



# CURE CIVIL COMMITMENT NEWSLETTER

VOLUME I, ISSUE 2

PO Box 2310 WASHINGTON, DC 20013

APRIL, 2012

## FROM THE EDITOR

I want to begin with a HUGE thank you to everyone who has given so much support and positive feedback to our inaugural issue. The mail has been overwhelming and while it would be impossible to answer every letter, both Charlie and Pauline Sullivan and I have read every one of them. I want to assure our readers that we are getting your mail, as a couple of you have stated concerns about this. While the feedback on the newsletter has been generally positive, in fairness I must also report that there were a number of letters offering a rebuttal to the article on the Washington State program. According to these readers, conditions on the island are not as rosy as the picture painted in the first edition.

Many of you have submitted original articles for publication. All of them are quite good but some are too lengthy. To give better guidance for future submissions, we are looking for articles that are no more than one page in length, are the original work of the author and have an explicit statement as to whether we can publish your name if we use the article. Also, if your submission does not appear in the next edition, it may be used in a future edition. Please understand that this effort is basically an all-volunteer, one-person operation. Our goal is a quarterly newsletter that gives fair representation to all of the states that have civil commitment regimes.

I am also happy to report that due to the generosity of many of our readers, we have been able to cover the costs of the first edition and have \$75.00 in the bank to go towards publication costs of this issue. The monetary costs for the January newsletter included \$234.50 for printing, \$100.00 for postage and \$10.00 for envelopes. As of March 31, 2012, we had received \$419.00 in donations to support this effort. I want to thank everyone who sent a donation. We have over 300 people on our mailing list and the numbers are growing daily.

I hope that this second issue is as well-received as the first one was. Please keep the letters coming as it has been quite an education to us in the national office.

Thomas Chleboski  
Editor

## **KANSAS PROGRAM**

Sexually violent predators that are ordered to a state hospital for treatment after serving prison sentences are almost never released, and Kansas officials say they expect the overcrowded program to continue expanding.

The Sexual Predator Treatment Program, which began in 1994, gave prosecutors a place to indefinitely hold convicted sex offenders who are considered too dangerous to release from prison. Instead, prisoners are sent to Larned State Hospital for treatment with the goal of being released back into society.

But data from the Department of Social and Rehabilitation Services shows that only three have been released since 1994. In the same time period, 17 have died, according to the SRS.

Since 2009, about 16 offenders have been committed to the program each year. Current projections predict the program will grow to more than 370 residents by 2020, said SRS spokeswoman Angela de Rocha.

The program currently costs the state \$13 million a year, and the social services department asked the Kansas Legislature in September for another \$2 million for facility upgrades to accommodate the anticipated growth.

Treating violent sexual predators can take a significant amount of time, said Larned State Hospital Superintendent Christopher Burke. "By the nature of their designation, they tend to have more entrenched behaviors," Burke said.

Kansas' treatment program has seven phases, starting with orientation at Larned and ending with a court-approved release and transition back to society. Before being released, offenders progress to closely supervised reintegration at Osawatimie State Hospital and then to conditional release at a residential facility in Miami County, where there are currently seven offenders from the program, Burke said.

Kansas is one of 20 states with sexually violent predator laws, and the growth caused by few releases is "not unique to Kansas," said W.L. Fitch, who teaches mental health law at the University of Maryland.

States that have such laws are in a bind, he said, because the programs become overcrowded or those who are released possibly repeat the offense.

"Politically, it's a huge risk," Fitch said. "You have some folks no one is going to take a chance on."

## WHO ARE YOU VOTING FOR IN 2012?

This may seem like a strange question to ask of those in civil commitment facilities. Most people believe that a felony conviction is a permanent bar to voting, but this is not correct. In a recent Republican debate, presidential candidate Rick Santorum made the statement that once a person has served his or her sentence that person should be allowed to vote. The former Pennsylvania Senator was simply reflecting the laws of his home state, as anyone who is released from prison in Pennsylvania can register to vote.

The voting laws are particular to each of the states. In two states, prisoners never lose their right to vote. In many others, a person regains the right to vote either upon release from prison, or when they finish probation or parole. There are four states where a former prisoner needs to petition the Governor to regain his or her voting rights. Currently, in Congress, there is a bill that would require all of the States to allow former prisoners to vote in elections for Federal offices once they have been released from prison.

