. [Do not be afraid to use expressions such as 'shadow prisons,' 'shadow prisoners,' or 'gulags,' as these are powerful, accurate characterizations that recipients will not conceptualize unless you say them.]

Try to build a positive connection with those folks. as they are the only group who can legally change SOCC by way of statutory changes. If you do communicate with appropriate elected officials, try to, as concisely (and appropriately) as possible, provide reasons they should consider bringing about changes to SOCC or generally to civil commitment that will apply to SOCC systems/facilities. Some of our advocates 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 means everyone getting involved and communicating with them.

Recent and ongoing editions of *the Legal Pad* have, and are continuing to include excerpts from a document titled, in short, 'RM' that certain Minnesota confinees prepared sometime in January 2023. In its full version, it is 66 pages long. It was sent via email to those on the CURE Civil Commitment monthly call group. Possibly, a family member or friend can print and mail it, if you would like to read it in full. [It is well thought-through and written to communicate effectively with people of every level of educational attainment. It plugs SOCC as a form of extra incarceration into the larger picture of modern oppression and totalitarianism. It presents a profoundly

(Continued on page 7)

compelling case why everyone must resolutely and militantly oppose this misuse of civil commitment. It should be read by everyone willing to open their minds and be liberated from the bondage of mass brainwashing that evil, false propaganda has imposed on society in our country and others in the English-speaking world. This important manifesto of tenets is history-making in its own right and should not be ignored.]

RM received very favorable responses including from Eric Janus, law professor, Minnesota, the CURE National Executive Director and many others. Plans are to submit information (petition, etc.) pertaining to SOCC within the United States at the United Nations meeting during its March 2025 gathering when United States human rights matters will be heard. Generally, the petition will be calling for the United Nations to call for the United States to do away with involuntary SOCC within the 20 states, plus the federal government.

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.

If you have concerns/questions/issues or comments regarding legal or forensic matters as to SOCC or challenges which may you from it, Cyrus Gladden [again, address: lower left, front page], has dialoged 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 useful. However, Cyrus asks those having any outside support to first have them check the archive of past editions of *tLP* appearing at http://www.cure-sort.org/mn---the-legal-pad.html for any obvious answers to your question(s). The complete table of contents on that web page to all *tLP* editions to date is searchable by word or phrase for that purpose. All *tLP* editions are downloadable for free from this web page.

Also, 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. [This does not apply to academic or legal 'experts'; they are all very busy and cannot take time for individual inquiries. Inquiries/comments will be forwarded on to any specific 'regular' contributor to *tLP* otherwise, however. We must work as a group, those detained and those not, and from each according to his/her specific skills and experience. Organization and coordinated action is the key.] Thank you.

Get involved, stay involved. Encourage family and friends to get involved too with our national monthly calls so they can both receive and share information.

We are in a three-front 'war' to rid our country of SOCC and even just to bring reform and great change to civil commitment that will apply to SOCC. These fronts are: (1) winning over favorable treatment by media and educating the minds of, and winning over the hearts of all Americans; (2) gaining legislative and administrative action to eradicate SOCC and accomplish reforms; and (3) convincing the judiciary to do the right thing to bring justice to us by declaring SOCC and its outrageous abuses to be unconstitutional and ordering all of it to be abandoned and replaced by intelligent and compassionate programs instead. All of these 'war fronts' must be carried on simultaneously, and each to great effect, if we are ever to see any meaningful relief. Whatever your circumstance, this means you; we need everyone to take a role in this great quest. Get in contact, and stay in contact!

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Fed SORNA Reg Requires Impossible Acts.

Jacob Sullum, "DoJ Regulations Threaten People with Prosecution for Failing to Register Even When It Is Not Required by State," *CURE-SORT News* Vol. 32, No. 2, p. 1 (2d Quarter 2023)

"A rule that AG Merrick Garland issued in 2021 is being challenged in Federal Court. It requires people that have been convicted of a sex offense to register with their state, even when the state neither requires nor allows them to do so. They must also supply the state with all information required by Federal law, even when the state does not collect that information."

http://reason.com/2023/01/19/a-federal-judge-says-the-dojs-sex-offender-registrtion-rules-violate-due-process-by-requiring-the-impossible/

