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ocean newsletter

Overcoming Corruption Encouraging All Nations

In this 5th issue of the ocean newsletter ocean pleads with other civil commitment detainees to speak up. Then we will look at how careless the legislature was when they created the SDP Act. Then we will look at the billing process and some of the mysteries surrounding gulag money. We will then show how anyone can get committed to the gulag, not just convicted sex offenders. Then we will look at the documents that show the gulag staff have had hundreds of meetings about "reintegration," yet have never actually reintegrated anyone. Finally, we will look at the Hippocratic oath, ignored by gulag staff.

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✎ A call to Action! ✎

Ocean Pleads with Other Civil Commitment Detainees to Speak Up

Its football season and all teams are striving for the same goal: The Super Bowl.

No NFL team has ever made it to the Super Bowl and said, "Oh, no. I don't want to do this. It's too difficult." That would be ridiculous. Instead, every team that makes it to the Super Bowl is honored to be there to challenge the best.

This is how I [Daniel] feel about being committed. This is the Super Bowl of my intellect, my emotional health, and above all, my faith. I have come too far in life to turn down this opportunity to fight against such a worthy opponent. I say bring it on msop!

I have only been committed for about 3 years. If there is one element I could identify as the common denominator that contributes to our indefinite incarceration, IT IS US, NOT THEM. Sure, "they" have manipulated and twisted laws and common sense to accomplish the amazing feat of sex offender civil commitment. But they could not do it without us. Every moment we spend laying around watching TV or sleeping, could be spent striving to counteract their efforts to keep us locked up. Those who run these facilities count on our ignorance and indifference. This is why they go through such great lengths to allow us to own an X-Box and then deny us basic human rights. The physical amenities are clearly a benefit to THEM, not us. They have found that a sedentary sex-offender is an easy paycheck.

I have been called judgmental for these comments. I'll accept that title as long as I'm not called indifferent to injustice. My judgment is this: it is your responsibility to get yourself out of this situation and it is likewise MY responsibility to get ME out of this situation. Laziness, ignorance, complacency and procrastination are choices to stay confined. I struggle with all four of these every day. Some days I achieve more than other days. But I do not have to slow down today, simply because I struggled yesterday. I must keep going.

I have a wife and a daughter. My wife and I haven't talked in a while and my P.O. won't let me talk to my daughter. However, one day I hope to be in their lives again. When that day comes, I imagine my daughter may wonder what I have been doing while away. I want my answer to be, "trying to get to you." If I met her today, I could tell her that, and it would be true, and she would know that I never forgot her.

I [Russell] have been indefinitely institutionalized going on 12 years in one of America's Pandora box institutions.

For those who don't know, msop is Minnesota's Bermuda Triangle, where some of America's subclass human beings are sent to vanish from society.

As a co-editor and founder of ocean, we are intent on bringing light to not only our invisibility, but also the invisibility society exhibits for the victims of sexual violence.

For me, ocean is founded on Empathy.

When institutions like msop are created out of moral panics which politicians exploit to gain popularity and votes for repeat terms...

When unconstitutional laws, statutes, and punitive policies are created to maintain the distorted perception that the worst of the worst are being committed...

When the ever looming threat of unrestrained legislation threaten our constitutional rights to life, liberty and justice.

It is those who are experiencing such injustice who must speak up!

Thirteen years ago was the first time I met my son I was on my way out of a court room heading to prison. He was only a week old. The second time I met my son, he was seven and he wanted nothing more than to be in his father's arms.

To see him and his sisters, standing at the exit door of the visiting room, looking back and wanting their father to walk out with them crushed me...

I have vowed to dedicate every day to improving my life, and I strongly encourage all of you men who are in

similar situations to do the same. We owe it to not only our children, but to future generations to end sexual violence, as well as to stop the destruction of our United States Constitution.

We have so much to say about this issue, but we think this will be an ongoing series for ocean. We hope this encourages other patients in other institutions to pull together and advocate for yourselves, each other and your families. DAW/RJH

“At the center of non-violence stands the principle of love.” -Dr. Martin Luther King Jr.

In Just 97 Minutes.....