Some of you in civil commitment may be eligible to register and vote in this election. This year we are voting for the President and Vice-President, one-third of the U.S. Senate, the whole U.S. House of Representatives and some Governorships and local offices. These are the people who make the laws, including the civil commitment laws, and voting is how we hold our elected officials accountable.

The following information is taken from the ACLU website. If you believe that you have the right to vote, I encourage you to contact your local board of elections, arrange for an absentee ballot and let your voice be heard. Here are the current laws for the States that have civil commitment laws:

<u>State</u>	<u>Who Can Vote</u>
Arizona	Some people with felony convictions
California	Probationers and those off parole
Florida	Cannot vote without petitioning Governor
Illinois	Those released from prison
Iowa	Cannot vote without petitioning Governor
Kansas	Those who complete probation/parole
Massachusetts	Those released from prison
Minnesota	Those who complete probation/parole
Missouri	Those who complete probation/parole
Nebraska	Those who complete probation/parole
New Hampshire	Those released from prison
New Jersey	Those who complete probation/parole
New York	Probationers and those off parole
North Dakota	Those released from prison
Pennsylvania	Those released from prison
South Carolina	Those who complete probation/parole
Virginia	Cannot vote without petitioning Governor
Washington	Those who complete probation/parole
Wisconsin	Those who complete probation/parole

Educate yourself on the positions of the candidates for office in your state. Encourage your family, friends and loved ones to vote for those candidates who are working to make the changes that everyone in civil commitment is hoping that our government officials will enact.

### MISSOURI SEXUAL OFFENDER TREATMENT CENTER

By: Jason Sapp

The State of Missouri requires a sex offender to complete the Missouri Sexual Offender Program prior to release from prison. Missouri is using this program to profile offenders for civil commitment. Offenders are given a false sense of hope that they will be released if they complete the program. The State of Missouri Department of Corrections is releasing the offenders that don't complete the MOSOP program and placing the ones that do at the Missouri Sexual Offender Treatment Center (MSOTC) here at Farmington.

Before a sex offender is released from prison, he is given an end of confinement interview by a licensed clinical psychologist who works for the program. This psychologist is automatically recommending offenders who complete the MOSOP program for detainment under the sexual violent predator law and disregarding the improvement that offenders have made during MOSOP. He is also countermanding MOSOP therapist reports, which recommend the release of offenders.

The Sexual Predator Law was enacted in 1999. The courts are applying this law to crimes before 1999. Since the law has been in effect, no one has been released from MSOTC. This law deprives people of their right to liberty. The courts detain people here after being paroled or at the end of their sentence on the assumption that offenders might re-offend in the future. By doing this, the State of Missouri is effectively retrying criminal cases in civil court, causing offenders to be tried twice for the same crime.

There are only four public defenders who handle these cases. Their caseloads are so heavy that they do not have enough time to spend on one case. The odds are stacked against us so much. The public defenders themselves admit that they have not won such a case in court.

There are two things juries don't know. They don't know that there is no end to the treatment and they don't know the awful things that go on here.

Help us to fight this injustice and to find legal assistance in Missouri.

*Editor's Note: Reform is being pushed in the Missouri legislature on a related matter, the Sex Offender registry. A bill is making its way through the Republican-led House that would allow some people to petition to be removed from the registry. The sponsor, Rep. Rodney Schad (R) said the registry must be narrowed to be a notification tool and not additional punishment. There was little opposition to the bill, which passed on a voice vote, and which must pass a final vote before being sent to the state Senate. The bill would also exclude juveniles and some other offenders from having to register in the first place. CURE supports this courageous and sensible legislation and we encourage all in Missouri to contact their legislators to voice support for this bill.*

## POLYGRAPH TESTS AND SEXUAL OFFENDERS

By: STEPHEN DANFORTH, J.D.

Stephen Danforth offers the following summary of *Polygraph, Sex Offenders and the Court: What Professionals Should Know about Polygraph...and a Lot More* by Kenneth Blackstone. Since this tool is used by many states in the treatment and supervision of sex offenders, this article may be of interest to our readers.

In this article, Mr. Blackstone, a practicing polygrapher, takes issue with the use of polygraphy in treatment and otherwise in the imprisonment, parole and commitment of sex offenders. This practice is known as "post-adjudication polygraphy" or PAP.