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RM 4th Excerpt

p. 37: *Totalitarianism, Communism, Fascism and the SP Regime*

...[T]herapists at the SP [Shadow Prison] try to convince Detainees that all Truth exists within the mind, or that there is no Truth at all. To them, life is about 'perception' and there is no absolute Truth. Fascists prefer creative myths over history and journalism. Their focus is on feelings, not logic. This is why therapists are constantly asking, 'How does that make you feel?' instead of 'What do you think?' or What do you believe?' They want us to hone in on feelings before we have time to ascertain facts. Post-Truth is Pre-Fascism. Totalitarianism destroys the essence of man. ...For those detained in the SP, totalitarianism begins in the civil commitment courtroom and colors every part of the Shadow Prison (SP) system from that foundation. Look at 'thought crimes' for instance. By their very nature, thought crimes make accusation and guilt the same thing.

pp. 37-38 Viktor E. Frankl survived to tell of the horrors of his experience in Nazi death-camps. He recorded his horrific experiences in his book, Man's Search for Meaning. The writers of this manifesto have used the same tactics Frankl used in Auschwitz to convince some of our peers not to commit suicide. Frankl's advice was effective because our men's reasoning to kill themselves is identical to the reasoning of Frankl's men, and thus Frankl's words were relatable. That's right, SP Detainees are seeking advice from an Auschwitz prisoner on how to keep his peers from killing themselves.

pp. 38-39: The Nazi party was driven by an ideology called Fascism. There are a few elements that make an ideology fascist, including a heavy military presence (A-Team), contempt for electoral democracy (Unit Reps are compromised), a survival-of-the-fittest mentality ('treatment' is inherently competitive), and the absolute rule of authority. All of these exist at the SP.

The term 'genocide' was coined by the Polish-American legal scholar Raphael Lemkin. But the term was officially defined at the Convention on the Prevention and Punishment of the Crime of Genocide as killing members of a racial group with the intention of bringing about the group's destruction. For Hitler, it was genetics that marked a people for destruction. The claim that we have an 'organic' problem with the brain is a logic dangerously close to a claim that we are genetically flawed. In a 1923 speech in Munich, Hitler said, 'The Jews are undoubtedly a race, but not human.' Hitler was able to make killing the Jews legal because he was able to place them in the category of animals. We have been called 'monsters.' How much easier would it be to kill a 'monster' than an animal?

p. 40: Where the SP has 'Community Meetings,' the Nazis had *Volksgemeinschaft*, which is German for 'People's Community.' The purpose for the Nazi's People's Community was to form a subservient community. The SP's 'Community Meetings' are held once a week in each unit, and are conducted by SP-approved 'Unit Representatives' appointed by mock elections. In the same way that Nazi elections were a sham, SP elections only involve Detainees that are pre-approved by SP officers. Once a month, these 'Unit Representatives' meet to present issues to SP administrators. Not only does the SP control who can be a 'Unit Representative,' they also control what issues the Unit Representatives can bring to the monthly meetings. SP officers review issues before meeting with 'Unit Representatives' and vet issues that do not '... represent community concerns and interests...' In this way, the SP's 'Community Meeting' is similar to the Nazi's 'People's Community' in that individual interests are subordinated to the 'good of the community.' If 'Unit Representatives' do not actively demonstrate SP principles, they are terminated from their position by SP Officers. These 'Unit Representatives' represent the SP, not the detainees.

Those who wish to implement Fascist movements often hide their totalitarian intentions before they gain power, then they employ their ideals. Lawmakers did this in 1994 when they created the law we are now dying under. They explicitly told each other not to talk about certain crucial elements so they would not tipoff the public as to what they were up to. Just eight days before statewide primary elections, the governor of Minnesota called for a one-day, one-bill special legislative session. The legislature convened one week later and in just 97 minutes, passed the law. Immediately prior to the session, the bill's drafters had told their colleagues to avoid speaking about the bill because, 'Whatever we say on the floor will be used against us. It's going to be used to challenge the bill.'

Fascist authorities control media, especially freedom of press. Oppressive fascist movements explicitly halt all press or 'cleanse' it by not allowing anything that might threaten the powers that be. Similarly, the SP prohibits the printing, dispersing, or displaying of any written communication or attire that is 'counter-therapeutic' or has a negative message against the SP or compromises the treatment environment. According to these policies, any officers who see such attire or material will confiscate the items. In addition, assembling, organizing, or acting in a protest or demonstration and holding unauthorized meetings is prohibited.

p. 41: ...Many SP Detainees have been silenced by the threat of punishment.