Minnesota's passage of its current SVP scheme shares a similar history to corresponding laws in other jurisdictions. Dennis Linehan is a man with a long history of violent sex crimes, including the murder and sexual assault of a 14-year-old girl – was paroled in 1992. Although the State tried to commit him, a court found that it did not establish that Linehan had an “utter lack of power to control his sexual impulses” as required under the prevailing test.¹ In response, the legislature quickly moved to enact a civil commitment law that lessened the State's burden.

Just eight days before the state's primaries, the Governor [Arne Carlson] called for a special session. In just 97 minutes, the legislature passed the SVP Act. Notably, the bill's drafters told their colleagues not to talk about the Linehan case, warning that, “Whatever we say on the floor will be used against us It's going to be used to challenge the bill.”²

Footnotes

1. *In re Linehan*, 518 N.W.2d 609, 614 (Minn. 1994) (finding that the district court had failed to provide clear and convincing evidence that Linehan was utterly unable to control his sexual impulses)
2. *In re Linehan*, 557 N.W.2d 171, 198 (Minn. 1996) (Tomjanovich, J., dissenting).

Detainee Interview

[To protect his family from added stress, the client I interviewed does not wish to disclose his identity. Therefore, we will call him TW]

There are many clients at msop who truly believe that participating in treatment, spending years trying to convince their therapists that they are safe again, is the only way out. However, those like TW have come to realize that if we truly want to go home, we must consider new routes. Gaining public support and filing lawsuits, seem to make more sense than buying into anything offered by msop—including psycho-therapy.

What struck me about TW when I first met him was his peacefulness. His calm demeanor and consideration for others, is quite a contrast to the stereotypes of a man of his stature. At 6 foot 5, TW may intimidate some, until they get to know him.

TW has lately put new efforts, in addition to participating in treatment, towards release by finding a reporter to speak with a few clients about their stories. We hope to see her article published soon.

TW has been at msop for almost 12 years, and has been in treatment that whole time. When I asked him if msop has acknowledged the changes he has made, he quickly exclaimed, “no... if you want to call this treatment.” He went on to explain that the real way to be released is clearly through the court process and not treatment. TW says, “real doctors will tell you that 2-3 years of treatment is too much. This is 5-10 years of ongoing treatment, without relapsing.” TW could not remember how many therapists he has had in the 12 years he has been at msop. He said, “20 or better. But I'm probably being nice.”

I asked TW what he believes the public needs to know about msop. These were his words:

This is a big waste of money. We are not the worst of the worst. That's a scare tactic from politicians and others that benefit from it. There are women, sometimes pregnant women, that work here. They are never assaulted. There are 2 that work on my unit that are young and pretty and no taller than 5 feet. They look like 10 and 11 year olds, and they are safe. They play cards with guys for most of their shift and they are not in danger. This place needs to be exposed for the fraud that it is. There are no checks and balances. They don't have to answer to anyone. Due Process is nearly absent. When staff do something wrong, at best they will move them to another unit, away from the client they wronged. Staff tend to bring their personal problems here. They seem to have axes to grind and they have their own agenda.

Justice Anthony M. Kennedy, has said “[i]f the civil system is used simply to impose punishment after the State makes an improvident plea bargain on the criminal side, then it is not performing its proper function.” *Kansas v. Hendricks*, 521 U.S. 346, 373 (1997) (Kennedy, J., concurring).

“Hey, Minnesota Senate Health and Human Services Committee... Follow the Money!”

In the Star Tribune article, “We need answers, reform plan from DHS” from Friday, August 30, 2019, it is quoted that, “The department recently shocked the Leech Lake Band of Ojibwe and the White Earth Nation by telling them to repay \$25 million in overpayments, even though the tribes had spent the money according to DHS guidelines.”

We implore the Minnesota Senate Health and Human Services Committee and the Office of Legislative Auditor to investigate the Medicaid Minnesota Counties are collecting which is alleged to be for the Cost of Care of Minnesota County’s patients detained at the Minnesota sex offender program.

MSOP patients (now deemed “clients” after a change in the statute to lessen patients’ rights). Are billed for their Cost of Care. For example, ocean Editor Russell Hatton's Cost of Care bill is totaled at approximately \$1.5 million after being unconstitutionally detained for twelve (12) years in msop.

