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“Draconian” Civil Commitment in Minnesota’s notorious Sex Offender Program

by

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One of the foundations of a civilized society is the concept that people who do wrong need to be held accountable and pay for their crimes. Once a person has successfully paid society back by serving their prison sentence, they have earned the right to be set free and return home. But what if there was a slick scam that legally circumvented that existing justice system? There is. It’s called “civil commitment” and it’s still legal in over 20 states.

After a man has completed his entire prison sentence (usually the maximum allowed by law) for a crime of a sexual nature, instead of being released, this inmate is singled out by some junk-science statistical algorithmic formula and subjected to a second trial to determine if he should be released. The State claims this avoids the double jeopardy rule because this second trial is held in a civil court. This civil court hears the same evidence as the original criminal trial but now the state can present additional hearsay and allegations along with state-paid experts who opine that this individual *may* commit future crimes (a la *Minority Report*). Because Minnesota’s civil commitment law is so vague that any person serving prison time for a sex offense fits the criteria, Minnesota’s civil commitment prosecutors boast a 95% success rate.

Once committed, individuals are now detained for “indeterminate” (*de facto* “life”) sentences that far exceed the statutory maximum prison sentences allowed by law for their

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original offense. The state gets around this by renaming us “clients” and detaining us in a prison-like “secured facility” complete with razor-wire, guards, room searches, wet-cells, monitored calls and opened mail, etc. Required to provide some semblance of treatment in order to remain constitutional, MSOP struggles to invent new class material, including “Cinema Therapy” (which had clients watching *Tom & Jerry* cartoons); calling prison yard & recreational time “therapeutic hours;” and considering clients scrubbing toilets to be “vocational training.”

In Minnesota alone there are now over 750 other men civilly committed, which is costing the taxpayer’s \$400 a day... per person. That means the state is paying \$146,000.00 every year for me to live here, for the rest of my life. Ironically, MSOP charges the state the same \$400 a day rate regardless of whether a “client” is actively participating in treatment programming or only ventures out of his cell for meals.

There is a pending Federal class action case entitled *Karsjens, et al. v. Harpstead, et al.* (Federal District Court File No. 0:11-cv-03659) where the presiding Judge Donovan Frank called Minnesota’s civil commitment “*Draconic*” and “*unconstitutional.*” Unfortunately he was overruled by the 8th Circuit Court of Appeals. Upon remand, Judge Frank’s second ruling is expected in Fall 2021. Once that lawsuit is resolved, the floodgates open for 158 other individual lawsuits currently pending against MSOP that have been frozen for years pending a decision in the *Karsjens* case. To date, only 1 man has ever been fully discharged from MSOP.

Even other countries have explicitly condemned and admonished Minnesota’s MSOP for violating basic human rights. In *Sullivan v The Government of the United States of America* (Case No: CO/1672/2011), England’s High Court of Justice blocked the United States’ extradition

request for Mr. Sullivan, specifically ruling Minnesota's civil commitment law is "*a flagrant denial of his rights enshrined under Article 5.1*" of the European Convention on Human Rights (ECHR).

Closer to home, the American Psychiatric Association (APA) vigorously opposes civil commitment of sex offenders after prison. Paul Applebaum, M.D., the Chairman of the APA's task force on Sexually Dangerous Offenders concluded "*We were concerned that psychiatry was being used to preventively detain a class of people for whom confinement rather than treatment was the real goal. This struck many people as a misuse of psychiatry.*"

Just as minorities are over-represented in prison populations, disproportionate numbers of minorities in civil commitment is even more grossly pronounced. Well over 50% of MSOP clients are self-identified members of the LGBTQ community.

People who commit sex offenses are most often referred to by the media as "sex offenders, pedophiles and serial rapists" and we are the most vilified and hated group of people in the world. These vicious tropes only serve to fan the fires of disinformation and hatred of "otherness." Like the multitude of often unnoticed micro-aggressions, this negative media bias against persons who have committed sex offenses often goes unchallenged.

I am deeply distraught every time I hear any story from a sexual abuse survivor. Like systemic racism, even though I wasn't the one who abused them, I am still filled with toxic shame and guilt for causing similar pain and suffering to people in my own life. That's a terrible burden to live with, and it becomes a difficult balancing act to be able to acknowledge the horrific acts I committed while still daring to ask for my own basic civil rights.

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But it's time to turn the tables on shame and silence and to stand up for basic human rights, especially for those struggling with mental health issues.

The same type of people who are now fighting to keep lifetime civil commitment are closely related to our self-righteous ancestors who actively fought to keep slavery alive. If you excuse our misinformed ancestors as a product of their time period, realize that someday future generations will be looking back on *your* actions to judge how you treated one of the most feared and marginalized groups in the history of mankind.

We need to end the atrocity. The most accurate evaluation of a civilized society isn't how we treat our heroes, but how we treat our lowliest prisoners. Civil Commitment is an archaic symbol of our society's darker days, and like the bronze statues of Confederate Generals, the time has come to tear it down. Be on the right side of history. The 750+ men indeterminately detained by Minnesota's unconstitutional civil commitment program at MSOP are clearly telling the world

"I can't breathe."

Are you going to do something or are you going to just walk on by?

For additional information on civil commitment, please visit www.cure-sort.org or www.ajustfuture.org. For specific information about stopping Minnesota's civil commitment program, visit *endMSOP* at Facebook, or email endMSOP@gmail.com.