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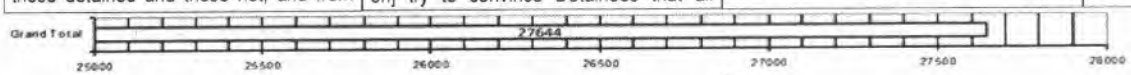

But if a man cannot say something as harmless as "I want to end MSOP,' then how will he ever find the courage to expose evidence of medical neglect, sexual assault, or murder by the hands of the SP? These things have happened at the SP and we expect them to continue if we do not speak up.

p. 42: ...[A]t a Legislative Informational hearing on August 2, 2021, in an attempt to legitimize her treatment program by casting illusions that the Detainees endorse it, Queen Nancy Johnston stated that '85%' of the men are participating in treatment. Johnston is counting many men who have not attended treatment groups and modules for years, but have never signed out of treatment. Most men do not know that in order to be considered a 'non-participant,' they must explicitly sign out of the 'program.' Johnston also failed to mention that most of those attending treatment groups and modules are threatened with prison time if they stop going. They are under duress....

p. 44: *The Value of Family and Community in Resistance*

...Those who refuse to work with others because they are weird, strange, stupid, gay, effeminate, Black, White, Asian, Muslim, Christian, Buddhist, Democratic, Republican, tall, short, pink, purple, skinny, fat, etc. etc.... are fools. We will learn to work with each other, or we will continue to die with each other. Racism and other forms of classism have no place among resisters. We do not get wrapped up in the attraction of the false idols like conservatism, liberalism, socialism, feminism, all manner of ethnic and gender isms, postmodernism, and environmentalism, to name a few. These are distractions – not the delicacies of an oppressed people.

Community education is essential to resistance. Education does not have to be limited to formal education. Education included exposure to various people and experiences. Life for a Resister is a search for a pattern, for similarities in seeming differences, for differences, for differences in seeming similarities, for an order in the chaos around us, for a meaning to the life around us and its relationship to his own life. Resisters meet up to talk about their families, personal histories, religious beliefs and how to resist. Memory, historical and otherwise, is a weapon of cultural self-defense. History is not just what is written in textbooks. History is in the stories we tell ourselves about who we were and who we are. History is embedded in the language we use, the things we make, and the rituals we observe. History is culture. To be indifferent or even hostile to tradition is to surrender to those in power who want to create a new social and political order.

Anaxagoras of Athens taught that human reason is the most powerful force in the world whereas irrational slogans like, 'Small rules lead to big rules' are the hallmarks of despotism. By contrast, reasonable men should only be persuaded by articulated arguments, not slogans. Underground educational seminars were places of retreat in communist Russia. These meetings were part of a communal concept called the 'parallel polis.' The parallel polis was organized to fight against 'the abandonment of reason and learning and the loss of traditions and memory.' The excellence of America's revolutionary leaders was the result of their education. John Adams was a Harvard man and Benjamin Franklin was self-taught, but for both of them, their education was rooted in the classics; they had been taught to read and think critically and to write clearly. Like the founders, we are educated to think historically. We use the past to illuminate the present. We view the histories of Greece, Rome, and England as an inexhaustible storehouse of wisdom, filled with salutary examples to aid in our decision making. The education of a Resister requires frequent long conferences on organizational problems, analysis of power patterns, communication, conflict tactics, the education and development of community leaders, and the methods of introduction of new issues.

In a time when people have forgotten how to be neighbors, sharing a movie together is a way to fight the loneliness and isolation that allows totalitarianism to rule. The Athenians saw it as their civic duty to attend Tragedies to learn life lessons that would give them proper perspective when serving ion government. After ther Tragedy, the Athenians would meet to talk about how it applied to the political landscape of the time. They also provided an opportunity for older members of the community to contribute the passing on of cultural memory to the young. Similarly, movies can serve the same purpose today.