These Cost of Care bills come from Shirley Jacobson of the Department of Human Services—State Operated Services Division, even though the msop is no longer under State Operated Services, as of 2008. The legislative auditor confirms this removal in his audit in March 2011, on page 85, as does the sworn testimony of Clinical Director of msop, Jannine Hebert, on March 5, 2015, where she stated, “...in 2008 when MSOP was pulled out from underneath state operated services, and we made a conscious decision to move away from that medical model approach...”

ocean Editor Daniel Wilson, tragically, became officially committed on April 17, 2017. On September 10, 2019 he received a bill from a different address which is the address to the MN DHS Direct Care and Treatment. The bill was for \$102,759.00.

Some of the language on the bill includes: “FOR YOUR CONVENIENCE YOU CAN PAY ONLINE AT...” Patients in msop are denied access to internet. Also, “DO NOT SEND CASH!”, patients are not allowed to have cash either. We are also asked to provide, “income from roomers and boarders...” Are they kidding? Where do they think they are sending these bills to?

ocean believes that the Minnesota DHS and msop, along with the Minnesota counties Health and Human Services are working in collusion to cover up and mislead the Minnesotans and the Minnesota Senate Health and Human Services Committee and the Office of Legislative Auditor, James Noble about the significant Medicaid Fraud occurring through the Minnesota Department of Health and Human Services (\$300,000,000.00 to be exact!!!).

In the Star Tribune article: “*Another Official at DHS Resigns*” from Saturday, August 31, 2019, Glenn Howatt, explains:

...Marie Zimmerman, the Assistant commissioner for healthcare, said Friday, she will leave her post in about 10 days. Zimmerman, who first started with the agency in 2011, has been one of the top officials overseeing Minnesota’s Medicaid program, a sprawling operation funded by federal and state dollars, with 1.1 million enrollees.

In addition to the personnel shifts, the agency has been struggling with revelations that it overpaid two Indian bands by \$25 million for substance abuse treatment and that it owes the federal government \$48 million for making improper payments to some treatment facilities...Zimmerman’s announcement deepened concerns among legislative critics who see the agency flailing as it seeks to improve oversight in the spending of federal Medicaid money.

During her first interview before the Minnesota Senate Health and Human Services Committee, Pam Wheelock remarked that she didn’t find any fraud and that they needed to “move past it.” Also, during one of her first public interviews, DHS Commissioner Jodi Harpstead also suggested “moving past” these scandals and failures and focusing on the “good work” done by the agency and its employees.

ocean believes that DHS- msop and Minnesota counties are scrambling to cover up the hundreds of millions of dollars funneled into one of the most fraudulent and lucrative programs in Minnesota—the Minnesota sex

offender programs—in Moose Lake and St. Peter—at the guise of providing medical care and treatment. Which they do not!

Legislative, State and unknown state officials gaining a profit off of this punitive medical care and treatment scheme do not want to lost their gravy train—for that's all msop has been for the last 25 years!

There have also been proposals to break up the DHS agency, the state's largest. Wheelock suggested at a Senate hearing back in September that one part of DHS that runs the state hospitals and the sex offender program is by itself larger than some other agencies. If there is fraud, and there seems to be, it is likely connected to msop.

msop recently cut the cable TV supposedly because they could not afford it. Co-founder of ocean expressed his disgust: "I wasn't irritated about them taking cable TV. I tried to view it as a sign that they were running out of money. However, after seeing an msop bank statement and all of the commissions msop receives from other companies, it reinforced that the clients do not come first in this scheme."

According to James Noble, Office of Legislative Auditor 2011 Legislative Auditor Report, msop takes care of their own:

The biggest component of msop's operating budget is salaries and benefits for MSOP security staff. In fiscal year 2010, about 83 percent of operating expenditures were for the salaries and benefits paid to msop security staff... in fiscal year 2010, msop had 714 full-time equivalent staff while it averaged about 548 residents. In others words: During fiscal year 2010, the Minnesota sex offender program had about 1.3 security staff per resident.