Blackstone contends that in contrast to the highly accurate and reliable nature of polygraph results concerning ones guilt of a particular alleged offense, the 'dragnet' manner of PAP is no more accurate than pure chance (50-50). As Blackstone observes, "forensic polygraph has safeguards which keep its error rate below 10% while utility tests, such as the ones popular in sex offender management, **actually invite errors.**"

The American Polygraph Association regards such multiple-issue utility testing as an unprofessional misuse of polygraphy, resulting in a grave danger of mis-assessment of a sex offender as lying, when in fact he is telling the truth. Blackstone points out that this in turn can lead to disastrous decisions by various corrections officials, and even judges, all relying on false or dubious-at-best pronouncements by polygraph examiners subjecting sex offenders to PAP testing. PAP testing is used in 19 of the 20 states with sex offender commitment statutes.

Distinctly, PAP is often used to ferret out other sex crimes, in a process known as 'pre-conviction sexual history'. Blackstone cites three cases: *In Re Detention of Hawkins*, 238 F.3d 1175 (2010), *United States v. Antelope*, 395 F.3d 1128 (2005) and *Jacobsen v. Superior Court*, Ariz. App. Ct. No. CV-10-0309-PR (2010) in which PAP use to extract the confession of prior sex crimes was held to be contrary to applicable legislation and a violation of the Fifth Amendment right against self-incrimination.

*Hawkins* involved commitment-screening use of the PAP. *Hawkins* successfully argued in court that PAP cannot be used in such commitment proceedings. Blackstone applauds that decision. "The idea of giving a person a sexual history test prior to sentencing or prior to an SVP trial [commitment proceeding] is unethical.

In a stinging indictment of the "sex offender industry" and the indifference to truth that this reckless and inaccurate misuse of polygraphy reflects, Blackstone closes his article thus:

"Today, sex offenders have become one of society's favorite devils, and in pursuit of them the bright lines of forensic polygraph have been reduced to dark shadows and the protective principles pronounced in the Fifth Amendment have been ignored. Whether the methods used during PAP are scientifically sound and whether subsequent disclosures are valid are issued of little concern to the sex offender industry and it probably will remain so until it is addressed in court."

It's time to go to court.

### **Funded By Minnesota Taxpayers**

By: Chris Krych

The Department of Human Services (DHS) Minnesota Sex Offender Treatment Program (MSOP) had around 200 civilly committed human beings and was getting approximately 12 new commitments a year until Dru Sjodin was raped and murdered by Alfonzo Rodriguez in 2003. Since then, the prison-like treatment program has over tripled with 400 extra human beings rounded up because of the Sjodin incident, and yet MSOP has never released anyone since it was created in 1994. About 45 have been "cured" so far by death.

In 2009 MSOP opened a new building with 200 double-bunked cells and has blatantly disregarded the safety of the committed people for cost-efficiency. Everyone committed there had been deemed by the state District Courts as dangerous and highly likely to reoffend. There have been numerous sexual assaults and violent incidents within these double-bunked cells.

The Office of Legislative Auditors 2011 Report said that MSOP hasn't released anyone and that the hospital was going to run out of beds in 2013. It costs Minnesota taxpayers \$120,000.00 per year per person detained and the State argues that the public has a substantial interest in minimizing the costs of the program, as it is ultimately funded by Minnesota taxpayers. The public has a substantial interest in shutting down this so-called health-care program because it has spent hundreds of millions of dollars curing nobody, yet it continues to be funded by Minnesota taxpayers.

*Recently Governor Mark Dayton cited constitutional concerns in defense of his choice not to oppose the release of the second person from MSOP in the history of the program. The Governor wrote that "[i]n the 18 years since the law was passed, not a single patient has yet been successfully released from such civil commitment...this situation is now being used in a court proceeding, which claims that these people are being confined in legal institutions for life without the legal authority to do so. Again, were this challenge to succeed, it would have very serious ramifications for public safety." On March 1, 2012, family and friends of those in civil commitment spent the day at the State Capitol advocating for those in civil commitment. SHORE stands for Support, Hope, Opportunity and Rights for Everyone.*

*After a civil commitment hearing in Arlington County, Virginia, on March 6, 2012, a jury decided **not** to civilly commit Galen Baughman. The defense team effectively cross-examined the commonwealth’s expert witness and made a closing statement that convinced the jury that the evaluation and process were fundamentally unfair. I attended the first day of the hearing and Charlie and Pauline Sullivan attended day two. My observation was that the judge was visibly biased and the jury looked like they were not persuaded by the commonwealth’s case. Congratulations to Galen, his family and his legal team.*

**PATIENT’S RIGHTS IN NORTH DAKOTA**

**BY: TRAVIS L. WEDMORE**

Reasonable access to care is hard to define. At the North Dakota State Hospital we only have one hour of sex offender therapy per week and if we are lucky we might have four hours of cognitive therapy per week. We do not have access to a law library or any legal books. We do not have the freedom to practice any religion.