...The testimony of anti-communist dissidents is clear: Only in solidarity with others can we find the spiritual and communal strength to resist. The longer we remain isolated in a period of liberty, the harder it will be to find one another in a time of persecution. We must see in our brothers not a burden of obligation but the blessing of our own freedom from loneliness, suspicion, and defeat.

pp. 49-50: *Understanding and Resisting Classical Brainwash*

Men with great self-doubt, a weak sense of identity, and a tendency toward guilt and black-and-white thinking are more likely to be successfully brainwashed. Some accounts show that faith in a Higher Power can assist a target in mentally detaching from the brainwashing process. American soldiers are taught how to mentally detach during brainwashing attempts. Detaching involves the target's ability to psychologically remove himself from his surroundings through visualization. The constant repetition of a mantra helps. This is why Resisters practice military cadences during their marches. These cadences can be used to protect us anytime an SP therapist is speaking.

Brainwashed? Or Resisting?

Brainwashing begins with two elements: 1) the promise of pleasure for 'right' behavior (also called 'incentive') and 2) the threat of violence for 'bad' behavior (also called a BER). If wielded in the correct way, these elements will change the subject's behaviors and eventually, their beliefs.

For instance, if a Detainee is told by SP staff, 'You are not allowed to say 'End MSOP' and that man decides to say it anyway, he will receive a BER. If he refuses to submit to the punishments of the BER, there will be more punishments for the Detainee to submit to. If he continues to reject the punishments, the threat to the man's comfort and safety will increase. SP officers will eventually call an ICS, and the man will be met with violence, attacked by facility officers and physically forced into a small room, with no property, bad food, and no 'privileges.'

The potential for physical harm adds to the Detainee's difficulty in thinking critically or independently. While the man is in segregation, SP officers have greater control over the man's sleep patterns, eating, bathroom time and the fulfillment of other basic needs. This all happened because the SP officers did not want the man to say, 'End MSOP' and the man exercised his First Amendment right to free speech anyway.

At this point in the brainwashing process, it is time for incentives. 'If you promise to stop saying 'End MSOP,' the officer says, we'll give you Phase 2.' Eventually, the SPs win of the Detainee gives in. If this goes on long enough, the Detainee's original personality, along with his beliefs and ambitions, go into hiding, allowing new beliefs and ambitions to take their place. Some men have experienced this abuse for decades.

The above is an extreme example of a die-hard man going to great lengths for his First Amendment rights. But even a vague threat of physical violence for not playing along is enough to have an effect on anyone who is not aware of brainwashing techniques.

Classical brainwashing takes place in an environment of isolation. This does not mean the Detainee is alone. It means he is isolated from influences outside of his captors' control. Eliminating cable and prohibiting access to the internet are ways of keeping the Detainee from the outside world. A more subtle example is the SP phone system. When Detainee tries to build a network of supporters outside of the SP, every time a lawyer, advocacy group or family member receives that first call from a 'secure facility,' it gives the other party a good reason NOT to pick up the phone. The phone system, as well as the general lack of alternative social reference points, keeps the Detainee focused on what the captors want him to be focused on. This is all by design. The SP deprives Detainees of support from the outside world to both obstruct the ability to resist and compel absolute dependence on them as captors. An environment of isolation, a low-nutrition diet and constant and intense exposure to fluorescent lighting create what's called mind-clouding.

There is also an intense focus on altering the Detainee's identity. To them, you're NOT a brother, uncle, or a son. You're a dangerous sex offender. You're a client. The man's identity is under attack at the SP and he will stay under attack until there is a less solid sense of identity, at which point the perpetrator introduces guilt. This is done with BERs. 'Small rules lead to big rules' is the mantra. SP officers want Detainees to believe that everything they do is bad and every BER is a reflection of who they are: BAD.

pp. 50-51: Over time, the perpetrator will seek the Detainee's consent to the guilt: 'Hold yourself accountable' is another way of saying, 'Agree that you are bad.' Eventually, there is a breaking point and the Detainee will ask himself, 'Who am I? Where am I and what am I supposed to do?' The Detainee's sense of self is now up for the perpetrator to fill in the blank with their own agenda. New ideas about life, right and wrong, and how to be happy are introduced to the Detainee. 'Join treatment. Keep trying. You're almost there. Don't you want to be at the front when things change?' None of which have anything to do with the original purpose for commitment or the Detainee's propensity to commit a crime. Men can go 20 or 30 years in treatment without noticing that they are 'working on' issues that are basic human errors that all humans struggle with, ignoring the original justification for the commitment.