Among the 20 states with civil commitment programs, Minnesota has the highest number of indefinitely civilly committed sex offenders per capita. At \$124,465 a year; housing one sex offender cost the tax payers three times the cost of a prison inmate. As of June 30, 2019 there were 731 patients indefinitely civilly committed in Minnesota. This amounts to \$90,983,925 a year that tax payers are responsible for, even though those convicted of sexual offences—including those who have had consensual sex as a minor, teenagers sex-texting, to those who committed a sexual offense as a minor—have among the lowest rates of same-crime recidivism than any category of offender.

msop is a massive waste of Minnesotans money and this waste is expected to get worse as long as more than just juvenile offenders get released. Unless Minnesotans hold their legislative representative accountable, the msop system and the infringement on our Constitutional Rights will continue to grow and who is to say legislatures can't dictate that other "mentally ill" people get indefinitely contained out of the fear that they could do something undesirable in the future? However, ocean believes msop will one day be destroyed and the buildings will be given to the DOC, because it is founded on lies.

Anyone Could get Committed to msop!!!

To get indefinitely civilly committed in Minnesota it is not necessary to prove that a person is out of control, or that s/he is physically violent, but only that s/he was emotionally harmful to others. In court, hearsay is admissible. Allegations are admissible. Self-disclosed crimes, even admitted as part of treatment... from decades ago... are admissible. The person being considered for commitment does not have a right to a jury trial and not even a single sex offense conviction is necessary. In fact, 12% of the men indefinitely committed at msop have either no felony conviction of any kind, or have an “unknown” criminal record. At the time of this statistic, there were 575 men committed to msop. That comes out to 69 men that do not have a criminal record at all. If we apply that same 12% to today’s population of 731 men, that means that there are about 87 men without a criminal history, indefinitely committed to msop.

At page 21, the DSM-5 explains that an individual must display a “current presentation” (6 months for sexual disorders)¹ of their diagnosis for them to be considered for having a mental disorder. MSOP knows this, so they tried to get around releasing patients by changing the legal status of the msop facility. Melissa Hamilton from Pace University School of Law explains what happens when these terms get played with:

Fear of sexual predators has led society to adopt a law-psychiatry interface in which sexual offending is merged into a disease-based philosophy to justify various forms of punishment and preventive control. Sex crimes have become conflated with psychiatric disease. The multiple concerns expressed herein strongly suggest that the use of the psychiatric paraphilias in legal proceedings tends to undermine the independence and integrity of the legal and psychiatric professions. For the mental health field, the vagary of diagnostic criteria and the significant discretion subsequently provided has led to inconsistent and questionable diagnoses. The scientific requirements of validity and reliability make the DSM paraphilias highly questionable even for treatment purposes. For legal purposes, considering the significant negative consequences that follow, they are a poor fit in the law. The widespread acceptance of mental disorders for sexual deviance, despite these substantial scientific problems, ignores significant issues of due process and equity considering they help dictate infringements on fundamental interests of defendants.

Unfortunately, it appears that law and psychiatry will remain complicit in adapting diagnoses of mental illness to criminal justice officials’ desire to control sex offenders. Academics and practitioners have sought the removal of the paraphilias from the DSM because labeling sexual behaviors as pathological has done great harm to many defendants. However, it is also recognized that removing the paraphilias, most particularly pedophilia, would be a public relations disaster for psychiatry. The APA’s continuing involvement is evident with the overuse of paraphilia NOS, for example, and its ongoing consideration of adopting new paraphilias, such as rape paraphilia and hebephilia, that serve prosecutorial interests. The law’s entrenchment is likewise strong, including the repeated acceptance in judicial decisions favorably embracing mental disease for sexual deviance—even those not otherwise specified—threatens to permit more shoehorning diagnoses to satisfy criminal justice goals. The collaboration threatens not only the liberty and privacy interests of those who commit sex-based offenses. The potential exists for a contagion effect whereby interest groups might be encouraged to qualify all manner of criminal behaviors as distinct mental disorders. Accordingly, if the interaction between law and psychiatry continues in this manner, all criminals may be deemed to have mental disorders. This outcome makes no logical sense, undermines the core tenets of the law, infringes upon fundamental rights, and methodically destroys trust in the science of psychiatry.²

This “law-psychiatry interface” is in part, why msop has been able to get away with what they are doing. msop maintains control of their scheme not with morals or science, but with confusion and technicalities of law and procedure. Minnesota Department of Corrections Director Grant Duwe concluded that:

nearly two-thirds of these offenders would be unlikely to be rearrested for another sex offense in their lifetime if they were released to the community.

