



# CURE CIVIL COMMITMENT NEWSLETTER

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## FROM THE EDITOR

Fall is a season of change. In most parts of the country, the leaves on the trees are turning vibrant colors as if in a brilliant farewell before they fall off of the trees as winter approaches. Students are well into a new semester of school as families begin to make preparations for the Halloween-Thanksgiving-Christmas trifecta which will bring us to the New Year. And with this season of change we are announcing a major change to the Civil Commitment Newsletter.

Over the past three years, there has been a conversation within CURE regarding the issue of Civil Commitment and whether there should be an issue chapter dedicated to civil commitment or if the issue should be addressed under CURE-SORT (Sex Offender Restored through Treatment). It has been decided that civil commitment should be a part of CURE-SORT, as this is the issue chapter that deals with issues regarding those who have been convicted of a sexual offense. Everyone who has been receiving the Civil Commitment Newsletter will automatically receive the CURE-SORT Newsletter beginning in January. As a part of this transition, beginning in January, the Civil Commitment Newsletter will become integrated as a part of an expanded CURE-SORT Newsletter. A new editor has been chosen to take on the task of continuing to publish news about civil commitment as an important part of the work of CURE-SORT. The new editor for the expanded CURE-SORT Newsletter is Matt Mercer and in this last edition of the Civil Commitment Newsletter you will find a short biography of Matt. I know that Matt will continue to both advocate and educate on this very important issue. In addition, there is a message from Wayne Bowers, who is the Executive Director of CURE-SORT. Wayne has been a tireless advocate for many years for issues that affect those convicted of sexual offenses and in particular, Wayne has advocated for proper psychological treatment by professionals in a clinical setting for those with a real need for such treatment.

It has been my privilege to serve as the Editor of this newsletter for the past three years. Through the many articles and submissions from so many sources, but especially from you who are in civil commitment, I have come to recognize the importance of this issue and the ray of hope this newsletter has afforded so many. Even though your message will continue to be broadcast in a new format, please know that as a member of the Board of Directors of CURE-SORT I will continue to take a great interest in your needs and be an advocate for your cause.

Thomas Chleboski  
Editor

## MEET MATT MERCER

Matthew (Matt) Mercer is a member of Washington CURE and is an ordained minister at the Living Springs Church of God in Christ. Matt earned a Bachelor's Degree in Communications from the University of Puget Sound in 1980 and an M.A. in Psychology from Antioch University in Seattle in 1996. Over the years Matt has worked as an intake worker for a behavioral health organization, a career counselor, a childcare worker, and a life coach. Currently he works mainly with those returning to society after incarceration for sexual offenses, assisting with re-entry. Matt has a good working relationship with the Washington State Department of Corrections and churches in the area helping returning citizens with housing and employment. Matt has also served as a Co-facilitator for the AIDS Housing Association, as a Co-facilitator for the Pierce County AIDS Foundation and as a Volunteer for the San Diego AIDS Project. We welcome Matt as the new editor of the CURE-SORT Newsletter and thank him for his willingness to serve in this capacity and bring his experience, expertise and interest to both civil commitment as well as the overall issue of those who have been convicted of sexual offenses. Please feel free to write Matt at the address listed on page 4 for CURE-SORT.

*Welcome from Executive Director of CURE-SORT*

*Greetings to those of you who have been receiving the Civil Commitment newsletter. As we transition to include information and news on civil commitment issues in the regular CURE-SORT newsletter, we welcome you and hope you will find all the information we publish helpful. Feel free to contact us with information and thoughts on topics you know about.*

*Wayne Bowers  
Executive Director CURE-SORT*

## A WIN IN MISSOURI



They stood in front of the Missouri Supreme Courthouse, looking outward. Abruptly Eldon (*at left*) asked, “Shouldn’t our backs to be to the Capital?” I was about to take their photograph with our Supreme Court as the backdrop. “No” I said. “After all, isn’t this what it’s all about?”

Five years we have lived in the shadow of the Court’s ruling; fearing its wrath of caging people like Eldon in civil commitment as vicious wild dogs because of their sex crimes. Every minute was a battle – a nightmare – to avoid the pitfalls that entrap people like Eldon. Now, five-years later, here Eldon was, standing side by side with State Representative Mike Kelley in front of the Missouri Supreme Court.