p. 51: If at any point, the Detainee begins to 'wake up' the perpetrator has a remedy. The first thing the perpetrator will do is practice leniency. 'I can help you. If you agree to join "treatment" again, we'll give you Phase 2 right away.' Or the perpetrator will agree to document in his charts more accurately, or agree to testify at SRB/CAP, etc., Small kindness has a huge impact in the fog of immense psy-

(Continued on page 9)

chological attack. The Detainee will feel a sense of relief and gratitude completely out of proportion to the offering, as if the agent saved his life. Another tactic is the compulsion to confession. 'You can help yourself.' This is a false invitation to control your own destiny. It is short-lived, just long enough to relax the Detainee during his breakdown.

The perpetrator will also attempt to channel the Detainee's guilt. This is done by suggesting that the Detainee's bad feelings are a result of being a bad person. This is usually accomplished in the systematic way of having the 'client' re-live and analyze his 'offending behavior' or his 'offending cycle' only to reinforce the thoughts, emotions, and choices linked to the original, decades-old crime. Now they can claim that the Detainee's thinking, his mental status today, is the same as it was when he offended.

The SP monopolizes our perceptions by fixating our attention on immediate predicaments. The SP induces us with exhaustion by exploiting our physical injuries and exposing us to inadequate health care. The SP uses tactics of occasional indulgence by offering quarterly meals, making small talk, etc. The SP demonstrates their omnipotence to evidence the futility of resistance. They often do this with trumped up BERs. The SP uses degradation including demeaning punishments like having an escort, etc. The SP uses the enforcement of trivial demands with strict adherence to petty rules (e.g., seizure of authorized property, destruction of items during searches, fabricated reports).

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Who's Driving This Bus?

Confining Past Sex Offenders Costs $$ Billions; Sex Crimes Go on; Proven, Low-Cost Prevention Programs Get No Funds.

[eds] "New Study Estimates Annual Cost of Incarcerating Adults Convicted of Child Sex Crimes Topped $5.4 Billion in 2021" *Johns Hopkins Bloomberg School of Public Health*, March 25, 2022, corrected April 18, 2022. (/institutions/newsroom/153/).

Text:

"The U.S. government spent an estimated $5.4 billion last year at the state and federal level to incarcerate adults convicted of sex crimes against children under age 18, according to a new study led by a John Hopkins Bloomberg School of Health researcher.

The study calculated annual spending on incarcerated adults convicted of sex crimes against children under 18 in U.S. federal and state prisons and sex offender civil commitment facilities. The findings, published online March 23 in the journal *Sexual Abuse*, highlight the cost of what is considered a preventable public health problem.

The Centers for Disease Control and Prevention estimate that about 1 in 4 girls and 1 in 13 boys under age 18 experience sexual abuse during childhood. Research suggests that about 12 percent of the world's children will experience some form of sexual abuse before they turn 18.

'The costs for this incarceration are extraordinary,' says study author Elizabeth L. Letourneau, Ph.D., professor in the Bloomberg School's Department of Mental Health and director of the Moore Center for the Prevention of Child Sexual Abuse. 'We spend billions of dollars on criminal justice remedies after child sexual abuse has already occurred, and yet there are very limited resources for preventing this abuse from occurring in the first place.'

The study note that the U.S. federal government budgeted $1.5 million in 2021 to support child sexual abuse prevention research. Research aimed at identifying ways to reduce child sexual abuse has focused on the importance of perpetrator prevention. Promising preventing efforts include online self-help intervention programs for people with sexual attraction to minors and middle school education programs designed to reduce child sexual abuse by promoting responsible behaviors with younger children and with peers.

For their study, the researchers used publicly available sources – including U.S. Bureau of Justice Statistics National Prisoner Statistics data – to calculate annual cost estimates for incarcerating adults convicted of sex crimes against children under age 18. The study estimates there were 127,282 incarcerated in 2021 in state prisons for sex offenders involving children, at an average annual cost of $34,191 for a total of $4.4 billion in spending at the state level. At the federal level, the study estimates there were 12,850 inmates incarcerated in federal prisons for child sex offenses in 2021, at an annual average cost per inmate of $39,521, a total of $508 million in spending. For the estimated 4,321 [a dubiously very small estimated number] inmates with child victims in high-security sex offender civil commitment facilities, the study estimates an annual average cost per inmate of $139,489, a total of $538 million in annual spending after adjusting for individual cost fluctuations.