Applying this “false-positive” rate for 700-plus people who are committed, we can conclude that over 400 human beings are being held unconstitutionally because the MSOP’s intentional thwarting of the duration limits.

Msop’s failure to adhere to the duration limits is not simply a sign that the program is not working properly. It is an intentional design feature of msop that other states have eschewed. It represents an intentional rejection of the core constitutional marker of a genuine civil commitment scheme. The Court of Appeals’ ruling allows no remedy for this misuse of civil commitment.³

1. APA Diagnostic & Statistical Manual of Mental Disorders, 5th Ed. Arlington, VA, APA, 2013, pp. 685-705.
2. Melissa Hamilton. “Adjudicating Sex Crimes as Mental Disease,” 33 Pace L. Rev. 536, Spring Is. 2013, ©2013 Pace Univ. School of Law, pp. 598, 599.
3. ERIC S. JANUS Professor of Law MITCHELL HAMLINE SCHOOL OF LAW & RICHARD D. SNYDER, FREDRIKSON & BYRON, P.A. On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eighth Circuit, pg. 12.

msop Claims There is Nowhere for us to Go

MSOP has always used the excuse, in addition to many others, that there is too many housing restrictions in too many counties, to let their patients go.

Not true, ocean editor Daniel was on the streets before he became a detainee to msop. He had no problems with finding housing and was never limited by county ordinances or even harassed by neighbors. Also, State Operated Services (SOS) owns many properties. Even though DHS claims we are no longer under SOS, we were from 1994 to 2008, and these facilities were never used for reintegrating offenders into the community.

msop has often rejected release solely based on the fact that a patient has nowhere to go, and not necessarily because their mental illness/disorder is in remission. But even if we don't have anywhere to go, that should be none of msop's business. They have a responsibility to "treat and release" and that's it.

New case law may now leave them without an excuse. *Ford v. Schnell*¹ says that a sex offender who has served his time in *prison* cannot be held solely based on him not having an address to go to. Patients at MSOP hope it will also apply to us.

In the report "Residency Restrictions for Sexual offenders in Minnesota: False Perceptions for Community Safety" written by the Association for the Treatment of Sexual Abusers, Richard Weinberger, M.S.E., L.P.² discussed the following:

Residency or zone restrictions for individuals with sexual offences have become increasingly popular in recent years, but such restrictions tend to be rooted in fear and anger, rather than informed public policy.

There is no research to support residence restrictions as effective in reducing sexual recidivism." The Minnesota Department of Corrections concluded in one study that, "during the past 16 years, not one sex offender released from a MCF (Minnesota Correctional Facility) has been reincarcerated for a sex offense in which he made contact with a juvenile victim near a school, park, or daycare center close to his home." Because people typically choose to live close to family, friends, or employment, and establishing social stability for offenders reduces recidivism, residency restrictions may be counterproductive." Research on residency restrictions demonstrate no deterrence effect.

From the 1990's through the present, individuals who have committed sex crimes have been the subject of countless psychological, sociological, criminal justice and governmental agency studies. Consequently, there is large body of research on these individuals that demonstrates that a number of commonly held beliefs (myths) regarding recidivism are not true. The fact is, current research indicates that:

Sex offenders, as a group reoffend much less than other criminal offenders.

95% of sex offenses are committed by first-time offenders.

93% of sex crimes are committed by offenders known to the victim, in a place familiar to the victim.

In 2015, the Minnesota Sentencing Guidelines Commission published a report stating that the numbers of individuals convicted of sexual crimes in 2014, 95% of all sex crimes were committed by first time offenders. The report also indicated that a salient offense factor related to stranger on stranger offending was the use of force. Of the 491 adjudicated cases in 2014, 70 offenses were against strangers and were placed in the category of "Provision Force/Other."