So, yeah! Having their backs to the court, looking outward, was most fitting. A declaration of Eldon’s freedom – a declaration that we will not be beaten!! Symbolic? Perhaps it was, since it was not the Court itself that freed Eldon from prison nor kept him from the grasps of civil commitment, but then I am reminded of the symbolic quotation hung high on the House Chamber wall that says, “Nothing is politically right that is morally wrong.”

Civil commitment was meant to be for the worst of the worst but only until they are rehabilitated. Sadly, in the quest to be politically right, our courts, and legislators turned it into a lifetime of imprisonment for people with disabilities, among others, who have been convicted of a sexual offense. They turned their backs on what is morally wrong for the sake of being politically right. So, in fair turnabout, we turned our backs to declare Eldon’s rightful freedom.

Now, don’t let me lead you astray, for State Representative Kelley, who is a Republican, is as conservative as they come, or so he says, but somewhere along the five-year nightmare, he started to listen. No, he is not soft on crime, far from it, but he is, dare I say, a politician whom I have

come to respect though I do not always agree with his politics.

Representative Kelley spent three years learning about Eldon and the system plagued with corrupt aspects that prey upon people like Eldon, to civilly commit them for life. He once believed that people like Eldon should be locked away, but now he sees things very different, though not without sacrifice – suffering the wrath of his peers for helping Eldon and me.

Another who has spent four-years is Garrett Mees, who once told me that he was so inspired by Eldon’s story he decided to run for State Representative of the 93rd district. He, like Representative Kelley, is a conservative Republican, though he calls himself a Strict Constitutionalist. Nevertheless, like Representative Kelley, Garrett has seen the side of the system that zealously strives to create victims.

The five-year nightmare began in our judicial system, as every story like this one begins, I suppose. The public defenders destroyed evidence they knew exonerated Eldon of guilt and the Judge sentenced him to five-years in prison right after adjudicating him totally incapacitated and totally disabled, without exception. He sold Eldon out for the sake of his political image and in the days that followed, he never again looked me in the eye.

From there, the nightmare traveled into the prison system. It was an endless battle during the five-years, to try to protect Eldon from the daily abuses of power, physical and psychological torture, and relentless violations of law. As one attorney told me – “every law that could be violated has been violated” – and in status quo, they, of course proclaim their innocence. It would be nice if they’d practice what they preach in taking responsibility.

I understand now why people come out of prison consumed with anger and why they continue to endure the traumas long after they have left, that they were forced to live in prison. Moreover, I understand why so many people are being forced into the life-long and demonizing captivity that we call civil commitment. I guess if we call it that, it

somehow makes forcing them to die in captivity a humane act by those in government.

Another iconic moment of our day with Representative Kelley came when Eldon stood at the podium of the Speaker of the House, holding his gavel. Talk about a joyful and just act of defiance! I mean here was Eldon, standing at the same podium and holding the same Gavel that was once slammed down on people like him, to pass a law that cages them for life in civil commitment. Indeed, we will not be beaten – we will not be forgotten!



Several years ago, I chronologized the video history of how government has treated people like Eldon since the 18th Century to the present day. It is a very shameful part of American history, and one that is concealed in schools across our country. We look at and call those like Eldon “crazy people” because they have mental illness or developmental disabilities – ignoring that they are no less a human being like all the rest of us.

People with such disabilities have less rights out of all classes of people in America because they are the least protected by those in government and government knows they are the least likely to rise up in protest against the atrocities forced upon them. The Nixon’s, Briesacher’s, Lombardi’s, and Koster’s of this state, believe it is “politically right” to ignore them, to violate them, and to turn their backs on them.

So was this day merely some unimportant symbolic gesture? I say no, for it is the day that Eldon rose above the labels forced upon him to hold the gavel that once tried to cage him. It is the day that two opposing forces stood together – side by side – in the quest to do what’s morally right even when it’s politically wrong. It was the day that Eldon declared his just victory and recaptured his rightful freedom!!!!

Christopher Cross

## **NEW YORK SEES SPIKE IN CIVIL COMMITMENTS**

With plans for expanded housing, the state's program for civil commitment has seen a spike in the number of newly confined “patients”. Now in its seventh year, the program, designed for those considered the most dangerous is experiencing some of the growth that critics predicted at the program's outset. Other states with decades of experience with similar programs had seen the budgets explode because of the costly psychiatric treatment for “patients” and the fact that very few are released for years.

An examination of recent reports shows that The Office of Mental Health budget for civil commitment has grown 45 percent in the past three years — from \$44 million to \$64 million and between November 2012 and October 2013 the number of state prisoners deemed eligible for the civil commitment program was more than twice that in recent years.