The authors' note that the estimated costs of incarcerating adults convicted of sex crimes against children are conservative, since they did not include costs related to the justice process – including investigation, prosecution, and adjudication in their analysis.

Based on average periods of imprisonment and commitment – an average of eight years – the researchers found that the U.S. stands to spend nearly $49 billion on the cohort of about 144,453 people convicted of sex crimes against children currently in prison and sex offender civil commitment facilities: $33 billion for state prisoners, $5 billion for federal prisoners, and $10.7 billion for inmates in sex offender civil commitment facilities.

The authors note that incarcerating adults for harmful and violent behavior, including for the sexual abuse of children, can be an appropriate component to a comprehensive national response. At the same time, research suggests that incarceration in and of itself fails to prevent new incidents of child sexual abuse, nor does it reduce or prevent recidivism. And longer sentences do not make incarceration more effective at preventing violence.

The authors recommend developing effective, proactive strategies aimed at child sexual abuse prevention as well as improving reactive strategies like incarceration for sex crimes. Letourneau also notes that evidence-based interventions for people returning to their communities following incarceration for sex crimes should be more broadly disseminated.

'Child sexual abuse is indisputably both a criminal justice problem and a public health problem,' Letourneau says. 'We need to develop, evaluate, and disseminate effective sex crime prevention strategies and these efforts – like reactive strategies – also require more resources.'

Letourneau conducted the study after hearing from many elected officials and staff that they supported the concept of child sexual abuse prevention research, but cited federal budget caps and deficits as barriers to funding new prevention initiatives. She and her co-authors thought estimating how much federal and state governments spent on incarceration for child sexual abuse offenses would underscore potential savings associated with preventing child sexual abuse in the first place.

'If we really want to prevent harm, then it is going to require more government investment,' Letourneau said. We are not going to reduce rates of child sexual abuse with just $1.5 million in federal research funding. It's time for more significant government investment in prevention.'

'No Check We Won't Write: A Brief Report on the High Cost of Sex Offender Incarceration' was written by Elizabeth J. Letourneau, Travis T.M. Roberts, Luke Malone, and Yi Sun."

Editor's Concluding Comment: Note that even accepting these figures as accurate, this reflects just under 10% of all nationwide spending for confinement of all who have committed sex crimes against minors. But the total confined nationwide in either prisons or civil commitment because of such crimes is 144,453. Therefore, assuming these figures are correct, those in commitment facilities amount to only slightly less than 3% of all of those confined for such crimes. Contrasting this percentage to the cost percentage for this specific cohort, the wasteful cost of commitment confinement is roughly 3⅓ times that of confinement pursuant to prison sentences for each year of confinement.

However, this article fails to mention that the average confinement period of those under commitment (despite the mere 27 years these confinement systems have been in effect, has been close to that same period for those who were committed close to the inception of such commitment systems. Despite deaths in such confinement, given the lack of substantial numbers of commitment releases by most states with such systems, all those committed, including the most recently committed ones, have the total period of their personal commitments increase in lockstep with each passing year going forward in time. This has the inevitable effect of increasing the overall average period of committed confinement over this committed cohort each year that the commitment of sex offenders continues.

If we approximate the overall average presently to about 15 years, the confinement-period total on average for a committed individual is now $139,489 times 15, or a total of $2,092,335, whereas an average prison inmate, being incarcerated for only about 7.5 years, at an average annual cost of roughly $35,000 will only cost the imprisoning jurisdiction a total of $262,500. In comparative sum then, at the current average length of confinement, a single average committed individual can be expected to consume eight times the cost of a prisoner's average length of confinement.

But things get worse: As long as the commitment approach continues to be pursued, the average length of committed confinement can be expected to rise annually for those not released, limited only by average life expectancy minus age at commitment. This age may be expected to eventually settle at about age 40, yielding an average length of commitment without release of about 40 years, rather than the current estimated average of 15 years to date. This eventual increase will hike those commitment costs to 2⅔ what they are presently, in lockstep increasing the eventual disparity in total costs of confinement to the point that committed individuals will cost their jurisdictions not just the current disparity of 8 times as much, but about 21⅓ as much, where the differential will likely settle, *ceteribus paribus*.