Our right to be treated with dignity and respect is violated every day. Here is a personal experience: in the beginning of 2011 we residents were on our way to go outside. Whenever we leave the unit, we are pat searched. As I was being pat searched a staff member repeatedly grabbed my penis. I pushing his hand away and telling him to stop, but he would not stop. Another peer intervened and the staff member responded by saying he thought it was a glove. The staff member still works here and my request that he be charged with assaulting me was denied.

The conditions of our confinement are hardly the least restrictive. We are allowed to have only 3 sets of clothing and 4 pencils (no pens). The showers and laundry rooms are locked and we are only allowed a ten minute shower a day. We are locked out of our rooms from 7:00 am until 11:00 am and again from 12:00 noon to 5:00 pm. The unit TV can only be watched from 4:00 pm to 10:00 pm. We are allowed no personal electronics and there are no board games on the unit, only a couple of decks of very old cards. We can only order from the commissary once a month and are extremely limited in what we can get. We are not allowed to work and we have absolutely nothing to do all day. This is what passes for treatment in North Dakota!

Jesus’ ministry was controversial to say the least. He mixed with all types of people, from fishermen to tax collectors to prostitutes, and he showed compassion to all. There was no selective love or forgiveness; any and all who sought it received it. But perhaps the greatest challenge Jesus faced was in his ministry to the leper. These individuals were by far the lowest of the low in the hearts and minds of Jewish society at that time. They were to be avoided, outcast from the mainstream with no civil or human rights. So when Jesus healed the leper, there was criticism, especially from religious leaders. Jesus called them what they were – hypocrites.

Seven hundred thousand individuals – sex offenders – live as modern-day lepers. As a restorative justice advocate, I often find myself working in this sensitive area. It is the most challenging and frustrating when I hear people say, “I should forgive, but...” or “I can forgive this but not that.” I can still remember a letter received some years ago from a couple in Ohio. The husband had just been released from a sex offender treatment center and was trying to put his life back together. Although he and his wife faced roadblocks, what hurt the most was when they attempted to go back to their own church and were told to worship elsewhere.

I think of the story of the Good Samaritan and have to ask, how many of us would stop and give assistance to a repented sex offender? How many talk the talk but fail to walk the walk?

The Gospels make it quite clear that faith communities are to be disciples, called to a ministry of reconciliation. When we turn our backs on those in need, then we turn our backs on Jesus. Once again, it’s our choice. Let’s not forget that with choice comes responsibility and accountability. Just like the church in Revelation, God will hold us accountable. Are we our brother’s keeper? Yes! If we are truly followers of Jesus, then we have a God-given mandate that calls us to acts of love, compassion, kindness, and forgiveness toward even the modern-day leper.

*Submitted by Kenneth Schorr, who is a restorative justice advocate and attends Ocean Community Church in Manahawkin, New Jersey.*

*We welcome your feedback on the newsletter as well as any articles, artwork or photographs that you may wish to submit. Indicate whether you would like your name to be published with your submission if it is selected for publication in an edition of the newsletter. Please understand that any submissions will remain in the CURE Civil Commitment Newsletter files and that the editorial staff reserves the right to edit any submission as needed. Thank you!*

**The CURE Civil Commitment Newsletter is published quarterly (January, April, July, and October) and is available, free of charge, to anyone wishing to receive it. The newsletter boasts an all-volunteer staff but there are costs to produce the newsletter including printing and postage. If you would like to donate to offset the costs of this project, please make out a check or money order to “CURE” and mail it to CURE Civil Commitment Newsletter, PO Box 2310, Washington, DC 20013. If you would like to receive the newsletter please send us your contact information at the same address:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip Code:** \_\_\_\_\_