Former Gov. Eliot “Client #9” Spitzer and the legislature created the program in 2007. Before their release from prison, individuals with convictions for a sex offense are evaluated by mental health specialists to determine whether they have a “mental abnormality” that makes them likely to commit new sex crimes. Those deemed fit for the program then go through a legal process to decide whether they do indeed suffer from the mental abnormality and, if so, whether during subsequent treatment they should be confined in a mental health facility or free — with many restrictions — in the community. The numbers of new individuals civilly confined each year may seem small — typically in the dozens — but they are costly. In recent years, mental health treatment at the state facilities has run as much as \$175,000 a person — or about three times the cost per prison inmate. The community treatment has ranged around \$12,000 per person.

The most recent OMH report shows that 105 offenders were recommended for civil confinement or community-based treatment during the 2012-13 year. If two-thirds of those were confined and another third treated in their communities — a percentage similar to what the program has experienced — the annual costs would be more than \$12.5 million.

The state largely relies on two facilities — one at Marcy and another in Ogdensburg — for confinement. The 252-resident facility in Marcy is nearing capacity, based on current staffing. Another 28-bed unit is planned for the fall, Rosen said. The expansion, as well as new programs

in the prisons, account for part of the budget increase, he said.

Dr. John Bradford, a forensics psychiatrist from Canada with whom New York officials consulted when starting the program in 2007, said he thinks New York's program is much more therapy-based than some others. "I think New York is balanced and they're doing a pretty good job," Bradford said. He added that a spike in confined people could be a sign that some of the psychologists are being overly aggressive in their initial evaluations when they try to determine who should be confined. The current budget includes \$2.5 million for expanded mental health treatment for those convicted of sex offenses while in state prisons. Officials hope that the enhanced prison intervention may curb the number of inmates needing civil confinement upon release.

"OMH reviews the criminal history of all inmates incarcerated for a sex offense," Rosen said about the prison program. "This review includes factors such as the number and type of sex offense convictions in the individual's history, and those individuals with a significant likelihood of sexual offense recidivism." The latest OMH report shows how unusual it is for those confined to be released. Those who are released typically transfer into the community program for continued oversight. From the program's first months in 2007 through October 2013, psychiatric examiners recommended 15 people for discharge out of 651 evaluated — or 2.3 percent.

Treatment includes a four-phase program with the final phase designed to "closely mimic the level of programming and responsibilities of living in the community," according to the OMH report. Those who complete the fourth phase are typically prepared to move into a community program. According to the latest report, only one of the people who are civilly committed in New York was in the fourth phase.

## Minnesota Civil Commitment Case To Be Bench Trial

A federal judge has denied the state's request for a jury trial in a challenge to Minnesota's sex offender treatment program. Instead, U.S. District Judge Donovan Frank ruled Tuesday that he'll decide the first phase of the case, which will determine whether the state's law on civil commitments of sex offenders is constitutional. The bench trial is scheduled to begin Feb. 9. The judge says claims for monetary damages by individuals committed to the Minnesota Sex Offender Program would be settled by a jury later. The class-action lawsuit on behalf of nearly 700 residents of the program allege it's unconstitutional because it keeps them locked up indefinitely after they finish their prison sentences without providing adequate treatment. Only one resident has been successfully released, with provisions, since 1994.

## Family & Friends Support Group

The family and friends of those held in civil commitment facilities often feel isolated and alienated. Many people in the general public do not understand the problems with civil commitment or the struggles that their loved ones face when their sons, brothers, fathers, and friends aren't allowed to come home after they complete their sentences. CURE-SORT is announcing a new support group especially for the family and friends of those held in civil commitment. Andrew Extein, MSW, will lead monthly conference calls to build community around the problem of civil commitment and share information about how families have been able to successfully face these hardships while advocating for change. If you are interested in joining these calls, please email us at [CCN@curenational.org](mailto:CCN@curenational.org)

*We welcome your feedback on the newsletter as well as any articles, artwork or photographs that you may wish to submit. You may send them to: CURE-SORT, PO Box 1022, Norman, OK 73070-1022. 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-SORT files and that the editorial staff reserves the right to edit any submission as needed. If you wish to donate for the continued news on civil commitment, send to the address above. Thank you!*

**The CURE-SORT 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-SORT" and mail it to CURE-SORT, PO Box 1022, Norman, OK 73070-1022. If you would like to receive the newsletter please send us your contact information at the same address:**

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