(Continued on page 10)

Hence, as Professor Eric Janus has previously pointed out, just the sheer costs of commitment of sex offenders consume such vast cash outlays that they singlehandedly suck up all resources that are needed to launch and maintain any serious programs of prevention of sexual abuse. Thus, sex offender civil commitment is truly the dog in the manger, a dog that grows ever larger and more consuming each year going forward. Not to ignore its many other atrocious attributes that demand its elimination, this fact alone requires that it be eradicated, in order to make eliminating sexual abuse actually achievable. Until, then, we are just pasting Band-Aids on hemorrhaging arteries.

Comment by Editorial Advisory Board Member Daniel Wilson: I did some math on the article reviewed above and found that at least $1 billion of the $5.4 billion is used for SOCC. Per the article, average annual cost to house one Shadow Prisoner in the U.S. is $139,489. In 2020 an estimated 6,300 persons were confined in SPs. (*Trevor Hoppe, Ph.D.*, Civil Commitment of People Convicted of Sex Offenses in the United States, [UCLA School of Law, *Williams Inst.* 2020]). Assuming more have been committed since then, we can safely up that to 6,400 — the total confinement cost for which is now $892,729,600. Adding costs related to the court process, the amount spent of Shadow Prisons in 2023 will reach well over a billion, and likely will rise in each future year.

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Health Services? Protect Yourself!

[eds.], "Don't Let the Shadow Prison Health Services Kill You.", *RM newsletter* (June 2023), pp. 27-28

Text:

"Those who say, 'He's attention seeking' when a medical ICS is called should be ashamed of themselves. Charlie Stone was a Shadow Prisoner who had a stroke and then slowly wasted away with no medical assistance from the Shadow Prison. Even though Mr. Stone looked like the Crypt Keeper, [one MSOP-ML confinee] proclaimed, 'He's faking it!' Mr. Stone was dead 3 weeks later.

Mr. Stone wasn't faking anything. But even if a guy is faking or exaggerating a medical concern, we all know that in order to receive immediate medical attention one option is to intentionally 'fall out' so that an ICS will be called. This extreme action would not be necessary if we received proper health care.

There are several reasons to believe that the average health index at the Shadow Prison is poor. First, the average age of detainees at the Shadow Prison is 54. The average life expectancy at the Shadow Prison is 65, 15 years shorter than on the streets. Shadow Prison administration now hides deaths, but when they used to report them, there was a death every 60 days. We now estimate 99 deaths at the Shadow Prison since the program began in 1994.

Medical results from outside providers like Essentia Health are filtered by Shadow Prison staff. When a detainee goes to the doctor outside of the facility and then comes back to the facility, the results of the appointment are faxed to nurses at the Shadow Prison. They are not sent directly to the detainee. The information is then interpreted and often suppressed before they are forwarded to the detainee.

We encourage detainees to request their original medical results, including lab results, from HIMS and do not trust the interpretation of Shadow Prison nurses.

In one instance, a man had his ankle x-rayed here at the facility by an Essentia employee. His results were faxed to the Shadow Prison who told him that his ankle was fine. But when the man requested the original results from HIMS, they showed that his ankle was fractured in 3 places. Another man found that he had stage 5 kidney disease and the nurses did not tell him.

Another major problem is the SP's practice of not providing a paper trail for the detainees. The current practice is to submit a Client Medical Request (310-5010e) to Health Services or the Dental Clinic by placing it in the designated Health Services box on the unit without taking a pink carbon copy like what happens when a Client Request is submitted. Instead, we are to 'trust' medical staff to send the pink copy after they have received it. This is all per policy. (Health Services Provision of Care, 310-5010, Procedure G.3.) This is an irrational practice and leaves the door open for medical neglect. The Client Medical Request should be signed by a staff-witness and the pink carbon copy should be given to the client before the Client Medical Request is submitted.

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MN Delays on SOCC Release/Pre-Release

To: Those interested
From: Michael Benson
Date: June 24, 2022
Re: SRB/CAP backlog on cases.