Of these 70 offenses, eight were against children. These eight releases represent 1.6% of the 491 people released in 2014. These results contradict the need and efficacy of the Taylors Falls' ordinance as well as the ordinances in the other communities who followed suit.³

OCEAN is in agreement with the Association for the Treatment of Sexual Abusers—which does not support the use of residence restriction laws as a sex offender management strategy.

There is no research to support the effectiveness of residence restriction in reducing sexual offense recidivism, and these types of policies often have the unintended consequences that may compromise, rather than promote,

Footnotes

1. State of MN ex rel, *Antwone Ford, Appellant vs. Paul Schnell*, Commissioner of Corrections, Supreme Court A17-1895 filed 9/11/19 also see the news article: *Minnesota Lawyer*, “Justices Grant Habeas Corpus to Sex Offender” 9/14/19 by Kevin Featherly.
2. Rick Weinberger is a licensed psychologist, a Clinical Member of ATSA, and at the time of this writing, the Inpatient Clinical Director at Alpha Human Services, www.alphaservices.org. Much appreciation to the Minnesota Sex Offender and Reentry Project (MNSORP) for their help in writing this paper. www.mnsorp.org
3. Sexual offender Residence Restrictions, ATSA Policy Statement, August 2014. Retrieved 2/12.2016. <http://www.atsa.com/pdfs/policy/2014SOResidenceRestrictions.pdf>

Whatever Happened to the Hippocratic Oath?

Primum non nocere.

“First do no harm” is the motto of the medical profession, a symbol of integrity that is disappearing daily as doctors, hospitals, psychologists, psychiatrist and alleged counselors, and those involved in America’s healthcare system increasingly take advantage of the giant pot of government money available through medical insurance.

Medicare whistle-blowing has become a giant industry, since the successful insertion of capitalism into a government program. In this case, the reward was astronomical. Whistle-blowers received \$152 million, the highest combined award ever paid.¹

In Minnesota, Rule 26 was established to govern msop as a hospital, meant to treat the “mentally ill.” However, there is an option provided by Minn. Stat. § 245A.04, subd. 9, to ask the DHS Commissioner for accommodations in the event that msop cannot (or does not want to) follow elements of Rule 26.

This option is called a “Variance.” It requires that MSOP submit a “Variance Request” to change the application of the law, providing msop an outlet to do basically whatever they want. However there are limitations.

These Rule 26 Variance are “NON-PUBLIC,” (until recently, you can see them on the DHS website) stealthy arrangements that explicitly confess, “The vast majority of patients committed to the Minnesota sex offender program do not experience symptoms of mental illness that requires psychiatric treatment...”

Minnesota lawmakers developed a statute that allows the Commissioner of DHS, who is not an elected official, to make changes to the Rules that govern how they administer treatment to their clients. Those Rules are enforced by the law. The new Rule is essentially a law and the granted Variance by the Commissioner is, in effect, a new law. That new law is “NOT PUBLIC.” Therefore, Secret laws are being created by unelected official.

msop petitioned for more than one Variance Request to Rule 26, which moved the facility away from a Medical Model and the constraints of following the various state codes outlined at Minnesota Rule, Chapter 4665, because the msop administration know that the clients are not mentally ill.

The point is this: msop is not a hospital, nor is it designed to follow a Medical model or to administer to ill people. The Clinical Director of msop, Jannine Hebert, gave testimony on March 5, 2015, before The Honorable Donovan Frank, and explained that the msop has not been a hospital since at least 2008. In fact, MSOP does not work with patients needing medical care; rather, there is an important distinction in her opinion. According to Mrs. Hebert, msop is a “treatment program” that deals with folks who are “not sick.”

This is a problem, because one cannot receive medical care and attention at a facility that does not provide medical services. And more importantly, the law requires that in order to lock someone up in a mental institution, they need to have a mental illness.

First do no harm!

Footnotes

1. Gross, Martin L., Investigative Reporter, National Suicide: How Washington Is Destroying The American Dream From A To Z; pg. 221