Hey, Gentlemen:

I talked to my attorney, Michael Biglow, because he had a meeting along with a number of other attorneys with Chief Judge Jay Quam from the Judicial Appeal Panel (now known as the "Commitment Appeal Panel," or "CAP." The meeting was brainstorming on how to best clear up the backlog of cases that are pending at the CAP. The main answer was to eliminate the "Special Review Board" ("SRB"), get more resources with which to process cases, and triple the number of CAP judges. The attorneys at the meeting were Michael Biglow, Doug McGuire, Dan Kufus, Jennifer Thon, Jill Avery, Cheri Templeman, Mark Gray, and Dan Wexler.

Judge Quam had already met with the examiners and informed them that delays and continuances was no longer an option. He told them if the report is needed in 30 days they should have the report done in three weeks.

Judge Quam had previously met with the DHS officials and Attorney General's representatives for ideas, but they were not forthcoming with information. Nonetheless, he stated he will meet with them again and give them his ideas that he expects to get results from.

Everyone was in agreement that the delays are Procedural Due Process violations. Hence, Mr. Biglow expects that this issue will be seriously being addressed -- and soon. He stated that resources is the problem (but not ours) and that the removal of the SRB would have to be done by the Legislature.

That's it. Let your mind muddle on this for a moment.

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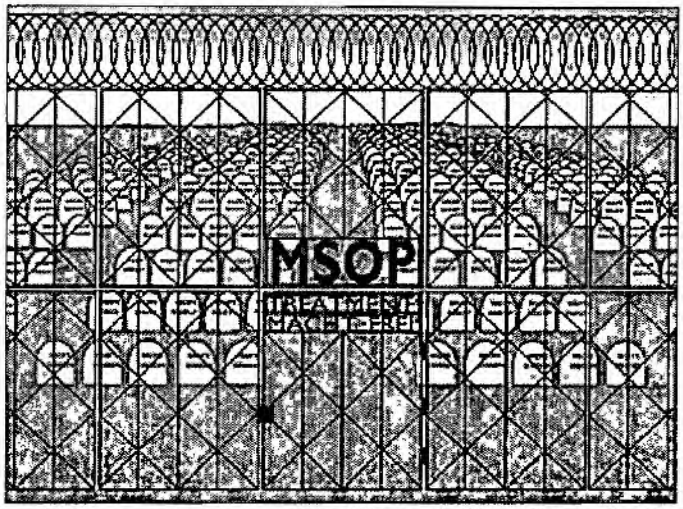

Rushville – 70 deaths & Counting

Source: *Illinois Civil Commitment Archive*

"...Over the past several years, through our work in solidarity with incarcerated people in Illinois, we at Black and Pink have heard a number of alarming testimonials about the conditions of Rushville. Unlike all other confinement facilities in Illinois, Rushville is run by Illinois's Department of Health and Human Services. The stated purpose of 'providing treatment' counters many of the anecdotes we've heard from individuals inside. Since the facility opened in 2006, very few individuals have completed treatment and been released. Preliminary reports describe the so-called treatment as ineffective, retraumatizing, punitive, and arbitrary. Further, in the years that Rushville has been open nearly 70 people have died, often because they did not receive a proper diagnosis or early intervention care at the time that they requested it. For a facility with approximately 580 residents, this number is alarmingly high...."

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Upcoming Conference: Persuading Legislators

By Daniel A. Wilson

"On Saturday, September 23, 3023, from 6:30 p.m. – 8:30 p.m. (CDT), Overcoming Corruption Empowering All Nations will hold their 3rd Annual Conference. This year's theme is 'Americans Speak with Legislators.' Despite costing taxpayers over $100 million annually [2024 appropriation: $129 million], the Minnesota Sex Offender Program) MSOP) has not reduced sexual violence in the state. Instead, it is an inhumane system of indefinite detention where detainees are far more likely to be sent to the infirmary, [death-watch hospice, or morgue] than to return home. It is time to sunset MSOP. For those who want to repeal commitment laws, the state legislature is the appropriate forum. But taking your case to the Capitol can be intimidating. Join this year's OCEAN Conference and learn from the experts about how to tap into Americans' most powerful tool: speaking with legislators. To join:

Go to the End MSOP Facebook page (Facebook.com/endmsop).

Scroll to August 17, 2023 and look for the 3rd Annual OCEAN Conference advertisement.

On Saturday, September 23, 2023 at 6:30 p.m., click on the Zoom link to join the conference."

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the Legal Pad

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